

Government response to the recommendations contained in the Rural and Regional Services and Development Committee's inquiry into the cause of fatality and injury on Victorian farms

March 2006

Rural and Regional Services and Development Committee

Inquiry into the Cause of Fatality and Injury on Victorian Farms

Government Response

Introduction

The Government welcomes the report of the Rural and Regional Services and Development Committee's (the Committee) Inquiry into the Cause of Fatality and Injury on Victorian Farms.

Workplace deaths and injuries have a devastating effect on workers, their families and friends, and on the wider community, particularly close-knit rural communities. The Government is committed to ensuring that all Victorian workplaces, including farms, are safe workplaces from which workers return home safely. To achieve this, the Government recently implemented the new *Occupational Health and Safety Act 2004* (the OHS Act 2004), which will mandate and support safer, healthier and more productive workplaces.

The Government is also committed to specifically improving safety on Victorian farms. Farms are amongst the most dangerous workplaces in Victoria. While commercial farms employ only about 3% of the State's workforce, they accounted for over one-third (46) of the workplace deaths reported to the Victorian WorkCover Authority (VWA) between 2001 and 2004.

In responding to this disturbing imbalance, the Government has built an integrated strategy involving key farming sector organisations to improve the occupational health and safety (OHS) performance of the farming sector and to reduce fatalities. The strategy has involved over \$2.5 million in new funding for a range of initiatives, including:

- OHS inspectors regularly visiting farms to provide advice and, where necessary, enforcing compliance with the new OHS legislation;
- Supporting and conducting OHS education and training for farmers via the State administered Farmbis program and other registered training organisations, and for students of rural primary schools via the WorkSafe Kids program;
- the development of farm safety specific publications, which includes the safe use of tractors, All Terrain Vehicles (ATVs) and other farm machinery; and
- the VWA (through WorkSafe) expanding the workplace safety message to rural Victoria through sponsorship of the Victorian Country Football League and Victorian Netball League.

Another important farm safety issue that the Government is progressing is ATV safety. Since coming to office, the Government and the VWA have been actively engaged in efforts to highlight the risks associated with the inappropriate use of ATVs, and the safest ways that these machines can be used as part of farm work.

The Government is pleased to have the support of the Victorian Farmers Federation (VFF) in promoting the importance of farmers and farm workers wearing protective helmets when riding ATVs, and is also involved in a national working group on the safe use of ATVs. This is an ongoing commitment of the Government.

In addition, Victoria is a member of the National Agricultural Machinery Project. This involves a nationally consistent approach being undertaken by workplace safety agencies throughout Australia in engaging designers, suppliers, importers and manufacturers of tractors, tractor implements and ATV attachments to raise awareness of health and safety obligations and ultimately, to make this equipment safer.

The Government also recognises the value of education, information and communication as important mechanisms for increasing people's awareness, understanding and capability in creating safe and healthy workplaces, including on farms. As a result, the Government currently publishes information on safe farm work practises in a number of its publications, including the VWA's Farm Safety Series.

During 2005 there were no fatalities on Victorian commercial farms (compared to 14 in 2004). While this is a source of encouragement, the Government will continue to work with industry and other interested parties to strive to reduce the number of fatalities and injuries on Victorian farms consistent with an approach of mutual obligation between the Government and the farming community.

In addition to undertaking a number of measures to improve safety on Victorian farms, the Government is also undertaking a number of other programs to assist the welfare of Victoria's farmers.

As the Committee recognised, the provision of mental health services is a key issue impacting upon rural Victoria. Since coming to office, the Government has invested over \$18 million to improve the delivery of mental health services in rural and regional Victoria with a rural mental health action plan currently being developed.

The Government would like to thank the Committee for its dedication to this inquiry and looks forward to a continued positive working relationship.

Overview of the Government's Response

Rec No.	Recommendation	Government response
1	That the Department of Education and Training, in consultation with key stakeholders, prepare suitable farm safety training modules for use by interested primary and secondary schools.	Accept in principle
2	That as a condition of funding for agriculture industry education and extension programs, the Department of Primary Industries require that best safe practice be integral to course presentation.	Accept in principle
3	That the Victorian Work Cover Authority introduce a program to: <ul style="list-style-type: none"> • provide funding for local groups to conduct farm safety programs in their communities; and • provide funding for research and evaluation of farm safety programs. 	Accept
4	That the State Government formally request Standards Australia to develop a new Standard for Safe Tractor Access Platforms.	Accept
5	That following the development of an Australian Standard for Safe Tractor Access Platforms, the State Government: <ul style="list-style-type: none"> • introduce a subsidy for the fitting of Safe Tractor Access Platforms to tractors; • that this subsidy be the equivalent of up to 50% of the cost of purchase; and • that farmers are able to access this subsidy on a voluntary basis. 	Defer consideration
6	That the State Government of Victoria provide funding for the delivery of half day courses on the safe operation of tractors in areas where demand exists.	Accept in principle
7	That the State Government formally request Australian Standards Committee CS-076 consider as a priority the development of a Standard for All Terrain Vehicle (ATV) Helmets.	Accept
8	That the State Government urge ATV and agricultural motorcycle manufacturers and dealers to provide an appropriate helmet for use in farming applications upon the purchase of new agricultural motorcycles and non-recreational ATVs; and that these helmets be provided free of charge to the purchaser.	Accept in part
9	That the State Government establish a program to encourage riders of ATVs and motorcycles to wear an appropriate helmet at all times, and; <ul style="list-style-type: none"> • that this program focus particularly on portrayal of helmet use in both the mass media and in Government publications; and • that the State Government seek to obtain a financial contribution from the ATV industry to support this program in the mass media. 	Accept in part
10	That the State Government introduce an education program to demonstrate that: <ul style="list-style-type: none"> • children should not ride adult-sized ATVs; • passengers should not be carried on ATVs; and • loading and attachments should not exceed manufacturer's recommendations. 	Accept
11	That the State Government ensure that safe use of ATVs and motorcycles is portrayed in all Government publications; and that the State Government work with industry and media stakeholders to develop a Code of Practice for the safe portrayal of ATV and motorcycle use, with specific attention paid to: <ul style="list-style-type: none"> • helmet use; • passengers; • loading and vehicle attachments; and • age appropriate vehicles. 	Accept in principle
12	That Government and WorkSafe continue its media campaign to encourage farmers and people who work on farms to ensure safety equipment, particularly guarding, not be removed from farm machinery or plant.	Accept
13	That Government provide complimentary vouchers for training courses on the safe operation of ATVs and tractors upon purchase of new and second-hand ATVs and tractors, or upon the purchase of rural properties.	Not accept

