Regulatory Impact Statement

Petroleum or Engine Fuels Monitoring Levy Regulations

Agency Disclosure Statement

1. This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation, and Employment.
2. It provides an analysis of options for the fuels that the Petroleum or Engine Fuel Monitoring Levy should cover, and what the levy rate period should be.
3. Proposed options are limited by policy decisions that Cabinet has already made that have been given effect to in legislation. The only degree of freedom available for the options is the fuel coverage of the levy, and the levy calculation period and methodology. Fuel coverage options themselves are further constrained by implementation considerations. In this regard, we do not consider levying international aviation fuel and fuel oil due to our international treaty obligations.
4. We have assumed that fuel companies will pass the cost of the expanded levy onto consumers, which is consistent with current practice for the current levy.

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19.10.15

Status quo and problem definition

Status Quo

Background on our International Energy Agency (IEA) oil stockholding obligation

1 New Zealand has a treaty obligation under the Agreement on an International Energy Program to hold oil stocks equivalent to at least 90 days of net oil imports. The government has historically met its obligation through augmenting local stocks and exports by entering into ticket contracts with oil companies or traders in other IEA member countries. Tickets are an option, in return for an annual fee, to purchase specified quantities of stock at market prices in the event of an IEA-declared oil supply emergency.

2 Stocks held as tickets in other countries are counted by the IEA as reserves for the ticket-owning country, not the country in which the stock is located.

3 The obligation to hold 90 days of net imports is New Zealand's contribution to global oil security and is part of a system managed by the IEA to mitigate the impact of oil supply shocks by providing a buffer of emergency oil stocks that can be collectively released onto the market. This obligation has previously been funded through general taxation, although going forward it will be funded by increasing the Petroleum or Engine Fuel Monitoring Levy (PEFML).

The present Petroleum or Engine Fuel Monitoring Levy

4 The PEFML is currently set by legislation at a maximum of 0.045 cents per litre on petrol, diesel, ethanol, and biodiesel.[1] Approximately 40 per cent of the present PEFML expenditure covers fuel quality and safety monitoring costs, while 60 per cent covers certain IEA related costs (including acquiring energy data and liaising with the IEA).

Relevant Cabinet decisions

5 On 12 December 2012 Cabinet noted and agreed:[2]

   a. that New Zealand should continue to meet its IEA oil stockholding treaty obligation via government procured ticket contracts;

   b. to increase the total appropriation for ticket contracts over the three years from 1 July 2013 from $9 million to $20.54 million;

   c. that the entire ticket contract appropriation should be offset by increasing the PEFML rather than funding the appropriation through general taxation;

   d. that the Energy (Fuels, Levies, and References) Act 1989 (the Act) should be amended to:

      i. extend the purpose for which the PEFML can be collected under the Act to include IEA obligation costs;

      ii. remove the maximum PEFML rate of 0.045 cents per litre of petroleum or engine fuel; and

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[1] Energy (Fuels, Levies, and References) Act 1989, s24(1).

[2] EGI Min (12) 29/9.

iii. provide for the Minister of Energy and Resources to make regulations to set the PEFML rate and the fuels to which the PEMFL applies.

6 Cabinet invited the Minister of Energy and Resources to report back with a final recommendation for the levy rate and fuel coverage.

7 The Energy (Fuels, Levies, and References) Amendment Act 2015 (the Amendment Act) was passed in February 2015 to implement the above decisions.

8 The Amendment Act requires that the Minister of Energy and Resources must consult and make regulations to set the levy rate and fuel coverage.

New Zealand Customs Service (Customs) collects the PEFML

9 The status quo also includes Customs collecting the PEFML as it retained that power under the Act. Changes to the PEFML must, therefore, have regard to Customs compliance systems and the estimated costs of changing them.

Problem definition

10 The forecast costs of meeting our IEA oil stockholding obligation were increasing and likely to exceed the $3 million per year appropriation, funded out of general taxation. The Government increased the total appropriation for ticket contracts over the three years from 1 July 2013 from $9 million to $20.540 million to account for the increase.

