



ORGANIC & MORE

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# ORGANIC REGULATION SUBMISSION GUIDE

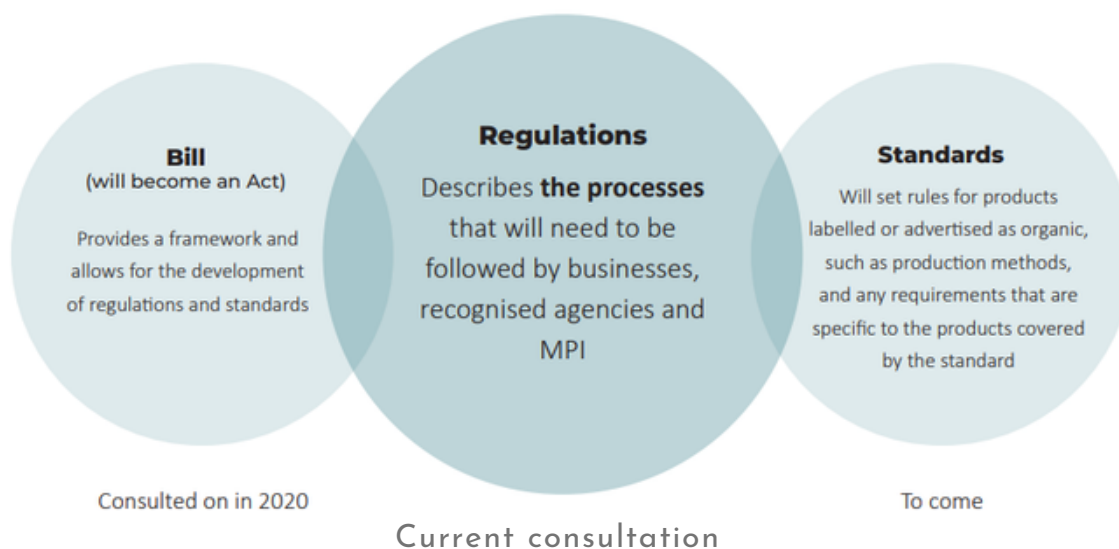
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## BACKGROUND

A National Organic Bill, Regulation and Standards are currently being developed for New Zealand. We are one of the only countries in the OECD without a National Regulation in place for organics.



\*Graphic from MPI's regulation proposal document

## PURPOSE

This document aims to help you make a submission on the proposed regulation by using our 38 years of expert knowledge in organic certification. This guidance will interpret the proposal and make suggested submission points to help you formulate your own.

We recommend reading the full Proposal for [Regulating Organic Business in New Zealand](#) released by MPI on 15 March 2021.

All Submissions must be lodged by 5pm on **Tuesday 8, June 2021**

Submissions can be:

- Completed online via [Survey](#).
- Emailed to [OrganicsConsultation@mpi.govt.nz](mailto:OrganicsConsultation@mpi.govt.nz)
- Posted to: Organics Consultation Ministry for Primary Industries, PO Box 2526, Wellington, 6140

## PROPOSAL OVERVIEW

The proposal document provided by MPI is 45 pages long and sectioned as you can see below. Each area has specific and direct questions that are relevant to the proposal made for each section. For ease, we will run through each question as noted in the proposal with our suggested responses and a brief explanation on our standpoint.

**Pages 1-10** - Background information

**Pages 11 - 26** - Certification Process

*Page 11-13* - Baseline Process

*Page 14-15* - OMP

*Page 16* - OMP & Audit

*Page 18* - MPI Approval

*Page 19* - Ongoing Verification

*Page 20* - Changes to OMP (and verification requirements)

*Page 23* - Renewal expiry and frequency

*Page 26* - Verification outside regular schedule

**Page 27 - 30** - Alternative methods of approval (group schemes)

**Page 30 - 34** - Importing and exporting organic products

*Page 30 - 32* - Importing

*Page 32 - 34* - Exporting

**Page 34 - 37** - Exemptions (Retailers, small domestic producers)

**Page 37 - 41** - Competency requirements for Third Party Agencies

*Page 37 - 39* - Competency requirements for recognising agencies

*Page 39 - 40* - Competency requirements for recognising persons

*Page 41* - Information sharing between entities

**Page 41 - 43** - National logo for organic products

**Page 44** - Minimal content surrounding costs

**Page 45** - Support moving to a new regime

## SUBMISSION POINTS

**Question 1 - How strongly do you agree or disagree with the proposed baseline processes for assessing business' compliance with the organic standard (Pages 11-12)**

**Response 1 - BioGro STRONGLY DISAGREES** with the baseline processes due to the proposal that MPI will make the final certification decision.