14	<p>That upon sale of farm properties, farm owners be required to provide maps showing the location of underground electrical cables and conduits to farm purchasers; and</p> <ul style="list-style-type: none"> • that upon installation or placement of new cable or conduits, the farm owner be required to indicate the location of the cable or conduit on such a map; • that such maps be made available, upon request, to any person engaged in labour that may cause them to come into contact with buried electrical cable or conduits. 	Accept in principle
15	That an Information Kit be prepared by the Department of Primary Industries detailing best farming occupational health and safety practice, and that this kit be distributed in concert with the 'Living Together in Rural Victoria' initiative.	Accept in principle
16	That the State Government make a concentrated effort to improve the delivery of mental health services in rural and regional Victoria, noting in particular the need for focussed programs to address suicide and mental illness among farmers, retired farmers, farm workers and farming families.	Accept in principle
17	That in future, interpretation of the <i>Occupational Health and Safety Act 2004 (Vic)</i> by the Victorian WorkCover Authority place a greater emphasis on the responsibility of employees to ensure that, when specifically and adequately instructed on appropriate OHS practice by employers, and provided with reasonable opportunity to do so along with access to the correct equipment, they act in accordance with that instruction.	Not accept
18	That the State Government amend section 24 of the <i>Occupational Health and Safety Act 2004 (Vic)</i> to state more explicitly the occupational health and safety duties of self-employed persons to themselves and others.	Not accept
19	<p>That, in drafting regulations for the <i>Occupational Health and Safety Act 2004 (Vic)</i>, the Victorian WorkCover Authority ensure:</p> <ul style="list-style-type: none"> • that the language employed is suitable for wide reading audiences; and • that the regulations be written clearly and concisely. 	Accept
20	<p>That the power of the Victorian WorkCover Authority to give advice on compliance under the <i>Occupational Health and Safety Act 2004 (Vic)</i>, be given similar status to compliance codes, namely:</p> <ul style="list-style-type: none"> • that a failure to comply with such advice does not give rise to any civil or criminal liability; • that if the advice makes provision for or with respect to a duty or obligation imposed by the Act or the regulations and if a person complies with that advice to the extent that it makes that provision, then the person is taken to have complied with the Act or the regulations with respect to that duty or obligation. 	Not accept
21	That the Minister for WorkCover provide a minimum period for public consultation of 90 days prior to the introduction of new regulations under the <i>Occupational Health and Safety Act 2004 (Vic)</i> .	Not accept
22	<p>That the Victorian WorkCover Authority:</p> <ul style="list-style-type: none"> • seek to gain acceptance of proposed regulations through consultation with farmers prior to the introduction of those regulations; • ensure that measures are taken to generate awareness of regulations; and • ensure proposed Guidelines and Compliance Codes are made available to the public at least 60 days prior to the date of new occupational health and safety regulations coming into effect. 	Accept in part
23	That the Victorian WorkCover Authority recruit inspectors with specific knowledge of issues affecting health and safety on Victorian farms.	Accept in principle
24	That the Victorian WorkCover Authority ensures that great care is taken when releasing information to the media regarding the cause and circumstances of accidents currently under investigation. Specifically, WorkSafe Victoria should not discuss or release to the media comments about the cause and circumstances of workplace accidents that are under investigation until they can do so with accuracy.	Accept
25	That the State Government ensures that there is an adequate network of accident and emergency services in rural and regional Victoria, supported by an emergency retrieval system for seriously injured persons.	Accept

26	That the Government ensures the availability of relevant specialised rehabilitation and return to work services for injured Victorian farmers and farm workers; and that this service be closely coordinated with local health providers.	Accept
27	Majority Recommendation: That the State Government assist local governments to incorporate farm safety into municipal public health plans. Minority Recommendation: That the preparation, delivery and funding of farm safety programs continues to be the responsibility of the Victorian WorkCover Authority in cooperation with employers, and has no place in municipal health plans.	Accept in principle Not accept
28	That the State Government establish a Farm Safety Advisory Committee to provide advice to the Minister for Agriculture on farm safety issues and concerns that may exist through Victoria. This expert Committee is to be funded by the Victorian WorkCover Authority and should consist of 8-10 members with knowledge and experience of the farming sector who are well respected in their local industry and community. Members may be drawn from local existing farm safety action groups.	Not accept
29	That the State Government encourage tertiary education providers of forestry industry training courses to develop programs that meet the practical needs of the industry.	Accept
30	That the Victorian WorkCover Authority work with (the forestry) industry to identify the means by which risks associated with fatigue and production pressures can be reduced.	Accept
31	That the Victorian WorkCover Authority support the development, publication and distribution of an occupational health and safety manual for employers, to distribute to employees, in Victorian commercial fishing operations.	Accept
32	That the Victorian WorkCover Authority ensure that WorkSafe inspectors appointed to duties in the Victorian commercial fishing industry have sufficient experience in issues associated with the operations of small and large scale fishing enterprises.	Accept in principle

The Government's responses to the Committee's recommendations

Recommendation 1

That the Department of Education and Training, in consultation with key stakeholders, prepare suitable farm safety training modules for use by interested primary and secondary schools.

