

3.3.5 Discharges to air from intensive farming ## 03-109 01 00

10	D Tocker	Clarify rule and remove conditions.
338	Transit New Zealand, Christchurch	As an alternative to amending the definition of 'waste management' (refer 1-27-1), confirm that Section 3.3.5 does not apply to cleanfills, and also confirm that cleanfills are a permitted activity.
370	Department of Corrections	Add a new controlled activity rule to cover lawfully established pig farming that does not comply with the conditions of Rule AQL 58.
412	Malvern Area Community Board	Have wide consultation in the establishment for best burning practices and alternatives for outdoor burning. Develop practical methods through consultation with rural user groups.
434 (point 1)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify how rules AQL 58 to AQL 65 apply to existing intensive farming activities that undergo expansion or redevelopment.
434 (point 2)	Mainland Poultry Ltd	Clarify the term 'objectionable or offensive effects' (and similar wording) in Rules AQL 58 to AQL 65.
435 (point 1)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify how rules AQL 58 to AQL 65 apply to existing intensive farming activities that undergo expansion or redevelopment.
435 (point 2)	Tegel Foods Ltd	Clarify the term 'objectionable or offensive effects' (and similar wording) in Rules AQL 58.
F135	Westenra Trust	Oppose submission 435 (point 2).
F435 (point 1)	Tegel Foods Ltd	Support submission 10.
F435 (point 2)	Tegel Foods Ltd	Support in part submission 370..

Submission ClarificationSubmission 338

While the submitter has made this submission point in relation to section 3.3.5, it is considered that the issue raised in the submission is in relation to “Section 3.3.6 Waste management processes” rather than “intensive farming”. Therefore, this submission point has been transferred to “Section 3.3.6 Discharges to air from waste management processes” at ##03-113 01 00. No further consideration is required in this context by the Commissioners.

Submission 412

While the submitter has made this submission point in relation to section 3.3.5, it is considered that the issue of ‘outdoor burning’ is more appropriately addressed with the other submissions in relation to ‘outdoor burning’ rather than in relation to ‘intensive farming’. Therefore, this submission point has been transferred to “Section 3.3.3 Discharges to air from outdoor burning” at ##03-089 01 00, and it is to be considered there. No further consideration is required in this context by the Commissioners.

Submission 10 and Further Submission F435 (point 1)

The submissions question how, in Condition 1 attaching to Rule AQL58, any increase in the scale, intensity, frequency or duration of the discharge can be measured, as there is no base data. They also seek consistency with territorial authorities’ interpretation of “increase in scale, etc.” so that an increase in scale that is permitted under a district plan does not require resource consent from Environment Canterbury.

Submissions 370, 434 (point 1), 435 and Further Submission F435 (point 2)

The submissions question how this rule applies to an increase in the scale of an existing intensive farm, as Condition 1 in the rule does not control the effects of the activity. Any increase in the discharge, no matter how small, requires consent as a discretionary activity. How is the increase in discharge or effects determined? An existing, lawful intensive farm may never have complied with Conditions 2 or 3 or Rule AQL58.

Consideration

Submissions 10, 434 (point 1), 435 (point 1) and Further Submission F435 (point 1)

These submissions question how Condition 1 of Rule AQL58 applies to an existing intensive farm.

Condition 1 of Rule AQL58 states;

“There shall be no increase in the scale, intensity, frequency or duration of the discharge of contaminants into air from the activity, compared to when the activity was authorised prior to the notification of the Proposed NRRP.”

The Explanation and principal reasons for Rule AQL58 states that the rule “*permits the discharges of contaminants only to the extent that the **effects** remain at the same or lesser scale, and are of a similar nature (intensity, frequency and duration) to that authorised at the date of notification of the plan*”, (emphasis added).

The discharge of contaminants to air from intensive farming activity occurs from production land, not industrial or trade premises. The discharge to air can be controlled under section 15(2) of the RMA, if a rule is included in a regional plan that encompasses the activity. Prior to such a rule being included in a plan, no authorisation for the discharge is needed. The discharge and its effects may have existed prior to the rule being included in the plan, but these were not authorised; they did not require an authorisation. Therefore the use of the phrase “...to that authorised prior to the date of notification...” is incorrect in respect of discharges subject to section 15(2) of the Act. The word “authorised” should be deleted.

As a discharge of contaminants to air from an intensive farming activity did not require authorisation prior to notification of Rule AQL58, discharge to air from intensive farming activity was lawful prior to the NRRP being notified. Therefore the use of the term “lawfully established” in the activity description is unnecessary.

Rule AQL58 seeks to authorise the discharge of contaminants to air from existing intensive farms that meet the conditions in the rule. Condition 1 resembles the provisions of section 20A of the RMA. This section of the Act allows activities that become subject to a rule in a plan requiring resource consent to continue until the rule becomes operative, so long as “...*the effects of the activity are the same or similar in character, intensity, and scale to the effects that existed before the rule was notified...*” .

The intent of Condition 1 seems to be to apply (and perhaps extend) the provisions of section 20A for an intensive farm that was existing at the date of notification. A continuing discharge will not contravene the rule, and will not require resource consent unless there is an increase in the scale or intensity or frequency or duration of the discharge. Condition 1 relates to the discharge from the activity, not the scale of the activity itself. This is clear from the explanation for the rule. “*The activity may be able to increase in scale while taking measures to ensure that the scale, intensity, frequency or [sic] discharge of the contaminants to air is not increased.*” This sentence as notified does not make sense, but would if amended to state,

“The activity may be able to increase in scale if measures are taken to ensure that the scale, intensity, frequency or duration of the ~~or~~ discharge of contaminants to air are not increased.”

The intent of the rule seems to be to limit the effects of the discharge of contaminants to air from activities that were existing at the time of notification of the NRRP. The condition would be improved if the words used in section 20A of the RMA, “character, intensity and scale”, were used in the condition and it referred expressly to effects. This is dealt with below - ##03-109 04b02 - Rule 58, condition 1.

The Commissioners recommend a number of changes, and it is recommended that submissions 10, 434 (point 1), 435 (point 1) and further submission F435 (point 1) be accepted in part.

Submission 370 and Further Submission F435 (point 2)

These submitters sought that a new rule should be added as a controlled activity for lawfully established pig farms that do not meet the conditions of Rule AQL58.

Rule AQL58 attempts to ensure that adverse effects are internalized within the boundaries of the property. If this is not achieved, then the adverse effects need to be tested through the consenting process. This process should, in the view of the Commissioners, be discretionary. Controlled activity status would not allow an application to be declined, and this would not achieve the purpose of policy AQL5. The Commissioners recommend that these submissions be rejected.

Submissions 434 (point 2), 435 (point 2) and Further Submission F135

The submissions sought clarification of the meaning of “objectionable or offensive”. The definition of “offensive or objectionable” has been considered earlier in the Definition of Terms at location ##01-009 01 00, 117 (point 1), 348 (point 2), F427 (point 1), F428 (point 2), F429 (points 1 and 3) and F435 (point 2). .

That consideration is relevant and it is adopted. It is recommended that submissions 434 (point 2) and 435 (point 2) be rejected and further submission F135 be accepted.

Recommendations

Reject

Submission 370, F435 (point 2).

Accept in part

Submissions 10, 370, 434 (points 1 and 2), 435 (points 1 and 2) and Further Submissions F435 (points 1 and 2).

Accept

Further Submission F135.

No Recommendations required

Submissions 338 and 412.

Amendment required

- 1) Delete the word “**lawfully**” in the heading to Rule AQL58, p.3-109.
- 2) Delete the word “**lawfully**” in the activity description for Rule AQL58, p.3-109.
- 3) Delete the words “**,compared to when the activity was authorised prior to the date of notification of the Proposed NRRP**” in condition 1 to Rule AQL58, p.3-109.
- 4) Delete the word “**lawfully**” in Table 3.1, Summary of Rules, Rule 58, description, p. 3-60, and in Section 3.5.9.5, p. 3-168, Rule 58, heading and first sentence.
- 5) Delete the words “to that authorised at date of notification of the plan” in the second paragraph of the Explanations and principal reasons for methods for Rule AQL58, p. 3-168.

Rule AQL58 Intensive farming lawfully established before the date of notification of the Proposed NRRP - permitted activity ## 03-109 02 00

230	H Gundry	Delete rule AQL 58.
270 (point 1)	C & J Trengrove	ECan to provide an assurance the consent process will not be triggered by the issue of a District Council Land Use consent.
270 (point 2)	C & J Trengrove	Supports that Rule AQL 58 is a permitted activity.
286	M Eder	If the intent of this rule is to include farm activities, amend rule to exclude farming activities.
289	C Ross	Define 'lawfully established'.
370	Department of Corrections	Retain the permitted activity status of Rule AQL 58.
374	New Zealand Institute For Crop & Food Research Ltd	Amend Rule AQL 58 to ensure that all discharges to air of contaminants from intensive horticultural activities are permitted.

378 (point 1)	Canterbury Growers Society Ltd	Retain Rule AQL 58.
378 (point 2)	Canterbury Growers Society Ltd	Amend the definition of intensive farming as sought in 1-17-34. Make any consequential amendments to the plan.
387 (point 1)	G Williams	Add a policy on 'vindictive complaints' to deal with complaints under this rule.
387 (point 2)	G Williams	Clarify whether Rule AQL 58 conflicts with Selwyn District Council consent rules regarding increased scale of piggeries and possible odour increases from piggery buildings.
401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Retain Rule AQL 58.
401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Amend the definition of intensive farming as sought in 1-17-34. Make any consequential amendments to the plan.
429 (point 1)	Selwyn District Council	Delete Rule AQL 58. Make any other consequential amendments as necessary.
429 (point 2)	Selwyn District Council	Apply Rule AQL 58 to 'urban areas' only, in respect of odour and dust effects. Make any other consequential amendments as necessary.
434 (point 1)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify whether the date of 'existing activities lawfully established before the date of notification of the Regional Plan' is the date of the notification of the Proposed Air Chapter. Make any other additional or consequential amendments as necessary.
434 (point 2)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), make a provision for air discharges from waste activities associated with the primary activity as a permitted activity. Make any other additional or consequential amendments as necessary.
435 (point 1)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify whether the date of 'existing activities lawfully established before the date of notification of the Regional Plan' is the date of the notification of the Proposed Air Chapter. Make any other additional or consequential amendments as necessary.

435 (point 2)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), make a provision for air discharges from waste activities associated with the primary activity as a permitted activity. Make any other additional or consequential amendments as necessary.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429 (point 1)
F347 (point 2)	Federated Farmers of New Zealand	Support submission 429 (point 2)
F347 (point 3)	Federated Farmers of New Zealand	Support submission 374
F347 (point 4)	Federated Farmers of New Zealand	Support submission 401 (point 1)
F347 (point 5)	Federated Farmers of New Zealand	Support submission 401 (point 2)
F370	Department of Corrections	Oppose submission 429 (point 1)
F373 (point 1)	NZ Pork Industry Board	Support in part submission 230
F373 (point 2)	NZ Pork Industry Board	Oppose submission 429 (point 1).
F374	New Zealand Institute For Crop & Food Research Ltd	Oppose submission 429 (point 1).
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Support submission 374
F429	Selwyn District Council	Support submission 387 (point 2)
F435 (point 1)	Tegel Foods Ltd	Support submission 230
F435 (point 2)	Tegel Foods Ltd	Support submission 387 (point 1)
F435 (point 3)	Tegel Foods Ltd	Support in part submission 429 (point 2)

Submission Clarification

Submission 370

The submission sought that the rule should be retained but the conditions deleted.

Submission 374

The submission sought to ensure that either the definition of intensive farming be amended so that horticultural activities are not included within the definition of intensive farming; otherwise Rule AQL58 should be amended to ensure that all discharges from horticultural activities are permitted activities.

Consideration

Submission 230 and Further Submission F373 (point 1) and F435 (point 1)

The submissions consider that Rule AQL58 is unfair because the rule “singles out” the control of discharges that may cause odour or dust from intensive farming, while there are many other activities that cause dust and odours. The submissions sought that the rule should be deleted.

While there are many agricultural and other activities that can create dust or odour, most of these activities are intermittent or occasional occurrences. Intensive farming activities are permanent activities that regularly or continually discharge contaminants that can cause odour or dust effects. The discharge of contaminants to air from intensive farming activities is one of a number of agricultural activities that is subject to rules in Chapter 3. Other rules control the discharge of contaminants to air from animal effluent discharge, offal pits and composting.

The Commissioners do not see any unfairness in the rule. Nor, in their view should the rule be deleted. It fixes a base position and permits control if there is any increase in the discharge. No amendment is recommended by the Commissioners as a result of these submissions, and it is recommended that submission 230 and further submissions F373 (point 1) and F435 (point 1) be rejected.

Submissions 270 (point 2), 286 and 370

While supporting a permitted activity rule, the submitters are concerned that the conditions attaching to Rule AQL58 are not certain or enforceable. They query how a would the change in scale in Condition 1 will be measured, and note that Conditions 2 and 3 might occur from a lawfully established intensive farm.

The consideration at ## 03-109 01 00, 10, 434 (point 1), 435 (point 1) and F435 (point 1) above is relevant here, and it is adopted.

In relation to submission 286 –the rule applies only to intensive farming activities. These words are defined in Chapter 1. No change is recommended as a result of these submissions, and it is recommended that they be accepted in part.

Submission 270 (point 1)

The submitter is concerned that a land use consent issued by a territorial authority could trigger a requirement for a resource consent from Environment Canterbury.

Territorial authorities and regional authorities have different responsibilities under the RMA. There are, however, many activities that have complementary resource consent requirements under both regional plans and district plans. Intensive farming is one such activity. Environment Canterbury has a responsibility to control discharges to air from these activities, while a district council may control land use matters such as: the status of the activity in different parts of the district, the effects of noise, traffic etc generated from the use of the land.

