



***RMA SECTION 35 REPORT
ON
EFFICIENCY AND
EFFECTIVENESS
OF THE
REGIONAL AIR QUALITY
PLAN***

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EXECUTIVE SUMMARY

As required by the Resource Management Amendment Act 2003, regional plans must be reviewed five years from when they became operative to assess the efficiency and effectiveness of the provisions. The Air Quality Plan was made operative in 2002.

Each main chapter of the Air Quality Plan was assessed separately for efficiency and effectiveness. For the purposes of this review efficiency and effectiveness have been assessed in terms of what has been achieved, and best output or outcome for least cost.

Given the relatively low level of air quality issues on the West Coast compared with other resources or other regions, very little compliance monitoring has been necessary. Information used for the review was therefore mainly from Council's Consents and Incidents files and databases to indicate what activities are occurring and how their effects are being managed.

Overall, the policies, rules and other methods are generally working well to minimise adverse effects and sustainably manage the West Coast's air resource. The Plan relies on regulatory consent processes, and this is appropriate given the low level of commercial and industrial discharges.

Most of the changes suggested are relatively minor, are not immediately or seriously problematic, and are not resulting in significant adverse effects. They can be considered at the time of the full review.

Many of the other methods are unnecessary as they duplicate what is already provided in the RMA. When the full Plan review occurs it would be more efficient to have a general methods chapter for the whole Plan, with a few specific and relevant methods retained in the 'activity' chapters.

The assessment of each chapter found the following main points:

Chapter 5 Air Quality Information:

These policies have generally been effective for gaining a better understanding of the extent of air quality issues, and targeting monitoring at priority areas. Now that it is confirmed that Reefton air quality exceeds the national standards during Winter, the policies and Other Methods in this chapter and Chapter 8 could be revised to reflect a strategic approach to reducing air quality standard exceedances. This may take five years to implement, and could be added to the Plan at the full review. Targeted air quality monitoring will need to continue as required by the National Environmental Standard for air quality 2005 (NES), where the standards are exceeded. Monitoring will indicate if the actions taken are moving ambient air quality towards meeting the national standards.

Chapter 6 Odour:

The policies for managing odour discharges are effective for dealing with adverse effects, given that there is a subjective element to identifying objectionable and

offensive odour and dealing with it. Having staff calibrated for odour detection has been useful for implementing the policies, as well as using MFE's further guidelines for determining what is objectionable odour. The other methods are effectively utilised in the consents and plan process, and this approach is appropriate since odour effects are generally not a major problem on the West Coast.

Chapter 7 Dust:

The policies for managing dust discharges are effective for dealing with adverse effects. The other methods are also effectively utilised in the consents and plan process, and this approach is appropriate since dust effects are generally not a major problem in the damper West Coast climate.

Chapter 8 Products of Combustion:

Most of these policies have been effective in managing effects of discharges of smoke from boilers, incinerators and kilns, especially those located near built or well used areas. Policy 8.4.3 needs to be reconsidered at the full review.

The approach taken to not regulate domestic discharges of smoke from home burners and backyard fires in this Plan appears to be effective. The District Councils and the Regional Council have received a relatively small number of complaints about domestic fires, which justifies dealing with these under the nuisance provisions of the Health Act.

The arrangement between Councils for who will respond to complaints about smoke appears to be generally working well to avoid duplication of investigations. However, circulating a reminder to staff about the arrangement would make this method more effective.

Chapter 9 Global Issues:

Policies for climate change and reducing greenhouse gas emissions have not been assessed for efficiency and effectiveness. They are now irrelevant as a result of the climate change amendments to the RMA, and new national policies being developed to address these issues.

Chapter 10 Rules:

The permitted rules are efficient as they eliminate the need for consents for small-scale activities. Some minor changes can be made at the full review. Rule 17 which prohibits open burning of specified hazardous contaminants has been effective in stopping this type of burning when it occurs, however further reminders to the public may be needed to prevent it happening and ensure the rule continues to be effective.

Responsibilities for dealing with burning toxic materials on indoor and outdoor domestic fires, and the status of the Ministry of Health's directive 1996 regarding who deals with these types of fires, needs to be clarified. This will improve efficient implementation of Rule 17.

Some changes to rules will be needed at the full review to incorporate the requirements of the new NES.

INTRODUCTION

The Regional Air Quality Plan became operative on 31 July 2002.

Under Section 35(2A) of the Resource Management Amendment Act 2003, regional councils must, at intervals of not more than five years, compile and make available to the public a review of the results of monitoring the efficiency and effectiveness of regional policy statements and plans. This report assesses the efficiency and effectiveness of the policies, rules, and other methods in the Air Plan.

Efficiency and Effectiveness

The Concise Oxford and Collins Dictionary define efficiency and effectiveness as follows:

"Efficient: rate of useful work done to total energy expended; with the least waste of effort.

Effective: having an effect, bring about, accomplish, actually useable, fit for work; capable of producing a result;"

Since this review is not a full First Schedule review as required after 10 years, it does not involve a comprehensive, detailed cost-benefit analysis of efficiency or effectiveness. It reflects the level of resources and information available for the task. Efficiency and effectiveness has therefore broadly been assessed in terms of what has been achieved, and best output or outcome for least cost.

Scope of the Review

The review assesses performance of the Air Plan over the last five years. Section 35 of the RMA does not require a public submission process for this review, however the Buller, Grey, and Westland District Councils were consulted for comments on the Air Plan.

The review makes some suggestions for minor changes to the Plan. Most of the suggestions for changing provisions can be done at the time of the full review. These are a matter of course for reviewing the Plan but are included in this report as a reminder.

Information sources

Information for the review was obtained mostly from consent files, Council staff, Council's Incidents and Consents databases, and staff in other agencies. Incident records are used to give an indication of how well the policies, rules, and consents are working, the assumption being that a reasonable number of complaints signals breaches of a rule or consent condition, or a problem with implementing these (although in some instances vexatious complaints may skew the results).

Structure of the Report

Each subject chapter of the Air Plan is assessed separately, according to the following structure:

- Efficiency and Effectiveness of the chapter provisions overall
- Achievement of the policies over the last five years
- Other Methods: Tables are included listing the other methods for each chapter, and a description and assessment of their implementation, with a brief summary of Other Method implementation in the main text.

The Rules are assessed all together, in the same format as they appear in the Plan.

CHAPTER 5 INFORMATION ON AIR QUALITY

Efficiency and Effectiveness

These policies have generally been effective for gaining a better understanding of the extent of air quality issues, and targeting monitoring at priority areas. It is a requirement under the National Environmental Standards (NES) to continue monitoring designated airsheds where standards are exceeded, to determine whether actions taken to meet the national air quality standards are being effective.