Response: Accept in Principle

The Government shares the observations of the Committee regarding the importance of farm safety programs for children in terms of their value and role in promoting safe farm practices. The Government also notes – as did the Committee – that a range of activities and programs are currently being effectively undertaken in this area. Examples of such programs include:

- WorkSafe K.I.D.S, involving sponsorship by the Victorian WorkCover Authority (VWA) of various school safety-related initiatives, including a farm safety program for regionally based school communities; and
- The Rural Industry Prevention Primary Education Resource, funded by the VWA and including safety measures for most priority agents of injuries on farms (i.e. water, vehicles, machinery, horses, motorbikes, chemicals, noise, animals, sun and structures).

With respect to the Committee's recommendation that the Department of Education and Training (DET) prepare suitable farm safety modules for schools, DET has recently completed a significant review of school curriculum. During 2005, schools used the *Victorian Essential Learning Standards* to plan their own teaching and learning programs for implementation from 2006.

The new Standards will replace the Curriculum and Standards Framework as the basis for curriculum and assessment in Victorian schools. The Standards describe what is essential for students to achieve from Years Prep to 10 in Victorian schools. They provide a whole school curriculum planning framework which sets out learning standards for schools to use to plan their own teaching and learning programs, including assessment and reporting of student achievement and progress. The Standards are based on the best practice in Victorian schools, national and international research and widespread consultation with school communities, educators, professional associations and community groups. The Standards will provide the means for all Victorian schools to use the best curriculum thinking to better prepare students for success at school and beyond.

The Standards are developed within interrelated strands, which in turn comprise a number of components called domains. Under the domain of Health and Physical Education¹, students are provided with knowledge, skills and behaviours to enable them to achieve a degree of autonomy in developing and maintaining their physical, mental, social and emotional health. This includes identifying the harms associated with particular situations and behaviours and taking action to minimise these harms. Students investigate issues ranging from individual lifestyle choices to how societal and environmental determinants impact on the health of individuals and communities.

In addition, at the senior secondary level, students may be undertaking recognised vocational education and training. A range of OHS and safety units are available in courses and qualifications developed for the primary and forestry industries. In general, these units cover the safe use of

¹ The Health and Physical Education domain is a component of the Physical, Personal and Social Learning strand.

tools, equipment and machinery, the identification of risk and hazards and following OHS and environmental care procedures. Many of these units are suitable for delivery in schools or local communities and allow learners to develop basic knowledge and skills required on farms and in the forestry industry.

Recommendation 2

That as a condition of funding for agriculture industry education and extension programs, the Department of Primary Industries require that best safe practice be integral to course presentation.

Response: Accept in Principle

The Government acknowledges the vital role the Department of Primary Industries (DPI) plays in the extension and practice change activities on farmers' properties. To address the Committee's intent in this recommendation, the Government will ensure that in the development of information and demonstration materials used for its many on-farm extension projects, DPI staff will address OHS risks that may be identified in the course of the on farm delivery component.

Furthermore, DPI will ensure that all its field staff involved in the delivery of services to farmers and land managers can provide, on request, a summary of contact details of available OHS training and information e.g. WorkSafe information, and be able to direct farmers to local OHS support such as FarmSafe Alliance field staff and regional WorkSafe offices, as well as WorkSafe's OHS Advisory Service.

The Government also encourages farmers, land managers and commercial fishers to take up the offer of subsidised OHS training available as part of the Farmbis program, a joint Commonwealth-State funded initiative aimed at improving self-reliance and change management.

Recommendation 3

That the Victorian Work Cover Authority introduce a program to:

- provide funding for local groups to conduct farm safety programs in their communities; and
- provide funding for research and evaluation of farm safety programs.

Response: Accept

The Government considers that farm safety programs are an important element in ensuring appropriate OHS practices on Victorian farms.

As evidence of this commitment, the Government, through the VWA, is currently providing \$450,000 over three years to support the Victorian Farm Safety Centre located at the University of Ballarat. This funding is provided to develop OHS guidance material, in consultation with industry stakeholders, covering the dairy, beef cattle and horticulture sectors and to implement integrated farm safety training and education workshops. The VWA has previously supported projects through the Information and Education Fund to bring about safer shearing practices and more effective farm chemical handling training.

Furthermore, the VWA has formed partnerships to engage the farming community in a positive environment which will serve to improve this relationship. A number of events have been organised for 2005-06 year at an estimated cost of \$152,000 including various field days across regional Victoria and VFF events.

The Information and Education Fund, established by the VWA in 2001, offers financial support to projects in industry sectors targeted by the VWA aimed at:

- the prevention of work related death, injury and illness, by facilitating compliance with health and safety legislation; and
- better compensation, rehabilitation and return to work management and outcomes for injured workers

Through the Information and Education Fund, the VWA seeks to effect change in areas and ways it might not otherwise be able to under its conventional compliance and enforcement approach. The criteria for funding include that the primary focus of a proposed project be to educate, inform and communicate, as these are important mechanisms for increasing people's awareness, understanding and capability in creating safe and healthy workplaces and providing appropriate support to injured workers.

The Information and Education Fund is accessible to organisations and individuals that can demonstrate they have the expertise and resources to manage the proposed project. When making funding decisions, the VWA considers a range of factors, including the level of workplace and community support and engagement for the project. Farm safety-related bids are also encouraged and have been funded previously.

The Government also recognises the importance of research in improving farm safety outcomes, and that further evaluation of farm safety programs is required to ensure that they continue to meet the needs of the farming community. When allocating funding from the Information and Education Fund for potential farm safety projects, each funded project that is supported by the VWA is required to undertake an evaluation of, and report to the VWA on the impact and effectiveness of, the activities implemented.

Recommendation 4

That the State Government formally request Standards Australia to develop a new Standard for Safe Tractor Access Platforms.

