

Policy AQL5 Avoid odour nuisance ## 03-017 26 00

18	R Vore	Support.
44	Spreydon Heathcote Community Board	Reconsider and amend Policy AQL 5, odours cannot be restricted to perimeters.
89	J McSweeney	Support.
120	Christchurch City Council, Fendalton Service Centre	Support.
131	M Coffey	Support, add extra point: Time limit set. When odours can reach or is close to residential areas action must happen in set period. Existing activities come under this as well.
147	Ashburton District Council	Support.
155	Federated Farmers Of New Zealand Inc, Mackenzie Branch	Amend to read: 'Avoid odour nuisance within urban areas'.
167	Royal Forest & Bird Protection Society Of New Zealand Inc, South Canterbury Branch	Ecan should be more aware of possible impacts of odours on the local environment and residents when considering resource consents for the discharge of contaminants into the air. At the same time people who move into rural areas from towns and cities must accept the smells and odours associated with good farming practices. No decision requested.
215	Canterbury Aoraki Conservation Board	Support.
286	M Eder	Amend Policy AQL 5 to acknowledge that District Councils are responsible for land use planning.
325	I Bailey	Use reasonable measures only.
338	Transit New Zealand, Christchurch	Delete the word 'Avoid' and replace it with 'Control', or retain Policy AQL 5 as worded.
347 (point 1)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete references dealing with nuisance effects of odour, particles, smoke and dust. (refer 3-1-21).
347 (point 2)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Policy AQL 5 and all associated methods.
353	Canterbury Meat Packers Ltd	Delete Policy AQL 5. Make any consequential amendments to the plan where necessary.

354	Chequer Packaging	Delete Policy AQL 5. Make any consequential amendments to the plan where necessary.
370	Department of Corrections	Retain as worded.
371	NZMP	Retain as worded.
373 (point 1)	New Zealand Pork Industry Board	Amend Policy AQL 5 to ensure that the approach is not inconsistent with that in the rules on intensive farming and waste management.
373 (point 2)	New Zealand Pork Industry Board	Amend Policy AQL 5 to recognise that District Councils are responsible for land use planning.
373 (point 3)	New Zealand Pork Industry Board	Amend Policy AQL 5 to ensure that the version of the Pig Farming Code of Practice referenced is the relevant one.
374	New Zealand Institute For Crop & Food Research Ltd	Retain as worded.
378	Canterbury Growers Society Ltd	Add to Policy AQL 5 the words: 'Criteria for assessing objectionable or offensive odour are listed in Appendix AQL 5.'
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Add to Policy AQL 5 the words: 'Criteria for assessing objectionable or offensive odour are listed in Appendix AQL 5.'
406	Tasman Farms Limited	Retain Policy AQL 5, but identify all rural land as falling within (a)(ii) of the policy.
424	Kennedys Bush Road Neighbourhood Association	Support.
429 (point 1)	Selwyn District Council	Apply Policy AQL 5 to urban areas only. Make any other consequential amendments as necessary.
429 (point 2)	Selwyn District Council	Delete Policy AQL 5 and replace with a policy which recognises and supports the role of district councils in managing odour effects of land uses (where the discharge of odour is a permitted activity under S418 RMA) and managing potential reverse sensitivity effects through land use planning. Make any other consequential amendments as necessary.
429 (point 3)	Selwyn District Council	Delete provisions managing odour nuisance from non point discharges where the effects are already addressed under district plans and proposed district plans. Make any other consequential amendments as necessary.

434 (point 1)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), avoid making generalised statements that all intensive livestock farming activities give rise to offensive and objectionable effects /odour. Make any other additional or consequential amendments as necessary.
434 (point 2)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), providing a 'base' level of emissions acceptable to the receiving community, in which case the emissions should not be deemed offensive or objectionable, particularly in a rural environment. Make any other additional or consequential amendments as necessary.
434 (point 3)	Mainland Poultry Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify how the protection from reverse sensitivity complaints will be achieved in practice. Make any other additional or consequential amendments as necessary.
434 (point 4)	Mainland Poultry Ltd	Delete the words 'prevent any discharge of odour from new activities that discharge contaminants into air.' from Policy AQL 5.
435 (point 1)	Tegal Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), avoid making generalised statements that all intensive livestock farming activities give rise to offensive and objectionable effects /odour. Make any other additional or consequential amendments as necessary.
435 (point 2)	Tegal Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), providing a 'base' level of emissions acceptable to the receiving community, in which case the emissions should not be deemed offensive or objectionable, particularly in a rural environment. Make any other additional or consequential amendments as necessary.
435 (point 3)	Tegal Foods Ltd	As an alternative to withdrawing Chapter 3 (refer 3-0), clarify how the protection from reverse sensitivity complaints will be achieved in practice. Make any other additional or consequential amendments as necessary.
435 (point 4)	Tegal Foods Ltd	Delete the words 'prevent any discharge of odour from new activities that discharge contaminants into air.' from Policy AQL 5.
906	Canterbury Horticultural Society Inc	Delete Policy AQL 5.
F125	Waimakariri District Council	Supports submission 44
F135 (point 1)	Westernra Trust	As an alternative to withdrawing Chapter 3 (refer 3-0), providing a 'base' level of emissions.

F135 (point 2)	Westernra Trust	Delete the words 'prevent any discharge of odour from new activities that discharge contaminants into air.'
F146	Styx Residents Group	Opposes submission 354:
F275 (point 1)	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 347 (point 1):
F275 (point 2)	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 353
F275 (point 3)	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 354
F275 (point 4)	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 906:
F347 (point 1)	Federated Farmers of New Zealand	Supports submission 429 (point 1):
F347 (point 2)	Federated Farmers of New Zealand	Supports submission 429 (point 2):
F347 (point 3)	Federated Farmers of New Zealand	Supports submission 429 (point 3):
F347 (point 4)	Federated Farmers of New Zealand	Supports submission 429 (point 4):
F347 (point 5)	Federated Farmers of New Zealand	Supports submission 401:
F347 (point 6)	Federated Farmers of New Zealand	Supports submission 374:
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Supports in part submission 167
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Opposes in part submission 429 (point 2):
F429 (point 1)	Selwyn District Council	Supports in part submission 373 (point 2):
F429 (point 2)	Selwyn District Council	Supports in part submission 286:
F435 (point 1)	Tegal Foods Ltd	Opposes submission 44:

F435 (point 2)	Tegal Foods Ltd	Supports in part submission 167:
F435 (point 3)	Tegal Foods Ltd	Supports in part submission 373 (point 1)

Submission Clarification

Submission 325

Supports the policy and seeks controls on odour nuisances that are reasonable.

Submission 353 and 354

Seek that either Policy AQL5 be deleted, or the wording amended as suggested in the submissions.

Submission 373 (point 3)

Relates to Method AQL5(a) and is considered under ##03-018 48 00. No recommendation is made at this point.

Submission 434 (point 1) and 435 (point 1)

Relate to the Explanation and Principal Reasons for Policy AQL5. These submissions are considered under ##03-018 23 00. No recommendation is made at this point.

Further Submission F135 (point 1)

Opposes submission 435 (point 2) as it is not practical to establish acceptable base levels of odour, due to the variability of odour and its effects.

Further Submission F135 (point 2)

Opposes submission 435 (point 4) as the words sought to be deleted should be read in the context of the Policy that sets a level of acceptable effects.

Further Submission F427

Opposes in part submission 429 (point 2). The submitter accepts that there is a role for district councils in odour management, notably in terms of the consideration of land use zoning controls and consents. They also have a role under the Health Act for nuisance. Regional Councils have a role in terms of discharges. The submitter wishes to see that the roles are complementary and do not result in duplication.