Now that it is confirmed that Reefton air quality exceeds the national standards during Winter and has been designated an airshed, the policies and other methods in this chapter and Chapter 8 could be revised and more effectively implemented by developing a strategic approach to reduce air quality standard exceedances over the next five years. This has already begun with projects proceeding to investigate technical design controls on, and PM10 outputs from, domestic burners. Other tools could include education on proper use of burners, and seeking central government funding to assist low income communities to make changes to home heating and energy efficiency to improve Winter time air quality. This could take five years to fully implement, and could be added to the Plan at the full review.

Policies

5.4.1: To adopt the following ambient air guidelines for the West Coast region:

<i><u>Indicator:</u></i>	<i><u>Guideline:</u></i>	<i><u>Averaging Time:</u></i>
<i>Particulates (PM 10)</i>	<i>120 micrograms/m3</i>	<i>24 hour</i>
	<i>40 micrograms/m3</i>	<i>annual</i>
<i>Sulphur Dioxide</i>	<i>500 micrograms/m3</i>	<i>10 minute</i>
	<i>350 micrograms/m3</i>	<i>1 hour</i>
	<i>125 micrograms/m3</i>	<i>24 hour</i>
	<i>50 micrograms/m3</i>	<i>annual</i>
<i>Carbon Monoxide</i>	<i>30 milligrams/m3</i>	<i>1 hour</i>
	<i>10 milligrams/m3</i>	<i>8 hour</i>
<i>Ozone</i>	<i>150 micrograms/m3</i>	<i>1 hour</i>
	<i>100 micrograms/m3</i>	<i>8 hour</i>
<i>Nitrogen Dioxide</i>	<i>300 micrograms/m3</i>	<i>1 hour</i>
	<i>100 micrograms/m3</i>	<i>24 hour</i>
<i>Lead</i>	<i>0.5 – 1.0 micrograms/m3</i>	<i>3 month</i>

5.4.2: To develop and implement an air quality monitoring programme.

The ambient air quality guidelines and monitoring programme have been effective for comparing air quality results in West Coast towns over the last five years. An initial three-year monitoring programme from 2001-2003 was completed, which showed

exceedances in Reefton and Westport. Following this, annual reassessment of the monitoring programme has enabled priorities to be set based on results from each Winter's monitoring.

The guidelines in Policy 5.4.1 have been superseded by the National Environmental Standards (NES) for air quality that came into force in October 2004, mainly by adding limits on exceedances. The NES also requires that public notice be given of exceedances of the air quality standards. Under the NES and Reefton Airshed classification, Council must work towards reducing PM₁₀ levels in Reefton by 2013. This target will likely influence future air quality monitoring programmes. These changes will need to be reflected in the policies at the Plan's full review in 2012.

In 2005 Reefton was deemed to be an Airshed, which means Reefton's ambient air quality has to be monitored regarding PM₁₀ continuously or at least during periods when it is likely that concentrations are high. In Winter 2006 PM₁₀ concentrations in Reefton were continuously measured for the first time (in previous years a one-in-three-day regime had been used, giving only spot samples of the air quality). The MfE guideline was exceeded 16 times with a highest daily mean of 85.5 µg/m³, which is substantially higher than the maximum concentration measured in 2003 (55 µg/m³). The main source of the particulate matter is domestic heating, 93% coming from domestic fires.

5.4.3:

To develop ambient air quality guidelines specific to the West Coast Region for the protection of human and environmental health and amenity value, based on the monitoring information described in Policy 5.4.2.

This policy hasn't been implemented as the new National Environmental Standards must be adopted. No standards were developed specifically for the West Coast prior to the National Environmental Standards being developed. The policy is redundant.

Other Methods

Table 5 summarises implementation of the Other Methods. Monitoring and co-ordinating with other agencies has been effective in identifying where there are ambient air quality issues and enabling monitoring to continue in more detail.

It is difficult to determine how effective education has been, as the focus was initially on informing the public about the monitoring programme, and more air quality monitoring in Reefton is still required. Education in the Reefton area (and any other towns that have regular exceedances) may need to be ongoing for several years in tandem with using other tools, to see any reduction in exceedances of the NES.

TABLE 5
Assessment of the Implementation of Methods in Chapter 5 Information on Air Quality

Methods	Assessment of Implementation
5.5.1 The Council will coordinate with public health services and other relevant agencies on the development and preparation of guidelines for ambient air quality, and the sharing and collection of air quality monitoring information.	NES has made it unnecessary to develop local air quality guidelines, although Council is continuing to work with Crown Public Health (CPH), MFE and WINZ in Reefton. Air quality monitoring information is shared with CPH. MFE contributed to purchasing monitoring equipment.
5.5.2 The Council will monitor the ambient air quality in the West Coast Region, in areas most likely to be affected by activities that cause air pollution.	Done initially in Runanga, Hokitika, Westport and Reefton, and currently focussing on Reefton.
5.5.3 The Council will promote the community's understanding of air quality through: <ul style="list-style-type: none"> ❑ The distribution of educational material on the ambient air quality Guidelines and why they are important for the management of the air resource in the Region; ❑ The reporting of monitoring information via annual State of the Environment reports. 	Media releases were done during the Winters of 2001-2003 when the pilot air quality monitoring programme was running. Meetings were held with a community action group in Reefton in Winter 2005 and early 2006 to advise on the proposed air monitoring programme. See also 8.5.2. General educational material was prepared for Winter 2006 for the Reefton area but wasn't utilised. SOE report presented to Council in 2005. This will continue as ongoing monitoring is done. The Method needs to be updated to refer to the new national air quality standards.
5.5.4 The Council will ensure that the provisions of this Plan complement provisions in other regional plans and the Regional Monitoring Strategy.	Done. The Regional Monitoring Strategy is now out of date. The Method is no longer necessary as this occurs as a matter of course.
5.5.5 The Council will maintain an Air Quality Complaints Register, which will be reviewed annually.	Air quality complaints are recorded in Council's Incidents database. Complaints were reviewed for this process.

CHAPTER 6 ODOUR

Efficiency and Effectiveness

The policies for managing odour discharges are effective for dealing with adverse effects, given that there is a subjective element to identifying objectionable and offensive odour and dealing with it. Having staff calibrated for odour detection has been useful for implementing the policies, as well as using MFE's further guidelines for determining what is objectionable odour. The 'Other Methods' are effectively utilised in the consents and plan processes, and this approach is appropriate since odour effects are generally not a major problem on the West Coast.