Response: Accept

The VWA currently publishes various forms of guidance relating to the safe use of farm equipment, including the safe use of tractors and machinery. The guidance on safe use of tractors and machinery guidance includes advice that operators of tractors fit approved Safe Tractor Access Platforms (STAPs), while cognisant that the use of such safety equipment must not be counteracted by other, unsafe practices (such as mounting and/or dismounting moving tractors).

The Government will work with other States and Territories to highlight the importance of new Standards and will encourage Standards Australia to undertake research into the most effective design for STAPs in consultation with relevant regulatory bodies and stakeholders before any

standard is developed to ensure that the standard is the best standard available and includes safe operating practices.

In the interim, the Government, through the VWA, will continue to work closely with relevant stakeholders, including FarmSafe Australia, to ensure that all guidelines and publications relating to STAPs remain up to date and are user-friendly.

Recommendation 5

That following the development of an Australian Standard for Safe Tractor Access Platforms, the State Government:

- introduce a subsidy for the fitting of Safe Tractor Access Platforms to tractors;
- that this subsidy be the equivalent of up to 50% of the cost of purchase; and
- that farmers are able to access this subsidy on a voluntary basis.

Response: Defer consideration

The Government agrees with the Committee that there is merit in seeking to ensure optimum uptake of tractor-related safety approaches, including STAPs. Further consideration of this proposal will follow the development of any new national Standard for safe tractor access platforms.

As discussed in relation to Recommendation 4, in the interim, the Government, through the VWA, will continue to work with relevant stakeholders, including FarmSafe Australia, to ensure that all guidelines and publications relating to STAPs remain up to date and are user-friendly.

Recommendation 6

That the State Government of Victoria provide funding for the delivery of half day courses on the safe operation of tractors in areas where demand exists.

Response: Accept in Principle

The Government acknowledges that appropriate training for the use of tractors is an important element in improving safety on farms. To this end, the Farmbis program enables Victorian farmers to undertake OHS training across regional Victoria. These courses comprise individual or group training over a one or two day period and include topics such as identifying hazards and assessing risks on farms, and identifying practical and effective controls.

In addition to Farmbis training programs, Tertiary and Further Education (TAFE) institutions in regional Victoria offer training on farm safety, including specific courses on the safe use of tractors and ATVs, which are accessible by the farming community.

To assist in the promotion of these training courses and the awareness of the farming community, the Government will provide information regarding appropriate farm safety training courses, including the safe operation of tractors, in relevant Government publications. The VWA's Information and Education Fund (discussed in the response to Recommendation 3) also has the capacity to consider proposals for the development and delivery of OHS courses, which could cover topics such as the safe operation of tractors.

Finally, the Government will continue to publish guidance on farm safety, including the safe operation of tractors, via the VWA's OHS publications, which the Government will ensure are directly provided to new entrants to the farming industry (refer to the Government's response to Recommendation 15).

Recommendation 7

That the State Government formally request Australian Standards Committee CS-076 consider as a priority the development of a Standard for All Terrain Vehicle (ATV) Helmets.

Response: Accept

In January 2003, the Government made an application to Standards Australia to have *New Zealand Standard NZS 8600: 2200: All-Terrain Vehicle Helmets* (NZS 8600: 2200) adopted in Australia. The New Zealand Standard is considered to be an appropriate standard for ATV helmets and appropriate for Australian conditions.

The Government understands that an Australian Standard for a helmet specifically designed for use in agricultural work will be in draft form by early 2006 and that it will be completed by the end of 2006. The Government, through the VWA, will write to Standards Committee CS-076 requesting that this issue be considered as a priority.

Recommendation 8

That the State Government urge ATV and agricultural motorcycle manufacturers and dealers to provide an appropriate helmet for use in farming applications upon the purchase of new agricultural motorcycles and non-recreational ATVs; and that these helmets be provided free of charge to the purchaser.

Response: Accept in part

The Government considers that when purchasing an ATV, purchasers should also be acquiring (if, in fact, they do not already have) appropriate personal protective equipment, such as protective helmets. However, there is no guarantee that provision of a protective helmet (free or otherwise) to a purchaser of an ATV or agricultural motorcycle will ensure that the helmet is used appropriately.

The Government therefore aims to achieve increased and appropriate protective helmet usage through its farm safety education campaigns. To this end, the Government, has published, and will continue to develop, information on the benefits of wearing a helmet when riding an ATV or motorcycle in a number of its publications, including as part of the VWA's Farm Safety Series.

The Government has also made representations to Standards Australia for the adoption of NZS 8600: 2200 to be adopted in Australia (refer to the Government's response to Recommendation 7).

Recommendation 9

That the State Government establish a program to encourage riders of ATVs and motorcycles to wear an appropriate helmet at all times, and;

- that this program focus particularly on portrayal of helmet use in both the mass media and in Government publications; and
- that the State Government seek to obtain a financial contribution from the ATV industry to support this program in the mass media.

Response: Accept in part

The VWA currently includes information on the benefits of wearing protective helmets when riding ATVs and motorcycles on farms in a number of its safety publications, including the Farm Safety Series.

The VWA will continue to ensure that the benefits of wearing a protective helmet and other protective personal equipment on ATVs and motorcycles form a key component of future farm safety strategies and publications.

The Government, in consultation with VWA, the Transport Accident Commission, and the ATV industry, will continue to evaluate the effectiveness of its safety campaigns/activities that relate to the use of ATVs and motorcycles. However, a direct contribution would not be sought from the industry for this purpose.

As with all of its OHS related initiatives, the Government will continue to assess the effectiveness of the various ATV and other motorised equipment safety measures it is undertaking in order to ensure that operators of this equipment undertake appropriate training and utilise safe operating practices.

Recommendation 10

That the State Government introduce an education program to demonstrate that:

- children should not ride adult-sized ATVs;
- passengers should not be carried on ATVs; and
- loading and attachments should not exceed manufacturer's recommendations.

