



Consultation Paper on Proposed Revisions to the Cost Recovery Regimes

Biosecurity, Animal Products, Agricultural Compounds
and Veterinary Medicines, Wine and Animal Welfare

Animal Products – Dairy proposals and fee
updates

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6 Animal Products Act 1999 cost recovery

6.16 APA#10 – CHARGE FOR ADDITIONAL TIME SPENT PROCESSING OFFICIAL ASSURANCES (NON-DAIRY)

6.16.1 Background

MPI currently recovers the costs associated with issuing official assurances in accordance with Part 1, Schedule 1, of the Animal Products (Fees, Charges and Levies) Regulations 2007 (the Regulations) using:

- a fixed fee for official assurances issued under section 61;
- a fixed fee and hourly rate charging after three hours (up to a maximum of \$1,000) for reissue of official assurance under section 64(2) if replacement assurance is demanded by the importing country.

Charges for some official assurances work performed by Verification Services staff based full-time at establishments are charged in accordance with Part 7, Schedule 1, of the Regulations. No separate fee is charged for an export certificate issued concurrently with a billable Verification Services visit to the consigning premises.

For live animals and germplasm, MPI charges live animal exporters at the hourly rate specified in Hourly rate 1, Part 8, Schedule 1, of the Regulations for performance of specialist functions and activities necessary for the export of live animals or germplasm.

The costs of the Animal Products Electronic Export Certification System (AP E-Cert) are recovered under the usage charging formula prescribed in Regulations.

At present a single fixed charge is applied to cover the official assurance process, calculated on the following basis:

$$\text{Fee for issue of official assurance} = \frac{\text{Total estimated direct and indirect costs of export certification}}{\text{Estimated number of requests}}$$

The current minimum fee for the reissue of official assurance under section 64(2) is based on the estimated direct and indirect work required for a simple replacement request that involves no case-specific negotiation or consultation with the importing country. It takes, on average, at least three hours to investigate, verify, and correct a problem that caused a replacement assurance to be demanded by an importing country. The rate is charged at the hourly rate specified in Part 2 of the Regulations.

6.16.2 Problem definition

Fee for processing official assurances does not vary with complexity of application

MPI's experience is that the time needed to process official assurances varies. Some requests can be processed in a very short time (for example, when the market access requirements are straightforward and the documentation provided is complete), while other requests are complex and may require more time. Examples of more complicated requests include:

- when market access requirements are complex, such as for live animals;
- when the data and documentation provided are incomplete;
- when it takes a significant amount of time to review and confirm the accuracy of the submitted information.

This variability should be reflected for equity and efficiency reasons in the charging methodology.

Current approach is inequitable

Applying a single charge to a service that requires varying amounts of time does not support equity. Exporters that prepare complete and correct documentation and export to straightforward markets end up cross-subsidising other exporters who provide incomplete data or export to complex markets.

Current approach does not support efficiency

Applying a single charge to a service that requires varying amounts of time does not support efficient use of MPI's resources and does not incentivise applicants to ensure their submitted information is complete and comprehensive at the time of application. Not charging exporters for the true costs of following up on incomplete or incorrect data, or exporting to complex markets does not encourage exporters to make efficient choices that minimise the need for MPI's services.

6.16.3 Options considered

MPI has considered two options¹⁵:

Option 1: maintain the status quo

- a fixed fee for issue of official assurances;
- a fixed fee and hourly rate charging approach for reissue.

Option 2: fixed and hourly rate charging

- A fixed fee per certificate issued.
- Hourly rate charging would start after the initial 15 minutes, and be charged in 15-minute intervals thereafter. The hourly rate would be charged at:
 - a. the assessment rate specified in Part 2 of the Animal Products (Fees, Charges and Levies) Regulations 2007; or
 - b. for live animal and germplasm exports, Hourly rate 1, Part 8, Schedule 1, of the Animal Products (Fees, Charges and Levies) Regulations 2007.
- Maintain the current fixed fee and hourly rate charging approach for reissue of official assurances under section 64(2) if replacement assurance is demanded by the importing country.
- Disbursements would be charged at actual and reasonable cost.

6.16.4 Analysis of options

Table Error! Bookmark not defined. provides an analysis of two charging options.

¹⁵ Costs include any accrued deficits or surpluses from the previous four years but exclude any costs allocated to the reissue charge.

Table Error! Bookmark not defined.: Charging options for Official Assurances

Option	Analysis
Option 1	This approach does not support equity and does not encourage efficient use of MPI's resources, but provides greater certainty about certification costs for industry and MPI, and is administratively simpler for MPI.
Option 2	<p>This approach would improve equity between exporters and would encourage efficient use of MPI's resources. It also should enable the per certificate fee to be maintained at a lower level given that any more complex certificates are cost recovered via actual time spent on them.</p> <p>This option provides greater operational flexibility than Option 1. MPI could develop business rules for when an hourly charge would be charged, in addition to a fixed fee.</p> <p>Exporters would initially have less certainty about costs, but certainty would increase once their export schedule was better known and a track record of interaction was established.</p>

6.16.5 Proposed fee for official assurances – Option 2

MPI proposes to:

- 1) Introduce a fixed fee (\$32) and hourly rate charging (after the initial 15 minutes, in 15-minute intervals), for issue of official assurances, with hourly rates charged at:
 - a. the rate specified in Part 2 of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$155); or
 - b. for live animal and germplasm exports, Hourly rate 1, Part 8, Schedule 1, of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$186.30).
- 2) Maintain the current fixed fee and hourly rate charging approach for re-issue of official assurances, with hourly rates charged at:
 - a. the rate specified in Part 2 of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$155); or
 - b. for live animal and germplasm exports, hourly rate 1, Part 8, Schedule 1, of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$186.30).
- 3) Charge disbursements at actual and reasonable costs.

6.16.6 Questions for consideration

- Question 6.16
- 1) What is your preferred method of cost recovery for the issue of official assurances for non-dairy products?
 - 2) What is your preferred method of cost recovery for the reissue of official assurances for non-dairy products?

Part 6E – Dairy industry fees and charges

6.31 APA#25 – ENHANCE CHARGING APPROACH FOR NEW ZEALAND STANDARDS, PERFORMANCE MONITORING, EXPORT STANDARDS, MARKET ACCESS AND RESIDUE MONITORING

6.31.1 Background

New Zealand and export standards and performance monitoring

MPI charges for the development and maintenance of New Zealand standards and export standards, as well as performance monitoring¹⁹, through:

- a quarterly specified fee to large dairy processing businesses;
- a small annual flat fee to each registered manufacturing premises receiving less than 316,000 kilograms of raw milk solids.

While not stated in the regulations, the quarterly specified fee to large dairy processing businesses (for provision of New Zealand and export standards and performance monitoring) is based on a business's share of total raw milk solids received, using the data that was available at the time the regulations were set. Market shares for raw milk solids serve as a proxy for the individual benefits derived, and costs incurred, from New Zealand and export standards and performance monitoring.

The small annual flat fee to registered manufacturing premises is based on attributing a small share of costs to the smaller manufacturing premises (higher than their share of total milk solids received at the time regulations were set) and dividing by the number of these premises.

Market access programme and the National Chemical Contaminants Programme (NCCP)

MPI charges for market access activities and the NCCP through:

- a quarterly specified fee to Fonterra;
- a small annual flat fee to all other exporters.

While not stated in the regulations, the shares paid by Fonterra for each service were based on former Ministry for Agriculture and Forestry estimates of the benefits to Fonterra from market access functions and the NCCP respectively. The small annual flat fees for each service are then calculated based on dividing the remaining share of costs amongst other dairy exporters.

6.31.2 Problem definition

Prescribing levies in regulations can be inequitable, inefficient and lack transparency

Prescribed levies²⁰ that are specific to individual businesses become less transparent and equitable between cost recovery reviews, as actual market shares change. With changes in market shares, the levies no longer reflect, as closely as practicable, the benefits received from

¹⁹ Performance monitoring refers to systems performance monitoring and management and excludes approvals and verification inspection and audit fees (see section 6.39, Appendix 3 for more information).

²⁰ In the current dairy regulations, the charges for domestic and export standards, performance monitoring, dairy residue monitoring and market access standards are referred to as fees. In the new dairy regulations, the charges will be referred to levies. There will be no difference in economic terms given the levies proposed are still specific total charges (as opposed to a per unit levy). The change to levies is in accordance with the 2008 Office of the Auditor General guidelines on Charging Fees for Public Sector Goods and Services. According to the guidelines, charges should be imposed through a levy when charges will apply to a certain group such as industry participants for carrying out a particular function.

services delivered. For both standards development and performance monitoring, there are several large processors that should be paying a higher amount than the small processors' levy based on their current share of raw milk solids received.

In addition, if there are any changes to the list of businesses that operate as large processors between cost recovery reviews, MPI is required to seek an *ad hoc* change to the regulations to incorporate these, which is administratively inefficient.

Domestic producers and consumers are not contributing to the costs of the NCCP

The dairy residue programme, or NCCP, is currently charged to Fonterra, as the primary exporter, and to other smaller exporters. However, the programme has benefits for both export and domestic market participants that use New Zealand milk. The costs of the programme should, therefore, be met by all dairy processors that use New Zealand milk, rather than just dairy exporters. The cost of the levies could then potentially flow through to all beneficiaries, as processors pass on their costs.

Export standards mixed in with charges for New Zealand standards

Export standards and New Zealand standards are currently being charged as a single expense to dairy processors. This has efficiency benefits, but there is an equity trade-off as charges are not necessarily targeted to businesses that benefit from the different services. Domestic-only processors are being charged for export standards, whereas dairy exporters who import their milk ingredients or dairy products do not face any costs for export standards. MPI is seeking to find a better balance between efficiency and equity for the cost recovery of export standards.

Need for reliable data to inform levies

There is a need to have reliable data sources to inform the calculation of levies to large dairy processors and exporters. Until now, charges have been based on publicly available information that is incomplete and not always up-to-date.

6.31.3 Proposed separation of levy for New Zealand standards development from levy for export standards

MPI proposes that the service of developing and maintaining New Zealand standards be levied separately from the service of developing and maintaining export standards.

Rationale for the proposal

Levies for these services should be targeted at the businesses that directly benefit from them. Both domestic processors and exporters benefit from New Zealand standards, which form the base requirements for all dairy products produced in New Zealand. Costs for New Zealand standards should, therefore, continue to be recovered from processors. However, levies for export standards should be paid by exporters, who are the primary beneficiaries of export standards development. Market access activities benefit exporters and charges are paid by exporters, so no change of approach is required for this area.

6.31.4 Proposed levy on all processors for the National Chemical Contaminants Programme

MPI proposes that the dairy residue monitoring service (or NCCP) be charged to all dairy processors instead of dairy product exporters.

Rationale for the proposal

Levies for this service should be targeted at the businesses that directly benefit from it. Domestic dairy processors, domestic consumers, exporters and overseas consumers benefit strongly from the testing of raw milk, colostrum and dairy products. They also benefit from the assurance that the regulatory framework is being applied correctly. By levying all dairy

processors, the costs for the NCCP will likely flow through to exporters and domestic customers, as processors pass costs downstream.