There is no legal or conceptual difficulty with consent being required from both regional and territorial authorities. No change is recommended as a result of this submission. It is recommended that it be rejected.

Submissions 289, 434 (point 2) and 435 (point 2)

Submission 289 sought that the term “lawfully established” should be defined, and sought that the wording used in the conditions should be consistent with the wording in section 20A of the RMA. Submissions 434 and 435 questioned the significance of the term “permanent site” in the activity description.

The Commissioners have recommended above, ##03-109 01 00, 10, 434 (point 1), 435 (point 1) and further submission F435 (point 1), that the word “lawfully” be deleted. They therefore do not see that it is necessary to define lawfully established.

The significance of the term “permanent site” in the activity description is not explained in the explanation and principal reasons for the rules. Presumably it is intended to ensure that the rule applies only to intensive farms where the location of the intensive farming activity has not changed since the date of notification of the NRRP. A change in location could be of concern if that change resulted in an increase in the effects of the activity.

Submission 434 (point 2) and 435 (point 2) are dealt with below - ##03-109 05 00, 434 (point 2), 435 (point 2), F429 (points 1 and 3). That analysis is adopted. They can be accepted in part. No changes are recommended as a result of these submissions, and it is recommended that submission 289 be rejected.

Submissions 374, 378 (point 2), 401 (point 2) and Further Submissions F347 (points 3 and 5) and F401

These submissions sought that either the definition of intensive farming should clearly exclude horticultural activities, or that the discharge of contaminants to air from horticultural activities should be a permitted activity.

The Commissioners have recommended that the definition of intensive farming in Chapter 3 is amended so that it does not include horticultural production, refer ##01-017 34 00 – 01-017 35 00, 347, 373, 374, 378 (points 1 and 2), 401 (points 1 and 2), 404, further submissions F238 (points 1 and 2), F347 (points 1, 2 and 3), F435, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3024, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039. Accordingly, no change is recommended as a result of these submissions; they can be accepted in part.

Submission 429 (point 1) and Further Submission F347 (point 1), opposed by Further Submission F370, F373 (point 2) and F374.

The primary submissions sought that Rule AQL58 should be deleted as matters relating to the management of odour should be dealt with through district plans, and because the rules in the NRRP are inconsistent with the provisions of the Selwyn District Plan in respect of intensive livestock production. Discharges of contaminants that are permitted activities under the NRRP, are apparently from land use activities that require resource consent under the District Plan.

The responsibilities of Environment Canterbury in respect of the discharge of contaminants to air, including those that cause odour were discussed at 'Policy AQL5 Avoid odour nuisance ##03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2). It is a regional council responsibility and there is no difficulty with the functions of territorial authorities. No change is recommended as a result of these submissions, and it is recommended that submission 429 (point 1) and further submission F347 (point 1) be rejected, and further submissions F370, F373 (point 2) and F374 be accepted.

Submission 429 (point 2) and Further Submissions F347 (point 2) and F435 (point 3)

These submissions sought that the Rule AQL58 should apply to urban areas only.

Applying the provisions of Chapter 3 relating to the management of odour to urban areas only was considered at ## 03-017 26 00, 155, 406, 429(point1), F347(point 1). The analysis is relevant and it has been adopted.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 434 (point 1), 435 (point 1)

The submissions sought clarification in relation to the phrase "at the date of notification of the Proposed NRRP" used in Rule AQL58.

The NRRP was notified on 1 June 2002. All notifications since that time have been variations to the NRRP.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submission 387 (point 1) and Further Submission F435 (point 2)

These submissions sought that a policy should be included in Chapter 3 in respect of 'vindictive' complaints, addressing issues such as the burden of proof, and the meeting the costs of investigations.

Submissions to Method AQL5 (e) Response to complaints and enquiries were considered at ## 03-019 18 00, 378, 401, F347. The response to each complaint is recorded on the EIR database, and this information is available to the public. The issues raised by the submissions are operational matters relating to the assessment of complaints and the appropriate response. This is already provided for in Method AQL5(e), and by Environment Canterbury generally. The council also has responsibility under the Act.

No amendment is recommended as a result of these submissions and it is recommended that they be rejected.

Submission 387 (point 2) and Further Submission F429

These submissions sought clarification as to whether there is a conflict between Rule AQL58 and a rule of the Proposed Selwyn District Plan regarding increases in scale of existing piggeries.

The Proposed Selwyn District Plan, Rule VIII, Clause 9.1, makes the expansion of any existing intensive livestock production activity a restricted discretionary activity requiring resource consent. The Proposed District Plan does not define what is meant by “expansion”. Rule AQL58 limits any increase in the scale of the discharge to air from existing intensive farms. If there is an increase a resource consent will be required. Regional and territorial authorities have different functions. There is no legal difficulty even if there is a conflict.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 378 (point 1), 401, and Further Submission F347 (point 4)

These submissions sought to retain Rule AQL58. Given the Commissioners recommendations above, these submissions are recommended for acceptance.

Recommendations

Reject

Submissions 230, 270 (point 1), 289, 387 (points 1 and 2), 429 (points 1 and 2), 434 (points 1 and 2), 435 (points 1 and 2), and Further Submissions F347 (points 1 and 2), F373 (point 1), F429, F435 (points 1 and 3).

Accept

Submissions 378 (point 1), 401 (point 1), and Further Submissions F347 (point 4), F370, F373 (point 2), and F374.

Accept in part

Submissions 270 (point 2), 286, 370, 374, 378 (point 2), 401 (point 2), 434 (point 2) and 435 (point 2), and Further Submissions F347 (points 3 and 5), and F401.

Amendment Required

None Required.

Rule AQL58 Activity ## 03-109 04a03

138	PIC New Zealand Ltd	There is no definition provided that states what a permanent site is considered to be. No decision requested.
289	C Ross	Clarify what is the significance of 'permanent site'.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Clarify what a permanent site is.
373	New Zealand Pork Industry Board	Clarify what a permanent site is considered to be.

434	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify what is a 'permanent site'. Make any other additional or consequential amendments as necessary.
435	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify what is a 'permanent site'. Make any other additional or consequential amendments as necessary.

Consideration

Submissions 138, 289, 347, 373, 434 and 435

The submissions sought clarification of the term “permanent site” used in the activity description for Rule AQL58. The consideration of this issue at ## 03-109 02 00, 289, 434 (point 2) and 435 (point 2) above is relevant and has been adopted here. The words are ordinary English words, and the Commissioners do not consider that they require definition or clarification.

No change is recommended and it is recommended that these submissions be rejected.

Recommendation

Reject

Submissions 138, 289, 347, 373, 434 and 435.

Amendment Required

None required.

Rule AQL58 Conditions ## 03-109 04b01

168 (point 1)	Airways Corporation of NZ	Add new condition, to apply to all land within the Canterbury region: 'The discharge does not result in a discharge efflux exceeding 4.3 metres per second higher than 60 metres above the ground level.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
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168 (point 2)	Airways Corporation of NZ	Add new conditions, to apply to proposals that fall within the airport designations and recognised flight path maps: Condition (x) 'The discharge shall not result in discharge to air from combustion or industrial processes with generating capacities exceeding 5 megawatts.' Condition (y) 'There shall be no discharges to air likely to produce significant smoke in the vicinity of airports, which may adversely affect air traffic safety by reducing visibility.' Condition (z) 'There shall be no discharges to air from industrial processes such as gas or coal fired power stations, cement kilns, flaring from oil or gas wells or installations.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
235	Crown Public Health, Canterbury Office	Add a new condition no. 4: 'The intensive farming activities shall be at least 100 metres from any sensitive activity not on the property where the discharge originates.'
F112 (point 1)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 1).
F112 (point 2)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 2).
F347	Federated Farmers of New Zealand	Oppose submission 235.
F429	Selwyn District Council	Oppose submission 235.
F435 (point 1)	Tegel Foods Ltd	Oppose submission 168 (point 1).
F435 (point 2)	Tegel Foods Ltd	Oppose submission 235.
F435 (point 3)	Tegel Foods Ltd	Oppose submission 168 (point 2).

Consideration

Submissions 168 (points 1 and 2) and Further Submissions F112 (points 1 and 2) and F435 (points 1 and 3)

The primary submissions seek to have conditions placed on Rule AQL58 limiting efflux velocity of a discharge, and limiting discharges from combustion or trade processes, or smoke in the vicinity of airports. The submission is opposed by the further submissions.

The conditions sought are not relevant to the discharge of contaminants permitted under Rule AQL58. The rule does not authorise discharges from combustion or trade or industrial processes. Outdoor burning is controlled under Rules AQL28 to AQL34. Combustion processes are controlled under Rules AQL1 to AQL27. Intensive farms are not industrial or trade premises.

No change is recommended by the Commissioners as a result of these submissions, and it is recommended that Submission 168 (points 1 and 2) be rejected and that the further submissions be accepted.

Submission 235, opposed by F347, F429 and F435 (point 2)

These submissions were considered above, see Rule AQL2 condition 7, ##03-064 01b16 – 03-064 01b17, 235, F347 (point 2), F3036. That analysis is adopted.

The submission refers to the explanation and principal reasons for Rule AQL58 that states that “*separation distances are provided for in the rule*”. The activities authorised by this rule are existing discharges where there has been no increase in scale, character or intensity since the NRRP was notified. Existing sensitive activities near these areas have the protection afforded by section 17 of the RMA. Conditions 2 and 3 attaching to Rule AQL58 also provide protection against offensive or objectionable effects of the activity. A new sensitive activity establishing near an existing intensive farm will also be afforded that protection. The primary submission is recommended for rejection, and the opposing further submissions are recommended for acceptance.

Recommendations

Reject

Submissions 168 (points 1 and 2) and 235.

Accept

Further Submissions F112 (points 1 and 2), F347, F429 and F435 (points 1, 2 and 3).

Amendment Required

None required.

Rule AQL58 Condition 1 ## 03-109 04b02

138	PIC New Zealand Ltd	Delete condition 1. Clarify how compliance with condition 1 will be measured.
219	G Swan	Allow some scope to be able to expand existing intensive farm without the need to apply for a resource consent.
270	C & J Trengrove	Clarify how the current or future scale of discharge to the air will be measured.
284	T & J Sadler	Clarify how compliance with condition 1 will be measured.
286	M Eder	Delete condition 1.

289	C Ross	Condition 1 should be consistent with S20 of the RMA relating to the scale, intensity etc of effects.
339	Porkcorp New Zealand Ltd	Amend the wording of condition 1 to provide flexibility under 'permitted activity' to allow a pig farmer to undertake changes to their existing operation where such changes will not result in additional discharges to air that has an adverse effect on the environment.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 1.
370	Department of Corrections	Delete condition 1.
373 (point 1)	New Zealand Pork Industry Board	Delete condition 1.
373 (point 2)	New Zealand Pork Industry Board	Clarify how compliance with condition 1 will be measured.
434	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), ensure that Rule AQL 58 condition 1 manages the effects of discharges rather than managing the discharge activities. Make any other additional or consequential amendments as necessary.
435	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), ensure that Rule AQL 58 condition 1 manages the effects of discharges rather than managing the discharge activities. Make any other additional or consequential amendments as necessary.
F429	Selwyn District Council	Oppose submission 219
F435 (point 1)	Tegel Foods Ltd	Support submission 219.
F435 (point 2)	Tegel Foods Ltd	Support submission 286: Delete condition 1.
F435 (point 3)	Tegel Foods Ltd	Support in part submission 289

Consideration

Submissions 138, 219, opposed by Further Submission F429, supported by Submissions 270, 284, 286, 289, 339, 347, 370, 373 (points 1 and 2), 434 and 435, and Further Submission F435 (points 1, 2 and 3)

The primary submissions expressed concern about the nature and effect of Condition 1 attaching to Rule AQL58. These concerns include:

- how compliance with the condition will be measured and how the scale, intensity, frequency or duration of a past or future discharge will be measured
- intensive farmers should be able to make adjustments to their operations that may increase the scale etc of the discharge, but without increasing the adverse effects on the environment.
- some scope should be available to expand an existing intensive farm without a resource consent.
- the condition manages the activity rather than the effects of the activity.
- the wording of the condition should reflect s20A of the RMA.

These submissions have merit and have been considered at ## 03-109 01 00, 10, 434 (point 1), 435 (point 1), F435 (point 1), above. This is relevant here.

Many submissions sought to have Condition 1 deleted. The effect of this would be to authorise as a permitted activity discharges from all intensive farming that was lawfully established at the date of notification, subject only to conditions 2 and 3. Condition 1 establishes the threshold beyond which the effects on the environment of changes in the discharges from an existing intensive farm require assessment through the resource consent process. Without Condition 1 there would be no threshold and existing farms could change the character or increase the scale and intensity of adverse effects without assessment. This is not desirable for the environment, and is not supported by the Commissioners. However, amendments to condition 1 of Rule AQL58 to clarify that it is effects which are referred to are recommended.

Those submissions which seek that the conditions be deleted should be rejected. Those that seek that it be amended should be accepted.

Recommendations

Reject

Submissions 138, 219, 270, 284, 286, 347, 370, 373 (points 1 and 2) and Further Submission F429.

Accept in Part.

Submissions 289, 339, 434, 435 and Further Submission F435 (points 1, 2 & 3).

Amendment Required

Amend Condition 1 of Rule AQL58, p.3-109 as follows:

1. There shall be no increase in the scale, intensity, frequency or duration of the effects of the discharge of contaminants into air from the activity. ~~compared to when the activity was authorised prior to the date of notification of the proposed NRRP.~~

and amend the first sentence of the third paragraph of the Explanations and principals for methods for Rule AQL58 p. 3-168 by adding the words “the effects of” after the words “specific to”.