Response: Accept

The Government will ensure that purchasers and users of ATVs are aware of the risks of ATV use, including those risks outlined above by the Committee. Information regarding the risks of ATV use will continue to be incorporated into future farm safety strategies and publications.

It is notable that the significance of ATV safety was given a high level of prominence during the VWA's primary public exhibition about safety at work, *WorkSafe Week 2005*.

Recommendation 11

That the State Government ensure that safe use of ATVs and motorcycles is portrayed in all Government publications; and that the State Government work with industry and media stakeholders to develop a Code of Practice for the safe portrayal of ATV and motorcycle use, with specific attention paid to:

- helmet use;
- passengers;
- loading and vehicle attachments; and
- age appropriate vehicles.

Response: Accept in Principle

The Government will seek to ensure the safe use of ATVs and motorcycles is portrayed in all of its relevant publications and promoted accordingly. The Government will continue to work with the industry and the media to promote awareness of its publications, and any other compliance-related material published by the VWA.

The VWA will be releasing new publications on the safe use of ATVs and motorcycles to farmers as part of its Agriculture Industry Project to be undertaken in 2006-07. Following an assessment of the effectiveness of this material, the VWA will consider whether additional regulatory material is required.

Recommendation 12

That Government and WorkSafe continue its media campaign to encourage farmers and people who work on farms to ensure safety equipment, particularly guarding, not be removed from farm machinery or plant.

Response: Accept

The VWA will continue to publish advice on farm safety, including that safety equipment, in particular guarding, should not be removed from farm machinery or equipment in its OHS publications. The Government will ensure that such information is directly provided to new entrants to the farming industry (refer to the Government's response to Recommendation 15).

In addition, the Government, through the VWA, will continue to ensure that manufacturers and suppliers of safety equipment adhere to the requirements of the OHS Act 2004, by providing adequate information on the safe use of machinery or plant. To this end (and of particular significance to this inquiry), in September 2005, WorkSafe Victoria and safety agencies in other jurisdictions, commenced a joint compliance project focussing on suppliers, manufacturers and importers of agricultural equipment.

The Government will also liaise with manufacturers in the identification and development of best practice technologies and approaches to reduce the likelihood of farmers removing safety equipment from plant or machinery.

Recommendation 13

That Government provide complimentary vouchers for training courses on the safe operation of ATVs and tractors upon purchase of new and second-hand ATVs and tractors, or upon the purchase of rural properties.

Response: Not accept

The Government acknowledges that appropriate training for the use of ATVs and tractors is an important element to improving safety on farms, and will assist in the promotion of such training courses. However, the OHS Act 2004 places duties upon employers to provide such information, instruction, training or supervision to employees as is necessary to enable those persons to perform their work in a way that is safe and without risks to health.

While not accepting this recommendation, the Government will continue to publish advice on farm safety, including the safe operation of ATVs and tractors, via the VWA's OHS publications, which the Government will directly provide to new entrants to the farming industry (refer to the Government's response to Recommendation 15).

The Government will also continue to assess the effectiveness of the various measures it is undertaking in order to ensure that operators of ATVs and tractors undertake appropriate training. As part of this ongoing evaluation, the efficacy of providing increased availability and access to training will be considered.

Recommendation 14

That upon sale of farm properties, farm owners be required to provide maps showing the location of underground electrical cables and conduits to farm purchasers; and

- that upon installation or placement of new cable or conduits, the farm owner be required to indicate the location of the cable or conduit on such a map;
- that such maps be made available, upon request, to any person engaged in labour that may cause them to come into contact with buried electrical cable or conduits.

Response: Accept in principle

In 2004, the Government published guidance material for workers who are undertaking work near underground assets². This guidance material was developed in consultation with various stakeholders including unions, telecommunication companies, Municipal Association of Victoria (MAV) and Dial Before you Dig. This guidance is accessible by the community via the VWA's website and provides the principle OHS framework for individuals undertaking work near underground assets, including checklists and links on relevant training providers.

It is also noted that the *Electricity Safety (Installations) Regulations 1999* require a person carrying out electrical installation work on an underground electric line (who must be a registered electrical contractor or a licensed electrician) to record in a permanent form and to fix in the meter box the route of the line. Further, each Victorian electricity distribution business is required under the

² WorkSafe Victoria (2004) *Framework for undertaking work near overhead and underground assets: A guide to the No Go zones*, July.

Electricity Safety Act 1998 to keep a register containing sufficient information to enable every cable of the underground electric lines that are under its control within its distribution area to be located and identified (section 77(1)), and that the register is required to be accessible to the public.

As discussed in relation to Recommendation 15, the Government will continue to explore ways of better coordinating activities of relevant authorities, including Energy Safe Victoria, in order to ensure that property owners have optimum awareness of and access to relevant safety information.

Recommendation 15

That an Information Kit be prepared by the Department of Primary Industries detailing best farming occupational health and safety practice, and that this kit be distributed in concert with the ‘Living Together in Rural Victoria’ initiative.

Response: Accept in principle

The Government recognises new entrants as an important target group in the farming community where farm safety needs to be highlighted. The ‘Living Together in Rural Victoria’ initiative was used in 2003 to communicate to the real estate industry the introduction of the Government's then changes to section 32 of the *Sale of Land Act 1962*. Now that the changes to the Act have been implemented and the real estate industry understands the intent of the changes, the ‘Living Together in Rural Victoria’ program is no longer available as a means for conveying the OHS message to new farming entrants.

The Government will however, through the VWA and the MAV, work with local government to implement appropriate arrangements for identifying new entrants to farming communities to ensure they are provided with relevant OHS information material, including details on the safe use of ATVs and tractors.

Recommendation 16

That the State Government make a concentrated effort to improve the delivery of mental health services in rural and regional Victoria, noting in particular the need for focussed programs to address suicide and mental illness among farmers, retired farmers, farm workers and farming families.

