

SUBMISSION ON

Approved Codes of Practice

8 May 2026

To: WorkSafe

Name of Submitter: Horticulture New Zealand

Supported by: Blackcurrant NZ, Turners and Growers,

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OVERVIEW

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Our submission

Horticulture New Zealand (HortNZ) thanks WorkSafe for the opportunity to submit on the Approved Codes of Practice and welcomes any opportunity to continue to work with WorkSafe to discuss our submission.

HortNZ wishes to be heard in support of our submission.

The details of HortNZ's submission and decisions we are seeking are set out in our submission below.

HortNZ's Role

Background to HortNZ

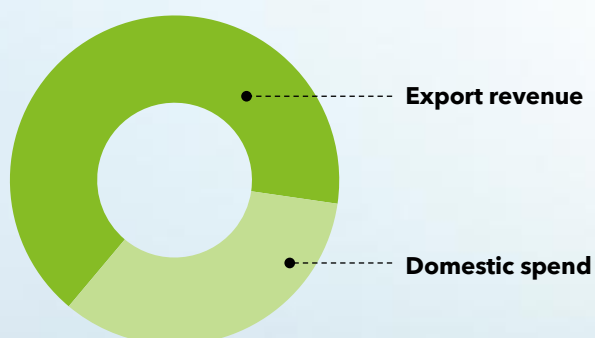
HortNZ represents the interests of approximately 4,300 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruits and vegetables. The horticultural sector provides over 40,000 jobs.

There are approximately 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain, and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



Industry value \$7.54bn
Farmgate value \$4.89bn
Export revenue \$4.99bn
Domestic spend \$2.55bn

Source: HortNZ Annual Report 2025

Executive Summary

HortNZ has identified several concerns with the draft Approved Codes of Practice (ACOPs), particularly in relation to scope, clarity, consistency, and practical usability for horticulture businesses.

Across both ACOPs, it is unclear whether and how horticulture is intended to be covered. In some cases, horticulture is included in the scope and examples, while in others it is excluded or only partially referenced. This creates uncertainty for growers about when the ACOP applies and what is required operationally.

The ACOPs do not provide a clear or workable pathway for demonstrating compliance, particularly in relation to safe harbour. It is unclear compliance should be evidenced and what level of documentation is required.

The development process has also lacked consistency, with the scope of horticulture shifting during the drafting of the Roles and Responsibilities ACOP and out of scope for the Safe Vehicles Operation ACOP. This has reduced confidence that the final guidance reflects how horticulture operates, despite clear overlap with agricultural activities, risks, and working environments.

Both ACOPs are lengthy and detailed, which limits their practical value. In particular, the Roles and Responsibilities ACOP (106 pages) and the Safe Farm Vehicles ACOP (86 pages) are unlikely to be used as day-to-day guidance in fast paced environments. There is a risk they will be treated as compliance documents rather than practical tools to support safe decision-making.

There are also gaps in coverage, including the omission of commonly used equipment such as forklifts, excavators, and diggers, as well as a lack of consideration of emerging technologies such as electric and autonomous vehicles. This contributes to fragmented and potentially outdated guidance across the sector.

Overall, HortNZ considers that the ACOPs should:

- Clearly include horticulture within scope
- Provide clearer guidance on safe harbour and what is required in practice
- Align the structure and content across both ACOPs
- Make the guidance more practical and usable on the ground

Submission

HortNZ supports the intent of the ACOPs in providing practical guidance on managing high risk activities and clarifying responsibilities between duty holders.

However, the ACOP does not provide guidance on how duty holders are expected to demonstrate that required actions have been completed, particularly where safe harbour is intended to apply. Given the expectation that all actions must be followed to rely on safe harbour, it is unclear how users are meant to record or evidence this in practice.

HortNZ considers that if the ACOP is intended to provide a clear compliance pathway, it should include practical guidance on how actions can be recorded or evidenced, proportionate to the nature of the work. Without this, there is a risk the ACOP becomes either overly administrative or difficult to apply in practice.

1. Safe Harbour

HortNZ notes that the ACOPs are intended to operate as safe harbour under the Health & Safety at Work Amendment Bill (awaiting Royal Assent), meaning that if a business follows the ACOP, it is treated as having met its legal duties. However, the current drafts do not achieve this in a clear or workable way.