Consideration

Submission 18, 89,120,147, 167, 215, 325, 370, 371, 374 and 424, Further Submission F347 (point 6), F401 (in part) and F435(point 2)

These various submitters support the policy to a greater or lesser extent and did not seek any significant amendments to it.

As a result of other submissions, the Commissioners have suggested the regional council notify a variation to change Policy AQL5 because the submissions do not provide to the Commissioners the scope to make the changes they believe are necessary. Therefore these submissions have been accepted as the Commissioners recommend no change in the interim period. They refer to their recommendation in the following paragraph.

Submission 347(point 1), Further submission F275 (point 1)

These submissions were considered at 3.1.2 Localised air quality issues ##03-001 21 00 – ##03-001 26 00, 347, F435. That consideration is adopted here. No change is recommended by the Commissioners and it is recommended that the primary submission be rejected and the further submission accepted.

Submissions 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 434 (point 3) and 435 (point 3) and Further Submissions F347 (points 1, 2, 3 & 4) F427 and F429 (points 1 & 2)

These submissions sought to amend or replace Policy AQL5 with one that recognises the responsibilities that territorial authorities have for the management of odour effects of land use, and for the control of the effects of land use to avoid potential ‘reverse sensitivity’ effects occurring. Some of these submissions also sought to delete the provisions relating to managing odour effects where controls on odour are included in district plans. Submission 429 (point 2) is opposed in part by F427 as the submitter does not consider that Policy AQL5 should be deleted as the roles of regional councils and territorial authorities are complementary and do not result in duplication.

The functions of a regional council under the Resource Management Act 1991(RMA) are set out in section 30 of that Act. These functions include:

“(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(f) The control of discharges of contaminants into ... air ...:”

If the regional council is to perform its function in respect of integrated management of resources in the region it must establish and implement objectives, policies and methods that have effect over the region, and, if necessary, direct the decision-making of territorial authorities in the exercise of their functions. In performing the function of integrated management the regional council is not restricted to considering only effects, nor restricted to controlling activities, in relation to land.

The Regional Policy Statement in Chapter 13 Air contains Objective 2 and Policy 3. The purpose of these provisions is to ensure that the adverse effects of discharges of contaminants to air are avoided, remedied or mitigated. This is to be achieved through the setting of standards and conditions in a regional plan and resource consents.

The purpose of a regional plan set out in section 63 of the RMA “*is to assist a regional council to carry out any of its functions in order to achieve the purpose of the Act.*” Policy AQL5 may identify overlapping functions between the regional council and territorial authorities in the management of odour effects and incompatible land use activities; however Policy AQL5 directs decision-making for both Environment Canterbury and the territorial authorities in the region. Policy AQL5 sets out means to achieve Objective AQL1. This is a responsibility for all constituent authorities in the region including territorial authorities.

The function of Environment Canterbury to control discharges of odour under this plan is given effect to by section 15 of the RMA. Under section 15(1) a discharge to air from industrial or trade premises must be authorised by a rule in a regional plan, a resource consent or regulations. Under section 15(2) the opposite presumption applies to a discharge from any source other than industrial or trade premises – unless the discharge is limited by a rule in a regional plan, the discharge can occur as of right, and is not subject to any constraint, other than the section 17 duties. Therefore discharges to air from industrial or trade premises must be managed by Environment Canterbury, through a regional plan or resource consents. Discharges to air from any other source may be managed through a regional plan if this will assist Environment Canterbury to carry out its functions.

No change is recommended by the Commissioners as a result of these submissions and it is recommended that the primary submission and those supporting it are rejected and that submission 429(point 2) be accepted.

Submission 155, 406, 429 (point 1) and Further Submission F347 (point 1)

These submitters sought that Policy AQL5 should be applied to urban areas only, or that odours in rural areas could not be considered offensive or objectionable.

The explanation to Policy AQL5 states that over half of complaints to the Environment Canterbury pollution hotline about air quality relate to the effects of odour. Many of the sources of these odours are activities undertaken in rural areas; such as intensive livestock farming, effluent application, offal pits and other odorous agricultural activities. The Commissioners were told that complaints about these odours often come from people in rural areas. Therefore it seems likely that the occurrence of offensive or objectionable effects of odours is an issue for rural areas, as well as urban areas. The Commissioners are aware of the issues raised by submitter 347 in relation to the urbanisation of rural land and the higher expectations of non-rural people in terms of air quality. The Commissioners accept that some rural activities can only occur in rural areas because of their potentially odorous nature.

The provisions of section 17 of the RMA impose an overriding duty upon every person to avoid, remedy or mitigate any adverse effect on the environment. This duty applies whether or not there is a regional plan, resource consent, or any existing use right. The duty can be enforced by enforcement orders or abatement notices to require persons to cease doing something that 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.

Odour is a response in the human body (and those of other animals) to the presence of contaminants in the air that trigger the sense of smell. Odour is not discharged. Contaminants are discharged that may cause a receptor to experience odour. This experience may be pleasant or unpleasant. The response to the odorous contaminants may vary between individuals and over time for an individual. The experience of unpleasant odours can result in effects that are often classified as being “offensive or objectionable”. These effects may extend from feelings of repugnancy or repulsion through to nausea and vomiting. Continued experience of such effects may, in some individuals, lead to stress and depression. The experience of odour is unlikely to result in direct adverse health effects such as skin, eye or nose irritation. While these effects may occur, they result from the contaminants in the air, rather than the experience of the odour. It is unlikely that a discharge of contaminants that causes an odour to be detected would have effects that are “noxious or dangerous”, although these effects could result from the same discharge.

The provisions of Objective AQL1 are not location specific and the outcomes identified are sought for all areas of Canterbury. The criteria to be used under the NRRP to assess whether an odour is offensive or objectionable are set out in Appendix AQL5. These criteria include the location of the person detecting the odour and the sensitivity of the receiving environment. While the severity and extent of the effects of odour in a rural setting may vary from an urban setting, Policy AQL5 is directed to those odours that may have offensive or objectionable effects no matter where they occur. The Commissioners believe this is an important distinction. Odour that may be deemed to be unacceptable in an urban environment may be acceptable in a rural environment. Often odorous rural activities cannot be undertaken in urban areas, whereas urban activities (e.g. domestic dwellings) can be undertaken in rural areas and hence the potential for conflict. Appendix AQL5 provides the opportunity to take into consideration location and it may well be that rural odour is acceptable in rural areas because it is in a rural location and such rural locations are the appropriate sites for such activities.

The ability to control discharges that cause odour under the plan comes from section 15 of the RMA. The Section 32 analysis in respect of Objective 1 identifies that the use of section 15 is the most appropriate way to achieve the outcome sought. Under section 15(1) a discharge to air from industrial or trade premises must be authorised by a rule in a regional plan, a resource consent or regulations. The definition of industrial and trade premises specifically excludes “production land”. Under section 15(2) the opposite presumption applies to a discharge from any source other than industrial or trade premises – unless the discharge is limited by a rule in a regional plan, the discharge can occur as of right, and is not subject to any constraint, other than the section 17 provisions referred to above. Therefore, activities that discharge contaminants that cause odour are those controlled by rules in the NRRP; all other activities on production land that may cause odour are unfettered by the provisions, provided any odour caused is not noxious, dangerous, offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

As a result no change is recommended by the Commissioners as a result of these submissions. They do not consider that there should be a blanket provision as proposed. It is recommended that the submissions are rejected.

