

## Guide to agrichemical use in Resource Management Plans

### Gisborne District

As at June 2017

Disclaimer: This Guide is intended to assist users and applicators to understand 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 councils are met rests with the applicator and user of agrichemicals.

#### Contents of this Guide

1. Structure of plan requirements
2. Specific notes for users
3. Rule 13 Discharges from small scale application of agrichemicals
4. Rule 14 Discharges from widespread application of agrichemicals
5. Discharges from the application of 2,4-D Ethyl hexyl Ester herbicide
6. Requirements for qualifications to apply agrichemicals
7. Spray Plan requirements
8. Definitions

#### 1. Structure of plan requirements

Gisborne District is a unitary council, meaning that it covers both regional council functions relating to discharges to air, land and water and district council functions, including land use storage.

Under the Gisborne Air Quality Management Plan the following two methods of agrichemical applications to air are permitted activities, ie you do not need a resource consent if you follow the rules:

- Rule 13 Discharges from small scale application of agrichemicals
- Rule 14 Discharges from widespread application of agrichemicals

The Plan also includes Appendix 3 – Training requirements for qualifications to apply agrichemicals - which sets out training requirements for users. (See section 6 of this Guide for details.)

There are also General Standards in Rule 6.3.1 of the Plan which are required to be met in a permitted activity. The relevant standards have been included in the rule tables below.

Prohibited rules: Rule 27 prohibits the discharge of:

- An agrichemical 12 months after its deregistration
- 2,4-D Butyl Ester

No resource consent can be granted for discharges of these products.

The Regional Plan for Discharges to Land and Water addresses discharges of agrichemicals or herbicides to land or water as a permitted activity in Rule 4.5.1. The requirements of this rule are incorporated in the rule tables below.

#### Definitions

Key words are identified in this Guide by *italics* and their formal definitions from the Plan are listed in section 8 of this Guide. These key words are identified in this Guide by *italics* and their formal

definitions from the Plan are listed in section 8 of this Guide. The definition of **hand held application appliance** is particularly important as it determines which provisions in the rules will apply.

### **Status of plan**

The Gisborne Air Quality Management Plan is Operative meaning that the current version cannot be changed except through a publicly notified Plan Change.

The link to the Gisborne District Council website and the rules in the plan is:  
<http://www.gisborne.govt.nz/air-quality-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 useful.

### **Special areas**

Rule 14 does not provide for application of agrichemicals within a Protection Management Area or a Riparian Management Area as identified in the Combined Regional and District Plan. A landowner and/or applicator should ensure that such areas are not included within the area where spraying will be undertaken. 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.

### **NZS8409:2004**

Rules 13 and 14 require that the application is undertaken in a manner complying with NZS8409:2004 Management of Agrichemicals. The rule does 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 NZS8409:2004 and meet these requirements to be compliant with the rules for agrichemical use in the Regional Air Quality Management Plan for Gisborne.

### **2,4-D Ethyl Hexyl Ester Herbicide**

The Plan has specific requirements for when 2,4-D Ethyl Hexyl Ester Herbicide is used. These requirements are set out below the rule tables and attention is drawn to this for users of those agrichemicals.

### **Using this Guide**

The summary tables below for each rule set out possible conditions that a Council may require in a permitted activity rule for agrichemical use. If a line is blank then it means that the Plan does not require anything on that issue.

### 3. Rule 13: Discharges from small scale application of agrichemicals

Permitted activity conditions	What the rule requires
Type of use	Small scale application is based on the definition of <b>hand held application appliance</b> : a sprayer with a single nozzle and operated at a pressure no greater than 200kpa (30psi) and used to target one or more discrete areas not exceeding 2m <sup>2</sup> .
Area of use	
Nature of applicator	
Certain agrichemicals	Rule 27 prohibits the discharge of: <ul style="list-style-type: none"> <li>• An agrichemical 12 months after its deregistration</li> <li>• 2,4-D Butyl Ester</li> </ul>
Comply with manufacturer's instructions Rule 13 b)	The application shall be undertaken in a manner which does not exceed any rate, or contravene any other requirement specified in the agrichemical manufacturer's instructions.
Drift beyond the boundary Rule 13 d)	The council shall be notified immediately in the case of unintended discharge resulting in contamination occurring beyond the boundary of the target property.
Status of NZS8409 Rule 13 c)	For commercial users the <b>agrichemical</b> shall be used in a manner consistent with NZS8409: 2004 Management of Agrichemicals.
Qualifications or training	
Notification	
Spray Plan	
Signage	
Records	
Public places or amenity areas or <b>sensitive areas</b> 6.3.1 m)	The discharge shall not result in the deposition of any agrichemical onto any roof or other structure used as a collection for water supply or onto any residential or school vegetable garden that could reasonably be expected to cause any significant adverse effect.
Storage	
Mixing sites	
Applications to or near water 6.3.1 k) 6.3.1 l)	No discharge of agrichemicals shall occur directly above a permanently flowing <b>river, lake, wetland</b> or other <b>surface water body</b> , unless the chemical is registered for use over water bodies; Discharges of agrichemicals onto <b>water bodies</b> specifically managed for public water supply purposes shall not result in noxious or dangerous levels of agrichemicals, unless the discharge is a chemical registered for use over water bodies.
Disposal	

