

3.3.7 Discharge of agrichemicals ## 03-119 01 00

378	Canterbury Growers Society Ltd	<p>Add a new rule for the discharge of agrichemicals to water bodies, as follows: 'The application of agrichemicals to water in water bodies is permitted subject to the following conditions: 1. The aquatic pesticide is approved for use under Section 21 of the Pesticides Act 1979, or when repealed by the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997 when enabled and operational. 2. The applicator must at all times adopt the best practicable option to prevent or minimise any adverse effects beyond the boundary of the target property or other non-target areas within the boundary of the property. 3. The application shall be in accordance with manufacturer's instructions and any relevant regulations. 4. The application shall be for the purpose of eradicating, modifying or controlling excessive growth of aquatic plants, and shall not exceed the quantity, concentration or rate necessary. 5. There shall be no adverse effect on any water takes permitted by the Resource Management Act, this Plan or under a resource consent. 6. The applicator shall notify, at least 24 hours and not more than 30 days before commencing the discharge every person taking water for domestic supply and every holder of a resource consent for the taking of water within one kilometre downstream of the proposed discharge in any river. 7. Any person undertaking the application of agrichemicals into or onto water shall either hold a current GROWSAFE Applied Certificate or equivalent qualification or hold a GROWSAFE Introductory Certificate and be under the direct supervision of an Applied Certificate holder. Every contractor undertaking ground-based application shall hold a current GROWSAFE Registered Chemical Applicators Certificate, preferably endorsed 'Strand: Aquatic' or equivalent. Every aerial applicator shall hold a current GROWSAFE Pilots Agrichemical Rating Certificate. 8. The applicator shall keep records of the application in accordance with NZS8409:1999'.</p>
-----	--------------------------------	--

401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add a new rule for the discharge of agrichemicals to water bodies, as follows: 'The application of agrichemicals to water in water bodies is permitted subject to the following conditions: 1. The aquatic pesticide is approved for use under Section 21 of the Pesticides Act 1979, or when repealed by the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997 when enabled and operational. 2. The applicator must at all times adopt the best practicable option to prevent or minimise any adverse effects beyond the boundary of the target property or other non-target areas within the boundary of the property. 3. The application shall be in accordance with manufacturer's instructions and any relevant regulations. 4. The application shall be for the purpose of eradicating, modifying or controlling excessive growth of aquatic plants, and shall not exceed the quantity, concentration or rate necessary. 5. There shall be no adverse effect on any water takes permitted by the Resource Management Act, this Plan or under a resource consent. 6. The applicator shall notify, at least 24 hours and not more than 30 days before commencing the discharge every person taking water for domestic supply and every holder of a resource consent for the taking of water within one kilometre downstream of the proposed discharge in any river. 7. Any person undertaking the application of agrichemicals into or onto water shall either hold a current GROWSAFE Applied Certificate or equivalent qualification or hold a GROWSAFE Introductory Certificate and be under the direct supervision of an Applied Certificate holder. Every contractor undertaking ground-based application shall hold a current GROWSAFE Registered Chemical Applicators Certificate, preferably endorsed 'Strand: Aquatic' or equivalent. Every aerial applicator shall hold a current GROWSAFE Pilots Agrichemical Rating Certificate. 8. The applicator shall keep records of the application in accordance with NZS8409:1999'.
412 (point 1)	Malvern Area Community Board	Have consultation with agrichemical spray users to assure the policy developed is practical and appropriate.
412 (point 2)	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.
432	Land Information NZ	Ensure the rules on spray drift are consistent with the rules in Chapter 4.
F347	Federated Farmers of New Zealand	Support submission 401.

F374 (point 1)	New Zealand Institute For Crop & Food Research Ltd	Oppose submission 378.
F374 (point 2)	New Zealand Institute For Crop & Food Research Ltd	Oppose submission 401.

Submission Clarification

Submission 378, 401

Submissions 378 and 401 state (in part) that the application of agrichemicals to water is '...more appropriately addressed through the Water Chapter however, if it is determined that it should be addressed in the Air Chapter then they request their submission be considered here.'

Submission 412 (point 2)

Submission 412 (point 2) relates to the rules for discharges to air from intensive farming. It was summarised at the correct location and it was considered in that context. It does not relate to agrichemical discharges. No consideration or recommendation is required here.

Consideration

Submissions 378, 401 and Further Submissions F347, F374 (points 1 and 2)

The two primary submissions and further submission F347, opposed by the further submission F374, sought that a new rule in relation to agrichemical discharge to water be added.

Both submissions recognise that Chapter 4 (Water Quality) is the more appropriate location for such a rule. It is considered that this position is correct (refer to the consideration below at Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00,216, 427, F338). The submitters will need to pursue this issue through submissions on Variation No. 1 to the NRRP in relation to Chapter 4 (Rule WQL16). As notified, this rule does not cover all the matters the submission is seeking.

No change is recommended by the Commissioners, and it is recommended that submissions 378, 401 and further submission F347 be rejected, and F374 (points 1 and 2) accepted.

Submission 412 (point 1)

The submission sought consultation on the development of the agrichemical provisions.

The consultation undertaken in development of the agrichemical provisions is detailed on pages 35 and 36 of Environment Canterbury’s *Section 32 Report*. The Commissioners accept that that consultation was adequate. They do not consider it to be practical, or an option, to provide for the relief sought. No change is recommended by the Commissioners, and it is recommended that the submission be rejected.

Submission 432

The submission sought that the rules in Proposed Chapter 3: Air Quality, are consistent with Chapter 4 (Water Quality).

Such an assurance is not possible. Chapter 3 and Chapter 4 (Variation No. 1), are the subject of independent processes. However, the changes recommended below should reduce overlap and hence the potential for inconsistencies. No change is recommended by the Commissioners, and it is recommended that the submission be rejected.

Recommendations

Reject

Submissions 378, 401, 412 (point 1), 432 and Further Submission F347.

Accept

Further Submission F374 (points 1 and 2).

No recommendation required

Submission 412 (point 2).

Amendment Required

None required.

Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00

117	TrustPower Ltd	Support in principle, but Policy AQL 70 is contrary to the purpose and principles of the RMA and does not promote sound planning practice. Refer submission 3-119-3-b-6 and 3-120-1-b-26 for decisions requested.
216	Hurunui District Council	Rule AQL70 should control the effects of agrichemicals into air, and delete reference of agrichemical effects into or onto land or into water. If the rule is to control drift of agrichemicals through the air and into or onto land or water, reword the rule to reflect that.
338 (point 1)	Transit New Zealand, Christchurch	Amend Rule AQL 70 to provide for Method AQL 7(d) which includes reference to limited discretionary activities.

338 (point 2)	Transit New Zealand, Christchurch	Combine Rules AQL 70 and 71 to form a single rule.
338 (point 3)	Transit New Zealand, Christchurch	Cross reference with the relevant rule in the Draft NRRP Chapter 4 - Water Quality.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Exempt under 25 litre small hand sprayers from Rule AQL 70.
359	West Eyreton Residents Association	Delete Rule AQL 70.
374	New Zealand Institute For Crop & Food Research Ltd	Retain the permitted activity status of Rule AQL 70.
405	Timaru District Council	Consider replacing Rule AQL 70 with more realistic rules.
413	A Gillanders	Delete Rule AQL 70 or amend so that the application of spray by hand-held applicators is a permitted activity subject to no controls.
418	A & N Chalmers	Delete Rule AQL 70 or amend so that the application of spray by hand-held applicators is a permitted activity subject to no controls.
422	N Woolf	ECan needs to be concerned about the water quality near the industries at Washdyke and Temuka as a result of intensive spraying on farmland.
427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Delete Rule AQL 70, this should be in the land and water Chapters. Make any consequential amendments to the plan where necessary.
429	Selwyn District Council	Apply Rule AQL 70 to 'urban areas' only, in respect of odour effects. Make any other consequential amendments as necessary.
431	Intensive Farming Work Group	Exempt under 25 litre small hand sprayers.
432	Land Information NZ	Supports this activity being a permitted activity.
F125	Waimakariri District Council	Support in part submission 347
F338	Transit New Zealand	Support submission 216
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429.

F347 (point 2)	Federated Farmers of New Zealand	Support submission 374.
F347 (point 3)	Federated Farmers of New Zealand	Support submission 432.
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 347.
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 413.
F401 (point 3)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 418.
F3002	Carter Holt Harvey Forest Resources	Support submission 374.
F3004	J H Gardiner	Support submission 347.
F3005	I A Upston	Support submission 347.
F3006	K Turpin	Support submission 347.
F3007	J C Stewart	Support submission 347.
F3008	P I Bruce	Support submission 347.
F3009	R and A Leckey	Support submission 347.
F3010	S Anderson	Support submission 347.
F3011	N Dalley	Support submission 347.
F3012	R Kerr	Support submission 347.
F3013	C Robertson	Support submission 347.
F3014	M Robertson	Support submission 347.
F3015	A McDowell	Support submission 347.
F3016	RH Friedman	Support submission 347.
F3017	B Shepherd	Support submission 347.
F3018	PG Morrison	Support submission 347.
F3019	P & S M Turnbull	Support submission 347.

F3020	M Robertson	Support submission 347.
F3021	N Robertson	Support submission 347.
F3022	N Stott	Support submission 347.
F3023	W S Rowe	Support submission 347.
F3024	A D Cullen	Support submission 347.
F3025	P J Croft	Support submission 347.
F3026	B Parsons	Support submission 347.
F3027	A W Andrews	Support submission 347.
F3028	I & H O Handy	Support submission 347.
F3029	D Davison	Support submission 347.
F3030	I C Bruce	Support submission 347.
F3031	E Bruce	Support submission 347.
F3032	D McAughtrie	Support submission 347.
F3037	L Donaldson	Support submission 347.
F3039	M Robertson	Support submission 347.

Submission Clarification

Submission 117

Submission 117 specifically sought relief in relation to Rule AQL70 Permitted Activity Conditions 2 and 9. No recommendation is required at this location.

Submission 338 (point 1)

Submission 338(point 1) refers to Rule AQL73 and it is dealt with under that heading below. No recommendation is required at this location.

Submission 429 and Further Submission F347 (point 1)

Submissions 429 and Further Submission F347 (point 1) made a general submission in relation to all odour and dust nuisance provisions. This submission could be summarised as: *Delete the provisions to manage odour and dust nuisance from non point sources where there are already provisions in a district plan or proposed district plan prepared under the RMA.* This would arguably apply to permitted activity conditions for Rules AQL70, 71 and 72. However, the submission was not summarised in this context. It has been dealt with elsewhere and no further consideration is given to it in this context.

Consideration

Submissions 359, 413, 418 and Further Submission F401 (points 2 and 3)

Submission 359 sought the deletion of Rule AQL70. It considers this rule unnecessary and points towards the neighbour notification and sign erection requirements. Submissions 413 and 418 sought that agrichemical application by hand-held sprayer should be permitted subject to no controls if the rule is not deleted. Further Submission F401 (points 2 and 3) opposed these submissions.

Hand-held agrichemical spray application can have adverse effects on the environment. It is recognised that there is a low probability of an adverse effect, but any effect can have a high potential impact – for example on human and animal health (effects identified in Objective AQL1) and on economic well-being (organic certification etc). For this reason the Commissioners accept that some form of control is appropriate to achieve Objective AQL1, and to achieve and implement Policy AQL7.

Control is achieved in part through HSNO (see Hazardous Substances (Minimum Degree of Hazard) Regulations 2001 and Hazardous Substance (Class 6, 8 and 9 Controls) Regulations 2001). Through these regulations, control is expressed as ‘tolerable exposure limits’ (TELs) for toxic (Class 6) substances (capable of causing ill-health in, or injury to, human beings – section 2 of HSNO), and ‘environmental exposure limits’ for ecotoxic (Class 9) substances (capable of causing ill health, injury, or death to any living organism – section 2 of HSNO). In accordance with section 109(1)(e) of HSNO, it is an offence to exceed the applicable limits (clauses 27 and 45 of the Hazardous Substances (Class 6, 8 and 9 Controls) Regulations 2001). NZS8409:2004 records that the control of such substances is being transferred to the HSNO regime, but this is expected to take 2 to 3 years - it is noted that single component dangerous goods and scheduled toxic substances were transferred to HSNO on 1 April 2004. HSNO has its own enforcement regime. While territorial authorities are part of that enforcement regime, regional councils are not. It is anticipated that once the HSNO regime is fully functioning, it will provide effective control of some of the effects identified in Objective AQL1 (i.e. (b) and (f)). However, it will not control all the effects identified in Objective AQL1, or effects on non-targeted properties as specified in Policy AQL7(a).

Given the potential adverse effects, deleting Rule AQL70 and permitting hand-held agrichemical spray application without conditions is not supported by the Commissioners. No change is recommended in response to these submissions, and it is recommended that the submissions be rejected and the further submissions be accepted.

Submission 405

The submission sought that Rule AQL 70 is ‘replaced with more realistic rules’.

The reasons provided in the submission focus on the neighbour notification requirements. The submission however did not set out what changes are sought or are considered to be “more realistic”. Consequently, it is not possible to recommend specific changes. No change is recommended in response to this submission, and it is recommended that it be rejected.

Submissions 216, 427 and Further Submission F338

Submission 216, supported by the further submission, sought that Rule AQL70 should control the effects of the discharge of agrichemicals into air only, deleting reference to the effects into or onto land or into water. Submission 427 sought the same outcome.

As notified, Rule AQL70 is as follows: “*Discharge of agrichemicals into or onto land, or into water, or into air from ground-based application using hand-held application techniques, is a permitted activity*”.

A rule in Chapter 3 must seek to carry out Environment Canterbury’s functions under the RMA (other than those described in paragraphs (a) and (b) of section 30(1)), and to achieve the objectives and policies of the NRRP (Section 68(1) of the RMA).

Rule AQL70 seeks to achieve Policy AQL7 and Objective AQL1. The scope of the objective and policy, and consistency between them, is considered at ## 03-000 00 00, 427 and 428, and ## 03-021 38 00, 26, F386. As a result of those analyses, it was recommended that Chapter 3 is amended to clarify that it only applies to discharges to air (to fit within Objective AQL1). As a consequence of that recommended change, the focus of Rule AQL70 should be narrowed so that it applies to discharges to air only (to stay within the bounds of section 68(1)(b) of the RMA). Such a rule falls within Environment Canterbury’s function defined in section 30(1)(f) of the RMA.

The effect of this change becomes apparent when section 15 of the RMA is considered. As proposed, Rule AQL70 performed two functions. First, it permits discharges to water for the purposes of aquatic weed control. Without this explicit permission, section 15(1) of the RMA would require that resource consent be obtained. Secondly, it controls, through permitted activity conditions, discharges to air and land that would otherwise be permitted. Without this control, the discharge would be permitted in terms of section 15(2) of the RMA.

In terms of aquatic weed control, Chapter 4: Water quality, of the NRRP addresses this (see rule WQL16). This means that the deletion of this aspect from Rule AQL70 will not result in a requirement that resource consent be obtained when it is not warranted, and potential duplication and minor inconsistencies will be removed.

With respect to discharge of agrichemicals to land, again the intention is that Chapter 4 of the NRRP should address the issue of discharge to land in circumstances which could result in the contaminant entering water.

This leaves, as the only relevant consideration, the agrichemical discharge to land by direct application techniques (i.e. there is no discharge to air). Such techniques, like a ‘wand’ application, are most unlikely to result in adverse effects on the environment and need not be subject to the permitted activity conditions (even if this was possible in Rule AQL70).

Consistent with the recommendation at ##03-000 00 00, 427, 428, it is recommended that changes are made to give effect to the relief sought by the submissions. This will require amending the activity rule, deleting permitted activity conditions 7, 8, and 9, and amending the explanation and principal reason relating to the discharge of agrichemicals. The Commissioners note that submissions in relation to these conditions provide the scope for these to be deleted, and it is recommended that these submissions be accepted.

Submission 422

The submission is concerned with the impact on water quality of intensive spraying.

As discussed immediately above, Chapter 4 (Water Quality) of the NRRP is the appropriate place for this issue to be considered. No change is required, and it is recommended that submission 422 be rejected.

Submission 338 (point 2)

The submission seeks that Rules AQL70 and AQL71 are brought together as a single rule.

Hand-held and other ground-based agrichemical application methods potentially affect the environment in different ways. In their consideration of Policy AQL7 at ## 03-021 38 00, 120, the Commissioners recommended that prior notification should not be required for small scale operations, such as ground based, hand held applicators, but the rules requiring neighbour notification should be maintained for other methods of application. The Commissioners recommended that ECan notify a variation to make a change to the policy to this effect. It therefore follows that Rules AQL70 and AQL71 should remain separate so that the prior notification requirement can be maintained in Rule AQL71.

The change sought is not recommended by the Commissioners, and it is recommended that this submission be rejected.

Submission 338 (point 3)

The submission sought that cross-references should be provided with the relevant rule in Chapter 4 of the NRRP.

At this stage, cross-referencing is not possible. Chapter 4 is now publicly notified (see Variation No. 1 to the NRRP). There is no certainty as to its content and there will not be until the submissions (if any) on the relevant rule (WQL16) have been dealt with. No change is recommended by the Commissioners, and it is recommended that this submission be rejected.

Submissions 347, 431 and Further Submissions F125, F401(point 1), F3002, 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

The submissions sought that an exemption is provided for hand-sprayers under 25 litres in size. The submissions point to problems with the enforcement of the rule associated with small scale applicators (around the home and garden).

The concern expressed by the submissions has merit. The definition of hand-held application appliance in Chapter 1 of the NRRP is:

“Hand-held application appliance in relation to agrichemical use means the total agrichemical unit that is able to be carried by the applicator and includes a knapsack sprayer, a handgun sprayer, a motorised knapsack sprayer, or a sprayer with a rate and volume of application no greater than these devices.”

As acknowledged by the submissions, small applicators may cause adverse effects on the environment. Notwithstanding this, the potential adverse environmental effects of a discharge to air resulting from hand-held agrichemical application is lower than other forms of application. Rather than supporting the introduction of an agrichemical quantity threshold, which has its own issues (measured how? mixed and applied in one application, over 1 day, over a number of days? etc.), it is recommended, in response to other submissions, that the permitted activity conditions are amended to simplify the rule. No change is recommended by the Commissioners, and it is recommended that the submissions and further submissions be rejected and further submission F401 (point 1) be accepted.

Submissions 374, 432 and Further Submission F347 (points 2 and 3)

Both submissions support the permitted activity status of Rule AQL70. No change to this activity status is recommended, but a number of changes to the activity rule and permitted activity conditions are recommended. Accordingly, the submissions can be accepted in part.

Recommendations

Reject

Submissions 338 (points 2 and 3), 347, 359, 405, 413, 418, 422, 431 and Further Submissions F125, F3002, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3024, F3025, F3026, F3027, F3208, F3029, F3030, F3031, F3032, F3037, F3039.

Accept

Submissions 216, 427 and Further Submissions F338, F401 (points 1, 2 and 3).

Accept in part

Submissions 374, 432, F347 (points 2 and 3).

No recommendation required

Submissions 117, 338 (point 1), 429 and Further Submission F347 (point 1).

Amendment Required

1. Amend 'Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity', 'Activity', p.3-119 as follows:

"Discharge of agrichemicals ~~into or onto land, or into water, or into air~~ from ground-based application using hand-held application techniques, is a permitted activity".

2. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity', 'Conditions' 7, 8 and 9, p.3-120 as follows:

~~"7. Except as provided for in condition 9, there shall be no discharge into or onto land which may result in that contaminant entering water via surface runoff.~~

~~8. Except as provided for in condition 9, there shall be no discharge into or onto water.~~

~~9. Where the agrichemical is being used for aquatic weed control, there shall be no adverse effects to other aquatic organisms that are not the target species and no adverse effect on mahinga kai.”~~

3. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 8 as follows:

~~“Under section 15 of the RMA, no person may discharge contaminants into water or into or onto land in circumstances that may result in that contaminant entering water unless expressly allowed by a rule in a regional plan or relevant proposed regional plan, resource consent or regulations. Thus it is appropriate to provide for the discharge of agrichemicals used for aquatic weed control into water in the conditions of the rules as long as there are no adverse effects on aquatic organisms other than the target species and that there are no adverse effects on mahinga kai.”~~

Rule AQL70 Conditions ## 03-119 03b01

<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>
<p>168 (point 2)</p>	<p>Airways Corporation of NZ</p>	<p>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.</p>
<p>235 (point 1)</p>	<p>Crown Public Health, Canterbury Office</p>	<p>Add another condition: 'Ensure that the filling of tanks/back packs when diluting concentrated agrichemicals is carried out in such a manner as to prevent a backflow risk. The filling procedures and backflow prevention devices/methods shall fully comply with the Water Supplies Protection Regulations 1961 or its predecessor.'</p>

235 (point 2)	Crown Public Health, Canterbury Office	Add another condition: 'the sprayer shall advise all schools and outdoor educational camps within 100m of the perimeter of the land to be sprayed at least four working days prior to spraying.' This could be incorporated into Condition 10.
235 (point 3)	Crown Public Health, Canterbury Office	Add another condition: '(a) The sprayer shall ensure that the exact location of all public, community and private drinking water supplies in the spray programme's area are identified and documented with the help of the appropriate territorial authority and Crown Public Health. This information shall be recorded and a copy kept on any vehicles and machinery used in the discharging of agrichemicals. (b) The owners of any public, community and private drinking water supplies whether surface/filtration gallery or wells within 250m of any spray area, shall be informed before spraying commences”.
286	M Eder	Exempt discharges of less than 25 litres.
378	Canterbury Growers Society Ltd	Add a new condition to read: 'The following qualifications will be required by commercial users of agrichemicals within 12 months of the Plan becoming operative: i) Every person, other than contractors, applying agrichemicals for commercial purposes using ground-based application methods shall be under training for, or hold a current GROWSAFE Introductory (ex Standard) certificate, or equivalent qualification; or ii) Be under the direct supervision of a person holding a current GROWSAFE Applied (ex Advanced) Applicators Certificates, or equivalent qualification; or iii) Every contractor undertaking ground-based application of agrichemicals shall hold a current GROWSAFE Registered Chemical Applicator Certificate, equivalent qualification.' Make any consequential amendments to the plan as necessary.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add a new condition to read: 'The following qualifications will be required by commercial users of agrichemicals within 12 months of the Plan becoming operative: i) Every person, other than contractors, applying agrichemicals for commercial purposes using ground-based application methods shall be under training for, or hold a current GROWSAFE Introductory (ex Standard) certificate, or equivalent qualification; or ii) Be under the direct supervision of a person holding a current GROWSAFE Applied (ex Advanced) Applicators Certificates, or equivalent qualification; or iii) Every contractor undertaking ground-based application of agrichemicals shall hold a current GROWSAFE Registered Chemical Applicator Certificate, equivalent qualification.' Make any consequential amendments to the plan as necessary.

