

# SUBMISSION

TELEPHONE 0800 327 646 | WEBSITE [WWW.FEDFARM.ORG.NZ](http://WWW.FEDFARM.ORG.NZ)



To: Dunedin City Council

Attention: Kirstyn Lindsay  
Dunedin City Council  
PO Box 5045  
Dunedin 9058

On the: Plan Change 13: Hazardous Substances

By: Federated Farmers of New Zealand

Date: 7 December 2011

Contact: Kim Reilly  
Policy Advisor  
South Island  
Federated Farmers of New Zealand

P: 03 477 2435  
F: 03 479 0470  
E: [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

We wish to be heard in support of our submission

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

## KEY SUBMISSIONS

- Farmers have legal obligations under the HSNO Act in relation to the safe handling and storage of hazardous substances on farms, substances which are integral to day to day farming activities.
- Proposed Plan Change 13 impacts on farmers in three main areas:
  - Agrichemical storage and use;
  - Fertiliser storage and use;
  - Fuel storage and use (above and below ground);

### Agrichemicals

For Council to note that:

- Code of Practice HSNOCOP 3-1 NZS8409:2004 relates to the Management of Agrichemicals and is the main source of information for safe, responsible and effective agrichemical use.

For Council to:

- Adopt rules permitting agrichemical use, storage, transportation and disposal where NZS8409:2004 is complied with.

### Fertilisers

For Council to note the following:

- That under the Fertilisers (Subsidiary Hazard) Group Standard 2006 (HSR002571) any new hazardous substance that fits the specified criteria is automatically deemed an approved substance.
- That FertResearch's Code of Practice for Nutrient Management (2007) considers fertiliser use within the broader context of nutrient management and in regard to the overall farm management system.

For Council to:

- Specifically refer to the Fertiliser (Subsidiary Hazard) Group Standard as the applicable standard for the storage and use of fertiliser; and/or
- Adopt rules permitting fertiliser use, storage, transportation and disposal where the Group Standard is complied with; and/or.
- Amend Rule 17.5.1 as follows (suggested additions are underlined) or wording that achieves a similar purpose:

#### **Rule 17.5.1**

*(v) Unless otherwise stated and unless a group standard is applicable, if a hazardous substance falls into more than one HSNO sub-class and is therefore controlled by more than one maximum permitted quantity threshold, the more or most restrictive quantity threshold applies.*

- Adopt rules permitting matters where FertResearch's Code of Practice for Nutrient Management 2007 is complied with.

Kim Reilly  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

**Fuel use/storage (below ground and above ground)**

**For Council to note:**

- That ERMA provides significant guidance to farmers to ensure they meet their obligations regarding both below ground and above ground fuel storage; and
  - That in addition to the HSNO Act and regulations, there are also approved HSNO Codes of Practice providing further guidance and rules
- Where requirements under HSNO rules, regulations, Group Standards, approved Codes of Practice and quantity thresholds are being met, that any Council plan requirement should align with those in a permitted activity framework.
- Alternatively, that the farm scale use and storage of agrichemicals and fertilisers be excluded from the definition of hazardous facilities and therefore be exempt for the hazardous substance rules where the substance is only intended for on farm use.
- The Group Standard and Codes of Practice provide clear, in-depth and detailed information and guidelines on very specific topics. Federated Farmers considers that these Standard and Codes should be given due weight within any applicable District Plan provision.
- Where the District Plan requires a resource consent application for a quantity of substance HSNO otherwise permits, this introduces costly and unnecessary, onerous and impractical consent requirements. This level of control is not consistent with current HSNO regulations and requirements.
- That while Council continues 17.6.14 as a matter of consideration under 17.6, that it also allows for compliance with specified Codes of Practice (specifically the Code of Practice HSNOCOP 3-1 NZS8409:2004 and FertResearch's Code of Practice for Nutrient Management 2007) as part of the permitted activity framework.

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

# **SUBMISSION TO DUNEDIN DISTRICT COUNCIL'S ON PLAN CHANGE 13 – HAZARDOUS SUBSTANCES**

## **1. INTRODUCTION**

Federated Farmers of New Zealand welcomes the opportunity to comment on the Dunedin District Council's Plan Change 13 - Hazardous Substances.

Federated Farmers of New Zealand is a primary sector organisation that represents over 14,000 farming and other rural businesses. Federated Farmers has a long and proud history of representing the needs and interests of New Zealand farmers.