11 The Government has decided to continue to meet our IEA oil stockholding obligation by entering into ticket contracts and to collect the costs from fuel consumers via the PEFML. Regulations must be made to set the PEFML levy rate and fuel coverage, so the issues to be considered are:

a. whether there should be a change in the type of fuels that should be subject to the levy;

b. how often the levy should be recalculated; and

c. the method of calculation.

Objectives

12 The objective is to recover the costs of our IEA oil stockholding obligations through the PEFML taking into account the following criteria:[3]

Equity ("fairness or justice")

13 Levies should be designed to deal equitably with those who benefit from the service it funds.

14 Beneficiaries of oil security should pay for that security proportionate to the benefit they receive. Applying this principle suggests that it is more equitable to allocate the cost of the stockholding in proportion to the volume of fuel consumed. This is because fuel consumers are likely to benefit more from oil security the more fuel they consume.

[3] We have taken into consideration the Treasury's *Guidelines for Setting Charges in the Public Sector,* December 2002.

Efficiency (exacerbator pays)

15 Levies should be designed to recover costs from those who cause the need for the service it funds. The cost of meeting IEA stockholding obligations should therefore be targeted at consumers of those fuels who:

a. exacerbate the risk of an oil supply disruption through their collective reliance on imported oil supplies, and

b. as a result, exacerbate the risk of non-compliance with our IEA treaty obligation by adding to the level of stock required to be held.

Administrative simplicity

16 Levies should be designed so that the imposition, collection, compliance and administration of the levy are low cost, and evasion is difficult.

International treaty obligations

17 Levies should be designed so as not to place New Zealand in breach of our international treaty obligations. If an option risks placing us in breach, we do not take our analysis further.

Additional government priorities: supporting renewable energy – biofuel uptake

18 The government has a policy to facilitate the development of all forms of renewable energy, including biofuels, and to curtail reliance on imported oil.

19 The levy should be designed to have regard to this objective.

Options and impact analysis

20 This is an analysis of the options for fuel coverage and levy rate calculation, including the frequency of recalculation.

Fuel coverage

21 We have identified three options for considering PEFML fuel coverage:

a. Petrol, diesel, ethanol, biodiesel, domestic aviation fuel and “other petroleum products”;

b. Petrol, diesel, ethanol and biodiesel (the ‘status quo’); and

c. Petrol and diesel only.

22 New Zealand is a signatory to the Convention on International Civil Aviation, which exempts jet fuel for international travel from taxation. We therefore do not consider levying international aviation fuel because it would not meet the “international treaty obligation” criteria.

Option One: Petrol, diesel, ethanol and biodiesel, domestic aviation fuel and “other petroleum products”

28 Under this option the expanded PEFML would apply to petrol, diesel, ethanol, biodiesel (the status quo), and would be extended to apply to domestic aviation fuel, fuel oil, and “other petroleum products” (such as LPG, bitumen and solvents).

Efficiency (exacerbator pays)

23 In principle, the PEFML should cover all fuel consumers that exacerbate the risks that PEFML activities are designed to mitigate which are: consumers of petrol, diesel, ethanol, biodiesel, aviation fuel, fuel oil, and "other petroleum products". Therefore, this is the most efficient option.

Equity

24 Consumers of domestic aviation fuel, fuel oil, and "other petroleum" products benefit from oil security, and should in principle bear their portion of that cost. For example, in 2014 approximately 334.6 million litres of domestic aviation fuel and fuel oil were consumed (which is about five per cent of domestic fuel consumption) that could in principle be included in the cost recovery of tickets.

25 If domestic aviation fuel and fuel oil is included in the PEFML fuel coverage, the initial expanded levy is likely to be 0.17 cents per litre, compared to an estimated 0.18 cents per litre than if they are excluded. If domestic aviation fuel and fuel oil is not included then its contribution to our IEA obligation costs would have to be recovered by the other fuel types which are levied (i.e. petrol, diesel, and biofuels) and the levy would increase by an estimated 0.1 cents per litre.