Rule AQL58 Condition 2 ## 03-109 04b06

26	J McFadden	Define how to measure objectionable and offensive, and alter accordingly.
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102	T Gallagher	Delete condition 2. There must be provision for protection of existing intensive farming operations from new facilities being established near them.
138	PIC New Zealand Ltd	Delete condition 2.
172	Alliance Group Ltd, Christchurch	Delete the condition and replace with: ' The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.'
219	G Swan	The buffer zone system should be used so that the distance to rural dwelling is used rather than property boundaries.
238	Director General Of Conservation	Delete Condition 2 and review the activity status of the rule.
270	C & J Trengrove	Delete condition 2.
284	T & J Sadler	Delete condition 2.
286	M Eder	Delete condition 2.
339	Porkcorp New Zealand Ltd	Amend condition 2 to read: 'The discharge of odour beyond the boundary of the property from where the discharge originates shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.'
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 2.
370	Department of Corrections	Delete condition 2.
373	New Zealand Pork Industry Board	Delete condition 2.
429	Selwyn District Council	Define the term 'objectionable or offensive effect', how are they measured, or rewrite condition to be quantifiable, measurable and certain for any person to know whether they comply or not. Make any other consequential amendments as necessary.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238
F216	Hurunui District Council	Support in part submission 238

F347 (point 1)	Federated Farmers of New Zealand	Support submission 429
F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238
F352	Feltex Carpets Ltd	Oppose submission 238.
F353	Canterbury Meat Packers Ltd	Oppose submission 238.
F354	Chequer Packaging Limited	Oppose submission 238.
F355	Omya NZ Ltd	Oppose submission 238.
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Oppose in part submission 238.
F428	Transpower NZ Ltd	Oppose in part submission 238.
F429	Selwyn District Council	Oppose submission 219
F435 (point 1)	Tegel Foods Ltd	Support in part submission 102
F435 (point 2)	Tegel Foods Ltd	Oppose submission 219
F435 (point 3)	Tegel Foods Ltd	Support submission 339

Consideration

Submissions 138, 270, 284, 286, 370 and 373

These submissions sought that Condition 2 should be deleted, on the basis that an existing intensive farm may have been established at the date of notification, but it may not comply with this condition.

Section 17 of the RMA requires, in broad terms, that no activity should be noxious, dangerous, objectionable or offensive to such an extent that it has an adverse effect on the environment. Therefore an intensive farm that was having such effects before the plan was notified had a duty to address the effects, regardless of whether it was existing at the date of notification. Rule AQL58 accepts the effects of existing intensive farms, provided, under conditions 2 and 3, that they do not cause objectionable or offensive effects from odour or, noxious, dangerous, objectionable or offensive effects from dust or other airborne particles. The Commissioners cannot see anything unreasonable in this.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submission 347

The submission submitted that the condition should be deleted on the basis that the management of odour is not a responsibility of Environment Canterbury.

The consideration at ## 03-109 01 00, 429 (point 1), F347 (point 1), F370, F373 (point 2) and F374 above is relevant and it has been adopted.

No change is recommended as a result of this submission, and it is recommended that it be rejected.

Submissions 26, 429 and Further Submission F347 (point 1)

These submissions sought greater certainty in relation to the words “objectionable or offensive”, and query how this will be assessed.

The term “offensive or objectionable” is not defined in Chapter 3. The Commissioners do not consider that it should be. This was considered above at ##01-009 01 00, 117 (point 1), 348 (point 2), F427 (point 1), F428 (point 2), F429 (point 1 and 3) and F435 (point 2) Appendix AQL5 also provides guidance as to how this will be assessed.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 172, 339 and Further Submission F435 (point 3)

These submissions sought that the wording of Rule AQL58 condition 2 should be altered in a way that better reflects the wording used in section 17 of the RMA. The Commissioners agree that the suggested wording better reflects the intention – i.e., the prevention of adverse effects.

Change is recommended and it is recommended that these submissions be accepted.

Submission 219, opposed by F429 and F435 (point 2)

The primary submission considered that condition 2 could subject existing intensive farmers to complainants of offensive or objectionable odour, and that buffer zones should be used rather than meeting conditions at the property boundary.

The guidance for the assessment process for odour that might be considered offensive or objectionable is stated in Appendix AQL5 of Chapter 3. Use of these processes should prevent abuse of the system. Policy AQL5 requires existing intensive farms to use the best practicable option to prevent or minimise discharges that cause odour that is objectionable or offensive. This is also the general duty under section 17 of the RMA. The use of separation distances can operate to the detriment of existing intensive farmers, for example, should a new house be built within the separation distance, the intensive farm will no longer comply with the conditions of the rule. This would be unfair. Moreover, Chapter 3 does not support the use of separation distances.

No change is recommended as a result of these submissions, and it is recommended that submission 219 is rejected and that further submissions F429 and F435 (point 2) be accepted.

Submission 238, supported in part by Further Submission F216, opposed by: F155, F347 (point 2), F352, F353, F354, F355, F427 and F428

The primary submission sought that Rule AQL58 Condition 2 should be deleted because the condition is said to be uncertain and unenforceable and because it does not meet the test for a permitted activity. Therefore the activity status is not appropriate, and should require resource consent.

This condition, in the Commissioners' view, is not unreasonable and is lawful. It seeks to manage the effects of a discharge of contaminants to air; it relates directly to the discharge from intensive farming; with the support of the assessment method set out in Appendix AQL3, the condition is not unreasonable.

Most existing intensive farms are able to operate without causing offensive or objectionable effects on the environment as a result of the discharge of contaminants to air. Intensive farms that are established, and that do not cause odours that have an offensive or objectionable effect on the environment, are allowed to continue. It would, in the Commissioners' view, be unreasonable to require resource consent for these activities.

No change is recommended as a result of this submission, and it is recommended that submission 238 and further submission F216 be rejected, and further submissions F155, F347 (point 2), F352, F353, F354, F355, F427 and F428 be accepted.

Submission 102 and Further Submission F435 (point 1)

These submissions seek protection for existing intensive farms from encroachment of sensitive activities.

Rule AQL58 allows the discharge of contaminants to air from existing intensive farms to continue, provided that the discharge does not exceed the condition detailed in the rule and the "bottom line" required by section 17 of the RMA. Condition 2 establishes the acceptable level of effects on the environment from existing farms. If it is complied with it will provide protection from encroachment.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Recommendations

Reject

Submissions 26, 102, 138, 219, 238, 270, 284, 286, 347 370, 373, 429 and Further Submissions F216, F435 (point 1) and F347 (point 1).

Accept

Submissions 172, 339 and Further Submissions F155, F347 (point 2), F352, F353, F354, F355, F427, F428, F429 and F435 (points 2 and 3).

Accept in Part

Submissions 26, 429 and Further Submission F347 (point 1).

Amendment Required

Amend Condition 2 to Rule AQL58, p.3-109 to read.

The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.

~~The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates.~~

Rule AQL58 Condition 3 ## 03-109 04b09 - 03-109 04b10

138	PIC New Zealand Ltd	Delete condition 3.
219	G Swan	The buffer zone system should be used so that the distance to a rural dwelling is used rather than property boundaries.
235	Crown Public Health, Canterbury Office	Delete 'particles' and add 'of contaminants including particulates' and after the words 'cause an' add 'noxious, dangerous...'
238	Director General Of Conservation	Delete Condition 3 and review the activity status of the rule.
270	C & J Trengrove	Delete condition 3.
284	T & J Sadler	Delete condition 3.
286	M Eder	If the intent of this rule is to include farm activities, amend rule to exclude farming activities.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 3.
370	Department of Corrections	Delete condition 3.
373	New Zealand Pork Industry Board	Delete condition 3.
429	Selwyn District Council	Define the term 'noxious, dangerous, objectionable or offensive effect', and how are they measured, or rewrite condition to be quantifiable, measurable and certain for any person to know whether they comply or not. Make any other consequential amendments as necessary.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238
F216	Hurunui District Council	Support in part submission 238
F347 (point 1)	Federated Farmers of New Zealand	Oppose submission 235

F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238
F347 (point 3)	Federated Farmers of New Zealand	Support submission 429
F352	Feltex Carpets Ltd	Oppose submission 238
F353	Canterbury Meat Packers Ltd	Oppose submission 238.
F354	Chequer Packaging Limited	Oppose submission 238.
F355	Omya NZ Ltd	Oppose submission 238.
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Oppose in part submission 238.
F428	Transpower NZ Ltd	Oppose in part submission 238.
F435 (point 1)	Tegel Foods Ltd	Oppose submission
F435 (point 2)	Tegel Foods Ltd	Support in part submission 429

Consideration

Submissions 138, 270, 284, 347, 370 and 373

These submissions sought that condition 3 attaching to Rule AQL58 should be deleted on the basis that an existing intensive farm may have been established at the date of notification, but may not comply with this condition.

Section 17 of the RMA requires in broad terms that no activity should be noxious, dangerous, objectionable or offensive to such an extent that it has an adverse effect on the environment. Therefore an intensive farm that was having such effects before the plan was notified had a duty to address the effects, regardless of whether it was existing at the date of notification. Rule AQL58 accepts the effects of existing intensive farms, provided, under conditions 2 and 3, that they do not cause objectionable or offensive effects from odour, or, noxious, dangerous, objectionable or offensive effects from dust or other airborne particles. The Commissioners do not consider that this condition should be deleted. The Commissioners cannot see anything unreasonable in this.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submission 238, supported in part by Further Submission F216, opposed by: F155, F347 (point 2), F352, F353, F354, F355, F427 (in part) and F428 (in part)

The primary submission sought that Rule AQL58 Condition 3 should be deleted because the condition is said to be uncertain and unenforceable and because it does not meet the test for a permitted activity. The activity status is not appropriate and should require resource consent.

This has been considered at ##03-109 04b06, 238, F216, F155, F347 (point 2), F352, F353, F354, F355, F427, F428 above, and that consideration is adopted.

No change is recommended as a result of this submission, and it is recommended that submission 238 and further submission F216 be deleted and further submissions F155, F347 (point 2), F352, F353, F354, F355, F427, F428 be accepted.

Submission 429, supported by Further Submission F347 (point 3) and in part by F435 (point 2)

The primary submission sought a definition of the terms “noxious, dangerous, objectionable or offensive” and clarification on how they would be measured, or as an alternative that condition 3 be rewritten.

A definition of “offensive and objectionable” has not been recommended by the Commissioners, see ##01-009 01 00, 117 (point 1), 348 (point 2), F427 (point 1), F428 (point 2), F429 (points 1 and 3), F435 (point 2). The method of assessment of the existence of these conditions in respect of dust is provided in Appendix AQL4.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submission 235, opposed by Further Submission F347 (point 1) and F435 (point 1)

The submission sought that the word “particles” in condition 3 should be replaced with “of contaminants including particulates”.

This issue is considered above at ## 03-064 01b16 - 03-064 01b17, 235, F347 (point 2), F3036. That analysis is adopted. For the reasons there given, the Commissioners prefer to limit the condition to just particulates. No change is recommended. It is recommended that submission 235 be rejected and that the further submissions be accepted.

Submission 286

The submission sought clarification as to whether the scope of Rule AQL58 included general, as opposed to intensive, farming practices.

Rule AQL58 applies only to intensive farming existing at 1 June 2002. Intensive farming is defined in Chapter 3, and a recommendation to amend the definition is made at ## 01-017 34 00– 01-017 35 00, 347, 373, 374, 378 (points 1 and 2), 401 (points 1 and 2), 404, further submissions F238 (points 1 and 2), F347 (points 1, 2 and 3), F435, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3024, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039, above.

No change is recommended as a result of this submission, and it is recommended that Submission 286 be rejected.

Submission 219

The submission sought that buffer zones should be used to protect existing intensive farming. The consideration at ## 03-109 04b06, 219, F429, F435 (point 2), above is relevant, and has been adopted here.

No change is recommended as a result of this submission, and it is recommended that Submission 219 be rejected.

Recommendations

Reject

Submissions 138, 219, 235, 238, 270, 284, 286, 347, 370, 373, 429 and Further Submission F216, F347 (point 3), F435 (point 2).

Accept

Further Submissions F155, F347 (points 1 and 2), F352, F353, F354, F355, F427, F428 and F435 (point 1).

Amendment Required

None required.

Rule AQL59 Intensive layer poultry farming established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP - ## 03-109 05 00

235	Crown Public Health, Canterbury Office	Amend the Explanation and Reasons section to ensure all legal aspects are considered.
374	New Zealand Institute For Crop & Food Research Ltd	Amend Rule AQL 59 to ensure that all discharges to air of contaminants from intensive horticultural activities are permitted.
429 (point 1)	Selwyn District Council	Delete Rule AQL 59. Make any other consequential amendments as necessary.
429 (point 2)	Selwyn District Council	Apply Rule AQL 59 to 'urban areas' only, in respect of odour and dust effects. Make any other consequential amendments as necessary.
434 (point 1)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete poultry number limit and make provision for commercial poultry farming activities, as permitted, controlled or restricted discretionary activities, and without the need for public notification, or include a reference to the poultry industry's Code of Practice. Make any other additional or consequential amendments as necessary.

434 (point 2)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), make a provision for air discharges from waste activities associated with the primary activity as a permitted activity. Make any other additional or consequential amendments as necessary.
435 (point 1)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete poultry number limit and make provision for commercial poultry farming activities, as permitted, controlled or restricted discretionary activities, and without the need for public notification, or include a reference to the poultry industry's Code of Practice. Make any other additional or consequential amendments as necessary.
435 (point 2)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), make a provision for air discharges from waste activities associated with the primary activity as a permitted activity. Make any other additional or consequential amendments as necessary.
F216	Hurunui District Council	Support submission 429 (point 1)
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429 (point 1).
F347 (point 2)	Federated Farmers of New Zealand	Support submission 429 (point 2)
F347 (point 3)	Federated Farmers of New Zealand	Oppose submission 235
F347 (point 4)	Federated Farmers of New Zealand	Support submission 374
F429 (point 1)	Selwyn District Council	Support in part submission 435 (point 2)
F429 (point 2)	Selwyn District Council	Support in part submission 434 (point 1)
F429 (point 3)	Selwyn District Council	Support in part submission 434 (point 2)
F429 (point 4)	Selwyn District Council	Support in part submission 435 (point 1)
F435 (point 1)	Tegel Foods Ltd	Support in part submission 429 (point 1)

F435 (point 2)	Tegel Foods Ltd	Support in part submission 429 (point 2)
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Submission Clarification

Submissions 434 (point 1) and 435 (point 1), supported in part by Further Submission F429 (points 2 and 4)

The submissions state that there is no justification provided for the limits set on the number of birds that are authorised as a permitted activity, and that the setting of a threshold is not effects based or based on sound resource management practice, and that it creates an unreasonable level of regulation. The proposed maximum bird numbers would effectively exclude commercial poultry farming from the permitted activity status, and therefore all new poultry farms would require consent as a discretionary activity. There is no provision in the rules relating to poultry farming for farms that internalise effects to be authorised as either a permitted, controlled or restricted discretionary activity, and the application assessed without public notification. Consideration should be given to including in the conditions attaching to the rule a provision that compliance with the poultry industry Code of Practice would infer compliance with the rule.

