

Safe Work Australia: Submission to the Productivity Commission Inquiry into Regulation of Australian Agriculture

Safe Work Australia leads the development of national policy to improve work health and safety (WHS) and workers' compensation arrangements across Australia. This submission focuses on WHS regulation of the Australian Agriculture industry.

In particular this submission examines the following:

- harmonisation of WHS laws in Australia
- the model WHS Act
- responsive regulation – The National Compliance and Enforcement Policy
- rural machinery including tractors and quad bikes, and
- GHS labelling requirements for Agricultural and Veterinary (AgVet) chemicals.

The Issues Paper notes “regulation can be of benefit to the agriculture sector (and the community more broadly) where it meets economic, social and/or environmental objectives and is designed and implemented efficiently and effectively.”

From a WHS perspective, agriculture is unique. While other industries share some of the hazards of farming such as plant, chemicals, noise, dust, sun exposure or working with animals, the combination of hazards found in agriculture, make it one of the most dangerous industries in which to work.

Agriculture workers have the highest fatality rate in Australia and also the highest rate of serious workers' compensation claims (see [Appendix A](#)). Agriculture is one of seven priority industries identified under the *Australian Work Health and Safety Strategy 2012-2002* (Australian Strategy). The priority industries are the focus of activities by regulators, employer and employee groups to identify the common causes of injury and fatality and to find and implement solutions.

Safe Work Australia estimates that in 2012–13 the cost of work-related injuries and fatalities in the Agriculture industry to the Australian economy was \$2.35 billion¹.

The health and safety regulation of the agriculture industry is commensurate with the level of risk in the industry. There are clear economic and social benefits for Australia in improving the safety of agriculture workers (both employees and self-employed) through regulation and consistent and proportional compliance and enforcement activities as well as through other initiatives such as those identified under the Australian Strategy.

Harmonisation of WHS laws in Australia

In July 2008, the Council of Australian Governments signed the *Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety*, which included a commitment that the Commonwealth, state and territory governments would harmonise WHS legislation by 1 January 2012 to improve WHS, provide consistent protection for Australian workers and reduce regulatory burden.

Seven of the nine Australian jurisdictions had adopted the model WHS laws by 1 January 2013. Queensland, South Australia and the Australian Capital Territory have made a number of substantive amendments to their WHS laws however core provisions remain the same in all of the jurisdictions that have adopted the model WHS laws.

Victoria and Western Australia have not yet adopted the model WHS laws. Western Australia is developing legislation which would adopt key provisions of the model WHS laws. The Western Australia Government tabled the Work Health and Safety Bill 2014 on 23 October 2014 for a

three-month public comment period. Public consultation closed on 30 January 2015 and the Western Australia Government is now considering its position.

The model WHS laws

The model WHS laws have a three-tiered approach of a principal Act supported by Regulations and codes of practice. The model WHS Act contains broad 'general duties', based on the common law duty of care, and allows duty holders to determine, in consultation with workers, how they will comply with the general duties. The outcome-based duties are accompanied by detailed requirements in the model WHS Regulations setting out how to meet obligations in specific areas where there are significant risks to health and safety, such as major hazard facilities, construction work, and hazardous chemicals. Non-mandatory codes of practice provide further practical guidance on how to meet the requirements in the model Act and Regulations.

Unlike other high risk industries such as construction, there are no specific regulations under the model WHS laws targeted at agriculture, therefore farming businesses are subject to the same WHS requirements as other workplaces.

Responsive regulation – The National Compliance and Enforcement Policy

To fully realise the benefits of harmonised WHS laws, the Commonwealth, state and territory governments recognised the need for laws to be complemented by a nationally consistent approach to compliance and enforcement.

The [National Compliance and Enforcement Policy](http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/national-compliance-enforcement-policy) (<http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/national-compliance-enforcement-policy>) was collaboratively developed by the Heads of Workplace Safety Authorities and endorsed by the Workplace Relations Ministers' Council in July 2011. This policy sets out the approach WHS regulators will take to monitoring and enforcing compliance under the model WHS Act and Regulations.

It is a high level, principle-based document that reflects the functions and powers of the regulators as established under the model WHS legislation. In addition, WHS regulators developed common principles, frameworks, operational protocols and procedures to support the administration and enforcement of the model WHS legislation.

Rural machinery including tractors and quad bikes

In 2015, Queensland and NSW held coronial inquests into quad bike related deaths. The coronial inquests made a number of recommendations that include developing a quad bike safety rating system and Australian Standards for quad bikes and helmets, banning children from riding adult size quad bikes, improving training and educational campaigns.