26 This is the most equitable option as all fuel consumers' benefit from oil security.

Administrative simplicity

27 Customs' systems are only able to collect levies based on the nature of the good, not on what the good is used for. In the case of aviation fuel and fuel oil, Customs collects the levy from the supplier, and so would not be able to distinguish between domestically or internationally consumed aviation fuel and fuel oil. Customs would need to make fundamental systems change in order to differentiate between international and domestic fuel, which may be not be justifiable (costs are currently unquantifiable but would not have to be high to outweigh the benefits). A levy on domestic fuel and fuel oil would not satisfy the "administrative simplicity" objective.

28 It would also be impractical and costly to administer a levy on "other petroleum products" (such as bitumen and solvents) given the small quantities involved and the involvement of various suppliers other than the main oil companies. For example, a large number of road construction companies sell bitumen, used to make asphalt, and it would be difficult to monitor them all to prevent levy evasion. A levy on "other petroleum products" would not satisfy the "administrative simplicity" objective.

29 This is the least administratively simple option.

International treaty obligations

30 This option satisfies our international treaty obligations as we do not propose including international aviation fuel and fuel oil in the PEFML's coverage.

Additional government priorities - impact on biofuel uptake

31 All fuels are treated equally under this option so ethanol and biodiesel (now collectively referred to as biofuels) would be included in the fuel coverage. We consider the costs of the levy on biofuels are so small as to be unlikely to affect biofuel uptake.

Option Two: Petrol, diesel, ethanol and biodiesel

32 Under this option the expanded PEFML fuel coverage would mirror the status quo. That is, the expanded PEFML would apply to petrol, diesel, and biofuels, but exclude aviation fuel (international and domestic), and "other petroleum products" for the reasons discussed above.

33 Inclusion of petrol and diesel (now collectively referred to as mineral fuels) in the expanded PEFML is undisputed as involvement in IEA activities is principally meant to help mitigate the risks of unpredictable oil markets. There is a question about whether biofuels should also be included in the expanded PEFML. In practice the overwhelming majority of biofuels are sold in New Zealand as "blends" with mineral fuel.

Efficiency (exacerbator pays)

34 New Zealand's oil stock holding obligations are largely determined by the amount of all of our imported fuel.

35 The IEA formula for net imports does not distinguish between biofuel and mineral fuel. If all of New Zealand's fuel consumption was imported biofuel, we would still have an IEA obligation to hold oil stocks.

36 If an increase in demand were met by an increase in imported mineral fuel or imported biofuel, then our net imports would rise exacerbating the need for oil stocks. In contrast, meeting an increase in demand by an increase in domestically produced biofuel or mineral fuel refined from domestically produced crude oil would have no effect on net imports and would therefore not exacerbate the need for oil stocks.[4]

37 Currently most biofuel (about 75 per cent) is domestically produced and almost all mineral fuel (about 98.5 per cent) is imported. Therefore, this option is only marginally more efficient than Option Three because demand for biofuels only marginally exacerbates the need for oil stocks (relative to demand for mineral fuels).[5]

Equity

38 Both mineral and biofuel consumers (imported and domestic) will benefit from the release of oil stock in the event of an IEA declared emergency. This is because the price of biofuels is tightly coupled to oil prices.[6] The suppression of oil prices from an IEA oil stock release would also suppress the price of biofuels, which would otherwise spike.

39 This option is marginally less equitable than Option One, which covers all fuels.

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[4] We have not considered levying only imported biofuel and not domestically produced biofuel as we are mindful of our international obligations under the General Agreement on Tariffs and Trade (GATT). Under Option Two therefore we propose including all biofuels in the PEFML. It would also be impractical and costly to make a distinction between applying a levy to imported and not domestic biofuels at the pump, which would not meet the 'administrative simplicity' selection criteria.

[5] Note that if the amount of imported biofuels were to materially increase, then the weighting given to this 'efficiency' criterion would need to be revisited as New Zealand's dependence on imported fuels would increase.

[6] Tightly coupled prices are expected for tradable goods that are close substitutes. This is the case in New Zealand, where most biofuels are blended with mineral fuels like petrol and diesel and are, therefore, close substitutes.

