

Northland agrichemical application rules

Northland region | October 2021



Overview/summary

The 'new rules' are now operative – the previous (Regional Air Quality Plan for Northland) rules no longer apply. We encourage all users of agrichemicals to become familiar with the new rules – summarised below.

Overview of rule requirements for agrichemical application (to air or land)

Expectations for all methods of agrichemical application:

<ul style="list-style-type: none"> Must not, beyond the boundary of the subject property or in the coastal marine area, result in: <ul style="list-style-type: none"> 'Noxious, dangerous, offensive, or objectionable' odour, smoke, spray or dust Noxious or dangerous levels of airborne contaminants Damage to any spray-sensitive area 	Refer to ' Appendix H.7 Interpretation of noxious, dangerous, offensive and objectionable effects' in the Plan.
<ul style="list-style-type: none"> Applicators must take all practicable steps to ensure: <ul style="list-style-type: none"> That agrichemicals are used appropriately and accurately and confined to target application areas That no adverse effects occur beyond the application area 	Added by the Environment Court – reinforces that there is an onus on the applicator to take all practicable steps to manage spray drift.
<ul style="list-style-type: none"> Ensure that relevant tolerable exposure limits (TELS) and environmental exposure limits (EELs) are not exceeded. 	Thresholds set by the EPA for certain chemicals. NB: Only some agrichemicals have associated EELs or TELs.
<ul style="list-style-type: none"> No direct discharge into or onto water 	There is a specific rule for applications to water (C.6.5.2).

Overview of remaining rule requirements by application method:

	Hand- held	Ground-based	Aerial
Spray Plan	Not required	Required annually	Required annually
Notification*	Not required	Within 50m of spray-sensitive area	Within 200m of spray-sensitive area
Signage*	If within 100m of a public amenity area		
Comply with NZS8409	Yes – specific sections referenced		
Risk Assessment	Not required	Within 100m of spray-sensitive area	Within 300m of spray-sensitive area
Additional requirements that apply near a SSA		Within 100m of spray-sensitive area	Within 300m of spray-sensitive area
Growsafe (or equivalent)		Requirements apply	Requirements apply
Seasonal 2,4-D controls	2,4-D only allowed during 1 May – 31 August, unless non-volatile or slightly low volatile agrichemical is used.		
* Specific requirements for notification and signage in a public road or rail corridor:			
Notification	Public notice or letter drop to properties within 30m (Except hand-held spraying of boundary fences adjacent to private land)	Public notice or letter drop to properties within 30m	Public notice or letter drop to properties within 200m
Vehicle signage	N/a	Vehicles for spraying must display prominent signs.	N/a

Key differences (compared to the previous rules):

AMENDED notification requirements:

- Instead of 18 hours, notification is required no less than 24 hours before. Notification was previously required for properties within 30m – this is now 50m for ground-based and 200m for aerial application.
- There is a new provision which enables alternative notification to be arranged – if agreed between the applicator and the person to be notified.

Overview of notification requirements

Who is required to be notified?	Ground-based spraying:	Any property with a spray sensitive area within 50m of the application area.
	Aerial spraying:	Any property with a spray sensitive area within 200m of the application area
When?	At least 24 hours before spraying commences, but no more than 3 weeks before the spraying activity is to take place. (Unless alternative arrangements have been agreed between the applicator and the person to be notified)	

NEW WIND SPEED restrictions for ground-based and aerial spraying mean that it is not permitted to apply agrichemicals in:

- Wind speeds greater than 6 m/s plus gusts
- Wind speeds less 0-1 m/s and there are inversion conditions present.

Or

- Within 100m of a spray sensitive area, at wind speeds greater than 5m/s plus gusts, when the wind direction is towards the spray sensitive area.