Policies

6.4.1:

To avoid or mitigate any adverse effects on amenity values or human health arising from the discharge of offensive or objectionable odour, through consideration of the following:

- ❑ ***Good management practices (including the use of codes of practice) and process technology, to minimise odorous contaminants;***
- ❑ ***Appropriate control technologies to reduce the emission of odorous contaminants;***
- ❑ ***Buffer zones and site planning mechanisms.***

6.4.2:

The Regional Council will have regard to the following factors in the management of odour:

- ***Frequency of the odour;***
- ***Intensity of the odour;***
- ***Duration of the odour;***
- ***Offensiveness of the odour;***
- ***Location of the odour.***

These policies appear to have been effective over the last five years when considering consents for odour discharges from sewage and meatworks effluent treatment ponds, and a waste recovery park. The facilities have used a number of technologies and good practice techniques to reduce odour discharges, including ensuring that effluent solids are collected from screens and contained in bags, keeping treatment ponds in aerobic states using mechanical aerators, keeping waste bins closed and tipping areas cleaned every day, planting buffer zones, and limiting the BOD loading into wetland treatment cells. Very few verified complaints were received about odour from these consented discharges, as their odour discharges are infrequent and generally not offensive beyond the boundaries of the sites. Where these discharges are from new facilities, the sites tend to have been selected to be outside prevailing wind directions where possible, and a suitable distance from residences. The site initially proposed for the Reefton Recovery Park was relocated further away from houses to address a submitter's concerns, in part to minimise potential odour effects.

To implement Policy 6.4.2, Compliance staff have had their sense of smell calibrated at Lincoln University to determine their sensitivity to odour and ability to assess odour

complaints in terms of whether they are offensive or objectionable. This has helped to make dealing with odour complaints more effective, along with MFE guidelines for determining how frequent and how long the duration period is for an offensive or objectionable odour.

These policies have been effective for dealing with the large number of complaints about odour from the Talleys fishmeal processing plant in Westport. Since a considerable number of the initial complaints were considered objectionable, the Company has upgraded the biofilter, put new seals on the windows and doors of the processing room, and improved practices such as moving the contrashear (part of the processing plant) indoors. This resulted in a fishing season with virtually no complaints received following the upgrade. The MFE guidelines of a minimum of 3-5 occurrences of odour lasting for a 3-5 minute period each has been useful to differentiate between what can be considered offensive or objectionable, or not.

6.4.3:

To achieve consistent odour management between the Regional Council and territorial authorities of the Region.

This policy has been achieved as a matter of course, since the District Councils are consent applicants for most of the odour discharges that have been processed in the last five years. These potential discharges are from municipal sewage effluent treatment ponds, landfills and transfer stations, and their air discharges have complied with the consent conditions.

Apart from these, the policy hasn't been implemented as there are no new significant industrial developments generating odour, that might have raised land use or zoning issues and required joint consent hearings with the District Councils. Additionally, there have been no inconsistencies with the District Councils in managing odour complaints.

Other Methods

Table 6 summarises implementation of the Other Methods. Virtually all of the Other Methods are regulatory ones that are effectively implemented through consent and enforcement processes, and do not need to be listed as Other Methods in the Plan. It would be more efficient to have one "Other Methods" chapter for the whole Plan with a few specific and relevant methods.

TABLE 6
Assessment of the Implementation of Methods in Chapter 6 Odour

Methods	Assessment of Implementation
6.5.1 The Council will liaise with territorial authorities in the Region about ways of reducing the effects of odours.	Done on an ongoing basis through the consent process.
6.5.2 The Council will, where appropriate, advocate buffer zones around odorous, and potentially odorous, activities.	Done on an ongoing basis through the consent process.
6.5.3 The Council will encourage the formation and adoption of industry Codes of Practice which pertain to the reduction, control or mitigation of odour effects.	Done on an ongoing basis through consent, compliance monitoring, and enforcement processes for specific odour discharges.
6.5.4 The Council will prepare guidelines on appropriate means of preventing or minimising the adverse effects of odour.	MFE have produced guidelines for odour management. No additional general guidelines need to be developed, given the small no of problem odour discharges in the region.
6.5.5 For resource consent applications to discharge contaminants into air, the Council will consider applying the best practicable option for preventing or minimising any actual or likely adverse effects on the environment.	Done on an ongoing basis through the consent process.
6.5.6 The Council will ensure that the principles of the Treaty of Waitangi are taken into account in any decisions.	Done on an ongoing basis through the consent process.
6.5.7 The Council will utilise the enforcement provisions under the RMA where necessary, for breaches of resource consent conditions or unauthorised discharges.	Done on an ongoing basis when necessary. This is provided for in the RMA and doesn't need to be in a Method.
6.5.8 The Council will ensure that the provisions of this Plan complement provisions in other regional plans.	This occurs as a matter of course and doesn't need to be specified in a Method.

CHAPTER 7 DUST

Efficiency and Effectiveness

The policies for managing dust discharges are effective for dealing with adverse effects. The other methods are also effectively utilised in the consents and plan process, and this approach is appropriate since dust effects are generally not a major problem in the damper West Coast climate.

Policies

7.4.1:

Adverse effects of the deposition of dust will be avoided, remedied, or mitigated by ensuring that any discharge of dust does not occur at a volume, rate or in a manner that could cause an offensive or objectionable effect, including the significant restriction of visibility or the soiling of property.

7.4.2:

Adverse effects of suspended dust will be avoided, remedied, or mitigated by ensuring that any discharge of dust does not occur at a volume, rate or in a manner that could cause an offensive or objectionable effect, including the impairment of human health.

7.4.3:

In assessing offensive or objectionable effects from discharges of dust, the Regional Council will take into account the following factors:

- o ***Frequency of dust discharges;***
- o ***Intensity of dust discharges;***
- o ***Duration of dust discharges;***
- o ***Offensiveness of the odour;***
- o ***Extent of dust discharges (suspended and deposited);***
- o ***Location of dust discharges.***

These policies have been effectively implemented by adding conditions to consents for air discharges from coal stockpiles and handling facilities, milk powder processing plants, concrete manufacturing plants, and mobile abrasive blasting activities. Conditions include dust suppression methods to be used such as spraying stockpiles, powder filters on chimneys, maximum height for stockpiles, using screens and mats to stop dust drifting to neighbouring properties and going down drains. Larger scale discharges are required to install dust deposition gauges and monitor these for compliance with limits set. Consent holders are required to keep a record of complaints, responses, and actions taken to minimise emissions and prevent incidents reoccurring.

