

QFF MEMBERS

Australian Prawn
Farmers Association

CANEGROWERS

Cotton Australia

Emerging Primary
Industries Group -

- Biological Farmers
of Australia
- Flower Association
of Queensland Inc
- Queensland
Aquaculture
Industries
Federation

Growcom

Nursery & Garden
Industry Queensland

Qld Chicken Growers
Association

Qld Dairyfarmers'
Organisation

Qld Irrigators Council
Association Inc

Qld Chicken Meat
Council

29 February 2008

Submission on the Regulatory Impact Statement for the proposed removal of the rural industry exemption from the Workplace Health and Safety Regulation 1997

The Queensland Farmers' Federation is the peak rural body representing intensive agriculture, which contributes around half of the State's \$11 billion in agricultural product. Our member bodies include:

- CANEGROWERS
- Growcom (Queensland Fruit & Vegetable Growers)
- Qld Dairyfarmers' Organisation
- Cotton Australia
- Nursery & Garden Industries Queensland
- Qld Chicken Growers Association
- Australian Prawn Farmers Association
- Qld Irrigators Council
- Flower Association of Queensland
- Queensland Aquaculture Industries Federation
- Biological Farmers of Australia

The commodity members of QFF represent collectively around 14 000 farming enterprises. These enterprises are located east of the Great Divide from the border to north of Cairns, on the Darling Downs and along the southern border to the west of Dirranbandi, in Central Queensland around Emerald and on the Atherton Tablelands.

The often widely dispersed nature of the farming enterprises presents significant challenges in both in the delivery of appropriate safety education and in the capacity of farmers and often their employees having access to relevant training for operating certification.

It should also be recognised that on farms there is often no clear demarcation between a place of residence and a workplace. It can also be difficult at times to clearly distinguish between occupational activities and recreational ones particularly where vehicles are involved.

The Removal of the Exemptions:

As referred to on page 6 of the regulatory statement quote:

“At its meeting on 9 March 2000, members of the Rural Industry Sector Standing Committee (Rural ISSC) agreed to endorse the strategy for the removal of the rural industry exemption. To date, the removal of the exemption has been progressed in a staged manner. This has ensured that adequate consideration has been given to the likely impact of the removal of each individual part of the Regulation and the industry's capacity to comply with the new arrangements.

Since 2001, the exemption has been removed from the following:

Noise (2002)

Amenities and introduction of amenities provisions specific to the rural industry (2003)

Electrical - now covered under the *Electrical Safety Act 2002* (2002)

Asbestos (2006) “

Rural industry has seen this as an appropriate way to deal with the issue of the removal of the exemption for the reasons stated above although there would be still concerns that some farmers would still not be fully aware of their obligations under the under the four regulations. This would not simply be from lack of interest but would be indicative of the difficulty in providing adequate education to help this sector gave a clear understanding of what they need to do to be compliant.

The decision now to remove the exemption through a single amendment namely the removal of s229 of the Regulation poses a significant issue for all parties involved.

None of QFF's member organisations have expressed concern about the general concept of the removal of the exemption but are concerned about the timeframes that are currently being considered in relation to a number of specific regulations. It would be expected that there will be as less favourable response from many individual farmers who will find some of the provisions either overwhelming in terms of their comprehension or will lead to significant increases in costs in terms of both administrative compliance and equipment costs.

The RIS raises the issue of what is seen as poor safety record in rural industry and the need to provide a level of legislative control and protection to workers in rural industry as would be the case in other applicable industries. However the application of these regulations is unlikely to have significant impact on the safety record unless there is a clear understanding of how they need to be applied.

Thus in broad terms there is a need

- For an extensive education campaign for producers – this need to be based on an educative approach which will provide them with the necessary tools to allow them to respond appropriately to their obligations;
- For appropriate time frames for implementation;

- For adequate support mechanisms to allow producers time to adjust to changes. It will necessary to develop a process that can deliver on farm support for individual operators. This will require significantly broadening the base of suitably trained people who can assist farmers to conduct risk assessments and develop safety management plans. A Train-the-Trainer type scheme should be developed where industry representatives given adequate resourcing from Government are available to provide on-farm mentoring;
- For industry service providers and the Department of Workplace Health and Safety Queensland to work together to achieve the best outcomes for all stakeholders.

QFF would support an Option 3 modified in terms of the time frames indicated as we believe in a number of circumstances they are simply too short given the issues involved. These time frames will be dealt with in the following response to the individual pieces of regulation.

