

Guide to agrichemical use in Resource Management Plans

Marlborough 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 is with the applicator and user of agrichemicals.

Contents of this Guide

1. Structure of plan requirements
2. Specific notes for users
3. Rule 30.1.8.5 Application of agrichemicals
4. Rule 27.5.2.8.3 Spraying of roadside vegetation
5. Spray Plan requirements
6. Definitions

1. Structure of plan requirements

Marlborough 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.

The Council has two Resource Management Plans:

- Wairua/Awatere Resource Management Plan
- Marlborough Sounds Resource Management Plan

The provisions relating to agrichemical application are similar in both plans. This Guide is based on the provisions in Wairua/Awatere Resource Management Plan.

The rules in the Plan are based on zones. This guide is based on the provisions in the Rural 3 and 4 zones. Users should consult the plan if agrichemical applications are being undertaken in other zones, such as the Conservation Zone or the Rural Residential Zone. The provisions for agrichemical applications in the Rural Zone 3 and 4 are in Chapter 30.1.8.5 and provide for the discharge of agrichemicals onto land.

There are also General Rules which apply across all zones, which include provisions for agrichemical application:

- Fresh Water, Rivers and Riverbeds: The rules for applications of aquatic agrichemicals vary according to the class of water to which the discharge is being undertaken. Some classes will require resource consents to undertake the activity. Users seeking to apply agrichemicals for aquatic use are directed to Chapter 27 of the Plan to determine the requirements for aquatic applications.
- Utilities and Designations (including roads): The provisions in Chapter 27 relating to spraying of roadside vegetation are included in the table in section 4 below.

If the relevant requirements listed in the rules cannot be met then a resource consent under Rule 30.4.1 will be required from the Council.

The plan also has specific provisions relating to applications of Deadly Poisons (as listed in the First Schedule to the Toxic Substances Regulations 1983). If a user is applying such substances then they are directed to Rules 30.1.8.8 and 30.4.3.10.

Definitions

Key words are identified in this Guide by *italics* and their formal definitions from the Plan are listed in section 6 of this Guide.

Status of plan

The Wairau/Awatere Resource Management Plan is Operative meaning that the current version cannot be changed except through a publicly notified Plan change.

The link to the Marlborough District Council website and the rules in the plan is:

<https://www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/wairau-awatere-resource-management-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.

NZS8409:1995

Rule 30.1.8.5.5) requires that all reasonable care is exercised in the application of agrichemicals to ensure that spray drift does not occur. 'Reasonable care' will be deemed to have been exercised where the agrichemical has been mixed and applied in accordance with Part 5 of the Agrichemical Users Code of Practice (NZS8409:1995.) While this is not a mandatory requirement users are directed to NZS8409 as being best practice for agrichemical management and a means of demonstrating 'reasonable care'.

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 30.1.8.5: Application of Agrichemicals

Permitted activity conditions	What the rule requires
Type of use 30.1.8.5.2	For the purposes of eradicating, modifying or controlling plants, animals or other organisms on land.
Area of use	
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions 30.1.8.5.1	The application is undertaken in a manner that does not exceed any rate or any contravene requirements specified on the product label.
Drift beyond the boundary 30.1.8.5.5	All reasonable care must be exercised to ensure that there is so no spray drift beyond boundary. 'Reasonable care' is based on complying with NZS8409 1995 Agrichemical Users Code of Practice.
Status of NZS8409 30.1.8.5.5	NZS8409 1995. Part 5 is to be used as a means of exercising 'reasonable care' to avoid spray drift beyond the boundary.
Qualifications or training 30.1.8.5.6	Contractors undertaking land based applications must have a Registered Chemical Applicators Certificate. Pilots must have a GROWSAFE® Agrichemical Rating. Note: Rule 41.1.3.5.6 in the Conservation Zone and Rule 27.5.2.8.3 for roadside vegetation require every person to have a GROWSAFE® Standard (Intro) Certificate.)
Notification	
Spray Plan 30.1.8.5.8	The property owner or manager shall make a copy of the current programme for the application of agrichemicals on the property available if requested by Council or a neighbouring property owner. (See details for a spray plan below.)
Signage	
Records 30.1.8.5.7	The property owner or manager shall keep records as set out in, NZS8409:1995 Section 5.9. This section refers to 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 areas or sensitive areas 30.1.8.5.3	There shall be no spray drift deposited onto any roof or structure used as a catchment for water supply. Refer to Rule 27.5.2.8 (section 4 of this Guide) for requirements when spraying public roads.
Storage	
Mixing sites	
Applications to or near water 30.1.8.5.4 30.1.8.5.9	The application shall not result in spray drift being deposited on any water body . MDC is to be advised of any accidental discharge to a water body. Discharges to water are addressed in Chapter 27 of the Plan.
Disposal 30.1.8.5.2	The disposal of concentrate onto land is not permitted. Burning of agrichemical containers is prohibited.

