



**Analysis of Submissions: Proposed amendments to the:
Animal Products Notice: Dairy Recognised Agencies and Persons Specifications**

Date: 12 June 2018

MPI received 3 submissions on the proposed document. The submissions have been analysed in the following table. As a result of the consultation process, and where appropriate based on the analysis below, amendments have been made to the Notice. MPI would like to thank the parties who have taken the opportunity to comment on the proposal.

General Comments:

Submitter ref	Submission comment(s)	MPI Response
1	The requirements of NZCP2 and this document need to match.	Agree. NZCP2 will be reviewed at a later date. This Notice is the overarching document.
3	We would like feedback on how this Notice will impact NZCP2, the RMP and Farm Dairy Assessment Systems. We note that in discussions prior to the release of the draft Notice for consultation, it was understood that the assessments would be under NZCP2. However, within this draft Notice it reads as though the assessments can be made under either NZCP2 or the Farm Dairy assessment system.	An RMP covering farm dairies is required to contain a system for the assessment of farm dairies. NZCP2 is the default option and has been accepted by key overseas markets. However evaluated and registered alternatives that are at least equivalent to NZCP2 are also acceptable. In either case the requirements set out in the Notice will apply to the farm dairy assessors and assessment organisations.
1	Define the meaning of a fit and proper person to be assessing, does this go into past history jobs or other potential conflicts	Refer to the Act, clauses: 101 Recognition of agencies 103 Recognition of persons.
3	Under the new framework, the Farm Dairy Assessor is now not only reporting to the RMP operator, but MPI. Under this new process, will there still be a need for RMP verification of Farm Dairy Assessors? We would appreciate clarification on how the process will work in practice.	Correct – MPI will have oversight of the performance of farm dairy assessors. However routine reporting obligations remain between the farm dairy assessors and RMP operators.



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		Verification of the RMP will involve review of the farm dairy assessment system and its operation. From time to time the verifier may elect to observe a farm dairy assessment, but the verifier will no longer be responsible for confirming assessor competency.
3	It is unclear in the Notice how a registered persons activity will be verified as competent. We would like clarity on whether the RMP RA will be auditing the competency of the Farm RP's, or whether SAT will be conducting Farm RP specific audits. It is suggested that if the RMP RA were to verify the Farm RP's that in scenarios where the RMP RA and Farm RP are the same company, this presents a conflict of interest.	Amended. Refer to clauses 3.3(1)h) and 3.12(3).
3	We are unclear on how the new inclusion of farm dairy assessors will operate in practice, as it is not clear in the Notice. This lack of clarity arises from: <ul style="list-style-type: none"> a) Uncertainty created by this Notice around what a farm dairy assessor will be assessing against, b) How the reporting function will operate; and c) Within the background section of the draft Notice, MPI has stated that this activity remains as operator verification. We would like to understand how this operates in practice when recognised agencies are doing the assessments, and reporting directly through to MPI. For example, under the current operator verification model, the competency of the farm dairy assessor is the RMP operator's responsibility, and therefore we can refuse to allow a farm dairy assessor to do the Farm Dairy Assessments. However, while the guidance states that the activity remains operator verification, the notice does not read as such – and so one of our queries is whether the right to refuse a Recognised Person (RP) remains intact. 	Partially covered above. <ul style="list-style-type: none"> a) No change expected, with assessment being against NZCP1 and any additional RMP requirements. b) Status quo applies to reporting. c) The Notice provides an official system to assess the competency of farm dairy assessors and has provision for performance concerns and legitimate complaints to be reported to MPI. However the right to refuse a recognised person should be confirmed under the commercial arrangement with the recognised agency.
3	It is suggested that prior to the finalised Notice being published, MPI hold a call with industry to talk through the inclusion of farm dairy assessors in the Notice and how it will operate in practice. We feel that an overview of how the process will operate is needed, as overall ownership of the process is not clear from the Notice. We also propose that should it remain difficult to provide clarity on how the farm dairy	MPI kept the Dairy Industry Technical Advisory Group informed as the Notice was developed, and will provide an update to the Group on how the Notice will apply in practice at their next meeting. MPI does not agree that a separate Notice is required, and