Submissions 353 and 354, Further submissions F146, F275 (points 2 & 3)

These submissions opposed by the further submitters, consider that Policy AQL5 is written in a confusing way, that clause (a)(ii) is unnecessary, and that clause (b) is contradictory and circular. The submission suggested the following alternative wording:

- “(a) ~~Prevent any discharge of odour from new activities that discharge contaminants into air, such that it does not cause offensive or objectionable~~

~~effects beyond the boundary of any site where it originates. The discharge of odour shall not be noxious, dangerous, objectionable or offensive. Where evidence indicates a new activity is unable to do this comply with this policy then that activity shall should:~~

~~(i) locate away from sensitive areas and activities.; or~~

~~(ii) locate in areas where odour emissions beyond the boundary do not cause offensive or objectionable effects.~~

~~(b) Promote the adoption of the best practicable option to prevent or minimise events of offensive or objectionable effects of odour discharged from existing activities. that discharge contaminants into air, such that it does not cause offensive or objectionable effects beyond the boundary of any site where it originates.~~

~~(c) Avoid encroachment of sensitive activities on existing activities discharging odorous contaminants into air, unless adverse effects of the odour can be avoided or mitigated by the encroaching activity.~~

For the purposes of this policy: new activities are those activities which are established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP; and existing activities are those activities which are lawfully established at the date of notification of the Proposed NRRP.”

These submissions considered that the use of the mandatory term “shall” in the policy is inappropriate as policies provide guidance rather than mandatory requirements, and that the terminology should reflect that.

Section 1.2 Definitions of Terms defines Policy to mean:

“a statement that guides or directs decision-making. A policy indicates a commitment to a course of action in working towards and objective”.

This definition is taken directly from the Canterbury Regional Policy Statement, which adopted it from a Court of Appeal decision, *ARC v North Shore CC (1995)* . As a policy can be directive, it can be appropriate to use mandatory terms such as “shall”, where such direction is necessary.

Submitters 353 and 354 also considered that the use of terms “*minimise*”, “*prevent or minimise*”, or “*avoid(ing)*” are not consistent with the purpose or principles of the RMA, and sought that these are replaced with “*avoid, remedy or mitigate*”, or “*avoiding, remedying or mitigating*”.

Policy AQL5 contains a number of different terms and phrases that refer to the same thing. For example; when describing the activity Policy AQL5 variously uses; “*discharge of odour*”, “*discharge contaminants to air*”, “*odour emissions*”, and “*discharge odorous contaminants*”. When describing the effects of odour Policy AQL5 uses; “*odour nuisance*”, “*offensive or objectionable effects of odour*”, and “*adverse effects of odour*”.

Using consistent terms in Policy AQL5 would enhance the meaning of the Policy, by reducing inconsistency and variation of interpretation. The use of terms that are, appropriately, directly connected to the RMA also increases certainty, as these terms are likely to be either defined in the Act, or have been interpreted by the Courts in the RMA context.

The compounds that cause odour are all contaminants in air, and the discharge of these is controlled under section 15 of the RMA. “Nuisance” is not defined in the NRRP or generally used in the RMA context. The term has specific meaning under the Health Act 1956, but its meaning there covers many situations, and the part of the definition that would be relevant to a discharge to air is not as encompassing of adverse effects as the RMA. Therefore it would enhance the clarity of Policy AQL5 if the activity was consistently referred to as “*a discharge of contaminants that may cause odour*” and the effect of the odour consistently described as “*an offensive or objectionable effect on the environment.*” However the submissions above do not provide the Commissioners with the scope to make such recommendations.

The actions sought in Policy AQL5 in respect of odours are; “*avoid*”, “*prevent*”, “*promote to prevent or minimise*” and “*avoided or mitigated*”. The title of Policy AQL5 uses “*avoid*”, while clause (a) seeks to “*prevent*”, and Clause (b) “*promote...to prevent or minimise*”. The use of “*prevent*” implies stronger action than “*avoid*”, and “*promote...to prevent or minimise*” implies different action, but for an outcome that may be stronger or weaker than avoid. The title of Policy AQL5 does not reflect its content in this respect and would better describe the policy if the title did not contain “*avoid*”.

The Commissioners accept there are linguistic problems with Policy AQL5. The submitters have sought deletion as one option, however the Commissioners believe that deletion would adversely affect the integrity of the plan. The reporting officer’s recommendations made sense to the Commissioners, but they have some reservations about the magnitude of the changes suggested. They went well beyond the scope of the submissions. The Commissioners believe a variation is required to address the issues raised in regard to Policy AQL5. The Commissioners recommend no changes to Policy AQL5 at this time, but the recommend that the submissions and further submissions be accepted in part.

Submission 338

This submission suggests that “control” replace “avoid” in the title.

The clauses of Policy AQL5 describe the actions intended; the title does not need to do this, and would be better to remain neutral in terms of action.

Clause (c) identifies that land use planning is a very important tool to ensure that ‘reverse sensitivity’ between encroachment of new ‘sensitive’ land use into areas where air quality is affected by existing discharges of odour does not develop. In this instance the use of the term “avoid” in respect of this encroachment is in the opinion of the Commissioners, not strong enough. The explanation to the Policy emphasises how important it is that reverse sensitivity does not develop, and is seeking to prevent it developing. Therefore the intent of Clause (c) would be enhanced by the use of “prevent” rather than “avoid”. However the submission does not provide the scope to use the word “prevent”.

Policy AQL5 (a) directs the internalisation of the effects of odour from new activities; if internalisation cannot be achieved, the activity will be required to locate away from sensitive areas or activities.

Clause (b) has a lesser requirement of promoting the best practicable option to internalise the effects of odour from existing activities. The level of internalisation expected is to “prevent or minimise” offensive or objectionable effects. It is not clear which is the target – prevent, which means the effects will not occur - or minimise, meaning that these effects could be expected but at the lowest practicable level. Logically, it appears that these terms are intended to be a hierarchy – if the effects cannot be prevented, then they are to be minimised.

Section 5(2)(c) of the RMA uses the phrase “avoiding, remedying or mitigating any adverse effects of activities on the environment”, and section 17(1) imposes a duty to “avoid, remedy or mitigate” an adverse effect from an activity. The Environment Court has held that the words “avoid, remedy or mitigate” are to be read conjunctively, as being of equal importance, rather than steps on a continuum [*Winstone Aggregates Ltd v Papakura DC* EnvC A049/2002, *Adams Landscapes Ltd v Auckland CC* EnvC A108/2002]. If the words are used together then any combination of these actions could be used. However if the outcome sought is more specific, then the words used should reflect this. The policies in a plan can identify different levels of intervention to manage the effect on the environment of an activity. In Policy AQL5 some effects are to be prevented, i.e. stopped from occurring, while other effects can be tolerated to some extent. Therefore the words used must describe what is intended by the policy.

The Commissioners recommend that this is addressed by way of a variation but no changes are recommended as a result of this submission. The submission can be accepted in part.

Submission 44, supported by Further Submission F125 and opposed by Further Submission F435 (point 1))

These submitters sought that Policy AQL5 should be amended to remove the requirement to contain adverse effects of odour within site boundaries, as it is not possible to restrict odours to perimeters.

The approach adopted in Policy AQL5 is not to restrict all adverse effects of a discharge that causes odour to within a property boundary. The intention is that discharges that cause odour should not have offensive or objectionable effects on the environment outside the boundaries of a site. Therefore adverse effects of discharge that cause odour may still occur, but it is the nature and extent of these effects that is controlled.

No change is recommended as a result of these submissions, and it is recommended that submissions 44 and F125 are rejected. Further submissions F435 (point1) can be accepted in part.