F39 (point 1)	Dow Agro Sciences	Support submission 235 (point 1).
F39 (point 2)	Dow Agro Sciences	Oppose submission 235 (point 2).
F39 (point 3)	Dow Agro Sciences	Oppose submission 235 (point 3).
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 (point 1)	Federated Farmers of New Zealand	Oppose submission 235 (point 1).
F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 235 (point 2).
F347 (point 3)	Federated Farmers of New Zealand	Oppose submission 235 (point 3).
F347 (point 4)	Federated Farmers of New Zealand	Support submission 401.
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 235 (point 3).
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 235 (point 2).
F3002	Carter Holt Harvey Forest Resources	Oppose submission 235 (point 2).

Submission Clarification

Submission 168 (points 1 and 2)

Submission 168 (points 1 and 2) applicable to all land in Canterbury, and the changes sought in 168 (point 2) are sought to Rules AQL12 - AQL27 (large scale fuel burning devices), AQL28 – AQL37 (outdoor burning), Rules AQL38 – AQL57 (industrial or trade premises or processes), Rules AQL58 – AQL62 (intensive farming) and Rules AQL63 – AQL73 (waste management processes and agrichemicals). Submission 168(point 2), as summarised in this location is only applicable to Rule AQL70.

The decision sought is the inclusion of the rules as summarised, but is finished with the statement: “*That the Council **treat** the above rules as Discretionary or Restricted Discretionary Activities and in such an instance, Airways would expect to be recognised as an affected party*”. For the purposes of this consideration, it is assumed that what is being sought is that *non-compliance* with the rules sought results in a resource consent application being required for a discretionary or restricted discretionary activity.

Submission 235 (points 2 and 3)

Submissions 235 (points 2 and 3) relate to the affected party notification set out as permitted activity condition 10. The submissions were summarised in the wrong location. They have been moved to Rule AQL70 condition 10 ## 03-120 01b30 and will be considered under that heading. So have the supporting/opposing further submissions.

Consideration

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

The submission is seeking that two new conditions be added to Rule AQL70 to protect the safe movement of aircraft in Canterbury airspace.

The first rule is derived from a Civil Aviation Rule, Standards for Determining Hazards 77.19(c) (1 April 1997). The Civil Aviation Rule provides that if a structure will, or may cause, a discharge efflux at a velocity in excess of 4.3 m per second higher than 60 metres above ground level, the person shall notify the Director of Civil Aviation (see 77.5). The Director may impose conditions or limitations on that structure to, amongst other things, ensure the hazard in navigable airspace is minimised (77.21(d)).

It is unlikely that any ground-based spray application could result in agrichemical spray being present 60 metres above ground level, and even if it is present at this height, the velocity threshold in the proposed rule is unlikely to be breached. In any event Environment Canterbury will not be able to determine the velocity of spray (if any) at 60 metres in height from moveable spray applicators.

The Civil Aviation Rules are subject to their own enforcement procedures, controlled through the Civil Aviation Act 1990. The Civil Aviation Authority is better placed to manage Civil Aviation hazards than a consent authority under the RMA. In the Commissioners' view, no change is required or necessary.

In terms of submission 168 (point 2), the three conditions sought do not apply to agrichemical spray application. The first and third condition relates to combustion from industrial processes. Any agrichemical application is likely to be from a land based activity, whether that be rural, domestic, or conservation. The second rule relates to smoke. Agrichemical spray is not 'smoke'. Therefore, no further consideration is needed. No change is required, and it is recommended that submission 168 (points 1 and 2) be rejected and further submission F112 (points 1 and 2) be accepted.

Submission 235 (point 1) and Further Submissions F39 (point 1), F347 (point 1)

The submission sought another permitted activity condition relating to backflow into waterways and other tanks.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 216, 427, F338). This type of condition is not appropriate in Chapter 3 (Air Quality) as it relates to discharge to land and/or water. No change is recommended by the Commissioners, and it is recommended that submission 235 (points 1 and 2) and further submission F39 (point 1) be rejected and further submission F347 (point 1) be accepted.

Submission 286

This submission sought an exemption for discharge of less than 25 litres.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 347, 431, F125, F401(point 1), F3002, 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). The consideration is relevant here. The recommendation by the Commissioners is the same – that no change be made, and that submission 286 be rejected.

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

The substance of these submission is considered above (see Policy AQL7(a)(iv) 03-022 06 00, 378, 401, F347). That consideration is relevant and it has been adopted. Without direct policy support, the change sought is not appropriate. No change is recommended by the Commissioners, and it is recommended that these submissions be rejected.

Recommendations

Reject

Submissions 168(points 1 and 2), 235(point 1), 286, 378, 401 and Further Submissions F39 (point 1), F347 (point 4).

Accept

Further Submissions F112 (points 1 and 2), F347 (point 1).

No decision required

Submission 235 (points 2 and 3) and Further Submissions F39 (points 2 and 3), F347 (points 2 and 3), F401 (points 1 and 2), F3002.

Amendment Required

None required.

Rule AQL70 Condition 1 ## 03-119 03b03

286	M Eder	Delete from condition 1 the words: 'or contravene any other requirement.'
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete the words 'contravene any other requirement' from condition 1.
431	Intensive Farming Work Group	Delete the words 'contravene any other requirement'.
F3002	Carter Holt Harvey Forest Resources	Support submission 347.
F3004	J H Gardiner	Support submission 347.
F3005	I A Upston	Support submission 347.
F3006	K Turpin	Support submission 347.
F3007	J C Stewart	Support submission 347.
F3008	P I Bruce	Support submission 347.
F3009	R and A Leckey	Support submission 347.
F3010	S Anderson	Support submission 347.
F3011	N Dalley	Support submission 347.
F3012	R Kerr	Support submission 347.
F3013	C Robertson	Support submission 347.
F3014	M Robertson	Support submission 347.
F3015	A McDowell	Support submission 347.
F3016	R H Friedman	Support submission 347.
F3017	B Shepherd	Support submission 347.
F3018	P G Morrison	Support submission 347.
F3019	P & S M Turnbull	Support submission 347.
F3020	M Robertson	Support submission 347.

F3021	N Robertson	Support submission 347.
F3022	N Stott	Support submission 347.
F3023	W S Rowe	Support submission 347.
F3024	A D Cullen	Support submission 347.
F3025	P J Croft	Support submission 347.
F3026	B Parsons	Support submission 347.
F3027	A W Andrews	Support submission 347.
F3028	I & H O Handy	Support submission 347.
F3029	D Davison	Support submission 347.
F3030	I C Bruce	Support submission 347.
F3031	E Bruce	Support submission 347.
F3032	D McAughtrie	Support submission 347.
F3037	L Donaldson	Support submission 347.
F3039	M Robertson	Support submission 347.

Consideration

Submissions 286, 347, 431 and Further Submissions F3002, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039

The submissions seek that the words “or contravene any other the requirement’ be deleted from Rule AQL70, Permitted Activity Condition 1.

This condition as notified is:

“1 *The application of the agrichemical shall be undertaken in a manner that does not exceed any rate or contravene any other requirement specified in the agrichemical manufacturer’s instructions.*”

Non-compliance with this condition results in a resource consent being required for a discretionary activity (Rule AQL 73).

The effect of the change sought by the submissions means that the only manufacturer’s instructions of relevance to Rule AQL 70 would be the application rate of the agrichemical. It is understood that the submitters’ concern is that the condition will prevent ‘off label use’ – use that is outside the conditions specified on the label.

Under the Agricultural Compounds and Veterinary Medicines Act 1997 (“ACVM”), labels are required to contain information about how the product should be used. This could be wider than application rate. The Act specifically provides for ‘off label use’, but this is at the user’s risk. The ‘bottom line’ for off label use is that food, and animal, health standards must be achieved. This reflects the purpose of the Act, which is not about sustainable management of natural and physical resources (in an RMA sense).

Rule AQL70, permitted activity condition 1, directly implements Policy AQL7(a)(ii) – *“requiring agrichemical spray application not to exceed any rate or contravene any other requirement specified in the agrichemical manufacturer’s instructions”*. However, it does so by referring to an extrinsic document which has no regulatory effect. This issue is similar to that discussed above, ##03-063 01b06 – 03-063 01b07, 125.

The effect on the environment of the use of agrichemicals permitted by Rule AQL70 is more directly controlled through permitted activity conditions 5 and 6.

The change sought is in direct conflict with Policy AQL7(a)(ii). However, no submission sought the necessary change to Policy AQL7(a)(ii). Nevertheless, it is recommended that the submissions be accepted. Environment Canterbury may wish to reconsider the wisdom of the relevant part of Policy AQL7 (a)(ii).

Recommendation

Accept

Submissions 286, 347, 431 and Further Submissions F3002, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039.

Amendment Required

Amend condition 1, Rule AQL70, p.3-119 as follows:-

“The application of the agrichemical shall be undertaken in a manner that does not exceed any rate or ~~contravene any other requirement~~ specified in the agrichemical manufacturers’ instructions.”

Rule AQL70 Condition 2 ## 03-119 03b06

39	Dow Agrosciences, Palmerston North Office	When an agrichemical has been de-registered for reasons other than hazard to humans or the environment, labelled uses should be permitted for a period of 5 years after de-registration.
117	TrustPower Ltd	Amend condition 2 to read: 'The agrichemical shall be ERMA approved or notified for registration under the Hazardous Substances and New Organisms Act 1996...' and/or add an advisory note that explains that until pesticides are officially registered under HSNO, exemption will be made to ERMA notified or approved agrichemicals The note should also state that the expected date of transfer to HSNO is between July and November 2003, and make any consequential amendments.
238	Director General Of Conservation	Amend condition 2 to read: '...Veterinary Medicines Act 1997 and is suitable for controlling the target organism.' Make any consequential amendments to the Plan.
378	Canterbury Growers Society Ltd	Delete Condition 2.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 2.
431	Intensive Farming Work Group	Delete Condition 2
F347	Federated Farmers of New Zealand	Support submission 401.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 39.

ConsiderationSubmissions 378, 401, 431 and Further Submission F347

These submissions, supported by the further submissions, sought the deletion of permitted activity condition 2.

Permitted activity condition 2 as notified is:

“The agrichemical shall be currently registered in New Zealand at the time of spraying under the Hazardous Substances and New Organisms Act 1996, and the Agricultural Compounds and Veterinary Medicines Act 1997.”

Proposed Chapter 4: Water quality, contains a similar permitted activity condition in Rule WQL16.

HSNO requires the registration of chemicals for the purpose of import and manufacture, and the ACVM requires registration of chemicals for the purposes of importation manufacture and sale. Under the ACVM, conditions can be imposed on the use. Any agrichemical in New Zealand must be registered under one of these two Acts.

As stated in the relevant ‘explanation and principal reasons’ for this permitted activity condition *“The use of any agrichemical no longer approved in New Zealand or in a manner that contravenes the requirements specified in the manufacturer’s instructions is an offence under the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997”*. This statement reflects section 109(d) of the HSNO and section 55 of the ACVM. Both Acts have independent enforcement provisions.

The Commissioners were told that advice received from Environment Canterbury’s monitoring and enforcement staff is that permitted activity condition 2 has practical benefit. It limits the range of substances that can be used, as a permitted activity, without needing either to seek support from another agency for enforcement purposes or to undertake a potentially time-consuming and costly investigation to establish the environmental effect of the substance being used. This will have occurred at the time of approval under HSNO or ACVM.

However, there is another potential consequence of permitted activity condition 2. By requiring that the substance be registered under these Acts, the condition excludes the use of those substances (as a permitted activity) that are more benign and do not require registration, but could fall within the definition of ‘agrchemical’.

On balance, there is little benefit, in the Commissioners’ view, in establishing a duplicate compliance and enforcement regime. Accordingly, it is recommended by the Commissioners that the change sought be made, and that these submissions be accepted.

Submissions 39, 117, 238 and Further Submission F401

Given the above consideration, the changes sought by these submissions become irrelevant. It is recommended that submissions 39, 117 and 238 be rejected and further submission F401 be accepted.

Recommendations

Reject

Submissions 39, 117, 238.

Accept

Submissions 378, 401, 431 and Further Submissions F347 and F401.

Amendment Required

1. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Condition’ 2, p.3-119 as follows:

“2 ~~The agrichemical shall be currently registered in New Zealand at the time of spraying under the Hazardous Substances and New Organisms Act 1996, and the Agricultural Compounds and Veterinary Medicines Act 1997.~~”

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, p.3-174, by deleting paragraph 6 as follows:

~~“Condition 2 of Rules AQL70 to AQL72, recognises that only those agrichemicals that have a current New Zealand registration shall be permitted to be used in the environment. Under the Hazardous Substances and New Organisms Act 1996, the Environmental Risk Management Authority of New Zealand is responsible for granting approvals for substances and the Agricultural Compounds and Veterinary Medicines Act 1997 is the legislation that handles the registration of agrichemical products. The registration of agrichemical products is not able to take place until an approval has been granted under the Hazardous Substances and New Organisms Act 1996. The use of any agrichemical no longer approved in New Zealand or in a manner that contravenes the requirements specified in the manufacturer’s instructions is an offence under the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997”~~

Rule AQL70 Condition 3 ## 03-119 03b11 - 03-119 03b12

409 (point 1)	I & W Doody	Extend the date to 1 January 2004.
409 (point 2)	I & W Doody	Have a Growsafe Certificate within four months.

Consideration

Submission 409 (points 1 and 2)

The submission does not oppose the requirement to obtain the necessary GROWSAFE® Certificate, but is concerned with the timeframe.

Rule AQL70, permitted activity condition 3 as notified is:

- “3. *Where agrichemicals are applied by a contractor, the contractor shall by 1 January 2003:*
 - hold a current Registered Chemical Applicators’ GROWSAFE® Certificate issue by the New Zealand Agrichemical Education Trust in accordance with New Zealand Standard 8409:1999, or hold a current equivalent nationally-recognised qualification; or*
 - be under the direct supervision of a person holding the qualifications in condition 3(a) of this Rule.”*

The first change sought would have the effect of changing the date by which contractors are required to meet conditions 3(a) and (b). The date sought has passed. Therefore, the change would have no effect. No change is recommended.

The second change sought is to permitted activity condition 3(a). At present, it is the date specified in permitted activity condition 3 that provides the time constraint. Given the time that has elapsed in the Commissioners' view this is appropriate. No change is recommended by the Commissioners, and it is recommended that the submission be rejected.

Recommendation

Reject

Submission 409 (points 1 and 2).

Amendment Required

None required.

Rule AQL70 Condition 4 ## 03-119 03b19

5	Rangitata Diversion Race Management Ltd	Clarify "public amenity area".
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 4.
431	Intensive Farming Work Group	Delete Condition 4.

Submission Clarification

Submission 5

Submission 5 is concerned with the status of the Rangitata Diversion Race given the definition of 'Public Amenity Area'.

Consideration

Submissions 347, 431

These submissions sought that permitted activity condition 4 should be deleted. No reason was given.

Permitted activity condition 4 relates to agrichemical application alongside roadways and public amenity areas. It requires GROWSAFE® Certification and appropriate signage. Rule AQL70, permitted activity condition 4, must be the most appropriate way to achieve Objective AQL1 (section 32(3)(b) of the RMA), achieve Policy AQL7 and Objective AQL1 (section 68(1) of the RMA) and implement Policy AQL7 (section 67(1)(d)). Policy AQL7 (a) (iv) promotes that spray applicators should be appropriately qualified and therefore the Commissioners consider that a permitted activity condition requiring qualification or certification of contractors and their staff if spraying public areas using hand-held applicators is the most appropriate way to achieve Objective AQL1, and implement and achieve Policy AQL7. Therefore, it is recommended by the Commissioners that permitted activity conditions 4(a) and (b) are retained. It is recommended that the submissions be rejected.

Submission 5

The submitter’s concern is that the definition of ‘public amenity area’ is clarified in a manner that both contractors, and others, may carry out the work in these areas.

The submission sought changes to the definition of ‘public amenity area’ (see “Public amenity areas” ## 01-022 39 00, 01-023 06 00, 5, 338, 347, 365, 378, 401, 418 (points 1 and 2) and 432, further submissions F238, F338 (points 1, 2 and 3), F347 (points 1 and 2), F406 (points 1 and 2), 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 and F3039). The Commissioners considered that there was no need to clarify or to change the definition of ‘public amenity area’. The analysis there undertaken is adopted. No change is recommended by the Commissioners in response to this submission, and it is recommended that the submission be rejected.

Recommendations

Reject

Submissions 5, 347, 431.

Amendment Required

None required.

Rule AQL70 Condition 4(b) ## 03-119 03b28

338	Transit New Zealand, Christchurch	Delete the requirement in condition 4(b) for all the contractor's employees to be GROWSAFE certified.
374	New Zealand Institute For Crop & Food Research Ltd	Delete the requirement for each employee to be certified.
378	Canterbury Growers Society Ltd	Amend the term 'Standard' to read: 'Introductory'.

401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Amend the term 'Standard' to read: 'Introductory'.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 374.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 338.

Submission Clarification

Submissions 338 and 374

Submissions 338 and 374 sought that only those employees undertaking spraying are required to be GROWSAFE[®] certified.

Submissions 378 and 401

Submissions 378 and 401 state that the 'Standard Certificate' has been replaced with an 'Introductory Certificate'.

Consideration

Submissions 338, 374 and Further Submission F347 (point 2), F401

These submissions sought that the certification requirement should only relate to the employee undertaking the agricultural application.

The above consideration (see Rule AQL70 Condition 4 ## 03-119 03b19, 347, 431) is relevant. As above, it is recommended by the Commissioners permitted activity condition 4(b) is retained, and it is recommended that these submissions be rejected, other than F401 which should be accepted.

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

These submissions sought a correction to the reference to GROWSAFE[®] certification.

NZS8409:2004 records the GROWSAFE certification options. Which certificate is appropriate will be dependent on the individual’s circumstance. The submissions suggest that the reference to the GROWSAFE certificate should be to the “Introductory” certificate, which has been designed for users and suppliers of agrichemicals. The Commissioners agree that this would be a better requirement for employees than the “Standard” GROWSAFE certificate specified in 4(b). Change is recommended and the Commissioners recommend that these submissions be accepted.

Recommendations

Reject

Submissions 338, 374 and Further Submission F347 (point 2).

Accept

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

Amendment Required

1. Amend Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Condition’ 4(b) as follows:

“(b) each employee of the principal contractor shall hold a current ~~Standard~~ Introductory GROWSAFE® Certificate issue by the New Zealand Agrichemical Education Trust in accordance with New Zealand Standard 8409:1999, or holds a current equivalent nationally-recognised qualification; and”

Rule AQL70 Condition 4 (c) ## 03-120 01b04

5	Rangitata Diversion Race Management Ltd	Clarify "public amenity area" to ensure compliance with this condition, and specify the size, shape, location and wording of the signs.
432	Land Information NZ	Specify the size, shape, location and wording of the signs.

Submission Clarification

Submission 432

Submission 432 opposed permitted activity condition 4(c). It is concerned that contractors will not be able to ensure compliance because the definition of ‘public amenity area’ is ‘too loose’.

Consideration

Submissions 5, 432

Both submissions oppose permitted activity condition 4(c). They cite the looseness of the definition of ‘public amenity area’ and the uncertainty over what are complying signs as the reason for their opposition. This point was dealt with above at ##03-119 03b19, 5 and at the other reference there noted. This analysis is adopted. This part of the submission is rejected.

Permitted activity condition 4(c) as notified is:

“(c) in public amenity areas, signs clearly advising that spraying is in progress are placed within the immediate vicinity of the activity immediately prior to commencing spraying, and maintained in place until the re-entry period for the particular chemical has expired; and”

The Commissioners were told that permitted activity condition 4(c) was drawn from an optional requirement to place signs at the application site found in Appendix N (see N3) of NZS 8409:1999.

NZS8409: 2004 now requires that these signs be *“appropriately placed so that any people approaching the target area see them”* (Appendix M, M2.4(g) page153).

The nature and position of the signs required to comply with permitted activity condition 4(c) are not specified. It is clear the permitted activity condition requires them to be visible to the user. This will require the sign to be of such a size that it can be read by the user, and that it be located on the route people using the area may travel. Signage should enable people to provide for their own, and other dependent persons and animals, well-being. Condition 4(c) could be clarified to ensure that the signs are of sufficient size and location such that potentially affected parties can easily read them. However the submission does not provide any detail on the size, shape, location or wording required for these signs and the Commissioners do not have any evidential material upon which to base such a recommendation. They see merit in the submission but are not able to recommend any changes. Environment Canterbury may see fit to notify a variation to the plan to address this. No change is recommended by the Commissioners, but it is recommended that these submissions be accepted in part.

Recommendation

Accept in part

Submissions 5, 432.

Amendment Required

None Required.

It is recommended that ECan consider notifying a variation to amend condition 4 (c) to include a specification for the signage required.

Rule AQL70 Condition 4 (d) ## 03-120 01b09 - 03-120 01b10 - 03-120 01b11

56	Everest Farm Consulting Ltd	Delete Condition 11.
113	Hide Spraying Ltd	Reword to read "...prominent signs (back) advising..."
338	Transit New Zealand, Christchurch	Amend condition 4(d) to read: 'Signage is to be in accordance with the specific requirements of the road controlling authority.'
409	I & W Doody	Delete Condition 4(d)
F347	Federated Farmers of New Zealand	Support submission 56.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 338.

Submission Clarification

Submission 56

Submission 56 relates to Rule AQL 70 permitted activity condition 11, not permitted activity condition 4. It was wrongly located in the summary of submissions, and has been moved to Rule AQL70 Condition 11 ## 03-121 01b11. No recommendation is required at this location.

Further Submission F347

Further Submission F347 supported Submission 56 (above). It has also been moved to Rule AQL70 Condition 11 ## 03-121 01b11. Consequently, no recommendation is required at this location.

Submission 409

Submission 409 raises the issue of the practicality of Rule AQL70 permitted activity condition 4(d).

Consideration

Submission 409

The submission questioned the practicality of Rule 70 permitted activity condition 4(d).

Permitted activity condition 4(d) as notified is:

“(d) alongside roadways, vehicles associated with the spraying of agrichemicals shall display prominent signs (front and back) advising that spraying is in progress. Signage is to be in accordance with the specific requirements of the Land Transport Safety Authority.”

NZS8409:2004 contains a similar requirement in Appendix M, M2.4(e) and (f) (page 153).

By placing signage on the moving vehicle, only those members of the public that are either passed by, or pass, the vehicle will be aware that spraying is, or has, taken place. Any immediate conflict between the spraying activity and any members of the public can then be managed. It would also be appropriate to require signage on the roadside –but unfortunately the submission does not give the Commissioners sufficient scope in this regard. ECan may wish to consider a variation in this regard.

No change is recommended by the Commissioners, and it is recommended that the submission be rejected.

Submissions 113, 338 and Further Submission F401

Given the existence of various powers by the Land Transport Safety Authority, no change is recommended by the Commissioners in response to these submissions, and it is recommended that submissions 113 and 338 be rejected and further submission F401 be accepted.

Recommendations

Reject

Submissions 113, 338, 409.

Accept

Further Submission F401.

No recommendation required

Submission 56 and Further Submission F347.

Amendment Required

None required.