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	assessors inclusion will operate within this notice, that creating a separate notice would be a good alternative. This would also give MPI the opportunity to work on the notice with a targeted industry working group, which has in past resulted in good outcomes for the industry and MPI (eg; General Export Requirements for Halal Dairy Material and Halal Dairy Products).	discussions with submitters have not identified any particular issues that need to be addressed.
3	<p>In the discussion document it is stated that the proposed scheme will continue to minimise the verification costs to industry. However, without the recognised persons and recognised agencies pricing structure being regulated, costs will increase due to the model change.</p> <p>a) The need for an SAT audit, which will be cost recovered.</p> <p>b) The recognised persons costs of certification to MPI will likely be passed on to the customer.</p> <p>We would like consideration to be given to whether there are any mechanisms available to ensure that there is not a significant rise in the cost of verification due to this Notice.</p>	MPI expect the overall cost to the industry will reduce, with the duplication of individuals being assessed under each RMP now removed. This will likely be of greater benefit to smaller companies rather than larger RMP operators.

Submission Analysis:

Submitter ref	Submission clause	Submission comment(s)	Submitter proposed amendment(s)	MPI response
PART 1				
3	1.3	<p>Critical non-conformance definition: The definitions of what constitutes a critical non-conformance do not align with the definition given in NZCP2: Code of Practice for the Assessment of Farm Dairies. The definition of a critical non-conformance in NZCP2 relates to where a section of the report is non-conforming to a critical threshold.</p> <p>To expand upon the difficulties with this definition, the inclusion of “a) failure to follow</p>	<p>It is suggested that there are two ways to deal with the issues surrounding the definition. One way is to alter the definition in the Notice to include a Farm Dairy specific definition which aligns with NZCP2. The second way to make the categorisation more appropriate would be to alter the rating system in NZCP2.</p> <p>We suggest that guidance as to what the lawful direction of an Animal Products</p>	<p>The Notice does contain a definition for critical non-conformance.</p> <p>Animal Product Officer powers are applied under the Act. Note that</p>



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		the lawful direction of an Animal Products Officer” is not clear.	officer constitutes in relation to on farm dairy assessment is given.	recognised farm dairy assessors will not generally be Animal Product Officers.
3	1.3	<p>Critical Situation definition: The definition of a critical situation is “any situation which, in the professional judgement of an Animal Products Officer, places public health, animal welfare, market access, official assurances, national good, or the credibility of MPI or the Director-General at risk, or where an offence is suspected” all these situations are extremely subjective, and there is a risk that the RMP operator and the recognised person will have different interpretations of these (eg: OMAR requirements interpretation).</p> <p>The second issue that we see with the definition, is that under s2.6(2) the Recognised Agency (RA) is required to advise MPI immediately if they see a real or potential “critical situation”. With the addition of the Farm Dairy Assessor to the Notice, this means that any critical situation (in their professional opinion) on Farm will immediately be reported to MPI. There is concern surrounding all potential critical situations, but the animal welfare situation will be used here as an example, as it is particularly relevant to an assessment based on farm. There is concern that the way the section is written, a potential animal welfare issue may be escalated to MPI, without escalation to the RMP operator at the</p>	<p>It is suggested that to remove room for subjectivity, guidance be provided.</p> <p>Due to the importance of animal welfare, alongside all the other critical situations, we would like guidance to be provided to ensure that when MPI is advised of a potential issue, we would also be advised at the same time.</p>	<p>The critical non-compliance definition comes from the Animal Products (Dairy Processing Specifications) Notice 2011.</p> <p>Only an MPI Animal Product Officer can declare that a critical situation exists, and having done so MPI assume responsibility for oversight of the issue until it has been satisfactorily resolved.</p> <p>When a farm dairy assessor believes that a critical situation may exist the farm dairy RMP Operator must be notified immediately.</p> <p>The obligation to notify the RMP Operator should be confirmed under the commercial arrangement with the recognised agency.</p> <p>In the case of animal welfare, requirements under the Animal Welfare Act 1999 will apply. Where animal health is affected this must be considered as part of the farm dairy assessment, as is the case currently.</p>



