

Guide to agrichemical use in Resource Management Plans – Bay of Plenty Region as at October 2011

Bay of Plenty Regional Air Plan Bay of Plenty Regional Water and Land Plan

Note: This guide is intended to assist users and applicators understanding the requirements relating to agrichemical use in the relevant regional plans in your Region. Every effort has been made to ensure the accuracy of this information but the responsibility for ensuring that the requirements of the councils are met is with the applicator and user of agrichemicals.

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1. Structure of plan requirements

The Bay of Plenty Regional Air Plan has 4 permitted activity rules for agrichemical discharges to air– depending on the method or purpose of the application:

- Rule 10 – Agrichemical for Biosecurity purposes
- Rule 11 – Agrichemical use – non motorised hand held
- Rule 12 – Use of agrichemical from aircraft
- Rule 13 – Agrichemical use – other application techniques

A user will need to meet the requirements of the relevant rule depending on the purpose or method of the application to be used. If a number of application methods are used then the requirements of both rules will need to be met. No table is included in this Guide for Rule 10 – Biosecurity. A user is directed to the Plan if discharges are required for biosecurity purposes.

The Plan also includes a number of additional requirements and information:

- Schedule 2 Notification of Agrichemical use in public places – which includes signage requirements. Details of these are included in the rule tables.

If the conditions of the permitted activity rule cannot be met then a discretionary activity resource consent under Rule 19 will be required from the Council.

The Bay of Plenty Regional Water and Land Plan has permitted activity rules for agrichemical applications to land and water:

- Rule 16 Discharge of aquatic herbicide over water for weed control
- Rule 21 Application of agrichemicals to land.

This RMA Guide has been prepared by Lynette Wharfe of The AgriBusiness Group for the New Zealand Agrichemical Education Trust (NZAET).

In addition to meeting the requirements of the Air Plan all users will need to comply with Rule 21. This contains requirements relating to applications in Riparian Management Zones.

If the conditions of the permitted activity rule cannot be met then a discretionary activity resource consent under Rule 37 will be required from the Council.

There are definitions in the Plan that are very important in determining which rule may apply and how it is implemented. Relevant definitions are identified in the guide by *italics* and the definitions are listed at the end of the rule tables.

Relevant definitions include:

- Agrichemical
- Agricultural compound
- Adjoining
- Commercial
- Contractor
- Ground based application contractor
- Harmful concentration
- Subject Property
- Surface water body
- Water
- Water body – and related definitions of river, lake and wetland

Status of Plan - Status of Plan – Both the Bay of Plenty Regional Air Plan and the Bay of Plenty Regional Water and Land Plan are Operative meaning that the current version cannot be changed except through a publicly notified Plan Change.

The link to the Bay of Plenty Regional Council website and the plans are:

<http://www.boprc.govt.nz/media/31055/Plan-060831-BOPRegionalAirPlan.pdf>

<http://www.boprc.govt.nz/knowledge-centre/plans/regional-water-and-land-plan/>

2. Specific notes for users

Onus of responsibility: An important issue in terms of compliance with a Regional Plan is to be clear as to 'who' is responsible for 'what'. Some plans have conditions (e.g. notification) which are the responsibility of the 'landowner or occupier'. Other conditions (e.g. records) may be the responsibility of the 'discharger' or 'applicator'. Sometimes it may be either 'landowner' or 'applicator'. Usually such terms are defined in the Plan so it is clear who should be undertaking particular activities. However there are times where it is not clear who should be carrying out a task. If the landowner or manager is the person undertaking the spraying then all the responsibility is with that person. However it is recommended that where a landowner or manager engages or employs someone else to undertake the spraying that it is clearly set out who will undertake particular responsibilities required by the Plan. In the event of a spray drift incident the Council will be seeking to confirm who undertook such matters as notification or keeping of records. A paper trail in this respect will be most useful.