NEW REQUIREMENTS if you are ground-based spraying in an area that is within 100m of a spray sensitive area, or aerial spraying within 300m of a spray sensitive area. It is important to be aware of new rule requirements relating to:

- The requirement to undertake a **risk assessment** prior to application (and continue to monitor conditions throughout spraying taking place) – if the risk of off target spray movement cannot be addressed, the application must not be undertaken (or must cease if conditions become unsuitable).
- **Buffer zones are now required under some wind conditions** - for example, for ground-based spraying, (unless you have written approval waiving this requirement) when:
 - The wind speeds are 0-1 m/s, or
 - The wind is towards a spray sensitive area within 100m in wind speeds between 1-5m/s (Note: that in these conditions spraying in winds >5m/s not permitted).
- The rules also **additional considerations** to be assessed.

Overview of buffer distances (align with NZS 8409) - if they are required

	Ground-based:		Aerial spraying
	Boom spraying	Airblast spraying	
With 'effective shelter'	2 metres	10 metres	100 metres
Without effective shelter	10 metres	30 metres	300 metres

Where to go for more information?

- The rules will be available on Council's website here: <https://www.nrc.govt.nz/newregionalplan>
- There is a more detailed summary of the rules below.
- Contact Northland Regional Council or a planning consultant.

Regional plan rules for agrichemical application in the Northland Region

Background

- Councils are required by the RMA to review their regional plans at least every 10 years.
- **2017:** The Proposed Regional Plan for Northland was notified.
- **2018:** Council hearings to receive submissions on the Proposed Plan.
- **2019:** Council notify decision (Decision Version of the Proposed Regional Plan for Northland).
- **2019-21:** Resolution of appeals relating to agrichemical rules.
- **2021:** New agrichemical rules fully operative.

Status of the rules

The following rules apply across the Northland Region – following an extensive plan making process (including for some aspects an Environment Court hearing) the rules are now **'operative'**. This means that the rules are no longer subject to legal challenge and that the previous rules¹ no longer apply.

Agrichemical application rules in the Northland Regional Plan

Rule:	Applies to agrichemical application:	Activity status:
C.6.5.1	Applied by any method: <ul style="list-style-type: none">• Into air, or• Onto or into land	Permitted activity - resource consent is not required, if all of the rule conditions are met.
C.6.5.2	Applied by any method, into water.	Permitted activity - resource consent is not required, if all of the rule conditions are met.
C.6.5.5	Applications where the conditions in the rules above (C.6.5.1 or C.6.5.2) aren't met.	Discretionary Activity - resource consent is required from the Northland Regional Council.

A few notes about this summary:

- This document provides a summary of the requirements of C.6.5.1 (application into air or land) – the rule for application into water (C.6.5.2) includes water-specific considerations.
- It covers only the regional plan requirements - other requirements outside for example, controls set by the EPA under the Hazardous Substances and New Organisms Act 1996 for specific agrichemicals or Worksafe continue to apply.
- This summary is provided for information only, we recommend you take a look at the rules in the plan. If you need assistance reading the plan or understanding whether you need consent, please contact the Northland Regional Council or your local planning consultant.

¹ The previous rules were those set out in the 'Regional Air Quality Plan for Northland' operative from 2003.

Explanation of rule requirements

Spray plan requirements | Refer to: C.6.5.1 clause (2)(b)

For **ground-based or aerial application** methods – a Spray Plan must be prepared annually for the area where the agrichemical is to be applied.

This reflects industry best practice. Guidance on how to prepare a spray plan can be found on [Growsafe's website](#), and Section 5.2.5.1 and Appendix G2 (Development of a spray plan) of the NZS 8409:2021.

A copy of your spray plan must be provided to the Council, or occupiers of spray sensitive areas on request.

Notification Requirements | Refer to: definition of spray-sensitive area, C.6.5.1 clause (1)(c), Table 11

Notification requirements apply to **ground-based application or aerial application** (i.e not hand held) methods that occur near to spray-sensitive areas. It is the responsibility of the owner/occupier of the property being sprayed to undertake notification, unless delegated to the applicator, management company, or packhouse operator.

Notification requirements that apply...

Who is required to be notified?	For ground-based spraying:	Any <u>property with a spray sensitive area</u> within 50m of the application area.
	For aerial spraying:	Any <u>property with a spray sensitive area</u> within 200m of the application area
When?	At least 24 hours before spraying commences, but no more than 3 weeks before the spraying activity is to take place.	
What is required?	The information required is set out clearly in Table 11 in the rule. Notification can be provided in writing (including by email or text), or by telephone.	

