

Guide to agrichemical use in Resource Management Plans

West Coast Region

As at June 2017

Disclaimer: This Guide is intended to assist users and applicators to understand the requirements relating to agrichemical use in the relevant regional plans in your Region. Every effort has been made to ensure the accuracy of this information but the responsibility for ensuring that the requirements of councils are met is with the applicator and user of agrichemicals.

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1. Structure of plan requirements

Under the West Coast Regional Land and Water Plan, the following four types of agrichemical application are permitted activities, i.e. you do not need a resource consent if you follow the rules:

- Rule 75 Application of agrichemicals on domestic properties
- Rule 76 Application of agrichemicals on areas other than domestic properties
- Rule 65 Discharge of aquatic herbicides in gel form
- Rule 66 Discharge of herbicide to water

There are specific rules in the Plan for application of Vertebrate Pest Control products but these are not included within this guide.

Definitions

Key words are identified in this Guide by *italics* and their formal definitions from the Plan are listed in section 8 of this Guide. The definition of *domestic properties* is particularly important as it determines which rule will apply.

Status of plan

The Regional Land and Water Plan was made operative in May 2014, meaning the current version cannot be changed except through a publicly notified Plan Change.

The link to the West Coast Regional Land and Water Plan is:

<http://www.wcrc.govt.nz/Documents/Resource%20Management%20Plans/Operative%20Land%20and%20Water%20Plan%20May%202014.pdf>

2. Specific notes for users

Onus of responsibility

An important issue in terms of compliance with a Regional Plan is to be clear as to 'who' is responsible for 'what'. Some plans have conditions (e.g. notification) which are the responsibility of the 'landowner or occupier'. Other conditions (e.g. records) may be the responsibility of the 'discharger' or 'applicator'. Sometimes it may be either 'landowner' or 'applicator'. Usually such terms are defined in the Plan so it is clear who should be undertaking particular activities. However, there are times where it is not clear who should be carrying out a task. If the landowner or manager is the person undertaking the spraying then all the responsibility is with that person.

However, it is recommended that where a landowner or manager engages or employs someone else to undertake the spraying that it is clearly set out who will undertake particular responsibilities required by the Plan. In the event of a spray drift incident the Council will be seeking to confirm who undertook such matters as notification or keeping of records. A paper trail in this respect will be useful.

Rule 75 h) ii) requires notification of aerial applications adjacent to certain areas. The rule does not specify who is to undertake the notification – the discharger or the landowner or occupier. Those undertaking aerial applications should clarify with the landowner who is to undertake the notification and ensure that it has been done.

NZS8409:2004

Rule 78 d) requires that the application is undertaken in accordance with Section 5 of NZS8409:2004 Management of Agrichemicals. The mandatory requirements in Sections 5 are identified in NZS8409 as "shall" statements. Users will need to reference NZS8409:2004 and meet the requirements in Section 5 to be compliant with the rules for agrichemical use in the Regional Land and Water Plan for the West Coast.

Using this Guide

The summary tables below for each rule set out possible conditions that a Council may require in a permitted activity rule for agrichemical use. If a line is blank then it means that the Plan does not require anything on that issue.

3. Rule 77: Application of agrichemicals on domestic properties

Permitted activity conditions	What the rule requires
Type of use	
Area of use	Application of agrichemicals on domestic properties
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions Rule 77 a)	The mixing and application of the agrichemical is undertaken in accordance with the manufacturer's instructions, at concentrations not exceeding manufacturers label recommendations.
Drift beyond the boundary Rule 77 b)	Any agrichemical spray drift derived from the discharge is not noxious, dangerous, offensive or objectionable beyond the target area to such an extent that it has, or is likely to have, an adverse effect on the environment.
Status of NZS8409	
Qualifications or training	
Notification	
Spray Plan	
Signage	
Records	
Public places or amenity areas or sensitive areas	
Storage	
Mixing sites	
Applications to or near water Rule 77 d)	The following effects do not arise in any surface water body, groundwater or coastal water: <ul style="list-style-type: none"> • the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; • any conspicuous change in the colour or visual clarity; • any emission of objectionable odour; • the rendering of fresh water unsuitable for consumption by farm animals; • any significant adverse effects on aquatic life.
Disposal Rule 77 c)	Discharger is responsible for ensuring proper disposal of spray mixture and empty containers.

