

Guide to agrichemical use in Resource Management Plans – Northland Region as at October 2011

Northland Regional Air Quality 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 Northland Regional Air Quality Plan has 2 permitted activity rules for agrichemical applications in Part 10.1 – depending on the nature of the applicator:

- Rule 4 Discharge of contaminants to air from agrichemical application by a domestic user (This guide does not address Rule 4 for domestic use.)
- Rule 5 Discharge of contaminants to air from agrichemical application by a commercial user or contractor

Rule 5 references the following appendices in the Plan:

- Appendix 4 – Property Spray Plans
- Appendix 6 – Performance Requirements for qualifications to apply agrichemicals.

Details of these Appendices are included below.

There are also prohibited rules which mean that no consent can be sought for those activities – see section 2 below.

If the conditions of the permitted activity rule cannot be met then a discretionary activity resource consent under Rule 10.3 will be required from the Council.

Status of Plan – The Northland Regional Air Quality Plan is Operative meaning that the current version cannot be changed except through a publicly notified Plan Change.

The rules provide for the discharge of agrichemicals into air.

Rules relating to discharge into water are in Section 18 of the Regional Water and Soil Plan for Northland.

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

Permitted activity rules

- Rule 1 Vertebrate control chemicals into or onto land by ground based application method
- Rule 2 Discharge of any agrichemical, excluding vertebrate control chemicals, into or onto land by ground based application methods which may result in agrichemical entering water
- Rule 3 Discharge of herbicides into water

If the conditions of the permitted activity rule cannot be met then a discretionary activity resource consent under Rule 18.3 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. The definitions of *commercial user*, *commercial contractor* and *hand held application methods*, are particularly important as they determine how the provisions in the rule will apply.

Relevant definitions include:

- Agrichemical
- Air blast application
- Commercial contractor
- Commercial User
- Domestic User
- Ground based application methods
- Handheld application methods
- Property boundary
- Sensitive areas
- Water
- Water body – river, lake, wetland

The link to Northland Regional Air Quality Plan is:

<http://www.nrc.govt.nz/Resource-Library-Summary/Plans-and-Policies/Regional-plans/Regional-Air-Quality-Plan/>

The link to the Regional Water and Soil Plan for Northland is:

<http://www.nrc.govt.nz/Resource-Library-Summary/Plans-and-Policies/Regional-plans/Regional-Water-and-Soil-Plan/>

2. Prohibited rules

The Northland Regional Air Quality Plan Section 10.4 has 3 prohibited rules:

1. No burning of plastic agrichemical containers
2. No use of deregistered or unregistered agrichemicals
3. No use of 2,4- D Butyl ester

No resource consent can be granted for these activities to be undertaken.

3. Specific notes for users

Rule 10.1 6) limits the use of 24D Ester to the following times:

- By hand held methods at any time of the year
- Between 1 May – 31 August using ground based equipment or aerial application

That means that between 1 September to 30 April 24D Ester can only be used by hand held application methods or resource consent be sought for its use.

The use of 24D Ester use must adhere to the label recommendations for water rates.

Rule 5 c) requires that the application is undertaken in accordance with the mandatory requirements in Parts 5.1, 5.2, 5.5, 5.6, 5.7, 5.8 and 5.9 and related Appendices N, T, V, Y, DD, HH and JJ of NZS8409:1999 Code of Practice for the Management of Agrichemicals.

Mandatory requirements 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 Northland Regional Air Quality Plan. Attached below are a list of the parts of the Standard that are referenced.

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.

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 many apply.