Administrative simplicity

40 Maintaining the status quo for the levy fuel coverage is low cost, and administratively simple, with no requirement for Customs or businesses to alter their collection systems. The costs involved are primarily in Customs' time, estimated as being 16 to 20 hours of work to change the levy rate.

41 This is the most administratively simple option by a significant margin.

International treaty obligations

42 We believe this option satisfies our international treaty obligations.

Additional government priorities - impact on biofuel uptake

43 Under this option biofuels would be included by the PEFML fuel coverage, but we consider the costs of the levy on biofuels are so small as to be unlikely to affect biofuel uptake. The new levy is initially likely to be approximately an additional 0.18 cents per litre on top of the current 0.045 cents per litre. A 0.225 cent/litre exemption on, for example, a 10 per cent ethanol blend is unlikely to make a measurable difference to fuel prices and therefore biofuel uptake.

Option Three: Petrol and diesel only

44 This option builds on the existing exclusions for aviation fuel, and "other petroleum products", by also excluding biofuel from the expanded PEFML fuel coverage.

Efficiency (exacerbator pays)

45 Mineral fuel users are the main exacerbators of the requirement to purchase oil stock tickets. In 2014, 5.7 million litres of biofuels were consumed, which made up around 0.1 per cent of the total mineral fuel demand of 6.16 billion litres.

46 Most biofuel is domestically produced and almost all mineral fuel is imported. As discussed above, demand for biofuels only marginally exacerbates the need for oil stocks (relative to demand for mineral fuels).

47 Once Z Energy's biofuel production plant comes online next year, the consumption of imported biofuels is forecast to decrease. This means there may be almost no exacerbation by biofuel consumers of the need to hold oil stocks (Z estimates that 95 per cent of biofuels consumed will be domestically produced from indigenous feedstock). The production plant will produce 20 million litres of biodiesel annually, which will also marginally strengthen our onshore stockholding position.

48 This option is marginally less efficient than Option Two.

Equity

49 As discussed above, the close relationship between mineral and biofuel means that, in the event of a release of oil to stocks to mitigate a spike in oil prices, users of all biofuels (imported and domestic) would also benefit.

50 Excluding biofuels from the levy fuel coverage makes no material difference to the IEA obligation levy rate met by users of petrol and diesel as biofuels only make up approximately 0.1 per cent of fuel demand.

51 This is the least equitable option.

Administrative simplicity

52 Separating the biofuel component of mineral/biofuel blends from the levy, while possible, would require alteration to Customs' systems that is administratively complex and possibly costly (although unquantifiable at this stage). Customs is unable to provide estimates for the amount of time required, but it includes scoping to quantify exact changes needed, and is likely to include rule changes, changes to Customs' Working Tariff Document of New Zealand, technical systems alteration and collection system alteration.

53 There may also be increased compliance costs for manufacturers and importers of biofuel blends. This is due to the complex structures that will be required to separate out, and make levy returns on, the mineral fuel but not the biofuel portion of a fuel blend.

54 This would not appear to satisfy the 'administrative simplicity' criterion, though is marginally more administratively simple than Option One.

International treaty obligations

55 We believe this option satisfies our international treaty obligations.

Additional government priorities - impact on biofuel uptake

56 Excluding biofuels may send a symbolic signal encouraging uptake of biofuels, which may contribute to the long term goal of increased use of renewables, curtail reliance on imported oil, and decrease our carbon emissions. The Energy Efficiency and Conservation Authority (EECA) support this view.

57 However, as mentioned above, the new levy is initially likely to be approximately an additional 0.18 cents per litre on top of the current 0.045 cents per litre. A 0.225 cent/litre exemption on, for example, a 10 per cent ethanol blend is unlikely to make a measurable difference to fuel prices. We consider the cost savings resulting from removing the levy from biofuels are so small as to be unlikely to affect biofuel uptake.