Safe Work Australia is working to improve the safe use of tractors, quad bikes and other types of vehicles used in rural workplaces. Safe Work Australia recently published national guidance material on *Managing the risks of machinery in rural workplaces*² and *Quad bikes in rural workplaces*³ which provide information on using and selecting different types of rural machinery.

Quad bikes are also used for activities that are not work-related. Improving quad bike safety is therefore a broader issue that requires a coordinated response from the Commonwealth, state and territory governments as well as support from quad bike manufacturers.

Labelling requirements for Agricultural and Veterinary (AgVet) chemicals



From 1 January 2017 the model WHS Regulations will require that registered AgVet chemicals for use in workplaces include hazard and precautionary statements consistent with the Globally Harmonised System of Classification and Labelling of Chemicals. These statements are to be included on the label where the Australian Pesticides and Veterinary Medicines Authority mandated first aid and safety directions do not already include equivalent information. Safe Work Australia has recently published a series of information sheets explaining the policy rationale and requirements on the [Safe Work Australia Website](http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/labelling-agvet-chemicals) (<http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/labelling-agvet-chemicals>).

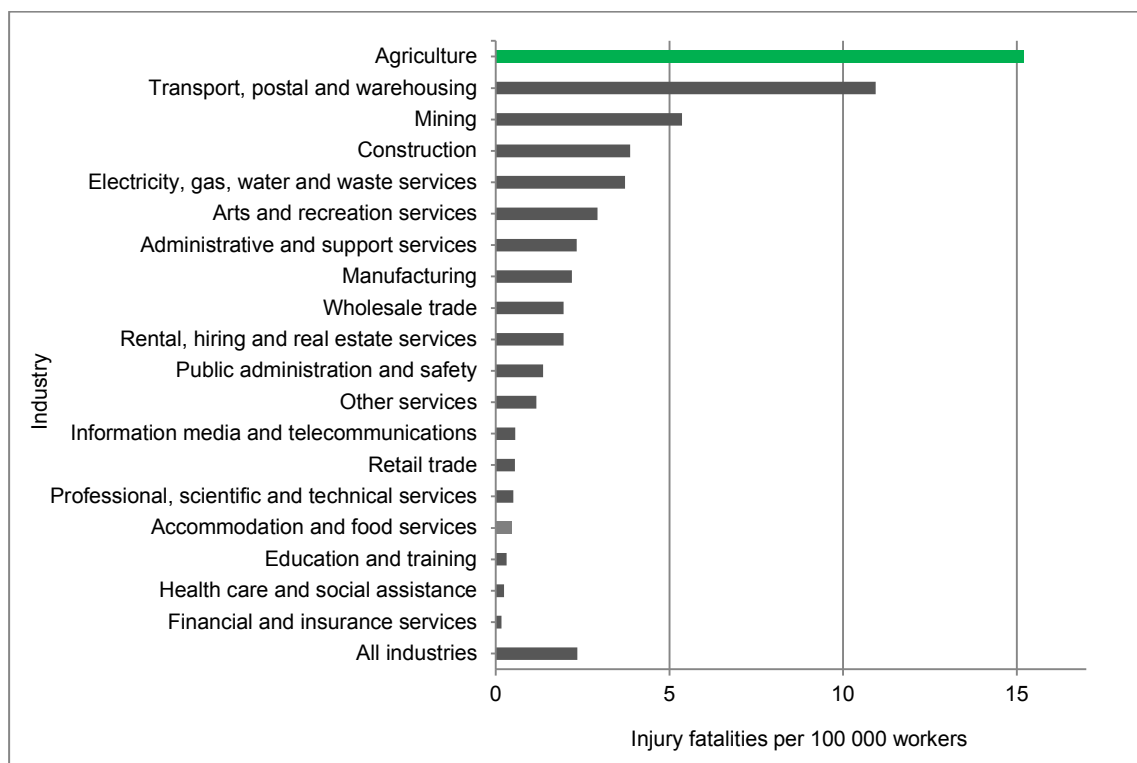
Safe Work Australia is also participating in the Department of Agriculture review of potential duplication between AgVet chemicals and WHS legislation for AgVet chemicals.

1 Agriculture statistics

(a) *Agriculture workers have the highest fatality rate in Australia*

Despite constituting only 3 per cent of the Australian workforce between 2003 and 2014, the agriculture industry accounted for 19 per cent (574) of fatally injured workers. Over the 12-year period, the fatality rate for agriculture workers was 15.19 injury fatalities per 100 000 workers, which was over six times higher than the rate for all industries (2.35) and significantly higher than for every other industry. Figure 1 shows fatality rates for each of the 19 Australian industries for the period 2003 to 2014.