The use of language throughout the ACOP creates confusion about what is required to meet legal duties, and what is required to rely on safe harbour. The term “must” is clearly understood and provides a definitive standard. A duty holder could reasonably identify all “must” statements and rely on these to understand what is required to meet their obligations under the Health and Safety at Work Act.

However, the threshold for safe harbour appears to extend beyond “must” statements to include broader and less defined language such as “make sure”, “check”, and “do not”. These terms are not clearly distinguished or defined, making it unclear what actions must be followed in order to rely on safe harbour. This creates uncertainty about the standard required and undermines confidence in the ACOP as a clear compliance pathway.

As a result, the document reads more like general guidance rather than a definitive code of practice. HortNZ considers that if the ACOP is intended to provide a safe harbour, the actions required to rely on it must be clearly identified, consistently expressed, and distinguishable from general guidance.

2. Roles and Responsibilities ACOP

2.1. Scope Concerns

HortNZ engaged in good faith with WorkSafe on the development of the Roles and Responsibilities ACOP, including providing information in the HortNZ newsletter and participating in initial reference group meetings at WorkSafe’s request. However, after contributing to early discussions, HortNZ was advised mid-process that horticulture was considered out of scope for the ACOP. This occurred after engagement had already begun and without clear justification, creating uncertainty about the intended coverage of the ACOP. This shift appeared to stem from a lack of understanding by the

ACOP lead and WorkSafe of the horticulture sector and how it operates in practice, despite its clear overlap with agriculture:

- Shared work environments
- Overlapping PCBU relationships
- Similar high-risk activities
- Contractor/seasonal based workforce

Shortly before the ACOP was released for public consultation, WorkSafe then advised that horticulture was in fact within scope, representing a further shift in position. This sequence highlights a lack of clarity and consistency in how WorkSafe is defining the scope of ACOPs, particularly where there is significant overlap between agriculture and horticulture. Unclear or shifting scope risks:

- Gaps or confusion in guidance for horticulture businesses
- Inconsistent application of health and safety expectations across similar industries
- Reduced confidence in the ACOP development process

While horticulture has now been brought back into scope, the ACOP does not refer to any horticulture specific examples. The repeated use of terms such as 'farmers' and 'farms' gives the impression that the guidance is intended primarily for agriculture, despite the fact that the same roles and responsibilities apply across the wider primary sector.

This issue was recognised early in the development process. During initial working group discussions (before horticulture was later considered out of scope) there was active consideration of alternative titles and terminology that would better reflect the inclusive nature of primary industries. This included acknowledging that the same duties apply across different production systems, regardless of whether the setting is a farm, orchard, vegetable plot or packhouse. Moving back to agriculture-specific language in the draft ACOP does not reflect those early discussions and undermines the intent to provide guidance that is applicable across the sector.

In the public consultation document, WorkSafe states that following stakeholder feedback: *it was agreed that horticulture would be included in a limited and practical way.* HortNZ does not agree with this characterisation. At no point did HortNZ agree to a model of limited involvement. Discussions with WorkSafe were focused on ensuring the ACOP clearly reflected that it covered horticulture, including the inclusion of appropriate language to recognise the sector. They were not framed as, nor did they result in, agreement to a partial or limited inclusion of horticulture within the ACOP.

2.2. Recommended Changes

At 106 pages, the ACOP risks becoming a compliance document rather than a practical tool for managing risk. The length and level of detail make it difficult for users to quickly find and apply the key actions needed on the ground. In busy, fast-paced environments there is limited time to work through lengthy guidance, which increases the likelihood that the document is either not used at all or treated as something to be worked through for compliance purposes only. This can lead to a 'tick-box' approach, where the focus shifts to demonstrating that steps have been followed, rather than genuinely identifying and managing risks in a way that reflects the specific circumstances of the workplace.

