

**Model Work Health and Safety Regulations and
Codes of Practice Public Comment Response Form**

Individual/Organisational name: Volunteer Fire Brigades Victoria - VFBV

Section A: Model Work Health and Safety Regulations Exposure Draft

General Comments (e.g. regulatory impact, level of prescription, notification, record-keeping requirements)

The regulatory impact to CFA will introduce a significant expansion of the numbers of 'workers' under their jurisdiction designated with the inclusion of some 60,000 volunteers representing close to 97% of the organisations 'workforce' under the new definition. Regulatory obligations may extend to more than 1240 separate designated workplaces, further complicated by the compounding impacts of emergency response where paid and volunteer members of CFA respond and perform emergency response activities at locations operated by a PCBU for that location, yet hand back the control of the incident site to the original PCBU or another authority if so deemed as a result of the situation.

VFBV strongly maintains that the Victorian Country Fire Authority (CFA) as a unique organisation with a predominant volunteer workforce will need to provide adequate skilled resources to support volunteers (as workers) in their environment, by providing or allocating:

- Administrative support
- Training and assessment services
- Specialist advice
- Other targeted support essential to sustain volunteerism and minimise impacts of compliance and duty.

VFBV would support the concept promoted by Victoria's Country Fire Authority that Emergency Service Organisations and emergency service workers be excluded from the requirements of the following:

1.2.4 Application to emergency service organisations

Emergency service organisations and emergency service workers are excluded from the requirements of the following regulations of 4.3.6, 4.3.9, 4.3.10, 4.3.15, 4.3.21, 4.4.4, 6.1.1, 7.3.1, 7.3.3, 7.3.20, 7.3.21; whilst they are undertaking emergency service activities (and training for the same).

- (a) to assist an injured person; or
- (b) to remove a deceased person; or
- (c) that is essential to make the site safe or to minimise the risk of a further incident; or
- (d) that is associated with a fire or police investigation; or

- (e) for which an inspector or the regulator has given permission.
- (f) undertaking training in the requirements for matters in subregulations (a) , (b) or (c).

VFBV further has concerns that the critical mass of the Country Fire Authority with some 63,000 'workers in over 1240 workplaces, most in rural and remote locations will prove a challenge and a staged implementation period would be needed.

PROTECTION FOR VOLUNTEERS

Volunteers moving to a 'worker' classification under the Model Legislation and Regulations poses some concerns for their protection from prosecution and penalty for these 'volunteer workers' when undertaking their duties in good faith and not with wilful or malicious intent. These 'volunteer workers' share a common mission statement adopted by the Victorian Country Fire Authority to '*protect life and property*' and operate collaboratively within a Safety First culture.

VFBV's position is that;

'Volunteers not be exempted from their obligations nor their duty, but are protected from penalty providing they act in good faith in accordance with their policies and procedures.'

VFBV makes the following comments and submissions on specific Chapters and Parts of the Model WHS Regulations,

Chapter 1: Preliminary (e.g. definitions)

ESO'S:

VFBV supports the Victorian Country Fire Authority's submission in seeking specific definitions for;

1. Emergency Service Organisation
2. Emergency Service Worker

FALLS: VFBV has some specific concerns with the definition and intent of Falls definition given the interpretation under current wording could be widely interpreted. Ie Differentials of 1cm.

Chapter 2: Representation and participation (e.g. power to request review of risk control measures in certain circumstances)

VFBV maintains that the diversity and spread of the 1240 workplaces, many remote and isolated, most of which are solely volunteer locations will impose an onerous obligation for CFA and volunteers to conform with the training and endorsement requirements in Victoria that mandate 5 consecutive days of face to face instruction and a single day refresher per year.

The election and subsequent training of HSR's, the overwhelming majority being volunteers required under Victorian Law to attend initial 5 day face to face instruction and annual one day refresher will present financial and logistical hardship to volunteers and their employers who will ultimately bear the consequences of mandatory yet inflexible training and compliance obligations.

VFBV supports the Victorian Country Fire Authority's submission that under a rewording of section 2.7.1 the Regulations would include the introduction of flexible and varied methods of training delivery be developed and made available including attendance flexibilities, and the embracing of modern training and assessment methodologies such as distance learning and E Learning.

VFBV supports the concept that volunteers as workers should be represented and have the ability to be trained as HSR's, however volunteers call for flexible arrangements be mandated that encourage volunteer participation, not pose a further burden for them in undertaking a representative role.

Chapter 3: General workplace management

Part 3.1 General working environment

VFBV seeks to clarify the definition of a workplace in the context of the wide variety of Fire Stations that exist across Victoria's 1200 plus communities served by CFA's community based model.

Many of these 'Fire Stations' are sheds or garages that provide secure shelter for appliances and equipment. Many have limited facilities, yet adequately perform their primary function in protecting the trucks and equipment from the elements.