*The current procedure for organic certification is that MPI recognises Third-Party Agencies to make all assessment and certification decisions. The proposal adds another layer to this, by requiring MPI to make the final certification decision.*

- a) The current process is already working and has done for decades, so why change this?
- b) There will be cost implications for organic producers who will be required to pay for this add-on to the process
- c) This will create a bottle-neck effect with current and new organic producers waiting for their final approval
- d) No country across the globe uses this process in organic certification
- e) The proposal put forward is based on the current system for the current Food Act 2014, but there has been no consideration how differently the organic system works
- f) Would like a better understanding of how this will be managed internally;
  - Who will qualify, assess and monitor the MPI decision-makers?
  - What is the baseline for this qualification?
  - Has the cost implications of this new process been forecasted?
  - What are the requirements for TPA accredited staff moving forward if they no longer have the delegation to make these final decisions?

**Closing Point 1 - BioGro believes that MPI should concentrate on international trade effectiveness by negotiating with other countries for equivalency, and leave the certification process and decision making to the experts.**

## Question 2 - How strongly do you agree or disagree with the proposed organic management plan requirements? (Page 13-14)

**Response 2** - BioGro AGREES that organic producers are required to maintain an Organic Management Plan. Although we DISAGREE that producers can submit a 'format that works best for them'.

- a) There should be a minimum requirement set for what should be included in the OMP to ensure they meet regulations, although the content and structure should be determined by the accredited certification agencies
- b) If producers were to submit their own format, the process of getting this into the certification system will likely take longer and could subsequently lead to higher costs
- c) There is no reference to Production Quantities within the OMP proposal

## Question 3- What would be the advantages and disadvantages for your business keeping an organic management plan? (Page 13-14)

This question is not relevant to BioGro, but we recommend putting together a list of pros and cons for your company and including this within your submission.

## Question 4a - How strongly do you agree or disagree that an initial assessment should involve an evaluation of an OMP and verification of the business (Page 14-15)

**Response 4a** - BioGro AGREES with the above statement. This is standard procedure.

## Question 4b - If able to verify that a business is operating in accordance with its plan in one visit, then a second visit should not be required in initial assessment (Page 14-15)

**Response 4b** - BioGro AGREES with the above statement with some additional comments;

- a) The potential of a 'second visit' should not be determined by MPI, but by the accredited certifying agency if deemed necessary
- b) If MPI were to request second audits throughout this process, it would lead to significant complications and delays

### Question 5 - How strongly do you agree or disagree that MPI should assess and approve business' OMPs? (Page 16-17)

Response 5 - BioGro STRONGLY DISAGREES for the reasons stated in Response 1.

### Question 6 - We propose there be a public register of organic businesses. How strongly do you agree or disagree that the following details are made public? (Page 16-17)

#### Proposed Details;

- The name and location of the organic business;
- The products they are approved to describe as organic;
- The processes they are approved to carry out or organic products;
- The status of the approval e.g. approved/suspended
- Approval date
- Expiry date of the approval
- The recognised agency or person who assessed the business

Response 6 - BioGro AGREES that a public register of organic businesses is available, which is something accredited agencies already provide.

a) How does MPI plan to consolidate this list? Through organic producers directly or through the certifying agencies?

- Certifying agencies recognise that this will create a substantial amount of reporting work and potential costs to ensure this list is kept up-to-date

b) The recognised person who made the assessment decision should be confidential. Recognised agencies however makes sense to be listed

c) Expiry date of approval is unnecessary, as this list should only include those who are active

### Question 7 - What factors should MPI take into account when setting a duration on the approval, and what should the minimum/maximum duration be (Page 16-17)

Response 7 - BioGro STRONGLY DISAGREES that MPI should be making this decision. These factors are currently and should continue to be assessed and decided by accredited certifying agencies.