4. Rule 78: Application of agrichemicals on areas other than domestic properties

Permitted activity conditions	What the rule requires
Type of use	The ground-based or aerial discharge of any agrichemical, other than those specified in Rule 85 (Aerial Application of Vertebrate Pest Control Agrichemicals).
Area of use	Application of agrichemicals on areas other than domestic properties
Nature of applicator	
Certain agrichemicals	
Comply with manufacturer's instructions Rule 78 a)	The mixing and application of the agrchemical is undertaken in accordance with the manufacturer's instructions, at concentrations not exceeding manufacturers label recommendations.
Drift beyond the boundary Rule 78 e)	Any agrichemical spray drift derived from the discharge is not noxious, dangerous, offensive or objectionable beyond the target area to such an extent that it has, or is likely to have, an adverse effect on the environment.
Status of NZS8409 Rule 78 d)	The application is undertaken in accordance with Part 5 of the NZS8409:2004 Management of Agrichemicals. (See note in 2 above).
Qualifications or training Rule 78 b) and c)	<p>Ground based commercial spray applicator:</p> <ul style="list-style-type: none"> The Applicator must hold, or is supervised by a person who holds, a current GROWSAFE® Registered Chemical Applicators Certificate. <p>Aerial commercial spray applicator:</p> <ul style="list-style-type: none"> The applicator must hold a current Agrichemical Pilots Rating Certificate. <p>Note: A copy of the applicators current GROWSAFE® certificate is to be produced to an enforcement officer of the Council on request.</p>
Notification Rule 78 h) ii)	<p><u>Aerial applications</u></p> <p>At least 48 hours and not more than 30 days prior to the commencement of the aerial application, notification is to be given to:</p> <ul style="list-style-type: none"> occupiers of residences, school buildings, and registered organic farms <p>within the application area or immediately adjoining the application area. (Note: Rule does not state who is responsible for notification)</p> <p>Notification is not required if:</p> <ul style="list-style-type: none"> the owner, occupier or manager of the property to be sprayed has obtained written permission from these occupiers stating

<p>Rule 78 i) and j)</p> <p>Rule 78 g)</p>	<p>that notification is in a mutually agreed form or that notification is not required, and</p> <ul style="list-style-type: none"> • a copy of that written permission is produced to an enforcement officer of the Council on request. <p><u>Public amenity areas – ground and aerial applications</u></p> <p>Public notice of the intention to apply agrichemicals is undertaken no more than 12 months and at least one week prior to application, and is to state:</p> <ul style="list-style-type: none"> • the areas to be sprayed; • the approximate dates and times of spraying; • the agrichemical(s) to be used; • where or how further information about the application of the agrichemical can be obtained; <p>A record of this public notice is to be kept and made available to the West Coast Regional Council on request.</p> <p>Except: Public notice is not required where agrichemicals are applied from the ground to less than one kilometre length of public road, continuously or intermittently.</p> <p><u>Accidental discharge</u></p> <p>The discharger is to immediately notify the Regional Council in the event of any accidental spillage of agrichemicals.</p>
<p>Spray Plan</p>	<p>As required in NZS8409:2004 in Section 5.3.1 and Appendix M.</p>
<p>Signage</p> <p>Rule 78 k)</p>	<p><u>Public amenity areas - ground and aerial applications:</u></p> <p>Signage is used to clearly indicate agrichemical use in:</p> <ol style="list-style-type: none"> 1. All public amenity areas apart from public roads <ul style="list-style-type: none"> • The discharger must place signs clearly visible to the public at points where the public commonly have entry to the area being sprayed. • Signs must remain in place until the re-entry period for that particular chemical has expired. 2. Public road verges <ul style="list-style-type: none"> • Vehicles associated with the spraying must display signs front and back.
<p>Records</p> <p>Rule 78 h) i)</p>	<p><u>Aerial applications</u></p> <p>The discharger must keep records of:</p> <ul style="list-style-type: none"> • the type of each agrichemical applied • the volume and concentration of the agrichemical used, • the locality and date of application and • weather conditions, including wind speed and direction. <p>A copy of any records is produced to an enforcement officer of the Council on request.</p>
<p>Public places or amenity areas or sensitive areas</p>	<p>Refer to signage and notification requirements above for public amenity areas.</p> <p><u>Aerial applications</u></p>

	<p>The minimum downwind application distance between immediately adjoining:</p> <ul style="list-style-type: none"> • residences • school building, or • registered organic farm <p>is:</p> <ul style="list-style-type: none"> • 100 metres where there is a barrier to stop spray drift or • 300 metres where there is no barrier. <p>Examples of barriers include a shelter belt of thick leafy vegetation at least 3 metres high and 1 metre thick.</p>
Storage	As required in NZS8409:2004
Mixing sites	As required in NZS8409:2004 in 5.3.2 and Appendix R.
Applications to or near water Rule 78 f)	<p>The following effects do not arise in any surface water body, groundwater or coastal water:</p> <ul style="list-style-type: none"> • the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; • any conspicuous change in the colour or visual clarity; • any emission of objectionable odour; • the rendering of fresh water unsuitable for consumption by farm animals; • any significant adverse effects on aquatic life.
Disposal	As required in NZS8409:2004