Rule AQL70 Condition 5 ## 03-120 01b14

39	Dow Agrosiences, Palmerston North Office	Delete condition 5.
56	Everest Farm Consulting Ltd	Delete Condition 5.
113	Hide Spraying Ltd	Delete condition 5.
117	TrustPower Ltd	Delete condition 5, and make any consequential amendments.
125	Waimakariri District Council	Delete condition 5, or redraft to specify that the terms objectionable and offensive can only apply to cases where there is a high frequency of application of an agrichemical, and that it does not apply to the odour from applications that are undertaken infrequently.
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 5 and review the activity status of the rule.
339	Porkcorp New Zealand Ltd	Amend condition 5 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 5.
378	Canterbury Growers Society Ltd	Delete Condition 5.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 5.
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.
431	Intensive Farming Work Group	Delete Condition 5.

F5	Rangitata Diversion Race Management Ltd	Oppose submission 238
F117	TrustPower Ltd	Oppose submission 238.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238.
F216	Hurunui District Council	Support in part submission 238.
F338	Transit New Zealand	Oppose in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 56.
F347 (point 3)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 4)	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.
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Support in part submission 238.
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose in part 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.
F3002	Carter Holt Harvey Forest Resources	Support submission 39.

Consideration

Submissions 39, 56, 113, 117, 125, 172, 238, 339, 347, 378, 401, 429, 431, F5, F117, F155, F216, F338, F347 (points 1, 2, 3 and 4), F352, F353, F354, F355, F401 (points 1 and 2), F427, F428, F3002

In combination, the submissions raise four issues, namely:

- 1 Odour (an aromatic chemical) is often added to agrichemicals to mark where agrichemical has been applied. Applicators cannot control this odour.
- 2 Permitted activity condition 5 is more restrictive than section 17(3) of the RMA, and this is inappropriate.
- 3 Permitted activity condition 5 is uncertain.
- 4 The permitted activity should be amended by qualifying the circumstances where the words objectionable and offensive may be applied.

The substance of the issue relating to the addition of aromatic chemicals to agrichemicals has been considered in relation to Policy AQL7 (see Explanation and principal reasons - Paragraph 3 at ## 03-022 32 00, 378, 401, F347). This consideration is relevant here and has been adopted.

In relation to section 17(3) of the RMA, this provides:

- “(3) Notwithstanding subsection (2), an enforcement order or abatement notice may be made or served under Part XII to—*
- (a) Require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the [Environment Court] or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; or*
 - (b) Require a person to do something that, in the opinion of the Environment Court or an enforcement officer, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by, or on behalf of, that person.”*

The submissions observe that, in accordance with section 17(3), an enforcement order or abatement notice may be made or served in relation to ‘noxious, dangerous, offensive or objectionable’ activities, whereas permitted activity condition 5 only relates to objectionable or offensive. The submissions’ point is permitted activity condition 5 is more restrictive than section 17(3).

In the Commissioners’ view, this is not correct. The terms in section 17(3) are disjunctive – that is the activity could be noxious or dangerous or offensive or objectionable. In terms of permitted activity condition 5 the odour cannot be objectionable or offensive. Typically (but not always) the effect of odour is on amenity values (e.g. it is a nuisance), as opposed to being something that is dangerous (e.g. having adverse health effects).

Consequently, the use of the terms objectionable or offensive is appropriate – the terms ‘objectionable’ or ‘offensive’ refer to a lower threshold of exposure to odour than ‘dangerous’ or ‘noxious’. Further, Objective AQL1(c) and Policy AQL5 specifically refer to ‘offensive’ and ‘objectionable’.

Submissions 172 and 339 suggest that the words “to such an extent that it has an adverse effect on the environment” be added. The Commissioners see this as a significant improvement. This has discussed this elsewhere - ##03-062 04b22, 172.

With respect to the certainty of permitted activity condition 5, the submissions are correct that a permitted activity condition must be certain for it to be *intra vires*. A number of observations are made:

1. Once it is accepted that odour control is necessary, it seems to the Commissioners that there is no other viable, but significantly different, choice of expression for the permitted activity condition. It may be possible to point to methods to measure and predict odour emissions in a quantitative way. However, in terms of agrichemical spray, this work has yet to reach a stage where confidence can be had that any emission standard specified would be relevant to Canterbury and the relative sensitivity of its various communities. Further, at this time it is not clear that in terms of a quantitative condition, there is the ability to measure and enforce compliance in a timely and cost effective way.
2. The permitted activity condition, as expressed, is in a form that is not unusual in New Zealand, both in plans and as conditions on resource consents. It uses terminology that is in section 17(3) of the RMA, and which has the benefit of having been the focus of a number of court decisions. Further, within Proposed Chapter 3, ‘Appendix AL5 Criteria for assessing offensive and objectionable odour’ should assist in consistent administration of permitted activity condition 5 for compliance (as opposed to evaluative) purposes.
3. The permitted activity condition, as expressed, is similar to the model (general form) resource consent condition recommended in the Ministry for the Environment (June 2003) *Good Practice Guide for Assessing and Managing Odour in New Zealand*, which is: *There shall be no objectionable or offensive odour to the extent that it causes an adverse effect at or beyond the boundary of the site* (pg. 15).
4. To exclude the permitted activity condition would raise the issue of whether the activity status is appropriate. The other drafting option would be to make all agrichemical application require some form of resource consent. In the Commissioners’ view this would be impractical and unnecessary. Such a rule would, more often than not, catch agrichemical spraying activities that would have less than minor effects on the environment and would probably result in the granting of such applications subject to a condition similar to permitted activity condition 5.

Accordingly, it is recommended that no change be made.

Objective AQL1(c) and Policy AQL5 require specific consideration of odour. The permitted activity condition will not be an issue in a majority of circumstances. Retaining it has the benefit of providing control for those situations of low probability, but where the effect on the environment may be significant.

On balance, it is recommended that permitted activity condition 5 is retained, but reworded. It is recommended that those submissions seeking that the rule be deleted be rejected, and those opposing deletion or proposing amendment be accepted as noted below.

Recommendations

Reject

Submissions 39, 56, 113, 117, 125, 238, 347, 378, 401, 429, 431 and Further Submissions F216, F347 (points 1, 2 and 3), F401 (point 1), F3002.

Accept

Submission 172 and Further Submissions F5, F117, F155, F338, F347 (point 4), F352, F353, F354, F355, F401 (point 2), F427, F428.

Accept in part

Submission 339.

Amendment Required

Amend Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity, Conditions, 5, as follows:

- 5. ~~The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property on which the agrichemicals are applied."~~
- 5. 'The discharge of odour beyond the boundary of the site shall not be offensive or objectionable to such an extent that it has an adverse effect on the environment.'

Rule AQL70 Condition 6 ## 03-120 01b17 - 03-120 01b18

117	TrustPower Ltd	Delete condition 6, and make any consequential amendments.
125	Waimakariri District Council	Delete the words "dangerous, offensive or objectionable".
238	Director General Of Conservation	Delete Condition 6 and review the activity status of the rule.
378	Canterbury Growers Society Ltd	Replace 'agrchemical particles' in condition 6 with 'off target spray drift'.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Replace 'agrchemical particles' in condition 6 with 'off target spray drift'.

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.
F5	Rangitata Diversion Race Management Ltd	Oppose submission 238
F117	TrustPower Ltd	Oppose submission 238.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238.
F216	Hurunui District Council	Support in part submission 238.
F338	Transit New Zealand	Oppose in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 401.
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.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	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.

Consideration

Submissions 117, 125, 238, 378, 401, 429, F5, F117, F155, F216, F338, F347 (points 1, 2 and 3), F352, F353, F354, F355, F401, F427, F428

These submissions have raised concern about the drafting of permitted activity condition 6, including its certainty. They seek either that the condition be deleted or that it be redrafted.

Permitted activity condition 6 as notified is:

“6. The dispersal or deposition of agrichemical particles shall not cause a noxious, dangerous, offensive or objectionable effect beyond the boundary of the property on which the agrichemicals are applied.”

At present permitted activity condition 6 recognises that there could be some agrichemical spray-drift across a property boundary provided that it does not lead to one of the four described effects. This is a practical recognition that spray drift may occur, but that it may occur at times or in concentrations whereby no, or minimal effect on the environment occurs. In the Commissioners' view this is a pragmatic recognition of the reality of the situation.

With respect to the certainty of permitted activity condition 6 as publicly notified, the submissions are correct that a permitted activity condition must be certain for it to be *intra vires*.

A number of observations are made. The permitted activity condition, as publicly notified, uses terminology that is used in section 17(3) of the RMA. This provision has the benefit of being the focus of a number of court decisions. However, unlike 'odour', Chapter 3 provides no guidance on how the terms are to be applied. Noxious, dangerous, offensive and objectionable all relate to different thresholds (and types) of adverse effect, with noxious falling at one end of the 'scale' and 'objectionable' at the other. Relying solely on 'noxious' would raise the effect threshold. Potential effects of agrichemical spray can include effects on 'amenity values' and 'economic livelihood' (e.g. organic certification), all of which can be described as objectionable, as opposed to noxious. Deletion of the words dangerous, offensive or objectionable as sought by Submission 125 is not supported by the Commissioners.

Deleting the permitted activity condition would raise the issue of whether the activity status is appropriate. One other plan drafting option would be to make all ground-based agrichemical application require some form of resource consent. In the Commissioners' view this is impractical and unnecessary. Such a rule would, more often than not, catch agrichemical spraying activities that have less than minor effects on the environment, and would probably result in the granting of such applications subject to a condition similar to permitted activity condition 6.

The Commissioners consider that the terms 'noxious', 'dangerous', 'offensive' and 'objectionable' are capable of application in a manner than does render Rule AQL70 void for uncertainty. There were no viable alternatives presented to the Commissioners for their consideration.

Submissions 378 and 401 sought that 'off spray drift' be substituted for the existing words 'agrichemical particles'. In the Commissioners' view, the existing wording is more precise and does not need to be changed.

It is recommended that those submissions which sought that the condition should be deleted or redrafted be rejected, and that those which opposed the deletion of the rule and review of the activity status of ground agrichemical application be accepted.

Recommendations

Reject

Submissions 117,125, 238, 378, 401,429 and Further Submissions F216, F347 (points 1 and 3).

Accept

Further Submissions F5, F117, F155, F347 (point 2), F338, F352, F353, F354, F355, F401, F427, F428.

Amendment Required

None required.

Rule AQL70 Condition 7 ## 03-120 01b21

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 7 to relevant rules in Chapters 7 and 9 of the NRRP.
26	J McFadden	Delete condition 7.
39	Dow Agrosiences, Palmerston North Office	Change to read: "Except as provided for in condition 9, there shall be no discharge into or onto land which will result in that contaminant entering water via surface runoff at levels that will cause noxious, dangerous, offensive or objectionable effects."
216	Hurunui District Council	Delete condition 7.
238	Director General Of Conservation	Delete Condition 7. Make any consequential amendments to the Plan.
432	Land Information NZ	Delete Condition 7, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
F3002	Carter Holt Harvey Forest Resources	Support submission 238.

Submission Clarification

Submission 5

Submission 5 sought permitted activity condition 7 be deleted.

Submission 216

Submission 216 sought the rule be reworded as an alternative relief sought.

Consideration

Submissions 5, 26, 39, 216, 238, 432 and Further Submission F3002

The substance of these submissions is considered at Further General Submissions at ##03-000 00 00, 427, 428 and at ## 03-119 02 00, 216, 427, F338. Those analyses are relevant, and they have been adopted. The recommendation by the Commissioners is the same – to delete permitted activity condition 7.

Recommendations

Reject

Submission 39.

Accept

Submissions 26, 216, 238, 432 and Further Submission F3002.

Amendment Required

1. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 7, p.3-120 as follows:

~~“7. Except as provided for in condition 9, there shall be no discharge into or onto land which may result in that contaminant entering water via surface runoff.”~~

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 8, p.3-174 as follows:

~~“Under section 15 of the RMA, no person may discharge contaminants into water or into or onto land in circumstances that may result in that contaminant entering water unless expressly allowed by a rule in a regional plan or relevant proposed regional plan, resource consent or regulations. Thus it is appropriate to provide for the discharge of agrichemicals used for aquatic weed control into water in the conditions of the rules as long as there are no adverse effects on aquatic organisms other than the target species and that there are no adverse effects on mahinga kai.”~~

Rule AQL70 Condition 8 ## 03-120 01b24

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 8 to relevant rules in Chapters 7 and 9 of the NRRP.
26	J McFadden	Delete condition 8.
39 (point 1)	Dow Agrosiences, Palmerston North Office	Change to read: "Except as provided in condition 9, the direct discharge of agrichemicals to water should be avoided."
39 (point 2)	Dow Agrosiences, Palmerston North Office	Amend condition 8 to read: ' refer to condition 9.'
238	Director General Of Conservation	Delete Condition 8. Make any consequential amendments to the Plan.
338	Transit New Zealand, Christchurch	Delete condition 8.
374	New Zealand Institute For Crop & Food Research Ltd	Delete condition 8.
432	Land Information NZ	Delete Condition 8, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
F347	Federated Farmers of New Zealand	Support submission 374.

Submission ClarificationSubmission 5

Submission 5 sought permitted activity condition 8 be deleted.

ConsiderationSubmissions 5, 26, 39 (points 1 and 2), 238, 338, 374, 432 and Further Submission F347

These submissions, except for Submissions 5 and 39 (points 1 and 2), sought that condition 8 should be deleted.

The substance of these submissions is considered at Further General Submissions at ##03-000 00 00, 427, 428 and ## 03-119 02 00, 216, 427, F338. Those analyses are relevant, and they have been adopted. The recommendation by the Commissioners is the same – to delete permitted activity condition 8.

Recommendations

Reject

Submission 39 (points 1 and 2).

Accept

Submissions 5, 26, 238, 338, 374, 432 and Further Submission F347.

Amendment Required

1. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 8, p.3-120 as follows:

~~“8. Except as provided for in condition 9, there shall be no discharge into or onto water.”~~

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 8, p.3-174 as follows:

~~“Under section 15 of the RMA, no person may discharge contaminants into water or into or onto land in circumstances that may result in that contaminant entering water unless expressly allowed by a rule in a regional plan or relevant proposed regional plan, resource consent or regulations. Thus it is appropriate to provide for the discharge of agrichemicals used for aquatic weed control into water in the conditions of the rules as long as there are no adverse effects on aquatic organisms other than the target species and that there are no adverse effects on mahinga kai.”~~

Rule AQL70 Condition 9 ## 03-120 01b26

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 9 to relevant rules in Chapters 7 and 9 of the NRRP.
117	TrustPower Ltd	Delete condition 9, and make any consequential amendments.
238	Director General Of Conservation	Delete Condition 9. Make any consequential amendments to the Plan.
432	Land Information NZ	Delete Condition 9, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.

Submission Clarification

Submission 5

Submission 5 sought permitted activity condition 7 be deleted.

Consideration

Submissions 5, 117, 238, 432

These submissions sought that condition 9 should be deleted.

The substance of these submissions is considered at Further General Submissions at ##03-000 00 00, 427, 428 and at ## 03-119 02 00, 216, 427 and F338. The consideration is relevant here, and has been adopted. The recommendation by the Commissioners is the same – to delete permitted activity condition 9.

Recommendation

Accept

Submissions 5, 117, 238, 432.

Amendment Required

1. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 9, p.3-120 as follows:

~~“9. Where the agrichemical is being used for aquatic weed control, there shall be no adverse effects to other aquatic organisms that are not the target species and no adverse effect on mahinga kai.”~~

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 8, p.3-174 as follows:

~~“Under section 15 of the RMA, no person may discharge contaminants into water or into or onto land in circumstances that may result in that contaminant entering water unless expressly allowed by a rule in a regional plan or relevant proposed regional plan, resource consent or regulations. Thus it is appropriate to provide for the discharge of agrichemicals used for aquatic weed control into water in the conditions of the rules as long as there are no adverse effects on aquatic organisms other than the target species and that there are no adverse effects on mahinga kai.”~~

Rule AQL70 Condition 10 ## 03-120 01b30

39	Dow Agrosiences, Palmerston North Office	Add: "When notification is requested, an annual spray plan should be an option available to the agrichemicals user. This would be provided, at the user’s discretion, instead of notification between 12 hours and 3 weeks prior to the commencement of the spraying."
44	Spreydon Heathcote Community Board	Needs more work to make it achievable.
56	Everest Farm Consulting Ltd	Delete Condition 10.
66	H Muller-Cajar	Adopt condition 10.

125	Waimakariri District Council	Specify that condition 10 do not apply to Territorial Authorities when spraying in amenity areas or on roadways using hand-held equipment. Alternatively, if notification is included, this should follow Condition 12 for Rule AQL71.
147	Ashburton District Council	Delete condition 10.
235 (point 2)	Crown Public Health, Canterbury Office	Add another condition: 'the sprayer shall advise all schools and outdoor educational camps within 100m of the perimeter of the land to be sprayed at least four working days prior to spraying.' This could be incorporated into Condition 10.
235 (point 3)	Crown Public Health, Canterbury Office	Add another condition: '(a) The sprayer shall ensure that the exact location of all public, community and private drinking water supplies in the spray programme's area are identified and documented with the help of the appropriate territorial authority and Crown Public Health. This information shall be recorded and a copy kept on any vehicles and machinery used in the discharging of agrichemicals. (b) The owners of any public, community and private drinking water supplies whether surface/filtration gallery or wells within 250m of any spray area, shall be informed before spraying commences”.
262	Oderings Nurseries (Christchurch) Ltd	Delete condition 10.
272	Canterbury Asthma Society	Delete 'who has requested such notification. Where notification is required it shall be' and replace with: 'Notification is required in writing...'
338	Transit New Zealand, Christchurch	Retain Condition 10, and in particular that neighbours need only receive advance notification on request.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 10.
378	Canterbury Growers Society Ltd	Clarify the process for notification.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Clarify the process for notification.
409	I & W Doody	Delete Condition 10.
431	Intensive Farming Work Group	Delete Condition 10.

432	Land Information NZ	Clarify whether condition 10 is inconsistent with Rule WQL 13 of Chapter 4.
F39 (point 2)	Dow Agro Sciences	Oppose submission 235 (point 2).
F39 (point 3)	Dow Agro Sciences	Oppose submission 235 (point 3).
F347 (point 1)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 235 (point 2).
F347 (point 3)	Federated Farmers of New Zealand	Oppose submission 235 (point 3).
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 235 (point 3).
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 235 (point 2).
F401 (point 3)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Support submission 39.
F429	Selwyn District Council	Support submission 125.
F3002	Carter Holt Harvey Forest Resources	Oppose submission 235 (point 2).

Submission Clarification

Submission 44

Submission 44 asserts that permitted activity condition 10 is not enforceable, and will not work for domestic use.

Submission 235 (points 2 and 3)

Submissions 235 (points 2 and 3) have been moved from Rule AQL70 Conditions ## 03-119 03b01. They relate to affected party notification of agricultural spraying.

Further Submissions F39 (points 2 and 3), F347 (points 2 and 3), F401 (points 1 and 2) and F3002

Further Submissions F39 (points 2 and 3), F347 (points 2 and 3), F401 (points 1 and 2) and F3002, as a consequence of the movement of submissions 235 (points 2 and 3) above, have also been moved from Rule AQL70 Conditions ## 03-119 03b01.

Consideration

Submissions 56, 147, 262, 347, 409, 431

All these submission seek that permitted activity condition 10 is deleted.

The substance of these submissions is considered at Policy AQL7 (a) (vi) ## 03-022 10 00, 147, 347, 414, 431. The consideration is relevant and it has been adopted. A consequence of the Commissioners' recommended change to Policy AQL7(a)(vi) is that the policy only requires advanced notification of agrichemical spraying for other than hand-held application appliances and relies on 'promotion' as the appropriate method to best implement and achieve the policy for hand-held applications. This is reinforced by the workability of permitted activity condition 10 for hand-held spray application, particularly in a residential environment. Consequently, it is recommended by the Commissioners that permitted activity condition 10 is deleted, and it is recommended that these submissions be accepted.

Submissions 39, 44, 66, 125, 235 (points 2 and 3), 272, 338, 378, 401, 432 and Further Submissions F39 (points 2 and 3), F347 (points 1, 2 and 3), F401 (points 1, 2 and 3), F429, F3002

These submissions sought a variety of changes to condition 10.

Given the above recommendation to delete condition 10, no change is recommended by the Commissioners in response to these submissions, and it is recommended that submissions 39, 44, 66, 125, 235 (points 2 and 3), 272, 338, 378, 401, 432 and further submissions F347 (point 1), F401 (point 3), and F429 be rejected, and that submissions 56, 147, 262, 347, 409, 431 and further submissions F39 (points 2 and 3), F347 (points 2 and 3), F401 (point 1 and 2), and F3002 be accepted.

Recommendations

Reject

Submissions 39, 44, 66, 125, 235 (points 2 and 3), 272, 338, 378, 401, 432 and Further Submissions F347 (point 1), F401 (point 3), F429.

Accept

Submissions 56, 147, 262, 347, 409, 431 and Further Submissions F39 (points 2 and 3), F347 (points 2 and 3), F401 (point 1 and 2), F3002.

Amendment Required

1. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 10 pp 3-120 to 3-121 as follows:

~~“10—Where the owner or occupier of the property on which spraying is to be undertaken is spraying within 2 metres of their property boundary they must provide advance notification of the spraying to the owner or occupier of an adjoining property who has requested such notification. Where notification is required, it shall be in writing, and shall be provided between 12 hours and 3 weeks prior to the commencement of the spraying, and shall identify the:~~

~~(a) date(s) the agrichemical(s) may be discharged; and~~

~~(b) type or tradename of agrichemical(s) to be used; and~~

~~(c) reason for use; and~~

~~(d) location of the discharge; and~~

~~(e) duration of the discharge; and~~

~~(f) method of discharge.”~~

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraphs 10, 11, and 12 pp3-174 to 3-175 as follows:

~~“The conditions of Rules AQL70 to AQL72 requiring provision of notification upon request decrease the possibility of adverse effects occurring unintentionally and allow the opportunity for the parties who wish to be notified prior to an agrichemical application to provide for their own well being and health and safety. Putting the onus on the person who may be affected by agrichemical spraying to request notification from the agrichemical applicator prior to agrichemicals being sprayed, will enable a better understanding of the nature of the agrichemical use and for any precautionary action to be taken by the person who may be affected, if desired.~~

~~Notification of agrichemical use is necessary as any person who may be affected by the use of agrichemicals has a right to information about what agrichemicals have been or are to be used, and notification is the best mechanism to achieve that. This includes providing advanced notification of agrichemical spray applications to adjoining properties that contain a sensitive activity within defined distances. The New Zealand Standard 8409:1999—Code of Practice for the Management of Agrichemicals, states that notification is needed for public safety, to advise that agrichemical application is or has been carried out, and the type of agrichemical used. In addition, notification will assist with the implementation of section 5 of the RMA by enabling people who may be affected by agrichemical spray drift to provide for their social, economic and cultural well being and for their health and safety. This does not preclude the agrichemical applicator from avoiding adverse effects in the first instance as required under section 17 of the Act.~~

~~Section 5.2 and Appendix N of the New Zealand Standard 8409:1999 provide good practice guidance on how to notify the public of intended application of agrichemicals. For example, in urban amenity areas, notice of spray application shall be given by prior notice in local newspapers or door-to-door advice, and by on-site signage, and signage on application equipment. Prior notification should also be given, and suitable signage used, where agrichemicals are being applied close to, or adjoining private dwellings, schools or playing fields and reserves. Signs should be left out for the term of the non re-entry period for the agrichemical used. Written notification can include circulars using rural delivery, emails, faxes or letters.”~~

3. Delete ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, ‘Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity, p 3-175, as follows:

“Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity

~~The notification requirements of the hand-held application methods recognise that the applicators have more control over the application of agrichemicals and apply smaller volumes than would occur if using other methods. Therefore, if a person is spraying within two metres of their property boundary, a neighbour can request notification if any such spraying in that area occurs, enabling the neighbour to take precautionary measures against spray drift. Measures taken could include keeping their children and pets away from the spraying area or covering plants that may be adversely affected by the agrichemical being used, for example, roses or grapevines. Such notification does not preclude the agrichemical applicator from avoiding adverse effects in the first instance as required under section 17 of the Act.”~~

Rule AQL70 Condition 11 ## 03-121 01b11

56	Everest Farm Consulting Ltd	Delete Condition 11.
125	Waimakariri District Council	Specify that condition 11 do not apply to Territorial Authorities when spraying in amenity areas or on roadways using hand-held equipment. Alternatively, if notification is included, this should follow Condition 12 for Rule AQL71.
147	Ashburton District Council	Delete condition 11.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 11.
431	Intensive Farming Work Group	Delete condition 11.
432	Land Information NZ	Support condition 11.
F347	Federated Farmers of New Zealand	Support submission 56.