It is noted that consents don't differentiate between suspended and deposited dust, and staff assessments usually refer to both policies 7.4.1 and 7.4.2. These policies could be combined at the full review, as suspended and deposited dust can both have adverse health and amenity effects. The differences are negligible for the types and scale of discharges on the West Coast.

With respect to Policy 7.4.3, the measures have been useful in assessing objectionable dust when investigating dust complaints. Assessing the extent of suspended dust discharges hasn't been implemented. Expensive equipment is needed for this, and there are no large-scale dust discharges with potentially significant impacts to warrant doing this.

7.4.4:

To avoid, remedy or mitigate the adverse effects of the discharge of dust and materials on air and water quality and the seabed of the coastal environment, including during the transfer of materials from ship to shore or vice versa.

This policy hasn't been implemented directly in terms of direct discharges to air or coastal water in the coastal marine area. Consent was granted for discharges of stormwater from coal fines settling ponds into the Grey River but this is upstream of the CMA.

Other Methods

Table 7 summarises implementation of the Other Methods. The same comment made in relation to the Other Methods for odour applies here. All the Other Methods listed for managing dust are implemented effectively through the consent process as and when needed, and no non-regulatory methods are utilised.

TABLE 7
Assessment of the Implementation of Methods in Chapter 7 Dust

Methods	Assessment of Implementation
7.5.1 The Council will apply Policies 7.4.1-7.4.4 through the regional rules of this Plan and when making decisions on consent applications for the discharge of contaminants into air, to regulate the discharge of dust into air.	Done on an ongoing basis. Doesn't need to be a Method.
7.5.2 The Council will provide information and advice about techniques and practices to avoid or mitigate the discharge of dust into air.	Done on an ongoing basis through consents/compliance processes.
7.5.3 The Council will ensure that the provisions of this Plan complement provisions in other regional plans.	This occurs as a matter of course and doesn't need to be specified in a Method.
7.5.4 The Council will utilise the enforcement provisions under the RMA where necessary, for breaches of resource consent conditions or unauthorised discharges.	Done on an ongoing basis when necessary. This is provided for in the RMA and doesn't need to be in a Method.
7.5.5 For resource consent applications to discharge contaminants into air, the Council will consider applying the best practicable option for preventing or minimising any actual or likely adverse effects on the environment.	Done on an ongoing basis through the consent process.
7.5.6 The Council will ensure that the principles of the Treaty of Waitangi are taken into account in any decisions.	Done on an ongoing basis through the consents process.

CHAPTER 8 PRODUCTS OF COMBUSTION

Efficiency and Effectiveness

Most of these policies have been effective in managing effects of discharges of smoke from boilers, incinerators and kilns, especially those located near built or well used areas. Policy 8.4.3 could be more effective as a policy in the Air Quality section of the RPS, given the new requirements to meet the national air quality standards. Alternatively, it could be changed and combined with other similar methods in Chapters 5 and 8, since discharges from domestic fires are the main contributor to reduced ambient air quality, mainly in terms of PM10, NO2, and SO2. Further information about what are inappropriate and prohibited materials to burn would make the education methods more effective.

The approach taken to not regulate discharges from domestic burners and backyard fires in this Plan appears to be effective. The District Councils and the Regional Council have received a relatively small number of complaints about domestic fires, which justifies dealing with these under the nuisance provisions of the Health Act.

The arrangement between Councils for who will respond to complaints about smoke appears to be mostly working well. This avoids, where possible, duplication of inspections by Council staff on issues where there is some jurisdictional overlap. There is still some confusion in relation to a Ministry of Health directive about responsibilities for dealing with domestic smoke complaints, and this is discussed under Rule 17. A practice note to District and Regional Council staff reminding about the arrangement would make this method more effective.

Policies

8.4.1:

To minimise or reduce where practicable the discharge of products of combustion to air at their source.

This policy has been effective in enabling conditions to be added to consents controlling the types, quantity and timing of materials burnt in boilers. Limits have been placed on gas levels in the cement kilns, and on the sulphur content of the coal used for a boiler in a commercial/industrial area. A school boiler was limited to burning paper and cardboard up to 10kg at a time, once a day, when school children weren't outdoors. Since the national air quality standards have come into force, concentrations of contaminants in new boiler emissions will need to ensure that they do not exceed the thresholds of the standards.

8.4.2:

To avoid, and where this is not possible, to remedy or mitigate any offensive or objectionable effect, including any adverse effects on human health, significant reduction of visibility or significant soiling of property, from the products of combustion.

This policy has been taken into consideration when processing consents for discharges to air, mainly from boilers and cement kilns. The level of mitigation measures required as conditions on consents vary to meet this policy, depending on the location.

8.4.3:

To promote, or where appropriate and practicable, require measures to avoid, remedy or mitigate the adverse effects of discharges to air from outside domestic fires and inside domestic fires.

This policy has no effect as it cannot be implemented through the consents process. Indoor and outdoor domestic fires are permitted, and managed under the nuisance provisions of the Health Act. The policy is already covered by Methods 5.5.3 and 8.5.2 to some extent. These methods could be integrated at the full review.

Other Methods

Table 8 summarises implementation of the Other Methods. Regulatory methods are being effectively utilised but aren't necessary to be in the Plan as Other Methods. With respect to education on use of home burners this needs to be implemented over a longer period of time, possibly in tandem with other tools, to show any clear links with improved air quality, particularly in the Reefton area.

Regarding Method 8.5.4, although education on composting is driven by waste minimisation rather than air quality, the effect is the same and there has been a reduction in complaints about backyard burning of garden waste.

With respect to Method 8.5.12, the informal verbal agreement is that the District Council's Environmental Health Officer (EHO) and Crown Public Health (CPH) staff will investigate complaints about domestic indoor and outdoor fires (reflecting the 1996 directive by the Ministry of Health), and the Regional Council will respond to complaints about smoke from non-domestic sources such as commercial and industrial premises, schools, etc. This has generally worked well, and complaints received by the Regional Council about domestic fires have mostly been referred to the District Councils, although some have been investigated by Regional Council staff. It would be useful to have the agreement written as a practice note as some staff, particularly new ones, in both Councils may be unaware of the arrangement. Refer to discussion under Rule 17 about the Ministry of Health directive.

The new National Environmental Standards include a standard for woodburners which regional councils are responsible for enforcing, although the territorial authorities issue building consent for these. This is not an issue at present, but if more woodburners are used on the Coast in the future, compliance checking of these burners should be discussed with the District Councils.