Submission 373 (point 1), (supported by Further Submission F435 (point 3))

These submissions submit that Policy AQL5 and the rules relating to the control of odour from intensive farming are not consistent. Policy AQL5 seeks that offensive or objectionable effects do not extend beyond a site boundary, while the rules require intensive farming activities and application of animal effluent to land be separated from sensitive activities or residential areas by specified distances, i.e. buffer zones.

Policy AQL5 contains a tiered approach: first, a new activity should ensure that discharges that cause odours that result in offensive or objectionable adverse effects are prevented from escaping the boundaries of the site, i.e. internalisation of effects. Secondly, and if this cannot be achieved by a new activity, then that activity is to locate far enough away from sensitive areas or activities to ensure these effects will not occur i.e. use separation distances. Thirdly, an existing activity will be encouraged to adopt measures to stop or minimise the adverse effects of a discharge that causes odour that has adverse effects.

The rules that control discharges from intensive farming activities, rules AQL58 to AQL62, do not however follow this tiered approach. Instead, the rule for permitted activity discharges from all existing intensive farming activities, AQL58 requires adverse effects to be internalised – no objectionable or offensive effects beyond the boundary. A discharge from a new intensive poultry farming activity under Rules AQL59 or AQL60 must internalise effects and meet buffer distances to sensitive activities or areas, if the discharge is to be authorised as a permitted activity. New intensive pig farming activities require resource consent as a controlled activity under Rule AQL61. The conditions to be met to qualify as a controlled activity are separation distances and there is no requirement to internalise effects. If the conditions of any of these rules are unable to be complied with then resource consent as a discretionary activity under Rule AQL 62 is required.

The rules controlling the discharge of contaminants to air from animal effluent disposal and offal pits, rules AQL63 to AQL65 and AQL67, take the same approach. Existing activities are required to internalise effects, new activities must internalise effects and meet separation distances.

Therefore the conditions of the rules relating to new intensive farming or animal effluent disposal activities are inconsistent with the provisions of Policy AQL5. The provisions of Policy AQL5 clearly establishes the tiered approach for new activities, and the rules should reflect the policy.

Amendments to these rules will be considered by the Commissioners during their consideration of the submissions on the specific rules referred to. These submissions are accepted in part, but no change is recommended to Policy AQL5 as a result of these submissions.

Submission 378 and 401 (supported by Further Submission F347 (point 5))

These submitters sought to amend Policy AQL5 and add the words, “Criteria for assessing objectionable or offensive odour are listed in Appendix AQL5”. This is sought to add clarity for plan users.

Method AQL5(f) states that the assessment criteria in Appendix AQL5 will be used by Environment Canterbury to determine whether a discharge has caused an objectionable or offensive effect. As such, the criteria are a monitoring and enforcement tool. Appendix AQL5 clearly states that this is its purpose. Policy AQL5 has broader application and in the Commissioners’ view it should not be restricted by the application of Appendix AQL5.

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

Submission 131

This submitter sought that Policy AQL5 should include provision that when odours reach a sensitive activity, then action to remove adverse effects must be taken within a specified period.

The determination of the presence of adverse effects will be undertaken by Environment Canterbury, and it may respond in a number of ways to the presence of adverse effects, depending on the nature and severity of those effects. The response may include a requirement to undertake action within a prescribed time frame, but this would be decided on a case-by-case basis. In the Commissioners' view prescribing a time period for action is not needed to achieve the direction sought in Policy AQL5.

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

Submission 434 (point 2) and 435 (point 2) Further submission F135 (point 1)

These submitters opposed by the further submitter, sought that it be recognised that acceptable air quality for a community, such as in a rural area, may contain odours that are not considered offensive or objectionable.

Policy AQL5 directs the management of the effects of odour, not odour itself. An objectionable odour in one setting may not be considered such in another; therefore the 'base limit' is set by the environment in which the odour is discharged. The significance of the location of the odour has been discussed by the Commissioners above.

No change is recommended as a result of these submissions and it is recommended that they be rejected and the further submission be accepted.

Submission 434 (point 4) and 435 (point 4), Further submission F135 (point 2)

These submitters opposed by the further submitter, suggested that the requirement in Policy AQL5 to "*prevent any discharge of odour from new activities...*" imposes an unreasonably high level of compliance.

The clause in Policy AQL5 must be read in its entirety, as it proceeds to identify the effects of a discharge that are to be prevented, not the discharge itself.

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

Submission 906 Further submission F275 (point 4)

This submitter, opposed by the further submitter, sought that Policy AQL5 should be deleted.

The Commissioners believe that deletion would adversely affect the integrity of the plan. Therefore they recommend this submission be rejected and the further submission be accepted.

Recommendation

Reject

Submission 44, 131, 155, 286, 338, 347 (point 2), 373 (point 2), 378, 401, 406, 429 (points 1, 2 & 3), 434 (points 1, 2, 3 & 4), 435 (points 2, 3 & 4), 906 and Further Submissions F125, F347 (points 1 – 6), F429 (points 1 & 2) and F435 (points 1 & 2).

Accept

Submission 18, 89, 120, 147, 167, 215, 325, 370, 371, 374, 424, Further Submissions F135 (points 1 & 2), F275 (points 1 & 4), F347 (point 6), F401, F427, F429 (points 1 & 2) and F435 (point 2).

Accept in Part

Submission 353, 354, 338, 373(point 1) and Further Submissions F146, F275 (points 2 & 3) and F435 (point 3).

Amendments required

1. None required.
2. That Environment Canterbury consider notifying a variation to Policy AQL5, p. 3-74 to the following effect:
 - “(a) ~~Prevent any discharge of odour from new activities that discharge contaminants into air, such that it does not cause offensive or objectionable effects beyond the boundary of any site where it originates. The discharge of odour shall not be noxious, dangerous, objectionable or offensive. Where evidence indicates a new activity is unable to do this comply with this policy then that activity shall should:~~
 - (i) locate away from sensitive areas and activities. ~~;~~ ~~or~~
 - (ii) ~~locate in areas where odour emissions beyond the boundary do not cause offensive or objectionable effects.~~
 - (b) Promote the adoption of the best practicable option to prevent or minimise events of offensive or objectionable effects of odour discharged from existing activities. ~~that discharge contaminants into air, such that it does not cause offensive or objectionable effects beyond the boundary of any site where it originates.~~
 - (c) Avoid encroachment of sensitive activities on existing activities discharging odorous contaminants into air, unless adverse effects of the odour can be avoided or mitigated by the encroaching activity.

For the purposes of this policy: new activities are those activities which are established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP; and existing activities are those activities which are lawfully established at the date of notification of the Proposed NRRP.”

Policy AQL5 (a) ## 03-017 27 00 to 03-017 30 00

232	M Cann	Amend Policy AQL5 to cover current situations, not new ones.
329	Lyttelton Port Company Ltd	Delete Policy AQL 5, or amend (a) to read as follows: 'The discharge of odour should not be noxious, dangerous, objectionable or offensive. Where evidence indicates a new activity is unable to meet the intent of this policy then that activity should locate away from sensitive areas and activities. Refer also 3-17-32, 3-17-34, 3-18-23, 3-18-30. Make any consequential to the Plan as necessary.
353	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 5 (refer submission 3-17-26), amend point (a) to read: 'The discharge of odour shall not be noxious, dangerous, objectionable or offensive. Where evidence indicates a new activity is unable to comply with this policy then that activity should locate away from sensitive areas and activity.' Make any consequential amendments to the plan where necessary.
354	Chequer Packaging	As an alternative to deleting Policy AQL 5 (refer submission 3-17-26), amend point (a) to read: 'The discharge of odour should not be noxious, dangerous, objectionable or offensive. Where evidence indicates a new activity is unable to comply with this policy then that activity should locate away from sensitive areas and activity.' Make any consequential amendments to the plan where necessary.
427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Replace 'shall' with 'should'. Make any consequential amendments to the plan where necessary.
F146	Styx Residents Group	Opposes submission 354
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Opposes submission 232:
F435 (point 1)	Tegal Foods Ltd	Opposes submission 232:
F435 (point 2)	Tegal Foods Ltd	Opposes in part submission 329:

Submission Clarification

Submission 427

Submission 427 raises additional matters beyond those indicated by the summary above. These include the replacement of the term “shall” with “should”, and the how the terms “unable to” and “away from” would be interpreted.