SPECIFIC PARTS OF THE RURAL EXEMPTION

Part 2: Mobile elevating work platforms

The removal of the exemption for Regulation Part 2 will be of most significance to horticulture where elevating work platforms are used as harvest aids or for tree crop management in a number of industry. These machines have been purpose built for specific tasks. These designs are often quite different to the designs of elevating work platforms used in the industrial/construction industry.

Generally machines used in agriculture are in the main manufactured by small engineering works often locally based depending on the industry's centre of production. Some existing machines may also been manufactured on farm. It is unlikely that many of the existing machines would be able to achieve design registration without incurring significant costs as indicated in the following extract from the RIS *"To achieve design registration a boom-type elevating work platform would need to comply with the requirements of the relevant Australian Standard. Many of the boom-type elevating work platforms used in rural industry do not currently comply with this standard. The costs of upgrading an existing boom-type elevating work platform and achieving design registration could be in the order of \$20,000 per unit. "*

The RIS also states that *"It is estimated that there are approximately 2,000 such items of plant in rural industry which would require registration. It is expected that many of the older non-compliant boom-type elevating work platforms would not be design registered, as these machines do not have a long service life"*.

Thus in can be assumed that there will be no resale for the vast majority of the existing 2000 or so machines currently in use.

While there will be a cost impost on growers with existing machines as it is unlikely that they will be able to trade them on new machines or sell them after the exemption is removed there will also be the issue of the increased cost of new machines. The RIS states that “*the additional cost of purchasing an Australian Standard compliant boom-type elevating work platform compared to a non-compliant one of similar capacity is estimated to be in the order of \$5,000*”.

There is a bigger issue than simply increased costs and that is whether it will still be possible for engineering works to achieve design registration for specialised machines given that the Australian Standard was developed for EWP's being used in industrial /construction industries. The industry may therefore be deprived of machines that are inherently safe and specifically designed for a specific task but do not meet the Australian Standard in every respect.

QFF believes that a **rural industry standard** be developed for boom-type elevating platforms that are used as harvest or management aids in rural industries which will allow manufacturers to construct safe fit- for- purpose machines. The regulation will need to be amended to recognize this new class of EWPs. A working party should be established consisting of representatives from relevant industry sectors and departmental officers to develop the standard.

There should also be a **two year phase in** of the amended regulation to ensure that adequate time is allowed for the new standard to be developed. This will also allow manufactures to modify the design of existing equipment that might still not comply and seek design registration.

It is also imperative that owners of existing machines t be given the opportunity access education and training that will allow them to conduct better risk assessments on the operation of these machines. While these should lead to safer work practices unfortunately the regulation appears to discourage modifying the machine to make it safer as these would theoretically require design registration.

QFF supports Option 3 with a two year phase in period.

Part 3: Prescribed occupations

Currently this will impact primarily on workplaces where forklifts and elevating work platforms are used and which are currently exempt.

The major issue will be obtaining licenses in regional areas and the required logbook time. Meeting the requirement for the supervision of inexperienced operators will be difficult particularly in smaller operations given that forklifts or EWPs may not be used on a daily or a weekly basis depending on seasonal or production requirements.

Because of issues with continuity of employment it may be necessary to train a number of operators each year which will incur not only increased training costs but also accommodation and travel costs to attend training centres.

QFF is very concerned with regard to the capacity of the training sector to cope with the new VET based training requirements not only in regional Queensland but also in regional centres

It is imperative that adequate time be allowed for the necessary training to occur and therefore QFF would support option 2 with a minimum of two years phase in

Part 3A: Prescribed activity (demolition work)

The major issue with this regulation is one of definition and interpretation. It is therefore imperative that before this regulation applies to rural industry that a number of rural workplace activities are examined to determine whether they are captured by the regulation by being defined as demolition.

These would include such activities as taking down fencing, hail netting, shade and trellising structures.

There should also be a clear interpretation in relation to clearing up storm damage.

QFF would support option 3 with a one year time frame provided the above matters can be dealt with effectively before that date.

Part 4: Workplace Health and Safety Officers

The application of this regulation as commented in the RIS will involve increased costs to affected producers in terms of training an appropriate person and staff retention in operations with high seasonal turnover.

There is also no relevant specialist rural WHSO course available which will make it difficult for rural course participants to see relevance. It is therefore imperative that the appropriate rural modules be developed.

There will also be the ongoing issue of access to training in regional localities.

QFF would therefore support Option 2 provided the issues set out in the option can be addressed in two years.

Part 13: Hazardous substances

There are a number of issues that must be addressed before this regulation can come into force. The first is in relation to health surveillance which not dealt with in the rural code which many farmers would be currently using as their guide to chemical usage.