4. Part 10.1 Rule 5 *Commercial user or commercial contractor*

Permitted activity conditions	What the rule requires
Type of use	<i>Commercial user</i> or <i>commercial contractor</i>
Area of use	
Nature of applicator	
Certain agrichemicals 10.1 6)	24D Ester between 1 Sept – 30 April by ground based or aerial application is not permitted.
Comply with manufacturer's instructions 10.1 5) b)	Application must not exceed any rate or contravene any other requirement specified on the label and published application recommendations.
Drift beyond the boundary 10.1 5) c)	Best practicable option is implemented to avoid, remedy or mitigate any adverse effects of spraydrift beyond the target property, based on the specific parts of NZS8409 referred to in the Plan.
Status of NZS8409 10.1 5) c)	Parts 5.1, 5.2, 5.5, 5.6, 5.7, 5.8 and 5.9 and related Appendices Introduction, N, T, V, Y, DD, HH and JJ of NZS8409:1999 Code of Practice for the Management of Agrichemicals. (Refer below for names of these sections).
Qualifications or training 10.1 5) a)	Qualifications are required that meet the requirements set out in Appendix 6: (See below). <ol style="list-style-type: none"> 1. Commercial user – meets requirements of Appendix 6. A GROWSAFE® Introductory Certificate meets these requirements. 2. Commercial Contractor using ground based application techniques – meets requirements of Appendix 6. A GROWSAFE® Registered Chemical Applicators Certificate meets these requirements. 3. Commercial Contractor using aerial application techniques meets requirements of Appendix 6. A GROWSAFE® Pilot Agrichemical Rating meets these requirements.
Notification 10.1 5.1 and 5.2	<u>Public places, public roads and rail</u> Where more than 200 metres of road, rail or public places is to be sprayed, either continuously or intermittently then notification is to occur as follows: <ul style="list-style-type: none"> • To occupiers of properties within 30 metres of area to be sprayed • At least one week prior, but not more than 1 month before • Through local newspapers, door to door advice, or street

	<p>signage</p> <ul style="list-style-type: none"> • Notification must include: <ul style="list-style-type: none"> - Property and area to be sprayed - Date and general times of spraying and alternative dates if poor weather - Brand name and chemical name to be used - Method of application - Safety precautions to be taken - Contact name, address and phone number of owner manager of area to be sprayed. <p>A record of the notification must be kept and given to Northland Regional Council on request.</p> <p><u>Sensitive areas</u> Where spraying is to occur '<i>adjacent</i>' to <i>sensitive areas</i> the notification is to occur as follows:</p> <ul style="list-style-type: none"> • Either orally or in writing • Not less than 18 hours prior and not more than 2 weeks before • Include how a copy of property spray plan can be obtained • A property spray plan is to be prepared as set out in Appendix 4 of the Plan – refer to 7 below <p><i>'Adjacent'</i> means within 30 metres contiguous or separated by stream, road or similar.</p>
Spray Plan 10.1 - 5.2	Where an application is by either <i>ground based</i> or aerial application adjacent (within 30 metres) to <i>sensitive areas</i> a spray plan must be prepared as per Appendix 4 (refer below).
Signage	<u>Public places, public roads and rail.</u> Vehicles or equipment applying agrichemicals must display a sign stating: 'Agrichemical application in progress' and the name of the contractor.
Records 10.1 5) d)	The property owner or manager must keep records based on Appendix C NZS8409:1999. Records are to be given to the Regional council on request. Appendix C sets out a Agrichemical Use Record Sheet that requires: <ul style="list-style-type: none"> • Name, Date, Location • Agrichemical used • Target of use • Application rate/dosage, total volume (kg or litre per ha) • Application methods • Additives used • Weather conditions (windspeed, direction, humidity) • Sensitive areas (location map, neighbours notified) • Other comments • Results achieved.
Public places or amenity	See notification, spray plan and signage above

areas or sensitive areas 10.1 5) c)	
Storage	
Mixing sites	
Applications to or near water	Requirements from Regional Water and Soil Plan Rule 18.1 2. And 18.1.3.
Disposal	No disposal of containers by burning.

5. Regional Water and Soil Plan Rule 18.1 Rule 2

Discharge of any agrichemical, excluding vertebrate control chemicals, into or onto land by ground based application methods which may result in agrichemical entering water

Note: The requirements of the Regional Air Quality Plan are still required in addition to those matters relating specifically to water.