A small proportion of costs and activities of the NCCP are specifically focused on export product requirements, namely an independent verification programme and testing for radionuclides. However, there are spill-over benefits to domestic producers inasmuch as the levels of radionuclides in milk are a marker for the entire dairy industry.

6.31.5 Proposed annual levy, on a time-benefit basis, for small processors that collect raw milk solids to recover the cost of New Zealand standards, performance monitoring and dairy residue monitoring

The Ministry proposes to change which small processors are levied, and how small processors are levied. This proposal builds on the proposals 6.31.3 and 6.31.4.

Which ‘small processors’ would be levied

The Ministry proposes to change the small processors it levies (currently charged through fees for unnamed processors in the regulations) from businesses with manufacturing risk management programmes, based on the number of manufacturing premises they have, to businesses with a farm dairy risk management programme — that is, businesses that collect raw milk solids and colostrum.

The new definition of small processors would be ‘persons with a farm dairy risk management programme that are:

- not collection agents (that is, they do not buy milk solids from a dairy farmer); or
- collection agents that collected less than, or equal to, 491,000 kilograms²¹ of raw milk solids directly (not through another collection agent) in the previous financial year’.

The definition of a ‘collection agent’ is:

- a dairy processor whose business includes buying milk solids from a dairy farmer; or
- a person whose business includes buying milk solids from a dairy farmer for supply directly or indirectly to a dairy processor.

The threshold of 491,000 kilograms separates those who would pay less than, or equal to, the small processors’ levy from those (large processors) who would pay more, based on their share of total raw milk solids collection (see section 6.31.6). The threshold would be updated in future cost recovery reviews.

MPI would include a provision in the regulations (under sections 118(3)(e) and 119) imposing a requirement on collection agents to keep levies for MPI’s cost recovery purposes in a separate trust account to avoid any confusion between the levy for MPI’s cost recovery and the price of raw milk charged by collection agents to processing businesses.

How small processors would be levied

MPI proposes to move to an annual levy based on an estimate of the average hours of service provided to small processors. The levy amount would be comparable to what small processors are currently paying through annual fees (fees for unnamed processors in the regulations). MPI also proposes that the annual levy would be combined to cover New Zealand standard setting, performance monitoring and residue monitoring.

The minimum levy would be based on six hours of time at the standard MPI food sector hourly rate, covering one hour of New Zealand standard setting, one hour of performance

²¹ Determined by dividing the small processors’ levy amount by the total amount to collect from processors and multiplying it by the total milk solids collection in 2013/14.

monitoring and four hours of dairy residue monitoring. Based on operational experience, six hours of service per small processor is considered a conservative estimate. If each of these small dairy processors received six hours of service for New Zealand standards development, residue monitoring and performance monitoring, that would equate in total to roughly seven weeks' full-time equivalent work for one MPI staff member, or 1.3 percent of total cost recovery for New Zealand standards, performance monitoring and residue monitoring.

Based on the proposed standard MPI food safety hourly rate of \$155, each small processor would pay \$930 a year in total for New Zealand standards development, performance monitoring and residue monitoring services. For a new registration, a farm dairy RMP holder would be charged a share of the annual levy based on the quarter of the year in which the registration is approved.

Table 7 shows the estimated total costs to be recovered from small processors. There are an estimated 48 small processors (as defined above, 58 'persons' with farm dairy risk management programmes, minus 10 who collected more than 491,000 kg of milk solids in the previous financial year).

Table 7: Estimated recovery from small processors in 2015/16.

	New Zealand Standards	Performance Monitoring	Residue monitoring	Total
MPI flat levy proposed \$	155 (1 hour)	155 (1 hour)	620 (4 hours)	930 (6 hours)
Total to be recovered from (48) small processors \$	7,440	7,440	29,760	44,640

Rationale for the proposal

Under the APA, the criteria that must be taken into account when determining the most appropriate method of cost recovery, as far as is reasonably practicable, are equity, transparency, efficiency and justifiability (section 113(2) of the APA). The proposal meets these criteria:

- **Equity** — Small processors impose costs on, and receive benefits from, MPI's standards, performance monitoring and dairy residue monitoring services that exceed their small share of raw milk solids. These benefits include requests for guidance on standards and the development of policies to address their unique challenges. In contrast, large processors offer economies of scale for the amount of guidance MPI provides them. By levying farm dairy risk management programme holders, the levy would target all raw milk solids for processing and hence all who benefit from New Zealand standards development, residue monitoring and compliance monitoring, not just those processors who operate under a manufacturing risk management programme. Farmers or collection agents should be able to pass costs onto their processing customers. Levying individual businesses, rather than RMPs, recognises that the acquisition of additional RMPs does not generally increase guidance costs to the business because the information is transferable within the business.
- **Efficiency** — Having one levy will reduce administration costs.
- **Transparency** — The levy is linked to an estimate of the average hours of service provision to small processors. Although there will be one levy, MPI will still consult on the total amount to recover for New Zealand standards, performance monitoring and residue monitoring respectively.

- **Justifiability**— The levy for each small processor would be set in the regulations and updated with cost recovery reviews. The proposed levy is reasonable for the provision of New Zealand standards, performance monitoring and dairy residue monitoring services to small processors.

Other options considered

Two additional methods of calculating a levy have been considered, based on:

- **Share of total costs proportionate to actual share of milk solids** – MPI believes a rough estimate of actual hours of service is more justifiable because small operators impose a disproportionately higher service cost.
- **Imposing the levy on manufacturing risk management programme holders** – MPI believes that this approach is less equitable than the proposed approach.

6.31.6 Proposed levies to large processors in the regulations for New Zealand standards, performance monitoring and residue monitoring

The Ministry proposes to formalise the definition for a ‘large processor’ in the regulations and change the way large processors are levied. MPI proposes that the regulations would set out a formula to determine the amount for each large processor to pay, rather than having a specified sum to be paid in the regulations. This proposal builds on the proposals 6.31.3, 6.31.4, and 6.31.5.

Proposed definition of ‘large processor’

Large processors would be defined as ‘persons with a farm dairy risk management programme that are collection agents, and who collected more than 491,000 kilograms of milk solids from dairy farmers directly (that is, *not* through another collection agent) in the previous financial year²². The milk solid threshold of 491,000 kilograms for large processors captures those processors that would pay more than the minimum levy based on their share of total raw milk solids collection. The threshold would be updated as part of each future cost recovery review.

MPI has chosen to define large processors using the ‘collection agent’ (see section 6.31.5) concept from the Commodity (Milk Solids) Levy Order 2009. This is to ensure that MPI can use the data that DairyNZ collects for the milk solids levy for cost recovery purposes, rather than directly requesting the amount of milk solids ‘received’ by each processor.

This definition above will recognise the effect of other legislation affecting the industry, such as the Dairy Industry Restructuring Act 2001 (DIRA). Fonterra would be able to pass on cost recovery charges to other processing businesses that it collects milk on behalf of. In this case, Fonterra is collecting the milk but not receiving the milk in terms of delivery.

MPI would include a provision in the regulations (under sections 118(3)(e) and 119) imposing a requirement to keep levies for MPI’s cost recovery purposes in a separate trust account. This separate trust account would avoid any confusion between the levy for MPI’s cost recovery and the price of raw milk solids charged by Fonterra or other collection agents to other processing businesses²³.

²² In the case of businesses that have subsidiaries, MPI is proposing that their raw milk solids collection would be attributed to their parent company where appropriate.

²³ It will be up to processing businesses to determine if they are paying a fair share of the collection agent’s cost recovery levies.

Updating who is a large processor

There are ten businesses with farm dairy risk management programmes that collected more than 491,000 kilograms of raw milk solids in 2013/14, namely: Fonterra, Open Country Dairy, Westland, Synlait, Miraka, Tatua, Gardians, Fresha Valley, Green Valley Dairies and Dairy Goat.

Proposed data sources

MPI proposes to insert into the regulations that DairyNZ must supply MPI with its data on businesses' milk solids collection for the previous financial year (by month) as soon as the data is available, for cost recovery purposes (under section 118 (3)(d) of the Animal Products Act).

MPI would also put into the regulations or in a notice (under section 159 of the Animal Products Act) that the Director-General MPI may require collectors of raw milk solids to provide MPI with their milk solids collection data for the previous MPI financial year. MPI also proposes to put a requirement into the regulations or in a notice that non-cow dairy processors meeting the large processor threshold must provide their raw milk solids collection data for the previous MPI financial year directly to MPI.

Proposed formula for calculating levies

MPI is proposing a single formula to calculate what large processors will be required to pay for New Zealand standards, performance monitoring and residue monitoring. As per current cost recovery charges, the annual levy would be paid in equal quarterly instalments.

The proposed formula for the regulations for New Zealand standards, performance monitoring and residue monitoring is as follows:

<p>Combined levy for large processor "X" :</p> $L_{processor}^X = \frac{TC_{annual}^{MPI} \times MS_{last}^{processor X}}{MS_{last}^{total}}$

Where,

$L_{processor}^X$ = amount of levy to be paid by a large processor.

TC_{annual}^{MPI} = amount to recover for year from large processors, which equates to the total cost to recover for the year, to cover the cost of New Zealand standards, performance monitoring and residue monitoring *minus* the amount expected to be collected from minimum levies from small processors for these services.

The value for the component in the formula 'Amount to recover for year from large processors for New Zealand standards, performance monitoring and dairy residue monitoring' would be set in the regulations as \$3,420,089. To change the value for the component, there would be need to be an amendment to the regulations.

$MS_{last}^{processor X}$ = each large processor's milk total solids collection for the previous year.

MS_{last}^{total} = total milk solids collected for the previous year from all large processors.

Large processors would pay the 'small processors' levy in the case that the formula produces a levy lower than the 'small processors' levy.

Proposed process for notifying payments to be made by large processors

After the end of each MPI financial year (July to June), the Director-General MPI would determine each large processor's milk solids collection for the previous year and total milk

solids collected for the previous year from large processors. MPI would then invoice each processor for its levy, indicating its milk solids collection for the previous year and the total milk solids collected from large processors in the previous year. Individual businesses' amounts payable would remain confidential between MPI and the business. This process would likely occur in August as this is when the data would become available from DairyNZ.

Proposed approach to accommodate new large processors and exiting processors

The regulations would accommodate new large processors, changes in the names or business structures of existing large processors and processors exiting the market as follows:

- Businesses that cross the threshold (because they have increased production volume) from small to large processors during the financial year in question would pay the levy for small processors until the next annual determination by the Director-General of each large processor's milk solids collection for the previous year and total milk solids collected for the previous year from large processors.
- Levies on new processors that cross the threshold as a result of mergers or acquisitions would be assessed on the basis of the combined market share of any predecessor businesses.
- Large processors that do not have full-year milk solids data for the previous year would have their full-year milk solids collection estimated by interpolating their monthly data, with adjustments to other businesses' market share data if necessary.
- If a large processor exited the market during the year, its obligation to pay charges would apply only up to and including the quarter that it exits the market.

In normal circumstances, under-recoveries or over-recoveries resulting from changes in the industry structure would be dealt with through annual adjustments within MPI.