The Federation aims to add value to its members' farming business. Our key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:

- Our members may operate their business in a fair and flexible commercial environment;
- Our members' families and their staff have access to services essential to the needs of the rural community; and
- Our members adopt responsible management and environmental practices.

## **2 GENERAL COMMENTS**

Agriculture is an essential part of the New Zealand economy. It is not only the dominant sector for our export income but also a substantial employment provider. It is an unavoidable reality, however, that the efficient and intensive use of land for agriculture and horticulture involves the use of hazardous substances, including agricultural chemicals, fertilisers and fuels. Farmers respect and acknowledge that the careful management of these chemicals is important to protect people, livestock and the environment.

Proposed Plan Change 13 impacts on farmers in three main areas:

- Agrichemical storage and use (for example: sprays and animal health remedies)
- Fertiliser storage and use;
- Fuel storage and use (above and below ground);

Federated Farmers acknowledge Councils intent to make hazardous substance rules clearer, simpler and more user-friendly and to align them more accurately with the Hazardous Substances and New Organisms (HSNO) Act and Regulations.

Farmers have existing legal obligations under HSNO in relation to the safe handling and storage of hazardous substances on farms, substances which are integral to day to day farming activities. Existing systems, safeguards and 'lockable' storage areas ensure that farmers comply with their responsibilities and obligations under the HSNO Act and regulations.

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

Part 6A of the HSNO Act enables the Authority to issue, amend or revoke Group Standards. These provisions facilitate the management of groups of hazardous substances that have a similar nature, are of a similar type, or have similar circumstances of use, so that the risks of the grouped hazardous substances can be effectively managed by one set of conditions.

Sections 78 and 79 of the HSNO Act enable Codes of Practice to be approved. Codes of Practice are “how to” documents that offer an approved method of achieving compliance with the regulatory requirements set under HSNO.

#### Agrichemicals

*Code of Practice HSNO COP 3-1 NZS8409:2004 relates to the Management of Agrichemicals* and is the main source of information for safe, responsible and effective agrichemical use. It has the aim of ensuring that where agrichemicals are handled or used, the practices followed are safe, responsible and effective, with minimal adverse impact on human, environmental and animal health.

NZS8409:2004 applies to agricultural compounds, veterinary medicines, agrichemicals for home and garden, nursery, turf and amenity use, fumigants used in agriculture and many detergents and sanitizers used in agriculture. It doesn't apply to fertilisers which are dealt with separately under FertResearch's *Code of Practice for Nutrient Management (2007)*.

#### Fertiliser

District Councils control the site and storage requirements of fertiliser and where there aren't specific rules governing fertiliser storage requirements then these are dictated by the *Environmental Protection Agency Fertilisers (Subsidiary Hazard) Group Standard 2006 (HSR002571)*. This group standard was created pursuant to section 96B of HSNO Act 1996. Any new hazardous substance that fits the criteria for this group standard is automatically deemed an approved substance.

Fertiliser products falling within the Group Standard are included in the following HSNO classifications:

- acute toxicity, HSNO 6.1D or 6.1E classification (including aspiration hazard);
- skin irritancy, HSNO 6.3A or 6.3B classification;
- eye corrosivity, HSNO 8.3A classification;
- eye irritancy, HSNO 6.4A classification;
- respiratory sensitisation, HSNO 6.5A classification;
- contact sensitisation, HSNO 6.5B classification;
- mutagenicity, HSNO 6.6A or 6.6B classification;
- reproductive toxicity, HSNO 6.8A, 6.8B or 6.8C classification;
- target organ toxicity, HSNO 6.9A or 6.9B classification;
- ecotoxicity, HSNO class 9.

Despite fertiliser products falling within this wide range of HSNO classifications, HSNO regulations do not place restrictive limits on the storage and use of most standard fertiliser products used on farms due to the Fertiliser Group Standard.

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

In addition, FertResearch has developed the *Code of Practice for Nutrient Management (2007)*, which considers fertiliser use within the broader context of nutrient management and in regard to the overall farm management system.

Both the Group Standard and the Code of Practice provide considerable guidance, rules and information in regard to the use and storage of fertiliser.

### Fuel

The Environmental Risk Management Authority (ERMA) provides significant guidance to farmers to ensure they meet their obligations regarding both below ground and above ground fuel storage.