TABLE 8
Assessment of the Implementation of Methods in Chapter 8 Products of Combustion

Methods	Assessment of Implementation
8.5.1 The Council will apply Policies 8.4.1 and 8.4.2 through the regional rules of this Plan and when making decisions on consent applications for the discharge of contaminants into air.	This is done as a standard RMA procedure and doesn't need to be a Method.
8.5.2 The Council will promote the use and correct operation of cleaner burning solid fuel heaters in place of less efficient forms of heating. Appropriate types of fuel for domestic heating purposes will also be promoted.	Media releases were made during the Winters of 2001-2003. See also Method 5.5.3. General educational material was prepared for Winter 2006 for the Reefton area but wasn't utilised. Compliance staff advise about what shouldn't be burnt when dealing with complaints.
8.5.3 In conjunction with Crown Public Health and other agencies, the Council may carry out research to determine whether there is any link between lung disease and the incidence of winter urban air pollution.	This is not necessary to implement as there is research from other areas on the matter, and the Method should be deleted from the Plan.
8.5.4 The Council will educate and promote alternatives to burning of domestic rubbish, such as composting.	Current waste minimisation work promoting composting and recycling has indirectly implemented this Method. The Method should be revised to target home burning of non-organic materials such as plastics, rubber, and nappies.
8.5.5 The Council will promote adherence to guidelines and codes of practice, such as the New Zealand Code of Practice for land clearance.	Done on an ongoing basis through the consents and compliance processes.
8.5.6 The Council will liaise with the rural fire authority regarding the need to take environmental matters into consideration when granting fire permits.	This Method appears to be unnecessary as no issues have arisen in the last five years about adverse environmental effects occurring from rural fires. The Method can be deleted.
8.5.7 The Council will ensure the provisions of this Plan complement appropriate provisions in other regional plans.	This is done as a standard RMA procedure and doesn't need to be a Method.
8.5.8 The Council will support any national guidelines or initiatives to limit emissions from motor vehicle exhausts.	This will occur if and when new national standards are proposed.
8.5.9 For resource consent applications to discharge contaminants into air, the Council will consider applying the best practicable option for preventing or minimising any	This is done as a standard RMA procedure and doesn't need to be a Method.

actual or likely adverse effects on the environment.	
8.5.10 The Council will utilise the enforcement provisions under the RMA where appropriate and necessary, for breaches of resource consent conditions.	This is done as a standard RMA procedure and doesn't need to be a Method.
8.5.11 The Council will ensure that the principles of the Treaty of Waitangi are taken into account in any decisions.	Done on an ongoing basis through the consent process.
8.5.12 The Council will liaise with territorial authorities and other relevant agencies when it receives complaints about discharges from inside domestic fires and outside domestic fires.	Done on an ongoing basis through an informal agreement with the EHO for BDC and GDC, and CPH staff doing environmental health work for WDC.

CHAPTER 9 GLOBAL ISSUES

Efficiency and Effectiveness

The provisions for reducing ozone-depleting substances and greenhouse gas emissions have not been assessed for efficiency and effectiveness because they are now irrelevant as a result of changes to the RMA. Under the Resource Management (Energy and Climate Change) Amendment Act 2004, regional councils cannot have regard to the effects of discharges on climate change (except to the extent that renewable energy enables a reduction in greenhouse gas discharges). This new part of the Act recognises that greenhouse gas emissions are national and international rather than regional issues.

Policies

9.4.1:

To promote the reduction of discharges of ozone depleting substances.

9.4.2:

To promote the reduction of emissions of greenhouse gases.

These policies haven't been implemented because of the RMA amendment, and central government and industry are dealing with it through negotiated agreements. Ozone depleting substances are a minor issue now. The policies are now not legally effective since the RMA was amended, and can be deleted at the full review.

Other Methods

Table 9 summarises implementation of the Other Methods. Most of these have not been implemented as they are not relevant or out of date, for example, those related to ozone depleting substances. Methods for producing educational material on voluntary reductions of greenhouse gases hasn't been implemented as it duplicates what central government has done.

TABLE 9
Assessment of the Implementation of Methods in Chapter 9 Global Issues

Methods	Assessment of Implementation
9.5.1 The Council will advocate that New Zealand and overseas sources of information on ozone layer thickness and UVB radiation levels make their information publicly available.	No action taken yet. Need to liaise with health authorities before any implementation is done, to avoid duplication. If this is already being done by other health/govt/watchdog agencies, this Method may be unnecessary.
9.5.2 The Council will promote the recovery, reuse and recycling of ozone depleting substances and encourage the use of alternative technologies where appropriate.	Council has received promotional material but it hasn't been distributed yet. There is no urgency for this as it is a minor issue now, and central government and industry are dealing with it. MFE educational material is available on request. No further action required.
9.5.3 The Council will liaise with the Ministry of Commerce and the Ministry for the Environment to ensure consistency with central government initiatives.	Done on an ongoing basis as and when necessary.
9.5.4 The Council will promote and advocate the establishment of a West Coast collection facility of ozone-depleting refrigerants in conjunction with territorial authorities, industry and the Ministry for the Environment.	No action taken on this Method. Some West Coast appliance shops degas older appliances with these refrigerants. This Method is similar to Method 13.2.7 in the RPS, and could be deleted as it is not such an issue now.
9.5.5 The Council will support any national and international initiatives to limit emissions of ozone depleting substances.	This is the same as Method 13.2.8 in the RPS. Done as and when necessary. MFE produced educational material as part of their Climate Change programme in 2002/03. It is available on request. No further action is required.
9.5.6 The Council will encourage those who fit, service, repair or decommission refrigeration plants to develop and follow industry codes of practice such as the Automotive Air Conditioning Code of Practice (Motor Trade Association) in order to reduce emissions of ozone-depleting refrigerants.	Done as and when needed. This is not such an issue now, and the Method could be deleted.
9.5.7 The Council will consider rates relief or other economic instruments to encourage collection of ozone depleting substances.	This situation hasn't arisen yet, and there is no equivalent provision in the rates remission policy. It is questionable whether this Method would have any effect. Suggest deleting it.
9.5.8 The Council will promote voluntary initiatives with industry which reduce the production of greenhouse gases, and	This is the same as Method 13.1.1 in the RPS. No action taken yet, and none planned in the near future. Educational material from

