



Submission to

**Review of the Health Act 1958
Draft policy paper**

January 2006


The Victorian Farmers Federation

The Victorian Farmers Federation is Australia's largest state farmer organisation, and the only recognised, consistent voice on issues affecting rural Victoria.

The VFF represents 19,000 farmer members, representing 15,000 farm enterprises. The VFF consists of an elected Board of Directors, a member representative General Council to set policy and eight commodity groups representing dairy, grains, livestock, horticulture, chicken meat, pigs, flowers and egg industries.

Farmers are elected by their peers to direct each of the commodity groups and are supported by Melbourne-based staff.

Each VFF member is represented locally by one of the 230 VFF branches across the state and through their commodity representatives at local, district, state and national levels. The VFF also represents farmers' views on hundreds of industry and government forums.



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Overview

The Victorian Farmers Federation appreciates the opportunity to provide comment on the Draft policy paper relating to the Review of the Health Act 1958.

Our organisation is interested in the review and how the administration of the Act has the potential to impact upon normal farming practices.

Farming is the foundation of the rural economy and agriculture makes a very large contribution to the Victorian economy. The gross value of agricultural production in Victoria increased in 2000-01 to \$8.3 billion, representing a 21.8 per cent rise on 1999-2000¹.

Exports of food and fibre represent almost one third of Victoria's total exports. In 2001-02, food and fibre exports reached \$7.6 billion, an increase of 40 per cent over the previous two years. The strong growth in agricultural productivity and exports brings the industry closer to the Government's target of \$12 billion food and fibre exports by 2010.

There are 35,229 agricultural businesses in Victoria representing 25 per cent of the nations' farms². Agriculture is a major employer in rural and regional Australia, providing one in ten regional jobs and contributing as much as 50 per cent of total employment opportunities in regions outside major towns. The Victorian agriculture sector paid an estimated \$652.8 million in wages, salaries and entitlements for employees in 2000-01³.

Many rural communities depend upon agriculture for their prosperity. Agriculture contributes more than 30 per cent of employment in 66 per cent of small non-coastal towns, and more than half of total employment in 28 per cent of small non-coastal towns.⁴

Although the definition of health used in this review appears to be a very broad one, this organisation is adamant that the Health Act should not deal with issues more appropriately managed by other legislation. There are a number of issues raised in this review that are already being managed by other Acts, and should continue to be managed in this way. Legislation for the protection of health should be enabling rather than proscriptive.

The VFF is particularly interested in participating in a review of Part III of the Health Act, where legislation for nuisances is covered. It is this part of the Act which impacts most significantly on the operations of our members.

However, depending on changes to the definition of "health" and potential implementation of a number of broad changes, there is potential for major impacts on farming which will need to be considered during the preparation of legislative amendments.

The VFF would welcome further discussion on any of the issues raised in our submission, and further discussion about aspects of the review that have the potential to impact on farming businesses as the review progresses.

¹ Australian Bureau of Statistics, *Agricultural Commodities 2000-01*, Canberra, 2002, table 15, page 19.

² ABS, *Agricultural Commodities 2000-01*, Canberra, 2002, table 1, page 5.

³ ABS, *Agriculture 1999-2000*, Canberra, 2001, table 4.15, page 41.

⁴ ABARE (2001), *Country Australia*, p 38

Nuisance

While the VFF is supportive of removing the term “annoying” from the definition of nuisance the change should go further. The Health Act ought to deal solely with matters that are directly related to human health. The recommended nuisance provision retains the term offensive. Offensive is defined as ‘noxious or injurious to personal comfort’.

The VFF believe that these elements of nuisance are concerned with amenity rather than human health, and are more than adequately dealt with by the Environment Protection Act.

Of greater concern is the proposal that ‘risk of nuisance’ becomes an offence. This seems too wide a scope for a clause that is not restricted to threats to human health. It is possible that a risk of disturbing someone’s personal comfort (amenity) becomes an offence.

Further clarification on this issue is required for example could the risk of nuisance be used in planning matters to prevent the development of an industry?

Duty of Care

VFF is supportive of a narrow scope for the duty of care provision. Duty of care should apply only to major material risks rather than trivial and/or minor risks.

Cost Recovery

Penalties for public health offences should be commensurate with the impact and damage.

Pest Control

The VFF support the Health Act continuing to provide for the licensing of pest control operators and trainees.

Spray Drift

The VFF support measures to prevent spray drift, however do not believe it is appropriate for the Health Act to specifically address the issue. Spray drift is being sufficiently managed under the Occupational Health and Safety Act, Agvet Control Act and the Environment Protection Act.

The VFF support the principal of developing a Memorandum of Understanding between relevant agencies and departments clarifying their roles and responsibilities with regard to spray drift.

