

## How to submit this form

### Submission form: Consultation on the Sustainable Biofuels Obligation

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Transport (MoT) would like your feedback on the proposals for regulation to enact the Sustainable Biofuels Obligation. Please provide your feedback by **5pm, 1 July 2022**.

When completing this submission form, please provide comments and supporting explanations for your reasoning where relevant. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

### Instructions

#### To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation. If you are representing an organisation, please provide a brief description of your organisation and its aims, and ensure you have the authority to represent its views.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
  - i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE and MoT will take such declarations into account and will consult with submitters when responding to requests under the Official Information Act.
  - ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
  - iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

## How to submit this form

### 4. Submit your feedback:

- i. As a Microsoft Word document by email to [energymarkets@mbie.govt.nz](mailto:energymarkets@mbie.govt.nz) with the subject line: *Consultation: Sustainable Biofuels Obligation*
- ii. By mailing your submission to:

Consultation: Sustainable Biofuels Obligation  
Energy Markets Policy  
Building, Resources and Markets  
Ministry of Business, Innovation and Employment  
PO Box 1473, Wellington 6140  
New Zealand

## Submitter information

### Submitter information

MBIE and MoT would appreciate if you would provide some information about yourself. If you choose to provide information in the section below, it will be used to help MBIE and MoT understand how different sectors view the Sustainable Biofuels Mandate proposal. Any information you provide will be stored securely.

#### Your name, email address, phone number and organisation

Name:

[REDACTED]

Email address:

[REDACTED]

Phone number:

[REDACTED]

Organisation:

Mobil Oil New Zealand Limited (Mobil)

- The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE and MoT may publish.
- MBIE and MoT may upload submissions and potentially a summary of submissions to the website(s), [www.mbie.govt.nz](http://www.mbie.govt.nz) and/or [www.transport.govt.nz](http://www.transport.govt.nz). If you do **not** want your submission or a summary of your submission to be placed on either of these websites, please tick the box and type an explanation below:

[REDACTED]

#### Please check if your submission contains confidential information

- I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE and MoT.

## Sustainable Biofuels Mandate

## Calculating the Obligation

*Determining intensity of fossil fuels*

1. Do you agree with the proposal to allow the use of default values similar to the European Union's Renewable Energy Directive or actual values verified under sustainability schemes?

Yes       Yes, with changes       No       Not sure/No preference

Please explain your views.

Mobil supports the use of the option for utilising a mixture of actual values and DDVs for calculation of the lifecycle emissions intensity of a biofuel.

Doing so promotes flexibility, consistency (where default values are used), and feasibility (some producers may not have access to all data in the supply chain to determine 'actual values' in an LCA).

While DDVs are designed to be conservative, they are easy to use. Biofuel importers who are prepared to conduct detailed lifecycle analysis utilizing actual values from an approved / verified lifecycle analysis methodology should have the option to use these where possible.

If the Government determines to use methodology and sustainability criteria other than EU RED, it must recognise that it will be difficult to have supply chains certified by 2023 if producers, feedstock suppliers, and other participants in the value chain are required to be independently certified by the relevant third parties.

An assessment should be made as to the appropriateness of using EU RED values for the NZ mandate, but whether the New Zealand Government develops their own tool or utilises an external tool, they must ensure that consistency is maintained within the program and the tool.

Where changes are warranted, based on a robust set of peer reviewed data, the threshold for these changes must be high enough that the number of changes are minimised and investments to generate credits are not altered in value.

2. Apart from transport and distribution emissions, should we allow actual values that have been verified under the European Union's Renewable Energy Directive or the California Low Carbon Fuels Standard to be used? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Please explain your views.

Actual values from other programs, including the California Low Carbon Fuels Standard, could be used in Aotearoa's Sustainable Biofuels Obligation, but these would need to be from the same program, or at least be calculated on the same basis.

As with Mobil's response to *Question 1*, consistency is one of the critical requirements for implementation of methodology and sustainability criteria.

Unless Carbon Intensity (CI) values are all calculated using the same Lifecycle Analysis (LCA) approach, for example the treatment of indirect land use change, and the treatment of first or second generation feedstocks, there is the possibility that similar feedstocks / pathways could have different CI values simply by virtue of the difference in methodologies between programs.