Consideration

Submission 232 (opposed by Further Submission F427 and F435(point 1))

The submission sought that Clause AQL5(a) should apply to existing discharges as well as new discharges.

The RMA requires that a discharge to air from an industrial or trade premise is authorised by a regional plan or resource consent, and that the effects of the discharge are to be avoided, remedied or mitigated. Chapter 3 of the NRRP puts in policy and rules in relation to such discharges. There are however many existing activities that were lawfully established before the NRRP was notified. Policy AQL5 sets a higher requirement for the containment of adverse effects for activities that are establishing under the NRRP, than for those that were in existence before the NRRP was notified. This is because the latter were established under a different regime, and the need that they be given time to adapt. While the effects from these activities are given protection under section 20A of the RMA, this is provided only if the scale and intensity of the activity or effects remains the same, and only until the regional plan becomes operative. Once the regional plan becomes operative, then, within 6 months existing activities will have to comply with the provisions of the regional plan.

The Commissioners do not consider that in context, the policy is inappropriate. No changes are recommended as a result of these submissions and it is recommended that submission 232 be rejected and the further submissions in opposition be accepted.

Submission 329 (opposed by Further Submission F435 (point 2)), Submission 353 and 354 (opposed by F146)

The primary submitter sought that either Policy AQL5 should be deleted or that Clause (a) should be amended. The consideration and recommendation for submissions 353, 354 at ## 03-017 26 00 above is relevant here, and is adopted.

No changes are recommended by the Commissioners as a result of these submissions as they consider that a variation should be considered by the regional council. They recommend that the submissions be accepted in part.

Submission 427

The submitter sought that the term “shall” in Policy AQL5 should be replaced with “should”.

This issue is considered in ## 03-017 26 00, 353, 354. That consideration is adopted.

The submission also raises concerns with the use of the terms “unable” in Clause (a), “*Where a new activity is unable to...*” It is submitted that it implies a performance level that can only be assessed after an activity had established.

The intention of Policy AQL5 is to prevent the establishment of new discharges with undesired effects. Therefore the term “unlikely” is preferred as it means that consideration would need to be given to the risks of an undesirable effect arising before an activity establishes. However there is no scope for the Commissioners to recommend such a change.

The submission also raises concerns about the meaning of the phrase “away from sensitive areas and activities” in Clause (a)(ii). There is no guidance as to what constitutes “away” from such areas. The Commissioners agree with this concern. Unfortunately the submission does not give any scope to make the appropriate amendments. No changes are recommended as a result of these submissions but it is recommended that ECan notify a variation to deal with this. The submission should be accepted in part.

Recommendations

Reject

Submissions 232, Further Submission F146, and F435 (point 2).

Accept

Further submission F426 and F435(point 1).

Accept in part

Submission 329, 353, and 354.

Amendments required

That Environment Canterbury consider notifying a variation to Policy AQL5, p. 3-17 to the following effect:

- “(a) ~~Prevent any discharge of odour from new activities that discharge contaminants into air, such that it does not cause offensive or objectionable effects beyond the boundary of any site where it originates. The discharge of odour shall not be noxious, dangerous, objectionable or offensive. Where evidence indicates a new activity is unable to do this comply with this policy then that activity shall should:~~
- ~~(i) locate away from sensitive areas and activities.; or~~
 - ~~(ii) locate in areas where odour emissions beyond the boundary do not cause offensive or objectionable effects.~~
- (b) Promote the adoption of the best practicable option to prevent or minimise events of offensive or objectionable effects of odour discharged from existing activities. ~~that discharge contaminants into air, such that it does not cause offensive or objectionable effects beyond the boundary of any site where it originates.~~

- (c) Avoid encroachment of sensitive activities on existing activities discharging odorous contaminants into air, unless adverse effects of the odour can be avoided or mitigated by the encroaching activity.

For the purposes of this policy: new activities are those activities which are established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP; and existing activities are those activities which are lawfully established at the date of notification of the Proposed NRRP.”

Policy AQL5 (a) (i) ## 03-017 31 00

427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Amend (i) to read: ‘as far as practicable locate away...’ Make any consequential amendments to the plan where necessary.
F347	Federated Farmers of New Zealand	Supports submission 427
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers’ Fed Inc.	Supports submission 427

Consideration

Submission 427 and Further Submission F347 and F401

These submitters sought that Policy AQL5 Clause (a)(i) should be amended so that new activities that are not able to internalise odour effects, should “as far as practicable” locate away from sensitive areas or activities.

In accord with the consideration for ## 03-017 26 00, 353, 354 and 338, the intent of Policy AQL5 should be clarified through the use of terms with greater certainty. Unfortunately the suggested amendment does not assist in this regard although the Commissioners agree that the words “as far as practicable” should be added to the clause. It will not always be possible to avoid odour effect. The intent of Policy AQL5 is to ensure that the adverse effects of odour do not affect sensitive areas or activities. This however needs to be clarified and the Commissioners have already recommended a variation in this regard. They recommend that the submissions be accepted in part.

Recommendation

Accept in part

Submission 427 and Further Submissions F347 and F401.

Amendment Required

Add the words “as far as practicable” before the word “locate” in Policy AQL 5(a)(i), p3-17.

Policy AQL5 (a) (ii) ## 03-017 32 00

329	Lyttelton Port Company Ltd	Delete Policy AQL 5 (ii). Make any consequential amendments to the Plan as necessary.
353	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 5 (refer submission 3-17-26), delete sub point (ii). Make any consequential amendments to the plan where necessary.
354	Chequer Packaging	As an alternative to deleting Policy AQL 5 (refer submission 3-17-26), delete sub point (ii). Make any consequential amendments to the plan where necessary.
427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Replace 'do' with 'will'. Make any consequential amendments to the plan where necessary.
F146	Styx Residents Group	Opposes submission 354:

ConsiderationSubmission 329, 353 and 354 (opposed by F146)

The submitters sought that Clause (a)(ii) of Policy AQL5 should be deleted.

The relationship between this clause and the body of clause (a) is circular, and the clause redundant. Policy AQL5 (a) (ii) repeats the requirement that a discharge not cause offensive or objectionable effects beyond the boundary of the site and is unnecessary. The consideration under ## 03-017 26 00, 353, 354, is relevant and is adopted.

The Commissioners recommend this clause be deleted as a result of these submissions and they recommend that submissions 329, 353 and 354 be accepted and F146 be rejected.

Submission 427

The submitter sought that the word "do" in the clause should be replaced with the word "will". This is a change to future tense, and is appropriate when considering new activities. However the recommendation by the Commissioners directly above is to delete the clause and therefore no further change is necessary. The submission can be accepted.

Recommendation**Accept**

Submissions 329, 353, 354, and 427.

Reject

Further Submission F146.