### Question 8 - How strongly do you agree or disagree that businesses should be verified on an ongoing basis? (Page 18-19)

Response 8 - BioGro AGREES that businesses will need to be continuously verified to ensure compliance, although as already stated, we STRONGLY DISAGREE that MPI should be making the overall certification decision.

### Question 9a - How strongly do you agree or disagree that significant changes to OMP's should be approved by MPI (Page 19-20)

Response 9a - BioGro STRONGLY DISAGREES that significant changes need to be approved by MPI.

- a) MPI should trust their accredited certification agencies and leave such certification work and decisions to the experts
- b) To make such a decision, MPI would be required to study the background history of the operator which will take more time, resourcing and is likely to produce another cost for organic producers
- c) BioGro views this as unnecessary double handling, and will add to the bottle-neck effect as mentioned before, delaying the certification process substantially

### Question 9b - How strongly do you agree or disagree that significant incidents should be notified to the recognised agency (Page 19-20)

Response 9b - BioGro AGREES that significant incidents should be notified to recognised agencies. This process ensures that the recognised agency can assess if there are any implications or requirements to remain compliant to the standards - the earlier these are disclosed, the better.



## Question 10 - What factors should be considered for whether an approval would expire? (Page 21-22)

**Response 10** - BioGro would like more clarity on your proposed process for renewal as the proposal put forward seems a little backwards;

a) Are Organic operators expected to notify the accredited certification agency, MPI or both?

b) The language used is confusing. How are you proposing that businesses 'apply' for renewal?

- Certification providers already have an automatic renewal system in place which notifies the licensee of their upcoming renewal, which gives the organic producer a chance to express their desire to not continue their certification.

This is more of a 'rollover' system than a 're-apply' system which makes sense

c) You are also proposing a 'time-limit' that if an organic producer does not 're-apply' in a given time-frame, that their certification is automatically removed

- The current certification system works the complete opposite. With a 'roll-over' system, producers are automatically put into the renewal process. If producers either express their desire to remove themselves from certification, or do not update their OMP for us to start the assessment process, only then would we look to remove them from certification

d) De-certification implications can be huge for a producer, especially those who are exporting. It seems this is somewhat ignored in the proposal

## Question 11 - What factors should be considered when determining the renewal frequency? (Page 21-22)

**Response 11** - There are many factors included within this, but risk will be the biggest factor. Although the renewal frequency should be determined by the accredited certification agency who are assessing, visiting and evaluating the organic producer, not MPI.

**Question 12** - How strongly do you agree or disagree that there should be flexibility within verification? (Page 22-25)

**Response 12** - BioGro STRONGLY AGREES that there should be flexibility within verification? Some operations have little to no changes annually, are low risk and consistently compliant.

**Question 13** - We have identified three options for verification, which is your preferred option? (Page 22-25)

**Response 13** - BioGro AGREES with option 1A, but DISAGREES that MPI should be making the decisions that determines this for each organic producer.

**Question 14** - If we progress with our preferred option (1A), what would be the advantages and disadvantages for your business (Page 22-25)

We recommend that you read through the preferred option and assess the pros and cons that relate to your business.

**Response 14** - Flexibility allows accredited certifiers to schedule assessments and audits more efficiently.

**Question 15** - We propose that risk-based criteria are used to determine verification frequency or nature. How strongly do you agree or disagree? (Page 22-25)

**Response 15** - BioGro STRONGLY AGREES that a risk-based criteria is used to determine verification frequency, although DISAGREE that MPI should be making the decisions that determines this for each organic producer.

**Question 16** - What other criteria (if any) should be used to determine verification frequency or nature (Page 22-25)

**Response 16** - Remote locations and accessibility should also be taken into account, if not already covered within risk assessment.

**Question 17** - How strongly do you agree or disagree that small organic businesses should be allowed to be approved as a group? (Page 26-29)

**Response 17** - BioGro AGREES that there could be a system in place that allows small organic business to be approved as a group, but the system needs to be defined carefully.