#### 4. Rule 14: Discharges from widespread application of agrichemicals

Permitted activity conditions	What the rule requires
Type of use	Widespread application is any application not meeting the criteria in the definition of <b>hand held application appliance</b> .
Area of use Rule 14 c)	<p>No applications shall occur on or over:</p> <ul style="list-style-type: none"> <li>• Protection Management Area; or</li> <li>• Riparian Management Area; or</li> <li>• the landward area within 200 metres of Mean High Water Springs;</li> </ul> <p>Unless:</p> <ul style="list-style-type: none"> <li>• Authorised in Ch 4 of the Combined Regional Land and District Plan; or</li> <li>• For purpose of maintenance and public safety within the road and railway reserves.</li> </ul> <p>Refer to Combined Regional Land and District Plan and maps for details of Protection Management Areas or Riparian Management Areas.</p>
Nature of applicator	
Certain agrichemicals	<p>Rule 27 prohibits the discharge of:</p> <ul style="list-style-type: none"> <li>• An agrichemical 12 months after its deregistration</li> <li>• 2,4-D Butyl Ester.</li> </ul> <p>Specific criteria apply for the use of 2,4-D ethyl hexyl ester herbicides as a permitted activity. Refer to section 5 of this Guide.</p>
Comply with manufacturer's instructions Rule 14 b)	The application shall be undertaken in a manner which does not exceed any rate, or contravene any other requirement specified in the agrichemical manufacturer's instructions.
Drift beyond the boundary Rule 14 d)	<p>The application shall not occur in winds greater than 15km/hr over the target area.</p> <p>The council shall be notified immediately in the case of unintended discharge resulting in contamination occurring beyond the boundary of the target property.</p>
Status of NZS8409 Rule 14 e)	The agrichemical shall be used in a manner complying with NZS8409: 2004 Management of Agrichemicals.
Qualifications or training Rule 14 – User Training	<p>Qualifications are required for all applicators:</p> <p><b>Commercial user</b> – meets requirements of Appendix 3 or be under the effective supervision of a person that meets those requirements. (A GROWSAFE® Introductory Certificate would meet these requirements.)</p> <p><b>Contractor</b> – undertaking ground based applications shall hold a GROWSAFE® Registered Chemical Applicators Certificate of qualification.</p>

	<p><u>Employee of contractor</u> - shall either hold a GROWSAFE® Registered Chemical Applicators Certificate or have a qualification, certified in writing, that meets the requirements of Appendix 3.</p> <p><u>Pilots</u> undertaking aerial application shall hold a GROWSAFE® Pilot Agrichemical Rating.</p> <p>See section 6 of this Guide for requirements of Appendix 3.</p> <p>Evidence of qualification shall be made available to council upon request.</p>
<p>Notification Rule 14 – Notification requirements</p>	<p><u>Private land</u></p> <ol style="list-style-type: none"> <li>1. The owner or occupier of the property to be sprayed shall advise at least 2 weeks prior to first spray season of a calendar year: <ul style="list-style-type: none"> <li>• all adjacent land occupiers; and</li> <li>• occupiers of any <b>sensitive areas</b> within: <ul style="list-style-type: none"> <li>• 30 m from the point of discharge for ground spraying or</li> <li>• 200 m from the point of discharge for aerial applications</li> </ul> </li> <li>• that a copy of the spray plan is available on request.</li> </ul> </li> <li>2. If requested by any of the parties in (1), or any other person likely to be directly affected, or the Council then a copy of the spray plan shall be provided within 5 days.</li> <li>3. If requested by any party who has been provided with a copy of the spray plan the owner or occupier of the property to be sprayed shall: <p>EITHER</p> <ul style="list-style-type: none"> <li>• No later than 8 hours prior to an application: <ul style="list-style-type: none"> <li>• Confirm name and contact details of person carrying out the application</li> <li>• Provide brand name and/ or details of the active ingredient of the agrichemical to be applied</li> <li>• Confirm date and times of times of application by telephone.</li> </ul> </li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Not less than 8 hours prior to an application but not more than 4 weeks prior to the application: <ul style="list-style-type: none"> <li>• Provide notice of intent of particular applications</li> <li>• Be verbally or in writing and include the matters in 5 below.</li> </ul> </li> </ul> </li> <li>4. If agrichemical applications need to be undertaken that have <u>not</u> been included in the spray plan the owner or occupier of the property to be sprayed shall provide: <ul style="list-style-type: none"> <li>• An amended spray plan, not less than 8 hours prior to the application to those who will be directly affected as identified in 1 and 2 above; and</li> <li>• Notification of particular applications shall be provided to any neighbouring land occupiers and those who have requested to be notified in writing on an application by application basis: <ul style="list-style-type: none"> <li>• Not less than 8 hours and no more than 4 weeks prior to the application</li> <li>• Either verbally or in writing and include the matters below.</li> </ul> </li> </ul> </li> <li>5. Notification of particular applications shall include:</li> </ol>