Rationale for the proposal

The proposal meets the criteria under the APA as follows:

- **Equity** — Annual linking of levies paid by individual large processors to their raw milk market shares would mean that funding is sourced from the beneficiaries at a level commensurate with the benefit derived from the service. Collection agents should be able to pass on costs to the processors they supply.
- **Transparency** — Costs would be allocated closely to service provision for the recovery period in which the service is provided as processors will be levied on the basis of their previous year's market shares. Although there would be a single levy, MPI would still consult on the individual amount to recover for the provision of New Zealand standards, performance monitoring and residue monitoring.
- **Efficiency** — Annual updates to which businesses pay for the levies would mean there is less chance of under-recovery of costs should a large processor leave the market. Having a single levy will reduce administration costs. Using data from DairyNZ will avoid large processors having to provide their milk solids data to more than one party, to ensure data consistency.
- **Justifiability** — The total cost recovery amount to be recovered from large processors would be set in the regulations and updated with cost recovery reviews. The proposed costs to be collected are reasonable for the provision New Zealand standards, performance monitoring and dairy residue monitoring services to large processors.

Calculations

Based on the information available at this time, MPI has estimated the total number of large processors (Table 8), and the total amount to be recovered from larger processors (Table 9).

Table 8: Milk solids threshold for large processors

	New Zealand standards, performance monitoring and residue monitoring
Total amount to recover per annum \$	3,464,729
Minimum annual levy to small processors \$	930
Milk solids collection forecast for 2014/15 (previous year for 2013/14) (kg)	1,827,389,274
Estimated milk solid threshold for large processors for 2015/16 (kg)	491,000
Total estimated number of large processors	10

Table 9: Estimated recovery from large processors

	New Zealand standards	Performance monitoring	Dairy residue monitoring	Total
Total amount to be recovered \$	729,424	686,968	2,048,336	3,464,728
Total amount to be recovered from small processors \$	7,440	7,440	29,760	44,640
Total to be recovered from large processors \$	721,984	2,040,896	657,208	3,420,089

Other options considered

Three additional methods of calculating a levy have been considered, based on:

- **A formula linked to expected shares of milk solid collected** – This would require greater reconciliation at the end of each financial year and would, therefore, be less efficient and provide a less certain outcome for processors.
- **An annual levy rate for milk solids collected** – The levy would be a set rate per kilogram of raw milk solids collected, based on forecast milk solids production. With this approach there is the potential for MPI to be under-resourced if actual milk solids production is less than forecast. In addition, if MPI invoiced on the basis of quarterly production, there would be uneven payments throughout the year, given variances in milk production.
- **A formula linked to raw milk solids received** – Levies would be charged to businesses with a manufacturing risk management programme that received greater than or equal to 491,000 kilograms of raw milk solids in the previous financial year. This approach is considered less efficient than the MPI proposal because MPI would not be able to use data from DairyNZ, and would need to request data from processors directly.

6.31.7 Proposed levy on small exporters, on a time-benefit basis, for market access and export standards development

The Ministry proposes to define ‘small exporters’, and to change how small exporters are levied.

Proposed definition of small exporters

MPI proposes to define small exporters as registered exporters that exported less than or equal to 636,000 kilograms of dairy products in the previous financial year. The export threshold²⁴ of 636,000 kilograms (Table 11) separates those who would pay less than or equal to the small exporters' levy from those who would pay more (large exporters), based on their share of total dairy export mass.

How small exporters would be levied

MPI proposes to move to an annual levy based on an estimate of the average hours of service received by small exporters, similar to what small exporters are currently paying in fees for market access and then adding on costs for export standards.

Each small exporter would pay \$310 a year in total for market access and export standards development services. The levy is based on the standard MPI food sector hourly rate of \$155, with one hour for market access and one hour for export standards. For a new registration, an exporter that exports dairy products will be charged a share of the annual levy based on the quarter of the year in which the registration is approved.

Table 10 shows the total estimated amount to be recovered from small exporters. There are an estimated 619 small exporters — that is, registered exporters who exported less than or equal to 636,000 kilograms of dairy products in the previous financial year (643 registered exporters that export dairy products minus 24 exporters that exported more than 636,000 kilograms of dairy products in the previous financial year).

Table 10: Estimated recovery from small exporters

	Market access and export standards
Total number of small exporters	619
MPI flat levy proposed \$	310
Total to be recovered from small exporters \$	191,890

Rationale for the proposal

This proposal follows the same rationale as that for the proposal for small processors in section 6.31.5.

Other options considered

Two other options were considered, based on:

- **Share of export volume, or value, above actual share** – MPI would continue to base the levy on a set percentage of total costs, such as 1%, which would then be averaged across small exporters. MPI believes that an estimate of average hours of service is more justifiable than assigning a proportion of total cost to small exporters that is unrelated to the actual percentage of export volumes, or values, they account for.
- **Actual share of export value or volume** — Small exporters receive benefits and impose higher costs than would be cost recovered based on their small share of exports, so the levy would not be equitable. It would also result in very small levies to some exporters that would be inefficient to administer.

²⁴ The threshold for exporters was determined by dividing the small exporters' levy amount by the total amount to collect from exporters and multiplying it by the total export mass of dairy products in 2013/14.

6.31.8 Proposed levy formula for large exporters in the regulations for market access and export standards development

The Ministry proposes to define large exporters and change the way large exporters are levied — that is, the regulations would set out a formula to determine the amount for each large exporter to pay based on export mass (in kilograms).

Proposed definition of ‘large exporter’

Large exporters would be defined as registered exporters and other persons²⁵ who exported more than 636,000 kilograms of dairy products in the previous financial year²⁶. The export mass threshold for large exporters captures those registered exporters who would pay more than the small exporters’ levy based on their share of the total export mass of dairy exports.

In the Ministry’s view, export mass is the best proxy of benefit that exporters get from the market access programme and export standards development.

Proposed data source

It is possible for MPI to obtain export mass data by business from the New Zealand Customs Service for the purposes of cost recovery, provided it does not subsequently disclose the data. There are some practical problems with using export mass data:

- Some dairy products, such as milk and ice cream, are measured in litres rather than kilograms. These litre quantities will need to be converted to kilograms. MPI would use a basic conversion factor for milk and ice cream to convert it into kilograms.
- Data on export mass comes from the New Zealand Customs Service under tariff codes. MPI proposes to use a ‘core’ set of tariff codes to calculate export mass data for dairy products (see below). These codes do not cover dairy products that are exempt from Parts 2 to 4 of the Animal Products Act such as confectionery. The codes also do not include categories where non-dairy products are likely to form a large proportion of exports under them.

The export mass data from the New Zealand Customs Service would come from the following core set of tariff codes:

- all codes under 04.01 Milk and cream, not concentrated nor containing added sugar or other sweetening matter;
- all codes under 04.02 Milk and cream, concentrated or containing added sugar or other sweetening matter;
- all codes under 04.03 Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa;
- all codes under 04.04 Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included;
- all codes under 04.05 Butter and other fats and oils derived from milk, and dairy spreads;
- all codes under 04.06 Cheese and curd;
- 35.01 Casein, caseinates and other casein derivatives, and casein glues;
- 35.02.20.00 00C: Milk albumin, including concentrates of two or more whey proteins;
- 21.05 Ice cream and other edible ice, whether or not containing cocoa;

²⁵ This is to take account of businesses that export animal products that are not registered exporters. They are able to export by employing the services of a registered exporter.

²⁶ In the case of businesses that have subsidiaries, MPI is proposing that their export volumes would be attributed to their parent company where appropriate.

- 19.01.10.09.00C and 1901.90.09.28B: covering infant formula, follow-on formula and supplementary food for young children and adult nutritional powders;
- 1702.11.00 00F: containing by weight 99 percent or more lactose, expressed as anhydrous lactose, calculated on the dry matter;
- 1702.19.00 00B: containing by weight 99 percent or more lactose, expressed as anhydrous lactose, calculated on the dry matter and Other.
- 21.06.10.09.00J: Protein concentrates and textured protein substances – Other (non-vegetable protein).

Proposed formula for calculating levies

The proposed formula for market access and export standards services for large exporters is as follows:

$$\text{Combined levy for large exporter "Y",}$$

$$L_{\text{exporter}}^Y = \frac{ETC_{\text{annual}}^{\text{MPI}} \times EM_{\text{last}}^{\text{exporter Y}}}{EM_{\text{last}}^{\text{total}}}$$

Where,

L_{exporter}^Y = amount of levy to be paid by a large exporter.

$ETC_{\text{annual}}^{\text{MPI}}$ = amount to recover for year from large exporters, which equates to the total cost to recover by MPI for the year for market access and export standards services **minus** the amount expected to be collected from minimum charges for these services (Table 12).

$EM_{\text{last}}^{\text{exporter Y}}$ = each large exporter's dairy export mass for the previous year.

$EM_{\text{last}}^{\text{total}}$ = total dairy export mass for the previous year from all large exporters [from New Zealand Customs Service data] e.g. 2,969 million kg in 2013/14.

The value for the component in the formula 'Amount to recover for year from large exporters for export and market access standards' would be set in the regulations as \$1,258,824. To change the value for this component, there would be need to be an amendment to the regulations.

Large exporters would pay the 'small exporters' levy in the case that the formula produces a levy amount lower than the small exporters levy.

Proposed process for notifying payments to be made by large exporters

After the end of each MPI financial year (July to June), the Director-General MPI would determine each large exporter's export mass of dairy products for the previous year and the total dairy export mass for all large exporters for the previous year. MPI would then invoice each exporter its levy, indicating its dairy export mass for the previous year and the total dairy export mass from large exporters in the previous year. Individual businesses' amounts payable would therefore remain confidential between MPI and the business. This process would occur in September as this is when the data would become available from the New Zealand Customs Service.

Calculations

Based on the information available at this time, MPI has calculated the threshold for large exporters (Table 11), and the total amount to be recovered from large exporters (Table 12).

Table 11: Export mass threshold for large exporters

	Market access and export standards
Total amount to recover (\$)	1,450,714
Minimum charge(\$)	310
Estimated total export mass for 2013/14 from Statistics New Zealand, (million kg)	2,978
Export mass threshold for large processors (kg)	636,000
Total estimated number of large exporters	24

Table 12: Total amount to be recovered from large exporters

	Market access standards	Export standards	Total
Total amount to be recovered (\$)	947,672	503,041	1,450,714
Total amount to be recovered from small exporters (\$)	95,945	95,945	191,890
Total to be recovered from large exporters (\$)	851,727	407,096	1,258,824

Other options considered

MPI considered the other broad cost recovery options discussed under New Zealand standards, performance monitoring, and residue monitoring, section 6.31.5.

A formula based on market shares for the previous MPI financial year is considered more efficient, equitable, justifiable and transparent than the alternative recovery options for the same reasons as presented for New Zealand standards, performance monitoring and residue monitoring. In addition, adopting an approach that is consistent with New Zealand standard setting, performance monitoring and residue monitoring will help to create some economies of scale in administration costs for MPI and, potentially, for dairy processors and exporters. In our view, there is no compelling reason to vary the underlying approach between the two charging regimes.

MPI considered two alternative approaches, as briefly discussed below:

- **Raw milk solids collection of export-orientated processors** – Levy large export processors that collect more than a certain threshold of raw milk solids to be processed primarily for the export market in the previous financial year. An approach based on collected milk solids is less equitable because the levy will, in part, be based on raw milk solids destined for the domestic market. Furthermore, the associated costs to the processors may be passed onto domestic producers and consumers, who do not directly benefit from market access or export standards. Our view is that the proposal to levy large exporters on dairy export mass is more equitable than levying large export-orientated processors based on raw milk solids collection, and there is little difference in efficiency.