**Question 18** - How strongly do you agree or disagree with the proposed criteria for group scheme membership? (Page 26-29)

**Response 18** - BioGro DISAGREES with the proposed criteria put forward for the group scheme membership due to the following reasons;

- a) The suggestion that recognised agencies have to annually assess the functioning of the group is more time-consuming than you may think and costs will need to reflect this
- b) Would also need clarification if MPI are required to be informed of those on the group scheme, which adds to the reporting requirements
- b) There is no indication that this proposal is limited to certain types of producers, but we feel as though it will only work effectively for Primary Producers who are small scale

**Question 19** - What other criteria (if any) should there be for qualifying to be a member of an organics group scheme? (Page 26-29)

**Response 19** - BioGro believes that the following will need to be taken into consideration;

- a) This scheme should be for domestic purposes only
- b) This scheme should not be applicable for processors or manufacturers
- c) This scheme should only be available to Primary Producers operating on a low-scale

**Question 20** - Is there another model for reducing the cost of verification that we should investigate? (Page 26-29)

**Response 20** - This depends on the point of view. The current proposal looks at cost reduction for producers, but it may not actually reduce costs dependent on the training and assessment requirements for accredited certifiers.

**Question 21** - How much confidence would you have in organic products that were produced by businesses approved using the group process? (Page 26-29)

We recommend that you answer on behalf of your own or your company beliefs when responding to this question.

**Response 21** - Responding from a certification perspective, there should be no reason to have less confidence on those using a different scheme. BioGro will always strive to ensure the standard requirements are met and compliance is verified.

**Question 22** - How strongly do you agree or disagree that importers should be verified with the same flexibility as businesses producing and processing organic products domestically (Page 29-31)

**Response 22** - BioGro AGREES that importers should be verified with the same flexibility

**Question 23** - Do you have any other comments about importing organic products? (Page 29-31)

**Response 23** - BioGro would like more clarification surrounding the Trans-Tasman Mutual Arrangement. We would like a better understanding of the following statement "Australian organic products would continue to need to meet domestic Australian laws" for the below reasons;

- a) There is currently no National Regulation in Australia for organics, therefore the above statement signifies that Australia can export their potentially non-organic and non-certified products to New Zealand, as they would technically be meeting the domestic requirements.
- b) If you are referring to any export laws that are already in place within Australia these need to be clearly recognised throughout the Bill and Regulation (e.g. Organic Export Regulation)
- c) There is also the potential that loopholes and advantages are in favour of those exporting from Australia

**Question 24** - How strongly do you agree or disagree that businesses exporting from New Zealand should be verified with the same flexibility as businesses producing and processing organic products domestically, where the export market allows it? (Page 31-33)

**Response 24** - BioGro AGREES that the same flexibility should be given to those exporting. Accredited certifiers can ensure that overseas requirements are still met even with this flexibility.

**Question 25** - How strongly do you agree or disagree that regulations should allow businesses exporting from New Zealand to meet overseas market access requirements rather than the New Zealand standard ? (Page 31-33)

**Response 25** - BioGro believes that this question shouldn't even need to be asked if a National Regulation was to be implemented for the following reasons;

- a) Once a National Organic Regulation is implemented, it means New Zealand is in line with all other countries that have a National Organic Regulation
- b) Instead of having to meet overseas requirements (which we currently do because we do not have a National Regulation or Standard), moving forward we would be recognised internationally removing the need to meet overseas requirements instead of or as well as our own
- c) MPI should be focusing on forming such agreements with overseas markets
- d) Therefore, we would like more clarification on MPI's role in creating opportunities for these new markets and the plan and approach with this

**Question 26** - How strongly do you agree or disagree with the proposed criteria for exempting very small businesses from approval (Page 33-36)

**Response 26** - BioGro feels as though there should be a better distinction between the small businesses that will go into a group scheme and the small businesses that will be exempt. If you have both systems in place, both over-ride each other. The group scheme makes more sense if the process is correct.

**Question 27** - How strongly do you agree or disagree that very small domestic businesses should be exempt from MPI approval(subject to proposed criteria) (Page 33-36)

**Response 27** - BioGro STRONGLY DISAGREES that any business (Small or Large) should have to receive approval from MPI. This should all be carried out through the accredited certification agencies.