This could result in market distortions that interfere with selection of the best solutions. A policy should prescribe a single LCA methodology that is applied consistently to all pathways participating in the program.

## Sustainable Biofuels Mandate

The Government must also understand that there will be a trade off in the LCA methodology they determine. If they adapt a more stringent model, this may result in less feedstock availability, or limit options for participation by producers.

This in turn has an economic impact, where fuels that meet the requirements of the more stringent models attract a higher premium. The economic cost will ultimately be borne by New Zealand consumers.

3. Do you see value in developing a New Zealand-specific and in-house GHG emissions model, similar to the GREET model? If not, who should pay for the model's development and upgrading? If not, why?

Yes, I do     I do in part     No, I don't see value     Not sure/no preference

Please explain your views.

There are a number of important considerations in adopting a greenhouse gas (GHG) emissions model, including but not limited to transparency, consistency, ease of implementation, and harmony with the Government's selected sustainability criteria.

A GREET-style model, owned and maintained by Government, may be a preferable model as it has the advantage of allowing greater control over its development, and can be updated as needed to reflect specific domestic priorities.

An Aotearoa-specific approach can therefore be designed to appropriately reflect the principles of Te Tiriti o Waitangi, as well as enabling the incorporation of Kaupapa Māori.

The New Zealand Government may not necessarily need to develop an in-house GHG emissions model. Existing models such as GREET are transparent, widely used and immediately available for use in determining GHG emissions.

It may be that such a model is suitable enough to represent the CI of the pathways in the domestic program, and encourage the desired behavior (i.e. increasing usage of lower CI fuels).

The Government must therefore conduct its own analysis of the various options available, and weigh the pros and cons to achieve the appropriate balance. It must also recognise that some models will have time, labour and cost requirements that may impact the fuel industry's ability to prepare for implementation of the Sustainable Biofuels Obligation on 1 April 2023.

4. Do you agree with the proposal to use a default emissions factor that would apply to all fossil fuels? If not, why?

Yes, I agree     I agree in part     No, I don't agree     Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Emissions intensity factors should reflect the emissions of the fossil fuel type (i.e. mogas and diesel) being produced and consumed, as this will best reflect the amount of GHG reduced in the program (which is the ultimate goal of the Sustainable Biofuels Obligation).

The yearly percentage emissions intensity (CI) reduction targets should be set versus a reference baseline emissions intensity (CI) for each fossil fuel type which is fixed for the life of the regulation, and should reflect the average fuel pool average emissions intensity (CI) in Aotearoa for each type of fuel (petrol, diesel) in year zero of the regulation i.e. 2022 (or earlier).

To enable this, separate factors for each fuel type should be used instead of one default factor for all liquid fossil fuel types.



## Sustainable Biofuels Mandate

In addition, credit for fossil fuel-related lifecycle GHG reduction should also be considered in the scope of the mandate since such a reduction would contribute to the ultimate policy goal of reducing transportation lifecycle GHG.

This contribution of GHG reduction in the fossil fuel lifecycle is already recognised in other programs, including California's Low Carbon Fuels Standard and the International Civil Aviation Organization (ICAO) Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).

If the New Zealand Government wishes to see increased reductions in the transport sector, which will enable it to reach the Emissions Budgets set by the Climate Change Commission, it should be looking to implement GHG reductions across all fuels, including mineral fuels. Biofuels will only comprise a small blended percentage of overall fuel use.

The Commission has set the following reductions, which are set forth as follows:

- Emissions Budget 1 (2022–2025): 290 megatonnes of carbon dioxide equivalent greenhouse gasses (72.4 megatonnes per year)
- Emissions Budget 2 (2026–2030): 305 megatonnes (averages 61 megatonnes per year) [in principle]
- Emissions Budget 3 (2031–2035): 240 megatonnes (48 megatonnes per year) [in principle]

The Government itself has stated that the “budget-based approach the Government established through the Zero Carbon Act is better for the climate, as it is not only emissions in a single year that impact climate outcomes”.<sup>1</sup>

By this same logic, it is reasonable to support all measures made to reduce transport emissions, including for mineral fuels, even if these are considered to be *transitional* fuels.

5. Should we only allow biofuels that deliver a greater than 50 per cent emissions reduction, compared to fossil fuels, to be eligible for meeting the Obligation? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

It does not make sense to establish a threshold to only allow biofuels that deliver a greater than 50 per cent emissions reduction, compared to fossil fuels: the obligation is emissions based, not volume based, so any pathway to an emissions reduction should be counted.