- **Export value** – The approach would use a similar formula to that given above for export mass, but would substitute ‘dairy export value’ for ‘dairy export mass’. Many other factors come into export returns by value, such as the type of product exported and the level of value-adding. The benefit of market access and export standards is more related to the quantity of product exported than to the financial returns made from exports. With export values there would be no need to make conversions into one unit of measurement, as the data for each tariff code would be in dollars, although it would still be necessary to obtain data from the New Zealand Customs Service. In our view, the proposal to levy large exporters on the basis of export mass is more equitable than levying them on the basis of export value and there is little difference in efficiency

6.31.9 Impacts of the proposals

Overall impacts

In total, cost recovery for New Zealand standards development, market access and export standards development, dairy residue monitoring and performance monitoring is proposed to increase by 26 percent over charges for 2014/15.

Overall, this increase in costs would be borne by large and small processors. Costs to processors would increase by 87 percent given the proposal to shift the cost burden for dairy residue monitoring from dairy exporters to dairy processors and given increases in service provision for dairy residue monitoring and performance monitoring. However, dairy processors should be in a position to pass a share of their costs onto their domestic and export customers.

Overall *direct* costs to exporters would decrease by 29 percent as the cost burden for dairy residue monitoring is proposed to be shifted from them to dairy processors and there is a small decrease in the costs for export standards development.

Small processors

The levies proposed for small processors are significantly higher than current charges. The additional cost is primarily due to their new contribution to dairy residue monitoring, which is the most costly of the four major MPI services charged to the industry.

The estimated increase in total costs to small processors is in the order of \$442 a year, which is significant in terms of percentage growth (91 percent increase).

As a result of the proposal, there would also be some changes in who pays the small processors levy. Some farm dairy risk management programme operators are farmers and collection agents rather than manufacturers. However, these farmers should be able to pass a share of their costs onto the manufacturers they supply. By targeting farm dairy risk management programme operators, costs should be borne by manufacturers operating under a Food Safety Programme or a risk management programme and ultimately their customers.

As there are fewer farm dairy risk management programme operators than manufacturing risk management premises, the total recovered from small processors would increase only by 14 percent overall.

Small exporters

These parties would pay less *directly* as their levy for dairy residue monitoring is shifted to dairy processors, although costs are likely to flow through to them from dairy processors. The estimated decrease in total costs to small exporters is in the order of \$358 a year, which is significant in terms of a percentage change to the cost (a decrease of about 54 percent).

Large processors

Large processors would be required to pay more, as their overall contributions to residue monitoring, performance monitoring and New Zealand standards are brought in line with their current market shares, as they begin to contribute to dairy residue monitoring and given increases in service provision for residue monitoring and performance monitoring.

Large exporters

Some large exporters would be required to pay more as their overall contributions to market access and export standards are brought into line with their market shares, although some other large exporters will pay less as total costs to exporters decrease.

6.31.10 Questions for consideration

Question 6.31

- 1) Do you support the proposal for annual levies to small processors and exporters to be set on a fixed fee basis?
- 2) If not, what is your preferred approach for cost recovery from small processors and exporters and what are the reasons for this preference?
- 3) Do you support MPI's proposal to use formulae to set levies for large dairy processors and large dairy exporters?
- 4) If not, what is your preferred approach for cost recovery from large dairy processors and exporters, and what are your reasons for this preference?
- 5) Do you support the levies to large processors and exporters being invoiced to them to help keep their share of milk solids collection and export mass confidential?
- 6) Do you support the use of 'core' tariff codes to determine which products will be subject to the proposed levies on dairy product exports?

6.32 APA#26 – INTRODUCE A NEW COST RECOVERY METHOD FOR INFANT FORMULA EXPORTS

6.32.1 Background

In June 2013 the Minister for Food Safety announced an infant formula work programme to strengthen New Zealand's food assurance systems to match the rapid growth in infant formula exports. In December 2013, the Government inquiry into the Whey Protein Concentrate Contamination Incident recommended that this work programme be prioritised, and that requirements on exporters of infant formula be strengthened to support traceability of export products.

As part of the infant formula work programme, MPI is developing new requirements for infant formula products and formulated supplementary foods for young children (hereafter referred to generically as 'infant formula') intended for export. The requirements include:

- Export declarations must be made to MPI in the MPI E-cert system for all export consignments of infant formula to any market. Exports that already require official assurances are exempt from this requirement.
- Eligibility documentation must be available in MPI's E-cert system for all exports of infant formula to any market (except to Australia). Currently, eligibility documentation is required only for markets that require official assurances from MPI.
- Exporters and risk management programme operators handling infant formula can be subject to audit by MPI to ensure they are meeting their obligations.

These requirements are to be set out in a notice made under section 60 of the Animal Products Act (hereafter called ‘the notice’). Final decisions on the introduction of the notice have yet to be made at the time this consultation document was published. However, as cost recovery is integral to the implementation of the new provisions, it is important that consultation on cost recovery for these provisions is included in this consultation paper.

The objective of introducing the new requirements for infant formula exporters is to improve MPI’s ability to monitor exports of this sensitive product, provide for more efficient product identification and withdrawal, and improve exporter compliance with duties and obligations.²⁷

Exporters will need to have access to MPI’s E-cert system in order to apply for official assurances and submit export declaration forms for approval by MPI’s Dairy Certification Unit.

6.32.2 Problem definition

The new requirements outlined above will create new activities and costs for industry, verifiers and MPI. The new activities are:

- verification by Recognised Agencies of infant formula manufacturers’ and stores’ compliance with the notice;
- use of E-cert by exporters to submit export declaration forms;
- processing of export declaration forms by MPI staff;
- auditing by MPI of infant formula exporters.

Verification

Verification by Recognised Agencies of infant formula manufacturers’ and stores’ compliance with the notice can be included as part of performance based verification (PBV) and recovered directly by Recognised Agencies from operators.

E-cert and export declarations

Additional mechanisms are needed to enable recovery of costs associated with use of E-cert for submission of export declaration forms, their processing by MPI staff, and auditing of infant formula exporters by MPI.

Audits

Our intention is that decisions on implementation of the audit provisions of the proposed notice would be made following review of the implementation of the other provisions of the notice. As such, a cost recovery mechanism for infant formula exporters is not proposed at this time. Cost recovery proposals for audits of infant formula exporters would be contained in future reviews of the Animal Products (Dairy Industry Fees and Charges) Regulations.

Apportioning costs for verification and E-cert and export declarations

It is the Ministry’s view that the costs of these activities should be recovered from RMP operators and exporters handling infant formula.

It is appropriate that the costs of these proposals are borne by individual exporters that are exporting infant formula products, and formulated supplementary foods for young children, to markets that do not require official assurances. Currently, such exporters are ‘risk exacerbators’, in so far as their export activities are associated with increased risk for New Zealand’s reputation as a result of a lack of close monitoring. This is contrast to products destined to markets that require official assurances of infant formula. The export declaration requirement is intended to reduce the risks presented by these export activities and so it is appropriate that costs of reducing that risk are borne by those that create it. The benefits from

²⁷ Primarily under section 51 of the Animal Products Act 1999.

being able to export infant formula products and a strong reputation for New Zealand's dairy products also primarily accrue to exporters, meaning that it is a private good.

6.32.3 Proposed recovery of the costs of maintaining MPI's electronic certification systems (E-cert)

The costs of maintaining and managing MPI's E-cert system are met by users of those systems. The notice would require all infant formula exporters to have access to, and to use E-cert when exporting infant formula products or formulated supplementary foods for young children.

There is an existing formula and charging mechanism in the Animal Products (Dairy Industry Fees and Charges) Regulations 2007 (Part 1A) that we intend to employ to recover these costs. The values in the formula are specified in the Animal Products Notice: Electronic Certification System Costs – Dairy Industry, issued on 7 October 2014.

We estimate that, at the current rate, the cost of E-cert maintenance will be less than \$50 per year for almost all infant formula exporters. Users would be invoiced monthly. However, consistent with MPI's current administrative arrangements, invoices for less than \$50 would be withheld until they reach \$50, or until the end of the financial year, whichever comes first.

6.32.4 Proposed recovery of the costs of MPI staff time to process export declarations

The notice would require infant formula exporters to submit an export declaration form in E-cert (a 'health certificate') for every consignment exported to a market that does not require official assurances from MPI for that product. The export declaration forms must be approved in E-cert by an authorised user before the consignment is shipped.

The notice contains provisions for exporters to apply to the Director-General for 'auto-approval rights' for export declarations if they meet certain criteria, which means that a MPI staff member would not have to process the export declarations. Exporters with auto-approval rights would therefore not be subject to a fee to recover costs for MPI staff time to process export declarations. These exporters would still be subject to fees for maintaining MPI's E-cert system (as detailed above).

For those exporters that do not have 'auto approval rights' for export declarations, the MPI Dairy Certification Unit would likely have responsibility for assessing and approving export declaration forms. The costs of resourcing the assessment and approval of the forms would have to be recovered from users.

We have identified two potential cost recovery mechanisms:

- Option 1: formula-based fee for users per declaration (MPI's proposal); or
- Option 2: fixed fee for users per declaration.

Option 1: Formula-based fee for users

A formula would be inserted into the regulations, with the fee set each year by notice in accord with the formula in the regulations.

The formula in the first year would be:

$$\text{Fee per declaration} = \frac{\text{Estimated total approval costs}}{\text{Estimated total number of export declarations raised}}$$

The formula in subsequent years would be:

$$\text{Fee per declaration} = \frac{\text{Previous year's total approval costs}}{\text{Previous year's total number of export declarations raised}}$$

Where:

Approval costs are the costs of staff time processing and approving export declarations in a given year including overhead costs.

Total number of export declarations raised is the number of export declarations raised in E-cert by all infant formula exporters in a given year.

At the start of the first year, the estimated values for *approval costs* and *total number of export declarations raised* would be fixed by Notice made under s117(4A) and 167(1)(ma) of the Animal Products Act. In subsequent years, the previous year's values for *approval costs* and *total number of export declarations raised* would be fixed at the start of the year by the same type of Notice.

The charge would be invoiced monthly, to align with invoicing for the use of E-cert.

Setting the notice(s)

The process for issuing the notices to set the relevant fees under the regulation would need to comply with the requirements in the following sections of the Animal Products Act:

- Section 113 requires consultation and consideration of cost recovery principles.
- Section 115 requires the notices to be set prior to the financial year unless industry substantially agrees to values set.
- Sections 117, 167 (1) (ma) and 167 (3) – enable issuing of notices.
- Sections 163 and 164 provide for consultation.

Option 2: Fixed fee for users

Option 2 is to introduce a new fee in the regulations for an export declaration that takes a similar approach to the fee for an official assurance in the Animal Products (Dairy Industry Fees and Charges) Regulations 2007. Like the current official assurances fee, the export declaration fee would include a component to cover MPI staff cost and overhead costs. The fixed fee component for an export declaration is estimated at around \$16 to \$26 per export declaration form submitted, in contrast to the current fixed fee for official assurance of \$36.