	<ul style="list-style-type: none"> <li>• Contact name and phone number of those carrying out the application</li> <li>• Name of the chemical to be sprayed</li> <li>• Approximate time of day and date that the application will occur</li> <li>• Any advised safety precautions for third parties</li> <li>• The property/part of property to be sprayed</li> <li>• The equipment, method of application and application rate.</li> </ul> <p>NOTE: The options in 3 allow for the most suitable method of notification depending on the frequency of applications.</p> <p><u>Public land</u></p> <ol style="list-style-type: none"> <li>1. Where the application is on public land (excluding road and rail reserves) intention to spray shall be publicly notified to adjacent occupiers at least 7 days before spraying is undertaken either by: <ul style="list-style-type: none"> <li>• Daily local newspaper; or</li> <li>• Door to door advice.</li> </ul> </li> <li>2. Notification shall include: <ul style="list-style-type: none"> <li>• Property to be sprayed</li> <li>• Dates and time of spraying (including alternatives in case of adverse weather)</li> <li>• Brand name or chemical name to be used</li> <li>• Any relevant safety precautions.</li> </ul> </li> <li>3. Where the application is undertaken on road or rail reserves notification must be provided at least annually by public notice in the newspaper and is to include the information in 2 above and the contact name and phone number of the party undertaking the application.</li> </ol>
<p>Spray Plan Rule 14 f)</p>	<p>A spray plan shall be prepared in accordance with NZS8409: 2004 and Appendix M. Refer below for details of spray plans.</p>
<p>Signage Rule 14 - Signage</p>	<p><u>Private land</u></p> <p>When the application occurs on any school day between the hours of 7.30am – 9am and 2.30pm – 4.30pm signs shall be used to indicate the use of agrichemicals:</p> <ul style="list-style-type: none"> <li>• Within 10 metres of a bus stop on a school bus route where there is a shelter belt giving effective protection between the application and the bus stop; or</li> <li>• Within 50 metres of a bus stop on a school bus route where there is no shelter belt giving effective protection between the application and the bus stop.</li> </ul> <p><u>Public land</u></p> <p>Where the application is on public land:</p> <ul style="list-style-type: none"> <li>• Signs shall be placed around the application area or the entrance to the public land (excluding public roads) that are legible at a distance of at least 10 metres and remain in place for the duration of the contact re-entry period.</li> <li>• Where spraying is alongside public roads vehicles associated with the spraying shall display prominent signs (front and back) advising that spraying is in progress.</li> </ul>