58 A summary of fuel coverage options is below in Table 1.

Table 1: Fuel Coverage

Policy criteria	Option One (petrol, diesel, ethanol, biodiesel, domestic aviation fuel and "other petroleum products")	Option Two (petrol, diesel, ethanol and biodiesel) (status quo)	Option Three (petrol and diesel)
Efficiency (exacerbator pays)	Most efficient	Marginally more efficient than Option Three	Least efficient
Equity ("fairness or justice")	Most equitable	Marginally less equitable than Option One	Least equitable
Administrative Simplicity	Least simple	Most simple	Marginally more simple than Option One
International treaty obligations	Yes	Yes	Yes

Supporting renewable energy – biofuel uptake	Neutral*	Neutral*	Yes (marginal)

*In our view, the costs of the levy to biofuel consumers are so small they would be unlikely to affect biofuel uptake.

59 On balance, the administration costs and complexity of Options One and Three outweigh the benefits derived from the efficiency and equity criteria. Our preferred option is therefore Option Two (petrol, diesel, ethanol and biodiesel).

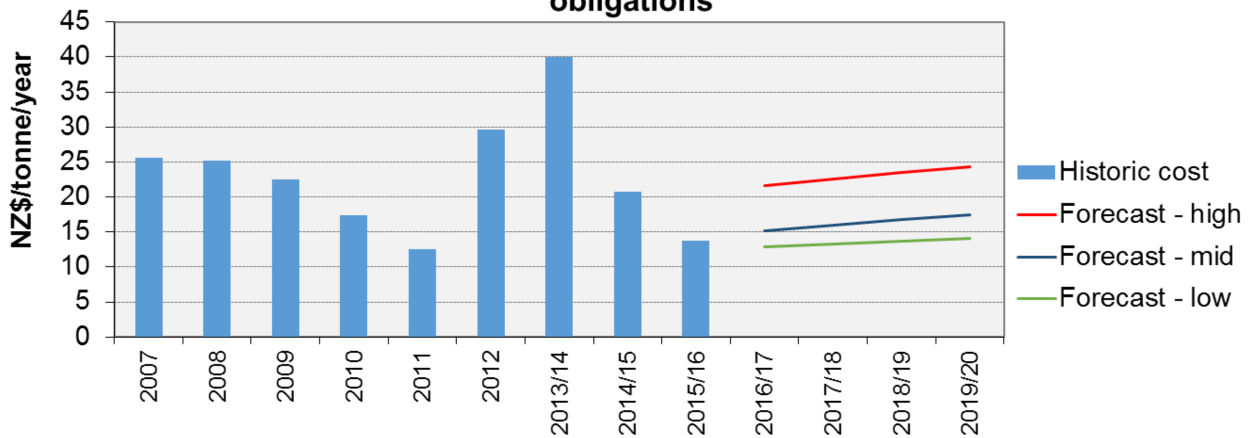
Levy rate

60 The PEFML is currently set at a rate of 0.045 cents per litre in the Act. From 23 February 2016, the Act will provide that the levy will be payable as prescribed in new regulations.[7]

61 The levy rate could be prescribed as a fixed figure or by using a formula. As the PEFML will now also recover the IEA obligation costs, which are likely to change yearly, we propose including a formula in the regulations to calculate the new levy rate, additional to the current rate of 0.045 cents per litre.

62 A calculation formula is the most administratively simple and equitable option as it ensures the most accurate levy rate. Ticket contract prices vary year to year depending on the state of the oil market when we purchase the tickets (January each year), on the volume purchased, and on the exchange rate. These variabilities would be most accurately accounted for with a formula.

63 The graph below shows a forecast of ticket prices and illustrates the inherent uncertainty in predicting their cost.



Levy calculation formula

64 We propose that the levy rate should be calculated using the following formula:[8]

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[7] Section 5 of the Energy (Fuels, Levies and References) Amendment Act 2015, which comes into effect on 23 February 2016.