F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 125.
F405 (point 1)	Timaru District Council	Support submission 125.
F405 (point 2)	Timaru District Council	Support submission 147.
F429	Selwyn District Council	Support submission 125.

Submission clarification

Submission 56

Submission 56 was summarised under Rule AQL70 Condition 4 (d) ## 03-120 01b09 - 03-120 01b10 - 03-120 01b11. It relates to Rule AQL 70 permitted activity condition 11, not permitted activity condition 4. It has been moved to this location for consideration purposes.

Further Submission F347

Further Submission F347 supported Submission 56 (above). This submission was summarised under Rule AQL70 Condition 4 (d) ## 03-120 01b09 - 03-120 01b10 - 03-120 01b11. It relates to Rule AQL 70 permitted activity condition 11, not permitted activity condition 4. It has been moved to this location for consideration purposes.

Consideration

Submissions 56, 147, 347, 431 and Further Submissions F347, F405 (point 2)

All these submissions seek that permitted activity condition 11 should be deleted.

The substance of these submissions is considered at Policy AQL7 (a) (vi) ## 03-022 10 00, 147, 347, 414 and 431. The consideration is relevant here and has been adopted. A consequence of the recommended change to Policy AQL7(a)(vi) is that the policy no longer requires advanced notification of agricultural spraying for hand-held applications as a permitted activity condition, but rather uses 'promotion' as the appropriate method to best implement the policy. Consequently, it is recommended by the Commissioners that permitted activity condition 11 be deleted. This is consistent with the recommended deletion of permitted activity condition 10 above. It is recommended that these submissions be accepted.

Submissions 125, 432 and Further Submissions F401, F405 (point 1), F429

Submission 125 sought that notification should not apply to territorial authorities. Submission 432 supported the condition.

Given the above recommendation, no change is recommended by the Commissioners in response to these submissions, and it is recommended that submission 125, 432 and further submissions F405 (point 1) and F429 be rejected, and further submission F401 be accepted.

Recommendations

Reject

Submissions 125, 432 and Further submissions F405 (point 1), F429.

Accept

Submissions 56, 147, 347, 431 and Further Submissions F347, F401, F405 (point 2).

Amendment Required

1. Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 11 p 3-121 as follows:

~~“11. The minimum notification requirements specified in condition 10 are not required in the following situations:~~

~~(a) where other notification arrangements have been mutually agreed in writing between the owner or occupier of an adjoining property who has requested notification before the spraying takes place. In this situation, the notification arrangements which have been mutually agreed upon must be adhered to; or~~

~~(b) where the weather conditions are such that subsequent risk of disease places any crop at risk of damage. In this situation, notification may be either verbal or written, and must take place no less than two hours before the spraying takes place.”~~

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 13 p 3-175 as follows:

~~“The conditions of Rules AQL70 to AQL72 recognise that there are many situations where there is existing good rapport between neighbours and other notification requirements can be mutually agreed upon. Such neighbourly contact is supported and encouraged. The rules also recognise that there may be situations where spraying is necessary at short notice, but notification must be given upon request to allow for additional precautionary measures to be undertaken by the person requesting notification.”~~

Rule AQL70 Condition 11 (b) ## 03-121 01b19 - 03-121 01b21

39	Dow Agrosiences, Palmerston North Office	Amend condition to read "...that subsequent risk of disease or insect pest pressure places any crop at risk of damage...".
113	Hide Spraying Ltd	Reword to read "...and must take place before spraying takes place."

262	Oderings Nurseries (Christchurch) Ltd	Delete condition 11 (b).
------------	--	--------------------------

Consideration

Submissions 39, 113, 262

The substance of these submissions is considered above (see Rule AQL70 condition 11 ## 03-121 01b11, 56, 147, 347, 431, F347, F405 (point 2)). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that permitted activity condition 11(b) should be deleted.

Recommendations

Reject

Submissions 39, 113.

Accept

Submission 262.

Amendment Required

Delete Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 11(b) p 3-121 as follows:

~~“(b) where the weather conditions are such that subsequent risk of disease places any crop at risk of damage. In this situation, notification may be either verbal or written, and must take place no less than two hours before the spraying takes place.”~~

Rule AQL71 Ground-based application of agrichemicals using techniques other than hand-held application - permitted activity ## 03-121 02 00

117	TrustPower Ltd	Support in principle.
196	Waimate District Council	Delete rule AQL 71.
216	Hurunui District Council	Delete controls on the effects of agrichemicals in relation to and water from rule AQL71.
338 (point 1)	Transit New Zealand, Christchurch	Amend Rule AQL 71 to provide for Method AQL 7(d) which includes reference to limited discretionary activities.
338 (point 2)	Transit New Zealand, Christchurch	Combine Rules AQL 70 and 71 to form a single rule.
338 (point 3)	Transit New Zealand, Christchurch	Cross reference with the relevant rule in the Draft NRRP Chapter 4 - Water Quality.

347 (point 1)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Amend Rule AQL 71 so that only airblast radial sprayers are subject to all controls.
347 (point 2)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Amend Rule AQL 71 so that low hazard and low adverse environmental effect chemical use is permitted and that the rule applies to air blast radial sprayers only.
359	West Eyreton Residents Association	Delete Rule AQL 71.
374	New Zealand Institute For Crop & Food Research Ltd	Retain the permitted activity status of Rule AQL 71.
378	Canterbury Growers Society Ltd	<p>Add a new rule for the discharge of agrichemical to water bodies, as follows: 'The application of agrichemicals to water in water bodies is permitted subject to the following conditions: 1. The aquatic pesticide is approved for use under Section 21 of the Pesticides Act 1979, or when repealed by the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997 when enabled and operational. 2. The applicator must at all times adopt the best practicable option to prevent or minimise any adverse effects beyond the boundary of the target property or other non-target areas within the boundary of the property. 3. The application shall be in accordance with manufacturer's instructions and any relevant regulations. 4. The application shall be for the purpose of eradicating, modifying or controlling excessive growth of aquatic plants, and shall not exceed the quantity, concentration or rate necessary. 5. There shall be no adverse effect on any water takes permitted by the Resource Management Act, this Plan or under a resource consent. 6. The applicator shall notify, at least 24 hours and not more than 30 days before commencing the discharge every person taking water for domestic supply and every holder of a resource consent for the taking of water within one kilometre downstream of the proposed discharge in any river. 7. Any person undertaking the application of agrichemicals into or onto water shall either hold a current GROWSAFE Applied Certificate or equivalent qualification or hold a GROWSAFE Introductory Certificate and be under the direct supervision of an Applied Certificate holder. Every contractor undertaking ground-based application shall hold a current GROWSAFE Registered Chemical Applicators Certificate, preferably endorsed 'Strand: Aquatic' or equivalent. Every aerial applicator shall hold a current GROWSAFE Pilots Agrochemical Rating Certificate. 8. The applicator shall keep records of the application in accordance with NZS8409:1999.'</p>

401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add a new rule for the discharge of agrichemical to water bodies, as follows: 'The application of agrichemicals to water in water bodies is permitted subject to the following conditions: 1. The aquatic pesticide is approved for use under Section 21 of the Pesticides Act 1979, or when repealed by the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997 when enabled and operational. 2. The applicator must at all times adopt the best practicable option to prevent or minimise any adverse effects beyond the boundary of the target property or other non-target areas within the boundary of the property. 3. The application shall be in accordance with manufacturer's instructions and any relevant regulations. 4. The application shall be for the purpose of eradicating, modifying or controlling excessive growth of aquatic plants, and shall not exceed the quantity, concentration or rate necessary. 5. There shall be no adverse effect on any water takes permitted by the Resource Management Act, this Plan or under a resource consent. 6. The applicator shall notify, at least 24 hours and not more than 30 days before commencing the discharge every person taking water for domestic supply and every holder of a resource consent for the taking of water within one kilometre downstream of the proposed discharge in any river. 7. Any person undertaking the application of agrichemicals into or onto water shall either hold a current GROWSAFE Applied Certificate or equivalent qualification or hold a GROWSAFE Introductory Certificate and be under the direct supervision of an Applied Certificate holder. Every contractor undertaking ground-based application shall hold a current GROWSAFE Registered Chemical Applicators Certificate, preferably endorsed 'Strand: Aquatic' or equivalent. Every aerial applicator shall hold a current GROWSAFE Pilots Agrochemical Rating Certificate. 8. The applicator shall keep records of the application in accordance with NZS8409:1999.'
405	Timaru District Council	Consider replacing Rule AQL 71 with more realistic rules.
413	A Gillanders	Delete Rule AQL 71 or amend that the application of spray by the use of ground-based applicators be a permitted activity subject to no conditions, but managed through a code of practice and good farm management.
418	A & N Chalmers	Delete Rule AQL 71 or amend that the application of spray by the use of ground-based applicators be a permitted activity subject to no conditions, but managed through a code of practice and good farm management.

422	N Woolf	ECan needs to be concerned about the water quality near the industries at Washdyke and Temuka as a result of intensive spraying on farmland.
427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Delete Rule AQL 71, this should be in the land and water Chapters (or have a separate section in the NRRP for combination type rules). Make any consequential amendments to the plan where necessary.
432 (point 1)	Land Information NZ	Supports this activity being a permitted activity.
432 (point 2)	Land Information NZ	Clarify whether Rule AQL 71 relates to the use of mist-blowers for agrichemical weed spraying.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 374.
F374 (point 1)	New Zealand Institute For Crop & Food Research Ltd	Opposes submission 378.
F374 (point 2)	New Zealand Institute For Crop & Food Research Ltd	Oppose submission 401.
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 347 (point 1).
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 347 (point 2).
F401 (point 3)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 413.
F401 (point 4)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 418.

Submission Clarification

Submission 196

Submission 196 relates to Rule AQL71, permitted activity condition 7, only. The submission is considered in that location. No recommendation is required in this part of the report.

Submission 405

Submission 405 relates to the workability of the public notice permitted activity conditions.

Submission 427

Submission 427 sought to: *“Delete all references to land and water discharges contained within the Air Chapter, as subsequent Chapters will address these matters”*.

Consideration

Submissions 359, 413, 418 and Further Submission F401 (points 3 and 4)

Submission 359 sought the deletion of Rule AQL71. It considers this rule unnecessary and points towards the neighbour notification and sign erection requirements. Further, Submissions 413 and 418 sought that agrichemical application by ground-based applicators should be permitted subject to no controls. The effect of this would be the deletion of Rule AQL71, with reliance placed on the section 15(2) of the RMA.

Ground-based agrichemical application can have adverse effects on the environment – for example, adverse effects on human and animal health (effects identified in Objective AQL1), and economic well-being (organic certification etc). For this reason some form of control is appropriate. Deleting Rule AQL71 for the reasons suggested is not supported by the Commissioners. No change is recommended by the Commissioners in response to these submissions, and it is recommended that the submissions be rejected and the further submissions be accepted.

Submission 405

The submission sought that Rule AQL71 should be ‘replaced with more realistic rules’.

The reasons provided in the submission focus on the neighbour notification requirements. The submission has not detailed what changes were sought. In their consideration of Policy AQL7 (a) (vi) at ## 03-022 10 00, 147, 347, 414, 431, the Commissioners have recommended that prior notification for ground based application by other than hand-held methods require prior notification. No change is recommended by the Commissioners in response to this submission, and it is recommended that submission 405 be rejected.

Submissions 216, 427

The substance of these submissions is considered at ##03-000 00 00, 427, 428. That consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – delete the reference to land and water in the activity description and delete permitted activity conditions 7, 8, 9 and 10. It is recommended that the submissions be accepted.

Submissions 378, 401 and Further Submissions F347 (point 1), F374 (points 1 and 2)

The substance of these submissions is considered above (see 3.3.7 Discharge of agrichemicals ## 03-119 01 00, 378, 401, F347, F374 (points 1 and 2)). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made, and that the submissions in support be rejected, and further submission F374 (points 1 and 2) be accepted.

Submission 347 (points 1 and 2) and Further Submission F401 (points 1 and 2)

The submission, opposed by the further submission, sought that low hazard and low adverse environmental effect chemical use should be permitted and that Rule AQL71 should apply to air-blast radial sprayers only.

At present, Rule AQL71 applies to all ground-based agrichemical application methods that are not hand-held - it is not device or equipment specific. Through the permitted activity conditions, the range of effects on the environment that is acceptable for a permitted activity is established. Any ground-based application method (not hand-held) that complies with these permitted activity condition is a permitted activity. The submission has not outlined which of the permitted activity conditions it considers are inappropriate for ground-based application methods aside from radial airblast spraying. It is possible that the matter of concern is the prior notification provisions. It is considered that in general terms, the permitted activity conditions are the most appropriate method of avoiding the adverse environmental effects of permitted ground-based agrichemical application identified in Objective AQL1, and implementing and achieving Policy AQL7. No change is recommended by the Commissioners, and it is recommended that submission 347 (points 1 and 2) be rejected and further submission F401 (points 1 and 2) be accepted.

Submission 432 (point 2)

The submission sought clarification as to whether mist-blowers for agricultural weed spraying is covered by Rule AQL71.

The definition of 'ground-based application method' as notified is: "*Ground-based application method in relation to agrichemical use means any method of application where that part of the equipment from where the agrichemical is emitted is either on the ground or attached to equipment that is on the ground (excluding hand-held application)*".

Hand-held application appliance is defined as: "*Hand-held application appliance in relation to agrichemical use means the total agrichemical unit that is able to be carried by the applicator and includes a knapsack sprayer, a handgun sprayer, a motorised knapsack sprayer, or a sprayer with a rate and volume of application no greater than these devices*".

Therefore, mist-blowers for agricultural weed sprayer are subject to Rule AQL71. No further clarification is required, and it is recommended that the submission be rejected.

Submission 338 (point 1)

This submission sought that the activity status for non-compliance with Rules AQL70, AQL71 and AQL72 should be restricted discretionary status. At present, Rule AQL73 makes non-compliance a full discretionary activity. The submission did not specify what restriction in the discretion is sought.

The submission is correct in that 'Method AQL7(d) Resource Consents' states *"Resource consents may be granted for the discharge of agrichemicals. These may involve agrichemical application specified as a limited discretionary activity"*. Therefore, an inconsistency exists between this method and resulting Rule AQL73.

Policy AQL7 contains no stated preference between discretionary and restricted discretionary activities. Objective AQL1 contains a number of considerations, including: matters relating to Tangata Whenua; human health and safety; odour; visibility; structure damage; ecosystem, plant and animal health; and water. All of these are relevant to agrichemical spray drift. Any restriction of the discretion should be wide enough to allow consideration of all these matters in order to further the achievement of the objective.

In this circumstance the lack of specificity in the submission is of concern to the Commissioners. Because the nature of the restriction to the discretion sought is not specified, other parties have not had the opportunity to consider how they could be affected nor afforded the opportunity to lodge further submissions.

On balance (due to the lack of specifics in the submission), a restriction of the consent authority's discretion is not recommended by the Commissioners.

The recommendation by the Commissioners is that no change be made, and that the submission be rejected.

Submission 338 (point 2)

This submission sought that Rules AQL70 and 71 should be combined into a single rule.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 338 (point 2)). That consideration is relevant, and is adopted. The combination of Rules AQL70 and AQL71 would not be consistent with the Commissioners recommendations on Policy AQL7, and it is recommended that submission 338 (point 2) be rejected.

Submission 338 (point 3)

This submission sought cross references to Chapter 4 – Water Quality.

The substance of this submission is considered above at Further General Submissions at ##03-000 00 00, 427, 428. That consideration is relevant, and has been adopted. The recommendation not to cross reference to Chapter 4 is the same and it is recommended that no change be made, and that the submission be rejected.

Submissions 374, 432 (point 1) and Further Submission F347 (point 2)

These submissions sought that the permitted activity status of Rule AQL71 should be retained.

Given the above consideration, these submissions can be accepted.

Submission 422

This submission is concerned with water quality.

The substance of this submission is considered above at Further General Submissions at ##03-000 00 00, 427, 428. That consideration is relevant, and has been adopted. The recommendation that this issue should be left as a matter to consider under Chapter 4 is the same and it is recommended that no change be made. It is also recommended that the submission be rejected.

Submission 117

This submission supports Rule AQL71 as publicly notified.

Given the above recommendation and those that follows, this submission can be accepted in part.

Recommendations

Reject

Submissions 338 (points 1, 2 and 3), 347 (points 1 and 2), 359, 378, 401, 405, 413, 418, 422, 432 (point 2) and Further Submission F347 (point 1).

Accept

Submissions 216, 374, 427 432 (point 1) and Further Submissions F347 (point 2), F374 (points 1 and 2), F401 (points 1, 2, 3 and 4).

Accept in part

Submission 117.

No recommendation required

Submission 196.

Amendment Required

- 1 Amend 'Rule AQL71 Ground-based application of agrichemicals using techniques other than hand-held application – permitted activity', 'Activity', p.3-121 as follows:

“Discharge of agrichemicals into or onto land, or into water, or into air, from ground-based application using techniques other than hand-held application, is a permitted activity”.

- 2 Delete Rule AQL71 Ground-based application of agrichemicals using techniques other than hand-held application – permitted activity’, p.3-123, ‘Conditions’ 7, 8, 9 and 10 as follows:

~~“7. No mixing or diluting of agrichemicals shall take place within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, unless the mixing or diluting takes place over a drip tray or within an impervious bunded area to contain spillages.~~

~~8. Except as provided for in condition 10, there shall be no discharge into or onto land which may result in that contaminant entering water via surface runoff.~~

~~9. Except as provided for in condition 10, there shall be no direct discharge into or onto water.~~

~~10. Where the agrichemical is being used for aquatic weed control, there shall be no adverse effects to other aquatic organisms that are not the target species and no adverse effect on mahinga kai.”~~

- 3 Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 8, p.3-174 as follows:

~~“Under section 15 of the RMA, no person may discharge contaminants into water or into or onto land in circumstances that may result in that contaminant entering water unless expressly allowed by a rule in a regional plan or relevant proposed regional plan, resource consent or regulations. Thus it is appropriate to provide for the discharge of agrichemicals used for aquatic weed control into water in the conditions of the rules as long as there are no adverse effects on aquatic organisms other than the target species and that there are no adverse effects on mahinga kai.”~~

- 4 Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, ‘Rule AQL71 Ground-based application of agrichemicals using techniques other than using hand-held application – permitted activity’ by deleting paragraph 1, p.3-175 as follows:

~~“Water bodies are vulnerable to contamination as a result of the accidental spillage of agrichemicals during mixing, diluting or other preparation. Measures to reduce adverse effects must be undertaken. If preparation occurs within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, an impervious bunded area will provide a mechanism to contain any spillages and thus reduce the likelihood of adverse effects. If an impervious bunded area is not available within 10 metres from a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, then the mixing or diluting of agrichemicals shall not be permitted under Rule AQL71. However, the mixing or diluting of agrichemicals 10 metres or more from a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, is permitted under Rule AQL71 as there is a sufficient margin of safety present to enable action to be undertaken in the event of a spillage to prevent any contamination of water.”~~

Rule AQL71 Conditions ## 03-121 04b01

<p>168 <i>(point 1)</i></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>
<p>168 <i>(point 2)</i></p>	<p>Airways Corporation of NZ</p>	<p>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.</p>
<p>235</p>	<p>Crown Public Health, Canterbury Office</p>	<p>Add another condition: 'the sprayer shall advise all schools and outdoor educational camps within 100m of the perimeter of the land to be sprayed at least four working days prior to spraying.' This could be incorporated into Condition 10. Add another condition: '(a) The sprayer shall ensure that the exact location of all public, community and private drinking water supplies in the spray programme's area are identified and documented with the help of the appropriate territorial authority and Crown Public Health. This information shall be recorded and a copy kept on any vehicles and machinery used in the discharging of agrichemicals. (b) The owners of any public, community and private drinking water supplies whether surface/filtration gallery or wells within 250m of any spray area, shall be informed before spraying commences'.</p>
<p>347</p>	<p>Federated Farmers Of New Zealand Inc, North Canterbury Branch</p>	<p>Differentiate in the conditions the low hazard chemicals, and permit the use of these.</p>
<p>378 <i>(point 1)</i></p>	<p>Canterbury Growers Society Ltd</p>	<p>Include as a requirement that all applications be undertaken in accordance with NZS8409: 1999 The Code of Practice for the Management of Agrichemicals.</p>

378 (point 2)	Canterbury Growers Society Ltd	Add a new condition to read: 'The following qualifications will be required by commercial users of agrichemicals within 12 months of the Plan becoming operative: i) Every person, other than contractors, applying agrichemicals for commercial purposes using ground-based application methods shall be under training for, or hold a current GROWSAFE Introductory (Standard) certificate, or equivalent qualification; or ii) Be under the direct supervision of a person holding a current GROWSAFE Applied (Advanced) Applicators Certificates, or equivalent qualification; or iii) Every contractor undertaking ground-based application of agrichemicals shall hold a current GROWSAFE Registered Chemical Applicator Certificate, equivalent qualification.'
378 (point 3)	Canterbury Growers Society Ltd	Add new condition to read: 'At the beginning of each year or spray season the owner, occupier or manager of the property to be sprayed shall prepare a Property Spray Plan or shall arrange for such a Plan to be prepared as set out in Appendix AQL 6. The Property Spray Plan will be available on request: i) to those who may be potentially affected by the agrichemical use described; and ii) be provided to Environment Canterbury within seven days of being requested.' Make any consequential amendments to the plan.
401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Include as a requirement that all applications be undertaken in accordance with NZS8409: 1999 The Code of Practice for the Management of Agrichemicals.
401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add a new condition to read: 'The following qualifications will be required by commercial users of agrichemicals within 12 months of the Plan becoming operative: i) Every person, other than contractors, applying agrichemicals for commercial purposes using ground-based application methods shall be under training for, or hold a current GROWSAFE Introductory (Standard) certificate, or equivalent qualification; or ii) Be under the direct supervision of a person holding a current GROWSAFE Applied (Advanced) Applicators Certificates, or equivalent qualification; or iii) Every contractor undertaking ground-based application of agrichemicals shall hold a current GROWSAFE Registered Chemical Applicator Certificate, equivalent qualification.'