Consideration

Submission 235, opposed by Further Submission F347 (point 3)

The discharges to air from all intensive farms that existed before 1 June 2002 were lawful as there was no rule in a regional plan relating to the discharge that could be contravened. There were no farms that were “not lawfully established” before notification, therefore the word “lawfully” is not needed.

No change is recommended as a result of these submissions, and it is recommended that submission 235 be rejected and further submission F347 (point 3) be accepted.

Submission 374 and Further Submission F347 (point 4)

These submissions sought to ensure that discharges to air from horticultural activities are permitted activities.

The recommended change to the definition of intensive farming will ensure that the wording does not include horticultural activities; therefore there are no rules that directly control the discharge of contaminants to air that may cause odour or dust from such activities.

No change is recommended as a result of these submissions, and it is recommended that these submissions be accepted in part.

Submission 429 (point 1), supported by Further Submissions F216, F347 (point 1) and F435 (point 1)

The primary submission sought to have Rule AQL59 deleted as territorial authorities manage nuisance discharges of dust through district plan provisions, and it is unnecessary to have a rule in a regional plan.

The consideration of the respective roles of Environment Canterbury and territorial authorities made at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2) is relevant and is adopted. The consideration of Method AQL5(g) Territorial Authorities at ## 03-019 35 00, 379, F401, F275 (point 2), considered the relationship between a regional plan and a district plan. These analyses are relevant and they have been adopted.

The recommendations are the same – they should be rejected. No change is recommended as a result of these submissions.

Submission 429 (point 2) and Further Submissions F347 (point 2) and F435 (point 2)

The submissions sought that the Rule AQL59 should apply to urban areas only.

Applying the provisions of the NRRP relating to the management of odour and dust to urban areas only was considered at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2). This analysis is relevant and it has been adopted.

The recommendation is the same - no change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 434 (point 1) and 435 (point 1), supported in part by Further Submission F429 (points 2 and 4)

These submissions stated that there is no justification provided for the limits set on the number of birds that are authorised as a permitted activity, and that the setting of a threshold was not effects -based or sound resource management practice, and that it creates an unreasonable level of regulation.

Rule AQL59 establishes the threshold at which it is necessary to assess the potential effects of the discharge of contaminants to air from intensive layer poultry farming. Environment Canterbury has to be certain that in allowing an activity to proceed without resource consent, the effects on the environment will not be more than the minimum acceptable level of effects for the activity in any location. Intensive farming of poultry on a commercial scale can cause odours that have adverse effects on the environment. The intent of the rule is to allow as a permitted activity only small-scale operations, with the expectation that most commercial scale operations will require resource consent as a discretionary activity. The Commissioners consider that this approach is appropriate.

The incorporation of codes of practice into the conditions of a regional rule is not compatible with the requirements for a condition of a rule. A condition must be for a resource management purpose; it must be enforceable and it must be reasonable. The poultry industry codes of practice are intended primarily to address the welfare of poultry, not resource management issues associated with the activity. Codes of practice are not written in such a way that they are readily enforceable; they are not a regulatory document. Inclusion of such a document as a condition would mean that all provisions of the code would become conditions of consent, and the Commissioners doubt that this is appropriate.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 434 (point 2), 435 (point 2) and Further Submission F429 (points 1 and 3)

These submissions sought that the discharge to air from waste management processes associated with a primary activity should be a permitted activity.

Rule AQL63 authorises discharges from those waste management processes that existed at the date of notification as a permitted activity. Rule AQL65 authorises the discharge of “animal effluent and manure”, onto land as a permitted activity. These rules seem to achieve what is sought by the submissions.

No change is recommended and it is recommended that these submissions and further submissions be accepted in part.

Recommendations

Reject

Submissions 235, 429 (point 1 and 2), 434 (point 1), 435 (point 1) and Further Submissions F216, F347 (points 1 and 2), F429 (Points 2 and 4) and F435 (points 1 and 2).

Accept

Further Submission F347 (point 3).

Accept in part

Submissions 374, 434 (point 2), 435 (point 2), and Further Submission F347 (point 4) and F429 (points 1 and 3).

Amendment Required

Delete the word “lawfully” in: -

- a) the heading to Rule AQL59, p.3-109;
- b) in the description of Rule 59 in the Summary of Rules at p. 3-60; and
- c) the heading for Rule AQL59 in Section 3.5.9.5, p. 3-168.

Rule AQL59 Conditions ## 03-109 07b01

<p>168 (point 1)</p>	<p>Airways Corporation of NZ</p>	<p>Add new condition, to apply to all land within the Canterbury region: 'The discharge does not result in a discharge efflux exceeding 4.3 metres per second higher than 60 metres above the ground level.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.</p>
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168 (point 2)	Airways Corporation of NZ	Add new conditions, to apply to proposals that fall within the airport designations and recognised flight path maps: Condition (x) 'The discharge shall not result in discharge to air from combustion or industrial processes with generating capacities exceeding 5 megawatts.' Condition (y) 'There shall be no discharges to air likely to produce significant smoke in the vicinity of airports, which may adversely affect air traffic safety by reducing visibility.' Condition (z) 'There shall be no discharges to air from industrial processes such as gas or coal fired power stations, cement kilns, flaring from oil or gas wells or installations.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
F112 (point 1)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 1)
F112 (point 2)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 2).
F435 (point 1)	Tegel Foods Ltd	Oppose submission 168 (point 1).
F435 (point 2)	Tegel Foods Ltd	Oppose submission 168 (point 2).

Consideration

Submission 168 (points 1 and 2) and Further Submissions F112 (points 1 and 2) and F435 (points 1 and 2)

The consideration at ## 03-109 04b01, 168 (points 1 and 2), F112 (points 1 and 2), F435 (points 1 and 3), above is relevant and it has been adopted. The recommendation is the same – that no change be made. It is recommended that submission 168 (points 1 and 2) be rejected and the further submissions be accepted.

Recommendations

Reject

Submission 168 (points 1 and 2).

Accept

Further Submissions F112 (points 1 and 2) and F435 (points 1 and 2).

Amendment Required

None required.

Rule AQL59 Condition 1 ## 03-109 07b02

196	Waimate District Council	Build a threshold into the condition whereby an operation may expand within set parameters, providing that the additional discharge is proportionate to the scale of the increase in the farming operation.
235	Crown Public Health, Canterbury Office	Reword condition 1 to read: 'Any part of the poultry farming operation shall be at least 200 metres from any sensitive activity not on the property where the discharge originates.'
434	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete the separation distance (100 metres).
435	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete the separation distance (100 metres).
F347	Federated Farmers of New Zealand	Oppose submission 235
F429	Selwyn District Council	Oppose submission 235.
F435 (point 1)	Tegel Foods Ltd	Support in part submission 196
F435 (point 2)	Tegel Foods Ltd	Oppose submission 235

ConsiderationSubmission 196, Further Submission 435 (point 1)

The submission, supported in part by the further submission, sought that a threshold be built into the condition to allow expansion of an existing activity. No detail was provided of what was sought by the submitter.

Even if they considered it appropriate to do so, the Commissioners are not able to make the changes sought as the submission does not provide scope to do so. They note that if the effects from an expansion can be internalised and the scale remains within the limits in the activity description, the expansion will be permitted. No change is recommended by the Commissioners and it is recommended that these submissions be rejected.

Submissions 235, opposed by Further Submission F347, F429 and F435 (point 2)

The primary submission sought that the separation distance in Condition 1 of Rule AQL59 should be increased to 200 metres and should apply from any part of the intensive farming operation, as the discharge of contaminants may not be limited to the intensive farming buildings, and may also be from, for example poultry waste stored outside awaiting disposal.

The point raised by the submitter has merit in part. There may be sources of odour associated with an intensive poultry farm operation other than the buildings housing the poultry. While the discharge of contaminants to air from the disposal of poultry waste is controlled under Rules AQL63, AQL65 or AQL69 any discharge from the temporary storage of waste or other activities ancillary to the intensive farming should, in the Commissioners' view, be considered as part of the farming activity. However the use of separation distances in Rule AQL59 as a means to avoid or mitigate the effects of the discharge to air is not consistent with Policy AQL5.

Rule AQL59 controls the discharge of contaminants to air from layer poultry farming of less than 2000 poultry in farms established after 1 June 2002. This rule is one of the methods intended to implement Policy AQL5. Policy AQL5 contains a tiered approach to managing the effect of discharges of contaminants to air from intensive farming. First, a new activity should ensure that discharges that cause odours that result in offensive or objectionable adverse effects are prevented from escaping the boundaries of the property, i.e. internalisation of effects (condition 2 of Rule AQL59). Secondly, if this cannot be achieved by a new activity then that activity is to locate far enough away from sensitive areas or activities to ensure these effects will not be adverse, i.e. use separation distances (condition 1 of Rule AQL59). Thirdly, an existing activity will be encouraged to adopt measures to stop or minimise the adverse effects of a discharge that causes odour that has adverse effects (Rule AQL58).

Therefore for a new activity authorised under Rule AQL59, the effects of the discharge of contaminants should be internalised in the first instance. If this cannot be achieved, then the decision about what separation distance from sensitive activities or areas is needed to ensure that the adverse effects of the discharge do not affect others should be made through the resource consent process.

The use of separation distances in the Conditions of AQL59 is not in accord with Policy AQL5. Moreover, separation distances can operate to the detriment of existing intensive farmers. For example, should a new house be built within the separation distance, the intensive farm may no longer comply with the conditions of the rule. To require resource consent from a poultry farm that has operated in accord with conditions as a permitted activity due to the actions of other land users would be unfair. Preventing encroachment of sensitive activities onto intensive farms is sought by Policy AQL5 (c), unless the encroaching activity can avoid or mitigate the effects of the discharge.

Condition 1 of AQL59 is therefore, in the Commissioners' view, not appropriate. The threshold of the scale of farm set in the activity description is 2000 layer poultry. Internalisation of effects should be achievable for most farms of this size. If not, then resource consent will be required. Submissions from the industry state that all commercial layer poultry operations would exceed this threshold; therefore it is likely that most new layer poultry farms will require resource consent to discharge contaminants to air.

No change is recommended as a result of these submissions, and it is recommended that submission 235 be rejected and further submissions F347, F429 and F435 (point 2) be accepted.

Submissions 434 and 435

The submissions described the separation distances used in the rule as arbitrary and unjustified in resource management terms.

The Commissioners agree that the distance is arbitrary and that it will not necessarily avoid or mitigate adverse effects. Moreover, it is unjustified in terms of Policy AQL5 that guides this rule. These issues are addressed immediately above.

The Commissioners agree that the separation distance should be deleted.

It is recommended that these submissions be accepted.

Recommendations

Accept

Submissions 434, 435 and Further Submissions F347, F429 and F435 (point 2).

Reject

Submission 196, 235 and Further Submission F435 (point 1).

Amendment Required

Delete Condition 1 of Rule AQL59, p.3-109

~~"The intensive farming buildings shall be at least 100 metres from any sensitive activity not on the property where the discharge originates."~~

and delete the last two sentences - "In the case of . . . will be mitigated" in the second paragraph of the Explanation and principal reasons for methods for Rule AQL59, pp. 3-168 - 3-169.

Rule AQL59 Condition 2 ## 03-109 07b05

172	Alliance Group Ltd, Christchurch	Delete the condition and replace with: ' The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.'
238	Director General Of Conservation	Delete Condition 2 and review the activity status of the rule.
339	Porkcorp New Zealand Ltd	Amend condition 2 to read: 'The discharge of odour beyond the boundary of the property from where the discharge originates shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.'
429	Selwyn District Council	Define the term 'objectionable or offensive effect', how are they measured, or rewrite condition to be quantifiable, measurable and certain for any person to know whether they comply or not. Make any other consequential amendments as necessary.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238
F216	Hurunui District Council	Support in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429

F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238
F352	Feltex Carpets Ltd	Oppose submission 238.
F353	Canterbury Meat Packers Ltd	Oppose submission 238.
F354	Chequer Packaging Limited	Oppose submission 238.
F355	Omya NZ Ltd	Oppose submission 238.
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Oppose in part submission 238.
F428	Transpower NZ Ltd	Oppose in part submission 238.
F435 (point 1)	Tegel Foods Ltd	Support submission 339
F435 (point 2)	Tegel Foods Ltd	Support in part submission 429

Consideration

Submissions 172, 339 and Further Submission F435 (point 1)

These submissions sought that the wording of the condition be altered to be more consistent with the provisions of section 17 of the RMA.

The Commissioners agree that the suggested wording better reflects the intention – i.e., the prevention of adverse effects. A change to the wording of the condition is recommended, and it is recommended that these submissions be accepted.

Submission 238, supported in part by Further Submission F216, opposed by F155, F347 (point 2), F352, F353, F354, F355, F427 and F428.

The primary submission sought that Condition 2 should be deleted and the status of the activity reviewed. The consideration at ## 03-109 04b 06, 238, F216, F155, F347 (point 2), F352, F353, F354, F355, F427, F428 above is relevant and it has been adopted.