[8] The Act specifies that the levy may be applied for the purpose of maintaining the emergency reserve commitment from 1 July 2013 (section 14(3)). Actual costs to date (1 July 2013 to 31 March 2016) are $13,470,962. The first levy period will include this deficit in the calculation.

$$\text{Rate} = \frac{\text{Forecast cost of meeting the obligation for the levy period - (or +) surplus (or deficit)}}{\text{forecast fuel demand for the period}}$$

In this formula:

- 'Levy period' means a specified period of time, such as 1 July 2016 to 30 June 2019.
- 'Forecast cost' must not exceed the appropriation set out in the Estimates of Appropriation for the purposes of meeting the costs of the IEA obligation in the levy period.
- 'Surplus' (or deficit if cost exceeds receipts) means the accumulated difference between levies received and the cost of meeting the IEA obligation.
- "Forecast fuel demand" means the forecast demand of petrol, diesel, ethanol and biodiesel, as per our preferred option.

65 The levy calculation formula was universally supported as being logical, simple and transparent by submitters. No alternatives were proposed.

Levy calculation methodology

66 We propose to set the levy rate so that the annual levy revenue received approximately equals the annual costs of meeting the IEA obligation (namely the annual cost of purchasing tickets) plus the existing levy amount of 0.045 cents per litre. This approach would require the levy rate to be recalculated periodically, in response to the changing cost of tickets and changing volumes of fuels levied.

Levy calculation frequency

67 We have considered whether the levy rate should be reset every year, every three years, or every five years.

Option One: The IEA obligation cost levy rate is recalculated every year

68 Calculating the levy rate every year would help to ensure that costs are neither over nor under collected. However, in the first levy period, the government is entitled to be reimbursed for oil tickets already purchased (for the three years from 1 July 2013). Under the other two levy calculation frequency options we have considered, these costs would be spread over three or five years, whereas under this option they would all be recovered in one year, resulting in an initially high levy rate.

69 There will be additional annual compliance costs on oil companies subject to the levy, and administrative costs to government because the rate would change every year.

Option Two: The IEA obligation cost levy rate is recalculated every three years

70 Our preference is for a nominal three year period over which to adjust the levy rate, which will smooth the cost of ticket contracts over that period of time. Ticket prices are difficult to accurately forecast so the levy rate could be updated, if necessary, if forecasts of ticket contract costs change materially during the period. Future period levy rate changes should take account of any surpluses or deficits from previous periods (i.e. "wash-ups"). The advantages of this approach include:

a. Certainty for the government in managing its revenue; and

b. The levy rate will not necessarily change from year-to-year, which will mean lower compliance costs for oil companies subject to the levy and for Customs, which is responsible for collecting the levy, compared to Option One.

71 All submitters agreed with this option for the reasons set out above, which were outlined in the discussion paper.

72 According to the Treasury's *Guidelines for Setting Charges in the Public Sector*, it is good practice for levies to be reviewed at least every three years.

Option Three: The IEA obligation cost levy rate is recalculated every five years

73 Another option is to smooth the rate over five (or more years). This is not our preferred option because ticket contract prices vary depending on a number of factors including the state of the oil market and exchange rate. Figure 1 shows the historic oil ticket price volatility and the uncertainty in predicting future costs.

74 It is difficult to get a reasonably accurate forecast of oil ticket contracts five years out. This would increase the chances of having to adjust the rate part way through the five year period in the case of gross under, or over, collection.

75 A summary of levy calculation frequency options is below in Table 2.

Table 2: Levy calculation frequency

Policy criteria*	Option One (reset levy every year)	Option Two (reset levy every three years)	Option Three (reset levy every five years)
Administrative Simplicity	No Additional compliance costs on oil companies subject to levy and administrative costs for government.	Yes Reduced compliance and administrative costs providing levy does not need to be recalculated in three year period. Chance of having to adjust the levy rate part way through the period, which would increase administrative and compliance costs.	Partial Reduced administrative and compliance costs providing levy does not need to be recalculated in five year period. Increased chances of having to adjust the levy rate part way through the period, which would increase administrative and compliance costs.
Equity ("fairness or justice")	Partial Costs less likely to neither be over or under collected. For the first levy calculation period only cost of tickets to be reimbursed from 2013-2016 will not be smoothed.	Yes Costs could be over or under collected. Costs will be smoothed over three year period.	Partial Costs more likely to be over or under collected as it is difficult to accurately forecast oil ticket contracts five years out. Costs will be smoothed over a five year period.