Amendment Required

Delete Policy AQL5 (a) (ii), the “.” after the word “shall”, the “(i)” and the “; or “ after the word “activities”. p. 3-17.

Policy AQL5 (b) ## 03-017 34 00

234	B Bellis	Amend (b) to read: ‘Prevent any discharge of odour from existing activities that discharge contaminants into air, such that it does not cause offensive or objectionable effects beyond the boundary of any site where it originates.’
329	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 5, amend Policy AQL 5 (b) to read: ‘Where appropriate adopt the best practicable option to prevent or minimise offensive or objectionable odour discharged from existing activities.’ (Delete remainder of clause.) Make any consequential amendments to the Plan as necessary.
341	Heinz Wattie’s Australasia Pty Ltd	Amend Policy AQL 5 (b) by replacing the words ‘prevent or minimise’ with ‘avoid, remedy, or mitigate’. Or any other similar relief to satisfy the concerns of Heinz Wattie’s.
342	Canterbury Breweries Limited	Amend Policy AQL 5 (b) by replacing the words ‘prevent or minimise’ with ‘avoid, remedy, or mitigate’. Or any other similar relief to satisfy the concerns of Canterbury Breweries Ltd.
352	Feltex Carpets Ltd	Delete ‘prevent or minimise’ and replace with ‘avoid, remedy or mitigate’. Make any consequential amendments to the plan where necessary.
353 (point 1)	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 5 (refer submission 3-17-26), amend point (b) to read: ‘Promote the adoption of the best practicable option to prevent or minimise events of objectionable odour discharged from existing activities.’ Make any consequential amendments to plan where necessary.
353 (point 2)	Canterbury Meat Packers Ltd	Delete ‘prevent or minimise’ and replace with ‘avoid, remedy or mitigate’. Make any consequential amendments to the plan where necessary.
354	Chequer Packaging	Amend point (b) to read: ‘Where appropriate adopt the best practicable option to prevent or minimise offensive or objectionable odour discharged from existing activities.’ Make any consequential amendments to the plan where necessary.
F146	Styx Residents Group	Opposes submission 354:

F275 (point 1)	Ravensdown Fertiliser Co-Operative Ltd	Supports submission 341
F275 (point 2)	Ravensdown Fertiliser Co-Operative Ltd	Supports submission 342
F275 (point 3)	Ravensdown Fertiliser Co-Operative Ltd	Supports submission 352:
F275	Ravensdown Fertiliser Co-Operative Ltd	Supports submission 353:
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Supports submission 341:
F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Supports submission 329:
F435 (point 1)	Tegal Foods Ltd	Opposes submission 234:
F435 (point 2)	Tegal Foods Ltd	Supports in part submission 329:

Consideration

Submission 234, (opposed by Further Submission F435 (point 1))

The submitter sought that Policy AQL5 (b) should be amended to state that offensive or objectionable odour beyond the boundary of an existing activity should be prevented.

This would mean that existing activities would be treated in the same way as new activities. The consideration at ## 03-017 27 00 to ## 03-017 30 00, 232 above, that existing activities should be treated differently to new activities is relevant, and is adopted.

No change is recommended by the Commissioners as a result of this submission, and it is recommended that submission 234 be rejected and further submission F435 (point 1) be accepted

Submission 329, 353 (point 1), 354 (opposed by Further Submission F146), Further Submission F427 and F435 (point 2)

The primary submission sought that Policy AQL5 (b) should be amended to add the words “where appropriate...” or similar wording to the beginning of the clause, and to delete the last phrase “...such that...it originates.”

The Commissioners agree that the wording of this clause could be improved to increase its clarity. The action required by this clause, “promote” appears to be the responsibility of Environment Canterbury. Submitter 329 submits that the clause should read “where appropriate adopt the best practicable option ...” The responsibility to use the best practicable option to prevent, or where this is not possible minimise adverse effects of odours would then be with the discharger. The clause would then “require” the adoption of the best practicable option. This seems sensible to the Commissioners.

Change is recommended by the Commissioners as a result of these submissions and it is recommended that submissions 329, 353 (point 1), 354 and F427 and F435(point 2) be accepted and F146 be rejected.

Submission 341, 342, 352, 353 (point 2), Further Submission F275 (points 1, 2 and 3) and F401

These sought the phrase “prevent or minimise” be replaced with “avoid, remedy or mitigate”.

The use of the phrase “avoid, remedy or mitigate is consistent with the usage in Policy AQL5 (c) and the Commissioners support their use in clause (b) also. Change is recommended by the Commissioners as a result of these submissions and they recommend that submissions 341, 342, 352, 353 (point 2), and further submissions F275 and F401 be accepted.

Recommendations

Reject

Further submission F146.

Accept

Submissions 234, 329, 341, 342, 352, 353 (points 1 and 2), 354 and Further Submission F275, F401, F427 and F435 (points 1 and 2).

Amendment Required

Delete Policy AQL5 (b) p. 3-17, and, and replace with the following: -

“Where appropriate existing activities that discharge contaminants into air shall adopt the best practicable option to avoid remedy or mitigate offensive or objectionable effects of odour such that they do not cause offensive or objectionable effects beyond the boundary of any site from which they originate.”

Policy AQL5 (c) ## 03-017 38 00

275	Ravensdown Fertiliser Co-Operative Ltd	Retain Policy AQL 5(c).
329	Lyttelton Port Company Ltd	Support.

352	Feltex Carpets Ltd	Supports clause (c).
391	Carter Holt Harvey Panels MDF Ltd	Retain Policy AQL 5 (c).

Consideration

Submission 275, 329, 352 and 391

These submissions support the retention of Clause (c).

As no submission seeks change to this clause, these submissions can be accepted and no change is recommended by the Commissioners.

Recommendation

Accept

Submission 275, 329, 352 and 391.

Amendment Required

None required.

Policy AQL5 - Paragraph 1 ## 03-017 41 00

378	Canterbury Growers Society Ltd	Retain the definitions of 'new activities' and 'existing activities'.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Retain the definitions of 'new activities' and 'existing activities'.
F347	Federated Farmers of New Zealand	Supports submission 401:

Consideration

Submission 378, 401 and Further Submission F347

These submissions support the definitions of "new activities" and "existing activities" contained in Policy AQL5 because the submitters feel that the definitions protect the rights of current land users from new land users seeking to impose different standards on existing activities.

This was presumably the intention of including the definitions. The Commissioners agree with this submission.

No change is recommended on the basis of these submissions and it is recommended that they be accepted.

Recommendation

Accept

Submission 378, 401 and Further Submission F347.

Amendment Required

None required.

Explanation and principal reasons - Paragraph 4 ## 03-018 23 00

329	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 5, retain paragraph 4 of the Explanation and principal reasons. Make any consequential amendments to the Plan as necessary.
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Consideration

Submission 329

There has been no submission to amend paragraph 4 of the Explanation and principal reasons to Policy AQL5 and no change is recommended by the Commissioners. It is recommended that the submission is accepted.

Recommendation

Accept

Submission 329.

Amendment Required

None required.

Explanation and principal reasons - Paragraph 5 ## 03-018 30 00

329	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 5, retain paragraph 5 of the Explanation and principal reasons. Make any consequential amendments to the Plan as necessary.
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Consideration

Submission 329

There has been no submission to amend paragraph 5 of the Explanation and principal reasons to Policy AQL5 and no change is recommended by the Commissioners. It is recommended that the submission is accepted.

Recommendation

Accept

Submission 329

Amendment Required

None required.

