

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

Individual/Organisational name: Country Fire Authority

Section A: Model Work Health and Safety Regulations Exposure Draft

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

The Country Fire Authority (CFA) operates in the following two modes:

1. A PCBU preparing for emergency response.
2. Emergency Services Response.

The majority of issues that have been identified concern the application of the Model Work Health and Safety Regulations to the CFA emergency services response function.

Emergency incidents occur at locations normally operated by a PCBU for that location (e.g. manufacturing plant). Emergency services respond to that incident and may by default become the controlling PCBU whilst the emergency is occurring and then hand control of all or part of that site back to either the original PCBU or another authority (e.g. WorkSafe / Council). It is considered there is a potential for confusion in the interpretation of a PCBU during an emergency incident in regards to responsibilities particularly in relation to the purpose of the business (e.g. manufacturing) and the application to these regulations where an emergency incident may occur.

It is Country Fire Authority's (CFA) position that the responsibilities of an emergency service in these circumstances only relate to the tasks being undertaken as part of the emergency response activities and the emergency service does not have any responsibilities transferred to it that apply to the original PCBU based on its normal business activities. Therefore the CFA suggests that there be a standard exclusion in Chapter 1 to exclude emergency service organisations and emergency service workers whilst undertaking emergency activities for ... The suggested wording of the exclusion is:

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 4.3.9, 4.3.10, 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 the following type of emergency response activity:

- (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 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) or (b).

The varying level of detail between regulations is of concern and should be standardised (e.g. Hazardous Manual Handling Tasks compared to Plant). The CFA recommends that the technical detail be contained in the relevant Code of Practice to ensure consistency and limit the need to change the regulations (e.g. section 3.2.3 (3) (a) (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).

The CFA makes the following comments and submissions on specific Chapters and Parts of the Model WHS Regulations.

Chapter 1: Preliminary (e.g. definitions)

Definitions

- Emergency Service – adopt the principle or intent of the definition under the Victoria OHS Regulations 2007 but as a worker. As this definition will be locally defined the expectation is that for Victoria the current definition in the Victoria Regulations should be adopted when legislated and will consist primarily of:

emergency service organisation means—

- (a) the Country Fire Authority; or
- (b) the Metropolitan Fire and Emergency Services Board; or
- (c) the Metropolitan Ambulance Service; or
- (d) Rural Ambulance Victoria; or
- (e) the Victoria State Emergency Service Authority; or
- (f) Victoria Police;

emergency service worker means—

- (a) an officer or member of a metropolitan fire brigade; or
- (b) an officer or member of an urban fire brigade or rural fire brigade within the meaning of the **Country Fire Authority Act 1958**; or
- (c) an employee of the Metropolitan Ambulance Service; or
- (d) an employee of Rural Ambulance Victoria; or
- (e) a member of the Victoria State Emergency Service; or

(f) an officer or other member of Victoria Police;

- Fall - definition in relation to what is meant by one level to another is unclear. Is there a defined distance this relates to as it could relate to a fall over a difference of 1cm.

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

Regulation 2.1.7

Specifies the training to be provided for Health and Safety Representatives (HSRs). CFA has personnel, located throughout the entire State of Victoria with approximately 1240 workplaces.

We note that HSR provisions have previously not applied as the workplaces have been operated by volunteers, not employees. That will possibly change under the Model WHS Act.

The requirement for a HSR to complete an initial training course of five days could be onerous if the course has to be delivered in a classroom setting. Our recommendation is that the training be able to be delivered via different modes of training including but not limited to attendance, e-learning, correspondence or tele-conferencing. A recommended rewording of the relevant section would become:

2.1.7 Training for health and safety representatives

(1) For the purposes of section 72(1) of the Act, a health and safety representative is entitled to **complete** the following courses of training in work health and safety:

(a) an initial course of training of 5 days;

(b) one day's refresher training each year, with the entitlement to the first refresher training commencing 1 year after the initial training.

(2) For the purposes of (1) approval may be given for training by various methods of delivery including by attendance and distance learning or other electronic means.

Chapter 3: General workplace management

Part 3.1 General working environment

Regulation 3.1.2 Duty to provide and maintain adequate and accessible facilities

This section details the provision of facilities (e.g. toilets, drinking water, dining facilities, change rooms, lockers) to workers. The CFA as an organisation has a large number of rural type fire stations that are basically a “garage / shed ” to house the fire appliance for access by local volunteers. These fire stations are only attended for a small amount of time in any week. Through the inclusion of volunteers as workers these “garage / sheds” will potentially require the provision of all these facilities unless there is clarity of what a workplace relates to.