401 (point 3)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add new condition to read: 'At the beginning of each year or spray season the owner, occupier or manager of the property to be sprayed shall prepare a Property Spray Plan or shall arrange for such a Plan to be prepared as set out in Appendix AQL 6. The Property Spray Plan will be available on request: i) to those who may be potentially affected by the agrichemical use described; and ii) be provided to Environment Canterbury within seven days of being requested.' Make any consequential amendments to the plan.
F39	Dow Agro Sciences	Opposes submission 235.
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 (point 1)	Federated Farmers of New Zealand	Oppose submission 235.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 401 (point 1).
F347 (point 3)	Federated Farmers of New Zealand	Support submission 401 (point 2).
F347 (point 4)	Federated Farmers of New Zealand	Support submission 401 (point 3).
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 347.

Submission Clarification

Submission 235

Submission 235 relates to the affected party notification set out as permitted activity condition 10. It has been moved to Rule AQL71 Condition 10 ## 03-123 01b22 and will be considered under that heading.

Submission 378 (point 2)

Submission 378 (point 2) relates to the qualifications of commercial users of agrichemicals set out (in part) as permitted activity condition 3. It has been moved to Rule AQL71 Condition 3 ## 03-122 01b05 and will be considered under that heading.

Submission 401 (point 2)

Submission 401 (point 2) relates to the qualifications of commercial users of agrichemicals set out (in part) as permitted activity condition 3. It has been moved to Rule AQL71 Condition 3 ## 03-122 01b05 and will be considered under that heading.

Further Submissions F39, F347 (point 1)

Further Submissions F39 and F347 (point 1) relate to Submission 235, which in turn relates to affected party notification set out as permitted activity condition 10. They have been moved to Rule AQL71 Condition 10 ## 03-123 01b22 and will be considered under that heading.

Further Submissions F347 (point 2)

Further Submission F347 (point 2) supports Submission 401 (point 1) that the provisions of NZS8409:1999 become a requirement of Chapter 3 of the NRRP. This is in conflict with the position taken by the submitter in the original submission in relation of Rule AQL71.

Further Submission F347 (point 3)

Further Submission F347 (point 3) relates to Submission 401 (point 2), which in turn relates to the qualifications requirements for commercial users' of agrichemicals set out (in part) as permitted activity condition 3. It has been moved to Rule AQL71 Condition 3 ## 03-122 01b05 and will be considered under that heading.

Consideration

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

The substance of these submissions is considered above (see Rule AQL70 conditions ## 03-119 03b01, 168 (points 1 and 2), F112 (points 1 and 2)).

Efflux velocity and smoke issues and the application of agrichemicals are not related, and the above analysis has been adopted. The recommendation by the Commissioners is the same – that no change is made, and that submission 168 (points 1 and 2) be rejected and further submission F112 (points 1 and 2) be accepted.

Submission 347 and Further Submission F401

Submission 347, opposed by Further Submission F401, sought that low hazard chemicals should be differentiated in the conditions.

The substance of this submission is considered above (see Rule AQL71 Ground-based application of agrichemicals using techniques other than hand-held application - permitted activity ## 03-121 02 00, 347 (points 1 and 2), F401 (points 1 and 2)). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made, and it is recommended that submission 347 be rejected and further submission F401 be accepted.

Submissions 378 (point 1), 401 (point 1) and Further Submission F347 (point 2)

These submissions sought that within Rule AQL71 compliance with NZS8409:1999 should be required.

The substance of this submission is considered in terms of Policy AQL7 (see Policy AQL7 (a) (iii) ## 03-022 04 00, 378, 401, F347). Compliance with the standard is not the purpose of this rule. That analysis is adopted. The recommendation by the Commissioners is the same – that no change is made, and that the submissions be rejected.

Submissions 378 (point 3), 401 (point 3) and Further Submission F347 (point 4)

These submissions sought that a new permitted activity condition should be inserted requiring the production of property spray plans.

Property spray plans are specifically referred to in NZS8409:2004. It is not clear whether the intention is that property spray plans are mandatory or optional.

Regardless of this, it is accepted that in some of the circumstances when Rule AQL71 will be applied, the development and distribution of a property spray plan will represent ‘best practice’ – for example on a rural cropping farm. However, it is not clear that a property spray plan is warranted for all the agrichemical applications covered by Rule AQL71. Further, because the content of any property spray plan cannot be meaningfully controlled by a permitted activity condition, the benefit of requiring the development of a property spray plan can only be in setting out in detail how the other permitted activity conditions in Rule AQL71 will be met (i.e. akin to a management plan requirement as a condition of resource consent), and in giving notice to adjoining parties as to the agrichemical spray intentions over the life of the property spray plan. The primary function of a property spray plan, in this context, would be as part of the prior notification regime. The Commissioners deal with notification below.

No change is recommended, and these submissions are recommended for rejection.

Recommendations

Reject

Submissions 168 (points 1 and 2), 347, 378 (points 1 and 3), 401 (points 1 and 3) and Further Submission F347 (points 2 and 4).

Accept

Further Submissions F112 (point 1 and 2), F401.

No recommendation required

Submissions 235, 378 (point 2), 401 (point 2) and Further Submissions F39, F347 (points 1 and 3).

Amendment Required

None Required.

Rule AQL71 Condition 1 ## 03-121 04b03

286	M Eder	Delete from condition 1 the words: 'or contravene any other requirement.'
-----	--------	---

Consideration

Submission 286

The substance of this submission is considered above (see Rule AQL70 Condition 1 ## 03-119 03b03, 286, 347, 431, F3002, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039. That consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that change be made, and that submission 286 be accepted.

Recommendation

Accept

Submission 286.

Amendment Required

Amend condition 1, Rule AQL71, p.3-121 as follows:-

“The application of the agrichemical shall be undertaken in a manner that does not exceed any rate or ~~contravene any other requirement~~ specified in the agrichemical manufacturers’ instructions.”

Rule AQL71 Condition 2 ## 03-121 04b06

39	Dow Agrosiences, Palmerston North Office	When an agrichemical has been de-registered for reasons other than hazard to humans or the environment, labelled uses should be permitted for a period of 5 years after de-registration.
117	TrustPower Ltd	Amend condition 2 to read: 'The agrichemical shall be ERMA approved or notified for registration under the Hazardous Substances and New Organisms Act 1996...' and/or add an advisory note that explains that until pesticides are officially registered under HSNO, exemption will be made to ERMA notified or approved agrichemicals The note should also state that the expected date of transfer to HSNO is between July and November 2003, and make any consequential amendments.

238	Director General Of Conservation	Amend condition 2 to read: '...Veterinary Medicines Act 1997 and is suitable for controlling the target organism.' Make any consequential amendments to the Plan.
378	Canterbury Growers Society Ltd	Delete Condition 2.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 2.
F347	Federated Farmers of New Zealand	Support submission 401.

Consideration

Submissions 378, 401 and Further Submission F347

These submissions sought that condition 2 should be deleted.

The substance of these submissions is considered above (see Rule AQL70 Condition 1 ## 03-119 03b03, 378, 401, 431, F347). The Commissioners' view that a duplicate compliance and enforcement regime should be avoided is relevant, and has been adopted. The recommendation by the Commissioners is the same – that the change sought is made, and it is recommended that these submissions be accepted.

Submissions 39, 117, 238

Given the change recommended above (that permitted activity condition 2 is deleted), the changes sought by these submissions are not recommended by the Commissioners and it is recommended that they be rejected.

Recommendations

Reject

Submissions 39, 117, 238.

Accept

Submissions 378, 401 and Further Submission F347.

Amendment Required

1. Amend Rule AQL71 Ground-based application of agrichemicals using techniques other than hand-held application – permitted activity', 'Conditions' 2, p.3-121 to 3-122, as follows:

~~“2 The agrichemical shall be currently registered in New Zealand at the time of spraying under the Hazardous Substances and New Organisms Act 1996, and the Agricultural Compounds and Veterinary Medicines Act 1997.”~~

2. Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, by deleting paragraph 6, p.3-174 as follows:

~~“Condition 2 of Rules AQL70 to AQL72, recognises that only those agrichemicals that have a current New Zealand registration shall be permitted to be used in the environment. Under the Hazardous Substances and New Organisms Act 1996, the Environmental Risk Management Authority of New Zealand is responsible for granting approvals for substances and the Agricultural Compounds and Veterinary Medicines Act 1997 is the legislation that handles the registration of agrichemical products. The registration of agrichemical products is not able to take place until an approval has been granted under the Hazardous Substances and New Organisms Act 1996. The use of any agrichemical no longer approved in New Zealand or in a manner that contravenes the requirements specified in the manufacturer’s instructions is an offence under the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997”~~

Rule AQL71 Condition 3 ## 03-122 01b05

39	Dow Agrosiences, Palmerston North Office	The condition remains unchanged.
378 (point 2)	Canterbury Growers Society Ltd	Add a new condition to read: 'The following qualifications will be required by commercial users of agrichemicals within 12 months of the Plan becoming operative: i) Every person, other than contractors, applying agrichemicals for commercial purposes using ground-based application methods shall be under training for, or hold a current GROWSAFE Introductory (Standard) certificate, or equivalent qualification; or ii) Be under the direct supervision of a person holding a current GROWSAFE Applied (Advanced) Applicators Certificates, or equivalent qualification; or iii) Every contractor undertaking ground-based application of agrichemicals shall hold a current GROWSAFE Registered Chemical Applicator Certificate, equivalent qualification.'

401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add a new condition to read: 'The following qualifications will be required by commercial users of agrichemicals within 12 months of the Plan becoming operative: i) Every person, other than contractors, applying agrichemicals for commercial purposes using ground-based application methods shall be under training for, or hold a current GROWSAFE Introductory (Standard) certificate, or equivalent qualification; or ii) Be under the direct supervision of a person holding a current GROWSAFE Applied (Advanced) Applicators Certificates, or equivalent qualification; or iii) Every contractor undertaking ground-based application of agrichemicals shall hold a current GROWSAFE Registered Chemical Applicator Certificate, equivalent qualification.'
F347 (point 3)	Federated Farmers of New Zealand	Support submission 401 (point 2).

Submission Clarification

Submissions 378 (point 2) and 401 and Further Submission F347 (point 3)

Submissions 378 (point 2) and 401 and further submission F347 (point 3) have been moved from Rule AQL71 Conditions ## 03-121 04b01. These relate to the qualifications of commercial users of agrichemicals.

Consideration

Submissions 378 (point 2), 401 and Further Submission F347 (point 3)

These submissions sought the addition of a new permitted activity condition to the effect that all commercial users of agrichemicals must hold the appropriate GROWSAFE® certificate within 12 months of the 'Plan' becoming operative.

Permitted activity condition 3 as notified is as follows:

- “3. *Where agrichemicals are applied by a contractor, the contractor shall by 1 January 2003:*
 - (a) *hold a current Registered Chemical Applicators' GROWSAFE® Certificate issue by the New Zealand Agrichemical Education Trust in accordance with New Zealand Standard 8409:1999, or hold a current equivalent nationally-recognised qualification; or*
 - (b) *be under the direct supervision of a person holding the qualifications in condition 3(a) of this Rule.”*

The key differences between permitted activity condition 3, and what is sought, are first that all commercial applicators would be required to have the appropriate qualifications, not just contractors, and secondly, those qualifications would have to be obtained within 12 months of the 'plan' becoming operative, not by 1 January 2003. The Commissioners can see no justification for this, given the time that has elapsed since the plan was notified.

This matter is similar to the changes sought to Rule AQL70, permitted activity condition 4(b) (see Rule AQL70 Condition 4(b) ## 03-119 03b28, 378, 401, F347(point 1). In that case, the submitters sought reference to the appropriate certification. The submitters seek a similar change to condition 3. The Commissioners consider that the certification specified in condition 3 is a more stringent requirement than for an Introductory certificate and that it is appropriate for the use of non hand-held application appliances. No change is recommended by the Commissioners, and it is recommended that these submissions be rejected.

Submission 39

This submission sought that condition 3 should not be changed.

Given the above consideration, this submission can be accepted.

Recommendations

Reject

Submissions 378 (point 2), 401 (point 2) and Further Submission F347 (point 3).

Accept

Submission 39.

Amendment Required

None required.

Rule AQL71 Condition 4 ## 03-122 01b14

5	Rangitata Diversion Race Management Ltd	Clarify "public amenity area".
39	Dow Agrosiences, Palmerston North Office	The condition remains unchanged.
286	M Eder	Delete condition 4.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 4 for boom applicators.
431	Intensive Farming Work Group	Delete Condition 4.

Consideration

Submissions 286, 431

These submissions sought that Rule AQL71, permitted activity condition 4, is deleted.

Permitted activity condition 4 is the same as in Rule AQL70, permitted activity condition 4 (see the consideration under Rule AQL70 Condition 4 ## 03-119 03b19, 347, 431). The consideration of Rule AQL70, permitted activity condition 4, is relevant here and has been adopted. The recommendation by the Commissioners is that permitted activity conditions 4(a) and (b) are retained, and it is recommended that these submissions be rejected.

Submission 5

The substance of this submission is considered above (see Rule AQL70 Condition 4 ## 03-119 03b19, 347, 431). The consideration of the definition is relevant, and has been adopted. The recommendation is the same - no change is required in response to this submission, and it is recommended that the submission be rejected.

Submission 347

The submitter sought that condition 4 should not apply to boom applicators. Boom applicators may or may not have a lower potential for adverse effects such as spray drift. However the scale of the spraying operation is likely to be large given that the appliance is not hand-held, and in those circumstances the Commissioners consider that the requirements of condition 4 are appropriate. The recommendation is that the condition be maintained and that no change is made, and that submission 347 be rejected.

Submission 39

This submission sought that condition 4 should remain unchanged.

Given the above consideration, this submission should be accepted.

Recommendations

Reject

Submissions 5, 286, 347, 431.

Accept

Submission 39.

Amendment Required

None required.

Rule AQL71 Condition 4 (b) ## 03-122 01b23

338	Transit New Zealand, Christchurch	Delete the requirement in condition 4(b) for all the contractor's employees to be GROWSAFE certified.
374	New Zealand Institute For Crop & Food Research Ltd	Delete the requirement for each employee to be certified.
F347	Federated Farmers of New Zealand	Support submission 374.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 338.

ConsiderationSubmissions 338, 374 and Further Submissions F347, F401

The substance of this submission is considered above (see Rule AQL70 Condition 4(b) at ## 03-119 03b28, 378, 401, F347(point 1)). The consideration is relevant, and has been adopted. It is recommended permitted activity condition 4(b) be retained, but the reference to “Standard” certificate be changed to “Introductory” certificate, and it is recommended that submissions 338, 374 and further submission F347 be rejected, and further submission F401 be accepted.

Recommendations**Reject**

Submissions 338, 374 and Further Submission F347.

Accept

Further Submission F401.

Amendment Required

- Amend Rule AQL71 Ground-based application of agrichemicals using other than hand-held application – permitted activity’, ‘Condition’ 4(b) p 3-122 as follows:

“(b) each employee of the principal contractor shall hold a current ~~Standard~~ Introductory GROWSAFE® Certificate issue by the New Zealand Agrichemical Education Trust in accordance with New Zealand Standard 8409:1999, or holds a current equivalent nationally-recognised qualification; and”

Rule AQL71 Condition 4 (c) ## 03-122 01b28 - 03-122 01b29

5	Rangitata Diversion Race Management Ltd	Specify the size, shape, location and wording of the signs.
432	Land Information NZ	Specify the size, shape, location and wording of the signs.

ConsiderationSubmissions 5, 432

The Commissioners note their consideration at Rule AQL70 Condition 4 (c) ## 03-120 01b04, 5, 432, and their view that condition 4(c) in Rule AQL70 would be enhanced if it was specific about the size and location of the required signs. The same recommendation is made in this context. They recommend that ECan consider notifying a variation to achieve this. It is recommended that these submissions be accepted in part.

Recommendation**Accept in part**

Submissions 5, 432.

Amendment Required

It is recommended that ECan consider notifying a variation to amend condition 4 (c) p 3-122 to include a specification for the signage required.

Rule AQL71 Condition 4 (d) ## 03-122 01b33 - 03-122 01b34

113	Hide Spraying Ltd	Reword to read "...prominent signs (back) advising..."
338	Transit New Zealand, Christchurch	Amend condition 4(d) to read: 'Signage is to be in accordance with the specific requirements of the road controlling authority.'
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 338.

ConsiderationSubmissions 113, 338 and Further Submission F401

The substance of these submissions is considered above (see Rule AQL70 Condition 4 (d) ## 03-120 01b09 - 03-120 01b10 - 03-120 01b11, 113, 338, F347, F401). The consideration is relevant, and has been adopted. No change is recommended by the Commissioners in response to these submissions, and it is recommended that submissions 113 and 338 be rejected and further submission F401 be accepted.

Recommendation**Reject**

Submissions 113, 338.

Accept

Further Submission F401.

Amendment Required

None Required.

Rule AQL71 Condition 5 ## 03-123 01b05 - 03-123 01b07

39	Dow Agrosciences, Palmerston North Office	Delete condition.
56	Everest Farm Consulting Ltd	Delete Condition 5.
113	Hide Spraying Ltd	Delete condition 5.
117	TrustPower Ltd	Delete condition 5, and make any consequential amendments.
125	Waimakariri District Council	Delete condition 5, or redraft to specify that the terms objectionable and offensive can only apply to cases where there is a high frequency of application of an agrichemical, and that it does not apply to the odour from infrequent applications.
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 5 and review the activity status of the rule.
339	Porkcorp New Zealand Ltd	Amend condition 5 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 5 for boom applicators.

378 (point 1)	Canterbury Growers Society Ltd	Delete Condition 5.
378 (point 2)	Canterbury Growers Society Ltd	Delete Condition 7, and include in the Water Chapter, or replace 10 metres with 3 metres.
401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 5.
401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 7, and include in the Water Chapter, or replace 10 metres with 3 metres.
429 (point 1)	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.
429 (point 2)	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.
431	Intensive Farming Work Group	Delete Condition 5.
F5	Rangitata Diversion Race Management Ltd	Oppose submission 238.
F117	TrustPower Ltd	Oppose submission 238.
F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238.
F216	Hurunui District Council	Support in part submission 238.
F338	Transit New Zealand	Oppose in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429 (point 1).
F347 (point 2)	Federated Farmers of New Zealand	Support submission 56.
F347 (point 3)	Federated Farmers of New Zealand	Support submission 401 (point 1).
F347 (point 4)	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.
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Support in part submission 238.
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose in part 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.
F3002	Carter Holt Harvey Forest Resources	Support submission 39.

Submission Clarification

Submission 56

Submission 56 notes that; *“it is reasonable to request spray drift be contained within property boundaries without advice to neighbours first..”* It is not clear from the submission that the decision requested is to delete this permitted activity condition as summarised. However, for consideration purposes, this is the most conservative position, and therefore the summary has been adopted.

Submission 378 (point 2)

Submission 378 (point 2) has been moved to Rule AQL71 Condition 7 ## 03-123 01b12 - 03-123 01b15). It relates to set backs from water bodies when mixing agrichemicals.

Submission 401 (point 2)

Submission 401 (point 2) has been moved to Rule AQL71 Condition 7 ## 03-123 01b12 - 03-123 01b15). It relates to set backs from water bodies when mixing agrichemicals.

Submission 429 (point 2)

Submission 429 (point 2) has been moved to Rule AQL71 Condition 6 ## 03-123 01b08). It relates to the dispersal or deposition of agrichemical particles.

Consideration

Submissions 39, 56, 113, 117, 125, 172, 238, 339, 347, 378 (point 1), 401 (point 1), 429 (point 1), 431 and Further Submissions F5, F117, F155, F216, F338, F347 (points 1, 2, 3 and 4), F352, F353, F354, F355, F401 (points 1 and 2), F427, F428, F3002

These submissions are the same as those relating to Rule AQL70, permitted activity condition 5 at ## 03-120 01b14, 39, 56, 113, 117, 125, 172, 238, 339, 347, 378, 401, 429, 431, F5, F117, F155, F216, F338, F347 (points 1, 2, 3 and 4), F352, F353, F354, F355, F401 (points 1 and 2), F427, F428, F3002.

Rule AQL71, permitted activity condition 5, is the same as Rule AQL70, permitted activity condition 5, and as notified is:

“5. *The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property on which the agrichemicals are applied.*”

The consideration above is relevant, and it has been adopted. However, it is considered that there is a difference in the circumstances. The amount of agrichemicals that will be applied using the possible methods the subject of Rule AQL71, is likely to be considerably greater than that which is applied by hand-held methods. Further, the possible methods of application (e.g. airblast, boom, chemigation) could result in potentially less control of the drift of agrichemical odour when compared with hand-held application. The methods are more ‘visible’, potentially altering perceptions of any odour experienced. As a consequence, there is the possibility of more odour issues associated with the aromatics within the agrichemical. In the Commissioners’ view permitted activity condition 5 is the most appropriate method to manage these effects and implement Policy AQL7. Consequently, the recommendation by the Commissioners is the same – the condition is retained, but reworded as sought by submission 172. This rewording better ties in with the Act and in particular section 17.

Recommendations

Reject

Submissions 39, 56, 113, 117, 125, 238, 347, 378 (point 1), 401 (point 1), 429 (point 1), 431 and Further Submissions F216, F347 (point 4), F401 (point 1), F3002.

Accept in part

Submission 339.

Accept

Submission 172 and Further Submissions F5, F117, F155, F338, F347 (points 1, 2 and 3), F352, F353, F354, F355, F401 (point 2), F427, F428.

No recommendation required

Submissions 378 (point 2), 401 (point 2), 429 (point 2).

Amendment Required

Amend Rule AQL71 Ground-based application of agrichemicals using techniques other than hand-held techniques – permitted activity, Conditions, 5, p 3-123 as follows:

5. ~~The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property on which the agrichemicals are applied."~~
5. ' 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.'

