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Kathy White
Chair, Environmental and Services Performance Committee
Waikato Regional Council

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Via: <mailto:fyi-request-9478-72af3599@requests.fyi.org.nz>

Dear Ms White

Thank you for your email requesting information on various 1080 reporting requirements.

You have asked some specific questions relating to various aspects of 1080 reporting. My responses are provided below.

Your first question is about whether pest contractors working on contract for regional councils, and/or regional councils themselves, are required by law to report all aerial 1080 operations conducted by or for them, and accidents/incidents within those operations, to the EPA. You also ask whether there is a time restriction for this to be done to be included in the annual reports.

A written report of all aerial applications of 1080 must be provided to the EPA, no later than six months after the operation. This report must include reports of any incidents or complaints concerning the operation. The specific wording of the control is:

Any person who applies, or engages another person to apply, this substance by aerial application ("the operation") must, as soon as reasonably practicable, but no later than six months, after the operation, provide a written report to the Authority, such report to include the following information—

- (a) the reasons for the operation, including information on pre-operation notification and the methods and outcomes of any pre-operation consultation;*
- (b) details of the operation, including date(s), location and application rate;*
- (c) a map of the operational area showing relevant waterbodies, any public drinking-water supply, nearby farmland, human habitations and recreational huts and tracks;*
- (d) a measure of possum or other relevant pest numbers before and after the operation (if available);*
- (e) reports on any incidents (for example, accidental releases or overflights) or complaints in relation to the operation, including details of relevant parties, locations, actions, impacts (if available);*

- (f) *details and results of pre- and post-operational monitoring of birds and invertebrates (if available);*
- (g) *details and results of post-operational monitoring of water quality (if available);*
- (h) *details and results of pre- and post-operational monitoring of key species of relevance to Māori (food, rongoa species) (if available); and*
- (i) *an overall assessment of the outcome of the operation.*

There is also a requirement that any misapplication, loss or spillage of 1080 must be reported to various parties. The specific wording of the control is:

If this substance is applied other than in the intended application area, or is lost or spilt, the person who is in possession of the substance at the time that it was misapplied, lost, or spilt must report the nature and quantity of the substance within 24 hours of the substance being misapplied, lost, or spilt to—

- (a) *if a Permission was granted to apply or otherwise use the substance, the person who granted the Permission; and*
- (b) *the officer in charge of the nearest police station to which the person has access; and*
- (c) *the nearest Medical Officer of Health or the Medical Officer of Health in whose region the substance was misapplied, lost, or spilt; and*
- (d) *each owner or occupier of land on which the substance may have been misapplied, lost, or spilt;*
- (e) *the person on whose behalf the substance is being applied;*
- (f) *the Regional Council or councils in whose area the substance is being applied; and*
- (g) *the Authority.*

Additionally, the person in charge of a 1080 operation involved in an incident where a person dies, suffers a notifiable injury or illness (as defined in the Health and Safety at Work Act 2015), or if there is serious environmental damage, would have to report this to an enforcement officer, under section 144 of the Hazardous Substances and New Organisms Act 1996 (HSNO Act).

Your second question asks whose responsibility it is to provide the report (the pest contractor or the council). You also ask whether a failure to provide the report is a breach, and if so, what action is taken.

The report must be provided by "any person who applies, or engages another person to apply, this substance by aerial application". The parties involved should agree who will assume responsibility for providing the post-operational report to the EPA. Failure to comply with the control to provide a written report to EPA, within the timeframe, is a breach of that control under the HSNO Act. When the EPA becomes aware of such a breach, we investigate the matter and any action taken will depend upon the findings of the investigation.

Thank you for your observation about the statement, in the 2017 annual report, that no aerial 1080 operations were done by regional councils. You comment that you are aware this is incorrect.

On 8 January 2019, the EPA received a late report on an aerial 1080 operation undertaken by Waikato Regional Council that was completed in 2017. The EPA is currently investigating this matter. When the investigation is complete, the 2017 annual report will be amended to include this operation, and the revised report will be published on the EPA website. For your further information, please note that the operation report is available on our website:

<https://www.epa.govt.nz/assets/Uploads/Documents/Hazardous-Substances/1080-reports/1080-Operational-Reports/2017-Waikato-Pio-Pio-East-Report.pdf>.

The map for this operation is also available:

<https://www.epa.govt.nz/assets/Uploads/Documents/Hazardous-Substances/1080-reports/1080-Operational-Reports/2017-Waikato-Pio-Pio-East-Map.jpg>.

You have also asked whether the EPA checks regional councils' Priority Possum Control Areas (PPCA) plans, or prompts them for information before the annual reports are produced. The EPA does not check regional councils' plans for these areas. The EPA prepares its annual report based on information provided to it by the contractor or operator.

Thank you for your question about whether annual reports are amended, if data about livestock deaths are received after reports have been produced. I can confirm that if information is received about livestock deaths that resulted from a non-compliance (such as misapplication, overflight, or spill) after the 1080 annual report has been released, the report will be amended to include this incident and the revised report will be published on the EPA website.

The EPA almost never receives information on operations or incidents that have been omitted from the 1080 annual report. This is because the annual report is finalised at least six months after the end of any calendar year, by which time all relevant post-operational reports have normally been received. If such an event were to occur, the annual report would be amended and the revised report published on the EPA website.

You observe the proportion of incidents and errors with bait application, and ask what action has been or will be taken about this.

Around 17% of operations have reported incidents over the last 11 years. The incidents range in type and severity, and the level of investigation is proportionate to the nature of the incident. All incidents are investigated - either by the operator, or by the Department of Conservation (DoC) if the operation is on DoC land, or by the appropriate enforcement agency.

I note your concern about pest contractors providing accurate information, and whether farmers are randomly contacted, and whether action is taken against contractors who misrepresent a poisoning operation. The EPA checks each post-operational report received and follows up with the contractor if there is insufficient detail or missing information. If it is found that a report contains deliberately misleading information, an investigation takes place. The nature of any action taken depends on (for example) the specific nature of the misrepresentation, the control that was breached, the enforcement policy of the relevant enforcement agency, and mitigating factors.

You have asked why the latest annual report on 1080 drops has omitted a summary of incident details. The latest EPA annual report (2017) on aerial 1080 operations does include a summary of incidents, which is in Appendix 1 of the report. You can access the report at the following link:

<https://www.epa.govt.nz/assets/Uploads/Documents/Hazardous-Substances/1080-reports/Annual-reports/2017-Annual-Report-1080.pdf>.

Please note that this report is yet to be amended to include information about the late report received on the operation held in Waikato Region in 2017.

I trust this letter addresses your concerns.

Yours sincerely

A handwritten signature in blue ink, reading "Fiona Thomson-Carter", with a horizontal line underneath.

Dr Fiona Thomson-Carter
General Manager
Hazardous Substances & New Organisms