Rules 11, 12 and 13 require that the application is undertaken in accordance with NZS8409:1999 Code of Practice for Management of Agrichemicals. The rules do not specify particular sections – rather the whole Standard. Users should be aware of the mandatory requirements in Sections 2, 5 and 6 which are identified in NZS8409 as **shall** statements. Users will need to reference NZS8409:1999 and meet these requirements to be compliant with the rules for agrichemical use in the Bay of Plenty Regional Air

Quality Plan. It should be noted that NZS8409:1999 is not the most recent version of the Standard but is the requirement in the current BOP plan rules.

Special areas: Rule 21 in the Regional Water and Land Plan restricts the application of agrichemicals within a Riparian Management Area as identified in the Plan to application methods that applies the agrichemical directly to the target species. The Riparian Management Zone applies to all streams, rivers, wetlands and lakes and varies in width according to the slope of the surrounding land. A landowner and/or applicator should ensure that if such areas are included within the area where spraying will be undertaken then special care will need to be taken. In particular a contractor should seek confirmation from the landowner regarding these areas to ensure that there will not be a future liability on the contractor for spraying in such areas. Advice may need to be sought from Council as to the location of such sites.

Using this Rule Guide:

Table 1.2 in the RMA section in the GROWSAFE® Introductory Training Manual sets out possible conditions that a Council may require in a permitted activity rule for agrichemical use. The summary tables below for each rule follow the Training Manual format which provides further information on the nature of conditions that may be required. If a line is blank then it means that the Plan does not require anything on that matter, although requirements in NZS8409:1999 may apply.

3. Rule 11 – use of agrichemicals - Non motorised hand held

Permitted activity conditions	What the rule requires
Type of use	Non motorised handheld (not defined)
Area of use	
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions Rule 10 b) i)	The agrichemical is discharged in a manner that does not contravene any requirements specified in the manufacturer's instructions.
Drift beyond the boundary Rule 10 c)	The application must not result in any <i>harmful concentration</i> of agrichemical beyond the boundary of subject property or into <i>water</i> .
Status of NZS8409 Rule 10 b) ii)	All <i>commercial</i> applications must comply with NZS8409:1999 Code of Practice for Management of Agrichemicals (see note above).
Qualifications or training Rule 10 a) i) and ii)	<ol style="list-style-type: none"> 1. All <i>contractors</i> applying agrichemicals must hold current GROWSAFE® Registered Chemical Applicators Certificate 2. Applications for <i>commercial</i> purposes: Applicators must have a GROWSAFE® Introductory Certificate or be under direct supervisions of person holding that certificate when using agrichemicals containing compounds rated as Dangerous Poison or Deadly poisons.
Notification Rule 10 d) Schedule 2	<p>Agrichemical use in <i>public places</i> must be notified at least 1 week prior to application in the local newspaper or other methods such as letter drops and contain the following information:</p> <ul style="list-style-type: none"> • Areas where the agrichemical will be used • Agrichemicals to be used • Reason for the use • Duration of the use • Time after use before safe re-entry.
Spray Plan	
Signage Rule 10 d) Schedule 2	<p>Agrichemical use in or beside <i>public places</i> must have signage with the following information:</p> <ul style="list-style-type: none"> • Agrichemical used • Time of application • Time for safe re-entry • Name and contact details of applicator <p>The signs are to remain in place until site is safe for re-entry.</p>
Records	As required in NZS8409:1999

Public places or amenity areas or sensitive areas	Notification as per Schedule 2 – see above
Storage	As required in NZS8409:1999
Mixing sites	As required in NZS8409:1999
Applications to or near water Rule 10 c)	The application must not result in any <i>harmful concentration</i> of agrichemical beyond the boundary of subject property or into <i>water</i> .
Disposal	As required in NZS8409:1999
Advisory Note	Extra care should be taken when applying phenoxy based herbicide. In particular 2,4-D butyl ester herbicide sprays have the potential to travel long distances through the air. Further information on spray drift hazard is included in Appendix Y of NZS8409:1999 Code of Practice for Management of Agrichemicals.