Rule AQL71 Condition 6 ## 03-123 01b08

117	TrustPower Ltd	Delete condition 6, and make any consequential amendments.
125	Waimakariri District Council	Delete the words "dangerous, offensive or objectionable".
238	Director General Of Conservation	Delete Condition 6 and review the activity status of the rule.
378	Canterbury Growers Society Ltd	Replace the term 'agrchemical particles' with 'off target spray drift'.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Replace the term 'agrchemical particles' with 'off target spray drift'.
429 (point 2)	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.
F5	Rangitata Diversion Race Management Ltd	Oppose submission 238.
F117	TrustPower Ltd	Oppose submission 238.

F155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Oppose submission 238.
F216	Hurunui District Council	Support in part submission 238.
F338	Transit New Zealand	Oppose in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 2)	Federated Farmers of New Zealand	Oppose submission 238.
F347 (point 3)	Federated Farmers of New Zealand	Support submission 429(point 2).
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.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	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.

Submission Clarification

Submission 429 (point 2)

Submission 429 (point 2) has been moved from Rule AQL71 Condition 5 ## 03-123 01b05 – 03-123 01b07). It relates to the dispersal or deposition of agrichemical particles.

Consideration

Submissions 117,125, 238, 378, 401, 429 (point 2) and Further Submissions F5, F117, F155, F216, F338, F347 (points 1, 2 and 3), F352, F353, F354, F355, F401, F427, F428

These submissions are the same as those relating to Rule AQL70, permitted activity condition 6. The substance of these submissions is considered above (see Rule AQL70 Condition 6 ## 03-120 01b17 – 03-120 01b18, 117, 125, 238, 378, 401, 429, F5, F117, F155, F216, F338, F347 (points 1, 2 and 3), F352, F353, F354, F355, F401, F427, F428). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made, and that the submissions which seek to delete or amend the condition are rejected, and that those that seek to retain it are accepted.

Recommendations

Reject

Submissions 117,125, 238, 378, 401,429 (point 2) and Further Submissions F216 and F347 (points 1 and 3).

Accept

Further Submissions F5, F117, F155, F338, F347 (point 2), F352, F353, F354, F355, F401, F427, F428.

Amendment Required

None required.

Rule AQL71 Condition 7 ## 03-123 01b12 - 03-123 01b15

196	Waimate District Council	Delete Condition 7
216	Hurunui District Council	Delete references to field drains in condition 7.
238	Director General Of Conservation	Delete Condition 7. Make any consequential amendments to the Plan.
286	M Eder	Delete condition 7.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 7 for boom applicators.
348	Environment Canterbury	Add the word 'qualifying' before 'drip tray'.
378 (point 2)	Canterbury Growers Society Ltd	Delete Condition 7, and include in the Water Chapter, or replace 10 metres with 3 metres.
390	Mayfield Hinds Irrigation Society Ltd	Chemicals should be allowed to mix within 10 metres of a water body, and remove requirement to use drip trays.

399	M Turley	Reduce 10 metres to 5 metres.
401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 7, and include in the Water Chapter, or replace 10 metres with 3 metres.
409	I & W Doody	This should be in Chapter 4 (Water Quality).
431	Intensive Farming Work Group	Delete Condition 7.
432 (point 1)	Land Information NZ	Delete Condition 7, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
F347 (point 1)	Federated Farmers of New Zealand	Oppose submission 348.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 432 (point 1).

Submission Clarification

Submission 432 (point 1)

Submission 432 (point 1) has been moved from Rule AQL71 Condition 11 (b) (ii) ## 03-124 01b13 - 03-124 01b15. It relates to set backs from water bodies when mixing agrichemicals.

Further Submissions F378 (point 2), F401 (point 2)

Further Submissions F378 (point 2), F401 (point 2) has been moved from Rule AQL71 Condition 5 ## 03-123 01b05 - 03-123 01b07. It relates to set backs from water bodies when mixing agrichemicals.

Consideration

Submissions 196, 216, 238, 286, 347, 378 (point 2), 390, 401 (point 2), 431, 432 (point 1) and Further Submission F347 (point 2)

These submissions all sought the deletion of the whole or in part of permitted activity condition 7.

Permitted activity condition 7 as notified is:

“7. No mixing or diluting of agrichemicals shall take place within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, unless the mixing or diluting takes place over a drip tray or within an impervious bunded area to contain spillages.”

Fundamental to the consideration of these submissions is the recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. That consideration is relevant here and has been adopted. The recommendation is to delete permitted activity condition 7 and it is recommended that these submissions be accepted.

Submission 399

This submission sought to reduce the setback distance to 5 metres.

The reduction sought in the set back distance is no longer relevant as a result of the above recommendation. No change is recommended by the Commissioners in response to this submission, and it is recommended that it be rejected.

Submission 409

This submission is correct insofar as this matter is more appropriately dealt with in Chapter 4 of the NRRP (see Proposed Rule WQL16, permitted activity condition 9). It is recommended that Submission 409 be accepted in this regard.

Submission 348 and Further Submission F347 (point 1)

Submission 348 sought to add the word “qualifying” before the words “drip-tray”.

It is recommended above to delete permitted activity condition 7. As such, the amendment is not necessary. No change is recommended by the Commissioners, and submission 348 can be rejected and further submission F347 (point 1) accepted.

Recommendations

Reject

Submissions 348, 399.

Accept

Submissions 196, 216, 238, 286, 347, 348, 378 (point 2), 390, 401 (point 2), 409, 431, 432 (point 1) and Further submission F347 (points 1 and 2).

Accept in part

Submissions 216, 347.

Amendment Required

- 1 Delete Rule AQL71 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 7 p 3-123 as follows:

~~“7. — No mixing or diluting of agrichemicals shall take place within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, unless the mixing or diluting takes place over a drip tray or within an impervious bunded area to contain spillages.”~~

Rule AQL71 Condition 8 ## 03-123 01b17

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 8 to relevant rules in Chapters 7 and 9 of the NRRP.
26	J McFadden	Delete condition 8.
39	Dow Agrosiences, Palmerston North Office	Change to read: "Except as provided for in condition 9, there shall be no discharge into or onto land which will result in that contaminant entering water via surface runoff at levels that will cause noxious, dangerous, offensive or objectionable effects."
216	Hurunui District Council	Delete controls on the effects of agrichemicals in relation to and water from condition 8.
238	Director General Of Conservation	Delete Condition 8. Make any consequential amendments to the Plan.
374	New Zealand Institute For Crop & Food Research Ltd	Delete condition 8.
409	I & W Doody	This should be in Chapter 4 (Water Quality).
432	Land Information NZ	Delete Condition 8, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
F338	Transit New Zealand	Support submission 216.
F347	Federated Farmers of New Zealand	Support submission 374.

Submission Clarification

Submission 5

Submission 5 states “*these conditions do not belong in the Air Chapter...*”

Consideration

Submissions 5, 26, 216, 238, 374, 432 and Further Submissions F338, F347

These submissions seek that condition 8 should be deleted.

Fundamental to the consideration of these submissions is the recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. This consideration is relevant here and is adopted. This recommendation by the Commissioners is to delete permitted activity condition 8, and it is recommended that these submissions be accepted.

Submission 39

Given the above recommendation, the change sought is not recommended, and it is recommended that submission 39 be rejected.

Submission 409

This submission is correct insofar as this matter is more appropriately dealt with in Chapter 4 of the NRRP (see Proposed Rule WQL16). It is recommended that the submission be accepted in this regard.

Recommendations

Reject

Submission 39.

Accept

Submissions 5, 26, 216, 238, 374, 409, 432 and Further Submissions F338, F347.

Amendment Required

Delete 'Rule AQL71 Ground-based application of agrichemicals using hand-held application techniques – permitted activity', 'Conditions' 8 p 3-123 as follows:

~~8. — Except as provided for in condition 10, there shall be no discharge into or onto land which may result in that contaminant entering water via surface runoff.~~

Rule AQL71 Condition 9 ## 03-123 01b20

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 9 to relevant rules in Chapters 7 and 9 of the NRRP.
26	J McFadden	Delete condition 9.
39 (point 1)	Dow Agrosiences, Palmerston North Office	Change to read: "Except as provided in condition 10, the direct discharge of agrichemicals to water should be avoided."
39 (point 2)	Dow Agrosiences, Palmerston North Office	Amend condition 9 to read: ' refer to condition 10.'
117	TrustPower Ltd	Delete condition 9, and make any consequential amendments.
216	Hurunui District Council	Delete controls on the effects of agrichemicals in relation to and water from condition 9.
238	Director General Of Conservation	Delete Condition 9. Make any consequential amendments to the Plan.

338	Transit New Zealand, Christchurch	Delete condition 9.
409	I & W Doody	This should be in Chapter 4 (Water Quality).
432	Land Information NZ	Delete Condition 9, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
F338	Transit New Zealand	Support submission 216.
F3002	Carter Holt Harvey Forest Resources	Support submission 238.

Submission Clarification

Submission 5

Submission 5 states “*these conditions do not belong in the Air Chapter.....*”.

Submission 39 (point 2)

Submission 39 (point 2) sought that permitted activity condition 9 become subservient to permitted activity condition 10 – that is that any activity that meets permitted activity condition 10 automatically does not need to meet permitted activity condition 9.

Consideration

Submissions 5, 26, 117, 216, 238, 338, 432 and Further Submissions F338, F3002

These submissions seek that condition 9 should be deleted.

Fundamental to the consideration of these submissions is the recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. This consideration is relevant here and has been adopted. The recommendation by the Commissioners is to delete permitted activity condition 9, and it is recommended that these submissions be accepted.

Submission 39 (points 1 and 2)

Given the above recommendation, the changes sought are not recommended by the Commissioners, and submission 39 is recommended for rejection.

Submission 409

This submission is correct insofar as this matter is more appropriately dealt with in Chapter 4 of the NRRP (see Proposed Rule WQL16). It is recommended that the submission be accepted in this regard.

Recommendations

Reject

Submissions 39 (points 1 and 2).

Accept

Submissions 5, 26, 117, 216, 238, 338, 409, 432 and Further Submissions F338, F3002.

Amendment Required

Delete 'Rule AQL71 Ground-based application of agrichemicals using hand-held application techniques – permitted activity', 'Conditions' 9 p 3-123 as follows:

~~9. — Except as provided for in condition 10, there shall be no direct discharge into or onto water.~~

Rule AQL71 Condition 10 ## 03-123 01b22

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 10 to relevant rules in Chapters 7 and 9 of the NRRP.
238	Director General Of Conservation	Delete Condition 10. Make any consequential amendments to the Plan.
409	I & W Doody	This should be in Chapter 4 (Water Quality).
429	Selwyn District Council	Delete Condition 10. Make any other consequential amendments as necessary.
432	Land Information NZ	Delete Condition 10, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
F347	Federated Farmers of New Zealand	Support submission 429.

Submission clarification

Submission 5

Submission 5 states “*these conditions do not belong in the Air Chapter...*”

Consideration

Submissions 5, 238, 429, 432 and Further Submission F347

These submissions seek that condition 10 should be deleted.

Fundamental to the consideration of these submissions is the recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. This consideration is relevant here and has been adopted. The recommendation by the Commissioners is to delete permitted activity condition 10, and it is recommended that the submissions be accepted.

Submission 409

This submission is correct insofar as this matter is more appropriately dealt with in Chapter 4 of the NRRP (see Proposed Rule WQL16). It is recommended that submission 409 be accepted in this regard.

Recommendations

Accept

Submissions 5, 238, 409, 429, 432 and Further Submission F347.

Amendment Required

Delete 'Rule AQL71 Ground-based application of agrichemicals using hand-held application techniques – permitted activity', 'Conditions' 10 p 3-123 as follows:

~~10. — Where the agrichemical is being used for aquatic weed control, there shall be no adverse effects to other aquatic organisms that are not the target species and no adverse effect on mahinga kai."~~

Rule AQL71 Condition 11 ## 03-123 01b26

39	Dow Agrosiences, Palmerston North Office	Add: "When notification is requested, an annual spray plan should be an option available to the agrichemicals user. This would be provided, at the user's discretion, instead of notification between 12 hours and 3 weeks prior to the commencement of the spraying."
56	Everest Farm Consulting Ltd	Delete Condition 11
235	Crown Public Health, Canterbury Office	Add another condition: 'the sprayer shall advise all schools and outdoor educational camps within 100m of the perimeter of the land to be sprayed at least four working days prior to spraying.' This could be incorporated into Condition 10. Add another condition: '(a) The sprayer shall ensure that the exact location of all public, community and private drinking water supplies in the spray programme's area are identified and documented with the help of the appropriate territorial authority and Crown Public Health. This information shall be recorded and a copy kept on any vehicles and machinery used in the discharging of agrichemicals. (b) The owners of any public, community and private drinking water supplies whether surface/filtration gallery or wells within 250m of any spray area, shall be informed before spraying commences'.

286	M Eder	Delete condition 11.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 11 for boom applicators.
378	Canterbury Growers Society Ltd	Retain Condition the premise that the potentially affected party should request notification
390	Mayfield Hinds Irrigation Society Ltd	Delete Condition 11.
399	M Turley	Amend condition 11 of Rule AQL 71 to read the same as conditions 10 and 11 of Rule AQL 70.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Retain Condition on the premise that the potentially affected party should request notification
431	Intensive Farming Work Group	Delete Condition 11.
F39	Dow Agro Sciences	Opposes submission 235.
F347 (point 1)	Federated Farmers of New Zealand	Oppose submission 235.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 56.
F347 (point 3)	Federated Farmers of New Zealand	Support submission 401.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Support submission 39.

Submission Clarification

Submission 235

Submission 235 has been moved from Rule AQL71 conditions ## 03-121 04b01. It relates to prior notification of potentially affected parties.

Submission 390

Submission 390 has been copied from Rule AQL71 condition 12 ## 03-124 01b28. The submitter did not identify the plan provision subject to his submission, rather the page number, being 3-124. Both parts of Rule AQL71, permitted activity condition 11 and 12 are found on this page. The submission states that "*notification when spraying alongside community irrigation races is unnecessary*". Therefore, the submission will be considered in terms of both permitted activity condition 11 and 12.

Further Submissions F39 and F347 (point 1)

Further Submissions F39 and F347 (point 1) have been moved from Rule AQL71 conditions ## 03-121 04b01. They relate to prior notification of potentially affected parties.

Consideration

Submissions 56, 286, 347, 390, 431 and Further Submission F347 (point 2)

All these submissions seek that permitted activity condition 11 should be deleted (either in whole or in part), amended or retained.

The substance of these submissions is considered in relation to Policy AQL7 (see Policy AQL7 (a) (vi) ## 03-022 10 00, 147, 347, 414, 431). The consideration is relevant here and has been adopted. A consequence of the recommended change to Policy AQL7(a)(vi) is that the policy requires advance notification of agrichemical spraying as a permitted activity condition, for other than hand-held appliances only. It is recommended that permitted activity condition 11 is maintained as this gives effect to Policy AQL7. It is recommended that the submissions be rejected.

Submission 39 and Further Submission F401

The submission seeks property spray plans as an alternative to notification.

Spray plans were considered at Rule AQL71 Conditions ## 03-121 04b01, 378 (point 3), 401 (point 3), F347 (point 4) above and that consideration is relevant here and has been adopted. It is accepted that in some of the circumstances when Rule AQL71 will apply, the development and distribution of a property spray plan will represent 'best practice' – for example for a rural cropping farm. However, it is not clear that a property spray plan is warranted for all the agrichemical applications covered by Rule AQL71. Further, because the content of any property spray plan cannot be meaningfully controlled by a permitted activity condition, the benefit of requiring the development of a property spray plan can only be in setting out in detail how the other permitted activity conditions of Rule AQL71 will be met (i.e. akin to a management plan requirement as a condition of resource consent), and to give notice to adjoining parties as to the agrichemical spray intentions over the life of the property spray plan. The primary function of a property spray plan, in this context, would be as part of the prior notification regime. Condition 11 already provides in part the option sought by the submitter. No change is recommended by the Commissioners and it is recommended that the submissions be rejected.

Submission 235 and Further Submissions F39, F347 (point 1)

The submission, opposed by the further submissions, sought a new prior notification requirement.

Given the above consideration, no change is recommended by the Commissioners. In their view a school or education camp are covered by condition 12. Moreover if it is a neighbour it will be notified. The drinking water supply issue is better handled in Chapter 4 and it is recommended that submission 235 be rejected and further submissions F39 and F347 (point 1) be accepted.

Submissions 378, 399, 401 and further submission F347 (point 3)

Submission 399 sought that condition 11 should be amended to match the similar condition in Rule AQL70, and submissions 378 and 401 sought that the condition should be retained subject to the notification being required only on request.

The Commissioners have recommended that prior notification should be required for other than hand-held application appliances. Therefore it is not necessary to have condition 11 match the similar condition 10 in Rule AQL70. The Commissioners consider that the requirement for prior notification in condition 11 is required, given the circumstances associated with other than hand-held appliances. The requirement for notification gives effect to Policy AQL7 as recommended by the Commissioners. It is recommended that these submissions be rejected.

Recommendations

Reject

Submissions 39, 56, 235, 286, 347, 378, 390, 399, 401, 431 and Further Submissions F347 (points 2 and 3), F401.

Accept

Further Submissions F39, F347 (point 1).

Amendment Required

None Required.

Rule AQL71 Condition 11 (a) ## 03-123 01b29

192	N Barton	Delete condition 11 (a)
378	Canterbury Growers Society Ltd	Delete Condition 11 (a).
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 11 (a).
F347	Federated Farmers of New Zealand	Support submission 401.

Consideration

Submissions 192, 378, 401 and Further Submission F347

These submissions sought that condition 11(a) should be deleted.

Given the consideration and recommendation above (see Rule AQL71 Condition 11 ## 03-123 01b26, 56, 286, 347, 390, 431 and further submission F347 (point 2)) is relevant here and has been adopted, and it is recommended that these submissions be rejected.

Recommendation

Reject

Submissions 192, 378, 401 and Further Submission F347.

Amendment Required

None Required.

Rule AQL71 Condition 11 (b) ## 03-124 01b04 - 03-124 01b05

39	Dow Agrosiences, Palmerston North Office	Delete condition.
192	N Barton	Delete condition 11 (b)
272	Canterbury Asthma Society	Delete 'if requested by' and replace with: 'A written annual or seasonal property spraying plan will be supplied to adjoining owners or occupiers'.
338	Transit New Zealand, Christchurch	Retain condition 11 (b) and in particular that neighbours need only receive advance notification on request.
378	Canterbury Growers Society Ltd	Delete the words 'is in residence' and replace with 'may be affected' in Condition 11(b).
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete the words 'is in residence' and replace with 'may be affected' in Condition 11(b).
F347	Federated Farmers of New Zealand	Support submission 401.

Consideration

Submissions 39, 192

These submissions sought that condition 11(b) should be deleted.

Given the consideration and recommendation above (see Rule AQL71 Condition 11 ## 03-123 01b26, 56, 286, 347, 390, 431 and Further Submission F347 (point 2)) is relevant here and has been adopted, and it is recommended that these submissions be rejected.

Submissions 272, 338, 378, 401 and Further Submission F347

These submissions sought various amendments to condition 11(b).

Submitter 272 sought that the provision of a spray plan be mandatory. The Commissioners consider that notification is the essential element and that provision in the form of a spray plan is only one way that this may be achieved. Therefore they do not support this submission. The other submitters sought a change from residents to those who may be affected. The Commissioners consider that it would be more difficult for an applicator to identify who may be affected rather than who is a resident and therefore such a change may make the condition very difficult to apply and enforce. They therefore do not support the change sought and it is recommended that these submissions be rejected.

Recommendations

Reject

Submissions 38, 192, 272, 338, 378, 401 and Further Submission F347.

Amendment Required

None Required.

Rule AQL71 Condition 11 (b) (ii) ## 03-124 01b13 - 03-124 01b15

432 (point 1)	Land Information NZ	Delete Condition 7, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP.
432 (point 2)	Land Information NZ	Delete Condition 8, or cross-reference to relevant rules in Chapters 7 and 9 of the NRRP. Allow this activity to occur without the need for resource consent.

Submission Clarification

Submission 432 (point 1)

Submission 432 (point 1) has been moved to Rule AQL71 Condition 7 ## 03-123 01b12 - 03-123 01b15. It relates to mixing and dilution of agrichemicals.

Submission 432 (point 2)

Submission 432 (point 2) relates to a contaminant entering water. It is already summarised under the heading Rule AQL71 Condition 8 ## 03-123 01b17. Consideration of this submission at this location in the report is not required.

Consideration

No consideration required.

Recommendation

No recommendation required

Submission 432 (points 1 and 2).

Rule AQL71 Condition 12 ## 03-124 01b28

286	M Eder	Delete condition 12.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 12 for boom applicators.
390	Mayfield Hinds Irrigation Society Ltd	Delete Condition 11.
398	M Robinson	Delete the words 'alongside a roadway' from condition 12.
431	Intensive Farming Work Group	Delete Condition 12.

Submission Clarification

Submission 390

Submission 390 did not identify the plan provision subject to its submission, rather the page number, being 3-124. Both parts of Rule AQL71, permitted activity condition 11 and 12 are found on this page. The submission states that *“notification when spraying alongside community irrigation races is unnecessary”*, therefore, the submission is considered in terms of both permitted activity condition 11 and 12.

Consideration

Submissions 286, 347, 390, 398, 431

All these submissions sought that permitted activity condition 12 should be deleted (either in whole or in part).

The substance of these submissions is considered at Policy AQL7 (a) (vi) ## 03-022 10 00, 147, 347, 414, 431. The consideration is relevant here and has been adopted. A consequence of the recommended change to Policy AQL7(a)(vi) is that the policy requires advance notification of agrichemical spraying as a permitted activity condition for other than hand-held applications. Consequently, it is recommended by the Commissioners that permitted activity condition 12 be retained, and that these submissions be rejected.

Recommendation

Reject

Submissions 286, 347, 390, 398,431.

Amendment Required

None Required.

Rule AQL71 Condition 13 ## 03-125 01b13

147	Ashburton District Council	Delete condition 13, and rely more on codes of practice.
192	N Barton	Delete condition 13.
286	M Eder	Delete condition 13.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 13 for boom applicators.
431	Intensive Farming Work Group	Delete Condition 13.

ConsiderationSubmissions 147, 192, 286, 347, 431

All these submissions sought that permitted activity condition 13 is deleted (either in whole or in part).

Permitted activity condition 13 directly relates to permitted activity conditions 11 and 12. Both permitted activity conditions 11 and 12 are recommended to be retained and consequently permitted activity condition 13 provides clarity as to when notification is not required or how the time frame is affected. These provisions are sensible and should work at a practical level, although some tidying up is required to the wording of condition 13(b). The Commissioners recommend that condition 13 be retained and it is recommended that these submissions be rejected.

Recommendation**Reject**

Submissions 147, 192, 286, 347, 431.

Amendment Required

None Required.

Rule AQL71 Condition 13 (b) ## 03-125 01b21 - 03-125 01b23

39	Dow Agrosiences, Palmerston North Office	Amend condition to read '...that subsequent risk of disease or insect pest pressure places any crop at risk of damage...'
113	Hide Spraying Ltd	Reword to read "...and must take place before spraying takes place."

