

Rank Group Limited
Level 9 148 Quay St
PO Box 3515, Auckland 1140
Ph 64 9 366-6259 Fax 64 9 366-6263

24 December, 2008

**Ministry for the Environment
PO Box 10362
WELLINGTON 6143**

Submission to the Draft Climate Change (Stationary Energy and Industrial Processes) Regulations 2008

This submission is made by Rank Group Ltd, a New Zealand investment company with business interests in many countries. Rank Group has a serious interest in matters relating to climate change being the 100% owner of Carter Holt Harvey Ltd (CHH), Australasia's largest wood products processor and one of New Zealand's major energy users.

We understand Carter Holt Harvey Ltd will also make a submission to the draft regulations. To the extent there may be any contradictions between the two submissions each submission should be treated as entirely independently of the other.

General Matters for Consideration

Rank Group respectfully suggests that the officials should recommend to the Minister that consideration of these draft regulations be deferred until the Special Select Committee has reviewed the Climate Change Response Act 2002 (the Act) and the attendant Emissions Trading Scheme. Our reasoning is as follows:

- (a) It is expected that the review of the parent Act will result in significant amendments that will impact on the design and structure of the regulations. It is neither in the government's or the private sector's best interest that further time and resources are wasted if the regulations will have to be revisited after the Special Select Committee has concluded it's work, it would be prudent to do the consultation once.
- (b) Under the Act these regulations come into force on 1 January 2010 meaning that time is not of the essence.

Clarification of the use of waste wood for renewable energy generation.

Part 3 (Stationary energy) of Schedule 3 (Activities with respect to which persons must be participants) of the Act requires that person combusting waste for the purpose of generating electricity or industrial heat must be participants.

This is confirmed in the commentary bulletin to the draft regulations (Climate Change (Stationary Energy and Industrial Processes) Regulations 2008: draft for consultation, No 8 October 2008)

Waste

The NZ ETS obliges participation of people who combust waste for electricity generation or industrial heat. This includes combustion of used or waste oil (unless it is already covered by the NZ ETS as an obligation liquid fossil fuel), used tyres or other waste. Waste made from biomass, or with a biomass component, requires different treatment because it has different implications for emissions accounting. Therefore, the methods reflect this different treatment by excluding the CO₂ component of biomass.

Sections 20-22 of the Draft Regulations also refer.

We therefore interpret the Act and draft regulations to mean that the combustion of wood residues for energy incurs an emissions liability on the basis that wood residues are considered to be “waste”.

It has been our clear understanding that there would be no emissions liability resulting from the combustion of wood to generate energy given that this is both carbon neutral and environmentally desirable in an increasingly carbon constrained world.

The wood processing industry processes significant volumes of wood residues for renewable energy purposes. For example CHH’s wood processing operations achieve greater than 60% energy self-sufficiency through the combustion of wood residues, such residues arising from wood processing and from the forests.

Our primary argument is that there should be no emissions liability on the combustion of wood residues for energy because wood used in such a manner is not a “waste”, it is the residual feedstock from an integrated process. The wood processing industry can only operate economically on a whole tree basis, the so called wood “waste” is simply a low value part of the tree from the integrated processing of the whole tree and is as much a useful feedstock as is sawn timber or pulp fibre.

The fact that there would be no liability if the trees were grown solely for energy purposes attests to the nonsense in applying an emissions liability to wood residues that comprise part of an integrated process.

Because the Act is in force and regulations framed we discuss the statutory interpretation of “waste” below.

Our secondary argument it that based on the emissions factors set out in the regulations combusting so called wood waste to generate energy incurs a de-minimus emissions liability such that it serves no purpose for the regulatory impost to be imposed at all. The ETS as enacted threatens to impose significant compliance costs and obligation on business.

For example under the regulations the total CO₂e emissions from the circa 300,000 tonnes of waste wood combusted annually by the co-generation plant at CHH's Kinleith pulp and paper mill would be less than 5,000 t CO₂e. This assumes the emissions factor is applied on wet wood weigh basis, if it is applied on a dry wood basis the emissions would be approximately 2,500 tonnes CO₂e pa.