In addition to the HSNO Act and regulations, there are also approved HSNO Codes of Practice providing further guidance and rules. For example:

- HSNOCOP 14-1 Code of Practice for Filling of Below Ground Petrol Tanks by Pumping;
- HSNOCOP 13-1 Code of Practice for the Management of Existing Stationary Container Systems up to 60000 litres Capacity;
- HSNOCOP 47-1 Secondary Containment Systems Guidelines

### **Relief Sought**

- Where requirements under HSNO rules, regulations, Group Standards, approved Codes of Practice and quantity thresholds are being met, that any Council plan requirement should align with those in a permitted activity framework.
- Alternatively, that the farm scale use and storage of agrichemicals and fertilisers be excluded from the definition of hazardous facilities and therefore be exempt for the hazardous substance rules where the substance is only intended for on farm use.

## **3 SPECIFIC COMMENTS**

### **3.1 Provision in the Proposed District Plan**

#### Rule 17.5.1 Permitted Activities

*(iv) Table 17.1 contains maximum permitted quantity thresholds (plus, in certain cases, storage requirements) for the storage, use or disposal of different types of hazardous substances, as classified via the Hazardous Substance (Classification) Regulations 2001. The quantities vary according to District Plan zone and/or activity type. Where the requirements set out in this table are not met, resource consent will be required under Rule 17.5.2, 17.5.3 or 17.5.4 of this Plan.*

### **Submission**

Federated Farmers opposes this provision in part.

### **Summary of Reasons for this Submission:**

Under Proposed Plan Change 13 rule 17.5.1 and Table 17.1 farmers will require resource consent to routinely apply fertiliser such as a superphosphate mix or urea. For example, the permitted activity for products with HSNO classifications 6.3 B and 6.4A are restricted in rural zones to a quantity limit of just 200 kg.

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)

This is inconsistent with the HSNO Act, regulations, and the requirements specified in the HSNO Fertiliser (Subsidiary Hazard) Group Standard 2006.

Despite fertiliser products falling within a range of HSNO classifications, HSNO regulations do not place unduly restrictive limits on the storage and use of most standard farming fertiliser products.

Appendix A to Proposed Plan Change 13 sets out a best practice summary from a selection of four territorial authorities who have each updated their hazardous substance rules to align with HSNO.

Within 'activities permitted without the need to comply with maximum quantity thresholds' the Proposed Wairarapa District Plan allows:

*"Agrichemical use, storage, transportation and disposal (must comply with NZS8409:2004)"*

Similarly the Western Bay of Plenty District Plan allows:

*"Hazardous facilities that are part of a permitted activity in the rural zones that comply with NZS8409:2004"*

Federated Farmers considers that where Codes of Practice are approved under HSNO and directly relate to matters within a District Plan, these should be given appropriate consideration, as has been done in the Proposed Wairarapa District Plan.

Both the Group Standard and the Codes of Practice previously discussed provide clear, in-depth and detailed information and guidelines on very specific topics. Federated Farmers considers that these Standard and Codes should be given due weight within any applicable District Plan provision.

While the District Plan provisions for hazardous substances are created under the Resource Management Act, they still need to be consistent with HSNO. Where HSNO provides adequate rules and protection, any additional controls and requirements have the potential to add an unnecessary layer of confusion and lack of clarity as to maximum permitted quantity thresholds in any area.

Under Dunedin City Council's Proposed Plan Change 13, matters otherwise permitted by HSNO rules and regulations, Group Standards and Codes may still require resource consent under Rule 17.5.1 (iv).

Where the District Plan requires a resource consent application for a quantity of substance HSNO otherwise permits, this introduces costly and unnecessary, onerous and impractical consent requirements. This level of control is not consistent with current HSNO regulations and requirements.

Federated Farmers considers that full and consistent aligning and coordination between District Plan rules and HSNO requirements is preferable in providing both clarity and certainty for farmers and other plan users. Where HSNO rules, regulations, Group Standards or Codes of Practice permit specified quantity thresholds, Federated Farmers considers it preferable for Council to likewise permit those same quantities and activities.

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)



If Council considers there does need to be a standard for the storage and use of fertiliser, Federated Farmers recommends inclusion by reference to the Fertiliser (Subsidiary Hazard) Group Standard 2006 which was developed under HSNO as the national requirement for safe use and storage of fertilisers.

