

10 RULES FOR DISCHARGES OF CONTAMINANTS TO AIR FROM ANY OTHER PLACE OR SOURCE

10.1 PERMITTED ACTIVITIES

The following discharges of contaminants to air from any other place or source (which is not an industrial or trade premise) are permitted activities:

1. The discharge of contaminants to air from the operation of fuel burning equipment using coal, fuel oil, diesel oil, natural gas, LPG or untreated wood, with a heat capacity of less than 40 KW is a **Permitted Activity** provided that:
 - a. The installation and operation of the device complies with all relevant Building Act requirements.
- 1A. The discharge of contaminants to air from the operation of fuel burning equipment using coal, fuel oil, diesel oil, natural gas, LPG, untreated wood for heating purposes, and/or electricity generating purposes with the following heat capacity:
 - (1) Coal and oil burning equipment having rate of heat release less than 5MW,
 - (2) Natural gas and LPG burning equipment having rate of heat release less than 10 MW,
 - (3) Untreated wood burning equipment having a rate of heat release less than 2.5 MW.

is a **Permitted Activity** provided that:

- (a) The discharge does not result from the burning of waste, waste oil or solvents,
- (b) The discharge shall not result in offensive or objectionable odour, or any noxious or dangerous level of gases, beyond the boundary of the subject property,
- (c) The discharge of particulates is less than 250 mg/m³ of non toxic particulates corrected to 0o C, 12% CO₂, 1 Atmosphere, and a dry gas basis,
- (d) The stack height is calculated in accordance with the "Requirements for Chimney Heights" (see Appendix 2 pg. 109),
- (e) The stack vertical efflux velocity is not less than 5 m/s,

- (f) The opacity of the discharge to air when measured visually in accordance with AS 3543-1989 shall not be as dark as or darker than Ringlemann Shade No. 1 for more than 2 minutes continuously or for an aggregate of 4 minutes in any period of 60 minutes. These limits may be exceeded for a maximum of 30 minutes when starting the fuel burning equipment from cold, and for soot blowing providing that the opacity of the discharge is reduced as far as practicable,
- (g) The opacity of the discharge to air when measured by photoelectric means in accordance with AS3543-1989 shall not equal or exceed 52% for more than 2 minutes continuously or for an aggregate of 4 minutes in any period of 60 minutes. These limits may be exceeded for a maximum of 30 minutes when starting the fuel burning equipment from cold, and for soot blowing providing that the opacity of the discharge is reduced as far as practicable.

Explanation. *The discharge of contaminants to air permitted in Rule 10.1(1A) does not apply to those discharges from fuel burning equipment such as direct fired dryers, foundry furnaces, incinerators or other fuel burning equipment associated with industrial processes. These activities are dealt with via the discretionary activity rules.*

Rule 10.1(1A) provides for the permitted use of small and medium sized fuel burning equipment to provide heat. Such equipment, if managed properly, does not result in significant adverse effects on the environment. The standards of Rule 10.1(1A) ensure the equipment is managed appropriately to minimise effects.

2. The discharge of dust to air from activities associated with earthworks, road and rail construction or maintenance is a **Permitted Activity** provided that:
 - (a) The discharge does not result in any dust nuisance that is offensive or objectionable to neighbouring landowners/occupiers, including their properties.

Explanation. *Many activities have the potential to produce dust nuisance. These may be of a temporary nature or are sufficiently remote that dust may never reach the property boundary or neighbouring dwellings, or are of such a small scale that it is unlikely dust will be produced in quantities that result in adverse environmental effects. For these reasons, provided that environmental standards are met, dust producing operations are permitted activities.*

For road and rail construction or maintenance where the property boundary may be only metres away from the activity, it may not be practical to require that no offensive or objectionable dust nuisance occurs beyond the boundary. The environmental standard therefore allows greater quantities of dust to be discharged beyond the boundary provided there is no objectionable or offensive dust nuisance to neighbouring residents or damage or degradation of their properties.