The recommendation is the same - that no change is recommended as a result of this submission, and that submission 238 and further submission F216 be rejected and the further submissions in opposition be accepted.

Submission 429 and Further Submissions F347 (point 1) and F435 (point 2)

The submissions sought that the term “objectionable or offensive effect” and how this would be measured, be defined, otherwise amend the condition to make it more certain.

The consideration at ## 03-109 04b 06, 26, 429, F347 (point 1) is relevant and it has been adopted. The Commissioners have not recommended that the words objectionable or offensive be defined at 1.2.2 Definition of Terms ##01-009 01 00, 117 (point 1), 348 (point 2), F427 (point 1), F428 (point 2), F429 (points 1 and 3), F435 (point 2). They favour the use of Appendix AQL5 to provide assessment of what may be objectionable or offensive.

The recommendation is the same – that no change be made as a result of these submissions. It is recommended that they be rejected.

Recommendations

Reject

Submissions 238, 429 and Further Submissions F216, F347 (point 1) and F435 (point 2).

Accept

Submissions 172, 339 and Further Submission F435 (point 1), F155, F347 (point 2), F352, F353, F354, F355, F427 and F428.

Amendment Required

Amend Condition 2 of AQL59, p.3-109 as follows:

The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment."

~~The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates."~~

Rule AQL59 Condition 3 ## 03-109 07b08 - 03-109 07b09

235	Crown Public Health, Canterbury Office	Delete 'particles' and add 'of contaminants including particulates' and after the words 'cause an' add 'noxious, dangerous...'
238	Director General Of Conservation	Delete Condition 3 and review the activity status of the rule.
429	Selwyn District Council	Define the term 'noxious, dangerous, objectionable or offensive effect', and how are they measured, or rewrite condition to be quantifiable, measurable and certain for any person to know whether they comply or not. Make any other consequential amendments as necessary.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238
F216	Hurunui District Council	Support in part submission 238
F347 (point 1)	Federated Farmers of New Zealand	Oppose submission 235

F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238
F347 (point 3)	Federated Farmers of New Zealand	Support submission 429
F352	Feltex Carpets Ltd	Oppose submission 238
F353	Canterbury Meat Packers Ltd	Oppose submission 238.
F354	Chequer Packaging Limited	Oppose submission 238.
F355	Omya NZ Ltd	Oppose submission 238.
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Oppose in part submission 238.
F428	Transpower NZ Ltd	Oppose in part submission 238.
F435 (point 1)	Tegel Foods Ltd	Oppose submission 235
F435 (point 2)	Tegel Foods Ltd	Support in part submission 429

Consideration

Submission 235, opposed by Further Submission F347 (point 1) and F435 (point 1)

The submission sought that the word “particles” in condition 3 be replaced with “of contaminants including particulates”, and “noxious and dangerous” be added to the types of effects.

This was considered above at ## 03-064 01b16 - 03-064 01b17, 235, F347 (point 2), F3036. That analysis is adopted. For the reasons there given, the Commissioners prefer to limit the condition to just particulates. No change is recommended. It is recommended that submission 235 be rejected and further submissions F347 (point 1) and F435 (point 1) be accepted.

Submission 238, supported in part by Further Submission F216, opposed by F155, F347 (point 2), F352, F353, F354, F355, F427 and F428

The submission sought that condition 3 be deleted and the status of the activity reviewed. The consideration at ## 03-109 04b 06, 238, F216, F155, F347 (point 2), F352, F353, F354, F355, F427, F428 is relevant here and has been adopted.

No change is recommended as a result of this submission, and it is recommended that submission 238 and further submission F216 be rejected and further submissions F155, F347 (point 2), F352, F353, F354, F355, F427 and F428 be accepted.

Submission 429 and Further Submissions F347 (point 3) and F435 (point 2)

These submissions sought that the term “objectionable or offensive effect” and how this would be measured be defined, otherwise amend the condition to make it more certain.

The consideration at ## 03-109 04b 06, 26, 429, F347 (point 1), is relevant and it has been adopted. No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Recommendations

Reject

Submissions 235, 238, 429 and Further Submission F216, F347 (point 3) and F435 (point 2).

Accept

Further Submissions F155, F347 (points 1 and 2), F352, F353, F354, F355, F427, F428 and F435 (point 1).

Amendment Required

None required.

Rule AQL60 Intensive broiler and breeder poultry farming established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP - permitted activity ## 03-110 01 00

374	New Zealand Institute For Crop & Food Research Ltd	Amend Rule AQL 60 to ensure that all discharges to air of contaminants from intensive horticultural activities are permitted.
429 (point 1)	Selwyn District Council	Delete Rule AQL 60. Make any other consequential amendments as necessary.
429 (point 2)	Selwyn District Council	Apply Rule AQL 60 to 'urban areas' only, in respect of odour and dust effects. Make any other consequential amendments as necessary.
434 (point 1)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete poultry number limit and make provision for commercial poultry farming activities, as permitted, controlled or restricted discretionary activities, and without the need for public notification, or include a reference to the poultry industry's Code of Practice. Make any other additional or consequential amendments as necessary.

434 (point 2)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), make a provision for air discharges from waste activities associated with the primary activity as a permitted activity. Make any other additional or consequential amendments as necessary.
435 (point 1)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete poultry number limit and make provision for commercial poultry farming activities, as permitted, controlled or restricted discretionary activities, and without the need for public notification, or include a reference to the poultry industry's Code of Practice. Make any other additional or consequential amendments as necessary.
435 (point 2)	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), make a provision for air discharges from waste activities associated with the primary activity as a permitted activity. Make any other additional or consequential amendments as necessary.
F216	Hurunui District Council	Support submission 429 (point 1)
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429 (point 1).
F347 (point 2)	Federated Farmers of New Zealand	Support submission 429 (point 2)
F347 (point 3)	Federated Farmers of New Zealand	Support submission 374
F429 (point 1)	Selwyn District Council	Support in part submission 435 (point 2)
F429 (point 2)	Selwyn District Council	Support in part submission 434 (point 1)
F429 (point 3)	Selwyn District Council	Support in part submission 434 (point 2)
F429 (point 4)	Selwyn District Council	Support in part submission 435 (point 1)
F435 (point 1)	Tegel Foods Ltd	Support in part submission 429 (point 2)
F435 (point 2)	Tegel Foods Ltd	Support submission 429 (point 1)

Submission Clarification

Submissions 434 (point 1), 435 (point 1), supported in part by Further Submission F429 (points 2 and 4)

The submissions state that there is no justification provided for the limits set on the number of birds that are authorised as a permitted activity, and that the setting of a threshold is not effects based or based on sound resource management practice, and that it creates an unreasonable level of regulation. The proposed maximum bird numbers would effectively exclude commercial poultry farming from the permitted activity status, and therefore all new poultry farms would require consent as a discretionary activity. There is no provision in the rules relating to poultry farming for farms that internalise effects to be authorised as either a permitted, controlled or restricted discretionary activity, and the application assessed without public notification. Consideration should be given to including in the conditions attaching to the rule a provision that compliance with the poultry industry Code of Practice would infer compliance with the rule.

Consideration

Submission 374 and Further Submission F347 (point 3)

The submissions sought to ensure that discharges to air from horticultural activities are permitted activities.

The recommended change to the definition of intensive farming will ensure that the wording does not include any horticultural activities, therefore there are no rules that directly control the discharge of contaminants to air that may cause odour or dust from such activities. This should meet the submitters concerns.

No change is recommended as a result of these submissions, and it is recommended that they be accepted in part.

Submission 429 (point 1), supported by Further Submission F216, F347 (point 1) and F435 (point 2)

The submission sought to have Rule AQL60 deleted on the basis that territorial authorities manage nuisance discharges of dust through district plan provisions, and because it is unnecessary to have a rule in a regional plan.

The consideration of the respective roles of Environment Canterbury and territorial authorities made at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2) is relevant and is adopted. The consideration of Method AQL5(g) Territorial Authorities at ## 03-019 35 00, 379, F401, F275 (point 2), considered the relationship between a regional plan and a district plan. These analyses are relevant, and they have been adopted.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submission 429 (point 2) and Further Submissions F347 (point 2) and F435 (point 1)

The submissions sought that the Rule AQL60 should apply to urban areas only. Applying the provisions of Chapter 3 relating to the management of odour and dust to urban areas only was considered at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2), and is adopted here.

The recommendation is the same - no change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 434 (point 1) and 435 (point 1), supported in part by Further Submission F429 (points 2 and 4)

These submissions stated that there was no justification provided for the limits set on the number of birds that would be authorised as a permitted activity, and that the setting of a threshold was not effects-based or sound resource management practice, and it created an unreasonable level of regulation.

The consideration at ## 03-109 05 00, 434 (point 1), 435 (point 1), F429 (points 2 and 4), above is relevant, and it has been adopted.

The recommendation is the same – no change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submissions 434 (point 2) and 435 (point 2), supported in part by Further Submission F429 (points 1 and 3)

These submissions sought that the discharge to air from waste management processes associated with a primary activity should be a permitted activity.

Rule AQL63 authorises discharges from those waste management processes that existed at the date of notification as a permitted activity. Rule AQL65 authorises the discharge of “animal effluent and manure” (other than pig effluent) onto land as a permitted activity. These rules would seem to achieve what is sought by the submissions.

No change is recommended and it is recommended that these submissions be accepted in part.

Recommendations

Reject

Submissions 429 (points 1 and 2), 434 (point 1), 435 (point 1) and Further Submissions F216, F429 (points 2 and 4), F347 (points 1 and 2) and F435 (points 1 and 2).

Accept in Part

Submissions 374, 434 (point 2) and 435 (point 2) and Further Submission F429 (points 1 and 3) and F347 (point 3).

Amendment Required

None required.

Rule AQL60 Conditions ## 03-110 03b01

168 (point 1)	Airways Corporation of NZ	Add new condition, to apply to all land within the Canterbury region: 'The discharge does not result in a discharge efflux exceeding 4.3 metres per second higher than 60 metres above the ground level.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
168 (point 2)	Airways Corporation of NZ	Add new conditions, to apply to proposals that fall within the airport designations and recognised flight path maps: Condition (x) 'The discharge shall not result in discharge to air from combustion or industrial processes with generating capacities exceeding 5 megawatts.' Condition (y) 'There shall be no discharges to air likely to produce significant smoke in the vicinity of airports, which may adversely affect air traffic safety by reducing visibility.' Condition (z) 'There shall be no discharges to air from industrial processes such as gas or coal fired power stations, cement kilns, flaring from oil or gas wells or installations.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
F112 (point 1)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 1)
F112 (point 2)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 2)
F435 (point 2)	Tegel Foods Ltd	Oppose submission 168 (point 1)
F435 (point 3)	Tegel Foods Ltd	Oppose submission 168 (point 2)

ConsiderationSubmission 168 (points 1 and 2) and Further Submissions F112 (points 1 and 2) and F435 (points 2 and 3)

The consideration at ## 03-109 04b01, 168 (points 1 and 2), F112, F435 (points 1 and 3) above is relevant and it has been adopted. The recommendation is the same – no change is recommended as a result of these submissions, and it is recommended that submission 168 (points 1 and 2) be rejected and further submissions F112 (points 1 and 2) and F435 (points 2 and 3) be accepted.

Recommendations**Reject**

Submission 168 (points 1 and 2).

Accept

Further Submissions F112 (points 1 and 2) and F435 (points 1 and 2).

Amendment Required

None required.

Rule AQL60 Condition 1 ## 03-110 03b02

102	T Gallagher	Delete condition 1.
196	Waimate District Council	Include a threshold of, e.g. 3000 whereby operations with stock numbers up to this figure are required to comply with a smaller setback.
235	Crown Public Health, Canterbury Office	Reword condition 1 to read: 'Any part of the poultry farming operation shall be at least 200 metres from any sensitive activity not on the property where the discharge originates.'
434	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete the separation distances (200 metres)
435	Tegel Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), delete the separation distances (200 metres).
F135	Westenra Trust	Oppose submission 435
F347	Federated Farmers of New Zealand	Oppose submission 235
F435 (point 1)	Tegel Foods Ltd	Support submission 102
F435 (point 2)	Tegel Foods Ltd	Support in part submission 196
F435 (point 2)	Tegel Foods Ltd	Oppose submission 235

ConsiderationSubmission 196, supported in part by Further Submission F435 (point 2)

The submission sought that the size of the buffer zone should be smaller for farms with smaller numbers of poultry, and increase with increasing farm size. It is recommended that submission 196 and further submission 435 (point 1) be rejected.

Submission 235 and Further Submissions F347 and F435 (point 2)

The submission, opposed by the further submission, supports a 200 metre separation distance. As explained below, the Commissioners do not support the use of separation distances. It is recommended that the primary submissions be rejected, and that the submissions in opposition be accepted.

Submissions 102, 434 and 435, Further Submissions F135 and F435 (point 1)

Submission 102 sought that condition 1 should be deleted. Submissions 434 and 435 sought to have the separation distance deleted.

The consideration at ## 03-109 07b02, 235, F347, F429 and F435 (point 2), is relevant and it is adopted. The Commissioners do not agree with the use of buffer distances for the reasons there given.

A change is recommended as a result of these submissions, and it is recommended that submission 102 and further submission F435 (point 1) be accepted and submissions 434 and 435 be accepted in part. Further submission F135 should be rejected.

Recommendations

Reject

Submissions 196, 235 and Further Submissions F135, F435 (point 1).

Accept

Submission 102 and Further Submissions F347, F429 and F435 (points 1 and 2)

Accept in part

Submissions 434, 435.

Amendment Required

Delete Condition 1 of Rule AQL60, p.3-110

~~The intensive farming buildings shall be at least 200 metres from any sensitive activity not on the property where the discharge originates.~~

and delete the final sentence “Thus, the 200 metre . . . are undertaken” in both paragraphs 2 and 3 of the Explanation and principal reasons for methods for Rule AQL60, p. 3-169.