It does not make sense to disallow a good option for a great option. This also runs counter to a performance-based standard, meaning it isn't consistent with the rest of the approach.

Setting a threshold could exclude some biofuels that can contribute sizeable reductions and at lower cost. Much of the currently available biofuel in the world can reach a CI at or near 50% of transportation fossil fuel. Some portion of fuel might fall short of this value and thus be ineligible.

Further, as the New Zealand Government develops its biofuel policy for aviation, this threshold becomes more problematic. Fossil aviation fuel has a lower CI baseline compared to road fuel. So a 50% reduction on aviation fuel establishes an even lower CI threshold that could exclude an even greater volume of biofuel.

More importantly, a threshold may not be necessary. In a lifecycle-based program, lower CI fuels will naturally be more incentivised while higher CI fuels will be less incentivised.

Once again, limiting options for the supply of biofuels may have a negative economic impact for Aotearoa and its residents.

<sup>1</sup> <https://www.beehive.govt.nz/release/aotearoa-sets-course-net-zero-first-three-emissions-budgets>

## Sustainable Biofuels Mandate

### Sustainability Criteria

6. Do you agree with the way that we propose to assess compliance with the sustainability criteria in legislation?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Mobil believes that the proposal for assessing compliance with the sustainability criteria may not be workable, particularly if the New Zealand Government is committed to a 1 April 2023 implementation date.

The ISCC and RSB don't necessarily include GHG calculations, or the Government's proposed sustainability criteria, including considerations of indirect land use change, food and feed security, and waste.

Mobil agrees with utilising ISCC/RSB to perform the assessment, but disagrees with adding in additional sustainability criteria: adding additional sustainability criteria to an existing certification process may affect its ability to be implemented within the proposed timeframe of 1 April 2023.

Unless there's a strong basis to depart from existing schemes, the Government should proceed with the established criteria.

In order to increase supply availability to Aotearoa, Mobil believes that the Government should implement the ISCC EU model, which will increase the number of potential suppliers with the currently available feedstocks. That is, the New Zealand Government should be seeking to limit the number of global certifications necessary, to decrease burden on suppliers and increase available supply for Aotearoa. The more consistent the methodologies and certifications the better, as it means suppliers can utilise existing methodologies they may already be using.

If the Government wants to implement this additional criteria, this will require further certification of supply chain elements, which is not realistically feasible before the implementation date.

7. Are there any international sustainability certification schemes that you think should be included?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

The European Union has expanded its approved bodies to enable flexibility. Many of these are also certified under the RED II model, and some are feedstock specific:

- Biomass Biofuels voluntary scheme (2BSVs)
- Better Biomass
- Bonsucro EU
- International Sustainability and Carbon Certification (ISCC EU)
- KZR INiG system
- REDcert
- Red Tractor Farm Assurance Combinable Crops & Sugar Beet Scheme (Red Tractor)
- Roundtable of Sustainable Biofuels EU RED (RSB EU RED)
- Round Table on Responsible Soy EU RED (RTRS EU RED)
- Scottish Quality Farm Assured Combinable Crops (SQC)
- Trade Assurance Scheme for Combinable Crops (TASCC)
- Universal Feed Assurance Scheme (UFAS)
- Sustainable Resources (SURE) voluntary scheme

In order to ensure consistency and avoid the cost of double certification, Mobil believes that the Government should similarly accept these EU schemes.

## Sustainable Biofuels Mandate

The ultimate proof of sustainability for sustainable biofuels should be met under ISCC EU or RSB, but it should also be inclusive of upstream certification bodies under these. This would ensure products certified under these schemes are not excluded from Aotearoa, and in the event domestic production is able to occur at a scale that enables export, this would increase optionality to export markets for domestic producers.

**Indirect Land Use Change**

8. Do you agree with our assessment that indirect land use change emissions should not be included in the lifecycle GHG emissions analysis, due to the inherent uncertainty in the economic modelling that would be required to do this?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

While there is uncertainty in the approach to including indirect land use change (ILUC) emissions in lifecycle GHG emissions analysis, ILUC emissions should not be excluded from the policy design simply because of the uncertainty in the economic modelling.