3. The discharge of contaminants to air from wet abrasive blasting (including water blasting) is a **Permitted Activity** provided that:

- (a) The discharge (including overspray, mists or chemical additives) shall not result in any noxious, dangerous, offensive or objectionable levels of airborne contaminants, beyond the boundary of the subject property,
- (b) All working and surrounding areas must be kept substantially free of accumulations of used abrasive blasting mediums and other debris. As far as practicable, areas are to be cleared of used blasting mediums and other debris at the end of each blasting session and by the end of each working day,
- (c) The abrasive blasting medium shall contain no greater than 2 % by dry weight free silica,
- (d) The abrasive blasting medium shall contain no greater than 2 % by dry weight fine material able to pass through a 15.0 micron sieve,
- (e) The discharge shall not contain lead, arsenic, chromium, cadmium, copper, asbestos or tin, or compounds containing these substances.

Explanation. *Wet abrasive blasting (as defined in the definitions) is permitted subject to the stated conditions. The rule applies to stationary and mobile sources. Use of wet abrasive blasting methods significantly reduces the amount of contaminants emitted into the air and their effects on the environment. Any discharges of contaminants onto land or into water, resulting from the activity, must be authorised in accordance with the Regional Water and Soil Plan and the Regional Coastal Plan.*

- 4. The discharge of contaminants to air from agrichemical application by a domestic user is a **Permitted Activity** provided that:
 - (a) The application is undertaken in a manner that does not exceed any rate, or contravene any other requirement, specified in the label instructions and published application recommendations,
 - (b) All necessary steps are taken to avoid, remedy, or mitigate any possible adverse effects beyond the boundary of the property.
- 5. **The discharge of contaminants to air from agrichemical application by commercial users or contractors is a permitted activity provided that:**
 - (a) The person who will apply the agrichemicals has the following valid qualifications:
 - (i) For a commercial user a qualification that meets the requirements of Appendix 6. Examples of qualifications that meet these requirements include the GROWSAFE® Introductory (Standard) Certificate, or a GROWSAFE® Applied Certificate.
 - (ii) For a commercial contractor using ground based application techniques, a qualification that meets the requirements of Appendix 6.

An example of a qualification that meets these requirements is the GROWSAFE® Registered Chemical Applicators Certificate.

(iii) For a commercial contractor using aerial application techniques, a qualification that meets the requirements of Appendix 6. An example of a qualification that meets these requirements is the GROWSAFE® Pilot Agrichemical Rating Certificate.

(b) The application is undertaken in a manner that does not exceed any rate, or contravene any other requirement, specified in the label instructions and published application recommendations.

(c) The application shall be undertaken in accordance with all mandatory⁵ requirements set out in Parts 5.1, 5.2, 5.5, 5.6, 5.7, 5.8 and 5.9 and with reference to the introduction to the Appendices, and Appendices⁶ N, T, V, Y, DD, HH and JJ of New Zealand Standard 8409:1999, Code of Practice for the Management of Agrichemicals, in order that the Best Practicable Option is implemented to avoid, remedy or mitigate any adverse effects of spraydrift beyond the target property. If there is any conflict between the Regional Air Quality Plan and any provisions of the NZ Standard 8409: 1999, the former shall apply.

(d) The property owner or manager shall keep records of agrichemical use with reference to Appendix C of New Zealand Standard 8409:1999, Code of Practice for the Management of Agrichemicals, and shall make such records available to the Northland Regional Council on request. In addition the property owner shall keep relevant records of diluent and chemical rates.

(e) Notification is given in accordance with clause 5.1 or 5.2 of this Rule.