Most rural areas in Queensland do not have easy access to health professionals due to chronic shortages in many areas. It is therefore imperative that testing/screening protocols minimize the need, if possible, for sampling to be done by healthcare

professionals. The issue of using urine samples for example instead of blood tests needs to be carefully examined as this would greatly facilitate health surveillance and reduce the demands on the current health system which is clearly already overloaded in rural Queensland.

The rural code should be re-written to address any inconsistencies with the Hazardous Substance regulation. The paperwork needed to allow compliance also needs to be readily available.

While most farmers are currently taking guidance from the Rural Code the application of the regulation does entail a greater onus on the owner in a number of areas including record-keeping.

Again this is an area where an effective education program is required to ensure that farmers are aware of the changes and what they need to do to ensure compliance.

QFF would support option 3 with at least a two year phase in given the issues stated above to allow time for adequate education and the development of appropriate on farm systems.

Part 14: Lead

QFF would support option 2.

Part 15: Confined spaces

There are a number of issues that need to be addressed before it would appropriate for the regulation to come into effect. This is despite the fact that there has been guidance material around for a number of years.

Given the requirements of the Australian Standard farmers will now be required to formalise their arrangements to comply with the regulation as stated in the RIS "*The parts of the Australian Standard which must be complied with cover: -hazard identification -risk assessment -control measures-training and competence-emergency response and record keeping*".

This will require a significantly greater level of response and understanding on the part of farmers than has been the case in the past. Just the issue of identifying a "confined space" in terms of the regulation as opposed to a space in which work is conducted will present significant challenges. There are a number of locations on irrigation farms such as wells and deep pits which contain pumps and metering devices which are regularly inspected as part of normal farm management. Application of this regulation to these locations will have significant consequences if there is a requirement to have recovery devices and a "buddy" system.

There will need to be an effective education process with practical examples and solutions developed if many farmers are to come to grips with the requirements of this regulation.

There is also a major issue with the way in which the regulation is worded in that it

calls up the Australian Standard without actually containing the wording of the Standard. With Australian Standards now being distributed by SAI Global anyone interpreting the regulation must have access to a copy of the Standard. Effectively this means an individual must either buy a copy, as the copyright provisions legally prevent organisations or others providing extracts from the document or be aware that a website exists that the Standard maybe viewed on. QFF believes it is not an option for legislation to reference Australian Standards unless there is a mechanism for making the information freely available to all.

QFF would support Option 3 with a minimum of a two year phase in period.

Part 17: Excavation work

The impact of this regulation links to the Construction Regulation and needs a similar approach in terms of how it actually might apply rural workplaces.

There will need to a process of clearly looking at rural activities to see those that are actually covered under the regulation. There will be a number of activities such as de-silting of dams, soil test pits etc which will need to be clarified in terms of the application of the regulation

Farmers will need to have access to effective education with clear directions on what their obligations are under the Regulation.

In order for the education program to be comprehensive and to be part of the broader program QFF would support Option 3 with a two year phase in.

Part 21B: Employers – atmospheric contaminants

This regulation needs to be re-worded to better reflect the intent. It obviously currently intended to apply to industrial applications conducted primarily in buildings. As it is currently worded it would be impossible for a number of industries to strictly comply with the current wording as it would simply not be viable to remove all atmospheric contaminants.

Any rewording should refer to the national standards and should specifically exclude any micro-organisms.

In addition in its current form it could be used by neighbours near agricultural operations to support complaints about issues that are strictly environmental in nature.

QFF could not support this regulation being imposed until Part 21B has been appropriately reworded. Hence it would support Option 3 with an unlimited phase in period.

Concluding Comments

QFF would like to reiterate its position that removing the Rural Exemption will not in its self change either the death or injury rate in rural workplaces. If these rates are to be lowered then there needs to be an extensive education program which will provide the tools that are necessary to allow rural employers to better manage the risks in the workplace.

The program will need to be a mix of arrangements including small group sessions and one to one on-farm mentoring. Large group traditional training are unlikely to achieve a significant change in outcomes and in fact are likely to be poorly attended. Any education program must be practically based and provide attendees with a suitable package of documentation that can be incorporated into the broader farm management plan.

Government needs to make a significant investment in this education program if it expects to see tangible results as there will need to be a cultural change on the part of many farmers and also their employees. The current WH&S Act and Regulation is a very large and complex document which most small businesses including farming operations would find difficult to comprehend and therefore be able to comply with. Effective practical education is a must.

On behalf of QFF

President

Chair Workplace Health