Table one: Proposed amendments to Roles and Responsibilities ACOP

Payment	
<p>1.2 Who this draft ACOP is for</p>	<p>It is unclear whether labour contractors (labour hire providers) are intended to be captured within the definition of “contractors”. Given the significant role labour contractors play in horticulture, they should be explicitly referenced to avoid ambiguity and ensure responsibilities for overlapping duties are clearly understood.</p>
<p>2.3 How to use this draft ACOP</p>	<p>The ACOP states that it is written as a “safe harbour” document, however there is no clear explanation or definition of what this means in practice. While the term is referenced, the lack of plain language explanation creates uncertainty for duty holders about how safe harbour operates, what level of compliance is required, and what the implications are if all steps are not followed. This is particularly important given the legal weight attached to ACOPs. The document should clearly explain, in simple terms, what “safe harbour” means and how it applies in practice, including what happens if a business takes a different but equivalent approach.</p>
<p>Example 8</p>	<p>The example uses a vegetable grower who sprays a maize block. Maize is arable which is a separate industry to horticulture.</p> <p>It is recommended to use horticulture specific examples - eg orchards on flat terrain with crop support structures and multiple PCBU present</p>
<p>Table 3</p>	<p>Restrictions on what young people can do The ACOP states that PCBUs must ensure, so far as is reasonably practicable, young workers (under 15) do not:</p> <ul style="list-style-type: none"> • Ride on a vehicle while it is drawing an implement and then a separate • Ride on a vehicle while an implement (for example a trailer) is attached <p>Don't these mean the same thing? The drafting of this section is unclear and difficult to follow, particularly due to the use of multiple 'except' clauses and overlapping conditions. It is not immediately clear what is prohibited and what is permitted. This should be simplified and restructured to clearly set out the general rule, followed by any exceptions and the conditions that apply.</p> <p>HortNZ suggests the following:</p> <ul style="list-style-type: none"> • PCBUs must ensure, so far as is reasonably practicable, that workers under 15 do not ride on vehicles or implements.

	<ul style="list-style-type: none"> • An exception applies in agricultural work where a worker is aged 12 or over and is fully trained (or being trained) to ride a specific tractor or mobile plant (700kg or less). In this case, they may ride on the vehicle while it is drawing an implement. • Workers under 15 must not ride on implements, except where the implement is specifically designed or adapted for carrying passengers or goods (such as a trailer).
<p>Critical risks 3.2</p>	<p>While the definition of critical risk has been provided (subject to HSWA Bill) it doesn't go into detail about what they are – eg – risks that stem from hazards listed in schedule 1A of HSWA.</p> <p>It is recommended to provide a complete list of all critical risks so the user of the ACOP is not having to look elsewhere</p>
<p>Officer duties</p>	<p>The ACOP focuses on the duties of PCBUs but does not adequately address the duties of officers under the Health and Safety at Work Act. Officers have a separate and important obligation to exercise due diligence to ensure that the PCBU is meeting its duties. The absence of clear guidance on officer responsibilities creates a gap in the ACOP, particularly given its intended role in clarifying how legal duties are to be met in practice. Including a clear explanation of officer duties, and how these interact with PCBU responsibilities, would improve the completeness and usefulness of the ACOP.</p>

3. Safe Farm Vehicle Operation ACOP

3.1. Scope Concerns

The scope of the Safe Farm Vehicles Operation ACOP is framed broadly around farming businesses and activities, including farmers, farm operators, contractors and labour hire businesses.

The ACOP explicitly states that horticulture-specific vehicles and machinery are out of scope, while also noting that sections on common farming vehicles and attached machinery that are also used in horticulture will still be relevant. This creates a clear inconsistency within the document itself.

While horticulture specific vehicles or machinery are deemed out of scope at the same time sections are intended to be relied on where similar vehicles are used in horticulture. This effectively places horticulture in a grey area, where it is excluded in principle but expected to rely on the guidance in practice.

This results in:

- Uncertainty for horticulture businesses about when and how the ACOP applies
- Partial reliance on guidance that is not clearly designed for, or accountable to, the horticulture sector
- Inconsistent treatment compared to agriculture, despite similar risks, vehicles, and operating environments.

There are also gaps in the coverage of key equipment. For example, forklifts, commonly used across both agriculture and horticulture, are not included in the draft ACOP. Instead, guidance continues to rely on an outdated ACOP for forklifts dating back to 1992¹. Given the widespread use of forklifts in both on-farm and packhouse environments, the absence of updated, integrated guidance raises questions about:

- Why commonly used equipment like forklifts has not been incorporated into a modern ACOP
- Whether the existing guidance remains fit for purpose
- The risk of fragmented or outdated safety guidance across sectors.