Response: Accept in principle

The Government is making a concentrated effort to improve the delivery of mental health services in rural and regional Victoria, and a rural mental health action plan is currently being developed. This plan seeks to improve rural and regional Victoria's access to high quality, efficient and sustainable mental health services, particularly for people living in locations with limited access to specialist services due to geographical distance and other factors. The plan aims to build core service capacity, improve service access and viability, strengthen the capacity of the broader health sector and build a strong, skilled and sustainable workforce. A whole of government suicide prevention plan is also being developed.

Since coming to office, the Government has responded to a number of important rural mental health issues and invested over \$18 million for rural mental health services. Mental health continues to be a high priority of the Government, with it committing \$125 million over four years and \$56 million TEI as part of the 2005-06 State Budget to respond to growing demand for mental health services.

The Government also provides \$6.7 million per annum across 43 rural Community Health Services for counselling, is undertaking a program to streamline telephone counselling services and community health counsellors, and has established 19 Primary Care Partnerships that actively work on locally identified priorities, including initiatives to reduce the social isolation that many farming families experience as a result of drought and other adverse effects in primary industries.

It is considered that these initiatives and services will ensure improved delivery of suicide prevention and mental health services for rural people, including farmers and their families.

Recommendation 17

That in future, interpretation of the *Occupational Health and Safety Act 2004 (Vic)* by the Victorian WorkCover Authority place a greater emphasis on the responsibility of employees to ensure that, when specifically and adequately instructed on appropriate OHS practice by employers, and provided with reasonable opportunity to do so along with access to the correct equipment, they act in accordance with that instruction.

Response: Not accept

The Government considers that the OHS Act 2004 makes it clear that OHS duties are, and should be, shared between employers and employees, and that the Act specifically provides details on what their respective duties are. As such, the Government does not consider that further emphasis is required regarding an employer's or employee's duties at this stage.

The VWA will, however, continue to evaluate the effectiveness of its guidance material to ensure that it clearly articulates the obligations of all duty holders under the OHS Act 2004.

Recommendation 18

That the State Government amend section 24 of the *Occupational Health and Safety Act 2004 (Vic)* to state more explicitly the occupational health and safety duties of self-employed persons to themselves and others.

Response: Not accept

The Government considers that the principle embodied in the OHS Act 2004 of shared duties between employers and employees achieves an appropriate and effective balance and makes it clear that all parties in a workplace are to contribute to and maintain workplace safety.

Given the recent implementation of the OHS Act 2004, the Government considers it would be prudent to defer consideration of any proposal to amend the new Act until a reasonable period of time has progressed so that the effectiveness of the new Act can be fully and accurately assessed.

Following a review of the operational effectiveness of the new Act in late 2007, the Government will then consider whether the proposed amendments are required.

As outlined in Recommendation 17, the VWA will continue to evaluate the effectiveness of its guidance material to ensure that it clearly articulates the obligations of all duty holders under the OHS Act 2004.

Recommendation 19

That, in drafting regulations for the *Occupational Health and Safety Act 2004 (Vic)*, the Victorian WorkCover Authority ensure:

- that the language employed is suitable for wide reading audiences; and
- that the regulations be written clearly and concisely.

Response: Accept

The *Subordinate Legislation Act 1994* (the SLA) requires agencies to submit proposed Regulations to the Office of Chief Parliamentary Counsel and to obtain a certificate stating that the proposed Regulation complies with prescribed criteria, including that Regulations be expressed as clearly and unambiguously as is reasonably possible.

Consistent with these requirements, the Government seeks to ensure that all of its regulations, including the new regulations for the OHS Act 2004, are prepared in a language that is suitable for their intended audience and are written in a clear and concise manner.

Recommendation 20

That the power of the Victorian WorkCover Authority to give advice on compliance under the *Occupational Health and Safety Act 2004 (Vic)* be given similar status to compliance codes, namely:

- that a failure to comply with such advice does not give rise to any civil or criminal liability;
- that if the advice makes provision for or with respect to a duty or obligation imposed by the Act or the regulations and if a person complies with that advice to the extent that it makes that provision, then the person is taken to have complied with the Act or the regulations with respect to that duty or obligation.

Response: Not accept

Section 18 of the OHS Act 2004 confers on the VWA, primarily through its OHS inspectorate, the express power to give advice to a duty holder on compliance with the Act or its regulations. This provides a clearer impetus than under the *Occupational Health and Safety Act 1985* for the VWA to provide practical information on compliance, and increase certainty amongst duty holders. This power is supported by guidance material on how the OHS Act 2004 applies and by other compliance related material produced by the VWA.

Under section 18 of the OHS Act 2004, the provision of advice by the VWA does not give rise to any defence which would not have otherwise been available. Furthermore, in the absence of any written documentation of advice provided by an inspector, it would not be possible for such information to have “deemed to comply” status. However, under the *WorkSafe Victoria*

Compliance and Enforcement Policy, the VWA currently considers the degree to which a duty holder acted in accordance with any advice given by the VWA pursuant to section 18 of OHS Act 2004 in relation to complying with a duty or obligation under OHS Act 2004 when considering whether to prosecute for a breach of the OHS Act 2004 or its regulations.³

The Government considers that this approach ensures that information is readily accessible to duty holders to assist them in adhering to their respective duties under the OHS Act 2004. If an incident occurs and a prosecution is being considered, the VWA will take into account the degree to which a duty holder acted in accordance with any advice given by the VWA pursuant to section 18 of OHS Act.

Recommendation 21

That the Minister for WorkCover provide a minimum period for public consultation of 90 days prior to the introduction of new regulations under the *Occupational Health and Safety Act 2004 (Vic)*.

Response: Not accept

The *Subordinate Legislation Act 1994 (SLA)* and the guidelines made under section 26 of the SLA outline the requirements regarding proposed regulations, including that a minimum 28 days is required for consultation on new regulations when a Regulatory Impact Statement (RIS) is prepared.