Rule AQL60 Condition 2 ## 03-110 03b05 - 03-110 03b06

172	Alliance Group Ltd, Christchurch	Delete the condition and replace with: ' The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.'
238	Director General Of Conservation	Delete Condition 2 and review the activity status of the rule.
339	Porkcorp New Zealand Ltd	Amend condition 2 to read: 'The discharge of odour beyond the boundary of the property from where the discharge originates shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.'

429	Selwyn District Council	Define the term 'objectionable or offensive effect', how are they measured, or rewrite condition to be quantifiable, measurable and certain for any person to know whether they comply or not. Make any other consequential amendments as necessary.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238
F216	Hurunui District Council	Support in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429
F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238
F352	Feltex Carpets Ltd	Oppose submission 238.
F353	Canterbury Meat Packers Ltd	Oppose submission 238.
F354	Chequer Packaging Limited	Oppose submission 238.
F355	Omya NZ Ltd	Oppose submission 238.
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Oppose in part submission 238.
F428	Transpower NZ Ltd	Oppose in part submission 238.
F435 (point 1)	Tegel Foods Ltd	Support submission 339
F435 (point 2)	Tegel Foods Ltd	Support in part submission 429

Consideration

Submissions 172, 339 and Further Submission F435 (point 1)

These submissions sought that the wording of the condition should be altered to be more consistent with the provisions of section 17 of the RMA.

The Commissioners agree. The suggested wording better reflects the intention –the prevention of adverse effects. A change to the wording of the condition is recommended, and it is recommended that these submissions be accepted.

Submission 238, supported in part by Further Submission F216, opposed by F155, F347 (point 2), F352, F353, F354, F355, F427 and F428

The primary submission sought that Condition 2 should be deleted and the status of the activity reviewed. The consideration at ## 03-109 04b 06, 238, F155, F216, F347 (point 2), F352, F353, F354, F355, F427, F428 above is relevant and it has been adopted.

The recommendation is the same - that no change is recommended as a result of this submission. It is recommended that submission 238 and further submission F216 be rejected and the further submissions in opposition be accepted.

Submission 429 and Further Submissions F347 (point 1) and F435 (point 2)

The submissions sought that the term “objectionable or offensive effect” should be defined and query how this will be measured.

The consideration at ## 03-109 04b 06, 26, 429, F347 (point 1) is relevant and it has been adopted. The Commissioners have not recommended that objectionable or offensive be defined. They favour the use of Appendix AQL5 to provide assessment of what may be objectionable or offensive.

The recommendation is the same – no change is recommended as a result of this submission, and it is recommended that they be rejected.

Recommendation

Reject

Submissions 238, 429 and Further Submission F216, F347 (point 1) and F435 (point 2).

Accept

Submissions 172, 339 and Further Submissions F155, F347 (point 2), F352, F353, F354, F355, F427 and F428, F435 (point 1).

Amendment Required

Amend Condition 2 of AQL60, p.3-110 as follows:

The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment."

~~The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates."~~

Rule AQL60 Condition 3 ## 03-110 03b08 - 03-110 03b09

235	Crown Public Health, Canterbury Office	Delete 'particles' and add 'of contaminants including particulates' and after the words 'cause an' add 'noxious, dangerous...'
238	Director General Of Conservation	Delete Condition 3 and review the activity status of the rule.

429	Selwyn District Council	Define the term 'noxious, dangerous, objectionable or offensive effect', and how are they measured, or rewrite condition to be quantifiable, measurable and certain for any person to know whether they comply or not. Make any other consequential amendments as necessary.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238
F216	Hurunui District Council	Support in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Oppose submission 235
F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238
F347 (point 3)	Federated Farmers of New Zealand	Support submission 429
F352	Feltex Carpets Ltd	Oppose submission 238.
F353	Canterbury Meat Packers Ltd	Oppose submission 238.
F354	Chequer Packaging Limited	Oppose submission 238.
F355	Omya NZ Ltd	Oppose submission 238.
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Oppose in part submission 238.
F428	Transpower NZ Ltd	Oppose in part submission 238.
F435 (point 1)	Tegel Foods Ltd	Oppose submission 235
F435 (point 2)	Tegel Foods Ltd	Support in part submission 429

Consideration

Submission 235, opposed by Further Submission F347 (point 1) and F435 (point 1)

The submission sought that the word “particles” in Condition 3 be replaced with “of contaminants including particulates”, and “noxious and dangerous” be added to the types of effects.

This was considered above at ## 03-064 01b16 - 03-064 01b17, 235, F347 (point 2), F3036. That analysis is adopted. For the reasons there given, the Commissioners prefer to limit the condition to just particulates. No change is recommended. It is recommended that submission 235 be rejected and further submissions F347 (point 1) and F435 (point 1) be accepted.

Submission 238, supported in part by Further Submission F216, opposed by: F155, F347 (point 2), F352, F353, F354, F355, F427 and F428

The submission sought that Condition 3 be deleted and the status of the activity reviewed. The consideration at ## 03-109 04b 06, 238, F216, F155, F347 (point 2), F352, F353, F354, F355, F427, F428 is relevant and it has been adopted.

No change is recommended as a result of this submission, and it is recommended that submission 238 and further submission F216 be rejected and further submissions F155, F347 (point 2), F352, F353, F354, F355, F427 and F428 be accepted.

Submission 429 and Further Submissions F347 (point 3) and F435 (point 2)

These submissions sought that the term “objectionable or offensive effect” and how this would be measured be defined, otherwise amend the condition to make it more certain. The consideration at ## 03-109 04b 06, 26, 429, F347 (point 1), is relevant and it has been adopted.

No change is recommended as a result of these submissions, and it is recommended that they be rejected.

Recommendations

Reject

Submissions 235, 238, 429 and Further Submission F216, F347 (point 3) and F435 (point 2).

Accept

Further Submissions F155, F347 (points 1 and 2), F352, F353, F354, F355, F427, F428 and F435 (point 1).

Amendment Required

None required.

Rule AQL61 Intensive pig farming established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP - controlled activity ## 03-110 04 00

147 (point 1)	Ashburton District Council	Activity in rule AQL 61 should be a 'discretionary activity'.
147 (point 2)	Ashburton District Council	Consult with territorial local authorities to determine which authority is best suited to manage the activities, with a view to transferring duties or removing rules from plans.

270 (point 1)	C & J Trengrove	Use the most current Pork Industry Code of Practice and ensure that experience, management and technology are considered in resource consent discussions.
270 (point 2)	C & J Trengrove	Have rules for both new intensive pig farms and existing farms expanding,
270 (point 3)	C & J Trengrove	Supports the controlled activity status of Rule AQL 61.
289	C Ross	Cross reference Rule AQL 61 to Rule AQL 64.
339 (point 1)	Porkcorp New Zealand Ltd	Separate Rule AQL 61 to differentiate between 'new' pig farmers and 'existing' pig farmers operating prior to the date of notification of the NRRP who become subject to the 'controlled' provisions of this rule.
339 (point 2)	Porkcorp New Zealand Ltd	This rule and its provisions to remain in respect of any new entrant establishing a greenfields piggery after the date of the notification of the NRRP.
373 (point 1)	New Zealand Pork Industry Board	Amend Rule AQL 61 to only include new intensive pig farming as follows: 'The discharge of contaminants into air from intensive pig farming buildings ... established after the date of notification of the NRRP.
373 (point 2)	New Zealand Pork Industry Board	Add a new rule to cover existing intensive pig farming not lawfully established and intensive pig farming where operations change, and make it a controlled activity and reflect the intent of the Code of Practice, management practices and experience. Note that in developing a new rule existing farms as a business need certainty that their business will remain economically viable.
374	New Zealand Institute For Crop & Food Research Ltd	Amend Rule AQL 61 to ensure that all discharges to air of contaminants from intensive horticultural activities are permitted.
387	G Williams	Add a policy on 'vindictive complaints' to deal with complaints under this rule.
421	G van Ameyde	Add new conditions: never pump manure in the evenings, weekends or public holidays; try to pump effluent during rain; check wind and weather conditions prior to pumping; if pumping is necessary, do it between 9am and 3pm, and in the beginning of the week rather than towards the weekends.
429 (point 1)	Selwyn District Council	Delete Rule AQL 61. Make any other consequential amendments as necessary.

429 (point 2)	Selwyn District Council	Apply Rule AQL 61 to 'urban areas' only, in respect of odour and dust effects. Make any other consequential amendments as necessary.
F216	Hurunui District Council	Support submission 429 (Point 1)
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429 (Point 1)
F347 (point 2)	Federated Farmers of New Zealand	Support submission 429 (Point 2)
F347 (point 3)	Federated Farmers of New Zealand	Support submission 374
F347 (point 4)	Federated Farmers of New Zealand	Support submission 147 (point 1)
F370	Department of Corrections	Oppose submission 429 (Point 1)
F373 (point 1)	NZ Pork Industry Board	Oppose submission 147 (point 1)
F373 (point 2)	NZ Pork Industry Board	Oppose submission 429 (Point 1)
F429 (point 1)	Selwyn District Council	Support submission 147 (point 1)
F429 (point 2)	Selwyn District Council	Support submission 147 (point 2)

Submission Clarification

Submission 421

This submission addresses conditions relating to the discharge of pig effluent onto land controlled under Rules AQL63 and AQL64. This submission has been considered at ##03-113 04b01 and ##03-113 08b01. No further consideration is required in this context.

Consideration

Submission 147 (point 1), supported by Further Submission F429 (point 1), F347 (point 4) and opposed by F373 (point 1)

The primary submission sought that the activity status should be a discretionary activity.

The notified controlled activity status means that consent cannot be refused, and the submitter suggests that there may be situations when a piggery that complies with the controlled activity rule should not be granted consent.

In the Commissioners' view, this is a valid concern. The structure of the rule is that there is no upper threshold to the size of the piggery, and the maximum separation distance to a sensitive activity that is required is 2000 metres.

This separation distance is relied on as the principal means of avoiding or mitigating the effects of a discharge of contaminants to air from such a pig farm. As notified, a farm of any scale that can comply with the conditions of Rule AQL61, i.e. locate where there is no sensitive activity within 2000 metres, cannot be refused a consent to discharge to air. There is no requirement for an activity to demonstrate that the effects of that activity can or will be internalised. Under the provisions of Rule AQL61 such an application may also have been considered without public notification, and without requiring the applicant to obtain written approval of affected persons.

In the commissioners' view, this approach is not consistent with Policy AQL5 and Policy AQL6, which expects the effects of the discharge to be internalised in the first instance. If the anticipated adverse effects are not able to be prevented, the activity is required to locate where the discharge to air will not have adverse effects on sensitive activities.

The approach taken in Rule AQL61 differs from that taken in Rules AQL59 and AQL60 relating to new poultry farms. These rules set a threshold for poultry numbers above which the activity becomes a discretionary activity.

The extent of internalisation of effects, the relative location of sensitive activities, and the likelihood of adverse effects occurring are all matters that can be assessed during the resource consent process. This approach is consistent with Policy AQL5 and Policy AQL6.

Under the existing provisions of Rules AQL58, AQL61, and AQL62 an existing pig farm that increases the discharge of contaminants to the extent that a resource consent is required under Rule AQL61 as a controlled activity. Where a sensitive activity exists within the separation distance calculated from the total number of pigs held on the farm, (and for an existing farm that sensitive activity may have established after the farm), then the discharge from the whole farm becomes a discretionary activity under Rule AQL62. This is not consistent with Policy AQL5(c) or Policy AQL6(b), that seek to prevent encroachment of sensitive activities on existing activities that discharge contaminants that cause odour or dust effects.

Rule AQL61 uses separation distances as the principal means of avoiding or mitigating the potential odour effects of a new or expanding pig farm. This is inconsistent with Policy AQL5 which requires these activities to internalise effects in the first instance. The Commissioners have recommended that Rule AQL61 should be deleted, which will result in a pig farm not meeting the conditions of Rule AQL58 becoming a discretionary activity under Rule AQL62. This achieves what has been sought by submitter 147 – that the activity becomes discretionary. While no change is recommended as a result of these submissions, it is recommended that submission 147 (point 1) and further submissions F429 (point 1) and F347 (point 4) be accepted in part and further submission F373(point 1) be rejected.

Submissions 270 (point 2), 339 (points 1 and 2) and 373 (point 1)

These submissions sought that the rule should differentiate between the expansion of existing farms and the establishment of new intensive pig farms. Extensions to existing farms should be a controlled activity, and the establishment of a new farm should be a discretionary activity.

This approach has merit, however, an upper limit to the extent of expansion of an existing farm would be required. Over the threshold the application would be considered as if it were a new activity requiring consent as a discretionary activity. The submissions do not provide scope to allow such changes. Rule AQL58 requires effects to be internalised, and if this is achieved, then it is a permitted activity, otherwise it becomes discretionary. The Commissioners agree with this approach and recommend change as a result of the submissions and it is recommended that there be no change as a result of the submissions and it is recommended that they be rejected.

Submissions 270 (point 1 and 3) and 373 (point 2)

These submissions support the controlled activity status of the rule and sought that the most current version of the Pork Industry Code of Practice be used in the Rule.

The Pork Industry Code of Practice 1997 has been replaced by a new version. It is a 'guide' rather than a 'code of practice', to be used in conjunction with an 'environmental management system'. Submission 373 (point 2) sought that the separation distance to a sensitive area (activity) should be reduced from 0.75 m per pig up to a maximum of 2000 metres, to 0.25 metres per pig up to 500 metres. Under the change proposed by the submission, a new intensive pig farm of 2000 pigs could locate within 500 metres of a sensitive activity and meet the conditions of Rule AQL61 as a controlled activity. Under the existing conditions a farm of 2000 pigs would not meet the conditions of Rule AQL61 if it was within 1500 metres of a sensitive activity. The use of separation distances as the principal means to avoid adverse effects is not supported by the Commissioners.