Other gaps include the exclusion of excavators and diggers, which are widely used across both agriculture and horticulture. These machines are commonly used for activities such as forming and maintaining farm tracks, land contouring, storm recovery and clean-up, and supporting harvesting operations. Their omission creates a gap in guidance for equipment that is routinely used in high-risk environments.

HortNZ submits that horticulture is fully included within the scope of the ACOP with the relevant language, examples, and coverage of equipment and activities.

If horticulture is not to be fully included, then a separate, fit-for-purpose ACOP should be developed specifically for the horticulture sector. This would ensure the guidance reflects how horticulture operates in practice and addresses the compliance gap created by the current ACOP.

3.1.1 EMERGING TECHNOLOGIES - ELECTRIC AND AUTONOMOUS VEHICLES

The ACOP does not address the use of electric vehicles or autonomous/semi-autonomous vehicles. This is a notable gap given the increasing uptake of electric utility vehicles (eg; forklifts, tractors) and the early use of automated or GPS-guided machinery across both agriculture and horticulture.

Electric vehicles introduce different risks compared to traditional diesel or petrol-powered equipment, including battery safety, charging infrastructure, electrical hazards, and silent operation. Similarly, autonomous and semi-autonomous vehicles raise additional considerations around operator supervision, interaction with workers, fail-safe systems, and safe operation in mixed environments where people, vehicles, and machinery are operating together.

The absence of guidance on these technologies means the ACOP does not fully reflect

¹ <https://www.worksafe.govt.nz/topic-and-industry/vehicles-and-mobile-plant/forklifts/forklift-training/>

current or emerging practices in the sector and may quickly become outdated. HortNZ considers that the ACOP should either incorporate guidance on electric and autonomous vehicles or clearly signal how existing principles apply to these technologies, to ensure the document remains relevant and future focused.

3.2. Recommended Changes

HortNZ considers that at 86 pages, the ACOP is too long and not practical for day-to-day use. While the level of detail may be useful as a reference document, it risks key requirements such as pre-start checks being lost in the volume of content. To improve usability, the ACOP should include a checklist (for example, pre-operation vehicle checks and key risk considerations) that user can easily apply in practice. This would support consistent application, improve engagement, and make the ACOP a more effective tool.

Table two: Proposed amendments to Safe Farm Vehicles ACOP

Payment	
2.1.3 - 2.1.7 Critical risk and PCBU size	The distinction between 'small PCBUs' and 'other PCBUs' is unclear and creates uncertainty about what is required in practice. In particular, it is not clear whether small businesses are only required to manage critical risks, or how non-critical risks should be treated. The use of terms like "prioritise" is also ambiguous and does not provide sufficient guidance for duty holders. Greater clarity is needed to ensure the requirements are understood and can be applied consistently, particularly given the seasonal and variable nature of horticulture businesses.
How to use this draft ACOP 2.3	The ACOP states that it is written as a safe harbour document, however there is no clear explanation or definition of what this means in practice. While the term is referenced, the lack of plain language explanation creates uncertainty for duty holders about how safe harbour operates, what level of compliance is required, and what the implications are if all steps are not followed. This is particularly important given the legal weight attached to ACOPs. The document should clearly explain, in simple terms, what "safe harbour" means and how it applies in practice, including what happens if a business takes a different but equivalent approach.
Working under raised or suspended loads 5.6.11	The ACOP states: do not work under raised or suspended loads, such as front-end loaders or lifted implements, unless they are properly supported using purpose designed equipment There should be no scenario where a worker is permitted to work under raised or suspended loads, regardless of whether they are supported. This advice introduces ambiguity and risks normalising a high-risk activity that should be clearly prohibited. Allowing for exceptions undermines the intent of eliminating serious harm risks and may lead to inconsistent interpretation in practice. HortNZ