Permitted activity conditions	What the rule requires
Type of use	Ground based application
Area of use	
Nature of applicator	
Certain agrichemicals 18.1 2)	Approved for use by ERMA
Comply with manufacturer's instructions 18.1 2) b)	Applied in accordance with manufacturer's instructions and application rates do not exceed those stated in most recent product land to the relevant equipment, method or target species.
Drift beyond the boundary	
Status of NZS8409	
Qualifications or training	
Notification 18.1 2) c)	All landowners or occupiers adjoining the property are notified at least one week before the discharge occurs.
Spray Plan	
Signage	
Records	
Public places or amenity areas or sensitive areas	
Storage	
Mixing sites	
Applications to or near water 18.1 2) a)	All reasonable steps are taken to ensure that the agrichemical is applied in a manner which ensures that: <ul style="list-style-type: none"> • It does not enter water • Adverse effects on non-target species are minimised.
Disposal	

6. Regional Water and Soil Plan Rule 18.1 Rule 3 Discharge of herbicides into water

Permitted activity conditions	What the rule requires
Type of use	Application into water
Area of use	
Nature of applicator	
Certain agrichemicals 18.1 3) a)	Herbicide approved for aquatic use by ERMA.
Comply with manufacturer's instructions 18.1 3) c)	Application rates do not exceed those stated in most recent product label to the relevant equipment, method or target species.
Drift beyond the boundary	
Status of NZS8409	No formal status but plan advises that NZAS8409 provides best practice which should be followed.
Qualifications or training	Application is carried out by a suitably qualified person ie. GROWSAFE® certificate.
Notification 18.1 2) c)	Discharger shall notify at least one week prior: <ul style="list-style-type: none"> • Every person taking water for domestic supply within one km downstream of the proposed discharge • Every holder of a resource consent for the taking of water for water supply purposes downstream of the proposed discharge.
Spray Plan	
Signage	
Records	
Public places or amenity areas or sensitive areas	
Storage	
Mixing sites	
Applications to or near water	
Disposal	

7. Spray Plan requirements – Appendix 4

Rule 5.2 requires that a spray plan be completed to include the information in Appendix 4 of the Plan where the application is within 30 metres of a *sensitive area*.

Appendix 4 of the Plan requires similar matters to those in NZS8409. A template for a Property Spray Plan based on NZS8409 can be found on the GROWSAFE® website: www.growsafe.co.nz.

At the very least a spray plan to meet the requirements of Northland Regional Air Quality Plan will require:

1. A list of immediate neighbours and their contact phone numbers
2. Details of road boundaries, especially for roads used by school children
3. Crops to be sprayed and list of agrichemicals that are likely to be used during the year and times of year that spraying is likely to occur
4. Identification of *sensitive areas* (location and type) and strategies to be used to avoid spraydrift on sensitive areas (e.g. application techniques, buffer zone areas, manning boundaries)
5. Name of person carrying out agrichemical application and confirmation of their current GROWSAFE® certification
6. Particular weather conditions which may increase potential drift hazard
7. Indications of agrichemicals to be used that may present a specific hazard (e.g. bee toxicity)
8. Procedures for giving notice of intention to spray.

8. Performance requirements for qualifications to apply agrichemicals - Appendix 6

Rule 10.1 5) sets out training requirements for both *commercial users* and *commercial contractors* and refers to the performance requirements in Appendix 6. The requirements for commercial users are split to have lesser requirements for those working under supervision than for those not working under supervision and direction. A user will need to determine which are the appropriate requirements given the nature of the work being undertaken.

Commercial user

Definition of commercial user is: Any person, group or organisation applying agrichemicals on their own in the course of their business activities. It includes farmers, horticulturalists and foresters, and any local authority staff. It does not include any Local Authorities Trading Enterprise (LATE) (modified from NZS8409:1995, Agrichemical User's Code of Practice). For the purpose of this Plan, LATE's are considered to be contractors.

Commercial user training requirements are:

For working under supervision and direction:

- Awareness of the requirements of NZS8409:1999 The Code of Practice for the Management of agrichemicals
- Safety precautions
- Basic principles of application equipment.

For working without supervision and direction:

- All the points for working under supervision and direction above; plus

- Transport, storage and disposal of agrichemicals
- Product label and interpretation
- Environmental effects and spray drift minimisation
- Principles of agrichemical use, including weed, pest and disease identification
- Calibration of agrichemical equipment.