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		<p>same time. Due to the sensitivity of these issues, there is additional concern that such an escalation would be deemed confidential, and the RMP operator could end up unaware of the issue.</p>		
PART 2				
1	2.2(5)	<p>Give examples of conflict of interest e.g. a competitor auditing a competitors systems?</p>		<p>Refer to clause 2.2(5)d) for examples.</p>
2	2.6	<p>Recognised Agencies currently provide exceptions to MPI only where product is affected. Exceptions for other critical non-compliances are not notified but managed by Recognised Agencies.</p> <p>Is it the intention that all exceptions are provided to MPI? If this is the intention why is it required that the notification for these events is on receiving notification rather than receipt of an exception report.</p> <p>The types of critical non-compliances which justify immediate (or within 24 hours) notification are captured within the following requirements to notify potential critical situations.</p> <p>Is it intended that where exception events are emailed to MPI that we follow-up with a phone call? We currently only make phone calls where it is a potential critical situation or there are otherwise some circumstances we wish to bring</p>	<p>1) The recognised agency is required to notify MPI within 24 hours of receipt of an exception report from a client where product is affected and as such will require written disposal instruction prior to release. (2) The recognised agency is required to immediately advise MPI on becoming aware of a potential critical situation, whether as a result of an RMP or RCS assessment, evaluation or verification or through any other means, including exception reporting. (3) Initial verbal reporting of potential critical situations is acceptable, but must be confirmed in writing within 72 hours. Where the initial notification is in writing, the agency must confirm receipt with the relevant person</p>	<p>Amended.</p>



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		to MPIs attention.		
2	2.6	<p>What critical non-compliance reporting is required by FDAs? Guidance is needed for the FDAs to differentiate between critical non-compliances to notify to MPI (as distinct from what may be classified as critical during an FDA assessment).</p>		<p>Noted for the review of NZCP2.</p> <p>The farm dairy assessment organisations will not be receiving exception reports.</p>
3	2.6	<p>In relation to farm dairies the product safety risk is lower than at the manufacturing plant level, hence why there are no CCPs for a farm dairy. With this in mind, we have concern that the definition of Critical non-conformance currently could result in unnecessary overreporting.</p> <p>We would also like to raise a fundamental issue with the statement that the inclusion of farm dairy assessor's results in the regime still being operator verification. If it was to remain true operator verification, the RMP operator would be the entity reporting through to MPI. This is not the case under the Notice. The notice in current state will not allow us to understand, sense check and respond to non-conformances prior to MPI receiving the reporting. It is suggested that this is inefficient and will result in meaningless data being provided to MPI.</p>	<p>It is suggested that to minimise this risk, the suggestion in Sub 3 clause 1.3 is adopted, and the definition be changed to align with that in NZCP2, or NZCP2 be changed.</p>	<p>MPI consider that hazards reasonably likely to occur at the farm dairy can pose a significant risk to public health and as such do need to be managed. The lack of any CCP places greater burden on the prerequisite programmes to ensure good operating practices are in place.</p> <p>The critical non-conformance definition is only in NZCP2.</p> <p>There is no change to the current system. A copy of RCS/RMP verification reports are to be sent directly to MPI.</p> <p>A copy of all farm dairy assessment reports must be provided to the farm dairy operator and the RMP Operator.</p> <p>If required, it is the responsibility of the RMP Operator to send an exception report to the recognised agency for RMP verification.</p>



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				If a critical situation is suspected, the farm dairy assessor must immediately advise the farm dairy RMP Operator.
2	2.7	Schedules of upcoming assessments are not currently provided to MPI with the monthly report. Is this required? They have historically been provided on request.	Remove if not required.	Amended. Schedule of upcoming assessments removed.
3	2.7(3)(a)	It is suggested that this creates unnecessary duplication in reporting, as we also must provide monthly reporting to MPI. This additionally creates issues with how to align the reporting (eg: the day that reporting is done to ensure that the numbers from the RA and RMP Operator are the same). We suggest that MPI look at the reporting process and try to remove duplication in the process. It is also suggested that if the current threshold for reporting is adopted, there will be far too much data to be useful, given that there are a large number of supplying farms. It is suggested that to create meaningful reporting that satisfies the requirements of what MPI is looking for information on, a more targeted measure is used.	This reporting should go to MPI through one channel to ensure efficiency and no double up in reporting. The least disruptive option would be for the RMP operator to continue to report these through to MPI, as this is the current process.	There is no change to the current reporting process for farm dairy assessment non-compliances. 2.7(3)a reporting relates to non-compliances under the RMP or RCS.
2	2.8(2)	It is not clear if MPI need to be notified of all issues that could affect the accreditation of the agency or only those pertaining to the services covered by MPI recognition.	(2) The recognised agency must immediately advise MPI of any notification from the accreditation body affecting the accreditation status of the agency for services covered by MPI recognition.	Amended.



