



19 February 2008

Mr Charles Chauvel
Chairperson
Finance and Expenditure Select Committee
Parliament Buildings
Wellington

Dear Mr Chauvel

The undersigned industry associations are very concerned with the tight deadline for submissions on the Climate Change (Emissions Trading and Renewable Preference) Bill and we are writing to request that the deadline for submissions be delayed until 31 March.

It is our collective view that there are a large number of issues where there is insufficient information available to allow submitters to adequately assess the risks presented by the Bill.

For example, the Climate Change Leadership Forum has identified a number of gaps in the analysis that should have been done prior to the Bill being introduced, which would have given a better idea of the potential costs and benefits of this piece of legislation to the New Zealand economy and should have underpinned the Regulatory Impact Statement in the explanatory note to the Bill.

Questions they are currently looking at include;

- How large are the economic adjustment costs likely to be?
- What are the financial flows implications for different sectors?
- What is the likely extent of and economic cost of leakage?
- What assets are stranded and who owns them? How is this affected by the treatment of leakage?
- What are the abatement opportunities and costs in different sectors?
- What are the implications of slow entry in some sectors?
- How many domestic units will be available at each point in time in New Zealand relative to the demand for them?
- What are the drivers of pre-2012 international emissions prices that will affect us and how well can we predict both availability and price?
- What are the implications of different international rules? E.g. full carbon accounting; harvested wood products;
- What are the non-climate environmental implications e.g. biodiversity, water quality?
- Longer Term: what are the implications of different post 2012 scenarios? What is the cost and likely impact of non-price policies (e.g building code changes; vehicle fleet requirements, ban on new thermal generation...etc

To these we would add the need to quantify the expected benefits.

It is our view that these are critical questions that need to be analysed prior to decisions being made about a Bill that could have far reaching impacts on the New Zealand economy. By allowing more time for submissions to be researched and written, it is also possible we will have more information from Australia as to the direction that their emissions trading scheme will take.

To leave such essential matters to be fleshed out through regulations is poor practice and not recommended by the Legislation Advisory Committee.

http://www.justice.govt.nz/lac/pubs/2001/legislative_guide_2000/chapter_10.html#10.1.6

10.1.6 What considerations do not justify the use of delegated legislation?

A range of unjustified reasons are sometimes advanced in support of including matters in delegated legislation. Reliance is typically placed on an empowering provision that was not designed for the purpose but which, it appears, is wide enough to encompass that purpose. However, such reasons will rarely (if ever) justify including the matters in delegated legislation.

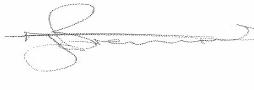
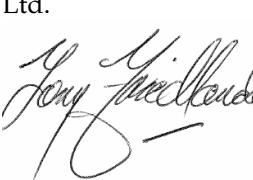
The following reasons should not be put forward to justify delegated legislation:

- *that the policy development was not completed in time. Here, the regulation-making power may be advanced as a method of “filling the gaps” in the primary legislation. Such a legislative safety-net is not permissible. However, if the omission is a genuinely unforeseen contingency, inclusion in delegated legislation may be justified.*

- that as a matter of political expediency, delegated legislation should be used. This could be relied on for a number of reasons, including—
 - to disguise a controversial issue in the legislative regime by placing it in delegated legislation (because that may be perceived as being “less public”): this reason would never be justified.
 - to “get the law through” by placing everything that hasn’t been included in primary legislation in delegated legislation, perhaps to reduce the time the primary legislation takes to pass through Parliament.
- that “it’s always been done this way” and so it should be done this way again. The mere fact that delegated legislation has been used for a particular purpose in the past does not justify it being used in that way again. There may be a number of reasons why it was used in the past, including current practice at the time or simple mistake. Each case must be capable of being objectively justified.

We ask that you treat this request with urgency and we look forward to your response.

Yours sincerely

Catherine Beard, Executive Director, Greenhouse Policy Coalition. 	Frank Brenmuhl, National Board, Federated Farmers 	Tony Friedlander, Chief Executive Officer, Road Transport Forum Ltd. 	Ralph Matthes, Executive Director, Major Electricity Users Group 
Roger Kerr, Executive Director, New Zealand Business Roundtable 	Doug Gordon, Chief Executive Officer, New Zealand Minerals Industry Association 	Charles Finny, Director New Zealand Chambers of Commerce 	Peter Bodeker, Chief Executive, Wood Processors Association of New Zealand 
John Pfahlert Executive Officer Petroleum Exploration and Production Association 	Tim Davin Director, Public Policy, IPENZ Engineers NZ 	A. M. Dean	