### **Relief Sought**

- That Council specifically refer to the Fertiliser (Subsidiary Hazard) Group Standard 2006 as the applicable standard for the storage, use and disposal of fertiliser products.
- Permitted Activity status for on-farm storage and use of fertiliser products specifically where the Group Standard and/or FertResearch's Code of Practice for Nutrient Management 2007 is complied with.
- That the conditions of Permitted Activity Status are consistent with the HSNO Fertiliser (Subsidiary Hazard) Group Standard 2006.

## **3.3 Provision in the Proposed District Plan**

### Rule 17.5.1

*(v) Unless otherwise stated, if a hazardous substance falls into more than one HSNO sub-class and is therefore controlled by more than one maximum permitted quantity threshold, the more or most restrictive quantity threshold applies.*

### **Submission**

Federated Farmers opposes this provision in part.

### **Summary of Reasons for this Submission**

Rule 17.5.1(v) fails to take into account the situation where group standards apply.

Group Standards apply to groups of hazardous substances that have a similar nature, are of a similar type, or have similar circumstances of use, so that the risks of the grouped hazardous substances can be effectively managed by one set of conditions. Group Standards rules are contained within Part 6A of the HSNO Act.

The Fertilisers (Subsidiary Hazard) Group Standard 2006 (HSR002571) makes fertiliser storage and use permitted so long as the standard is complied with.

Within Proposed Plan Change 13 the Council already specifically refers to both Codes of Practice and NZ Standards. For example, in Rule 17.5.2 (Controlled Activities) there is reference to HSNO COP 13-2 'Code of Practice for the Management of Existing Stationary Container Systems up to 60,000 litres capacity' and to AS/NZS 1596:2008 'The Storage and Handling of LP Gas'.

In a similar manner, Federated Farmers considers the Council should make specific reference and exclusion for fertilisers that fall within the HSR002571 Group Standard.

### **Relief Sought**

- That Council make specific reference and exclusion for fertilisers that fall within the Fertilisers (Subsidiary Hazard) Group Standard 2006 (HSR002571)

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)



- And/Or amend Rule 17.5.1 as follows (suggested additions are underlined) or wording that achieves a similar purpose:

Rule 17.5.1

*(v) Unless otherwise stated and unless a group standard is applicable, if a hazardous substance falls into more than one HSNO sub-class and is therefore controlled by more than one maximum permitted quantity threshold, the more or most restrictive quantity threshold applies.*

### 3.3 Provision in the Proposed District Plan

Rule 17.6 – Assessment of Resource Consent Applications: Hazardous Substances

*In assessing any applications, in addition to the matters contained in the Fourth Schedule of the Act, the Council will have regard to, but not be restricted by the following matters:*

.....

*17.6.14 Codes of Practice: Industry codes of practice and other procedures which may be used to assess activities involving hazardous substances.*

#### **Submission**

Federated Farmers supports this provision in part.

#### **Summary of Reasons for this Submission**

In considering any resource consent application in this area, Council is to have regard to applicable Codes of Practice and other procedures which may be used to assess activities involving hazardous substances.

While it is appropriate for such matters to be taken into consideration, it is preferable for compliance with such Codes of Practice and standards to result in specific exclusions from rules or as being included within the permitted activity framework rather than to simply apply as a consideration or condition of resource consent.

Federated Farmers members have been frustrated not only by the costs, but by the lengthy delays in resource consent processing, repeated calls for further information, public notifications of "normal" farming activities and the information requirements for activities that should be anticipated in a rural environment and can be sensibly managed through site standards on permitted activities and through the HSNO legislation.

Federated Farmers considers that to require resource consent for matters otherwise permitted by HSNO rules, regulations or approved Codes of Practice simply adds an unnecessary layer of bureaucracy and unnecessary delays and costs to plan users.

#### **Relief Sought**

That while Council continues 17.6.14 as a matter of consideration under 17.6, that it also allows for compliance with specified Codes of Practice (specifically the Code of Practice HSNOCOP 3-1 NZS8409:2004 and FertResearch's Code of Practice for Nutrient Management 2007) as part of the permitted activity framework.

**Kim Reilly**  
POLICY ADVISOR

Federated Farmers of New Zealand  
PO Box 5242, Dunedin  
P 03 477 2435  
F 03 479 0470  
E [kreilly@fedfarm.org.nz](mailto:kreilly@fedfarm.org.nz)