Recommendation to amend section 3.1.2 to account for the frequency of use and also if there are facilities within the vicinity as some towns have shared facilities between different organisations. The new wording for section 3.1.2 would become:

3.1.2 Duty to provide and maintain adequate and accessible facilities

- (3) For the purposes of this regulation, a person conducting a business or undertaking must consider all relevant matters including:
- (a) the nature of the work being carried out at the workplace; and
 - (b) the nature of the hazards at the workplace; and
 - (c) the size, location and nature of the workplace;
 - (d) the number and composition of the workers at the workplace;
 - (e) the frequency and duration of use of the workplace; and
 - (f) the availability of comparable facilities in the vicinity;

Regulation 3.1.3 Remote or isolated work

This section details the requirements for remote or isolated work. The CFA as an organisation has extensive communication resources however there are still occurrences when there is an inability to communicate with all our personnel at all times. To this extent the modifier “so far as reasonably practicable” should be included in section 3.1.3, as follows:

3.1.3 Remote or isolated work

- (1) This regulation applies if it is not reasonably practicable for a person conducting a business or undertaking to eliminate risks to health and safety associated with remote or isolated work.
- (2) In minimising risks to health and safety associated with remote or isolated work, a person conducting a business or undertaking must implement measures so far as reasonably practicable that include effective communication with the worker.
- (3) In this regulation, **remote or isolated work**, in relation to a worker, means work that is isolated from the assistance of other persons (other than workers carrying out work with the worker) because of location (including a distant location), time or the nature of the work.

- (4) For the purposes of subregulation (3), **assistance** includes rescue, medical assistance and the attendance of emergency services.

Part 3.2 Personal protective equipment

Regulation 3.2.2 Use of personal protective equipment

Regulation 3.2.2(2)

As only a small number of Australian Standards exist specifically for firefighting a large proportion of emergency services will adopt a relevant international standard (e.g. EN / NFPA) hence this regulation could be considered to be restrictive and should consider a PCBU utilising an appropriate international standard where an Australian Standard either does not exist or does not relate to the specific issue but is only general in nature.

Regulation 3.2.2 (2)(a)

Recommendation that this regulation be amended to remove the requirement for the technical standard to be published on Safe Work Australia's website to any published technical standard, as follows:

3.2.2 Use of personal protective equipment

- (2) A person conducting a business or undertaking must, in relation to personal protective equipment used by a worker or other person, ensure that:
- (a) the equipment is selected to minimise risk to health and safety in accordance with any relevant **published** technical standard; and

The imposition on Safe Work Australia to publish on its website "any relevant technical standard" could lead to an extensive list which would prove difficult to manage and ensure its currency. Therefore the suggestion is to use currently published standards whether they are the relevant Australian Standard where one exists (i.e. AS/NZS 1715) or a relevant international technical standard.

Regulation 3.2.3 Air supplied respiratory equipment

This regulation specifies some detail which is not necessarily reflected in the relevant Australian standard AS/NZS 1715 Selection, use and maintenance of respiratory protective equipment. One of the specific differences between AS/NZS 1715 and the contents of this regulation are in the specific operating parameters, detailed in 3.2.3(3) (a) (ii), for example the maximum requirement contained in AS/NZS 1715 is less than 1400 mg/m³ carbon dioxide rather than 900 mg/m³.

Overall it does not seem necessary for the regulations to contain such levels of technical detail when the specifications can be sourced from an Australian

Standard.

Other areas seem to provide an imposition on PCBUs that do not appear to provide any direct health and safety benefit, for example under regulation 3.2.3 (3) (b) (i) there is a requirement for the CFA to monitor and manage the inhalation temperature of supplied air via a Self Contained Breathing Apparatus (SCBA). Taking into consideration the SCBA is one of the primary PPE items used when undertaking a fire attack which might involve an internal attack with the fire effected structure it is not clear how or if an efficient air conditioner can be fitted to SCBA. Again such a requirement does not exist within AS/NZS 1715 in relation to SCBA and it would seem unnecessary for the regulations to contain such levels of technical detail.