5. Rule 68: Discharge of aquatic herbicide in gel form

Permitted activity conditions	What the rule requires
Type of use	For purposes of controlling aquatic plants
Area of use	
Nature of applicator	
Certain agrichemicals	Aquatic herbicide in gel form to water. Herbicide and any additive are authorised for aquatic use in NZ and is applied in accordance with any authorisation.
Comply with manufacturer's instructions Rule 68 a)	Is applied in accordance with any directions issued by the herbicide manufacturer.
Drift beyond the boundary	
Status of NZS8409	
Qualifications or training Rule 68 b)	Applicator holds a current GROWSAFE® Registered Chemical Applicators Certificate, or is working under the direct supervision of someone who does. Note: A copy of the applicators current GROWSAFE® certificate is to be produced to an enforcement officer of the Council on request.
Notification Rule 68 d)	The applicator is to notify all persons taking water within 1km downstream of the discharge at least one week prior to the discharge occurring, advising the time the discharge is to occur.
Spray Plan	
Signage	
Records	
Public places or amenity areas or sensitive areas	
Storage	
Mixing sites	
Applications to or near water Rule 68 c) and e)	No lawful take of water is adversely affected as a result of the discharge. Discharge does not have any adverse effects on any take of water for human consumption.
Disposal	

6. Rule 69: Discharge of herbicide to water

Permitted activity conditions	What the rule requires
Type of use	Incidental to application to emergent aquatic plants or plants adjacent to a water body
Area of use	
Nature of applicator	
Certain agrichemicals Rule 69 a)	Herbicide and any additive are authorised for aquatic use in NZ and is applied in accordance with any authorisation.
Comply with manufacturer's instructions Rule 69 a)	Is applied in accordance with any directions issued by the herbicide manufacturer.
Drift beyond the boundary	
Status of NZS8409	
Qualifications or training	
Notification Rule 69 d)	The applicator is to notify all persons taking water within 1km downstream of the discharge at least one week prior to the discharge occurring, advising the time the discharge is to occur.
Spray Plan	
Signage	
Records	
Public places or amenity areas or sensitive areas	
Storage	
Mixing sites	
Applications to or near water Rule 69 b) c) and e)	All reasonable measures are taken to minimise the quantity of incidental discharge into water. No lawful take of water is adversely affected as a result of the discharge. Discharge does not have any adverse effects on any take of water for human consumption.
Disposal	

7. Spray Plan requirements

Rule 78 requires that a spray plan is prepared in accordance with NZS8409:2004 Management of Agrichemicals. The requirements for a spray plan are set out in Appendix M4 NZS8409: 2004 including the following:

1. A plan or map detailing location of any sensitive areas (see definition below)
2. Crops to be sprayed
3. Types of agrichemicals that are likely to be used during the year and times of year that spraying is likely to occur
4. Strategies to be used to avoid spraydrift on sensitive areas – e.g. application techniques such as large droplet size, hand application, not spraying outside rows, turning machinery off when turning, having no-spray buffer zone areas, only spraying when the wind is in the specified direction, having personnel monitoring boundaries during the application, lists or people (and their contact phone number) who want to get a phone call just prior to any spraying, any other mutually agreed strategies to manage any risk.
5. Name of person carrying out agrichemical application and confirmation of their current qualifications
6. Particular weather conditions which may increase potential drift hazard
7. Indications of agrichemicals to be used that may present a specific hazard (e.g. bee toxicity).

A template for a Property Spray Plan based on Appendix M4 can be found on the GROWSAFE® website: www.growsafe.co.nz.

8. Definitions

Agrichemical - any substance, whether inorganic or organic, manufactured or naturally occurring, modified or in its original state, that is used in any agriculture, horticulture, forestry management, or public amenity areas, or related activity, to eradicate, modify, or control flora or fauna, and excludes fertiliser and organisms used for biological control.

Domestic property - a property used primarily as a place of residence, whether occupied or not, where no agricultural/horticultural commercial gain is generated from the property.

Herbicide - a substance toxic to plants and used to kill or control plants.

Public amenity areas - those areas to which the public have right of access under any statute, regulation, law or bylaw.

Surface water body - does not include geothermal water for the purpose of the Rules.

Water - water in all its physical form whether flowing or not and whether over or under the ground. Includes fresh water, coastal water and geothermal water; but does not include water in any form while in any pipe, cistern or tank.

Water body - fresh water or geothermal water in a **river, lake**, stream, pond, **wetland**, or aquifer, or any part thereof that is not located within the coastal marine area.

Note: The definition of water body is further defined in the definitions of river, lake and wetland:

- **River** - a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)
- **Lake** - a body of fresh water which is entirely or nearly surrounded by land
- **Wetland** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.