4. Rule 12 – Use of agrichemicals from aircraft

Permitted activity conditions	What the rule requires
Type of use	The discharge of agrichemicals into air from the use of aircraft
Area of use	
Nature of applicator	Aerial
Certain agrichemicals	
Comply with manufacturer's instructions	
Drift beyond the boundary Rule 12 a)	<p>The application must not result in any <i>harmful concentration</i> of agrichemical beyond the boundary of subject property or into <i>water</i>.</p> <p>The applicator must notify Environment Bay of Plenty immediately in the event of any discharge of <i>agrichemical</i> beyond the boundary of the subject property.</p>
Status of NZS8409 Rule 12 c)	The <i>agrichemical</i> must be used in a manner complying with NZS8409:1999 Code of Practice for Management of Agrichemicals (see note above).
Qualifications or training Rule 12 b)	<p>The applicator must hold a minimum of a:</p> <ul style="list-style-type: none"> • Pilot Chemical Rating (CAA) (aerial application) and; • GROWSAFE® Pilots Agrichemical Rating Certificate.
Notification Rule 12 d)	<p>The owner/occupier or agent must notify any occupier of property within 200m of the application:</p> <ul style="list-style-type: none"> • No earlier than 20 days or later than 12 hours before agrichemical use • The owner/ occupier or agent must advise the aerial applicator that notification has occurred prior to the application being undertaken. • Notification must include: <ul style="list-style-type: none"> - Site of proposed application - Date of proposed application - Name and type of agrichemical to be used - Name, address and phone number and registration number of the applicator. <p>NOTE: Condition does not apply to agrichemical use on <i>public land</i>.</p>
Spray Plan	
Signage Rule 12 e)	<p>Where agrichemical application is on land adjoining <i>public places</i> signs must be placed on the boundary 24 hours prior to the application with the following information:</p> <ul style="list-style-type: none"> • Agrichemical used • Time of application

	<ul style="list-style-type: none"> • Time for safe re-entry • Name and contact details of applicator <p>The signs are to remain in place until site is safe for re-entry.</p>
Records	As required in NZS8409:1999
Public places or amenity areas or sensitive areas	See signage requirements for <i>public places</i> .
Storage	As required in NZS8409:1999
Mixing sites	As required in NZS8409:1999
Applications to or near water	The application must not result in any <i>harmful concentration</i> of agrichemical beyond the boundary of subject property or into <i>water</i> .
Disposal	As required in NZS8409:1999
Advisory Note	Extra care should be taken when applying phenoxy based herbicide. In particular 2,4-D butyl ester herbicide sprays have the potential to travel long distances through the air. Further information on spray drift hazard is included in Appendix Y of NZS8409:1999 Code of Practice for Management of Agrichemicals.

5. Rule 13 – Other application techniques – not non- motorised handheld or aerial

Permitted activity conditions	What the rule requires
Type of use	All applications other than non-motorised handheld or aerial
Area of use	
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions	
Drift beyond the boundary Rule 13 a)	The application must not result in any <i>harmful concentration</i> of agrichemical beyond the boundary of subject property or into <i>water</i> .
Status of NZS8409 Rule 13 c)	The <i>agrichemical</i> must be used in a manner complying with NZS8409:1999 Code of Practice for Management of Agrichemicals (see note above).
Qualifications or training Rule 13 b)	<ol style="list-style-type: none"> 1. All <i>contractors</i> applying agrichemicals must hold current GROWSAFE® Registered Chemical Applicators Certificate 2. Applications for <i>commercial</i> purposes: Applicators must have a GROWSAFE® Introductory Certificate or be under direct supervisions of person holding that certificate when using agrichemicals containing compounds rated as Dangerous Poison or Deadly poisons. 3. It is recommended that any person using or applying agrichemicals, other than required above, should hold a minimum of GROWSAFE® Introductory Certificate.
Notification Rule 13 d) Schedule 2	<ol style="list-style-type: none"> 1. Owner/ occupier or agent must notify any <i>adjoining</i> occupiers within 50 m of <i>agrichemical</i> use. <p>OR</p> <p>Notification is only required where application is within 10 m of an <i>adjoining</i> property if the application is by a motorised boom sprayer meeting the following design criteria:</p> <ul style="list-style-type: none"> • Liquid pressure through the boom is less than 3 bar • Height of discharge point on boom is less than 1 m from the ground • The nozzles point down • The nozzles are designed to create coarse droplets of greater than 250 microns in diameter <ol style="list-style-type: none"> 2. Notification must be no earlier than 20 days and no later than 12 hours prior to application and include: <ul style="list-style-type: none"> • Site of proposed application • Date of proposed application • Name and type of agrichemical to be used • Name, address and phone number and registration number of the applicator;