Method AQL5(a) Information and promotion ## 03-018 48 00

347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (a). (Refer 3-17-26)
370	Department of Corrections	Retain as worded.
373	New Zealand Pork Industry Board	Retain Method 5(a).

Consideration

Submission 347

This submission sought to have this method deleted as it is said that district councils already manage these effects in their district plans.

Information and promotion is a non-regulatory method that is beneficial in developing community awareness of various issues. The Commissioners believe this is an appropriate method for the plan and that it should not be deleted.

No changes are recommended as a result of this submission and it is recommended that it be rejected.

Submissions 370 and 373

These submitters support the method, however submitter 373 noted that the Pork Industry Code of Practice is used as an example for this method. The submitter noted that the reference to the Code of Practice in this method is an earlier version of the Code, and advised that the Code is being updated. The submitter sought that the version cited in the NRRP should be the current version.

The original version of the Pork Industry Code of Practice is dated 1997. The Industry has reviewed this code and a new version “EnviroPork V1.0, 2005” has superceded the 1997 code. The Commissioners support reference to this later code of practice.

Recommendations

Reject

Submission 347.

Accept in Part

Submission 370 and 373.

Amendment Required

Amend Method AQL5 (a) (i) as follows:

“(i) industry-led codes of practice for the management of odours, such as the ~~Pork Industry Code of Practice for Pig Farming, EnviroPork, 2005 NZ Pork Industry Board, 1997 (November 1990); and”~~

Method AQL5(a) (ii) ## 03-019 01 00

44	Spreydon Heathcote Community Board	Provide an explanation for Method AQL 5(a)(ii).
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Consideration

Submission 44

This submitter sought an explanation for clause (ii), “*cleaner production for odorous activities.*”

Cleaner production is defined in Chapter 1 Definition of Terms. The ordinary meaning of odorous activities is sufficient for the plan without specific definition. It is noted that the Explanations and principal reasons for the methods are detailed in section 3.5 of the NRRP. Section 3.5.2 on page 3-139 contains the explanation and principal reasons for the method of Information and promotion. No further explanation is considered to be necessary or appropriate and it is recommended that the submission be rejected.

Recommendation

Reject

Submission 44.

Amendment Required

None required.

Method AQL5(b) Regional rules ## 03-019 04 00

347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (b). And associated rules - AQL 40, 41, 42 (refer 3-17-26) and Rules AQL 45-51, 54-74 in section 3.3 (refer 3-17-26).
370	Department of Corrections	Retain as worded.
F275	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 347:
F435	Tegal Foods Ltd	Supports submission 347:

Consideration

Submission 347 (opposed by Further Submission F275) and Further Submission F435

Submitter 347 and further submitter F435 sought that this Method and the rules relating to the management of odour should be deleted because district council already manage these effects through their district plans.

The consideration of the Commissioners at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), 435, F347 (points 1, 2, 3 & 4), F427 is relevant and has been adopted. The Commissioners accept that it is appropriate for the regional council to have regional rules that control discharges to air from specific land use activities. Regional rules are a way of authorising discharges to air that would otherwise require a resource consent.

No change is recommended as a result of these submissions and it is recommended that submission 347 and F435 be rejected. The further submission F275 can be accepted.

Submission 370

This submitter sought that this method should be retained. This can be accepted as no change is recommended.

Recommendations

Reject

Submission 347 and Further Submission F435.

Accept

Submission 370 and Further Submission F275.

Amendment Required

None required.

Method AQL5(c) Resource consents ## 03-019 07 00

347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (c). (Refer 3-17-26)
370	Department of Corrections	Retain as worded.
F275	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 347:

ConsiderationSubmission 347 (opposed by Further Submission F275)

Submitter 347 sought to have this method deleted because it says that district councils already manage these effects through their district plans.

The consideration of the Commissioners for ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), F347 (points 1, 2, 3 & 4), F427 is relevant and has been adopted. The Commissioners accept it is appropriate for the regional council to control discharges to air from specific land use activities. Resource consents are a principal method of controlling discharges to air that are not permitted by rules in a regional plan.

No change is recommended as a result of the submission and it is recommended that it be rejected. The further submission should be accepted.

Submission 370

This submitter sought that this method should be retained. This can be accepted as no change is recommended.

Recommendations

Reject

Submission 347.

Accept

Submission 370 and Further Submission F275.

Amendment Required

None required.

Method AQL5(d) Compliance and enforcement ## 03-019 10 00

347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (d). (Refer 3-17-26)
348	Environment Canterbury	Add a new first sentence into the method of compliance and enforcement to read: 'Environment Canterbury will undertake monitoring and ensure compliance with resource consents conditions.'
370	Department of Corrections	Retain as worded.
F275	Ravensdown Fertiliser Co-Operative Ltd	Supports submission 348:
F347	Federated Farmers of New Zealand	Opposes submission 348:

Consideration

Submission 347

This submitter sought to have the method deleted because it says district councils already manage these effects through their district plans.

The consideration of the Commissioners for ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), F347 (points 1, 2, 3 & 4), F427 is relevant and is adopted. The Commissioners believe it is appropriate for the regional council to have control on discharges to air and to seek to ensure that its rules are met. Environment Canterbury has statutory responsibilities under the RMA, including under section 35(2)(d), to monitor resource consents issued by it, and to enforce the provisions of the Act.

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

Submission 348 and Further Submissions F275 and F347

These submitters sought the addition of a sentence to the method to clarify the role of Environment Canterbury in compliance monitoring.

This submission was considered in relation to Policy AQL1, Method AQL1 (d), ## 03-010 08 00, 348, F347. That analysis is adopted. It is recommended that submissions 348 and F275 be rejected, and F347 accepted.

Submission 370

This submitter sought that this method be retained. However an amendment to the method is recommended, but in substance the method is retained. This submission can be accepted in part.

Recommendations

Reject

Submissions 347, 348 and Further Submissions F275.

Accept

Further Submission F247.

Accept in part

Submission 370

Amendment Required

None required.

Method AQL5(e) Response to complaints and enquiries ## 03-019 18 00

347 (point 1)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Amend Method 5 (e) to signal that Ecan staff will only investigate complaints where the nuisance is (i) ongoing and (ii) arises from the effects of an Ecan consent.
347 (point 2)	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (e). (Refer 3-17-26)
370	Department of Corrections	Retain as worded.
378	Canterbury Growers Society Ltd	Ensure that the complaints database only contains verified complaints. Make any consequential amendments to the plan where required. (Refer 0-0.)
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Ensure that the complaints database only contains verified complaints. Make any consequential amendments to the plan where required. (Refer 0-0.)
F338	Transit New Zealand	Opposes submission 347
F275	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 347
F347	Federated Farmers of New Zealand	Supports submission 401

ConsiderationSubmission 347 (points 1 & 2) (opposed by Further Submission F275 and F338)

Submitter 347 sought that Method AQL5(e) should either be deleted or amended so that complaints of the adverse effects of odour would only be investigated where they were ongoing and related to compliance with resource consent conditions.

The consideration of the Commissioners for ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), F347 (points 1, 2, 3 & 4), F427 is relevant and has been adopted. The responsibilities of Environment Canterbury under section 30 of the RMA permit it to control the discharge of contaminants to air. This requires investigation of possible discharges to assess their effects and whether there is any breach of RMA or regional plan provisions. Compliance monitoring of resource consents is a separate duty.

No change is recommended by the Commissioners as a result of this submission and it is recommended that submission 347 (points 1 and 2) be rejected, and that the further submissions in opposition be accepted.

Submission 370

This submitter sought that this method should be retained. This can be accepted as no change is recommended.