The VFF also believe the general public need to be made aware of the strict regulation of agricultural chemical use which helps to ensure public safety. This could be achieved through a public awareness program. The number of unfounded complaints to Local Government, EPA, DPI etc could be reduced if the public better understood that agricultural chemical users are sufficiently trained to eliminate harm to people and property.

Advanced Notification requirements for spraying

The VFF believe the Health Act (and other Acts) should not pre-empt the occurrence of spray drift by introducing requirements to notify neighbouring residents. The VFF believe the problem is best addressed by preventing spray drift in the first instance. This can be achieved through the training/accreditation process for chemical users and penalties for offenders.

The introduction of notification requirements for spraying, would burden the majority of responsible spray operators with additional regulatory requirements, in order to prevent the damage caused by the irresponsible minority.

1080

Non – target species impact

The VFF supports the recommendation by the APVMA that careful attention to the concentration of 1080 in baits, bait material, size, preparation, placement and timing will optimise target selectivity. Victorian farmers who wish to use 1080 products have to have completed a chemical users certificate and obtained an agricultural chemical users permit. This has helped reduce the risk of a farmer not understanding their obligations regarding the use of 1080 products.

Access to 1080 bait

Effective pest control is an extremely important issue for farmers. Having access to a range of bait types has been an issue the VFF has lobbied for extensively. The APVMA recommendation that a range of bait types should be available for each target pest is strongly supported by the VFF. The VFF would support the licensing of rural merchandise outlets to supply 1080 baits to permitted landowners. However, it is extremely important that should this happen a range of bait types are made available to farmers.

Adequacy of label instructions

It is important that any chemical label contain clear and concise information based on current research and recognised industry best practice. It is extremely important that 1080 continues to be available to Victoria's farmers. If the APVMA labels specify target species and include clear information regarding its use, the risk of misuse will decrease.

Victorian farmers who wish to use 1080 have recognised the importance of this product and take their responsibilities seriously. In order to purchase the product in Victoria a farmer must have completed a farm chemical users certificate and have obtained an ACUP. This has enabled the industry itself to ensure that only farmers who have reached a certain level of training have access to the product in the first place. The additional information being proposed by will reinforce the importance of correct use.

The VFF agree that 1080 should be regulated by the DPI Chemical Standards Branch there is no need for 1080 to be further addressed during the review of the Health Act

Cooling Towers

The VFF along with the wider dairy industry, supports the proposal to transfer Part 5A and 5B of the Building Act into the Public Health Act. The industry also supports the principles behind the provisions for managing cooling towers to prevent Legionella occurrences.

However, work done previously to characterize the risk to human health from cooling towers on dairy farms showed that they are low risk. They operate differently to those in buildings, but are still, by definition, cooling towers and must meet the Victorian legislation. The risk characterization work was used to support a successful application to vary the regulations for cooling towers on dairy farms. The current changes to the regulations need to be made in a way that the lower risk presented by cooling towers on dairy farms compared to those on city building can still be recognized.

The dairy industry supports the principles that:

- There is a need to know the whereabouts of all cooling towers; and
- an appropriate maintenance schedule should be in place with due records to demonstrate compliance with the schedule. This means all dairy farms with cooling towers need to be registered.

The VFF proposes that:

- Section 6.2.3 of the proposed Health Act be activated as of 1st July 2006 and not 2008 as proposed for the new Act.
- The Secretary then vary the risk management requirements for cooling towers on dairy farms to provide for;

1. Initial registration of a cooling tower on a dairy farm, (the prescribed fee should be set at zero, or at least at some token amount that aims to cover any initial administration associated with registration).
2. Registration should remain in place until the owner asks to have their cooling tower deregistered (that is, ongoing annual registration is not required).
3. At registration, the dairy farm owner would note the type of cooling tower system in place. If it conforms to the generic systems associated with the majority of dairy farms, there would be no need to fill in a risk assessment template and a pro-forma auditable maintenance plan would be adopted.
4. Dairy farmers would need to be able to verify that they have adhered to the predetermined maintenance plan if asked to do so at any time – however routine audit would not be required.

If the above recommendations were adopted, the dairy industry would work with the Department of Health on a communication strategy to advise all dairy farmers with cooling towers of their responsibility to;

- register their cooling tower
- maintain an implement an appropriate maintenance plan

The current variation to the regulations for cooling towers on Victorian dairy farms accepted the two distinct types of cooling towers predominantly used on dairy farms. The dairy industry's proposal for the new Health Act continues to recognize the current variation. If a dairy farm has a non-standard tower, then they would have to fill out a risk assessment template and have the maintenance plan associated with the non-standard tower approved.

Once it is approved, the same arrangements should be accepted – that is a one off registration fee, ongoing registration until deregistration is sought, auditable maintenance plans implemented, but no specified audit frequency. The ability to audit if required should be sufficient. The Department may do check audits when in the region.