5.1 Where agricultural chemicals will be applied, in accordance with Rule 10.1.5 above, to more than two hundred metres of public road, rail or public place, continuously or intermittently, notice of intention to spray must be given in local newspapers or by door-to-door advice and appropriate street signage, excluding railway verges, to occupiers of properties or premises within 30 metres of the area to be sprayed at least one week and not more than one month before application and must include the following information:

(a) The property and area to be sprayed,

(b) The date(s) and general time(s) of the spraying, and in case of poor weather conditions, and alternative dates and general times for spraying,

(c) The brand name and chemical name to be used,

⁵ Note: In general, mandatory requirements are those that include the word "shall". Non-mandatory requirements are those that include the word "should".

⁶ Appendices contain descriptive and supporting information designed to help understand and comply with the Code requirements.

- (d) Method of application,
- (e) Safety precautions to be taken, and
- (f) The contact name, address and telephone number of the owner/manager of the area to be sprayed.

Vehicles or equipment applying agrichemicals must display a sign stating “agrichemical (herbicide/insecticide/fungicide) application in progress” and name of the contractor. A record of this notification must be kept and made available to the Northland Regional Council on request.

5.2 Where agrichemical application is undertaken by either ground based or aerial application, the owner or occupier of the property being sprayed shall notify the owners or occupiers of sensitive areas adjacent to the area that is to be sprayed.

For the purpose of this rule, “adjacent to” means contiguous with or separated only by a stream, transport corridor or similar narrow margin not more than 30m wide.

Notice shall be given either orally or in writing, not less than eighteen hours and not more than two weeks before the proposed commencement of the work. Notice should include information on where the property spray plan is available.

An annual or seasonal property spray plan shall be prepared, and must include but is not limited to the information described in Appendix 4 of this Plan. Additionally, the annual or seasonal property spray plan shall include the procedures for giving notice of intention to spray as required above.

Explanation. *This rule is consistent with the requirement that ground and aerial based operators be registered and trained. GROWSAFE® Certificates have been developed and are readily available in Northland.*

The Code of Practice for the Management of Agrichemicals,, which is now a New Zealand Standard, can be an effective means of preventing or minimising the adverse effects of discharges of agrichemicals to air and therefore implementing the best practicable option. Agrichemical applicators should adopt practices recommended by these codes, including the recording of spray diaries and the preparation of property spray plans. The Code also contains a list of areas or places which are considered to be “sensitive”, as well as a Drift Hazard Rating Chart. This enables users to actively select weather conditions, equipment and types of spray to prevent or minimise off-target effects. The application of best practicable option will increase awareness and understanding of the nature of the effects of the discharge on the receiving environment.

Notification can allow mitigating steps to be taken by adjacent land users to minimise the potential adverse effects of agrichemical applications. In order for notification to be an effective tool, early consultation and discussions between neighbours in the preparation of documents such as annual spray plans or seasonal spray plans is considered to be good practice.

Definitions of the terms domestic user, commercial user, commercial contractor, sensitive areas, ground based application methods and aerial application are detailed in the Definitions.

6. Subject to Rule 10.1(5) and 10.4(3), the discharge of contaminants to air from the application of 24D Ester:
 - (1) by hand held methods at any time of the year, or
 - (2) between 1 May and 31 August, using ground based equipment specifically designed for agrichemical application, or aerial application, and
 - (3) adhering to label recommendations for water rates.

is a **Permitted Activity** .

Explanation. *24D Ester is widely used in Northland and the effects of its use are the most common reason for complaints about spraydrift, due to its distinctive odour and its volatility. Its volatility makes it unpredictable under different weather conditions. Rule 10.1(6) seeks to allow the use of 24D Ester by methods which provide for good management practices at the times of the year when the control of plant pests, such as ragwort, carrot weed, thistle, and buttercup by this type of agrichemical is most effective, and weather conditions are most suitable. Controlling these pests outside the specified time, using 24D Ester, is less effective so some changes to farm management will be required. Alternatively, other products of lower volatility could be used.*

7. The discharge of odour or particulates to air from activities associated with factory farming of animals, namely:
 - (1) poultry, rabbits and fitches or
 - (2) intensive pig farming up to 30 September 1998, and then
 - (3) from 1 October 1998 for intensive pig farming with not more than 25 pigs at any one time.

is a **Permitted Activity** provided that:

- (a) The discharge shall not result in any offensive or objectionable odour or dust, beyond the boundary of the subject property.