**Question 28** - How strongly do you agree or disagree that retailers who sell bulk organic products or who repackage organic products should be exempt from having a plan, being verified, and being approved? (Page 33-36)

**Response 28** - BioGro AGREES that retailers just selling pre-packed products should be exempt. Although BioGro STRONGLY DISAGREES that retailers repackaging should be exempt for the following reasons;

- a) Retailers that are repackaging products (which are usually as their own brand) should require an assessment in their own right to ensure this process has gone through the correct procedure to sell as 'organic'
- b) Loose products will also need to come into consideration - there is a large possibility for cross-contamination especially if you are selling non-organic produce alongside the organic produce

**Question 29** - What, if any, other groups/classes of businesses do you think should be exempt from any parts of the approval and verification (Page 33-36)

**Response 29** - BioGro would like more clarification surrounding what exempt actually means in someone's ability to use the term 'organic' if they are not certified. The following are a few examples of those that could be exempt;

- a) Storage or warehouse that have stored already sealed retail products that are packed
- b) A handler who does not physically handle the product, but just acts as a middle-man or facilitator with paper-work only
- c) Mobile processors could be certifiable as part of the organic producer who owns the product

**Question 30** - How strongly do you agree or disagree that recognised agencies should be accredited to either ISO 17020 or 17065 to carry out roles under the organics regime? (Page 36-38)

**Response 30** - BioGro STRONGLY AGREES with ISO17065. BioGro sees a lot of duplicates and therefore less relevance in ISO17020, especially when it is not required internationally.

**Question 31** - How strongly do you agree or disagree that recognised agencies should be able use a 'key technical persons' approach? (Page 36-38)

**Response 31**- BioGro neither agrees nor disagrees with the Key Technical Person Approach but instead would like some more understanding of how this being used in practice with structure and cost implications.

**Question 32** - How strongly do you agree or disagree with the proposed competencies for verifiers and evaluators (Page 38-39)

**Response 32** - BioGro STRONGLY DISAGREES with the proposed competencies for verifiers and evaluators for the following reasons;

- a) MPI is the only agency in the world within the organic industry to assess, approve and suspend a person based on their assessment and verification abilities.
- b) The focus for MPI should be the certification systems themselves and how accredited certifiers appoint their assessors and verifiers

**Question 33** - What systems and processes should be in place to ensure organic businesses keep up to date with compliance obligation when switching between recognised agencies (Page 40)

**Response 33** - This will depend on the reasons for choosing to switch to a new agency;

- a) If the organic producer had their certification removed by the Recognised Agency, the information surrounding this decision should be disclosed to the new Recognised Agency if the producer goes elsewhere to gain certification
- b) Based on the above, if the new Recognised Agency moves forward with this certification, MPI should ask for clarification into why this producer is now eligible

- c) If the organic producer is simply switching from one provider to another due to service or dissatisfaction with their current recognised entity, there should be confirmation between the two agencies that there are no non-compliances or any reason to suspect fraud
- d) BioGro disagrees with allowing dual certification under the same programme, as reconciliation of produce sold is nearly impossible

### Question 34 - Would a national logo for organic products be useful to you? (Page 40-42)

We recommend that you answer on behalf of your own or your company beliefs when responding to this question.

Response 34 - BioGro have identified both pros and cons of introducing a National Logo, but if implemented we would like MPI to be aware of the potential cost implications, and to ensure that the correct awareness campaigns are put in place.

- a) A national logo will be useful to visually confirm that the product is compliant to the National Regulation
- b) If compulsory, current organic producers will incur costs related to their packaging to update their artwork - will there be a rollout period?
- c) What would the approval process be for using the logo on packaging and who would be in charge of this approval process? This is likely to incur more costs due to the time and resourcing required to use this logo.
- d) Would certified organic producers be given a National Organic Number to go with the logo? or will they continue to display the certification number provided by the accredited agencies?
- e) Will there be a marketing campaign in place for launching the new logo, so that consumers are aware of these changes? It's no good having a logo that isn't understood.

### Question 35 - If a national logo was to be developed, who do you think should be allowed to use the logo? (Page 40-42)

We recommend that you answer on behalf of your own or your company beliefs when responding to this question.



**Question 36** - If you have any concerns about transitioning to a new regime for organics, what are they? (Page 44)

We recommend that you answer on behalf of your own or you company beliefs when responding to this question.

**Question 37**- What, if any, costs (other than those identified in this document) would your businesses face in transitioning that we should be aware of? (Page 44)

We recommend that you answer on behalf of your own or you company beliefs when responding to this question.

**Response 37** - BioGro is mostly concerned at the cost implications with the proposal that MPI will be required to approve all final decisions made on a certification as noted in Response 1.