VFBV's position on behalf of volunteers is for CFA to provide and maintain adequate and accessible facilities at all locations and this to be based on a risk management approach and following consultation with affected members of the workforce to determine the required appropriate facilities based on reasonable basic necessities.

Regulation 3.1.3 Remote or isolated work

VFBV notes the submission made by Victoria's Country Fire Authority and supports the inclusion of the modifier 'so far as reasonably practicable' in 3.1.3.(2)

VFBV would maintain that for CFA to comply with the modifier applying, consultation with the affected workers on remedial and redundancy systems will need to consider:

1. Black/brown spot radio coverage remediation programs will continue to advance communication coverage to optimum levels; and
2. Where unable to install permanent infrastructure, continue to provide and maintain portable radio repeaters, and other transportable means; and
3. Include fixed and mobile telephony options as part of communications plans; and
4. Where a sole worker is engaged in a remote location, Standard Operating Procedures (SOP's) will be developed in consultation with the affected workers representatives to ensure primary and backup systems are available and operable.

Part 3.2 Personal protective equipment

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

VFBV also notes the following in response to 3.2.3:

3.2.3 Air supplied respiratory equipment

(2) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment is maintained so that it supplies air:

- (a) at a pressure of at least 170L/min; and
- (b) with an oxygen level that is not less than 19.5% and not more than 22%.

(3) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment supplies air through:

- (a) an efficient purifying device that ensures that:
 - (i) the air does not have an objectionable or nauseous odour; and
 - (ii) if measured at 15°C and 100kPa, the air would contain not more than 11mg/m³ of carbon monoxide, not more than 900mg/m³ of carbon dioxide and not more than 1mg/m³ of oil; and
- (b) an efficient air conditioner that ensures that the air is supplied:
 - (i) at a temperature not colder than 15°C and not warmer than 25°C; and
 - (ii) at a humidity level not less than 20% and not more than 85%;

Issues for consideration from above

1. "at a pressure of at least 170L/min"

- a. 170 l/min is a flow rate not a pressure!
- b. This requirement of a flowrate of only 170 l/min is technically outdated

2. Specifications for air quality are not consistent with AS/NZS 1715 which is what the entire industry of Australia currently adheres to – Why change without consultation with that industry?

3. Specifications of delivered temperature are not technically feasible in portable equipment and still very difficult to achieve in fixed equipment at a fixed location. Such a requirement would require a refrigeration plant at each air outlet on a fixed system and even then would be unlikely to be achieved when airlines were longer than 10 metres when ambient temperatures are outside of the 15 – 25C envelope.

4. No air supplied system can deliver moist air over a piped system, by the physical nature of the compression removing the moisture initially, and the risk of corrosion of the pressure vessels and lines in the system. Therefore to meet the above requirements the system would need to have humidifiers installed at each outlet. This precludes the use of portable supplied air devices such as SCBA (Self Contained Breathing Apparatus) and airline systems operated of gas cylinders (the only systems that the Emergency Services utilise). Is it really the intention of the regulations to ban portable supplied air devices?

The VFBV strongly supports the adoption of AS/NZS 1715 as the appropriate regulatory instrument for specifying parameters relating to breathing air quality.

Part 3.3 First aid

VFBV acknowledges the submission of Victoria's Country Fire Authority on inclusions to 3.3.1 (3) however, VFBV has developed a position on the opportunity and provision for volunteers within CFA to attain nationally recognised First Aid competencies and the understanding the opportunity response where volunteers respond when available predicated a greater number of members being trained to ensure a First Aid capability is ensured as crews respond to emergencies and incidents.

The nature of emergency response operations and the practice that volunteers respond opportunistically if and when available will require the PCBU (CFA in this example) to ensure sufficient numbers of volunteers (workers) are trained to ensure a suitably trained and qualified First

Aider is part of any responding crew.

VFBV's position is that all emergency service volunteers have the opportunity to attain First Aid competencies to Workplace Level 2 and for those volunteers to have the opportunity to maintain these qualifications should these volunteers so wish.

Part 3.4 Emergency plans

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

Part 3.5 Review of general workplace management measures

Chapter 4: Hazardous work

Part 4.1 Noise

Part 4.2 Hazardous manual tasks

Part 4.3 Confined spaces

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

VFBV would further recommend exemptions sought for emergency service organisations and emergency service workers engaged in emergency operations include provisions for Fire Investigators; ie

Application to emergency service organisations

- (a) to assist an injured person; or
- (b) to remove a deceased person; or
- (c) that is essential to make the site safe or to minimise the risk of a further incident; or
- (d) that is associated with a fire or police investigation; or
- (e) for which an inspector or the regulator has given permission.
- (f) undertaking training in the requirements for matters in subregulations (a) , (b) or (c).

VFBV recommends the exemption for Emergency service organisations and emergency service workers regulations 4.3.6 and 4.3.15; whilst

they are undertaking emergency service activities (and training for the same).

