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Submission Form

Submitter Name: New Zealand Agrichemical Education Trust

This is a submission on **Proposed Plan Change 13 (Air Quality)** to the **Regional Natural Resources Plan**

1. I could not gain an advantage in trade competition through this submission (NZAET is a not for profit organisation)
2. The details of my submission are in the attached table
3. I wish to be heard in support of my submission
4. If others make a similar submission, I will consider presenting a joint case with them at a hearing.

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NZAET

The New Zealand Agrichemical Education Trust is a registered charitable trust whose mission is 'to facilitate the approved and safe use of agrichemicals in NZ consistent with effective sustainable land management and environmental protection through advocacy and education'. Its trustees are Zespri, NZ Apples & Pears, SWINZ, AggCarm, Horticulture NZ, NZ Forest Owners Association, FAR and Federated Farmers.

NZAET is the joint owner (with Standards NZ) of NZSS8409:2004 Management of Agrichemicals.

GROWSAFE® is the brand name of the certification scheme run by NZAET. A range of certificates are issued by GROWSAFE® from Basic for those operating under supervision; through Standard for those with responsibility for a workplace or managing a spray operation; to more specialist courses such as the GROWSAFE Registered Chemical Applicator certificate for contractors and GROWSAFE Advanced. The certificate framework was reviewed and redeveloped on 1 January 2018 to incorporate changes to the regulatory framework and better meet industry needs.

We note that, although NZAET is the owner of NZSS8409:2004 Management of Agrichemicals, provider of the GROWSAFE® certification scheme and the primary industry body representing agrichemical users in New Zealand, it was not one of the 'key stakeholders' involved in the redrafting of the agrichemical section of the proposed plan.

SUBMISSION POINTS

Page No	Reference (eg Policy, Rule, Method or Objective Number)	Support/Oppo	Decision Sought Say what changes to the plan you would like	Give Reasons
3	AQ P8 Status of NZS8409	Support in part	Addition of new (d) Agrichemical sprayers will manage adverse effects on human health and the environment by:.. ... (d) ensuring that best practice is used in all agrichemical applications.	<p>In New Zealand the application of agrichemicals (pesticides) is a discharge under the Resource Management Act 1991 (RMA) and is generally provided in Regional Plans as a permitted activity as long as certain practices are followed.</p> <p>The New Zealand Standard 'NZS8409:2004 Management of Agrichemicals' (NZS8409) spells out best practice using a risk based approach. It was written as a consensus of 21 groups representing the industry ranging from Vegetable Growers to Environmental Risk Management Authority (now Environmental Protection Authority, EPA) and agricultural aviators (NZ Agricultural Aviation Association or NZAAA).</p> <p>The 195 page document has legal standing and Regional Plans refer to this as the reference for safe, responsible and effective use of agrichemicals and, in particular, for managing the potential risk associated with adverse effects from off target spray drift.</p> <p>A training programme was set up to 28 years ago, based on NZS8409, which provides the knowledge and skills to enable agrichemical users to operate according to the standard. The programme is known as "GROWSAFE®". Many Regional Councils have used NZS8409 and GROWSAFE® certification as mechanisms in plans for managing agrichemical use and ensuring the competency of agrichemical users.</p> <p>The Evaluation Report (pg112) states that "the Agrichemical Standard was designed to ensure compliance with the HSNO Act, not the RMA." This is not correct. NZS8409:2004 is focused on the safe, responsible and effective use of agrichemicals. This is impacted by regulations from</p>

				approximately 38 different pieces of NZ legislation to cover storage, supply, transport, personal, food and environmental safety and disposal. NZS8409 incorporates all relevant legislation for agricultural users along with guidance on best practice.
11	AQ R15 (5) "Advice Note"	Support in part	Elevate reference to compliance with NZS8409:20014 to new AQ R15 (1)/(d) (1) General use of agriculturals... ... (d) The agricultural is used or applied in accordance with NZS8409:2004 Management of Agricultural sections: Storage - Appendix L4, Use - Part 5.3, Disposal - Appendix 5 and Records - Appendix C9. The rest of the rule should make reference to BOP specific requirements eg distances and notification	For the reason stated above
9-10	AQ R15 Training	Support in part	New AQ R15 (6) 6. Competency Where specified by condition 2 the following conditions apply a) For ground-based application methods the applicator must hold a minimum of a GROWSAFE Standard Certificate or equivalent; or hold a GROWSAFE Basic certificate	The lack of a requirement for training or certification contrasts with the approach of national regulatory authorities managing risk in this space. New regulations by WorkSafe emphasise the need for training and competency of all people using hazardous substances in the workplace as a way of ensuring improved practices. EPA's recent Hazardous Substances (Hazardous Property Controls) Notice 2017 requires certification for high risk applications involving agriculturals. The regional council's proposed approach seems to anticipate and accept a reduction in agricultural user training in the region. The Evaluation Report (p 113) states that one of the risks of the proposed removal of certification requirements is that it "could lead to many