While there is indeed uncertainty in modelling of ILUC, the value does provide a best means of quantifying potential GHG impacts from using crop-based feedstocks so that policy can be designed to minimise any associated risk.

Different policies have taken different approaches to address ILUC, such as those in Canada and Europe.

Inclusion of ILUC avoids the need to exclude certain feedstocks simply because of their *potential* to induce land use change emissions, which may or may not ever occur.

Regardless of the option selected, the core consideration should be in ensuring consistency in the approach. Changes in CI, through modeling changes or subsequent inclusion or removal of ILUC, will impact decisions and investments made to incorporate sustainable biofuels into New Zealand fuels.

If consistency is achieved through external certification, Mobil would support this option.

9. What is your preferred option, or combination of options, for addressing the risk of indirect land use change caused by additional biofuels production?

**Option 1:** Set a cap on the maximum amount of food and feed-based biofuels, and ban feedstocks that have historically resulted in significant indirect land use change emissions

**Option 2:** Require all biofuels to have certification showing they are considered at "low risk" of causing indirect land use change.

Is there anything you would like to tell us about the reason(s) for your choice?

Mobil's preferred option approach is neither *Option 1* nor *Option 2*, but to calculate ILUC for each applicable pathway, to reflect this in the CI, and let the program (market, stakeholders, customers) select the most appropriate pathway.

If the Government determines that this is not an acceptable approach, as a minimum it should utilise the alternative of *Option 2*, with specific exclusion of feedstocks with known indirect land use change impacts. This approach enables greater flexibility for obligated parties to utilise the greatest number of available feedstocks that demonstrate a low risk of indirect land use changes.



## Sustainable Biofuels Mandate

Any application of *Option 1*, at a minimum should be harmonised to the European Union's 10% cap on high-indirect land use change risk feedstocks. This means there are already products available to market that meet the requirement.

Regardless of which option is selected, further reducing the cap on high-indirect land use change risk feedstocks to 5% would exclude some critical feedstocks, most notably soy, from use in the Aotearoa market, which have supply and cost implications. Mobil considers that the Government should ensure consistency and align with the cap set in the EU.

While palm oil would be excluded from the 10% cap under *Option 1*, co-products of palm oil, such as PFAD, should be subject to their own analysis, noting that the CI of PFAD is 0 under the ICAO CORSIA program, it could still be acceptable under *Option 1* if the Government removes the exclusion on waste products and residues.

The Government should ensure a thorough analysis of the options before limiting product availability. While it is understood that ILUC is a sustainability requirement, a heavy-handed approach, particularly in the introductory phase of the Obligation, will have a negative economic impact.

This is in keeping with the provision of flexibility within the Sustainable Biofuels Obligation.

10. Do you think these options will adequately address the risk of indirect land use change? If not, why and what alternatives would you suggest?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Utilising ILUC or combination of options noted by the New Zealand Government will address the risk of indirect land use change.

However, if these are not harmonised with existing standards it may limit feedstock availability and fuel companies' ability to meet the obligation.

Mobil's preferred approach is to calculate ILUC for each applicable pathway, to reflect this in the CI, and let the program (market, stakeholders, customers) select the most appropriate pathway.

### ***Biofuels and Food Security***

11. What is your preferred option, or combination of options, for addressing the risk of the biofuels obligation adversely impacting food security and why?

**Option 1:** Require all biofuels produced from food-based feedstocks to be certified against the Food Security Standard or an equivalent standard

**Option 2:** Rely on the options outlined to address indirect land use change (ILUC) to mitigate any indirect impacts on food security (discussed in section 3.3)

Is there anything you would like to tell us about the reason(s) for your choice?

Mobil considers that its response to *Question 11* is covered by its response to *Question 9*: that the preferred option is to calculate ILUC for each applicable pathway, to reflect this in the CI, and let the program (market, stakeholders, customers) select the most appropriate pathway.

Mobil sees it would be appropriate for the EPA to temporarily relax CI targets to alleviate situations of extreme market situations such as may be caused by drought, natural disasters, conflict, trade disruptions etc.

## Sustainable Biofuels Mandate

*Use of waste and Classification of feedstocks*

12. Do you agree with our proposed approach to require biofuels derived from any of the waste streams to be certified against the relevant ISCC EU standard or RSB standard? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Under ISCC EU, advanced biofuels are certified. To certify a biofuel as advanced, it also requires certification of any waste products used in its production. Therefore it can be accepted that an ISCC EU certification would cover the full value chain.