There are a number of reasons why the cost would be less than for an official assurance:

- MPI staff would not need to check compliance with overseas market access requirements, so the time spent on each export declaration would be substantially less than for an official assurance.
- The export declaration may not need to be printed, because it may be accessible to verifiers online.
- Even if it did need to be printed, it would not require secure paper.

The fixed fee would be invoiced monthly to align with invoicing for the use of E-cert.

Analysis of options

MPI considers that Option 1 is more efficient and transparent than Option 2. The formula would allow MPI to adjust charges to reflect current costs and so ensure costs are allocated as closely as practicable to service provision for the recovery period in which the service is

provided. Option 2 would be more consistent with the charging mechanism for official assurances.

6.32.5 Questions for consideration

Question 6.32

- 1) Do you support the proposed method of calculating charges for uses of MPI's Dairy E-cert system?
- 2) If not, what is your preferred option for cost recovery of export declarations, and what are the reasons for this preference?

6.33 APA#27 – ESTABLISH AN IDENTICAL VERIFICATION SERVICES CHARGING REGIME FOR DAIRY VERIFICATION INSPECTION AND AUDIT

6.33.1 Background

Part 1 of the Schedule in the Animal Products (Dairy Industry Fees and Charges) Regulations 2007 provides for MPI to charge an hourly rate for dairy verification inspection and audit. Verification Services provides verification for dairy cold stores and some highly technical processing plants. The current hourly charging approach is considered adequate for these services.

The Report on New Zealand's Dairy Food Safety Regulatory System found that there is unanimous support for continued contestable verification by third parties, not by the regulator.

Verification for dairy is contestable, with the majority of service being provided by Assure Quality, a state-owned enterprise. While MPI has no intention of expanding the scope of its activities in the dairy sector at present, an increased Verification Services presence in this market cannot be discounted.

6.33.2 Problem definition

The current regulations would not support MPI Verification Services to recover costs effectively if it expanded its operations in the dairy sector

Verification Services is already providing verification to the dairy sector, acting as verifier of last resort, and it is necessary that there is alignment with circuit business cost recovery. The current single hourly rate charge for verification in Part 1 of the Schedule in the Animal Products (Dairy Industry Fees and Charges) Regulations is relatively simple compared with the charging regimes for circuit and establishment cost recovery in Part 7, Schedule 1 of the Animal Products (Fees, Charges, and Levies) Regulations 2007.

In the future, should a decision be made to expand the scope of Verification Service's activities in the dairy verification market, the current cost recovery approach would need to be adjusted to encourage efficient use of MPI's resources and ensure equity and consistency between New Zealand's primary sectors.

While no policy or business decision has been made to expand the scope of Verification Services' activities into the dairy sector, it would be prudent to provide for such a move in the event that it is required in the future.

6.33.3 Proposed charges for dairy verification and audit

MPI intends to replicate the proposed Verification Services cost recovery regime in Part 7, Schedule 1 of the Animal Products (Fees, Charges, and Levies) Regulations 2007. The regime would be replicated in the Animal Products (Dairy Industry Fees and Charges) Regulations 2007. This would enable MPI to recover costs equitably and efficiently if a policy and

business decision was made for Verification Services to expand the scope of its activity in the dairy verification market.

6.33.4 Questions for consideration

Question 6.33

- 1) Do you agree with the proposal to replicate the non-dairy cost recovery provisions in the dairy cost recovery provisions?
- 2) If not, how would you approach cost recovery for this service?

6.34 APA#28 – CHARGE FOR MINOR AMENDMENTS TO A RISK MANAGEMENT PROGRAMME (DAIRY)

6.34.1 Background

MPI processes applications for, evaluation of, and approval or variation of risk management programmes and quota compliance programmes.

The Animal Products (Dairy Industry Fees and Charges) Regulations 2007 prescribe cost recovery for this service using a fixed fee (based on one hour) and an hourly rate assessment charge (in 15-minute intervals) for any time spent over the first hour.

6.34.2 Problem definition

MPI's view is that charging a full hour for a minor amendment to a risk management programme under the Animal Products Act 1999 over-recovers the costs incurred, and is therefore inequitable, does not support efficiency, and is not justifiable.

The options to manage this issue are:

- Maintain the status quo.
- Establish a separate cost recovery item for minor amendments to risk management programmes.

6.34.3 Proposed charge for minor amendments to a risk management programme

MPI proposes to implement a fixed fee of \$77.50, based on one half-hour of time, plus hourly rate charges at \$155 per hour, charged in 15-minute increments, after the first half hour for minor amendments to risk management programmes.

This proposal will support equity, efficiency and justifiability.

6.34.4 Questions for consideration

Question 6.34

- 1) Do you agree with the proposed method of cost recovery for minor amendments to risk management programmes?
- 2) If not, what is your preferred option for cost recovery of export declarations, and what are the reasons for this preference?

6.35 APA#29 – CHARGE FOR ADDITIONAL TIME SPENT PROCESSING OFFICIAL ASSURANCES (DAIRY)

6.35.1 Background

The wording of this proposal replicates section 6.16 (APA#10). The inclusion of this proposal here is to give notice that MPI proposes to apply the same approach to the processing of official assurances for the dairy sector.

6.35.2 Problem definition

Refer to section 6.16.

6.35.3 Options

Refer to section 6.16.

6.35.4 Analysis of options

Refer to section 6.16.

6.35.5 Proposed fee for official assurances – Option 2

As detailed in section 6.16, MPI proposes to:

- 1) Introduce a fixed fee (\$32) and hourly rate charging (after the initial 15 minutes, in 15-minute intervals thereafter) for issue of official assurances, with hourly rates charged at:
 - a. the rate specified in Part 2 of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$155); or
 - b. for live animal and germplasm exports, Hourly rate 1, Part 8, Schedule 1 of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$186.30).
- 2) Maintain the current fixed fee and hourly rate charging approach for re-issue of official assurances, with hourly rates charged at:
 - a. the rate specified in Part 2 of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$155); or
 - b. for live animal and germplasm exports, hourly rate 1, Part 8, Schedule 1 of the Animal Products (Fees, Charges and Levies) Regulations 2007 (proposed to increase to \$186.30).
- 3) Charge disbursements at actual and reasonable costs.

6.35.6 Questions for consideration

Question 6.35

- 1) What is your preferred method of cost recovery for the issue of official assurances for dairy products?
- 2) What is your preferred method of cost recovery for the reissue of official assurance documents for dairy products?

6.36 APA#30 – ADD WAIVER PROVISIONS TO DAIRY INDUSTRY FEES AND CHARGES REGULATIONS

6.36.1 Background

The Animal Products (Dairy Industry Fees and Charges) Regulations do not currently contain any provision for the Director-General to waive fees and charges. Other regulatory frameworks in the food, animal welfare and biosecurity sectors include waiver provisions on a case-by-case basis.

6.36.2 Problem definition

The absence of waiver provisions from the Animal Products (Dairy Industry Fees and Charges) Regulations restricts the ability of the Ministry to take a more flexible approach to cost recovery where it is administratively uneconomical or impractical to charge users for services provided.

6.36.3 Proposed waiver provisions

The Ministry has not identified any legal impediment to the inclusion of a waiver provision for dairy industry fees and charges.

The Ministry therefore proposes to replicate the current waiver provisions in the Animal Products (Fees, Charges and Levies) Regulations 2007 in the updated Animal Products (Dairy Industry Fees and Charges) Regulations. The wording of the provisions would therefore be the same as or similar to:

Director-General may grant exemption or waiver

The Director-General may grant an exemption from, or waive or refund, any fee, charge, or levy specified in these regulations, in whole or in part, in any appropriate case or class of cases.

6.36.4 Questions for consideration

Question 6.36

Do you support the inclusion of waiver provisions in the Animal Products (Dairy Industry Fees and Charges) Regulations?

6.37 APPENDIX 1 – MPI ACTIVITIES UNDER THE ANIMAL PRODUCTS ACT

6.37.1 New Zealand standards, specifications and guidance

MPI activities in the area of setting standards include:

- setting New Zealand safety and suitability standards for food, pet food and other animal products for animal consumption;
- setting maximum residue limits;
- developing and implementing operational standards and guidance for industry;
- clarifying and interpreting standards or specifications;
- setting evaluation and verification requirements (and providing training and updates to recognised persons);
- contributing to the development of international standards;
- establishing import requirements;
- reviewing the effectiveness of standards.

6.37.2 Export standards and market access

MPI activities in facilitating exports include:

- provision of technical policy advice to government policy makers;
- contributing to the development of international standards;
- negotiating technical market access conditions and specifications;
- providing certification and other assurance activities to meet international authority requirements;
- setting evaluation and verification requirements;
- provision of verification services (where these must be performed by government employees);
- administering the export eligibility system (E-Cert);
- overall review of industry export programmes.

6.37.3 Approvals and registrations

MPI services in this area include:

- providing the services to regulated parties under the Act:
 - registration of risk management programmes (production systems and processes);
 - approval and recognition of agencies and persons, including third party verifiers (such as warrants for MPI, VA, and PHU staff);
 - registration of exporters.
- providing the administrative systems and processes for approvals, including evaluation and review;
- maintenance of associated public registers;
- suspension and removal of approvals and registrations.

6.37.4 Monitoring and audit

MPI monitoring and audit work in this area includes:

- regularly collection and assessment of information to check compliance with regulatory requirements;
- general (national) monitoring programmes such as monitoring of the shellfish commercial harvest;
- random sampling and testing of products across all sectors;
- imported food monitoring programme;

- industry level monitoring programmes such as the National Chemical Contaminants Programme (dairy), and poultry residue monitoring;
- monitoring and assessing recognised agencies and persons;
- scheduled auditing of industry or business systems and processes;
- intervening when non-compliance is detected;
- dealing with inquiries and providing information to industry on compliance;
- trends analysis for compliance and non-compliance.

6.37.5 Operational response and investigations

Our work in this area includes:

- responding to and investigating consumer complaints and reports of non-compliance;
- investigation of signals and information that indicate potential problems.

6.37.6 Enforcement

MPI's main activities in the area of enforcement include:

- applying corrective actions in cases of non-compliance by containment or prevention of recurrence;
- imposing regulatory sanctions;
- initiating and/or managing product recalls and emergency responses;
- implementing standards relating to responses for the range of events that arise;
- providing systems and processes for emergency response;
- co-ordinating recalls of food (domestic and international) and other relevant products from the New Zealand market;
- preparing and taking prosecutions;
- ensuring a nationally consistent response.

6.37.7 Policy advice (including technical input)

Our policy advice work includes:

- provision of technical policy advice to government policy makers;
- engagement, on behalf of New Zealand, with the Codex Alimentarius Commission and other multi-lateral forums.

6.38 APPENDIX 2 – MPI VERIFICATION SERVICES STRUCTURE

MPI Verification Services plays a key role in the meat industry owing to the requirement by the EU and China for full-time veterinary supervision. Other markets like the United States also have requirements for government veterinarian presence with varying frequencies.

The MPI Verification Services directorate is led by a Director, supported by:

- an Operational Specialist Coordinator who provides coordination of MPIVS operational matters;
- an Agency Technical Manager who provides the overall leadership and direction in technical matters;
- six regional technical managers, each of whom is supported by a regional business coordinator and a regional technical specialist.