	<p>and be under the direct supervision of someone with a GROWSAFE Standard certificate or equivalent.</p> <p>b) For contractors undertaking ground-based application a GROWSAFE Registered Chemical Applicators Certificate or equivalent, or hold a GROWSAFE Basic certificate and be under the supervision of someone with a GROWSAFE Registered Chemical Applicators Certificate or equivalent.</p> <p>c) For the application of agrichemicals from aircraft, the applicator must hold a minimum of a Pilot Chemical Rating (Civil Aviation Authority)</p> <p>Amend AQ R15 (2) (c) to read:</p> <p>(c) Any other application method (including drone application complying with condition 1(c)) is a permitted activity provided conditions 3(a), 3(b), 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) 5(e), 5(f),</p>	<p>operators not obtaining appropriate training". This is a concern as there is a clear correlation between training, awareness of regional plan rules and knowledge of how to comply and therefore actual compliance. Local regional plan requirements for agrichemical use are part of the GROWSAFE curriculum and GROWSAFE training is likely the place where most agrichemical users first encounter the regional plan requirements.</p> <p>There is regulatory gap in terms of agrichemical competency/training/certification that is best filled through the regional plan.</p> <ul style="list-style-type: none"> • WorkSafe requires training for all users of products with hazard classifications of 1-8 ie those with physical risks such as flammability and those that are hazardous for human health. WorkSafe requirements do not cover substances with ecotoxic classifications. Specific certification (Certified Handler) is required for those using the most acutely toxic products. • EPA requires certification for those using highly ecotoxic substances (classification 9.1A, 9.2A, 9.3A, 9.4A) with motorised or wide dispersive equipment and/or near sensitive areas such as waterways. They have also set higher thresholds for training and certification of contract sprayers recognising the greater risks faced by operators spraying on different properties with different sensitive areas etc. GROWSAFE certification has been endorsed by the EPA in Hazardous Property Controls Notice. • There is no specific requirement by EPA for training or certification for products with ecotoxic classifications other than the class 9As. <p>For example, workers using HiCane are required to undertake training under WorkSafe requirements but not under EPA requirements. There is no specific requirement to include the management of spray/drift or development of sprayplans in WorkSafe-driven training.</p>
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			and 6a), b) or c) are compiled with.	Many agricultural users will attend agricultural training to meet the needs of WorkSafe regulation. If the regional plan requires users of agriculturals to have undertaken training in the management of the environmental risks of their agricultural use, such agricultural training courses are more likely to include spray drift, planning, sensitive areas, notification and signage in their curriculum.
9	AQ R15 (1)	Support in part	Replace 1(a) with "A person who applies an agricultural must take all reasonable steps to ensure that the substance does not cause any significant adverse effects to the environment beyond the application area".	Training is required as part of best practice set out in NZS8409 with GROWSAFE certification recommended. Clause 46 of EPA Hazardous Substances (Hazardous Property Controls) Notice has general requirement that "A person who applies a class 9 pesticide must take all reasonable steps to ensure that the substance does not cause any significant adverse effects to the environment beyond the application area." Similarly, 13.4(g) of HSW (Hazardous Substances) Regulations 2017 require a record to be kept for organophosphate and carbamates including details of measures taken to ensure "no adverse effects beyond the boundary". Consistency with the wording of these national controls is desirable to avoid conflict between regulatory tools.
11	AQ R15 (5)	Oppose in part	Replace 5 a and b with "Refer to Appendices G and M of NZS8409:2004 which outline requirements of a spray plan."	Preparation and updating of a Spray Risk Management Plan is noted as a key spray drift mitigation process. Most of the detail here is repeated from NZS8409:2004. Note that the GROWSAFE training programme includes a "how to" and templates for a spray plan which incorporate key technical spray drift management aspects (Table G1, page 104 in NZS8409:2004). Enactment of this rule would be better served by referring to this training rather than repetition of the New Zealand Standard on the Management of Agriculturals.