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2	2.9(1)c)	<p>Guidance or clarification could be provided as to what constitutes a “valid dispute”.</p> <p>We consider it to be valid only when there has been discussion between the Recognised Agency and RMP Operator have failed to reach a resolution and this needs to be escalated to MPI for resolution. This is likely to occur more than 24 hours after the initial notification of a dispute.</p>	<p>Provide guidance to Recognised Agencies. Reword if the interpretation we have is not accurate.</p>	<p>The intention is for the recognised agency to make the determination of validity.</p> <p>Timeframe amended to monthly reporting, refer to clause 2.7(2).</p>
PART 3				
1	3.2(1)	Are contract assessors acceptable under this system?		Contract assessors are acceptable providing they are managed by the recognised agency. For example, there must be evidence of training in the quality management system of the recognised agency.
1	3.3	Is equivalence a valid response to training requirements ie NZQA portion of assessor training		Clause 3.3(2) provides for this where the DG agrees.
1	3.3	Define relevant industry experience eg a graduate with an agriculture degree?		Relevant industry experience essentially means work experience. For example, a person who grew up on a dairy farm and helped out in the farm dairy would have relevant industry experience for recognition as a farm dairy assessor. 3.3(1)c) relates to practical experience rather than theory. A graduate is likely to have had practical experience.
1	3.3	Define milking machinery function and cleaning systems training eg NZMPTA milking machine		The requirement is about having knowledge. The NZMPTA course would



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		testers training course?		be one option.
1	3.3	Relevant RMP knowledge – should this be Farm RMP knowledge only for Farm Dairy Assessors?		Amended.
3	3.3(1)(g)	<p>The proposal for the assessor to have completed at least 2 competency assessments under supervision is far lower than the threshold currently given by us. Our current requirement is 20 supervised assessments.</p> <p>While we acknowledge that it is a different model, as the assessments are a competency assessment, we would like confirmation that the model within the Notice is that a Farm Dairy Assessor is only recognised once they have completed training and passed at least two supervised assessments. Alternatively, where existing farm dairy assessors are transitioning to the recognised persons model, the Farm Dairy Assessor is not recognised until they have passed at least two supervised assessments.</p> <p>It is also suggested that due to the low number of supervised farm dairy assessments that need to be passed, the supervision and sign off of competency needs to be given by an experienced or senior farm dairy assessor.</p>	<p>MPI re-look at the competencies of a farm dairy assessor, and consider raising the minimum number of supervised assessments, and change the supervisor requirement to be that of a senior farm dairy assessor.</p>	<p>This clause outlines the requirement for recognition. Training under supervision is a pre-requisite.</p> <p>Noted.</p> <p>Amended. Refer to clauses 3.3(1)(h) and 3.12(3).</p>



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2	3.11(2)	<p>Clarification is needed regarding the information that needs to be submitted for a FDA before approval.</p> <p>For a Verifier or Evaluator there is a competency which relates to witness audits or a KTP audit (3.5(e)). The only similar competency for a FDA is that there are two peer reviews (3.3(1)g)).</p> <p>Do the FDAs then require individual assessment or a KTP model or is provision of the competency information sufficient?</p> <p>We have interpreted that the individual assessment or KTP assessment is not required for FDAs. Is this what is intended?</p>	Reword if we have not correctly interpreted the requirements.	Amended. Refer clauses 3.3(1)h) and 3.12(3).
PART 4				
1	4.3	More detail regarding how a KTP is judged to be competent ie experience, knowledge		The base requirement is that each KTP must be a recognised person. Their performance and competency must be considered as part of each accreditation body surveillance visit. Refer to clauses 4.3(4)a) and 4.3(4)b). The recognised agency is responsible for developing the management structure appropriate for their operation.
1	4.3	Can (should) a KTP also be currently proving assessment services to maintain knowledge and skills		They will need to in order to maintain their recognition.
2	4.3(4)e)	Is individual assessment of KTPs required? When initially establishing a KTP model it is clear that a person should be recognised so they will have undergone individual	Review the requirement.	Amended.



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		<p>assessments.</p> <p>Where an agency adds or replaces a KTP, this person may not have received an individual assessment previously. This will occur when an agency has been running a KTP model for a longer period of time.</p> <p>Under existing models this has been covered by having a system for selection and training of the KTPs and notifying the changes to MPI / Accreditation Body. We consider that at this point an assessment could be undertaken if there was any concern relating to the KTPs competence.</p>		