	<p>Unless an agreed form of notification has been reached, such as an annual spray plan or individual notification of certain chemicals to be used.</p> <p>NOTE: The above condition does not apply to agrichemical use on public land.</p> <p>3. Agrichemical use in public places must be notified at least 1 week prior to application in the local newspaper or other methods such as letter drops and contain the following information:</p> <ul style="list-style-type: none"> • Areas where the agrichemical will be used • Agrichemicals to be used • Reason for the use • Duration of the use • Time after use before safe re-entry.
Spray Plan Rule 13 d iv)	A spray plan may be an agreed form of notification with adjoining occupiers. See below for details of a spray plan.
Signage Rule 13 f) Schedule 2	<p>1. Where the agrichemical application is on land adjoining a public place signs must be placed on the boundary 24 hours prior to the application with the following information:</p> <ul style="list-style-type: none"> • Agrichemical used • Time of application • Time for safe re-entry • Name and contact details of applicator <p>The signs are to remain in place until site is safe for re-entry.</p> <p>EXCEPT:</p> <p>Where the application is by boom sprayer signs are not required if the application is no closer than 6m to a public place and application is by using a boom meeting the following criteria:</p> <ul style="list-style-type: none"> • Liquid pressure through the boom is less than 3 bar • Height of discharge point on boom is less than 1 m from the ground • The nozzles point down • The nozzles are designed to create coarse droplets of greater than 250 microns in diameter <p>2. Agrichemical use in a public place must have signage with the following information:</p> <ul style="list-style-type: none"> • Agrichemical used • Time of application • Time for safe re-entry • Name and contact details of applicator <p>The signs are to remain in place until site is safe for re-entry</p>
Records	As required in NZS8409:1999
Public places or amenity areas or sensitive areas	See signage requirements for public places
Storage	As required in NZS8409:1999
Mixing sites	As required in NZS8409:1999

Applications to or near water	The application must not result in any <i>harmful concentration</i> of agrichemical beyond the boundary of subject property or into <i>water</i> .
Disposal	As required in NZS8409:1999
Advisory Notes	Extra care should be taken when applying phenoxy based herbicide. In particular 2,4-D butyl ester herbicide sprays have the potential to travel long distances through the air. Further information on spray drift hazard is included in Appendix Y of NZS8409:1999 Code of Practice for Management of Agrichemicals.