4. Rule 27.5.2.8.3: Spraying roadside vegetation

Permitted activity conditions	What the rule requires
Type of use 27.5.2.8.3 b)	For the purposes of eradicating, modifying or controlling plants, animals or other organisms on land.
Area of use	
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions 27.5.2.8.3 b)	The application is undertaken in a manner that does not exceed any rate or any contravene requirements specified on the product label.
Drift beyond the boundary 27.5.2.8.3 e)	All reasonable care must be exercised to ensure that there is so no spray drift beyond boundary. 'Reasonable care' is based on complying with NZS8409 1995 Agrichemical Users Code of Practice.
Status of NZS8409 27.5.2.8.3 e)	NZS8409 1995. Part 5 is to be used as a means of exercising 'reasonable care' to avoid spray drift beyond the boundary.
Qualifications or training 27.5.2.8.3 f)	Every person undertaking application of agrichemicals must have a GROWSAFE® Standard (Introductory) Certificate). Contractors undertaking land based applications must have a Registered Chemical Applicators Certificate. Pilots must have a GROWSAFE® Agrichemical Rating.
Notification	
Spray Plan 27.5.2.8.3 h)	The property owner or manager shall make a copy of the current programme for the application of agrichemicals on the property available if requested by Council or a neighbouring property owner. (See details for a spray plan below.)
Signage	
Records 27.5.2.8.3 g)	The property owner or manager shall keep records as set out in, NZS8409:1995 Section 5.9. This section refers to 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 areas or sensitive areas 27.5.2.8.3 c)	There shall be no spray drift deposited onto any roof or structure used as a catchment for water supply.
Storage	
Mixing sites	
Applications to or near water 27.5.2.8.3 d) 27.5.2.8.3 i)	The application shall not result in spray drift being deposited on any water body . MDC is to be advised of any accidental discharge to a water body. Discharges to water are addressed in Chapter 27 of the Plan.
Disposal 27.5.2.8.3 b)	The disposal of concentrate onto land is not permitted. Burning of agrichemical containers is prohibited.

5. Spray Plan requirements

Rules 30.1.8.5.8 and 27.5.2.8.3 require that a current programme for application of agrichemicals on the property be provided on request from the Council or neighbouring property owner. Preparation of a spray plan would meet this requirement.

The requirements for a spray plan are set out in Appendix M4 NZS8409: 2004 and include the following:

1. A plan or map detailing location of any sensitive areas (see definition below)
2. Crops to be sprayed
3. Types of agrichemicals that are likely to be used during the year and times of year that spraying is likely to occur
4. Strategies to be used to avoid spraydrift on sensitive areas – e.g. application techniques such as large droplet size, hand application, not spraying outside rows, turning machinery off when turning, having no-spray buffer zone areas, only spraying when the wind is in the specified direction, having personnel monitoring boundaries during the application, lists or people (and their contact phone number) who want to get a phone call just prior to any spraying, any other mutually agreed strategies to manage any risk.
5. Name of person carrying out agrichemical application and confirmation of their current qualifications
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).

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

6. Definitions

Agrichemical - any substance, whether inorganic or organic, manufactured or naturally occurring, modified or in its natural state, that is used in any agriculture, horticulture, forestry, viticulture, management of public amenity areas or related activity to eradicate, modify or control flora or fauna.

Growsafe Agrichemical Users Code of Practice - a standard prepared by the NZ Agrichemical Education Trust and approved by the Standards Council under the Standards Act 1988. NZS8409:1995 shall apply for the purposes of this Plan.

Registered Chemical Applicator - any person who is recognised by the NZ Agrichemical Education Trust (NZAET) as a registered agrichemical applicator in accordance with the scheme of registration conducted by NZAET.

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, but does not include these areas where they are entirely man made.