<p>Records Rule 14 – Written Records</p>	<p>Written records must be kept for all applications, and kept for at least 2 years.</p> <p>Records must include:</p> <ul style="list-style-type: none"> <li>• Property or part of property sprayed</li> <li>• date and time when agrichemical was applied</li> <li>• Crops sprayed and list of chemicals used during the year or season</li> <li>• List of addresses of those who have been notified as per notification requirements above</li> <li>• Equipment and method of application used</li> <li>• Concentration and volume of spray used</li> <li>• Weather conditions at the time of spraying</li> <li>• How notification requirements have been met</li> <li>• Details of any abnormal situation or incident and any action taken, including any variations to the notice of intention to spray</li> <li>• Identification of sensitive areas and strategies taken to avoid contamination of those areas.</li> </ul> <p>Records must be supplied to the Council on request.</p> <p>NOTE: Records for complying with NZS8409:2004 Management of Agrichemicals will meet the requirements of this condition.</p>
<p>Public places or amenity areas or sensitive areas 6.3.1 m)</p>	<p>The discharge shall not result in the deposition of any agrichemical onto any roof or other structure used as a collection for water supply or onto any residential or school vegetable garden that could reasonably be expected to cause any significant adverse effect.</p>
<p>Storage</p>	<p>As required in NZ8409:2004 in Section 4 and Appendix L.</p>
<p>Mixing sites</p>	<p>As required in NZ8409:2004 5.3.2 and in Appendix R.</p>
<p>Applications to or near water 6.3.1 k) 6.3.1 l)</p> <p>Discharges to land and water Plan 4.5.1</p>	<p>No discharge of agrichemicals shall occur directly above a permanently flowing river, lake, wetland or other surface water body, unless the chemical is registered for use over water bodies;</p> <ul style="list-style-type: none"> <li>• Discharges of agrichemicals onto water bodies specifically managed for public water supply purposes shall not result in noxious or dangerous levels of agrichemicals, unless the discharge is a chemical registered for use over water bodies.</li> <li>• Discharge of agrichemicals to water must be an approved substance under HSNO 1996 for the use it is being put to, or is a permitted or restricted material listed in, and used in accordance with the Bio-Gro NZ Organic Production Standards 1998.</li> </ul>
<p>Disposal</p>	<p>As required in NZ8409:2004 in Section 6 and Appendix S.</p>

## 5. Discharges from the application of 2,4-D Ethyl hexyl Ester Herbicide

Before applying 2,4-D Ethyl hexyl Ester Herbicide the applicator shall ensure that, in addition of the requirements of Rule 14, the following criteria are met:

- An assessment demonstrating that there are no sensitive crops or farming systems within 5 kms has been undertaken;
- Consideration is given to wind speed, direction, ground and air temperature before and during application;
- Non-volatile formulations have been considered;
- Nozzles shall be low drift nozzles that produce droplets with a VMD of not less than 400 microns; and
- Equipment is correctly calibrated.

NZS8409:2004 Management of Agrichemicals Appendices F Environmental Management and G Spray Drift Hazard are particularly important. Appendix Q Application Equipment provides details about VMD, droplet sizes and nozzles.

Rule 14 requires that agrichemical applications comply with NZS8409:2004.

NOTE: If the criteria cannot be met a resource consent would be required (e.g. application within 5 kms of a sensitive crop or farming system).

## 6. Requirements for qualifications to apply agrichemicals

Rule 14.2 requires user training and certification for all users. The requirements for the training are set out in Appendix 3 as follows:

### 14.2 a) i) **Commercial Users**

Knowing and being able to describe:

- The hazard classifications of agrichemicals to be used.
- The adverse effects that could be caused by the agrichemicals to be used.
- His or her obligations and liabilities under Acts of Parliament relative to the agrichemicals to be used and their use.
- Which regulations apply in respect of those agrichemicals, and where those regulations can be obtained (including the Gisborne Air Quality Management Plan).
- The content of NZS 8409: 2004 Management of Agrichemicals
- The precautions required to prevent injury to a person or damage to the environment (including property) by any agrichemicals to be used.
- The procedure to adopt in an emergency involving the agrichemicals to be used.

Knowing and being able to demonstrate:

- A working knowledge of the operating equipment (including protective equipment and clothing) necessary to manage the agrichemicals being used.

NOTE: An example of a qualification that meets these requirements is the GROWSAFE® Introductory Certificate.

### 14.2 a) ii) **Contractor and Contractor Employee**

The minimum programme for contract use of agrichemicals (animal and plant health products) where agrichemicals are applied for hire or reward (both ground and aerial application) shall include those matters listed for Commercial Users and these additional matters:



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

NOTE: An example of a qualification that meets these requirements is the GROWSAFE® Applied Certificate.

## 7. Spray Plan requirements

Rule 14.2 f) requires that a spray plan in accordance with NZS8409:2004 Management of Agrichemicals be completed for all widespread applications.

The spray plan is to include:

1. Property/ part of property to be sprayed;
2. Crops to be sprayed;
3. Types of agrichemicals that are likely to be used;
4. Equipment, method of application to be used and application rates;
5. Approximate times of year that spraying is likely to occur;
6. Name, address and contact details of those likely to be carrying out agrichemical applications;
7. A plan or map detailing location of any sensitive areas (see definition below)
8. Indications of agrichemicals to be used that may present a specific hazard;
9. Particular weather conditions which may increase potential drift hazard
10. Where 2,4-D ethyl hexyl ester herbicide is to be applied, information relating to specific criteria for its application as detailed above.

