

5 November 2007

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Hon Trevor Mallard
Minister for the Environment
C\ - Parliament Buildings
Molesworth Street
Wellington

Dear Minister,

Briefing on the Environmental Risk Management Authority (ERMA)

This letter provides a brief overview of the Environmental Risk Management Authority (ERMA New Zealand) and the issues it is facing. We attach our Statement of Intent for the triennium beginning 1 July 2007. Our annual report for the 2006/07 year is with the printer and copies will be forwarded to you next week.

Introduction

ERMA New Zealand is the body set up to regulate the introduction and use of hazardous substances and new organisms under the Hazardous Substances and New Organisms (HSNO) Act. The purpose of the HSNO Act is to protect the environment and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms. It is an important component of the regulations that promote sustainability in New Zealand.

We deal with over 100,000 different types of hazardous substances ranging from explosives, fireworks, poisons, pesticides, industrial chemicals, petrol and gas to consumer goods. ERMA New Zealand also regulates the importation, development and use of plants, animals and other new organisms including genetically modified organisms (GMOs).

ERMA New Zealand comprises three main elements: an eight person Authority (appointed by the Minister for the Environment); an Agency currently numbering some 90 staff; and an eight member Maori Advisory Committee (appointed by the Authority).

ERMA New Zealand is funded primarily by the Crown through the Non-Departmental Output Expenditure "Hazardous Substances and New Organisms Assessment and Management" in Vote Environment and partly (6% of total revenue) by application fees. Our total budget for 2007/08 is \$10.157 Million.

Key Issues

ERMA New Zealand Funding

The current Statement of Intent shows the projections of ERMA New Zealand's financial position for the three years from 2007/08. We face operating deficits of \$250,000, \$505,000 and \$607,000 in 2007/08, 2008/09 and 2009/10 respectively. Either we will need to cut services or new funding will be required.

We are working with MfE on the preparation of a budget bid for the 2008/09 budget round. The major issue is the funding of the Government's Hazardous Substances Compliance and Enforcement Strategy.

Hazardous Substance (HS) Compliance and Enforcement

The hazardous substance compliance regime is complex, with multiple enforcement agencies, inadequate inspection capacity, insufficient private providers (test certifiers) and widespread difficulty in securing compliance. It has for many years represented a considerable risk for government.

In December 2006, Cabinet approved a Hazardous Substances Compliance and Enforcement Strategy (Cab Min (06) 47/3 refers) to improve compliance with the HSNO Act. Initially the Strategy puts emphasis on public awareness activities and providing user-friendly information to a wide-range of new stakeholders (many of which are small-medium enterprises new to the HSNO Act and its requirements). ERMA New Zealand has been given a central role in monitoring the effectiveness of the new regime, coordinating the work of over 90 HSNO enforcement agencies and supporting the test certifier regime.

In order to progress this work within the five year strategy additional funding is required. The previous (Acting) Ministers for the Environment have received briefings from the Ministry for the Environment outlining the level of funding for each of the areas specified and we are working with MfE and the Department of Labour on preparing a cross vote budget bid for 2008/09.

Authority Membership

The positions of Chair and Deputy Chair will fall vacant in April 2008. [REDACTED]
[REDACTED]¹ The Ministry for the Environment is currently putting together a short list of possible nominees for the Chair's position and a new member.

1080 Reassessment

The reassessment of 1080 (the largest exercise ever undertaken by ERMA New Zealand) was completed in August 2007. Follow-up work is now underway in the areas of monitoring aerial drops of 1080 and promoting more research into alternative pest control methods and the effects of 1080.

Contaminated Products

There have been concerns recently regarding contaminated products including toys, clothing and graphics materials.

We have worked closely with other departments to address these concerns. In particular, the issue of formaldehyde in clothing was of major public interest. (A TV3 Target programme claimed wrongly that Chinese made clothing showed dangerously high levels of formaldehyde). Other issues included graphics materials (children's water paints and crayons) and diethylene glycol in toothpaste. To clarify the boundary issues in this area we have produced a draft Memorandum of Understanding (MoU) among ERMA New Zealand, the Ministry of Consumer Affairs and the Ministry of Health. This MoU will be finalised in the next quarter.

Results from a survey of graphics materials identified one brand of water colour paints considered to pose a health risk if used by young children. Agencies are working with the

¹ This information is withheld under sections 9(2)(f)(ii) and 18(d) of the Official Information Act 1982

retailers of this product, and an advisory notice is being put in place. We are currently setting new conditions under a group standard for graphics materials to ensure product safety.

The broader issue of hazardous substances in consumer goods and manufactured articles is likely to continue to be of public interest and to place an increasing demand on our resources.

Reassessment Regime

Reassessment is the only way of tightening (or relaxing) the rules around the use of an already approved chemical. Reassessments can be initiated through an external application (eg, the Animal Health Board and Department of Conservation's application to reassess the vertebrate poison 1080) or by the Chief Executive of ERMA New Zealand. ERMA New Zealand has recently identified a priority list of 20 chemicals for Chief Executive-initiated reassessment. While completion of this programme within five years was the previous Minister's expectation, ERMA New Zealand currently has resources to carry out only two reassessments per year.

Plant Imports

The Primary Production Committee's May 2007 report on the import of plant germplasm recommended that the Authority alter some existing processes and become less precautionary. Government responded to this report in August 2007. Officials at the Ministry for the Environment will be able to provide you with copies of these reports and a September 2007 paper sent to the Acting Minister for the Environment.

Genetically Modified (GM) Field Tests

A recent application by Crop & Food Research Limited to field test GM brassica was approved with controls by the Authority. Such GM field tests attract a high level of public interest, particularly from NGOs.

Following the GM brassica decision, GE Free New Zealand filed a High Court appeal, in particular questioning the interpretation of "field test" under the Act. Three other parties, all industry organisations supporting organic production, have joined the appeal. The High Court has set down 31 March and 1 April for the hearing of the appeal.

Our report on the first quarter of 2007/08 will be forwarded to your office in a few days. It would be appreciated if our Chief Executive (Rob Forlong) and I could call on you shortly thereafter for an initial discussion of our work and to run through this paper and the quarterly report.

Yours sincerely

Neil Walter
Chair
Environmental Risk Management Authority

Cc: Prue Densem
Acting General Manager
Central Government Policy Group
Ministry for the Environment