Figure 1: Fatality rates by industry, 2003 to 2014



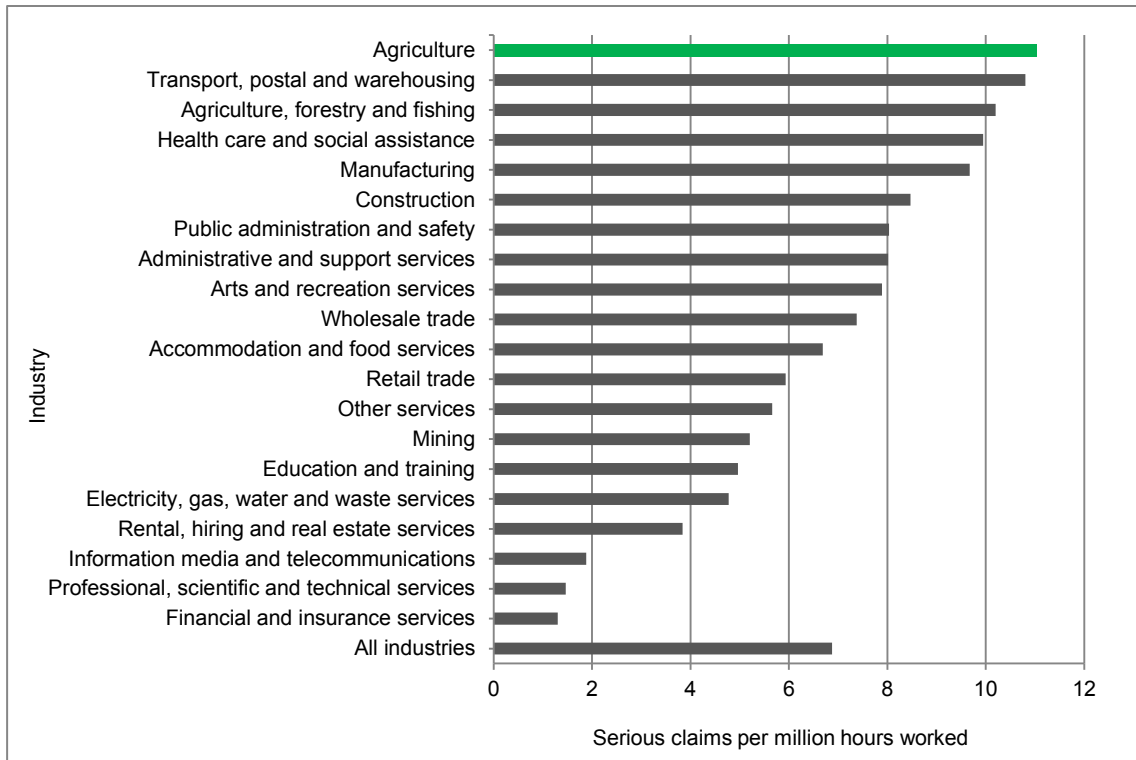
Source: Traumatic Injury Fatalities database.

(b) *Agriculture employees have the highest rate of serious claims in Australia*

A serious claim is an accepted workers' compensation claim that involves one or more weeks away from work and excludes all fatalities, and all injuries experienced while travelling to or from work or while on a break away from the workplace.

Over the five-year period between 2009–10 and 2013–14, the rate for agriculture workers was 11.0 serious claims per million hours worked, which was 59 per cent higher than the rate for all industries (6.9) and higher than every other industry. Figure 2 shows the rate of serious claims for each of the 19 Australian industries for the period 2009–10 to 2013–14.

Figure 2: Rates of serious claims by industry, 2009–10 to 2013–14



Source: National Data Set for Compensation-Based Statistics.

¹ Safe Work Australia 2015, [The Cost of Work-related Injury and Illness for Australian Employers, Workers and the Community: 2012–13](http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/940/cost-of-work-related-injury-and-disease-2012-13.docx.pdf) (<http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/940/cost-of-work-related-injury-and-disease-2012-13.docx.pdf>)

² Safe Work Australia 2016, [General guide for managing the risks of machinery in rural workplaces](http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/951/general_guide_managing_risks_machinery_rural_workplaces.pdf) (http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/951/general_guide_managing_risks_machinery_rural_workplaces.pdf)

³ Safe Work Australia 2016, [Quad bikes in rural workplaces – Information sheet](http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/950/quad_bikes_rural_workplaces_information-sheet.pdf) (http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/950/quad_bikes_rural_workplaces_information-sheet.pdf)