Teams operate in the following geographical areas (supported by the Wellington Head Office-based technical team):

- Upper North Island;
- Waikato and the Bay of Plenty;
- Manawatu, Taranaki and Wanganui;
- Hawkes Bay/Wellington;
- Canterbury and the West Coast; and
- Southland and Otago.

6.39 APPENDIX 3 – SERVICES TO THE DAIRY INDUSTRY

6.39.1 The development and maintenance of New Zealand standards

MPI develops and maintains New Zealand standards by:

- setting New Zealand safety and suitability standards;
- developing and implementing operational standards and guidance for industry;
- clarifying and interpreting standards and specifications;
- setting verification requirements;
- reviewing the effectiveness of standards.

6.39.2 Performance Monitoring

Monitoring for dairy industry performance encompasses:

- undertaking system performance audits to ensure the regulatory model is working as intended;
- monitoring and assessing recognised agencies' and accredited persons' performance (in conjunction with the accreditation body) by assessing a percentage of performance-based verification reports;
- providing technical clarification, technical assessments and regulatory compliance dispute resolution, and managing critical non-compliance;
- monitoring, reporting on and managing routine procedural failures in dairy processing premises and export non-conformances;
- contributing to industry forums and working groups such as the Dairy Product Safety Advisory Council, and liaising with overseas regulators on systems performance.

MPI will investigate cost recovery for responses and incidents that fall outside the scope of current cost recovery provisions as part of its overarching review of cost recovery.

6.39.3 The development and maintenance of market access and export standards

MPI develops and maintains market access and export standards by:

- negotiating technical market access and specifications for existing markets;
- developing, maintaining and evaluating export food standards and systems;
- reviewing industry export programmes;
- setting verification requirements for industry.

6.39.4 The dairy residue monitoring programme (National Chemical Contaminants Programme)

Independent service providers sample raw milk, colostrum and dairy products to confirm that residue or contaminant levels do not exceed acceptable limits for New Zealand or for export markets and report the results to MPI. The monitoring includes random monitoring and targeted surveillance of raw milk, dairy material and dairy products on farm, in bulk milk tanks, in milk tankers and at dairy premises as well as surveys (when there is little or no historical data).

The key outputs of this service are:

- an assurance that not less than 99 percent of raw milk conforms to New Zealand and international standards at the farm gate;
- confirmation that the regulatory framework delivers dairy products that are safe and accurately represented;
- confirmation of the accuracy of attestations provided to other competent authorities;
- confirmation that Registered Manufacturing Programme sampling and testing plans and procedures are appropriate, reliable and capable of identifying non-conformances;
- investigation of unfavourable findings to ensure that controls remain effective and that emerging hazards are identified and appropriate regulatory measures are applied.

The National Chemical Contaminants Programme includes the independent verification programme, which verifies the accuracy of commercial testing of exported products for food safety, wholesomeness and standards of identity.

6.40 APPENDIX 4 – EXISTING AND PROPOSED DAIRY FEES UNDER ANIMAL PRODUCTS ACT 1999

Fees are shown as GST exclusive.

Shaded columns and headers are for referencing and commentary purposes. Light grey shaded content is for new proposals. Additional line spacing and column/row lines have been added for readability.

Animal Products (Dairy Industry Fees and Charges) Regulations 2007

Part 1 – Fixed fees

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
	<i>Standards setting</i>					
1	Development and maintenance of standards	Quarterly fee	\$351,447	Payable by Fonterra Co-operative Group Limited on 1 July, 1 October, 1 January and 1 April		APA#25 Proposed new methodology – see below.
2		Quarterly fee	\$3,814	Payable by Westland Co-operative Dairy Company Limited on 1 July, 1 October, 1 January and 1 April		
3		Quarterly fee	\$1,223	Payable by Tatua Co-operative Dairy Company Limited on 1 July, 1 October, 1 January and 1 April		
4		Quarterly fee	\$215.11	Payable by Dairy Goat Co-operative (N.Z.) Limited on 1 July, 1 October, 1 January and 1 April		
5		Quarterly fee	\$1,511	Payable by Open Country Cheese Limited on 1 July, 1 October, 1 January and 1 April		
6		Annual fee	\$382.22 for each registered manufacturing premises receiving less than 316 000 kg of raw milk solids	Payable by the registrant on 1 July each year		

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
7	Development and maintenance of market access standards and programme	Quarterly fee	115,378	Payable by Fonterra Co-operative Group Limited on 1 July, 1 October, 1 January and 1 April		APA#25 Proposed new methodology – see below.
8		Annual fee when first registered	\$306.67 for each exporter first registered in July, August or September	Payable by the applicant on application for registration in the year commencing 1 July in the year of registration and ending on 30 June the following year		
9			\$230.22 for each exporter first registered in October, November or December	Payable by the applicant on application for registration in the year commencing 1 July in the year of registration and ending on 30 June the following year		
10			\$153.78 for each exporter first registered in January, February or March	Payable by the applicant on application for registration in the year commencing 1 July in the year of registration and ending on 30 June the following year		
11			\$76.44 for each exporter first registered in April, May or June	Payable by the applicant on application for registration in the year commencing 1 July in the year of registration and ending on 30 June the following year		
12		Annual fee	\$306.67 for each exporter	Payable by the registrant on 1 July each year		
	Approvals					
13	Application for, evaluation of, and approval or variation of risk management programmes and quota compliance programmes	Application for approval fee	\$122.00 per application; plus \$122.00 per hour in excess of 1 hour processing application	\$122.00 payable by the applicant on application for approval and any remainder payable within 1 month of the granting or refusal to grant approval	- \$155.00, plus	Updated rates
14					- \$155 per hour after the first hour, in 15-minute increments, plus	
15					- actual and reasonable costs	Common#4

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
16 17 18	Application for, evaluation of, and approval or variation of laboratories	Application for approval fee	\$122.00 per application plus \$122.00 per hour in excess of 1 hour processing application	\$122.00 payable by the applicant on application for approval and any remainder payable within 1 month of the granting or refusal to grant approval	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs	Updated rates Common#4
19 20 21	Evaluation of, and approval or variation of codes of practice	Application for approval fee	\$119.11 per application plus \$119.11 per hour in excess of 1 hour processing application	\$119.11 payable by the applicant on application for approval and any remainder payable within 1 month of the granting or refusal to grant approval	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs	Updated rates Common#4
22 23 24	Application for, evaluation of, and recognition, variation, or renewal of agency or person as recognised agency or recognised person under Part 8 of the Animal Products Act 1999	Application for approval fee	\$122.00 per application plus \$122.00 per hour in excess of 1 hour processing application	\$122.00 payable by the applicant on application for approval and any remainder payable within 1 month of the granting or refusal to grant approval	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs	Updated rates Common#4
25 26 27	Application for approval of a maintenance compound(s)	Application for approval fee		Payable by the applicant on application for approval	- \$77.50, plus - \$155 per hour after the first half hour, in 15-minute increments, plus - actual and reasonable costs	APA#13 Common#4
	<i>Market access functions</i>					
28 29 30	Application for market access functions	Application fee	\$164.00 per application plus \$164.00 per hour in excess of 1 hour considering application	\$164.00 payable by the applicant on application and any remainder payable within 1 month of provision of notice	- \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs	Updated rate Common#4

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
	<i>Compliance and monitoring</i>					
31	Dairy residue monitoring programme	Quarterly fee	\$287,249	Payable by Fonterra Co-operative Group Limited on 1 July, 1 October, 1 January and 1 April		APA#25 Proposed new methodology – see below.
32		Annual fee when first registered	\$361.78 for each exporter first registered in July, August, or September	Payable by the applicant on application for registration for the year commencing 1 July in the year of registration and ending on 30 June the following year		
33			\$271.11 for each exporter first registered in October, November, or December	Payable by the applicant on application for registration for the year commencing 1 July in the year of registration and ending on 30 June the following year		
34			\$181.33 for each exporter first registered in January, February, or March	Payable by the applicant on application for registration for the year commencing 1 July in the year of registration and ending on 30 June the following year		
35			\$90.67 for each exporter first registered in April, May or June	Payable by the applicant on application for registration for the year commencing 1 July in the year of registration and ending on 30 June the following year		
36		Annual fee	\$361.78 for each exporter	Payable by the registrant on 1 July		
37	Performance monitoring	Quarterly fee	\$90,036	Payable by Fonterra Co-operative Group Limited on 1 July, 1 October, 1 January and 1 April		APA#25 Proposed new methodology – see below.
38		Quarterly fee	\$2,687	Payable by Westland Co-operative Dairy Company Limited on 1 July, 1 October, 1 January and 1 April		
39		Quarterly fee	\$826.67	Payable by Tatua Co-operative Dairy Company Limited on 1 July, 1 October, 1 January and 1 April		

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
40		Quarterly fee	\$103.11	Payable by Dairy Goat Co-operative (N.Z.) Limited on 1 July, 1 October, 1 January and 1 April		
41		Quarterly fee	\$1,034	Payable by Open Country Cheese Limited on 1 July, 1 October, 1 January and 1 April		
42		Annual fee	\$105.78 for each registered manufacturing premises receiving less than 316 000 kg of raw milk solids	Payable by the applicant on 1 July each year		
43	Development and maintenance of New Zealand standards, dairy residue monitoring and performance monitoring	Annual levy			<p>\$930 per year to be paid by small processors on 1 July each year.</p> <p>Small processors are persons with a farm dairy risk management programme that are not collection agents or are collection agents that collected less than or equal to 491,000 kg of raw milk solids directly (not through a collection agent) in the previous financial year.</p> <p>A collection agent is:</p> <ul style="list-style-type: none"> - a dairy processor whose business includes buying milk solids from a dairy farmer; or - a person whose business includes buying milk solids from a dairy farmer for supply directly or indirectly to a dairy processor. 	APA#25 Proposed new approach for small processors (< 491,000 kg raw milk solids per annum)
44	Development and maintenance of New Zealand standards, dairy residue monitoring and performance monitoring	Annual levy			<p>Combined levy for large processor:</p> $L_{\text{processor}} = \frac{[(TC_{\text{MPI Annual}} \times MS_{\text{processor last}})]}{MS_{\text{total last}}}$ <p>Where:</p> <p>$L_{\text{processor}}$ = levy payable by processor X:</p> <p>$TC_{\text{MPI, Annual}}$ = \$3,420,089;</p> <p>$MS_{\text{processor last}}$ = each large processor's milk solids collection for the previous year; and</p> <p>$MS_{\text{total last}}$ = total milk solids collected for the previous year from all large processors.</p>	APA#25