The list of wastes is well defined under European Renewable Energy Directive.

Such a certification process would also reduce any instances of fraud.

13. Do you agree with our proposed approach for allocating GHG emissions to products, co-products, residues and wastes according to Table 1, based on energy content? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Energy content is the correct approach for energy products, and there is no need for additional complexity. This aligns with other global standards.

14. Do you agree that feedstocks that are classified as agriculture, aquaculture, fisheries or forestry residues or co-products would need to meet the sustainability criteria? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Mobil agrees that it is good to encourage sustainable operations across all potential feedstocks.

There are many different options for the treatment of different feed stocks, so Mobil would require more information on the proposed treatment of feedstocks that are classified as agriculture, aquaculture, fisheries or forestry residues or co-products before it could assess this.

15. Do you agree with our proposal to exclude or limit residues or co-products that may be excluded or limited under the other criteria (such as the ILUC options)? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

The Government should not disallow potential feedstocks because of their association with the primary product, because the production of the primary product doesn't have anything to do with the utilisation of the residue or co-product. That is, the production process is inelastic and cannot be changed to increase the amount of co-products/residues.

Excluding residues or co-products that may be excluded or limited under other criteria may limit potential feedstocks with low environmental impacts, such as palm-derived PFAD.

If there is an indirect concern with a specific feedstock, it should be evaluated and assigned an ILUC.

## Sustainable Biofuels Mandate

### Other considerations for the implementation of the Obligation

#### *Interactions with the Fuel Industry Act and other regulations*

16. Do you agree with the risks outlined above? If you do, do you agree with the proposed approach?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

#### *Interaction with Fuel Industry Act 2020*

With regard to the Fuel Industry Act 2020, Mobil's preferred approach is for the Government to remove the one per cent biofuels exclusion from the terminal gate pricing (TGP) regime, with additional provisions that enable suppliers to refuse supply on the basis that fuel is needed to meet their obligations under the Sustainable Biofuels Obligation Act.

Adding specific biofuels blends under the second option removes some of the flexibility of the Sustainable Biofuels Obligation, and therefore could undermine that intent of the Obligation, which is GHG emissions reductions. There will be significant issues with setting explicit percentages on biofuel blends, given many importers will be relying on Renewable Diesel in import parcels, and due to the co-mingled nature of certain components of the supply chain.

Similarly, biofuel supply to a particular terminal will likely be discontinuous, particularly in the early years of the mandate. This means that an individual terminal will have varying amounts of biofuel percentage in the tanks over time. If the terminal tanks are at low levels, and are replenished with blended biofuel, then the concentration will be >1% (no TGP obligation for that grade). However, as the terminal tanks are drawn down and replenished by mineral fuels, the residual concentration of biofuel may drop below 1%, and the TGP obligation kicks back in. This will add substantial complexity and administrative burden to the TGP regime if the Government to both Fuel Industry Regulations 2021 and the biofuels obligation regulations.

Mobil believes that a legislative amendment is required to the Act, under s12(1) – *Reasonable grounds to refuse to supply*, that would allow wholesale suppliers to refuse to supply mineral only grades of fuel (i.e. no biofuel blending) if it would impede the wholesale supplier's ability to meet their obligations under the Sustainable Biofuel Obligation Act.

#### *Review of Engine Fuel Specifications Regulations 2011*

Mobil supports a review of the Engine Fuel Specifications Regulations 2011, which should be completed as soon as possible to ensure market participants have clarity ahead of the introduction of the Obligation, and to ensure any potential limitations are overcome.

#### *Labelling at the Pump: Emissions Reductions*

It should be left to market participants to how they market the GHG reductions of their biofuels blends, given that individual companies are likely to take different approaches to their respective biofuels product offerings.

As indicated above, the discontinuity of biofuel supply/stock will also create challenges around emissions labelling at retail sites.

However, Mobil considers that the Government should lead a public education campaign to support industry participants as the Obligation is enacted, as it has previously contemplated.

Such a campaign should ensure consumers are appropriately educated as to how the overall Obligation works as a GHG reduction obligation, including corresponding emissions reductions, various sustainability criteria, LCA and certification requirements, flexibility, and economic considerations.