A GROWSAFE® Introductory Certificate meets these requirements.

Commercial contractor

The definition of a commercial contractor is: Any person or organisation who, by agreement with the owner, occupier or manager of any land, applies or causes to be applied any agrichemical in an agricultural, horticultural or related situation for hire of reward. It does not include an employee or an owner, occupier or manager.

Commercial contractor training requirements (both ground based and aerial) are:

- First aid, health and safety, and emergency response
- Environmental effects, including spray drift minimisation
- Notification requirements including signage
- Product label interpretation
- Protection equipment selection and use
- Transport, storage and disposal of agrichemicals
- Selection, calibration and operation of application equipment for specific operations/

A GROWSAFE® Registered Chemical Applicators Certificate meets these requirements for ground based applications.

A GROWSAFE® Pilot Agrichemical Rating meets these requirements for aerial applications.

9. Definitions

Relevant definitions include:

- Agrichemical
- Air blast application
- Commercial contractor
- Commercial User
- Domestic User
- Ground based application methods
- Handheld application methods
- Property boundary
- Sensitive areas
- Water
- Water body – river, lake, wetland

Agrichemical - Any substance, whether inorganic or organic, manufactured or naturally occurring, modified or in its original state, that is used in any agricultural, horticultural, forestry or other industrial activity, management of public amenity areas or related activity, to eradicate, modify or control flora and fauna (modified from NZS8409:1995) For the purposes of this Plan it does not include animal remedies or fertilisers.

Air blast application – the use of high velocity air from specialised equipment to apply the agrichemical to target.

Commercial contractor – Any person or organisation who, by agreement with the owner, occupier or manager of any land, applies or causes to be applied any agrichemical in an agricultural, horticultural or related situation for hire of reward. It does not include an employee or an owner, occupier or manager.

Commercial User - Any person, group or organisation applying agrichemicals on their own in the course of their business activities. It includes farmers, horticulturalists and foresters, and any local authority staff. It does not include any Local Authorities Trading Enterprise (LATE) (modified from NZS8409:1995, Agrichemical User's Code of Practice). For the purpose of this Plan, LATE's are considered to be contractors.

Domestic User – Any person, group or organisation using agrichemicals in a private capacity and not using agrichemicals in the course of their business activities.

Ground based application methods - Any method of application where the equipment from which the agrichemical is emitted is on the ground and is not held by the person applying the agrichemical.

Handheld application methods - Any method of application where the applicator holds that part of the equipment from which the agrichemical is emitted.

Property boundary – means the surveyed boundary encompassing all contiguous allotments (as defined in section 218 of the Resource Management Act 1991) owned or leased by the discharger, that are associated with the property on which the discharges occur, and which abut another property under separate title.

Sensitive areas – Sensitive areas are:

- Residential buildings and surrounds
- School buildings
- Amenity areas where people congregate
- Public water-supply intakes
- Water bodies, and associated riparian vegetation
- Certified Organic Farms certified by BIO-GRO, CERTENZ, DEMETER or an equivalent auditable standard
- Herbicide sensitive crops such as grapes, tomatoes and kiwifruit
- Insecticide sensitive crops that require pollination during flowering
- Production forests
- Areas of indigenous vegetation, habitat areas and reserves
- Public roads.

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 (RMA definition).

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

10. Relevant parts of NZS8409:1999 Code of Practice for the Management of Agrichemicals.

Part 5 Use of Agrichemicals

- 5.1 Preliminary checks
- 5.2 Notification
- 5.5 Handling and mixing
- 5.6 Application - General
- 5.7 Application – Tasks and responsibilities
- 5.8 Drift Hazard
- 5.9 Documentation requirements

Related Appendices

- N Notification and signage
- T Application Equipment and Spray categories
- V Calibration of application equipment
- Y Drift Hazard and weather conditions
- DD Agrichemical use training
- HH Definitions

Note: The Plan also reference App JJ but there is no App JJ in NZS8409:1999.