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
					<p>To be paid by large processors in quarterly instalments on 30 September, 31 December, 31 March and 30 June.</p> <p>Large processors are defined as persons that have a farm dairy risk management programme and are collection agents who collected more than 491,000 kilograms of milk solids from dairy farmers directly (<i>not</i> through another collection agent) in the previous financial year.</p> <p>A collection agent is:</p> <ul style="list-style-type: none"> - a dairy processor whose business includes buying milk solids from a dairy farmer; or - a person whose business includes buying milk solids from a dairy farmer for supply directly or indirectly to a dairy processor. 	
45	Development and maintenance of export and market access standards and programme	Annual levy			<p>\$310 per year, to be paid by small exporters on 1 July each year.</p> <p>Small exporters are defined as registered exporters that exported less than or equal to 636,000 kg of dairy products in the previous financial year.</p>	APA#25 Proposed new approach for small exporters (< 636 000 kg export mass per annum)
46	Development and maintenance of market access standards and programme	Annual levy			<p>Combined levy for large exporter:</p> $LY_{\text{exporter}} = [(ETC_{\text{MPI Annual}} \times EM_{Y \text{ last}}) / EM_{\text{Total last}}]$ <p>Where:</p> <p>LY_{exporter} = levy payable by exporter Y; $ETC_{\text{MPI Annual}} = \\$1,258,824$ $EM_{Y \text{ last}}$ = exporter's dairy export mass for the previous year $EM_{\text{Total last}}$ = total dairy export mass for the previous year from all large exporters (from New Zealand Customs Service data).</p> <p>To be paid by large exporters in quarterly instalments on 30 September, 31 December, 31 March and 30 June.</p> <p>Large exporters are defined as registered</p>	APA#25 Proposed new approach for large exporters (> 636 000 kg export mass per annum)

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
					exporters or other businesses that exported more than 636,000 kg of dairy products in the previous financial year.	
47 48 49	Verification inspection and audits	Inspection and audit fee	\$164.00 per hour	Payable by occupier of the premises subject to verification inspection and audits	<ul style="list-style-type: none"> - \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by occupier of the premises subject to verification inspection and audits	Common#4
50 51 52	Application for product disposition	Application fee	\$164.00 per application, plus \$164.00 per hour in excess of 1 hour considering application	\$164.00 payable by the applicant on application and any remainder payable within 1 month of granting or refusal to grant approval	<ul style="list-style-type: none"> - \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month of granting or refusal to grant approval.	Common#4
	<i>Official assurances</i>					
53 54 55	Issue of official assurance under section 61	Issue fee	\$122 per hour or part hour	Applicant	<ul style="list-style-type: none"> - \$32.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month of granting or refusal to grant approval.	APA#29 Common#4
56 57 58	Reissue of official assurance under section 64(2) if replacement assurance demanded by importing country	Issue fee	\$366 per replacement certificate, plus assessment charge on hourly basis specified in Part 2 for any hours exceeding 3 hours to a maximum of \$889	Applicant	<ul style="list-style-type: none"> - \$465.00 per replacement certificate, plus - \$155 per hour after the first three hours, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month.	APA#29 Common#4

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
	<i>Exporter registration</i>					
59 60 61	Application for registration or renewal of registration	Application fee	\$122.00 per application, plus \$122.00 per hour in excess of 1 hour processing application	\$122.00 payable by the applicant and any remainder payable within 1 month of granting or refusal to grant approval	<ul style="list-style-type: none"> - \$155.00, plus - \$155 per hour after the first hour, in 15-minute increments, plus - actual and reasonable costs Payable by the applicant on application and any remainder payable within 1 month of granting or refusal to grant approval.	Common#4
	<i>Exporter declaration</i>					
62 63	Issue of Exporter Declaration for infant formula export	Issue fee		Applicant.	<p>The formula in the first year would be: $Fee_1 = (TAC_1 / TED_1)$ Where: Fee_1 = Fee per declaration in first year; TAC_1 = Estimated total approval costs; and TED_1 = Estimated total number of export declarations</p> <p>The formula in subsequent years would be: $Fee_p = (TAC_p / TED_p)$ Where: Fee_p = Fee per declaration; TAC_p = Total approval costs for previous year; and TED_p = Total number of export declarations for previous year.</p> <p>and:</p> <ul style="list-style-type: none"> - approval costs are the costs of staff time processing and approving export declarations in a given year including overhead costs. - total number of export declarations raised is the number of export declarations raised in E-cert by all infant formula exporters in a given year. 	APA#26 The charge would be invoiced monthly, to align with invoicing for the use of E-cert.

	Service area	Type of fee	Fee	When fee payable and by whom	Proposed Fee, charge or levy	Comment
64	Waiver provision	Annual levy			Director-General may grant exemption or waiver <i>The Director-General may grant an exemption from, or waive or refund, any fee, charge, or levy specified in these regulations, in whole or in part, in any appropriate case or class of cases.</i>	APA#30

Part 1A – Charges for use of electronic certification system

Part 11 – Charges for use of electronic certification system						
	Current basis			Proposed basis	Comment	
65	1	For industry users that access the Ministry’s electronic certification system, charges based on the following formula are payable in respect of each database request and each second of time spent on the server: (cost per request + cost per second) x appropriate percentage where – cost per request is the amount fixed from time to time by the Director-General by notice under section 167(1)(ma) of the Animal Products Act 1999 for each database request, having regard to clause 2 cost per second is the amount fixed from time to time by the Director-General by notice under section 167(1)(ma) of the Animal Products Act 1999 for each second of time on the server, having regard to clause 2 appropriate percentage is – (a) for industry users of a class for which recognised agency use of the electronic certification system is not required, 55%: (b) for all other industry users, 100%.				No changes to methodology proposed.
	2	In setting any cost per request or cost per second, the aim is for these costs to reflect usage of the electronic certification system for the relevant year or other period, with regular updating if appropriate.				
	3	This Part applies to all users of the electronic certification system.				

Part 2 – Fee for services of certification and reconciliation

		Proposed basis	Comment						
	Quarterly fee payable by holder of export licence								
66	<p>A fee is payable for services of certification and reconciliation provided by the New Zealand Food Safety Authority in relation to the regulated control scheme described in regulation 3 of the Animal Products (Regulated Control Scheme – Dairy Export Quota Products) Regulations 2008 (services).</p> <p>The holder of an export licence on 1 July, 1 October, 1 January, or 1 April must pay the fee on that date (payment date).</p> <p>The fee is calculated as follows:</p> <p>Fee = $\frac{\text{amount to recover for year}}{4} \times \frac{\text{holder's allocated quantity}}{\text{total allocated quantity}}$</p> <p>where –</p> <table><tr><td>Amount to recover for year</td><td>Is the amount, as determined by the New Zealand Food Safety Authority, that needs to be recovered to fund the services in relation to all holders of export licences for the financial year in which the payment date falls (inclusive of goods and services tax)</td></tr><tr><td>Holder's allocated quantity</td><td>Is the total quantity (in tonnes) of all products in all designated markets for which the holder holds an export licence on the payment date</td></tr><tr><td>Total allocated quantity</td><td>Is the total quantity (in tonnes) of all products in all designated markets for which all holders hold export licences on the payment date</td></tr></table>	Amount to recover for year	Is the amount, as determined by the New Zealand Food Safety Authority, that needs to be recovered to fund the services in relation to all holders of export licences for the financial year in which the payment date falls (inclusive of goods and services tax)	Holder's allocated quantity	Is the total quantity (in tonnes) of all products in all designated markets for which the holder holds an export licence on the payment date	Total allocated quantity	Is the total quantity (in tonnes) of all products in all designated markets for which all holders hold export licences on the payment date		No changes to methodology proposed.
Amount to recover for year	Is the amount, as determined by the New Zealand Food Safety Authority, that needs to be recovered to fund the services in relation to all holders of export licences for the financial year in which the payment date falls (inclusive of goods and services tax)								
Holder's allocated quantity	Is the total quantity (in tonnes) of all products in all designated markets for which the holder holds an export licence on the payment date								
Total allocated quantity	Is the total quantity (in tonnes) of all products in all designated markets for which all holders hold export licences on the payment date								

9 Proposals that impact across multiple cost recovery regimes

9.1 BACKGROUND

The current structure of the Ministry is a result of the merger of different agencies that administered a range of Acts that provide for cost recovery. Because of this there are differences in the approach to cost recovery between sectors.

Some cost recovery issues, or features of them, are common across the different cost recovery regimes. The Ministry is therefore proposing to amend multiple sets of regulations at the same time to standardise some approaches to cost recovery, and the language used to describe them.

As a means of seeking feedback from all affected sectors, these multi-regime issues have been grouped for consultation purposes. Implementation for individual cost recovery regimes will be through the Regulations made under the authority of individual Acts.

9.2 POLICY PROPOSALS

Common#1 – Align hourly rate charges
Common#2 – Use Inland Revenue Department vehicle mileage rates

Common#3 – Recover costs for support staff involved in specialist services

Common#4 – Recover other costs incurred by MPI

Common#5 – Charge for performance of function, power or duty under the Act, Regulations and Notices not prescribed elsewhere

Common#6 – Correct use of the term ‘levy’

Common#7 – Update references to recognised persons and agencies

Common#8 – Align veterinary professional rates across biosecurity and food regulations

9.3 COMMON#1 – ALIGN HOURLY RATE CHARGES

9.3.1 Background

The food safety cost recovery regulations prescribe hourly rate charges using a number of different approaches, for example:

- Animal Products (Fees, Charges, and Levies) Regulations – one hour of time, with time thereafter charged on the basis of an assessment charge at hourly increments until the last half hour, which is done in 15 minute increments;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007 – similar approach, but prescribed in a different manner;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002 – different approach;
- Animal Welfare Export Certificate Regulations 1999 – different approach.

9.3.2 Regimes affected by this proposal

This change would apply to the following regulations:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.3.3 Problem definition

The different hourly rate charging approaches under each set of regulations adds complexity for staff performing similar functions under the different Acts as they may be required to follow different administrative processes for charging for services under each Act.

Options considered

The Ministry considered two options:

- Option 1 — maintain the status quo (inconsistent wording across multiple regulations).
- Option 2 — adopt a common approach across regulations, to the extent possible.

MPI's preferred approach is to establish a common approach across regulations. This will help to ensure consistency (and thereby promote efficiency) for staff performing similar functions under the different Acts.

The majority of cost-recoverable activity falls under the Animal Products Act 1999. Extending the approach prescribed in Part 1 and Part 2 of Schedule 1, of the Animal Products (Fees, Charges, and Levies) Regulations 2007 to regulations under other Acts is considered the most appropriate approach to take. A minimum charge of one hour also allows for the administrative costs associated with invoicing and collection.

9.3.4 Proposed alignment of hourly rate charging approach in keeping with the animal products fees

All time spent by an officer or employee of the Ministry would be chargeable at:

- a minimum charge of one hour, at the appropriate rate for the activity;
- an hourly rate, charged in 15-minute increments, for any time in excess of the first hour.

The Ministry proposes to apply this approach to the following regulations, with any necessary modifications:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.3.5 Questions for consideration

Question 9.3

- 1) Do you support the adoption of a common approach for hourly rate charging under the various food sector cost recovery regimes?
- 2) If not, what is your preferred approach for each of the food sector cost recovery regimes, and what are your reasons for this preference?

9.4 COMMON#2 – USE INLAND REVENUE DEPARTMENT VEHICLE MILEAGE RATES

9.4.1 Background

The Ministry recovers vehicle costs using mileage rates prescribed in the regulations for each regime. A number of different rates are currently in force, and these rates can quickly become out of date.

Similarly, the various regulations prescribe the bases for recovery of other costs incurred by the Ministry when delivering services to users.