encourage energy efficiency measures.	the EECA and MFE's Climate Change Office is passed on and made available to the public. In December 2006 MFE released draft strategies on climate change and reducing greenhouse emissions.
9.5.9 The Council will produce and distribute educational material on the need to reduce greenhouse gases, including information on energy efficiency and conservation.	No action taken yet, and none planned in the near future. Educational material from the EECA and MFE's Climate Change Office is passed on and made available to the public.
9.5.10 The Council will advocate that central government investigate vehicle emissions, the use of alternatives fuels, and the retention of public transport subsidies. National guidelines or initiatives to limit emissions from motor vehicle exhausts will be supported.	Done as and when necessary. In 2006 central government released a suite of draft climate change and energy strategies.
9.5.11 The Council will promote waste management practices that reduce greenhouse gas emissions, in particular the collection and utilisation of landfill gases.	Done on an ongoing basis through the consents process. The three main landfills aren't big enough at present to make collecting gases viable.
9.5.12 The Council will complement the provisions of this Plan with the provisions in other regional plans, for example the Regional Plan for Discharges to Land for landfill gas provisions, and the Regional Coastal Plan for provisions for building in the coastal zone.	Done as a standard procedure in planning processes, and doesn't need to be a Method.

CHAPTER 10 RULES

Efficiency and Effectiveness

Due to the limited number of incidents reported it appears that the rules are both efficient and effective. Rather than repeating comments for every rule, it is true to say that most of the rules for discharges to air are generally working well. The permitted rules are efficient as they eliminate the need for consents for small-scale activities. Some minor changes can be made to update or improve them, but these are not urgent or serious, and can be done at the full review. Where an individual comment is warranted, it follows the rule.

The air discharge rule that Council received the most complaints for, and non-compliance with, is Rule 17 which prohibits open burning of specified hazardous contaminants. The most common materials burnt were tyres, plastics, and cars which would contain heavy metals, paint, surface coatings, and plastics. Burning of tyres and oil in the open is also prohibited under the new NES. The rule is proving effective in stopping this type of burning when it occurs, however given that it is still happening, further reminders to the public about the ban may be needed to prevent it occurring and ensure the rule continues to be effective.

Some changes to rules will be needed at the full review to incorporate the requirements of the new NES. This will include restrictions on granting consents for discharges which will result in ambient air quality exceeding the national standards, and restrictions on discharges from woodburners installed in a building on less than two hectares.

RULE 1 PIG FARM EFFLUENT

The discharge of any contaminant into air arising from management and application of pig farm effluent where the effluent arises from the use of land as production land or intensive farming on the property is a permitted activity provided that the following conditions are met:

a) no pig farm effluent is discharged within:

- 2,000 metres of a residential zone in an urban area;***
- 1,000 metres of an urban area, a rural residential area, a marae, public hall, church, or school;***
- 500 metres of a rural residence (other than that occupied by the discharger);***
- 20 metres of a public road; and***

b) any discharge is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property.

Advisory Notes:

- 1. This Rule applies only to discharges to air. There are additional requirements in the Regional Plan for Discharges to Land, and therefore this Plan should be consulted.***
- 2. This Rule includes discharges to air from anaerobic and aerobic pond processes or spray irrigation processes.***

RULE 2 DISCHARGES TO AIR FROM PRODUCTION LAND

Unless covered by another Rule in this Plan, the discharge of any contaminant into air arising from:

- 1. the disposal of solid contaminants into or onto land from the use of land as production land where the waste is generated on the same property; or***
- 2. other on-farm processes, such as, but not limited to, silage production; or***
- 3. the application of organic fertilisers such as fish wastes to land;***

is a permitted activity provided that the following conditions are met:

- a) any discharge of odour is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property; and***
- b) there is no discharge of dust beyond the boundary of the subject property.***

Advisory Note:

This rule does not cover the burning of domestic and on-farm wastes. It should also be noted that there may be additional requirements in the Regional Plan for Discharges to Land for activities covered by this Rule.

RULE 3 STOCKPILING, CONVEYING AND HANDLING

Unless covered by another rule in this Plan, the discharge of any contaminant into air arising from the stockpiling, conveying and handling of gravel, sand, soil, rock, coal, sawdust or wood chips, is a permitted activity provided that the following conditions are met:

- a) there is no discharge of dust beyond the boundary of the subject property, and***
- b) any discharge of odour is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property.***

Advisory Note:

This rule applies to discharges from the handling of materials to and from stockpiles and spoil dumps, including for example, sorting, loading, unloading, storage, hauling, and transportation on the site.

RULE 4 ROAD AND RAILWAY CONSTRUCTION AND MAINTENANCE

The discharge of any contaminant into air arising from road and railway network construction and maintenance is a permitted activity, provided that the following condition is met:

- a) any discharge of smoke, odour or dust is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property.***

RULE 5 EARTHWORKS, QUARRYING, MINING AND CLEANFILL OPERATIONS
Unless covered by another Rule in this Plan, the discharge of any contaminant into air arising from earthworks, quarrying operations, mining, or cleanfill operations is a permitted activity provided that the following conditions are met:

- a) any discharge of smoke, dust, gas or odour is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property; or*
- b) in the case of public amenity areas, any discharge of smoke, dust, gas or odour is not offensive or objectionable beyond the boundary or beyond 50 metres of the discharge, whichever is the lesser.*

RULE 6 ABRASIVE BLASTING, OTHER THAN USING A MOVEABLE SOURCE
The discharge of any contaminants into air from abrasive blasting, other than from the use of a moveable source, is a permitted activity provided that the following conditions are met:

- a) the discharge does not result in any noxious or dangerous levels of airborne contaminants beyond the boundary of the subject property;*
- b) when using wet abrasive blasting techniques, there is no discharge of water spray beyond the boundary of the subject property;*
- c) there is no discharge of dust beyond the boundary of the subject property; and*
- d) sand or and other material used for abrasive blasting contains not more than 5% free silica on a dry weight basis.*

Advisory Note:

This Rule does not address the effects of discharges to water or onto land from abrasive blasting. There may be additional requirements in other Regional Plans for these discharges.

RULE 7 OPERATION OF MOVEABLE AGGREGATE CRUSHING AND SCREENING PLANTS

The discharge of any contaminant into air associated with the operation of a moveable aggregate crushing and screening plant is a permitted activity provided the following conditions are met:

- a) any discharge of dust or water spray is not offensive or objectionable beyond the boundary of the subject property; or*
in the case of public amenity areas, any discharge of dust or water spray is not offensive or objectionable beyond the boundary or beyond 50 metres of the discharge, whichever is the lesser.