409	I & W Doody	Delete Condition 13(b)
-----	-------------	------------------------

Consideration

Submission 39

This submission sought that the words “or insect pressure” be added to condition 13(b).

The request to include the words “or insect pressure” is considered by the Commissioners to be sensible, given that agrichemicals are used for both disease and pest control. It is therefore recommended that this submission be accepted.

Submission 113

Submission 113 sought to reduce the prior notification period from no less than two hours to immediately prior to.

The Commissioners consider that the two hours prior notice is required to reasonably enable those people who may consider that they may be affected to take action to avoid any risk. They therefore support retention of the two hours prior notification and recommend that this submission be rejected.

Submission 409

This submission sought that Permitted activity 13 should be deleted.

Given the consideration at Rule AQL71 Condition 13 ## 03-125 01b13, 147, 192, 286, 347, 431. it is recommended that submission 409 be rejected.

Recommendations

Reject

Submissions 113, 409.

Accept

Submission 39.

Amendment Required

Amend Rule AQL71 Ground-based application of agrichemicals using hand-held application techniques – permitted activity’, ‘Conditions’ 13(b) p 3-125 as follows:

“(b) *where the weather conditions are such that subsequent risk of disease or insect pressure places any crop at risk of damage. In this situation, notification may be either verbal or written, and must take place no less than two hours before the spraying takes place.*”

Rule AQL71 Condition 14 ## 03-125 01b25

147	Ashburton District Council	Delete condition 14, and rely more on codes of practice.
192	N Barton	Delete condition 14.
286	M Eder	Delete condition 14.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 14 for boom applicators.
431	Intensive Farming Work Group	Delete Condition 14.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose in part submission 147.

ConsiderationSubmissions 147, 192, 286, 347, 431 and Further Submission F401

All these submissions, with the further submission in opposition, sought that permitted activity condition 14 should be deleted (either in whole or in part).

Permitted activity condition 14 directly relates to permitted activity condition 11. Permitted activity condition 11 is recommended by the Commissioners to be retained. Consequently, permitted activity condition 14 is required to define how long the spray plan or application use record sheet should be retained for. There were no submissions seeking a reduced period for the retention of the documents, and therefore the Commissioners recommend that condition 14 be retained with no changes. It is recommended that submissions 147, 192, 286, and 431 be rejected and further submission F401 be accepted in part.

Submission 347

The submitter sought that condition 14 should not apply to boom applicators.

Boom applicators may or may not have a lower potential for adverse effects such as spray drift, however the scale of the spraying operation is likely to be large given that the appliance is not hand-held, and in those circumstances the Commissioners consider that the requirements of condition 14 are appropriate. The recommendation is that the condition be maintained and that no change is made, and that submission 347 be rejected.

Recommendations**Reject**

Submissions 147, 192, 286, 347, 431.

Accept in part

Further submission F401.

Amendment Required

None required

Rule AQL72 Aerial application of agrichemicals - permitted activity ## 03-126 02 00

37	New Zealand Agricultural Aviation Association	Require all aerial operators to be accredited according to the NZ Agricultural Aviation Association Accreditation Programme as the condition for permitted activity for agricultural use.
224	Wyndons Aviation Ltd	Make aerial application of agrichemicals a permitted activity for NZAAA accredited operators.
338 (point 1)	Transit New Zealand, Christchurch	Amend Rule AQL 72 to provide for Method AQL 7(d) which includes reference to limited discretionary activities.
338 (point 2)	Transit New Zealand, Christchurch	Cross reference with the relevant rule in the Draft NRRP Chapter 4 - Water Quality.
374	New Zealand Institute For Crop & Food Research Ltd	Retain the permitted activity status of Rule AQL 72.
405	Timaru District Council	Include a cross reference to the Water Plan.
422	N Woolf	ECan needs to be concerned about the water quality near the industries at Washdyke and Temuka as a result of intensive spraying on farmland.
427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Delete Rule AQL 72, this should be in the land and water Chapters (or have a separate section in the NRRP for combination type rules). Make any consequential amendments to the plan where necessary.
F347	Federated Farmers of New Zealand	Support submission 374.
F405	Timaru District Council	Support submission 338.
F3002 (point 1)	Carter Holt Harvey Forest Resources	Support submission 37.
F3002 (point 2)	Carter Holt Harvey Forest Resources	Support submission 374.

Submission Clarification

Submission 427

Submission 427 sought to: *“Delete all references to land and water discharges contained within the Air Chapter, as subsequent Chapter will address these matters”*.

Consideration

Submission 37 and Further Submission F3002 (point 1)

The submission sought that all aerial operators should be required to be accredited according to the New Zealand Agricultural Aviation Association accreditation programme.

The consideration below is relevant (see Rule AQL72 Condition 3 ## 03-126 03b10 - 03-126 03b11), and it is adopted.

The detail of the accreditation programme has not been explored by the Commissioners. However, it is understood that the New Zealand Agricultural Aviation Association (NZAAA) is a body that represents the majority of agricultural aviators in New Zealand (its website claims 95%, <http://www.aia.org.nz/nzaaa.html> (20 May 2004)). The NZAAA states that the accreditation programme run by it *“measures compliance with six codes of practice including Growsafe, Spreadmark (under development) Fuel Storage and Handling, Spreading Poisoned Baits and Training”* (<http://www.aia.org.nz/nzaaa.html> (ibid)). At present, Rule AQL72 requires that GROWSAFE® qualification is obtained. There can be some confidence that the GROWSAFE® qualification is, in the main, targeted at matters that will implement Policy AQL7. There are a number of independent course providers, who are linked into the national qualifications framework. There is some confidence over the ongoing value of the GROWSAFE® qualification, and that it will be available over the life of Chapter 3. In so far as the Commissioners are aware. The NZAAA accreditation does not have all of these attributes. No change is recommended by the Commissioners, and it is recommended that these submissions be rejected.

Submission 224

This submission sought that aerial agrichemical application is a permitted activity for those who are NZAAA accredited operators.

The consideration directly above (see 37, F3002 (point 1)) is relevant here and has been adopted. The submission states that some of the permitted activity conditions are impractical and difficult to enforce, and refers, as an example, to permitted activity conditions 6, 7 and 8. These conditions are dealt with below. No change is recommended by the Commissioners in response to this submission, and it is recommended that it be rejected.

Submission 338 (point 1)

This submission sought that the activity status for non-compliance with Rules AQL70, AQL71 and AQL72 should be a restricted discretionary activity.

At present, Rule AQL73 makes non-compliance a full discretionary activity. The submission did not specify what restriction in discretion is being sought. The submission is correct that 'Method AQL7(d) Resource Consents' states "*Resource consents may be granted for the discharge of agrichemicals. These may involve agrichemical application specified as a limited discretionary activity*". Therefore, an inconsistency exists between this method and resulting Rule AQL73.

Policy AQL7 contains no stated preference between the two activity categories. Objective AQL1 contains a number of considerations, including: matters relating to Tangata Whenua; human health and safety; odour; visibility; structure damage; ecosystem, plant and animal health; and water. All these are relevant to agrichemical spray drift. Any restriction of discretion should be wide enough to allow consideration of all these matters in order to further the achievement of the objective.

In this circumstance the lack of specificity in the submission is of concern. Because the nature of the restriction of discretion sought is not specified, other parties have not had the opportunity to consider how they may specifically be impacted upon, and then afforded the opportunity to lodge further submissions.

On balance (due to the lack of specifics in the submissions), a restriction of a consent authority's discretion is not recommended by the Commissioners.

The recommendation by the Commissioners is the same – that no change is made, and it is recommended that the submission be rejected.

Submissions 338 (point 2), 405, and Further Submission F405

These submissions sought cross references to Chapter 4

The substance of these submissions is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 338 (point 3)). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made, and it is recommended that these submissions be rejected.

Submission 427

This submission sought that Rule AQL72 should be deleted or a separate section in the NRRP be created for these combination type rules.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 276, 427, F338 and at ##03-000 00 00,427, 428). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that change be made, and that this submission be accepted in part.

Submission 422

This submission relates to water quality.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 422 and at ##03-00 00 00, 427, 428). The consideration is relevant, and has been adopted. The recommendation that this be considered as part of Chapter 4 is the same – that no change is made, and it is recommended that the submission be rejected.

Submission 374 and Further Submissions F347, F3002 (point 2)

These submissions sought to retain Rule AQL72.

Given the consideration in this report, these submissions can be accepted in part.

Recommendations

Reject

Submissions 37, 224, 338 (points 1 and 2), 405, 422 and Further Submissions F405, F3002 (point 1).

Accept in part

Submission 374, 427 and Further Submissions F347, F3002 (point 2).

Amendment Required

- 1 Amend 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Activity' p 3-126 as follows:

~~“Discharge of agrichemicals into or onto land, or into water, or into air, by aerial application, is a permitted activity”.~~

- 2 Delete 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Conditions' 6, 7 and 8 p 3-127 as follows:

~~“6. — No mixing or diluting of agrichemicals shall take place within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, unless the mixing or diluting takes place over a drip tray or within an impervious bunded area to contain spillages.~~

~~7. — There shall be no discharge into or onto land which may result in that contaminant entering water via surface water runoff.~~

~~8. — There shall be no direct discharge into or onto water.”~~

- 3 Amend '3.5.9.7 Regional rules for the discharge of agrichemicals', by deleting paragraph 8 p 3-174 as follows:

~~“Under section 15 of the RMA, no person may discharge contaminants into water or into or onto land in circumstances that may result in that contaminant entering water unless expressly allowed by a rule in a regional plan or relevant proposed regional plan, resource consent or regulations. Thus it is appropriate to provide for the discharge of agrichemicals used for aquatic weed control into water in the conditions of the rules as long as there are no adverse effects on aquatic organisms other than the target species and that there are no adverse effects on mahinga kai.”~~

- 4 Amend ‘3.5.9.7 Regional rules for the discharge of agrichemicals’, ‘Rule AQL72 Aerial application of agrichemicals – permitted activity’ p 3-177 by deleting paragraph one as follows:

~~“Water bodies are vulnerable to contamination as a result of the accidental spillage of agrichemicals during mixing, diluting or other preparation. Measures to reduce adverse effects must be undertaken. If preparation occurs within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, an impervious bunded area will provide a mechanism to contain any spillages and thus reduce the likelihood of spillages entering the environment with possible adverse effects. If an impervious bunded area is not available within 10 metres from a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, then the mixing or diluting of agrichemicals shall not be permitted under Rule AQL72. However, the mixing or diluting of agrichemicals 10 metres or more from a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, is permitted under Rule AQL72 as there is a sufficient margin of safety present to enable action to be undertaken in the event of a spillage, to prevent any contamination of water.”~~

Rule AQL72 Conditions ## 03-126 03b01

147	Ashburton District Council	Delete conditions that do not directly mitigate adverse effects, and rely more on codes of practice.
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.

235	Crown Public Health, Canterbury Office	Add another condition: 'the sprayer shall advise all schools and outdoor educational camps within 250m of the perimeter of the land to be sprayed at least four working days prior to spraying.' This could be incorporated into Condition 10. Add another condition: '(a) The sprayer shall ensure that the exact location of all public, community and private drinking water supplies in the spray programme's area are identified and documented with the help of the appropriate territorial authority and Crown Public Health. This information shall be recorded and a copy kept on any vehicles and machinery used in the discharging of agrichemicals. (b) The owners of any public, community and private drinking water supplies whether surface/filtration gallery or wells within 500m of any spray area, shall be informed before spraying commences.'
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.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 235.
F3002	Carter Holt Harvey Forest Resources	Oppose submission 168.

Submission Clarification

Submission 235

Submission 235 relates to the affected party notification set out as permitted activity condition 9. It has been moved to Rule AQL72 condition 9 ## 03-127 01b19 and will be considered under that heading.

Further Submissions F347 and F401

Further Submissions F347 and F401 relate to submission 235, which in turn relates to affected party notification set out as permitted activity condition 9. They have been moved to Rule AQL72 condition 9 ## 03-127 01b19 and will be considered under that heading.

Consideration

Submission 147

The submission expresses concern about the appropriateness of the permitted activity conditions associated with Rule AQL72 when applied throughout Canterbury. It sought that those conditions not dealing directly with adverse effects should be deleted. It did not specify which permitted activity conditions it wishes be deleted.

All permitted activity conditions address adverse effects, whether they are in the form of environmental 'bottom lines' or through avoidance methods. No change is recommended by the Commissioners in response to this submission, and it is recommended that submission 147 be rejected.

Submission 168 (points 1 and 2) and Further Submissions F112 (points 1 and 2), F3002

The substance of these submissions is considered above (see Rule AQL70 Conditions ## 03-119 03b01, 168 (points 1 and 2), F112 (points 1 and 2)). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made, 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 147, 168 (points 1 and 2).

Accept

Further submissions F112 (points 1 and 2), F3002.

No recommendation required

Submission 235 and Further Submissions F347, F401.

Amendment Required

None Required.

Rule AQL72 Condition 1 ## 03-126 03b03

286	M Eder	Delete from condition 1 the words: 'or contravene any other requirement.'
------------	--------	---

ConsiderationSubmission 286

The substance of these submissions is considered above (see Rule AQL70 Condition 1 ## 03-119 03b03, 286, 347, 431, F3002, F3004, F3005, F3006, F3007, F3008, F3009, F3010, F3011, F3012, F3013, F3014, F3015, F3016, F3017, F3018, F3019, F3020, F3021, F3022, F3023, F3025, F3026, F3027, F3028, F3029, F3030, F3031, F3032, F3037, F3039). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that change is made, and that submission 286 is accepted.

Recommendation**Accept**

Submission 286.

Amendment Required

Amend condition 1, Rule AQL72, p.3-126 as follows:-

“The application of the agrichemical shall be undertaken in a manner that does not exceed any rate or ~~contravene any other requirement~~ specified in the agrichemical manufacturers’ instructions.”

Rule AQL72 Condition 2 ## 03-126 03b06

39	Dow Agrosciences, Palmerston North Office	When an agrichemical has been de-registered for reasons other than hazard to humans or the environment, labelled uses should be permitted for a period of 5 years after de-registration.
238	Director General Of Conservation	Amend condition 2 to read: '...Veterinary Medicines Act 1997 and is suitable for controlling the target organism.' Make any consequential amendments to the Plan.
378	Canterbury Growers Society Ltd	Delete Condition 2.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 2.
F347	Federated Farmers of New Zealand	Support submission 401.

Consideration

Submissions 378, 401 and Further Submission F347

These submissions seek that condition 2 should be deleted.

The substance of these submissions is considered above (see Rule AQL70 condition 1 ## 03-119 03b06, 378, 401, 431, F347). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – the change sought is made, and it is recommended that these submissions be accepted.

Submissions 39, 238

These submissions sought various changes to condition 2.

Given the change recommended above (permitted activity condition 2 is deleted) the changes sought by these submissions are not recommended, and it is recommended that submissions 39 and 238 be rejected.

Recommendations

Reject

Submissions 39, 238.

Accept

Submissions 378, 401 and Further Submission F347.

Amendment Required

- 1 Amend 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Conditions' 2 p 3-126 as follows:

"2 ~~The agrichemical shall be currently registered in New Zealand at the time of spraying under the Hazardous Substances and New Organisms Act 1996, and the Agricultural Compounds and Veterinary Medicines Act 1997.~~"
- 2 Amend '3.5.9.7 Regional rules for the discharge of agrichemicals', by deleting paragraph 6 p 3-174 as follows:

~~“Condition 2 of Rules AQL70 to AQL72, recognises that only those agrichemicals that have a current New Zealand registration shall be permitted to be used in the environment. Under the Hazardous Substances and New Organisms Act 1996, the Environmental Risk Management Authority of New Zealand is responsible for granting approvals for substances and the Agricultural Compounds and Veterinary Medicines Act 1997 is the legislation that handles the registration of agrichemical products. The registration of agrichemical products is not able to take place until an approval has been granted under the Hazardous Substances and New Organisms Act 1996. The use of any agrichemical no longer approved in New Zealand or in a manner that contravenes the requirements specified in the manufacturer’s instructions is an offence under the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1997”~~

Rule AQL72 Condition 3 ## 03-126 03b10 - 03-126 03b11

39	Dow Agrosiences, Palmerston North Office	The condition remains unchanged.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 3.
378	Canterbury Growers Society Ltd	Amend Condition 3 to read: 'GROWSAFE Pilots Agrichemical Rating Certificate.'
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Amend Condition 3 to read: 'GROWSAFE Pilots Agrichemical Rating Certificate.'
F347	Federated Farmers of New Zealand	Support submission 401.
F3002	Carter Holt Harvey Forest Resources	Oppose submission 347.

Consideration

Submissions 39, 347, 378, 401 and Further Submissions F347, F3002

Submission 347, opposed by the further submission, and in contradiction to what is sought by submissions 39, 378 and 401 and its own further submission (F347), sought that the GROWSAFE® qualification requirement be deleted. The reasons given include that some farmers undertake their own aerial spraying, but do not hold a GROWSAFE® certificate. The focus of the reasoning is on the requirements in relation to the pilot.

Policy AQL7(a)(v), as notified, is to 'require' that aerial agrichemical applicators hold the appropriate qualifications. No submission directly sought that this policy should be changed. Permitted activity condition 3 requires two types of GROWSAFE® certificates – one for the pilot and the other for the ground crew.

Turning to the requirement for pilots to hold GROWSAFE® certificates. The GROWSAFE® qualification is used in Chapter 3 as a method of avoiding or mitigating adverse effects through ensuring that agrichemical applicators are aware of, and trained in, appropriate practice. In this circumstance, all pilots require a Chemical Rating in terms of the Civil Aviation Rules. The pilot's Chemical Rating and the GROWSAFE® Pilots Agrichemical Rating Certificate are interlinked. To obtain an Agrichemical Rating, pilots must first complete a National Certificate in Agrichemical Application (Aerial). The Pilot's Chemical Rating is valid for three years. Following this there are interlinked ongoing education requirements to maintain the pilot's Chemical Rating.

Given this analysis, there is a measure of duplication between a pilot's Chemical Rating and the requirement in Rule AQL72, permitted activity condition 3, that aerial applicators hold GROWSAFE® qualifications. Consequently, it is possible that permitted activity condition 3 could be amended by deleting the pilot's requirement while still being confident that pilots will be appropriately trained. However, the result of this would be that Policy AQL7(a)(v) would not be implemented within Chapter 3 – the policy is to 'require'. Therefore, it is recommended by the Commissioners that permitted activity condition 3, as it relates to pilots, is retained, but with reference to the GROWSAFE® "Pilots" Agrichemical Rating Certificate.

Turning to the training requirements for ground crew (assuming this is an issue for the submitters), the rationale for this part of permitted activity condition 3 is the same for the equivalent permitted activity conditions for ground-based agrichemical application - avoiding or mitigating adverse effects through ensuring that agrichemical applicators are aware of, and trained in, appropriate practice. Therefore the consideration above is relevant (see Rule AQL70 Condition 3 ## 03-119 03b11 - 03-119 03b12, 286, 431), and has been adopted.

It is recommended by the Commissioners that the reference to 'loaders and ground crew is retained and that submission 347 be rejected, submission 39 be accepted in part and submissions 378, 401 and further submissions F347 and F3002 be accepted.

Recommendations

Reject

Submission 347.

Accept in part

Submission 39.

Accept

Submissions 378, 401 and Further Submissions F347 and F3002.

Amendment Required

- 1 Amend 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Condition' 3 p 3-126 as follows:

- “3. *By 1 January 2003, pilots undertaking the application of agrichemicals shall hold a current GROWSAFE® Pilots Agrichemical Rating, issued by the New Zealand Agrichemical Education Trust in accordance with New Zealand Standard 8409:1999, or an equivalent nationally-recognised qualification and loaders and ground crew shall hold a current Standard Introductory GROWSAFE® Certificate, endorsed with “Aerial Application Ground Crew”, or an equivalent nationally-recognised qualification.*”

Rule AQL72 Condition 4 ## 03-126 03b18

39	Dow Agrosiences, Palmerston North Office	Delete condition.
56	Everest Farm Consulting Ltd	Delete Condition 4.
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 4 and review the activity status of the rule.
339	Porkcorp New Zealand Ltd	Amend condition 4 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 4.
378	Canterbury Growers Society Ltd	Delete Condition 4.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 4.
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.

F338	Transit New Zealand	Oppose in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 56.
F347 (point 3)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 4)	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.
F401 (point 1)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Support in part submission 238.
F401 (point 2)	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose in part 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.
F3002	Carter Holt Harvey Forest Resources	Support submission 39.

Consideration

Submissions 39, 56, 172, 238, 339, 347, 378, 401, 429 and Further Submissions F155, F216, F338, F347 (points 1, 2, 3 and 4), F352, F353, F354, F355, F401 (points 1 and 2), F427, F428, F30002

These submissions are generally the same as those relating to Rule AQL70, permitted activity condition 5 and Rule AQL71, permitted activity condition 5.

Rule AQL72, permitted activity condition 4 is the same as Rule AQL70 permitted activity condition 5 and Rule AQL71 permitted activity condition 5, and as notified is:

- “4. *The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property on which the agrichemicals are applied.*”

The substance of these submissions is considered above (see Rule AQL70 Condition 5 ## 03-120 01b14, 39, 56, 113, 117, 125, 172, 238, 339, 347, 378, 401, 429, 431, F5, F117, F155, F216, F338, F347 (points 1, 2, 3 and 4), F352, F353, F354, F355, F401 (points 1 and 2), F427, F428, F3002. These considerations are relevant, and have been adopted. As with ground-based techniques other than hand-held, it is considered that the factual situation is different from the ground-based hand-held agrichemical application.

The amount of agrichemicals that will be applied, in one application, using aerial methods subject to Rule AQL72, is likely to be considerably greater than that which is applied by ground-based methods. Further, aerial applications will cover a much wider area in a single application than ground-based techniques. The aerial application of agrichemicals will result in less control of the drift of agrichemical odour than ground-based methods. Aerial application is more ‘visible’, potentially altering perceptions of any odour experienced. As a consequence, there is the possibility of greater odour issues associated with the aromatics within the agrichemical. In the Commissioners’ view, permitted activity condition 4 is the most appropriate method to manage these effects and implement Policy AQL7.

On balance, it is recommended that permitted activity condition 4 is retained, but reworded and sought by submitter 172. It is recommended that those submissions seeking that the rule be deleted be rejected, and those opposing deletion or proposing amendment be accepted as noted below.

Recommendations

Reject

Submissions 39, 56, 238, 347, 378, 401, 429 and Further Submissions F216, F347 (point 1), F401 (point 1), F3002.

Accept

Submission 172 and Further Submissions F155, F338, F347 (points 2, 3 and 4), F352, F353, F354, F355, F401 (point 2), F427, F428.

Accept in part

Submission 339.

Amendment Required

Amend Rule AQL72 Condition 4 pp 3-126 to 3-127 as follows:

~~“4. *The discharge of odour shall not cause an objectionable or offensive effect beyond the boundary of the property on which the agrichemicals are applied.*”~~

4. ' 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.'