*the 'Efficiency (exacerbator pays)', 'International treaty obligations', and 'Supporting renewable energy – biofuel uptake' criteria are not applicable in this case.

Estimated new rate and costs

76 We estimate that in applying the proposed calculation to our preferred options, the increased levy rate for the first three year period would be approximately 0.18 cents per litre[9] so the new levy rate will be 0.225 cents per litre. This rate is our best estimate using the data available to date. The levy rate will be calculated in 2016 once the oil tickets have been purchased. The exact rate may change depending on the exchange rate with the US dollar, the amount of tickets purchased and the state of the oil market.

77 The Act specifies that the levy may be applied for the purpose of IEA obligation costs from 1 July 2013. The first levy period will take into account the deficit from this date to reimburse the government for those ticket contract costs. All things being equal, we expect the levy rate for the second period to be smaller as it will not include that initial reimbursement.

Table 3: Levy rate calculation

Current	Proposed additional rate (estimate)	Total rate (estimate)
0.045	0.18	0.225

Fuel companies to bear the initial cost

78 Fuel companies will face the direct cost of the expanded levy, which we assume will be passed on in full to businesses and households.

Estimated cost to households

79 The IEA obligation cost portion of the levy would amount to an additional 7.2 cents on a 40 litre tank of petrol or diesel (bringing the total PEFML cost to approximately nine cents on a 40 litre tank).

80 We estimate that expanded levy would cost the average household an additional $3.14 per year bringing the total cost of the levy to less than $4 per year for the average household.[10] This is less than 0.01 per cent of the median household income, which was $63,800 in 2013.

Estimated cost to business

81 In 2014, approximately three billion litres of petrol and diesel were used for commercial purposes. The additional 0.18 cents per litre on the levy rate will impose an approximate additional $5.5 million per year cost on businesses. This share will be spread over the economy, with businesses such as transport companies that consume greater amounts of fuel paying more than other businesses, such as an electrician with a single van. This aligns with the policy intent of the levy to be a “user-pays” system.

82 As businesses are also likely to pass on their additional costs to consumers, indirect costs may arise to households.

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[9] The calculation of this levy rate is sensitive to forecasts in domestic oil production, domestic oil demand, ticket contract prices, and the USD/NZD exchange rate.

[10] This calculation is based on average fuel consumption of 1,747 litres per year per household, which works out as slightly less than 40 litres per week.

New levy date implementation date

83 We propose that new expanded levy comes into operation on 1 July 2016. This takes into account when the ticket contracts are finalised (around March each year), and Customs' requirements. Customs has advised that any rate change would need to occur on one of the following days: 1 January, 1 April, 1 July or 1 October. As Customs would also require three months' notice to change the rate to allow time to update electronic collection and financial systems, the levy change should come into effect on 1 July 2016.

84 The current levy will expire when the Amendment Act comes into force on 23 February 2016. Between 23 February and 1 July 2016, when the expanded rate will come into effect, regulations will set the interim rate as 0.045 cents per litre.

Consultation

85 In 2012, we undertook a review of New Zealand's oil security arrangements and released a consultation paper for discussion. Among the topics available for submission were fuel coverage and the levy calculation methodology. At that time MBIE received 15 submissions, two of which specifically disagreed with the proposed fuel coverage remaining as the status quo (petrol, diesel, ethanol and biodiesel). A decision was made to consult specifically on these issues closer to the time regulations needed to be made.

86 We released the latest consultation document containing the PEFML fuel coverage and levy calculation options on 21 July 2015. We received seven submissions.

87 Five submissions supported fuel coverage to include petrol, diesel, ethanol and biodiesel (BP, AA, Chevron, Mobil and the Bioenergy Association). Submitters agreed with the costs and benefits identified in the discussion document under this option.

88 Submitters in support of fuel coverage including petrol, diesel, ethanol and biodiesel agreed that it was the most low cost and administratively simple option. Submissions supported the view that the IEA obligation does not distinguish between biofuel and mineral fuel and therefore biofuels should be included in the levy. Some submissions highlighted that all fuel consumers benefit from oil security, which the Bioenergy Association submitted was important in a fledging biofuel market.