RULE 8 COMBUSTION OF ORGANIC WASTE

Unless covered by another rule in this Plan, the discharge of any contaminants into air arising from the combustion of:

- 1. Organic waste from industrial or trade premises, using fuel burning equipment; or*
- 2. Organic waste from any other place or any other source (excluding inside domestic fires and outside domestic fires);*

is a permitted activity provided that the following conditions are met:

- a) the waste to be burned has originated on the property on which the burning will occur;*
- b) the waste to be burned does not contain any offal (except offal generated on production land);*
- c) any discharge of smoke is not offensive or objectionable beyond the boundary of the subject property, does not adversely affect traffic safety by reducing visibility, and does not reduce the visibility on any public amenity areas;*
- d) any deposition of particulate matter on any land or structure is not offensive or objectionable beyond the boundary of the subject property; and*
- e) any discharge of odour is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property.*

Advisory Note:

Section 2 of this Rule covers discharges to air from land clearance of production and forested land using burn-offs. Additional provisions relating to the actual clearance of land may be contained in other regional and district plans.

RULE 9 DISCHARGES FROM SMALL-SCALE FUEL BURNING EQUIPMENT

The discharge of any contaminants into air from any industrial or trade premises or any other source (excluding any inside domestic fire or outside domestic fire), from fuel burning equipment used in accordance with the following specified fuels and rates of heat release at the point of discharge:

- 1. Natural or liquefied petroleum gas at a rate not exceeding 5MW; or*
- 2. Coal, oil (excluding waste oil) or untreated wood at a rate not exceeding 40kW;*

is a permitted activity provided that the following conditions are met:

- a) the discharge is from a chimney;*
- b) a chimney discharging any products of combustion from fuel burning equipment is designed so that the discharge is vertically upwards and unimpeded by cowls or any other fixtures on the top of the stack, except that coning may be used to increase the discharge velocity;*
- c) any discharge of smoke is not offensive or objectionable beyond the boundary of the subject property, does not adversely affect traffic safety*

- by reducing visibility, and does not reduce the visibility on any public amenity area or any place, area or feature of special significance to Poutini Ngai Tahu;*
- d) any deposition of particulate matter on any land or structure is not objectionable beyond the boundary of the subject property; and*
 - e) any discharge of odour is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property.*

RULE 10 DISCHARGE OF WATER VAPOUR

The discharge of water vapour, including steam, into air is a permitted activity provided that the following conditions are met:

- a) any plume does not adversely affect traffic safety by reducing visibility, and does not reduce the visibility on any public amenity areas;*
- any discharge of odour is not noxious, dangerous, offensive or objectionable beyond the boundary of the subject property.*

RULE 11 DISCHARGES OF HEAT AND X-RAYS

Any discharge into air of:

- 1. heat into air, including air from heat exchangers and air used for the purpose of cooling plant and equipment; or*
- 2. x-rays from a radioactive source;*

is a permitted activity.

RULE 12 DISCHARGES INTO AIR FOR THE PURPOSE OF VENTILATION

The discharge of any contaminant into air for the purpose of ventilation from:

- 1. any industrial or trade premises, any medical premises or any educational institution; or*
- 2. tanks used for the storage of liquids, including petrol and diesel oil storage tanks on any industrial or trade premises; or*
- 3. the venting of gas pipelines, pumps, compressors, tanks or associated equipment when refilling, servicing or repairing, on industrial or trade premises:*

is a permitted activity provided that the following conditions are met:

- a) the discharge does not result in any noxious or dangerous levels of airborne contaminants beyond the property boundary of the subject property;*
- b) there is no visible discharge owing to the presence of dust, fumes or water vapour; and*
- c) any discharge of odour is not offensive or objectionable beyond the boundary of the subject property.*

RULE 13 MISCELLANEOUS PERMITTED ACTIVITIES

Unless covered by another rule in this Plan, the discharge of any contaminant into air from any of the following industrial or trade premises or processes:

- 1. premises engaged in the retail and wholesale distribution of automotive fuels, oils, liquefied gases and gases;***
- 2. premises engaged in the retail and wholesale distribution of fuels used for industrial processing and/or home heating;***
- 3. premises associated with funeral parlours, chapels, crematoria, or stonemasons;***
- 4. premises associated with the manufacture of household, industrial, electrical and garden equipment and appliances, but excluding the manufacture of concrete products, rubber goods and processes involving the galvanising of steel;***
- 5. premises used for the storage, blending and distribution of animal feeds and gardening materials (excluding fertilisers);***
- 6. premises used for the printing and manufacture of packaging materials, or printing of paper;***
- 7. premises used solely for animal slaughtering;***
- 8. premises used for powder coating and spray painting;***
- 9. premises used for the manufacture of furnishings, clothing and carpets, but excluding rubber underlay;***
- 10. premises used for the sale, servicing, or repairs to motor vehicles, trailers, boats or like equipment, including body and engine repairs, panel beating and fibre-glassing;***
- 11. premises associated with the manufacture, restoration or finishing of items made from wood, including cabinet making, furniture making and wood crafts;***
- 12. premises associated with the operation of dry cleaning, dying, laundering and cleaning facilities;***
- 13. premises used for the manufacture of beverages, including soft drinks, extraction of fruit juices, fermentation of wine, distillation of spirits, and alcoholic beverages;***
- 14. premises used for the processing of food, including baking, cooking, frying, freezing and canning, but excluding rendering;***
- 15. premises used for the storage of foods in refrigerated units;***
- 16. processes for timber treatment and drying;***
- 17. building and construction activities on industrial or trade premises;***

is a permitted activity provided that the following conditions are met:

- a) the discharge does not result in any noxious or dangerous levels of airborne contaminants beyond the boundary of the subject property;***
- b) in the case of public amenity areas, the discharge does not result in any noxious or dangerous levels of airborne contaminants beyond the boundary of the public amenity area or beyond 50 metres of the discharge, whichever is the lesser;***
- c) the opacity of any discharge of smoke when measured at the point of entry to the atmosphere does not exceed 20% except that a discharge in excess***

- of this is permitted for a period of not more than two minutes continuously or for an aggregate of four minutes in any 60 minute period;*
- d) there is no visible discharge of any contaminant beyond the boundary of the subject property, other than smoke from fuel burning equipment or water vapour;*
 - e) any discharge of odour is not offensive or objectionable beyond the boundary of the subject property;*
 - f) any discharge of dust is not offensive or objectionable beyond the boundary of the subject property;*
 - g) in the case of public amenity areas, the discharge of dust is not offensive or objectionable beyond the boundary of the public amenity area or beyond 50 metres of the discharge, whichever is the lesser.*

RULE 14 DISCHARGES FROM FUEL BURNING EQUIPMENT

The discharge of any contaminants into air from any industrial or trade premises or any other source, from fuel burning equipment used for the purpose of generating heat or electricity in accordance with the following specified fuels and rates of heat release:

- 1. natural or liquefied petroleum gas at a rate exceeding 40 kW, and not exceeding 50 MW; or***
- 2. untreated wood, coal or oil at a rate exceeding 40 kW, and not exceeding 10 MW;***

where the rates specified under these individual classes apply to the cumulative generated heat or electricity provided by the specified fuel within the same premises, is a controlled activity.