Regulation 3.2.3 (3) (b) (i) is another requirement that is not within AS/NZS 1715 in relation to SCBA and it would seem unnecessary for regulations to contain such levels of technical detail. Current CFA requirement for breathing air moisture content from SCBA (<50 when converted to RH = 0.4%. CFA believes the regulations should be referencing water content expressed as mg/m³ in accordance with AS/NZS 1715.

Regulation 3.2.3 (4) (c) Is it intended that this applies to SCBA. If so, the actual temperatures should be defined.

Regulation 3.2.3 (5) (b) Clarification is sought if this is intended to apply to SCBA.

3.2.3 Air supplied respiratory equipment

- (1) This regulation applies if a person conducting a business or undertaking provides workers with air supplied respiratory equipment for use in carrying out work (other than underwater diving work) in the business or undertaking.
- (2) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment is maintained so that it supplies air **in accordance with the requirements of AS/NZS 1715**:
- (3) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment supplies air **in accordance with the requirements of AS/NZS 1715** through:
 - (a) an efficient purifying device; and
 - (c) an efficient condensate trap that is fitted with a drain cock to remove any condensed liquid; and
 - (d) an efficient ring circuit or controlled leak-off system that eliminates stale air.
- (4) The person conducting the business or undertaking must ensure that the air supplied respiratory equipment:
 - (a) is kept in efficient working order; and
 - (b) is kept in a place where it cannot be contaminated; and
 - (c) is maintained in a way that ensures that the air supply does not overheat; and
 - (d) has fittings that cannot be connected to any other equipment at the workplace.

- (5) The person conducting the business or undertaking must ensure that air supplied respiratory equipment is not used in circumstances where inadequate air supply might represent a serious risk to the health or safety of the user of the equipment, unless:
 - (a) the air supplied respiratory equipment is fitted with an automatic warning device; and
 - (b) an auxiliary air supply is provided.

Part 3.3 First aid

Regulation 3.3.3

This regulation should have the modifier “as far as reasonably practicable” inserted in sub-regulations (1) and (2) to allow for dynamic workplaces to be accommodated by the regulations. Further there are two other parameters that should be included under sub-regulation (3) specifically for a PCBU with an individual work team which comprises all volunteers but not a static group of volunteers or the same work location to comply with the regulatory requirements. A suggested amendment is as follows:

3.3.1 Duty to provide first aid

- (1) A person conducting a business or undertaking must ensure as far as reasonably practicable:
 - (a) the provision of first aid equipment for the workplace; and
 - (b) that each worker at the workplace has access to the equipment; and
 - (c) the provision of facilities for the administration of first aid.
- (2) A person conducting a business or undertaking must ensure as far as reasonably practicable that:
 - (a) an adequate number of workers are trained to administer first aid at the workplace; or
 - (b) workers have access to an adequate number of other persons who have been trained to administer first aid in the workplace.
- (3) In considering how to comply with subregulations (1) and (2), a person conducting a business or undertaking must consider all relevant matters including:
 - (a) the nature of the work being carried out at the workplace; and
 - (b) the nature of the hazards at the workplace; and
 - (c) the size and location of the workplace;
 - (d) the number and composition of the workers and other persons at the workplace.

(c) the ability of the PCBU to predict the identity of the workers at the workplace; and

(d) the ability to identify the workplace at which the workers will be in attendance.

Part 3.4 Emergency plans

Regulation 3.4.1 Duty to prepare emergency plan

The scope and application of the plan is narrow requiring the author to consider effectively only the nature of the work, nature of hazards, the workplace and location of the workplace. The scope and application should be broadened to consider other emergencies such as natural disaster, or bomb threat. The regulation should be modified to include a new dot point concerning the nature of the emergency as follows.

- (2) In preparing and maintaining an emergency plan, a person conducting a business or undertaking must consider all relevant matters including:
- (a) the nature of the work being carried out at the workplace; and
 - (b) the nature of the hazards at the workplace; and
 - (c) the size and location of the workplace;
 - (d) the number and composition of the workers and other persons at the workplace; and,
 - (e) the nature of emergencies likely to occur at the workplace including bomb threat, fire, natural disaster or other circumstances, requiring the attendance of emergency service workers.