... unless you have an alternative notification agreement in place

Through the appeal process – provisions were introduced which enable notification to occur in a manner different to the above, if there is an agreement with both parties (i.e the applicator and the person to be notified). This means an applicator may agree with their neighbour that a different arrangement (including potentially agreement that no notification is required) can take place provided the requirements set out in Table 11 are met – e.g., that an agreement must be recorded in writing and signed by all parties, and reviewed annually.

Signage requirements | Refer to: definition of 'public amenity area', C.6.5.1 (1)(d)

For **all methods** of application, signage is required if spraying is **within 100m of a public amenity area**, which are prominent and include:

- contact details of the property owner or applicator,
- details of the chemical to be sprayed,
- the time period during which the spraying is likely to take place,
- indication of any specific hazards
- the application method

Signs must be placed prior to the commencement of the spraying, that must remain in place until spraying is complete. Keep a record of signage – this must be provided to NRC on request.

What is a 'Public Amenity Area'? The term is defined in the Plan.

- Includes 'any park or reserve and area set aside freely for public use (including a track, walkway, lookout, play area, picnic area, lawn, carpark, camping area or reserve where the public has unrestricted access),
- But excludes: a road or rail reserve and any nature reserve, scientific reserve, or wildlife management area which require access permits.

Wind speeds that spraying is not permitted | Refer to: C.6.5.1(2)(d)

The Environment Court decision introduced limitations on wind speed. It is not a permitted activity to apply agrichemicals when:

- Wind speeds are greater than 6 m/s plus gusts
- Wind speeds are between 0-1 m/s and inversion conditions are (or are likely to be) present.

Additional requirements that apply to ground-based or aerial applications near spray-sensitive areas | Refer to: C.6.5.1(2)(c)(vi)

The following considerations/requirements are only applicable to ground-based application where there is a spray-sensitive area within 100m, and aerial application where there is a spray-sensitive area within 300m.

What is a 'Spray Sensitive Area'? The term 'Spray-sensitive area' is defined in the Plan as:

- Residential buildings and associated garden areas
- Schools, hospital buildings and care facilities and grounds
- Amenity areas where people congregate including parks and reserves
- Community buildings and grounds, including places of worship and marae
- Certified organic farms
- Orchards, crops and commercial growing areas
- Water bodies used for the supply of drinking water and for stock drinking
- Natural wetlands and significant areas of indigenous vegetation and habitats of indigenous fauna as defined in the Regional Policy Statement for Northland
- Roofing for collection of drinking water
- Apiaries.

RISK ASSESSMENT

Definition of risk assessment	"An assessment of the proposed agrichemical application to identify risks of off-target spray movement and risks to spray-sensitive areas and measures to address those risks and determine if agrichemical application can be done safely and effectively given the conditions on-site at the time."
Is a risk assessment required?	A requirement of any spray activity within 100m of a spray-sensitive area (for ground-based spraying), or 300m of a spray-sensitive area (aerial spraying).
When and what is required?	<p>Prior to the application – to determine the site characteristics on the day, particularly wind speed and wind direction, the level of risk present, and use of appropriate methods to mitigate address that risk.</p> <ul style="list-style-type: none"> • The requirements of a risk assessment (i.e the risk factors to consider) are listed in an appendix of the plan (Appendix H.10). • <u>If the risk of off target spray movement cannot be addressed, agrichemical must not be undertaken.</u> • A record of a risk assessment (in a spray diary of equivalent). <p>During application – the applicator must assess whether the conditions change, and ensure that the application methods and drift mitigations are still appropriate.</p>

ADDITIONAL REQUIREMENTS DEPENDING ON WIND CONDITIONS

Additional requirements – **buffer distances and additional considerations to be assessed** - apply to some wind conditions, these requirements vary by wind speed and direction of wind (relative to spray sensitive areas – towards or away). These requirements are summarised in the tables below.