Submission 378, 401 and Further Submission 347

The concern the submitters raise relates to Environment Canterbury's Environmental Incident Response (EIR) database - effectively Environment Canterbury's environmental complaint and response record. Their concern is that the EIR database may contain complaints that are not verified, and that when information is made available to the public, it could provide a misleading impression in relation to the compliance record of some activities.

Section 35(5)(i) of the RMA requires Environment Canterbury to maintain "[a] summary of all written complaints received by it during the preceding five years concerning alleged breaches of the Act or a plan, and information on how it dealt with each such complaint".

Environment Canterbury enters every complaint made to it into its EIR database (whether it was made in person, by phone, in writing, or by any other means). Environment Canterbury staff evaluate what the appropriate response to the complaint should be and take action accordingly. The response made is entered into the EIR database.

Environment Canterbury's EIR database is subject to Part 2 of the Local Government Official Information and Meetings Act 1987. This governs the public availability of the information contained within it.

All complaints made to Environment Canterbury are entered into the EIR database. Any examination of the database allows Environment Canterbury's response to a complaint to be determined. The change sought by the submitters is not necessary, or in the Commissioners' view desirable. For written complaints it would fail to meet Environment Canterbury's obligations in terms of section 35(5)(i) of the RMA.

While the Commissioners accept the concerns expressed by the submitters about complaints that are vexatious or which may be in relation to "normal farming activities", they do not believe this justifies the rejection of complaints record material by the regional council. No change is recommended as a result of these submissions and it is recommended that they should be rejected.

Recommendations

Reject

Submission 347, 378 and 401 Further Submission F347.

Accept

Submission 370, Further Submission F275 and F338

Amendment Required

None required.

Method AQL5(e)(iv) ## 03-019 26 00

125	Waimakariri District Council	Add after ‘in association with territorial authorities’ the following: “where appropriate, or where agreement on roles and responsibility has been reached.”
F429	Selwyn District Council	Supports submission 125:

ConsiderationSubmission 125 (supported by Further Submission F429)

These submitters sought that the Method should be amended to qualify the actions of Environment Canterbury and territorial authorities in respect of procedures to deal with complaints about odour.

The Method proposed is to for Environment Canterbury to “*develop and implement a procedure*”, in association with territorial authorities and others authorities. Development of a procedure will require that agreements be reached with territorial authorities on their respective roles and responsibilities as appropriate. It is therefore not necessary to make the additions sought by the submitters. No change is recommended by the Commissioners as a result of these submissions and it is recommended that they be rejected.

Recommendation**Reject**

Submission 125 and Further Submission F429.

Amendment Required

None required.

Method AQL5(f) Assessment criteria ## 03-019 31 00

347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (f). (Refer 3-17-26)
370	Department of Corrections	Retain as worded.
F275	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 347:

Consideration

Submission 347 (opposed by Further Submission F275)

Submitter 347 sought that Method AQL5 (f) should be deleted because it says that district councils already manage these effects through their district plans.

The consideration by the Commissioners at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), F347 (points 1, 2, 3 & 4), F427 is relevant and has been adopted. The terms used to describe odour are derived from section 17 of the RMA, and the effects of odour will vary depending upon the person experiencing the odour. It is important that Environment Canterbury staff endeavour to consistently apply criteria in the assessment of whether adverse effects are occurring. Method AQL5(f) directs Environment Canterbury to Appendix AQL5 which in the opinion of the Commissioners is a reasonable method to evaluate the effects of an odorous discharge. They note that this method provides for the consideration of location. This addresses concerns expressed by submitter 347. No change is recommended as a result of this submission and it is recommended that submission 347 be rejected and further Submission 275 be accepted.

Submission 370

This submitter sought that this method should be retained. This can be accepted as no change is recommended.

Recommendations**Reject**

Submission 347.

Accept

Submission 370 and Further Submission F275

Amendment Required

None required.

Method AQL5(g) Territorial authorities ## 03-019 35 00

321	B Swale	Support.
347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Delete Method AQL 5 (g). (Refer 3-17-26)
370	Department of Corrections	Retain as worded.
379	Christchurch City Council, Civic Offices	Delete Method AQL 5 (g) or delete the word 'shall' and replace with the words 'could take into account the following matters'.

F275 (point 1)	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 347:
F275 (point 2)	Ravensdown Fertiliser Co-Operative Ltd	Opposes submission 379
F401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers' Fed Inc.	Supports submission 379:

Consideration

Submission 321 and 370

These support the method, as worded. Given the Commissioners recommendations below, no change is recommended and therefore these submissions can be accepted.

Submission 347, (opposed by Further Submission F275 (point 1))

These sought to have the method deleted because district council already manage these effects through their district plans.

The consideration at ## 03-017 26 00, 286, 347 (point 2), 373 (point 2), 429 (points 2 & 3), F347 (points 1, 2, 3 & 4), F427 is relevant and is adopted. The Commissioners believe that reliance solely upon the control of land use practices by territorial authorities has not always been effective in relation to odorous discharges and that therefore this method provides direction to the territorial authorities to locate odorous activities in appropriate locations. The Commissioners support this approach and recommend no change. They therefore recommend that Submission 347 should be rejected and that further submission F275 (point 1) should be accepted.

Submission 379 (supported by Further Submission F401, opposed by Further Submission F275 (point 2))

Submitter 379 sought the method should be either deleted or amended in respect of the action that Environment Canterbury is seeking from territorial authorities.

The consideration for Method AQL3 (e) (##03-013 22 00 to ## 03-013 24 00 379 is, in part, relevant here. The issue is the relationship between the provisions of a regional plan and a district plan, and what level of direction a regional plan can give to a district plan. However there are significant differences between Policy AQL3 with Method AQL3 (e), and Policy AQL5 with Method AQL5 (g). Policy AQL3 is a 'promotional' policy that recognises that Environment Canterbury has negligible legal authority to directly control vehicle exhaust emissions, but that it can promote means to reduce the effects of these emissions. Policy AQL5 is a means to fulfil the statutory function of Environment Canterbury to control discharges of contaminants to air, and in this particular situation, the discharge of odour, through regional plans and resource consents.

For the regional council to perform its function of achieving integrated management of resources in its region, it must establish and implement objectives, policies and methods that have effect over the region, and, if necessary, direct the decision-making of territorial authorities in the exercise of their functions. The purpose of a regional plan set out in section 63 of the RMA *“is to assist a regional council to carry out any of its functions in order to achieve the purpose of the Act.* Policy AQL5 sets out a means of achieving Objective AQL1. Method AQL5(g) - along with the other methods - sets out what is to be done to give effect to Policy AQL5.

Where adverse effects of odour are unable to be internalised, from either a new or an existing activity, then the principal way to avoid the effects is to ensure that there is sufficient distance separating the activity from a sensitive area or activity. This can be achieved by ensuring that suitable areas for such activities are identified, and that sensitive activities do not encroach into areas affected by the discharge. The control of the use of land to avoid the adverse effects of odour is an efficient and effective way to achieve the relevant provisions of Objective AQL1. Territorial authorities have the responsibility to control the effects of the use of land. Therefore it is appropriate that Environment Canterbury requires territorial authorities to act, in this case without specifying what provisions should be included in a district plan or how an authority should act in the exercise of its functions. The mandatory nature of the method is therefore supported by the Commissioners.

No change is recommended as a result of these submissions and therefore submission 379 and Further Submission 401 should be deleted and Further Submission 275 (point 2) should be accepted.

Recommendations

Reject

Submission 347, 379 and Further Submission F401.

Accept

Submission 321, 370 and Further Submission F275 (points 1 & 2).

Amendment Required

None required.