No change is recommended as a result of these submissions, and it is recommended that it be rejected.

Submission 147 (point 2) and Further Submission F429 (point 2)

The submissions sought that the provisions of Rule AQL61 should be similar to district plan provisions and that the requirement for consents from both region and territorial authorities for intensive pig farming should be avoided. It is said that Environment Canterbury should consult with territorial authorities to determine how best to manage the process.

There are differences in the responsibilities of territorial authorities and Environment Canterbury around the management of effects on the environment from activities such as intensive pig farming. These differences have been discussed at ##03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2) which is relevant here but is not repeated. The recommendation is the same – no change is recommended as a result of these submissions.

Submission 289

The submission sought that a cross-reference to Rule AQL64 be included in Rule AQL61. Rule AQL64 authorises the discharge of contaminants to air for the application of pig effluent onto land. These two activities will often, although not always be complementary. A cross reference is appropriate, however it has been recommended that Rule AQL61 be deleted and therefore this change is not necessary.

No change is recommended as a result of this submission and it is recommended that the submission be accepted in part.

Submission 387

The submission sought that a policy should be included in the NRRP for investigating 'vindictive' complaints in respect of Rule AQL61. This was considered at ## 03-019 18 00, 378, 401, F347. The response to each complaint is recorded on the EIR database, and this information is available to the public. The issues raised by the submitter are operational matters of assessment of complaints and appropriate response. This is already provided for in the Method AQL5(e).

No change is recommended as a result of this submission, and it is recommended that it be rejected.

Submission 374 and Further Submission F347 (point 3)

The submissions sought that either the definition of intensive farming clearly did not include horticultural activities, or the discharge of contaminants to air from horticultural activities were all permitted activities. The consideration at ## 01-017 34 00 – 01-017 35 00, 347, 373, 374, 378 (points 1 and 2), 401 (points 1 and 2), 404, further submissions F238 (points 1 and 2), F347 (points 1, 2 and 3), F435, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3024, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039, above is relevant here and has been adopted. The recommendation is the same – that the definition of intensive farming be amended so that it does not include horticultural production.

Change to the definitions of intensive farming has been recommended by the Commissioners already, and it is recommended that these submissions be accepted.

Submission 429 (point 1), supported by Further Submissions F216 and F347 (point 1), opposed by F370 and F373 (point 2)

These submissions sought to have Rule AQL61 deleted as territorial authorities manage nuisance discharges of odour and dust through district plan provisions, and it is unnecessary to have a rule in a regional plan.

The consideration of the respective roles of Environment Canterbury and territorial authorities made at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2) is relevant and is adopted. The consideration of Method AQL5(g) Territorial Authorities at ## 03-019 35 00, 379, F401, F275 (point 2), considered the relationship between a regional plan and a district plan. This is relevant here, and has been adopted.

The Commissioners do not support the use of separation distances in Rule AQL61 as discussed above. Submission 429 (point 1) provides scope for the deletion of this rule, and therefore the Commissioners recommend that it be deleted. Change is recommended as a result of these submissions and it is recommended that submission 429 (point 1) and further submissions F216 and F347 (point 1), be accepted in part, and further submissions F370 and F373 (point 2) be rejected.

Submission 429 (point 2) and Further Submission F347 (point 2)

The submissions sought that the Rule AQL61 should apply to urban areas only. Applying the provisions of the NRRP relating to the management of odour and dust to urban areas only was considered at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3), and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2), which is relevant here but shall not be repeated.

The recommendation is the same – no change is recommended as a result of these submissions.

Recommendations

Reject

Submissions 147 (point 2), 270 (points 1, 2 and 3), 339 (points 1 and 2), 373 (points 1 and 2), 387, 429 (point 2) and Further Submissions F347 (point 2), and F429 (point 2).

Accept

Submissions 289, 339 (point 2) and Further Submissions F370 and F373 (point 2).

Accept in part

Submission 147 (point 1), 289, 429 (point 1) and Further Submissions F216, F347 (point 1), F429 (point 1) and F347 (point 4).

No Recommendation is required

Submission 421

Amendment Required

1. Delete Rule AQL61, pp 3-110 to 3-111.
2. Delete Rule AQL61 in Explanation and principal reasons at pages 3-169 and 3-170, in Table 3.1, Summary of Rules, p. 3-60.
3. As a consequence replace the reference to Rule “AQL61” with a reference to Rule “AQL60” in the headings for Rule AQL62 on pages 3-60, 3-112, and 3-170, in the first sentence under Rule AQL62 on page 3-170, and in paragraph (b) in Rule AQL62 page 3-112.
4. Delete “or applicable standards and terms . . . for a controlled activity” from the activity description for Rule AQL62, page 3-112.

Rule AQL61 Standards/Terms ## 03-110 06b01

168 (point 1)	Airways Corporation of NZ	Add new Standard/Terms, to apply to all land within the Canterbury region: 'The discharge does not result in a discharge efflux exceeding 4.3 metres per second higher than 60 metres above the ground level.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
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168 (point 2)	Airways Corporation of NZ	Add new Standard/Terms, to apply to proposals that fall within the airport designations and recognised flight path maps: Condition (x) 'The discharge shall not result in discharge to air from combustion or industrial processes with generating capacities exceeding 5 megawatts.' Condition (y) 'There shall be no discharges to air likely to produce significant smoke in the vicinity of airports, which may adversely affect air traffic safety by reducing visibility.' Condition (z) 'There shall be no discharges to air from industrial processes such as gas or coal fired power stations, cement kilns, flaring from oil or gas wells or installations.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
270	C & J Trengrove	Take into account District Council Rules when amending the NRRP.
F112 (point 1)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 1)
F112 (point 2)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 2)

Submission Clarification

Submission 270

The submission is opposed to the standards/terms of Rule AQL61 as they are contrary to District Plan rules and also take no account of past experience, management practices and technology to mitigate discharges to air. The submission seeks that District Council rules are taken into account when amending the NRRP.

Consideration

Submission 270

The consideration at ##03-110 04 00, 147 (point 2), F429 (point 2) above is relevant here and has been adopted. The recommendation is the same – no change is recommended as a result of this submission, and it is recommended that it be rejected.

Submission 168 (points 1 and 2) and Further Submission F112 (points 1 and 2)

The consideration at ## 03-109 04b01, 168 (points 1 and 2), F112 (points 1 and 2), F435 (points 1 and 2) above is relevant here and has been adopted. The recommendation is the same – no change is recommended as a result of these submissions, and it is recommended that submission 168 (points 1 and 2) be rejected and further submission F112 (points 1 and 2) be accepted.

Recommendations

Reject

Submissions 168 (points 1 and 2) and 270.

Accept

Further Submission F112 (points 1 and 2).

Amendment Required

None required.

Rule AQL61 Standards/Terms 1 ## 03-110 06b02

138	PIC New Zealand Ltd	Amend conditions 1(a) and (b) as follows: "The distance from pig farm buildings or pens to sensitive areas shall be: (a) The greater of: (i) 0.25 metre multiplied by the number of pigs held (to the nearest 50) up to a maximum of 2000 metres; or (ii) 100 metres."
286	M Eder	Combine condition 1(a) and 1(b) and change the multiplier of .75m to .25m, and reduce the maximum buffer distance to 500m.
289	C Ross	Amend the separation distances in Condition 1 to be consistent with the Pork Industry Code of Practice.
370	Department of Corrections	Delete conditions 1(a) and (b) and reword with: 'The distance from pig farm buildings or pens to sensitive areas shall be: a) the greater of (i) 0.25 metre multiplied by the number of pigs held (to the nearest 50) up to a maximum of 500 metres; or (ii) 100 metres.'
373	New Zealand Pork Industry Board	Amend condition 1(a) and (b) as follows: 'The distance from pig farm buildings or pens to sensitive areas shall be: a) the greater of (i) 0.25 metre multiplied by the number of pigs held (to the nearest 50) up to a maximum of 500 metres; or (ii) 100 metres.'
F216	Hurunui District Council	Oppose submission 373
F373	NZ Pork Industry Board	Oppose in part submission 289

Submission Clarification

Submission 289

The submission sought consistency with the Pork Industry Pig Farming Code of Practice, not the adoption of a specific version of the code.

Consideration

Submissions 138, 286, 289, 370, 373 and Further Submissions F216 and F373

These submissions sought that the separation distances in Standard/Term 1 of Rule AQL 61 be amended.

The submissions all sought to reduce the separation distance to a sensitive activity from 0.75 metres per pig to 0.25 metres per pig. All submissions, with one exception, sought that the maximum separation distance be reduced from 2000 metres to 500 metres. One submitter did not seek a reduction in the 2000 metres distance. These reductions would make the distances consistent with the distances contained in the Pork Industry Pig Farming Code of Practice 1997. Submission F216 is opposed to Submission 373 as the submitter does not believe that a reduction in the distances is warranted. Submission F373 is opposed in part to Submission 289 in that while the submitter supports the amendments to the separation distances, they are opposed to any direct reference to Pork Industry Code of Practice.

The use of separation distances in the standards and terms (conditions) of this rule is not in accord with Policy AQL5. Policy AQL5 proposes that the effects of the discharge must be internalised. The conditions (standards and terms) of a controlled activity determine whether an application can be processed as such an activity, and therefore guaranteed resource consent. The conditions do not specify any level of adverse effect that must be achieved by the activity. While separation distances could be used as one of the tools for avoiding adverse effects, it is not the principal tool promoted in Chapter 3.

The conditions should require that an applicant demonstrate that the discharge is not likely to cause an odour or dust or other particles which has an offensive or objectionable effect on the environment beyond the boundary of the property where the discharge originates. Measures to ensure these effects will not occur, such as the management of the property, location of sensitive activities etc. should be part of the assessment of the potential adverse effects, and the subject of conditions of any consent granted.

The Commissioners have recommended that this rule be deleted and therefore the changes sought by these submissions can be rejected and the further submissions accepted.

The Commissioners therefore recommend no change as a result of these submissions.

Recommendations

Reject

Submissions 138, 286, 289, 370 and 373.

Accept

Further Submissions F216, F373.

Amendment Required

None required.

Rule AQL61 Standards/Terms 1 (a) ## 03-110 06b04

284	T & J Sadler	Amend Condition 1 (a) and (b) as follows: 'The distance from pig farm building or pens to sensitive areas should be (a) the greater of: (i) 0.25 metre multiplied by the number of pigs held (to the nearest 50) up to a maximum of 2000 metres: or (ii) 1000 metres.
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ConsiderationSubmission 284

The consideration at ## 03-110 06b 02 directly above is relevant here and has been adopted. The recommendation is the same - that no change be made, and that this submission be rejected.

Recommendation**Reject**

Submission 284.

Amendment Required

None required.

Rule AQL61 Standards/Terms 1 (a)(i) ## 03-110 06b05 - 03-110 06b06

10	D Tocker	Replace .75 with .25m and replace 2000m with 50m.
219	G Swan	Amend condition 1(a)(i) to read: '.25 metre multiplied by the number of pigs held up to 2000 metres.
284	T & J Sadler	Delete the date of Code of Practice in Control (1).
339	Porkcorp New Zealand Ltd	Amend condition 1 (a) (i) to replace .75 with .25, and replace 2000m with 1,500m. Amend those parameters as specified in the relevant District Scheme applicable at the time or the parameters as specified in the NZ Pork Industry Board Code of Pig Farming Practice applicable at the time.
348	Environment Canterbury	Amend the standard and terms in sub point (a)(ii) to read: '100 metres; to any public amenity area or place of public assembly not on the...'
F125	Waimakariri District Council	Oppose submission 348
F347	Federated Farmers of New Zealand	Oppose submission 348
F429	Selwyn District Council	Support in part submission 339

ConsiderationSubmissions 10, 219,284, 339, 348 and Further Submissions F125, F347 and F429

The consideration at ## 03-110 06b 02 is relevant and has been adopted here. The recommendation is the same, that no changes be made, and it is recommended that submissions 10, 219, 284, 339, 348, and further submission F429 be rejected and further submissions F125 and F347 be accepted.

Recommendations**Reject**

Submissions 10, 219, 284, 339, 348 and Further Submission F429.

Accept

Further Submissions F125 and F347.

Amendment Required

None required.

Rule AQL61 Standards/Terms 1 (b)(i) ## 03-110 06b12 - 03-110 06b14

339	Porkcorp New Zealand Ltd	Amend condition 1 (b) (i) to replace 2000m with 1,500m. Amend those parameters as specified in the relevant District Scheme applicable at the time or the parameters as specified in the NZ Pork Industry Board Code of Pig Farming Practice applicable at the time.
348	Environment Canterbury	Amend the standard and terms in sub point (b)(ii) and add a new sub point (c) to read: '200 metres; to a residential area; and (c) the greater of: (i) 0.25 metres multiplied by the number of pigs held (to the nearest 50) up to a maximum of 2000 metres; or (ii) 100 metres; to rural dwelling not on the property'.
F347	Federated Farmers of New Zealand	Oppose submission 348
F429	Selwyn District Council	Oppose submission 348

ConsiderationSubmissions 339, 348 and Further Submissions F347, and F429

The consideration at ## 03-110 06b 02 above is relevant and has been adopted here. The recommendation is the same, that no changes be made, and that the submission be rejected and the further submissions be accepted.

Recommendations

Reject

Submissions 339, 348.

Accept

Further Submissions F347 and F429.

Amendment Required

None required.

Rule AQL61 Control 1 ## 03-110 06c07 - 03-110 06c11 - 03-110 06c13

138	PIC New Zealand Ltd	Delete reference to the Pork Industry Pig Farming Code of Practice (1997).
347 (point 1)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete the control of amenity of air and dust.
347 (point 2)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Remove the date of the Code of Practice.

Consideration

Submissions 138 and 347 (point 2)

The submissions sought that reference in the matters for control to a specific version of the Pork Industry Pig Farming Code of Practice be removed.