The requirements for a spray plan are set out in Appendix M4 NZS8409:2004. A template for a Property Spray Plan based on Appendix M4 can be found on the GROWSAFE® website: [www.growsafe.co.nz](http://www.growsafe.co.nz).

## 8. Definitions

**Agrichemicals** - any substance, whether inorganic or organic, manmade or naturally occurring, modified or in its original state, that is used to eradicate, modify or control flora or fauna, including agricultural compounds. Fertilisers are explicitly excluded from this definition.

**Agricultural compounds** - any substance, mixture of substances, or biological compound, used or intended for use in the direct management of plants and animals, or to applied to the land, place, or water on or in which plants and animals are managed. For fuller definition refer to the Agricultural Compounds and Veterinary Medicines Act 1977.

**Agrichemical container** - anything in which agrichemicals may be packed, enclosed or covered prior to application.

**Buffer zone** in relation to the use of agrichemicals and potentially odorous discharges - the distance between the downwind edge of an area where the activity is undertaken and sensitive areas.

**Commercial user** - any person, group or organisation using agrichemicals in the course of their business activities. It includes any Council or territorial authority managing the use of agrichemicals in amenity areas, roadsides, waterways and on noxious weeds and plants.

**Contractor** - any person or organisation who, by agreement with owner, occupier or manager of any land, applies or causes to be applied, any agrichemical in an agricultural, horticultural, or forestry related situation for hire or reward. It does not include an employee or an owner, occupier or manager

**Domestic user** - any person, group or organisation using agrichemicals in a private capacity and not using agrichemicals in the course of their business activities.

**Effective supervision** - ensuring that:

- Proper equipment and operating systems are provided and used in accordance with the Plan and NZS8409:2004; and
- Agrichemical applications only occur when weather and wind conditions are in accordance with the Plan and NZS8409:2004; and
- Instructions of the applicator has been undertaken prior to application; and
- Demonstration and recording of the applicators' competence can be shown.

**Groundbased application methods** - any method of application where that part of the equipment from where the agrichemical is emitted is either on the ground or attached to equipment that is on the ground (excluding hand held application).

**Hand held appliance** - a sprayer with a single nozzle and operated at a pressure no greater than 200kpa (30psi) and used to target one or more discrete areas not exceeding 2m<sup>2</sup>.

**Place of assembly** - land or buildings that are used in whole or part for the public and private assembly of persons for such purposes as deliberation, entertainment, education, recreation or similar purposes.

**Public land** - land that specifically provides for public access and can include public roads, parks, reserves and wildlife areas, public gardens, golf courses, bowling greens, playing fields and public walkways. Public land does not include land administered under Crown Forestry Licences.

**Qualification** - document certifying in writing that the holder has completed a course of training and/or achieved a level of competency, on a subject described in the certificate issued by a responsible person or organisation who:

- Is independent from the certificate holder
- Is experienced and knowledgeable in the subject matter
- Uses methods that effectively assess the competency of the holder in the subject matter.

In relation to Rule 14.2 the certifying person or organisation will be required to demonstrate that the above criteria are met in regard to Appendix 3.

**Sensitive areas** - receiving environments in the Gisborne District which are more sensitive to the discharge of contaminants to air than others. These have been identified as being:

- Residences and places of public and private assembly (including amenity areas) where the discharge may result in a reduction in amenity values or adversely affect human health;
- Public roads and airports where the discharge may result in a reduction in visibility, or otherwise jeopardise the safe and efficient use of this infrastructure;
- Domestic and community water supplies where the discharge may result in adverse effects on human health;
- Wetlands, lakes and rivers and their margins, where the discharge may result in a reduction of the life supporting capacity of water, cause damage to aquatic ecosystems, or a loss of natural character;
- Sensitive crops or farming systems, where the discharge may result in damage to crops or animals, or jeopardise the ability for people to provide for their economic wellbeing;
- Significant indigenous vegetation and significant habitats of indigenous fauna as defined in Chapter 4 of the Proposed Gisborne District Combined Regional Land and District Plan, Urban and Rural Maps and Appendices: post-decisions annotated version July 2000, including areas containing threatened species where the discharge may result in damage to these indigenous species or habitats;
- The coastal environment, in particular within 200m landward of Mean High Water Springs where the discharge may result in a loss of natural character;
- Sites of special significance to Tangata Whenua, as identified in the Part Operative Gisborne District Combined Regional Land and District Plan.

**Surface water body** - as it applies in General Standards 6.3.1 k) includes any drain, or any opening to a drain, or any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation or farm drainage canals) that is discharging to a surface water body.

**Water** - water in all its physical forms whether flowing or not and whether over or under the ground

**Water body** - 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** - 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** - 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.