Despite the SLA minimum benchmark of 28 days, the VWA always consults for longer than this and has lengthy discussions with stakeholders before commencing any RIS. A recent example of this being the preparatory work prior to the release of the regulations to restrict access to ammonium nitrate.

Given the importance of the new regulations for the OHS Act 2004, the Government plans to release the proposed new regulations and RIS for an eight week period for public comment, which will follow an exhaustive discussion process involving key stakeholders prior to the release.

As there is a requirement to introduce the new regulations by 1 July 2007, an eight week consultation period will be sufficient to enable stakeholders, including the rural sector, to assess and provide comment on the proposed regulations.

Recommendation 22

That the Victorian WorkCover Authority:

- seek to gain acceptance of proposed regulations through consultation with farmers prior to the introduction of those regulations;
- ensure that measures are taken to generate awareness of regulations; and
- ensure proposed Guidelines and Compliance Codes are made available to the public at least 60 days prior to the date of new occupational health and safety regulations coming into effect.

³ WorkSafe Victoria Compliance and Enforcement Policy (July 2005), section 14.2.2

Response: Accept in part

As a matter of good practice, the VWA always works closely with representatives of the farming community (such as VFF) before embarking on the formal process involved in producing a new regulation which may impact upon that community.

As discussed in relation to Recommendation 21, given the importance of the new regulations for the OHS Act 2004, the Government plans to release the proposed new regulations and RIS for an eight week period for public comment, including from the farming community.

The VWA is also undertaking a major project to prepare Guidelines and Compliance Codes to support the new regulations to be made under the OHS Act 2004 and to have them in place when the regulations take effect on 1 July 2007. Compliance Codes and Guidelines will be developed progressively over the period from February 2006 to June 2007. The Authority will make every effort to have as many of the Codes and Guidelines in place well before 1 July 2007. However, the size of the task means that it is not possible to commit to a 60 day lead up period in every instance.

The VWA will be undertaking a comprehensive public education and awareness campaign to outline the requirements of the new regulations, guidelines and compliance codes, including industry specific activities. This will be undertaken both as part of the development of the regulations and associated compliance material and prior to their introduction.

Recommendation 23

That the Victorian WorkCover Authority recruit inspectors with specific knowledge of issues affecting health and safety on Victorian farms.

Response: Accept in principle

The current VWA policy on recruiting OHS inspectors is based on their expertise and experience in occupational health and safety, or their potential to gain such experience. It does not recruit inspectors based exclusively on their industry experience.

However, the VWA inspectors tend to dedicate the majority of their time to one particular industry, where they gain experience and expertise on industry practices and cultures. This is particularly the case in regional Victoria, where the industry distribution dictates a higher exposure to rural issues and farming.

This knowledge is also supplemented via regular consultation with industry experts. Furthermore, the VWA is presently engaging with industry on a program to place OHS inspectors into industry to gain an increased understanding of the issues facing that sector.

The VWA will consider a range of issues, such as OHS experience and expertise and relevant industry experience, for future recruitment intakes of OHS inspectors.

Recommendation 24

That the Victorian WorkCover Authority ensures that great care is taken when releasing information to the media regarding the cause and circumstances of accidents currently under investigation. Specifically, WorkSafe Victoria should not discuss or release to the media comments about the cause and circumstances of workplace accidents that are under investigation until they can do so with accuracy.

Response: Accept

The VWA already has established policies and procedures in place to ensure that the release of details to the media regarding the investigations of accidents is factually accurate, relevant and timely.

The VWA will continue to ensure that its policies and procedures relating to the release of details regarding the investigation of accidents to the media are of the highest possible standard and are adhered to by its officers, while at the same time ensuring a balance with the need for the community to be educated regarding the facts around workplace hazards.

Recommendation 25

That the State Government ensures that there is an adequate network of accident and emergency services in rural and regional Victoria, supported by an emergency retrieval system for seriously injured persons.

Response: Accept

The Government has been working to ensure an adequate network of accident and emergency services in rural Victoria. Since coming to office, the Government has increased the number of operational paramedics in rural Victoria from 519 to 726, established seven new rural ambulance stations with another station being established in 2005-06, created 22 Community Emergency Response Teams in isolated rural areas, and has established six Public Access Defibrillation sites.

In addition, the Department of Human Services is currently developing a capability based planning framework to define the appropriate levels of care and the emergency response expected from public health services in rural Victoria.

The framework will enable health services in rural Victoria to determine how best to provide optimal emergency care services and what level of patient management or intervention is considered appropriate for the health service. The framework will be based on the best clinical/cost effective model, with appropriate criteria in place to promote services of a safe and high quality standard in rural Victoria. The framework aims to encourage a more consistent approach to clinical risk management and the implementation of evidence-based care to reduce and improve patient safety and optimal clinical outcomes.

The outcome of this work will be an accepted framework for Victorian rural emergency services providers, that rural services are provided where it is safe and appropriate to do so, and a clear structure within which local decision-making and planning can be supported. The framework will

also foster the continued development of collaborative relationships between health services, general practitioners, Rural Ambulance Victoria and local communities.

Recommendation 26

That the Government ensures the availability of relevant specialised rehabilitation and return to work services for injured Victorian farmers and farm workers; and that this service be closely coordinated with local health providers.

Response: Accept

The Government is currently undertaking a number of measures to improve return to work strategies for injured workers, including Victorian farmers, as part of its industry wide return to work strategy. These include:

- education and awareness campaigns for employers on return to work strategies for injured employees;
- more effective and targeted assistance by claims agents in supporting employers and workers to achieve return to work;
- the development of rehabilitation services to assist employers and workers in the return to work process; and
- more early and appropriate referral to operational rehabilitation services.

While these initiatives are focussing on rehabilitation and return to work strategies for injured employees returning to their pre-injury employer, the Government is also implementing a number of programs for when an injured employee cannot return to his/her pre injury employer. These include:

- the Job Seeking Assistance Service, which equips workers with the competencies and skills to enable them to pursue suitable employment with a new employer as an independent job seeker; and
- the Wage Incentive Scheme for Employers, which offers new employers wage subsidies and premium protection for employing an injured worker.