The Regional Council has reserved control over the following matters:

- a) Chimney height and design;***
- b) Emission rate and type of contaminants;***
- c) Opacity of the discharge;***
- d) Use and maintenance of the fuel burning equipment;***
- e) Duration of the resource consent;***
- f) Monitoring and reporting requirements;***
- h) Review conditions of the resource consent.***

Comment:

The wording of the rates of heat release in Rule 14 is confusing, and should be changed at the full review to be made clearer. The permitted rule 9 allows discharges from natural gas or LPG fired boilers up to 5MW (5,000kW), however the controlled rule as currently worded is for natural gas or LPG boilers between 40kW (0.04MW) and 50MW (50,000kW). The reference to 40kW in the controlled rule is an error as it is a lower threshold than the permitted rule, and it should be deleted.

RULE 15 ABRASIVE BLASTING

The discharge of any contaminant into air arising from abrasive blasting on industrial or trade premises or public amenity areas, using a moveable source and dry abrasive blasting techniques is a controlled activity.

The Regional Council has reserved control over the following matters:

- a) Notification of the location and duration of the activity;***
- b) The provisions adopted to avoid any adverse effects on human health and the environment;***
- c) The type of blasting material to be used;***
- d) Management and storage of unused and waste blasting material;***
- e) Disposal of used blasting material and debris;***
- f) Screening requirements when blasting in the open air;***
- g) Duration of the resource consent;***
- h) Review conditions of the resource consent.***

RULE 16 GENERAL DISCRETIONARY ACTIVITIES

Any discharge of contaminants into air from:

- 1. any industrial or trade premises that is not specifically provided for by any rule within this Plan; or***
- 2. any source (whether moveable or not), which does not comply with any condition of a permitted activity rule or any of the standards and terms of a controlled activity rule within this Plan, but which is not prohibited;***

is a discretionary activity.

Comment:

The second part of this rule is ambiguous as it could be interpreted to mean that *any* discharge to air not covered by the rules in the Plan is a discretionary activity requiring a consent. This is potentially inconsistent with section 15(2) of the RMA which requires discretionary consent for the types of discharges listed as permitted or controlled in the Plan but which don't comply with the conditions of these rules. This means that small-scale discharges from non-industrial or trade premises which aren't covered by a rule in the plan, such as occasional odour from septic tanks, are allowed. The Explanation to Rule 16 clarifies the matter, and the wording of clause 2 in the Rule should be changed to better reflect section 15(2) of the Act. A plan change is not required in the short term for this, but a practice note to clarify the issue for staff would be useful.

Some of the NES prohibitions have a discretionary clause where the regulation otherwise allows for an activity subject to resource consent, such as lighting of fires at landfills for gas control, and for incinerators at schools and healthcare institutions. These will need to be added into the rules at the full review.

RULE 17 COMBUSTION OF SPECIFIED MATERIALS

The discharge of any contaminant into air arising from the combustion of any of the following materials in the open (excluding outside domestic fires):

- o ***Material associated with the recovery of metals from cables;***
- o ***Motor vehicles and vehicle parts;***
- o ***Combustion of any animal waste (excluding any animal waste generated on production land);***
- o ***Rubber;***
- o ***Waste oil and other waste petroleum products;***
- o ***Treated wood;***
- o ***Polyvinylchloride (PVC) plastic and plastics containing halogenated material;***
- o ***Chemical waste;***
- o ***Contaminated material from a contaminated site;***
- o ***Materials containing mineral fibres including but not limited to asbestos;***
- o ***Paint, paint residues, and other surface coatings;***
- o ***Materials containing heavy metals;***
- o ***Pathological waste (excluding animal carcasses on production land);***
- o ***Sludge from industrial and trade processes;***
- o ***Agrichemicals;***
- o ***Any material within a landfill;***
- o ***Nuclear material or waste;***

except where waste material is being burned in accordance with quarantine requirements or waste oil is being burned in accordance with a Marine Oil Spill Strategy, is a prohibited activity for which no consent will be granted.

Advisory Note:

This Rule applies to open burning and burning in an incineration device other than in a purpose-built incinerator designed for the product(s) being burned and constructed by a registered manufacturer.

Comment:

For industrial and trade premises, this rule is generally working well but needs further promotion. Approximately two thirds of the smoke complaints Council received in the last five years were burning of these types of materials. Most of the non-compliances occurred in 2004 and 2006, which does not reflect a downward trend over the last five years that would be expected with a prohibited rule. More publicity about the rule and the NES prohibitions may be needed to reduce this type of burning.

The current wording of the rule is confusing as to whether the rule applies to burning of the listed materials on outdoor domestic fires. Exclusion of outside domestic fires from this rule is intended to implement the Ministry of Health's directive that territorial authorities are responsible for managing these fires under the nuisance provisions of the Health Act. This is in the Explanation of the Rule, however it could be overlooked there, and thus give the impression that the listed substances can be burnt on outside

domestic fires. This could be made clearer in the rule by way of an advisory note to the Rule rather than in the Explanation. At the full review, it should also be investigated whether the nuisance provisions of the Health Act are effective in controlling burning of toxic materials on domestic fires. The Health Act provisions are the only controls, as the new prohibitions in the NES do not cover backyard burning or open (domestic) fires.

The other matter for clarification is who deals with complaints about outdoor and indoor domestic burning of toxic materials. Although the Ministry of Health's directive and the informal agreement between regional and district councils (refer Chapter 8 discussion) means that the District Council's deal with these complaints, it is unclear whether the 1996 Ministry of Health directive still has effect, since it is now 11 years old. Although few complaints about domestic burning of toxic materials have been received by either regional or district councils, this matter should be reconsidered and clarified at the Plan's full review. In the meantime, a practice note clarifying roles and responsibilities would be useful for Compliance staff.

Rule 17 needs to be amended at the full review to add materials that are prohibited under the NES. Prohibitions not already listed in the rule are bitumen burning on a road, and burning of coated wire.