There are two 'exceptions' to these requirements, these are:

- Agrichemical application undertaken in a fully enclosed environment that remains enclosed during and immediately after spraying (for example a greenhouse).
- The occupier of the spray-sensitive area has provided written approval waiving the buffer distance requirement (refer to C.6.5.1(2)(e) for more detail).

The terms **effective shelter**, **buffer**, and 'away from' have been added as definitions, by the Environment Court decisions.

Appendix H.10 includes information on the measurement of wind speed.

Requirements for ground-based spraying (within 100m of a spray sensitive area):

The additional requirements for applications near to spray-sensitive areas differ by wind speed and wind direction.

ANY wind direction:		
0-1 m/s <u>and</u> inversion conditions	✗	Application not permitted – refer to C.6.5.1 (2)(d) – requires resource consent.
Greater than 6m/s		
ANY wind direction and within 100m of a spray sensitive area:		
0-1 m/s (no inversion conditions)	✓	<p>Buffer distance requirements apply to <u>all</u> boundaries</p> <ul style="list-style-type: none"> ○ Boom spraying: 2m with effective shelter, otherwise 10m ○ Airblast spraying: 10 with effective shelter, otherwise 30m <p>And:</p> <ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Assess the sensitivity of receivers and toxicity of spray • Consider the use of agrichemical direct application methodology (e.g. shrouds)
When the wind is AWAY from a spray-sensitive area within 100m:		
1-3 m/s	✓	Application can occur, no additional requirements apply.
3-6 m/s	✓	<ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Assess spray quality, the sensitivity of receivers and toxicity of spray
When the wind is TOWARD a spray-sensitive area within 100m:		
1-5 m/s	✓	<p>Buffer distance requirements apply downwind:</p> <ul style="list-style-type: none"> ○ Boom spraying: 2m with effective shelter, otherwise 10m ○ Airblast spraying: 10 with effective shelter, otherwise 30m <p>And:</p> <ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Assess spray quality, sensitivity of receivers and toxicity of spray • Consider the use of agrichemical direct application methodology (e.g. shrouds)
Greater than 5 m/s, plus gusts	✗	Application not permitted – refer to C.6.5.1 (2)(c)(v) – requires resource consent.

Requirements for aerial spraying (within 300m of spray sensitive area):

The additional requirements for applications near to spray-sensitive areas differ by wind speed and wind direction.

ANY wind direction:		
0-1 m/s <u>and</u> inversion conditions	✘	Application not permitted – refer to C.6.5.1 (2)(d) – requires resource consent.
Greater than 6/s		
ANY wind direction and within 300m of a spray sensitive area:		
0-1 m/s (no inversion conditions)	✔	<p>Buffer distance requirements apply to <u>all</u> boundaries</p> <ul style="list-style-type: none"> ○ 100m with effective shelter, 300m without shelter <p>And:</p> <ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Assess spray quality, sensitivity of receivers and toxicity of spray
When the wind is AWAY from a spray-sensitive area within 300m:		
1-5 m/s	✔	<ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Assess height of spray release and risk of spray drift, spray quality, sensitivity of receivers and toxicity of spray • Use spray quality that is as coarse as possible
Greater than 5m/s	✘	Application not permitted –requires resource consent.
When the wind is TOWARD a spray-sensitive area within 300m:		
1-3 m/s	✔	<p>Buffer distance requirements apply downwind:</p> <ul style="list-style-type: none"> ○ 100m with effective shelter, 300m without shelter <p>And:</p> <ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Assess height of spray release and risk of spray drift, spray quality, sensitivity of receivers and toxicity of spray • Use spray quality that is as coarse as possible
Greater than 3m/s – 5m/s	✔	<p>Buffer distance requirements apply downwind:</p> <ul style="list-style-type: none"> ○ 100m with effective shelter, 300m without shelter <p>And:</p> <ul style="list-style-type: none"> • Height of spray release should be no higher than 1m below top of the shelter (where applicable) • Use spray quality that is as coarse as possible
Greater than 5m/s plus gusts	✘	Application not permitted – refer to C.6.5.1 (2)(c)(v) – requires resource consent.