Part 4.4 Falls

Fire services nationally perform various activities at heights including emergency response, training, competitive drills and competitions where members ascend and descend ladders and platforms. The competition elements of ladder work previously categorised as 'sport' (Victorian OH&S Act 2007) will be set aside with these regulatory changes, thus no longer exempting these activities.

VFBV supports Victoria's Country Fire Authority in seeking an inclusion to Regulation 4.4.1 as follows:

4.4.1 Application of Part

- (1) This Part does not apply in relation to –
 - (a) the following activities that are carried out under the control or management of an employer –
 - (i) the performance of stunt work; or
 - (ii) the performance of acrobatics; or
 - (iii) a theatrical performance; or
 - (iv) a sporting or athletic activity; or
 - (v) the riding of a bicycle, motorcycle or all-terrain vehicle; or
 - (vi) horse riding; or
 - (vii) rock climbing, abseiling or any similar activities; or
 - (b) a task that is undertaken on those parts of a building or structure (including stairs, fixed ladders, ramps and balconies) that –
 - (i) comply with any practicable requirements of AS 1657 – Fixed platforms, walkways, stairways and ladders – Design, construction and installation; and
 - (ii) comply with any applicable requirements of the Building Regulations 2006; and
 - (iii) are used for the purpose for which they were designed, including for access and egress; or

(c) any activity determined by the Authority in accordance with subregulation (2)

(2) The Authority may determine an activity to be excluded from the application of this Part if the Authority is satisfied that the activity is of a similar nature to an activity referred to in subregulation (1)(a).

VFBV would further recommend exemptions sought for emergency service organisations and emergency service workers engaged in emergency operations include provisions for Fire Investigators; ie

Application to emergency service organisations

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- (c) that is essential to make the site safe or to minimise the risk of a further incident; or
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- (f) undertaking training in the requirements for matters in subregulations (a) , (b) or (c).

Part 4.5 High risk work (e.g. Accreditation of Assessors)

Part 4.6 Abrasive blasting

Part 4.7 Electrical work

VFBV would seek consideration in this Part for 'Removal of domestic supply' in the event of an emergency. Emergency service organisations and emergency service workers where such workers are deemed competent may isolate a supply by the removal of a service fuse or isolation of the main circuit/switch.

Division 6 Residual Current devices

4.7.21 Residual current devices – general requirement

VFBV recommends that the provision of RCD's be mandated for all high risk environments:

- RCD's be installed where required following a risk based approach.
- High risk environments considered ie wet areas and hand held or moveable equipment.
- An implementation period for PCBU's to comply be determined.

Part 4.8 Diving work

Chapter 5: Plant and Structures

Chapter 6 Construction (e.g. construction induction requirement)

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

VFBV would further recommend exemptions sought for emergency service organisations and emergency service workers engaged in emergency operations include provisions for Fire Investigators; ie

Application to emergency service organisations

- (a) to assist an injured person; or
- (b) to remove a deceased person; or
- (c) that is essential to make the site safe or to minimise the risk of a further incident; or
- (d) that is associated with a fire or police investigation; or
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Chapter 7: Hazardous chemicals

Part 7.1 Hazardous chemicals

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

VFBV notes the provisions in Division 2 - Obligations relating to safety data sheets and other matters;

Subdivision 1 - Part 7.1.9 onwards where changes to the terminology from Material Safety Data Sheet (MSDS) to Safety Data Sheet (SDS) will require consideration by the Authority to plan for an implementation direction that considers the changes coincide with the

expiration of the MSDS. Implications for such changes other than at review or upon release of new SDS's will require considerable documentary changes to organisational documents.
VFBV would recommend the implementation plan consider the changes come into effect on the occasion of the 5 year review for all existing Material Safety Data Sheets.

Part 7.2 Inorganic lead

Part 7.3 Asbestos

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

VFBV would further recommend exemptions sought for emergency service organisations and emergency service workers engaged in emergency operations include provisions for Fire Investigators; ie

Application to emergency service organisations

- (f) to assist an injured person; or
- (g) to remove a deceased person; or
- (h) that is essential to make the site safe or to minimise the risk of a further incident; or
- (i) that is associated with a fire or police investigation; or
- (j) for which an inspector or the regulator has given permission.
- (f) undertaking training in the requirements for matters in subregulations (a) , (b) or (c).

Chapter 8: Major hazard facilities

VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to this matter.

Chapter 9: Mines

Chapter 10: General

Part 10.1 Review of decisions

Part 10.3 Exemptions

Section B: Model Codes of Practice
General Comments
VFBV acknowledges and supports the submission of Victoria's Country Fire Authority in regard to these matters.
How to manage work health and safety risks
How to consult on work health and safety
Managing the work environment and facilities
Managing noise and preventing hearing loss at work
Hazardous manual tasks
Confined spaces
How to prevent falls at the workplace
Labelling of workplace hazardous chemicals
Preparation of safety data sheets for hazardous chemicals

How to manage and control asbestos in the workplace
How to safely remove asbestos
Facilities for construction sites

Appendix
Penalty levels
Infringement notices
Other Comments