Explanation. *This rule permits odour and dust discharges from most factory farming operations, including the disposal of effluent and waste materials generated as a result of the factory farming, providing no offensive or objectionable odour or dust occur beyond the boundary of the subject property. Intensive pig farming operations with greater than 25 pigs at any one time are permitted until 30 September 1998 in order to allow them to apply for the necessary consent required from 1 October 1998.*

10.2 CONTROLLED ACTIVITIES

There are no controlled activities for discharges of contaminants to air from any other place or source (which is not an industrial or trade premise).

10.3 DISCRETIONARY ACTIVITIES

1. The discharge of contaminants to air which fail to comply with the conditions in Rules 10.1(1) to 10.1(7) is a **Discretionary Activity**.

***Explanation.** It is not expected that there will be many applications for discretionary activities in accordance with this rule, as most of the activities permitted in Section 10.1 can be complied with, provided all reasonable steps are taken to prevent or minimise any adverse effect. When the Regional Council becomes aware of a permitted activity causing nuisance, it will require additional mitigation steps to be taken. If mitigation measures are not taken, enforcement action would be instigated. Enforcement is considered to be more effective and efficient than requiring the discharger to obtain a resource consent. Such consents are likely to have similar mitigation measures to those required by abatement notices. Given the costs associated with resource consents, it is most likely that the discharger would want to avoid applying for a consent.*

An exception to this, however, is Rule 10.1(6) relating to the use of 24D Ester outside the specified dates. Where users wish to spray 24D Ester outside the periods specified in Rule 10.1(6), the Regional Council will assess the appropriateness of the timing, the application method and the actual and potential effects of the activity. However, the Regional Council will initially provide advice to the farmer on the most effective time of the year to control the plant pest to be sprayed, and suggest alternative products that may be more suitable.

10.4 PROHIBITED ACTIVITIES

The following discharges of contaminants to air from any other place or source are prohibited activities:

1. The discharge of contaminants to air from the open burning of the following waste materials is a **Prohibited Activity**:
 - (1) Rubber, including tyres,
 - (2) Plastic agrichemical containers and any halogenated plastic products from 12 months of this plan becoming operative,
 - (3) Hazardous substances or containers of hazardous substances,
 - (4) Coated metal cable,
 - (5) Motor vehicles or parts of motor vehicles (except in emergency situations),
 - (6) Timber treated with CCA or organochlorine substances.

***Explanation.** This rule prohibits the open burning of substances which result in the emission of a variety of combustion products which are offensive and may be*

hazardous to human and environmental health. Open burning is defined in the definitions and includes burning in open drums where the combustion process is uncontrolled. Hazardous substance is defined in the definitions. These substances must be incinerated in a purpose designed incineration facility. The nuisance effects resulting from burning (other than industrial or trade premises) is a matter for District Council's to address as required by their statutory obligations under the Health Act 1956.

2. The discharge of contaminants to air from the application of agrichemicals which have been deregistered, unregistered, or for which registration has expired in New Zealand or banned by International Agreement is a **Prohibited Activity**.

Explanation. *Particular agrichemicals may be banned from use for a number of reasons, such as toxicity or long term environmental effects, or because trading countries have prohibited the import of products on which a particular agrichemical has been used. The use of agrichemicals which have been banned places the applicator and environment at risk and has the potential to threaten the livelihood of exporters. Rule 10.4(2) prohibits the use of such agrichemicals.*

3. The discharge of contaminants to air from the application of 2,4-D butyl ester 12 months after the date of this plan becoming operative is a **Prohibited Activity**.