The Inland Revenue Department (IRD) collects data on the costs of operating a motor vehicle, and the Commissioner promulgates a standard vehicle mileage rate under section DE12(3) of the Income Tax Act 2007.

The Ministry proposes to remove ‘static’ references in the current regulations and adopt the periodic rate promulgated by the Commissioner of Inland Revenue.

9.4.2 Regimes affected by this proposal

This change would apply to the all cost recovery regulations:

- Biosecurity (Costs) Regulations 2010 — veterinary inspectors only;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.4.3 Problem definition

The vehicle mileage rates are prescribed in various regulations and quickly become out of date. MPI’s collective employment agreement with its verifiers and some other staff provides for charging at the rate published by the Commissioner of Inland Revenue under section DE 12 (3) of the Income Tax Act 2007. The current rate³³ is \$0.77 cents per kilometre.

The difference in employment agreement rates and the regulated rates for mileage and other costs can also lead to a discrepancy in the costs the Ministry recovers from service users and the reimbursements made to Ministry staff for some activities.

9.4.4 Proposed change to a common approach for mileage rates and the recovery of any other travel costs

MPI proposes to amend various regulations to provide for cost recovery of motor vehicle costs at the rate promulgated from time to time by the Commissioner of Inland Revenue under section DE 12 (3) of the Income Tax Act 2007.

This proposal would apply to the travel costs for veterinary inspectors only in the Biosecurity (Costs) Regulations 2010.

This proposal will support efficiency and equity.

³³ <http://www.ird.govt.nz/technical-tax/op-statements/os-review-mileage-rate-2014.html>

9.4.5 Questions for consideration

Question 9.4

- 1) Do you agree with the proposal to harmonise vehicle mileage rates and other travel costs across the various cost recovery regimes?
- 2) Do you agree with the use of the mileage rate promulgated from time to time by the Commissioner of Inland Revenue under section DE12(3) of the Income Tax Act 2007?
- 3) If not, what is your preferred approach to mileage rates for each cost recovery regime, and what are your reasons for these preferences?

9.5 COMMON#3 – RECOVER COSTS FOR SUPPORT STAFF INVOLVED IN SPECIALIST SERVICES

9.5.1 Background

Support staff members within the Ministry perform essential but non-specialist services that support the delivery of specialist certification. This includes the maintenance and administration of registers and the preparation and filing of documents.

MPI is able to recover costs for these services, but no mechanism currently exists in the various regulations to do this.

9.5.2 Regimes affected by this proposal

This change would apply to the following regulations:

- Biosecurity (Costs) Regulations 2010;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.5.3 Problem definition

By way of example, as part of the process for issuing live animal and germplasm export certificates, MPI support staff prepare paper export certificates that are issued by recognised persons. This practice is more cost-effective than using specialist recognised persons, and allows recognised persons to focus on technical matters instead of administration.

Part 8 of the Animal Product (Fees, Charges, and Levies) Regulations 2007 does not include a provision for MPI to recover the costs of non-recognised persons involved in specialist functions and activities necessary for the export of live animals or germplasm. Consequently, MPI cannot fully recover the cost of these services.

This problem could be resolved by only using expert staff whose time can be cost-recovered for undertaking this work, but this is a very inefficient use of their time. Another option would be to build administration time into levies, but this does not apportion the costs as directly as a fee to that person or group who caused the costs to be incurred.

A similar problem exists for other cost recovery regimes.

9.5.4 Proposed charges for support staff involved in export certification

MPI proposes to create a new cost recovery item in each of the relevant regulations to allow MPI to recover for time spent by other employees undertaking functions and activities necessary for the production of certificates or provision of expert services.

9.5.5 Questions for consideration

Question 9.5

- 1) What is your preferred method for cost recovery of support staff time across the various cost recovery regimes?
- 2) If you prefer different methods for individual cost recovery regimes, what are these methods and what are your reasons for these preferences?

9.6 COMMON#4 – RECOVER OTHER COSTS INCURRED BY MPI

9.6.1 Background

Other costs include incidental and additional costs that the Ministry incurs during the delivery of services to users. These costs are often unpredictable and vary depending on the nature of the service provided.

These costs include categories such as external review, expert review, notification, product testing, travel and accommodation, as well as disbursements such as photocopying, printing and stationery, phone, fax, video conferencing, postage and courier charges.

9.6.2 Problem definition

Inconsistent regulatory approaches add administrative complexity, particularly for staff that work across multiple regimes.

9.6.3 Proposed charges for support staff involved in export certification

MPI proposes that actual and reasonable costs incurred by an officer or employee of the Ministry may be recovered when they arise from:

- a request by the operator of a risk management programme, or other processor;
- an act, or omission, of an operator or processor.

MPI proposes that recoverable costs include, but not be limited to, costs such as external review, expert review, notification, product testing, travel and accommodation, as well as disbursements such as photocopying, printing and stationery, phone, fax, video conferencing, postage and courier charges.

MPI proposes that a common approach for recovering other costs be applied to the following regulations, with any necessary modifications:

- Biosecurity (Costs) Regulations 2010;
- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.6.4 Questions for consideration

Question 9.6

What is your preferred approach for the recovery of incidental costs incurred by the Ministry for delivery of services to users for each cost recovery regime (or for all cost recovery regimes)?

9.7 COMMON#5 – CHARGE FOR PERFORMANCE OF FUNCTION, POWER OR DUTY UNDER THE ACT, REGULATIONS AND NOTICES NOT PRESCRIBED ELSEWHERE

9.7.1 Background

MPI provides a range of functions, powers and duties under various Acts, and subsidiary regulations and notices and standards. The various cost recovery regulations prescribe fees, charges and levies for specific functions, powers or duties under the relevant Act, regulations and notices.

Item 23 of the Schedule of the Biosecurity (Costs) Regulations 2010 enables MPI to recover the costs of performing a function, power, or duty—

- required to be undertaken under the Act or regulations made under the Act; and
- not prescribed elsewhere in the Schedule.

The item is payable as an hourly rate for each adviser involved and is payable by the person whose actions resulted in the specific function, power or duty being required.

The Ministry is proposing to adopt this approach for other cost recovery regimes.

9.7.2 Problem definition

The Ministry currently cannot charge for the exercise of functions, powers or duties under Acts, regulations and notices unless they are prescribed for that regime.

It is not practical or possible to specify all of MPI's functions, powers or duties under all Acts and subsidiary regulations and notices, or the associated fees or charges for them, in an exhaustive manner. There are two main reasons:

- The Ministry was not aware of the function, power or duty when the regulations were promulgated.
- The function, power or duty under the Acts, and subsidiary regulations and notices is new. For example, halal-related services were not included in the Animal Product (Fees, Charges, and Levies) Regulations 2007, and were subsequently added by the Animal Products (Overseas Market Access Requirements for Halal Assurances) Notice 2013.

MPI's inability to recover costs for the exercise of functions, powers or duties under the Acts and subsidiary regulations and notices is causing it to under-recover the cost of delivering these services.

9.7.3 Proposed fees for performance of function, power or duty under the Act, Regulations and Notices not prescribed elsewhere

The Ministry proposes to include cost recovery for performance of a function, power or duty that is:

- required to be undertaken under the relevant Act, including subsidiary regulations and notices;
- not prescribed elsewhere in the relevant cost recovery regulations.

The hourly rate would be the relevant rate for other services provided under the empowering Act. MPI proposes that this approach be applied to the following regulations, with any necessary modifications:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

The item would be payable by the person whose actions resulted in the specific function, power or duty being required.

This proposal would support equitable cost recovery and efficient service delivery.

9.7.4 Questions for consideration

Question 9.7

What is your preferred method of cost recovery for time spent performing functions, powers or duties not specified elsewhere for each cost recovery regime (or for all cost recovery regimes)?

9.8 COMMON#6 – CORRECT USE OF THE TERM ‘LEVY’

9.8.1 Background

MPI imposes levies on some products to fund industry good services. For historic reasons, when some cost recovery regulations were created, certain charges (industry goods) were described in regulations as ‘standard’ charges, when from a legal perspective these are actually levies.

9.8.2 Regimes affected by this proposal

This change would affect the:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Wine Regulations 2006.

9.8.3 Problem definition

The regulations inappropriately describe certain cost recovery items as ‘fees’ and ‘charges’ when, in law, they are ‘levies’.

The options are:

- Option 1: maintain the status quo;

- Option 2: update the descriptions.

The Ministry's preferred approach is to update the descriptions to remove ambiguity and clarify the application of the various types of charges.

9.8.4 Proposed re-categorisation of fixed fees as levies

MPI proposes to change the terminology used for items recovering industry good costs in the various regulations from 'fees' or 'charges' to the legally correct term 'levies'. This proposal involves no changes to fees.

9.8.5 Questions for consideration

Question 9.8

Do you have any concerns about the proposed clarification of use of the term 'levy'?

9.9 COMMON#7 – UPDATE REFERENCES TO RECOGNISED PERSONS AND AGENCIES

9.9.1 Background

The Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 have been amended since the relevant cost recovery regulations were last reviewed.

9.9.2 Regimes affected by this proposal

This change would affect the:

- Animal Products (Fees, Charges, and Levies) Regulations 2007;
- Animal Products (Dairy Industry Fees and Charges) Regulations 2007;
- Agricultural Compounds and Veterinary Medicines (Fees and Charges) Regulations 2002;
- Animal Welfare Export Certificate Regulations 1999;
- Biosecurity (Costs) Regulations 2010;
- Wine Regulations 2006.

9.9.3 Problem definition

The references in regulations to the relevant parts of the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 relating to recognised persons and agencies are out of date.

9.9.4 Proposed amendments

MPI proposes to amend the cost recovery regulations to update the references to the relevant parts of the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 relating to recognised persons and agencies.

This is a minor and technical adjustment to cost recovery regulations to make changes to update the regulations. It involves no changes to fees.

9.9.5 Questions for consideration

Question 9.9

Do you have any concerns about the proposed updates to references to the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003 in various regulations?

9.10 COMMON#8 – ALIGN VETERINARY PROFESSIONAL RATES ACROSS BIOSECURITY AND FOOD REGULATIONS

9.10.1 Background

MPI has a responsibility to service users to ensure that charges for similar activities and services across different regulations are consistent, and that the rationale for differential charging is clear.

9.10.2 Problem definition

Veterinary inspectors undertake a variety of activities and functions under biosecurity and food legislation.

Current hourly rates for veterinary inspector activities were set prior to the creation of MPI from its predecessor agencies. These predecessor agencies had different cost (including overhead) structures. As a result, veterinary inspectors undertaking similar work, but now with the same cost structure, are being recovered at different rates for activities undertaken under biosecurity and food legislation.

The options considered were:

- Option 1: maintain the status quo;
- Option 2: amend the veterinary inspector hourly rates in the Biosecurity (Costs) Regulations to align with that specified in the relevant food regulations (proposed rate of \$186.30 per hour).

9.10.3 Proposed charges

The proposal is to amend the veterinary inspector rate in the Biosecurity (Costs) Regulations to \$186.30 per hour to align with the rate proposed in the relevant food sector regulations.

9.10.4 Questions for consideration

Question 9.10

Do you have any concerns about the proposed alignment of charging rates for veterinarians under the biosecurity cost recovery regime and the food cost recovery regime?