These initiatives should ensure improved rehabilitation services and return to work opportunities for all injured Victorian workers.

The Government, through the VWA, will undertake a consultation campaign involving local health providers, including in regional and rural areas, in rolling out the various initiatives under its return to work strategies, with a view to ensuring optimal take up by injured workers.

Recommendation 27

Majority Recommendation: That the State Government assist local governments to incorporate farm safety into municipal public health plans.

Minority Recommendation: That the preparation, delivery and funding of farm safety programs continues to be the responsibility of the Victorian WorkCover Authority in cooperation with employers, and has no place in municipal health plans.

Response: Accept in principle the majority recommendation (minority recommendation not accepted)

The Government acknowledges that the inclusion of farm safety in municipal public health plans or other strategic planning processes would strengthen farm safety in rural areas.

It is also noted that under section 29B(2) of the *Health Act 1958*, it is the responsibility of individual local governments to identify and assess actual and potential public health dangers affecting their municipal district, and to outline programs and strategies that the municipalities intend to pursue to prevent or minimise those dangers, and enhance community well being. The priority afforded to farm safety as part of this process would be expected to vary from one local government to another.

Consistent with the Committee's majority recommendation, should local governments seek to include farm safety in municipal public health plans or other strategic planning processes, the Government, through the FarmSafe Alliance⁴ will assist these local rural governments to include farm safety in their municipal public health plans or other strategic planning processes.

Recommendation 28

That the State Government establish a Farm Safety Advisory Committee to provide advice to the Minister for Agriculture on farm safety issues and concerns that may exist through Victoria. This expert Committee is to be funded by the Victorian WorkCover Authority and should consist of 8-10 members with knowledge and experience of the farming sector who are well respected in their local industry and community. Members may be drawn from local existing farm safety action groups.

Response: Not accept

The Government shares the Committee's views concerning the benefits of harnessing the wealth of knowledge and skills that exist across the community, for the purpose of improving farm-related OHS outcomes. To this end, various bodies have been established to ensure the Government is provided with advice from those experienced in the farming sector.

The Occupational Health and Safety Advisory Committee (OHSAC), established in 2005 under the OHS Act 2004, comprises members and observers representing the interests of the farming community, such as the Victorian Farmers' Federation and the Australian Workers' Union.

In addition:

- the FarmSafe Alliance Committee has been reconstituted to have broad Government and industry representation; and
- the Victorian Farmers Federation convenes a FarmSafe Victoria Committee.

⁴ The FarmSafe Alliance is a networking body made up of representatives from the Government and community groups which promotes greater awareness of farm safety, hazards and risks, and actions to prevent incidents and health problems on farms.

The OHSAC and the FarmSafe Alliance Committee both report through the Minister for WorkCover, as the Minister responsible for safety on farms and other workplaces. Other Ministers, including the Minister for Agriculture, may seek advice or provide comment on matters of farm safety to the Minister for WorkCover via normal interdepartmental processes. The Government will continue to seek industry and stakeholder views on farm safety issues from these bodies and considers that the intention of the Committee's recommendation will be effectively achieved through the established framework of existing advisory committees.

The establishment of another committee is therefore not considered necessary at this point in time.

Recommendation 29

That the State Government encourage tertiary education providers of forestry industry training courses to develop programs that meet the practical needs of the industry.

Response: Accept

The Government considers that the current training arrangements within Victoria adequately cater for the needs of the forestry industry. Qualifications and State accredited courses are based on advice provided by the Forest and Forest Products Industry Advisory Body, which consults with the forestry industry in developing the advice.

The qualifications provide the skills and knowledge for entry level workers as well as existing workers in the industry. They also provide the option for training providers to tailor the education programs to meet local industry and community needs.

The major training resource for the forestry industry is the Forest and Forest Products Training Package. This package specifies the vocational competencies and qualifications specific to the industry and has been the subject of a recently completed major twelve month review.

The package now covers a diverse range of activities, from growing and management of plantation and native forest resources, harvesting, sawmilling and processing and the manufacture, merchandising and retailing of finished products. Furthermore, all qualifications now include OHS and the safe operation and handling of machinery, plant and equipment in every practical unit of a competency.

Recommendation 30

That the Victorian WorkCover Authority work with (the forestry) industry to identify the means by which risks associated with fatigue and production pressures can be reduced.

Response: Accept

A state-wide Forest Industry OHS stakeholder forum was formed in October 2002 which comprised representatives from the VWA and the forest industry. The stakeholder forum identified fatigue as a priority issue and established a VWA-funded project to develop fatigue management guidelines for the forest industry.

The fatigue management guidelines for the forest industry were released in March 2004 and the VWA is currently working with stakeholders to integrate these guidelines into the daily operations of the forest industry.

Recommendation 31

That the Victorian WorkCover Authority support the development, publication and distribution of an occupational health and safety manual for employers, to distribute to employees, in Victorian commercial fishing operations.

Response: Accept

The VWA is currently working with stakeholders to develop OHS guidance within its jurisdiction for the Victorian fishing industry. This is scheduled to be completed in 2006.

Recommendation 32

That the Victorian WorkCover Authority ensure that WorkSafe inspectors appointed to duties in the Victorian commercial fishing industry have sufficient experience in issues associated with the operations of small and large scale fishing enterprises.

Response: Accept in principle

As discussed in relation to Recommendation 23, the VWA inspectors tend to dedicate the majority of their time to one particular industry where they gain experience and expertise on industry practices and cultures. This knowledge is also supplemented via regular consultation with industry experts.

As has already been noted in the Government response to Recommendation 23, the VWA is presently engaging with industry on a program to place inspectors into industry to gain an increased understanding of the issues facing that sector. The VWA is seeking to include the Victorian fishing industry in this process.