To put this in context with how the Act treats other participants a forest owner owning less than 50 hectares of pre-1990 forest is exempt from the deforestation tax provisions of the Act and could (under the plainly nonsensical instant oxidisation assumptions of the Act) deforest his land thereby emitting upwards of 40,000 tonnes CO₂e without incurring any liability.

We now turn to the interpretation of "waste".

We refer firstly to Section 4 Interpretation of **the Act** for clarification of the meaning of "waste".

Sec 4(1)

waste means any thing that—

- (a) has been disposed of or discarded; and*
- (b) includes waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste)*

Sec 4(4)

For the purposes of the definition of dispose, a deposit of waste is short-term if, not later than 6 months after the deposit (or any later time that the chief executive has agreed to in writing), the waste is—

- (a) reused or recycled; or*
- (b) recovered; or*
- (c) removed from the land for any other reason.*

We also refer to the **Waste Minimisation Act 2008** for further clarification of the meaning of "waste".

Sec 4 Interpretation

waste management and minimisation means waste minimisation and treatment and disposal of waste

waste minimisation means—

- (a) the reduction of waste; and
- (b) the reuse, recycling, and recovery of waste and diverted material.

Sec 6 Meaning of disposal

- (1) In this Act, unless the context requires another meaning, **disposal** means—
 - (a) the final (or more than short-term) deposit of waste into or onto land set apart for that purpose; or
 - (b) the incineration of waste.
- (2) In subsection (1)(a), for all purposes relating to the levy, **final (or more than short-term) deposit of waste** means any deposit of waste other than a deposit referred to in section 26(3).
- (3) In subsection (1)(b), **incineration** means the deliberate burning of waste to destroy it, but not to recover energy from it.

Sec 26 Levy imposed on waste disposed of at disposal facility

- (1) A levy is imposed on waste disposed of at a disposal facility.
- (2) However, subsection (1) does not apply to waste disposed of at a disposal facility if—
 - (a) the facility is exempted from the levy by regulations made under this Part; or
 - (b) the waste concerned is exempted from the levy by regulations made under this Part.
- (3) For all purposes relating to the levy, **disposal** does not include the deposit of waste onto land if, not later than 6 months after its deposit (or any later time that the Secretary has agreed to in writing), the waste is—
 - (a) reused or recycled; or
 - (b) recovered or treated on the land and removed from the land for deposit elsewhere; or
 - (c) removed from the land for any other reason.

We consider that the interpretations of waste cannot reasonably apply to wood residues combusted for energy.

In particular Sec 6 of the Waste Minimisation Act is clear that materials combusted for energy are not waste.

Sec 4(1) of the Act defines waste as having been “disposed of or discarded”. Clearly wood residues being combusted for energy are being stockpiled for that particular purpose and therefore are not being disposed of or discarded.

Sec 4(4) of the Act refers to short-term waste that is re-used, re-cycle or recovered within 6 months after the deposit. Clearly wood residues are re-used, recycled or recovered in short order.

Relief Sought

The primary relief we seek is:

- **That the consideration of these draft regulations be deferred until the Special Select Committee has reviewed the Climate Change Response Act 2002.**

In the event that our primary relief is not granted our alternative relief is:

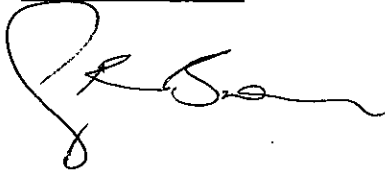
- **That the combustion of wood residues for energy not be treated as being the combustion of waste under the regulations.**

In the event that our alternative relief is not granted our next alternative relief is:

- **That the combustion of wood residues for energy is assigned a nil emissions factor.**

We would be pleased to discuss our submission in greater detail.

**Yours faithfully,
Rank Group Ltd**

A handwritten signature in black ink, appearing to read 'G. Brown', written over a large, stylized loop.

Graham Brown