89 Two of the seven submissions supported excluding biofuels from the fuel coverage (Z Energy and Gull) and partially agreed with the relevant costs and benefits identified under in the discussion document. Z Energy and Gull believe it would be more equitable to exclude biofuels from the levy. Their main arguments are:

   a. Z Energy submitted that domestically produced biofuels do not exacerbate the risk of an oil supply disruption as they strengthen New Zealand's onshore stockholding position. However, in our view consumers of domestically produced biofuels would also benefit in an IEA-declared oil emergency.

   b. Gull submitted that the levy should not be applied to the tiny amount of ethanol and biodiesel sold in New Zealand when compared to the large volume of jet fuel and fuel oil consumed, which is not subject to the PEFML. However, as discussed above, Customs' systems are unable to distinguish between domestically or internationally consumed aviation fuel and fuel oil, so levying domestic aviation fuel would not satisfy the "administrative" simplicity criteria.

90 All submitters agreed that the levy should be set for three year periods, which will smooth the cost of ticket contracts over that period of time. Submitters also supported the proposed levy calculation formula.

91 The Treasury, the New Zealand Customs Service, the Ministry of Transport, Ministry for the Environment, and Energy Efficiency and Conservation Authority have been consulted on the levy fuel coverage proposal. The Department of the Prime Minister and Cabinet has been informed.

Conclusions and recommendations

92 This issue of fuel coverage is finely balanced. Our fuel coverage preference is Option Two, maintaining the status quo. This preference is supported by the majority of submitters.

93 Our preference is predominantly due to the small amount of biofuel consumed, and the administrative costs (although unquantified, but we expect they would be high) associated with excluding them from the PEFML. Option Two presents the most certainty, and least risk in terms of implementation of the expanded levy in time for the proposed 1 July 2016 date, as it does not require potentially significant administrative changes.

94 The government would endeavour to align any change in the levy rate with other changes in fuel taxes such as excise duty. This would help reduce compliance costs for businesses.

Implementation plan

95 Regulations specifying the PEFML fuel coverage and levy calculation methodology need to be implemented by 23 February 2016 under the new legislation. The 0.045 cents per litre levy rate specified in section 24 of the Act will be replaced with the power to specify the levy rate in the regulations on this date. This would mean that there is no rate for the levy in existence as at that date, and Customs would not be able collect a repealed rate.

96 Ticket contracts are finalised between February and March each year. Customs has noted that any PEFML rate change would need to occur on one of the following days: 1 January, 1 April, 1 July or 1 October. As Customs would also require three months' notice to change the rate to allow time to update electronic collection and financial systems, the levy change should come into effect on 1 July 2016.

97 The regulations will specify an interim levy rate of 0.045 cents per litre until 1 July 2016 when the levy calculation formula plus the rate of 0.045 cents per litre will come into operation.

98 Table 3 outlines the envisaged timing of implementation.

Table 4: Implementation next steps

Step	Date
Regulations made	End-2015
Regulations in force	February 2016
Customs electronically implements levy rate change	1 July 2016

99 All parties liable for the PEFML would be notified by Customs of the change at least one month before the change was made.

100 Once the levy has been set, the risk of Customs over or under collecting is minimal given that it already has well-developed collection and auditing systems in place for PEFML. These systems would continue to ensure that the risk of revenue under-collection was minimised.

Monitoring, evaluation and review

101 MBIE will undertake an annual reassessment of the levy rate based on an updated forecast of ticket costs. The levy rate will only be altered if the existing levy rate would result in significant over-collection or under-collection.

102 MBIE does not propose to amend the regulations every time the levy rate is reassessed. One of the advantages of proposing a formula to calculate the PEFML means this can be avoided.

103 MBIE will monitor New Zealand's fuel production and importation patterns. If there are material changes (for example if a decrease in consumption of imported mineral fuel was met with an increase in consumption of domestically produced biofuels) the regulations are able to be updated to ensure the objectives continue to be met.