6. Bay of Plenty Regional Water and Land Plan
 Rule 16 - Discharge of aquatic herbicide over water for weed control

Permitted activity conditions	What the rule requires
Type of use Rule 16 a)	Controlling emergent aquatic weeds listed in 'Plant Pest Management Strategy for Bay of Plenty Region' or the National Plant Pest Accord in rivers, streams, lakes and wetlands. Or Controlling vegetation necessary for the maintenance of artificial watercourses, farm drains, roadside drains and Land Drainage Canals.
Area of use	
Nature of applicator Rule 16 h)	Must comply with the requirements of the Operative Bay of Plenty Regional Air Plan.
Certain agrichemicals Rule 16 b)	Only aquatic herbicides that have been approved under HSNO for use over water shall be used.
Comply with manufacturer's instructions Rule 16 c)	The aquatic herbicides shall be discharged in a manner that is consistent with the manufacturer's instructions.
Drift beyond the boundary Rule 16 f)	The application must not result in any <i>harmful concentration</i> of aquatic herbicide beyond the target area.
Status of NZS8409	Refer to Air Plan requirements
Qualifications or training	Refer to Air Plan requirements
Notification	Refer to Air Plan requirements
Spray Plan	Refer to Air Plan requirements.
Signage	Refer to Air Plan requirements.
Records	Refer to Air Plan requirements.
Public places or amenity areas or sensitive areas	Refer to Air Plan requirements.
Storage	As required in NZS8409:1999
Mixing sites	As required in NZS8409:1999
Applications to or near water Rule 16 d) e) g)	The discharge shall not result in fish kills. The discharge shall not contaminate any authorised water take There shall be no discharge in the tidal reach of any <i>surface water body</i> between 1 March and 31 May.
Disposal	Refer to Air Plan requirements.

7. Bay of Plenty Regional Water and Land Plan
Rule 21 Application of agrichemicals to land.

Permitted activity conditions	What the rule requires
Type of use	Discharge of agrichemicals where it may enter water
Area of use Rule 21 f)	discharges within the Riparian Management Zone specified in Table 41 shall only be from a method that accurately applies the agrichemical to the target species or area of land. This application to hand held and mechanical application methods. Refer to comments in 2) above and details below.
Nature of applicator Rule 21 b)	Must comply with the requirements of the Operative Bay of Plenty Regional Air Plan.
Certain agrichemicals	
Comply with manufacturer's instructions Rule 21 d)	The application must be consistent with the manufacturer's instructions.
Drift beyond the boundary Rule 21 c)	The application must not result in any <i>harmful concentration</i> of agrichemical beyond the target area.
Status of NZS8409	Refer to Air Plan requirements
Qualifications or training	Refer to Air Plan requirements
Notification	Refer to Air Plan requirements
Spray Plan	Refer to Air Plan requirements.
Signage	Refer to Air Plan requirements.
Records	Refer to Air Plan requirements.
Public places or amenity areas or sensitive areas	Refer to Air Plan requirements.
Storage	Refer to Air Plan requirements.
Mixing sites	Refer to Air Plan requirements.
Applications to or near water Rule 21 a) and e)	<p>There must be no direct discharge of agrichemicals to streams, <i>rivers, lakes or wetlands</i>.</p> <p>Where an agrichemical is discharged near, or adjacent to a <i>surface water body</i>:</p> <ul style="list-style-type: none"> • Only agrichemicals approved for use for near water shall be used by the HSNO Act 1996. • The discharge shall not result in fish kills • The discharge shall not contaminate any authorised

	<p>water take</p> <ul style="list-style-type: none"> • There shall be no discharge in the tidal reach of any surface water body between 1 March and 31 May.
Disposal	Refer to Air Plan requirements.

8. Riparian Management Zone

Rule 21 has requirements relating to Riparian Management Zones. These distances vary according to the location and slope of the land. The table below sets out distances within which only methods which accurately applies the agrichemical can be used.

The definition of Riparian Management Zone is: the area of land that covers a specified horizontal distance from any wetland, or from the bed of any permanently or intermittently flowing river, stream or a lake. Areas of land adjacent to ephemeral flowpaths are excluded from the Riparian Management Zone. Land on the margins of estuaries, harbours and the open rocky coast is covered by the definition of "Coastal Margin". Land on the margins of coastal dune systems is covered by the definition of "Sand Dune Country". The horizontal width of a Riparian Management Zone, as measured from the edge of the surface water body to the width stated, is as follows:

1 For land adjacent to Rotorua Lakes:

Table 41 – Agrichemical Application in Riparian Areas

	General Area	Location	Land Slope	Distance from surface water body as measured from the edge of the surface water body
(a)	Riparian Management Zone – Rotorua Lakes	Rotorua Lakes (refer to Definition of Terms)	0 to 7° >7 to 25° >25 to 35° >35°	Between 0-5 metres from the edge of the lake Between 0-10 metres from the edge of the lake Between 0-40 metres from the edge of the lake Between 0-40 metres from the edge of the lake
(b)	Riparian Management Zone – excluding (a)	All streams, rivers, wetlands, and lakes not specified in (a)	0 to 7° >7 to 15° >15 to 25° >25 to 35° >35°	Between 0-2 metres from the edge of the water body Between 0-5 metres from the edge of the water body Between 0-10 metres from the edge of the water body Between 0-25 metres from the edge of the water body Between 0-40 metres from the edge of the water body
Note: The Riparian Management Zone in Table 41 does not apply to artificial watercourses (including farm drains and roadside drains)				

9. Spray Plan requirements

Rule 13 states that a spray plan may be an agreed form of notification between parties. The following sets out the matters from Appendix M4 of NZS8409:2004 Management of Agrichemicals which should be included in a spray plan.

A template for a Property Spray Plan based on Appendix M4 can be found on the GROWSAFE® website: www.growsafe.co.nz.

The Spray Plan should be prepared by the owner, occupier or manager of the property or the applicator and include the following:

1. Address and phone of property owners / occupiers, property manager and registered chemical applicators.
2. Address and phone number of neighbours and status (owner/ occupier)
3. Roads adjacent to the property boundary and roads used for school bus routes
4. Identification of area to be sprayed, size of area and target (e.g. crops) to be sprayed
5. Types of agrichemicals that are likely to be used during the year, classifications, potential hazard and times of year that spraying is likely to occur
6. Description and location of any *sensitive areas* (see definition below)
7. Strategies to be used to avoid *spraydrift* on sensitive areas
8. Factors to be considered before spraying (e.g. weather conditions)
9. Factors that may increase spray hazard potential (refer to Potential Spray Drift Hazard Chart from NZS8409:2004 Appendix G and 6.2.9 of the Plan).

10. Definitions

- Agrichemical
- Agricultural compound
- Adjoining
- Commercial
- Contractor
- Ground based application contractor
- Harmful concentration
- Subject Property
- Surface water body
- Water
- Water body – and related definitions of river, lake and wetland

Agrichemical – any substance, whether inorganic or organic, man-made or naturally occurring, modified or in its original state, that is used in any agriculture, horticulture or related activity, to eradicate, modify or control flora and fauna. For the purposes of this plan, this definition excludes any fertiliser.

Agricultural Compound – any substance, mixture of substances, or biological compound, excluding any fertiliser, used or intended for use in the direct management of plants and animals, or to be applied to the land, place, or water on or in which the plants and animals are managed. For fuller explanation see definition in the Agricultural Compounds and Veterinary Medicines Act 1997.

Adjoining – where used in relation to a property, means next to and includes adjacent properties separated by a road (public or private driveway/roadway).

Commercial – In relation to agrichemical use includes the use of agrichemicals by any person, group or organisation in the course of their business activities. For example, this includes:

- any agricultural, horticultural, forestry or recreational undertaking;
- contractors operating for hire or reward; and
- any local authority managing the use of agrichemicals in public amenity areas, places or public assembly or waterways.

Contractor – any person or organisation who by financial agreement (contract) with the owner, occupier or manager of land, applies or causes to be applied, any agrichemical for hire or reward. This does not include the owner, occupier or manager of that land, or their employee.

Ground based application contractor – a contractor who applies agrichemical using ground based equipment.

Harmful Concentration – a concentration of contaminants that causes or is likely to cause injury to the health of humans or animals, or adversely affect water, soil or plants.

Public place includes public land, public roads or railways (from Schedule 2)

Surface water body means freshwater in a river lake, stream, pond or wetland that is not located within the Coastal Marine Area.

Water

Means water in all its physical forms whether flowing or not and whether over or under the ground

Water body - Means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

Note: The definition of water body is further defined in the definitions of river, lake and wetland:

River means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)

Lake means a body of fresh water which is entirely or nearly surrounded by land

Wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.