	<p>considers the guidance should take a clear position that working under raised or suspended loads is not permitted.</p>
<p>Information upstream PCBUs provide to support safe use on farms 3.3.1 - 3.3.3</p> <p>And</p> <p>Scope of this section 3.3.15 Section 3.3.1-3.3.3</p>	<p>Section 3.3.1-3.3.3 states the section applies to upstream PCBUs however 3.3.15 goes onto say the ACOP does not address upstream duties relating to design or manufacture except where those matters are directly relevant to the safe use, inspection, maintenance or repair of vehicles or attached machinery on farms.</p> <p>These two sections contradict each other.</p> <p>It is recommended that a link is provided to WorkSafe guidance Safe use of machinery WorkSafe and/or the following included as a requirement in the ACOP</p>
<p>Officer duties</p>	<p>The ACOP focuses on the duties of PCBUs but does not adequately address the duties of officers under the Health and Safety at Work Act. Officers have a separate and important obligation to exercise due diligence to ensure that the PCBU is meeting its duties. The absence of clear guidance on officer responsibilities creates a gap in the ACOP, particularly given its intended role in clarifying how legal duties are to be met in practice. Including a clear explanation of officer duties, and how these interact with PCBU responsibilities, would improve the completeness and usefulness of the ACOP.</p>
<p>Where risks are present - manage or change the work 4.3.8</p>	<p>Bullet point 4 - use formal traffic management where work occurs on or near busy roads, high-speed roads, or for extended periods, or where your usual control.....</p> <p>The ACOP recommends the use of formal traffic management where work occurs on or near "busy roads", "higher-speed roads", or for extended periods. However, terms such as "higher-speed roads" are not defined, creating uncertainty for duty holders. In a rural context, many roads have speed limits of 100km/h, which could reasonably be interpreted as "high-speed", yet the ACOP does not provide guidance on how this threshold should be applied in practice.</p> <p>In addition, traffic management requirements are already governed by established frameworks, including the NZ Transport Agency's Code of Practice for Temporary Traffic Management and local council requirements. The ACOP should clearly reference and align with these existing</p>

	<p>standards, rather than introducing new or undefined terminology that may lead to inconsistent interpretation.</p> <p>HortNZ considers that clearer definitions and alignment with existing traffic management frameworks are needed to ensure duty holders understand when formal traffic management is required and how to comply in practice.</p>
<p>Safe setup 5.5.6</p>	<p>Bullet point 1 <i>Make sure appropriate ROPS are fitted and in good condition</i></p> <p>The requirement to ensure ROPS are fitted does not always reflect orchard conditions, where low canopies, narrow rows, and trellising can make standard ROPS impractical or introduce other risks. The ACOP should recognise alternative controls where these provide an equivalent level of safety.</p> <p>Bullet point 2: <i>Make sure seatbelts are in good condition, working and used appropriately</i></p> <p>This wording implies that all tractors are fitted with seatbelts, which is not always the case, particularly for older equipment still in use across the sector. The current drafting does not distinguish between situations where seatbelts are fitted and where they are not, which creates ambiguity for duty holders about what is required in practice.</p> <p>HortNZ considers the wording should be clarified to reflect this, for example by stating that where seatbelts are fitted, they must be maintained in good condition and used appropriately. This would better align with the range of equipment in use and provide clearer, more practical guidance.</p>
<p>Safe use 5.5.28</p>	<p>Bullet point 5: <i>Use an amber flashing beacon to improve visibility when operating on or near public roads</i></p> <p>The wording does not account for the age and specification of machinery and may be interpreted as implying that all tractors are fitted with amber beacons, which is not always the case, particularly for older equipment.</p> <p>In addition, the term 'near a public road' is not defined. It is unclear what proximity triggers this requirement (for example, whether this applies at the boundary, within a certain distance, or only where there is a direct interaction with road users). This creates uncertainty for duty holders about when the control is required.</p>

	<p>HortNZ considers that the ACOP should:</p> <ul style="list-style-type: none"> • Clarify that the requirement applies where an amber beacon is fitted, or provide guidance on when retrofitting is expected, • Define or provide clearer guidance on what constitutes "near a public road" to support consistent and practical application
<p>Electric and autonomous vehicles</p>	<p>Incorporate guidance on electric and autonomous vehicles or clearly signal how existing principles apply to these technologies, to ensure the document remains relevant and future focused.</p>