As discussed previously, the Code has been reviewed. The Pork Industry recognises that the use of separation distances as the principal means to avoid adverse effects of intensive farms is not in accord with current environmental practice, and new environmental management guidance from the industry will reflect this.

The matters for control that are listed in the rule could more clearly explain that conditions on the resource consent would be imposed to avoid or mitigate specified effects on the environment arising from the discharge.

No change is recommended as a result of these submissions, and it is recommended that they be accepted in part.

Submission 347 (point 1)

The submission sought that the matters for control should not include “dust and loss of amenity value of air”, as these matters are controlled by territorial authorities.

The consideration of the respective roles of Environment Canterbury and territorial authorities made at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2) is relevant and is adopted. The consideration of Method AQL5(g) Territorial Authorities at ## 03-019 35 00, 379, F401, F275 (point 2), considered the relationship between a regional plan and a district plan, and is adopted. The recommendation is the same – no change is recommended as a result of this submission, and it is recommended that this submission be rejected.

Recommendations

Reject

Submission 347 (point 1).

Accept in part

Submissions 138 and 347 (point 2).

Amendment Required

None required.

Rule AQL 61 Cross Ref ## 03-110 06d01

348	Environment Canterbury	Add in the cross reference column to cross reference Rules AQL 61 and AQL 69.
F347	Federated Farmers of New Zealand	Oppose submission 348

Consideration

Submission 348, opposed by F347

The primary submission sought that the Rule AQL61 should cross reference to rules controlling the discharge to air from pig effluent application to land. These rules are: Rule AQL63 – waste management processes established at 1 June 2002 – permitted activity; Rule AQL64 - application of pig effluent to land that commences after 1 June 2002 – permitted activity, and; Rule AQL69 – application of pig effluent that does not comply with the conditions of Rule AQL64 – discretionary activity. It would be appropriate that all of these are cross referenced in Rule AQL61, however, the Commissioners have recommended that Rule AQL61 be deleted and therefore this submission can be accepted in part and the further submission be rejected.

Recommendations

Reject

Further Submission F347.

Accept in part

Submission 348.

Amendment Required

None required.

Rule AQL61 Standard/Terms 2 ## 03-111 01b02

138	PIC New Zealand Ltd	Retain standard/term 2.
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270	C & J Trengrove	Supports Standard /Term 2.
284	T & J Sadler	Retain standard/term 2.
286	M Eder	Retain standard/term 2.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete standard/term 2.
370	Department of Corrections	Retain standard/term 2.
373	New Zealand Pork Industry Board	Retain standard/term 2.

Consideration

Submissions 138, 270, 284, 286, 370 and 373

The submissions sought that standard / term 2 be retained.

Submission 347

The submission sought that standard / term 2 be deleted.

Standard/term 2 is not necessary as Chapter 3 does not support the use of separation distances. It is recommended that submission 347 be accepted and the other submissions be rejected.

Recommendations

Reject

Submissions 138, 270, 284, 286, 370 and 373.

Accept

Submission 347.

Amendment Required

None required.

Rule AQL61 Standard/Terms 3 ## 03-111 01b05

138	PIC New Zealand Ltd	Retain standard/term 3.
270	C & J Trengrove	Supports Standard /Term 3.
284	T & J Sadler	Retain standard/term 3.
286	M Eder	Retain standard/term 3.
370	Department of Corrections	Retain standard/term 3.

373	New Zealand Pork Industry Board	Retain standard/term 3.
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Consideration

Submissions 138, 270, 284, 286, 370 and 373

These submissions sought that standard / term 3 of Rule AQL be retained.

The rule controls the discharge of contaminants to air from pig farm buildings, and the effluent storage and treatment system on the farm. The effluent storage system on intensive farms can be a significant source of contaminants that may cause odour. This source should not be treated differently to other sources in the operation of the intensive pig farm. The requirement to internalise effects should apply to all aspects of the intensive farm. It is therefore recommended that these submissions be rejected.

Recommendation

Reject

Submissions 138, 270, 284, 286, 370 and 373.

Amendment Required

None required.

Rule AQL61 Notification ## 03-111 01c23

284	T & J Sadler	Retain the Notification requirement.
370	Department of Corrections	Retain the Notification requirements as worded.
373	New Zealand Pork Industry Board	Retain the Notification requirements as worded, but insert the correct version of the Code of Practice and include the requirement that when assessing applications the Code is intended for new pig farms.

Consideration

Submissions 284, 370 and 373

The submissions sought that the notifications requirements are retained. The discretion about notification or obtaining written approvals remains with Environment Canterbury.

Submission 373

The submission refers to the use of the Code of Practice in the rule. This was considered at ## 03-110 06b02 above, which is relevant here but shall not be repeated.

No change is recommended as a result of these submissions.

Recommendations

Accept

Submissions 284 and 370.

Accept in part

Submission 373.

Amendment Required

None required.

Rule AQL62 Intensive farming not complying with Rules AQL58 to AQL61 or otherwise occurring on an industrial or trade premise - discretionary activity ## 03-112 01 00

135	Westenra Trust	Amend rule AQL 62 to include areas that will become urban according to the Christchurch City Plan, i.e. Special purpose (Wigram and Awatea) areas. Refer submission for maps.
147 (point 1)	Ashburton District Council	Include large scale worm farming as intensive farming.
147 (point 2)	Ashburton District Council	Consult with territorial local authorities to determine which authority is best suited to manage the activities, with a view to transferring duties or removing rules from plans.
286	M Eder	Delete the words: 'or otherwise occurring on an industrial or trade premise' from the heading.
387	G Williams	Add a policy on 'vindictive complaints' to deal with complaints under this rule.
429 (point 1)	Selwyn District Council	Delete Rule AQL 62. Make any other consequential amendments as necessary.
429 (point 2)	Selwyn District Council	Apply Rule AQL 62 to 'urban areas' only, in respect of odour and dust effects. Make any other consequential amendments as necessary.
F216	Hurunui District Council	Support submission 429 (point 1)
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429 (point 1)
F347 (point 2)	Federated Farmers of New Zealand	Support submission 429 (point 2)
F347 (point 3)	Federated Farmers of New Zealand	Support submission 147 (point 2)

F370	Department of Corrections	Oppose submission 429 (point 1)
F374	New Zealand Institute For Crop & Food Research Ltd	Oppose submission 429 (point 1).
F429	Selwyn District Council	Support submission 147 (point 2)
F435 (point 1)	Tegel Foods Ltd	Oppose submission 135
F435 (point 2)	Tegel Foods Ltd	Support submission 429 (point 1)
F435 (point 3)	Tegel Foods Ltd	Support in part submission 147 (point 2)
F435 (point 4)	Tegel Foods Ltd	Support submission 286
F435 (point 5)	Tegel Foods Ltd	Support in part submission 429 (point 2)

Consideration

Submission 135, opposed by Further Submission F435 (point 1)

The primary submission sought to have the rule amended to include all land in Christchurch City that will become urban under the City Plan.

Rule AQL62 controls intensive farming activities that may occur anywhere in the Canterbury Region. The zoning in a district plan, of the land where the activity occurs does not affect the requirements for a resource consent under Chapter 3.

No change is recommended as a result of this submission, and it is recommended that submission 135 be rejected and further submission F435 (point 1) be accepted.

Submission 147 (point 1)

The submission sought that “large scale” worm farming should be included within the definition of intensive farming because of the potential for adverse effects on the environment from this activity.

The consideration at 01-017 34 00 to 01 017 35 00, 347, 373, 374, 378 (points 1 and 2), 401 (points 1 and 2), 404, further submissions F238 (points 1 and 2), F347 (points 1, 2 and 3), F435, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3024, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039, above considered the definition of intensive farming. Worm farming is not within the definition of intensive farming. The use of worms to digest waste material is a waste management process and would be considered under the relevant parts of Chapter 3, i.e., part 3.3.6.

No change is recommended as a result of this submission, and it is recommended that it be rejected.

Submission 147 (point 2) and Further Submission F347 (point 3), F429 and F435 (point 3)

The submissions sought that Environment Canterbury should consult with territorial authorities to establish which consent authority alone should manage these activities.

The consideration at 03-110 04 00, 147 (point 2), F429 (point 2) above is relevant and has been adopted here.

The recommendation is the same - no change is recommended as a result of these submissions, and it is recommended that they be rejected.

Submission 286 and Further Submission F435 (point 4)

These submissions sought to have the phrase “otherwise occurring on an industrial or trade premise” deleted from the rule title, because any discharge to air from an industrial or trade premise that is not identified by a specific activity rule is managed under Rule AQL57.

This is a valid point. Any discharge to air from an industrial or trade premise must be authorised by either a resource consent or a rule in a plan. Regional Rules AQL38 to AQL57 address these discharges. The discharge to air from intensive farming occurring on an industrial or trade premise is not a specified activity; therefore such an activity will require consent under Rule AQL57, as a discretionary activity. Where intensive farming is occurring on production land, the discharge to air is only controlled where it contravenes a regional rule. Rule AQL62 provides for those activities that do not comply with Rules AQL58 to AQL61.

Change is recommended as a result of this submission, and it is recommended that these submissions be accepted.

Submission 387

The submission sought that a policy should be included in Chapter 3 for investigating ‘vindictive’ complaints in respect of Rule AQL62.

The response to each complaint is recorded on the EIR database, and this information is available to the public. The issues raised by the submitter are operational matters of assessment of complaints and appropriate response. This is already provided for in the Method AQL5(e).

No amendment is recommended as a result of this submission, and it is recommended that it be rejected.

Submission 429 (point 1), supported by Further Submissions F216, F347 (point 1), F435 (point 2), opposed by F370 and F374

The primary submission sought to have Rule AQL62 deleted as territorial authorities manage nuisance discharges through district plan provisions, and it is unnecessary to have a rule in a regional plan.

The consideration of the respective roles of Environment Canterbury and territorial authorities made at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3), F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2) is relevant and is adopted. The consideration of Method AQL5(g) Territorial Authorities at ## 03-019 35 00, 379, F401, F275 (point 2), considered the relationship between a regional plan and a district plan. This is relevant here, and has been adopted.

The recommendations are the same - no change is recommended as a result of these submissions, and it is recommended that submission 429 (point 1) and further submissions F216 and F347 (point 1), be rejected and further submissions F370 and F374 be accepted.

Submission 429 (point 2) and Further Submissions F347 (point 2) and F435 (point 5)

These submissions sought that Rule AQL62 should apply to urban areas only.

Applying the provisions of Chapter 3 relating to the management of odour to urban areas only was considered at ## 03-017 26 00, 155, 406, 429(point1), F347(point 1). It is relevant here and it is adopted.

The recommendation is the same - no change is recommended as a result of these submissions, and it is recommended that they be rejected.

Recommendations

Reject

Submissions 135, 147 (points 1 and 2), 387, 429 (points 1 and 2) and Further Submissions F216, F347 (points 1, 2 and 3), F429, F435 (points 2, 3 and 5).

Accept

Submission 286 and Further Submission F370, F374 and F435 (points 1 and 4).

Amendment Required

Amend the title of Rule AQL62, p.3-112 as follows:

“Rule AQL62 Intensive farming not complying with Rules AQL58 to AQL60 or otherwise occurring on an industrial or trade premise – discretionary activity”

and make the same amendment in the Summary of Rules, p. 3-60, and in the Explanations and principal reasons for methods, p. 3-170, and delete the words “or that do occur on an industrial or trade premise” from the Explanation for Rule AQL62, p. 3-170.

Rule AQL 62 Standards/Terms ## 03-112 03b01 - 03-112 04b08

<p>168 (point 1)</p>	<p>Airways Corporation of NZ</p>	<p>Add new condition, to apply to all land within the Canterbury region: 'The discharge does not result in a discharge efflux exceeding 4.3 metres per second higher than 60 metres above the ground level.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.</p>
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168 (point 2)	Airways Corporation of NZ	Add new conditions, to apply to proposals that fall within the airport designations and recognised flight path maps: Condition (x) 'The discharge shall not result in discharge to air from combustion or industrial processes with generating capacities exceeding 5 megawatts.' Condition (y) 'There shall be no discharges to air likely to produce significant smoke in the vicinity of airports, which may adversely affect air traffic safety by reducing visibility.' Condition (z) 'There shall be no discharges to air from industrial processes such as gas or coal fired power stations, cement kilns, flaring from oil or gas wells or installations.' Treat rule as Discretionary or restricted Discretionary Activities, and recognise Airways Corporation to be an affected party. Make consequential amendments.
F112 (point 1)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 1)
F112 (point 2)	Solid Energy New Zealand Ltd	Oppose submission 168 (point 2)
F435 (point 1)	Tegel Foods Ltd	Oppose submission 168 (point 1)
F435 (point 2)	Tegel Foods Ltd	Oppose submission 168 (point 2)

Consideration

Submission 168 (points 1 and 2) and Further Submission F112 (points 1 and 2) and F435 (points 1 and 2)

The primary submission seeks to have conditions placed on Rule AQL62 limiting the efflux velocity of a discharge, and limiting discharges from combustion or trade processes, or smoke in the vicinity of airports. The submission is opposed by F112 (points 1 and 2), F435 (points 1 and 3).

The conditions sought are not relevant to the discharge of contaminants that could be authorised under Rule AQL62. The rule does not authorise discharges from combustion or trade or industrial processes. Outdoor burning is controlled under Rules AQL28 to AQL34. Combustion processes are controlled under Rules AQL1 to AQL27. Intensive farms are not industrial or trade premises. The character and scale of the effects of a discharge from an intensive farm that requires consent under Rule AQL62 will be considered on a case-by-case basis

No change is recommended as a result of this submission, and it is recommended that submission 168 (points 1 and 2) be rejected and further submissions F112 (points 1 and 2) and F435 (points 1 and 2) be accepted.

Recommendations

Reject

Submission 168 (points 1 and 2).

Accept

Further Submissions F112 (point 1 and 2) and F435 (points 1 and 2).

Amendment Required

None Required.