Rule AQL72 Condition 5 ## 03-127 01b04 - 03-127 01b05

56	Everest Farm Consulting Ltd	Delete Condition 5.
238	Director General Of Conservation	Delete Condition 5 and review the activity status of the rule.
378	Canterbury Growers Society Ltd	Replace the term 'agricultural particles' with 'off target spray drift'.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Replace the term 'agricultural particles' with 'off target spray drift'.
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.
F338	Transit New Zealand	Oppose in part submission 238.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 56.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 3)	Federated Farmers of New Zealand	Oppose submission 238.
F347 (point 4)	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.

F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	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.
F3002	Carter Holt Harvey Forest Resources	Support submission 378.

Submission Clarification

Submission 56

Submission 56 notes that; “*minor spray drift can be unavoidable from aerial application due to sudden wind gust etc.*” It is not clear from the submission that the decision requested is, as summarised, to delete this permitted activity condition. However, for consideration purposes this is the most conservative position, and therefore the summary has been adopted.

Consideration

Submissions 56, 238, 378, 401, 429 and Further Submissions F155, F216, F338, F347 (points 1, 2, 3 and 4), F352, F353, F354, F355, F401, F427, F428, F3002

These submissions are similar to those relating to Rule AQL70, permitted activity condition 6 and Rule AQL71, permitted activity condition 6. The substance of these submissions is considered above (see Rule AQL70 Condition 6 ## 03-120 01b17 – 03-120 01b18, 117, 125, 238, 378, 401, 429, F5, F117, F155, F216, F338, F347 (points 1, 2 and 3), F352, F353, F354, F355, F401, F427, F428). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made.

Recommendations

Reject

Submissions 56, 238, 378, 401, 429 and Further Submissions F216, F347 (points 1, 2 and 4), F3002.

Accept

Further Submissions F155, F338, F347 (point 3), F352, F353, F354, F355, F401, F427, F428.

Amendment Required

None required.

Rule AQL72 Condition 6 ## 03-127 01b08 - 03-127 01b11

147	Ashburton District Council	Delete condition 13, and rely more on codes of practice.
238	Director General Of Conservation	Delete Condition 6. Make any consequential amendments to the Plan.
286	M Eder	Delete condition 6.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 6.
348	Environment Canterbury	Add the word 'qualifying' before 'drip tray'.
378	Canterbury Growers Society Ltd	Delete Condition 6 and include in the Water Chapters, or replace 10 metres with 3 metres.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 6 and include in the Water Chapters, or replace 10 metres with 3 metres.
429	Selwyn District Council	Delete Condition 6. Make any other consequential amendments as necessary.
F347 (point 1)	Federated Farmers of New Zealand	Support submission 429.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 401.
F347 (point 3)	Federated Farmers of New Zealand	Opposes submission 348.

Submission ClarificationSubmission 147

Submission 147 relates to Rule AQL71, permitted activity condition 13 and is considered at that location. No recommendation is required in this location.

ConsiderationSubmissions 238, 286, 347, 378, 401, 429 and Further Submission F347 (points 1 and 2)

These submissions all sought the deletion of the whole or part of permitted activity condition 6.

Permitted activity condition 6 as notified is:

- “6. *No mixing or diluting of agrichemicals shall take place within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, unless the mixing or diluting takes place over a drip tray or within an impervious bunded area to contain spillages.*”

Fundamental to the consideration of these submissions is the recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. This recommendation is to delete Rule AQL 71, permitted activity condition 7. This rule is the same as Rule AQL72, permitted activity condition 6. The same reasoning applies. Hence, the recommendation by the Commissioners here is the same – that permitted activity condition 6 is deleted, and it is recommended that these submissions be accepted.

Submission 348 and Further Submission F347 (point 3)

Submission 348 sought a minor change to the wording of condition 6.

It is recommended above that permitted activity condition 6 is deleted. As such, the amendment sought is not necessary. No change is required, and it is recommended that submission 348 is rejected and further submission F347 (point 3) is accepted.

Recommendations

Reject

Submission 348.

Accept in part

Submissions 378, 401 and Further Submission F347 (point 2).

Accept

Submissions 238, 286, 347, 429 and Further Submission F347 (points 1 and 3).

No decision required

Submission 147.

Amendment Required

- 1 Delete 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Conditions' 6 p 3-127 as follows:

~~“6. *No mixing or diluting of agrichemicals shall take place within 10 metres of a surface water body, a bore, spring, tile drain, stormwater drain or the coastal marine area, unless the mixing or diluting takes place over a drip tray or within an impervious bunded area to contain spillages.*”~~

Rule AQL72 Condition 7 ## 03-127 01b13

5	Rangitata Diversion Race Management Ltd	Cross-reference condition 7 to relevant rules in Chapters 7 and 9 of the NRRP.
26	J McFadden	Delete condition 7.
39	Dow Agrosiences, Palmerston North Office	Change to read: "Except as provided for in condition 9, there shall be no discharge into or onto land which will result in that contaminant entering water via surface runoff at levels that will cause noxious, dangerous, offensive or objectionable effects."
238	Director General Of Conservation	Delete Condition 7. Make any consequential amendments to the Plan.
F3002	Carter Holt Harvey Forest Resources	Support submission 238.

Consideration

Submissions 5, 26, 238 and Further Submission F3002

Fundamental to the consideration of these submissions is the consideration and recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. This recommendation is to delete permitted activity condition 7. This recommendation by the Commissioners is repeated here. It is recommended that submission 5 be rejected and submissions 26, 238 and further submission F3002 be accepted.

Submission 39

Given the above recommendation, the change sought is not recommended by the Commissioners, and it is recommended that submission 39 be rejected.

Recommendations

Reject

Submissions 5 and 39.

Accept

Submissions 26, 238 and Further Submission F3002.

Amendment Required

Delete 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Conditions' 7 p. 3-127 as follows:

~~"7. There shall be no discharge into or onto land which may result in that contaminant entering water via surface runoff."~~

Rule AQL72 Condition 8 ## 03-127 01b15

5	Rangitata Diversion Race Management Ltd	Delete condition 8.
26	J McFadden	Delete condition 8.
39	Dow Agrosiences, Palmerston North Office	Amend condition 8 to read: ' the direct discharge of agrichemicals to water should be avoided'.
238	Director General Of Conservation	Delete Condition 8. Make any consequential amendments to the Plan.
338	Transit New Zealand, Christchurch	Delete condition 8.
374	New Zealand Institute For Crop & Food Research Ltd	Delete condition 8.
F347	Federated Farmers of New Zealand	Support submission 374.

ConsiderationSubmissions 5, 26, 238, 338, 374 and Further Submission F347

These submissions sought that condition 8 should be deleted.

Fundamental to the consideration of these submissions is the consideration and recommendation made at Further General Submissions at ##03-000 00 00, 427, 428. This recommendation is to delete permitted activity condition 8. This recommendation by the Commissioners is repeated here, and it is recommended that these submissions be accepted.

Submission 39

Submission 39 sought a change to the wording of condition 8.

Given the above recommendation, the change sought is not recommended by the Commissioners, and it is recommended that submission 39 be rejected.

Recommendations**Reject**

Submission 39.

Accept

Submissions 55, 26, 238, 338, 374 and Further Submission F347.

Amendment Required

Delete 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Conditions' 8 p 3-127 as follows:

~~"8. — There shall be no direct discharge into or onto water."~~

Rule AQL72 Condition 9 ## 03-127 01b16

39	Dow Agrosiences, Palmerston North Office	Add: "When notification is requested, an annual spray plan should be an option available to the agrichemicals user. This would be provided, at the user's discretion, instead of notification between 12 hours and 3 weeks prior to the commencement of the spraying."
56	Everest Farm Consulting Ltd	Delete Condition 9
66	H Muller-Cajar	Adopt condition 9.
235	Crown Public Health, Canterbury Office	Add another condition: 'the sprayer shall advise all schools and outdoor educational camps within 250m of the perimeter of the land to be sprayed at least four working days prior to spraying.' This could be incorporated into Condition 10. Add another condition: '(a) The sprayer shall ensure that the exact location of all public, community and private drinking water supplies in the spray programme's area are identified and documented with the help of the appropriate territorial authority and Crown Public Health. This information shall be recorded and a copy kept on any vehicles and machinery used in the discharging of agrichemicals. (b) The owners of any public, community and private drinking water supplies whether surface/filtration gallery or wells within 500m of any spray area, shall be informed before spraying commences.'
286	M Eder	Delete condition 9.
338	Transit New Zealand, Christchurch	Amend condition 9 to have only give notice by means of a public notice in a newspaper when spraying in a public amenity area or place of public assembly or alongside a roadway, consistent with condition 12 of Rule AQL 71.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 9.
405	Timaru District Council	Add the supply authority for water supplies to those required to be notified.
429	Selwyn District Council	Delete Condition 9, or define 'sensitive activities', how are they measured. Make any other consequential amendments as necessary.

F347 (point 1)	Federated Farmers of New Zealand	Support submission 429.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 56.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 235.
F3002	Carter Holt Harvey Forest Resources	Support submission 347.

Submission Clarification

Submission 235

Submission 235 has been moved from Rule AQL72 conditions ## 03-126 03b01. It relates to prior notification of potentially affected parties.

Further Submission F401

Further submission F401 has been moved from Rule AQL72 conditions ## 03-126 03b01. It relates to submission 235 and prior notification of potentially affected parties.

Consideration

Submissions 56, 286, 347, 429 and Further Submissions F347 (points 1 and 2), F3002

All these submissions sought that permitted activity condition 9 should be deleted (either in whole or in part), amended or added to.

The substance of these submissions is considered in relation to Policy AQL 7 (see Policy AQL7 (a) (vi) ## 03-022 10 00, 147, 347, 414, 431). That consideration is relevant here and has been adopted. A consequence of the recommended change to Policy AQL7(a)(vi) is that the policy requires advance notification of agricultural spraying as a permitted activity condition, for non hand-held appliances and aerial application. Consequently, it is recommended by the Commissioners that permitted activity condition 9 is retained, and it is recommended that these submissions are rejected.

Submission 39

The submission sought that property spray plans should be an option and an alternative to notification.

The change sought is not required as a spray plan is an option. It is recommended that submission 39 be rejected.

Submission 405

The submission sought that public water supply authorities be added to those persons required to be notified.

As this relates to the potential effects from a discharge to water, in the Commissioners' view it would be more appropriately considered in relation to Chapter 4 of the NRRP. The change sought is not supported by the Commissioners, and it is recommended that submission 405 be rejected.

Submission 66

The submission sought that the prior notification requirements be retained.

Given the above consideration, this submission is recommended by the Commissioners to be accepted.

Submission 235 and Further Submission F401

The submission sought that a new condition should be added requiring notification to schools and outdoor educational camps.

Notification is required to be given to properties adjoining those receiving the agrichemical spray. If those are schools or outdoor educational camps, they will be notified. In the Commissioners' view there is no need to expressly identify these in the condition. The additional condition relates to water, and in the Commissioners' view is better addressed in Chapter 4. It is recommended that submission 235 be rejected and further submission F401 accepted.

Submission 338

This submission sought that notification by means of a public notice in a newspaper should suffice.

As outlined above, Chapter 3 requires compulsory notification for non hand-held appliances. This is targeted at those most likely to be affected. The Commissioners do not consider that a public notice in a newspaper would be an effective method of notification, and it is recommended that this submission be rejected and that no change be made.

Recommendations

Reject

Submissions 39, 56, 235, 286, 338, 347, 405, 429 and Further Submissions F347 (points 1 and 2), F3002.

Accept

Submission 66 and Further Submission F401.

Amendment Required

None Required.

Rule AQL72 Condition 9 (a) ## 03-127 01b19

378	Canterbury Growers Society Ltd	Delete Condition 9 (a).
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Delete Condition 9 (a).
F347	Federated Farmers of New Zealand	Support submission 401.

Consideration

Submissions 378, 401 and Further Submission F347

These submissions sought that condition 9(a) should be deleted.

Given the consideration and recommendation above (Rule AQL72 Condition 9 ## 03-127 01b16, 56, 286, 347, 429, F347 (points 1 and 2), F401, F3002) the change sought by these submissions is not recommended by the Commissioners, and it is recommended that these submissions be rejected.

Recommendation

Reject

Submissions 378, 401 and Further Submission F347.

Amendment Required

None Required.

Rule AQL72 Condition 9 (b) ## 03-127 01b22 - 03-127 01b23 - 03-127 01b27

39	Dow Agrosiences, Palmerston North Office	Delete condition 9(b).
272	Canterbury Asthma Society	Delete 'where that person has requested that he or she be notified of agrichemical spraying on the property'.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 10.
F3002	Carter Holt Harvey Forest Resources	Support submission 347.

Submission Clarification

Submission 347

Submission 347 relates to Rule AQL72, permitted activity condition 10. For consideration purposes, the summary has been moved to the appropriate location (see Rule AQL72 Condition 10 ## 03-128 01b27).

Further Submission F3002

Further Submission F3002 relates to Submission 347. Accordingly, it has been moved to Rule AQL72 Condition 10 ## 03-128 01b27.

Consideration

Submissions 39, 272

Submission 39 sought that condition 9(b) should be deleted. Submission 272 sought that part of the condition should be deleted.

Given the consideration and recommendation above (Rule AQL72 Condition 9 ## 03-127 01b16, 56, 286, 347, 429, F347 (points 1 and 2), F401, F3002) the change sought by these submissions is not recommended by the Commissioners, and it is recommended that these submissions be rejected.

Recommendations

Reject

Submission 39, 272.

No decision required

Submission 347 and Further Submission F3002.

Amendment Required

None Required.

Rule AQL72 Condition 9 (b) ## 03-128 01b06

272	Canterbury Asthma Society	Delete 'If requested by the adjoining owner or occupier'.
------------	---------------------------	---

Consideration

Submission 272

Submission 272 sought that the requirements to notify only those persons who make a request to be notified should be deleted.

Given the consideration and recommendation above (Rule AQL72 Condition 9 ## 03-127 01b16, 56, 286, 347, 429, F347 (points 1 and 2), F401, F3002) the change sought by submission 272 is not recommended by the Commissioners and it is recommended that the submission be deleted.

Recommendation

Reject

Submission 272.

Amendment Required

None Required.

Rule AQL72 Condition 10 ## 03-128 01b27

56	Everest Farm Consulting Ltd	Delete Condition 10
66	H Muller-Cajar	Adopt condition 10.
286	M Eder	Delete condition 10.
338	Transit New Zealand, Christchurch	Amend condition 9 to only have to give notice by means of a public notice in a newspaper when spraying in a public amenity area or place of public assembly or alongside a roadway, consistent with condition 12 of Rule AQL 71.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 10.
F347	Federated Farmers of New Zealand	Support submission 56.
F3002	Carter Holt Harvey Forest Resources	Support submission 347.

Submission Clarification

Submission 338

Submission 338, while summarised as referring to permitted activity condition 9, clearly states that it relates to permitted activity conditions 9 and 10.

Submission 347

Submission 347 has been moved from Rule AQL72 condition 9 (b) ## 03-127 01b22 - 03-127 01b23 - 03-127 01b27.

Further Submission F3002

Further Submission F3002 relates to submission 347. Accordingly, it has been moved from Rule AQL72 condition 9 (b) ## 03-127 01b22 - 03-127 01b23 - 03-127 01b27.

Consideration

Submissions 56, 66 286, 347 and Further Submissions F347, F3002

Submissions 56, 286, 347, F347 and F3002 sought that permitted activity condition 10 should be deleted (either in whole or in part). Submission 66 sought that the permitted activity condition be retained.

Permitted activity condition 10 relies on permitted activity condition 9. Permitted activity condition 9 is recommended to be retained (see Rule AQL72 condition 9 ## 03-127 01b16, 56, 286, 347, 429, F347 (points 1 and 2), F401, F3002). Consequently, it is recommended by the Commissioners that permitted activity condition 10 is retained also as it provides detail on when condition 9 need not apply or where notification has to be given. It is recommended that submissions 56, 286, 347 and further submissions F347 and F3002 be rejected, and submission 66 be accepted.

Submission 338

This submission sought amendment to permitted activity condition 10 so that notification through a public notice in a newspaper would meet the notification requirement. The Commissioners do not accept that this means of notification is sufficiently targeted at those who may be affected and it is recommended that this submission be rejected.

Recommendations

Reject

Submissions 56, 286, 338, 347 and Further Submissions F347, F3002.

Accept

Submission 66.

Amendment Required

None Required.

Rule AQL72 Condition 10(b) ## 03-129 01b03

39	Dow Agrosiences, Palmerston North Office	Amend condition to read "...that subsequent risk of disease or insect pest pressure places any crop at risk of damage...".
-----------	---	--

ConsiderationSubmission 39

This submissions sought that the words "or insect pressure" be added to condition 10(b).

The request to include the words "or insect pressure" is considered by the Commissioners to be sensible, given that agrichemicals are used for both disease and pest control. It is therefore recommended that this submission be accepted.

Recommendation**Accept**

Submission 39.

Amendment Required

Amend Rule AQL72 condition 10(b) p 3-129 as follows:

"(b) where the weather conditions are such that subsequent risk of disease or insect pressure places any crop at risk of damage. In this situation, notification may be either verbal or written, and must take place no less than two hours before the spraying takes place."

Rule AQL72 Condition 11 ## 03-129 01b07

56	Everest Farm Consulting Ltd	Delete Condition 11
66	H Muller-Cajar	Adopt condition 11.
286	M Eder	Delete condition 11.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete condition 11.
F347	Federated Farmers of New Zealand	Support submission 56.
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Oppose submission 347.
F3002	Carter Holt Harvey Forest Resources	Support submission 347.

Consideration

Submissions 56, 66 286, 347 and Further Submissions F347, F401, F3002

Submissions 56, 286, 347, F347 and F3002 sought that permitted activity condition 11 should be deleted (either in whole or in part). Submissions 66 and F401 sought that the permitted activity condition be retained.

Permitted activity condition 11 directly relates to permitted activity condition 9. Permitted activity condition 9 is recommended by the Commissioners to be retained. Consequently, permitted activity condition 11 is required to define how long the spray plan or application use record sheet should be retained for. There were no submissions seeking a reduced period for the retention of the documents, and therefore the Commissioners recommend that condition 11 be retained with no changes. It is recommended that submissions 56, 286, 347 and further submissions F347 and F3002 be rejected and submission 66 and further submission F401 be accepted.

Recommendations

Reject

Submissions 56, 286, 347 and Further Submissions F347, F3002.

Accept

Submission 66 and Further Submission F401.

Amendment Required

None required.

Rule AQL73 Application of agrichemicals not identified in Rules AQL70 to AQL72 - discretionary ## 03-130 01 00

338 (point 1)	Transit New Zealand, Christchurch	Amend condition 9 to have only to give notice by means of a public notice in a newspaper when spraying in a public amenity area or place of public assembly or alongside a roadway, consistent with condition 12 of Rule AQL 71.
338 (point 2)	Transit New Zealand, Christchurch	Amend Rule AQL 73 to restricted discretionary activity status in line with Method AQL 7(d) of Policy AQL7.
374	New Zealand Institute For Crop & Food Research Ltd	Amend Rule AQL 73 to provide for restricted discretionary activities in line with Method AQL 7(d) of Policy AQL 7.
422	N Woolf	ECan needs to be concerned about the water quality near the industries at Washdyke and Temuka as a result of intensive spraying on farmland.

427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Delete Rule AQL 73, this should be in the land and water Chapters (or have a separate section in the NRRP for combination type rules). Make any consequential amendments to the plan where necessary.
F347	Federated Farmers of New Zealand	Support submission 374.

Submission Clarification

Submission 338 (point 1)

Submission 338 (point 1) relates to Rule AQL72, permitted activity condition 9. It has been considered at the appropriate location (see Rule AQL72 condition 9 ## 03-127 01b16). No recommendation is required in this context.

Submission 427

Submission 427 sought to: *“Delete all references to land and water discharges contained within the Air Chapter, as subsequent Chapter will address these matters”*.

Consideration

Submission 422

Submission 422 relates to water quality issues.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 422). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that no change is made, and that submission 422 be rejected.

Submission 427

Submission 427 sought that Rule AQL72 be deleted or that a new section be created for rules governing combination type effects.

The substance of this submission is considered above (see Rule AQL70 Ground-based application of agrichemicals using hand-held application techniques - permitted activity ## 03-119 02 00, 216, 427, F338). The consideration is relevant, and has been adopted. The recommendation by the Commissioners is the same – that change be made and that the submission be accepted in part.

Submissions 338 (point 2), 374 and Further Submission F347

These submissions sought that the activity status for non-compliance with Rules AQL70, AQL71 and AQL72 be a restricted discretionary activity.

At present, Rule AQL73 makes non-compliance a full discretionary activity. None of the submissions specified what restriction in discretion is being sought. The submissions are correct in that 'Method AQL7(d) Resource Consents' states *"Resource consents may be granted for the discharge of agrichemicals. These may involve agrichemical application specified as a limited discretionary activity"*. Therefore, an inconsistency exists between this method and resulting Rule AQL73.

Policy AQL7 contains no stated preference between the two activity categories. Objective AQL1 contains a number of considerations, including: matters relating to Tangata Whenua; human health and safety; odour; visibility; structure damage; ecosystem, plant and animal health; and water. All these are relevant to agrichemical spray drift. Any restriction of discretion should be wide enough to allow consideration of all these matters in order to further the achievement of the objective.

In this circumstance the lack of specificity in the submissions is of concern. Because the nature of the restriction of discretion sought is not specified, other parties have not had the opportunity to consider how they may specifically be impacted upon, and then afforded the opportunity to lodge further submissions.

On balance (due to the lack of specifics in the submissions), a restriction of a consent authority's discretion is not recommended by the Commissioners.

However, in recognition of these submissions, it is recommended that the inconsistency between Method AQL7(d) and Rule AQL73 be addressed by Environment Canterbury through a variation to the plan. It is recommended that these submissions be rejected.

Recommendations

Reject

Submissions 422, 338 (point 2), 374 and Further Submission F347.

Accept in part

Submission 427.

No recommendation required

Submission 338 (point 1).

Amendment Required

Amend 'Rule AQL72 Aerial application of agrichemicals – permitted activity', 'Activity' p 3-130 as follows:

"Discharge of agrichemicals ~~into or onto land, into water, or into air~~ that does not comply with the conditions of Rules AQL70 to AQL72 is a discretionary activity."

Rule AQL 73 Standards/Terms ## 03-130 02b01

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).

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

The substance of these submissions is considered above (see Rule AQL70 Conditions ## 03-119 03b01 168 (points 1 and 2), F112 (points 1 and 2)). The consideration that efflux velocity issues and agricultural spray application are not related is relevant, and has been adopted. Further the Rule creates discretionary activity status. No standards/terms or conditions are appropriate. The recommendation by the Commissioners is the same – that no change is made, and it is recommended that Submission 168 (points 1 and 2) be rejected and Further Submission F112 (points 1 and 2) be accepted.

Recommendation**Reject**

Submission 168 (points 1 and 2).

Accept

Further Submission F112 (points 1 and 2).

Amendment Required

None Required.