Regulation 3.4.2 Duty to test emergency procedures

The regulation does not provide guidance about what a test is or the frequency at which the emergency procedures (plan) should be tested. The regulation should state - the emergency plan must be tested at least annually and may include elements of the plan in a variety of testing formats with the interested parties and a practical test of the emergency plan must occur at least every three years. The suggested amendment to regulation 3.4.2 is:

3.4.2 Duty to test emergency procedures

A person conducting a business or undertaking must ensure that emergency procedures are tested in accordance with the emergency plan in which they are contained at least:

(1) Annually as a desktop exercise; and

(2) Every three years as a practical evaluation.

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

Regulation 4.3.4 Application to emergency services

CFA supports 4.3.4 as it recognises the role of emergency services in providing rescue / first aid services within a confined space environment. However, as the CFA in training replicates a real situation scenario then the exclusion provided in sub-regulations (a) and (b) need to be completed in a training environment as well. The suggested amendment is as follows:

4.3.4 Application to emergency services

Regulations 4.3.9, 4.3.10 and 4.3.21 do not apply to the entry into a confined space by an emergency service worker if, at the direction of the emergency service organisation, the worker is:

- (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 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) or (b).

Application

Currently the Victorian Regulations specifies that the falls regulations do not apply to certain situations such as sporting events, theatrical work, horse riding to name a few. The CFA believes that this limiting of the falls regulations is of benefit to society and would like to suggest that as a minimum that the following be included:

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 other 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 applicable 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 2006¹; 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).

Regulation 4.4.3 Control of Risks

A new subregulation (6) should be included to reflect the circumstances of an emergency, suggested amendment as follows:

- (6) In considering the requirements for risk control a PCBU must take into account any circumstances of urgency including the requirements for:

- (a) the rescue of people;
- (b) provision of first aid; and
- (c) protection of property.

Regulation 4.4.4 Administrative controls to be recorded for fall hazards over 2 metres

In an emergency situation it is not possible to record the administrative controls for fall hazards as such as for confined space there should be an exclusion for emergency services to regulation 4.4.4, a suggested amendment is as follows:

4.4.4A Application to emergency services

Regulation 4.4.4 does not apply to the recording of administrative controls for fall hazards over 2 metres by an emergency service worker if, at the direction of the emergency service organisation, the worker is:

- (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 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) or (b).

This is the only regulation that specifies a specific distance. This makes the application of the falls regulation highly impractical as it could literally apply to a potential fall of 1cm or relate to a tread or step on a stairway that is compliant to a relevant Australian Standard or even outdoor workers walking over minor undulations on the ground. The implications based on the current version are considered unworkable.

The implications in an emergency response situation are significantly exacerbated. Without exemptions or specific clauses emergency services will find this regulation technically preventing a broad range of emergency response activities such as rescues from a second storey house fire. In a situation such as a house fire the response to these types of incidents are time critical where a risk to life and property exists. In these circumstances it is obviously not possible to erect fall protection as defined in this regulation (e.g. fall arrest system).

The Victorian OHS Regulations 2007 recognised this situation and did make specific reference to emergency services. This matter was also recognised in regulation 4.3 of the National OHS Regulations for emergency services undertaking confined space rescue or provision of first aid. It is strongly recommended similar reference for emergency service is incorporated into this regulation.

The impractical nature of this regulation on emergency response activities is further highlighted by the nature of duties performed during the recent earthquakes in New Zealand and Japan.

If the current version of this regulation is not amended emergency services will be required to either undertake their duties in conflict with the regulations or refrain from undertaking certain activities such as rescues or certain fire suppression activities which is clearly not acceptable.

Relying on regulation 4.4.3 (5) is not considered workable to allow emergency services to undertake the emergency response duties. The application of this regulation is consider to vague and open to interpretation leading to confusion and variations in its application by both emergency services and a regulator.

Recording administrative controls for fall hazards over 2 metres (4.4.4) in every emergency response situation is again considered impractical due to the time critical nature and varying situations that are confronted.

For this situation an exemption is sought or as a minimum generic risk controls be permitted to address the most common situations presented by emergency services. CFA like many emergency services has in place a Dynamic Risk Assessment process that requires personnel to continually assess the risks at emergency situations and modify control strategies in line with changing conditions.

Where concerns exist with practices used by emergency services the general health and safety provisions in the WHS Act still apply and can be utilised by a regulator if required.

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

Part 4.6 Abrasive blasting

Part 4.7 Electrical work

Part 4.8 Diving work

Chapter 5: Plant and Structures

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

Regulation 6.1.1 Meaning of construction work

The CFA in the emergency services role undertakes work which could fall into the definition of construction work in regulation 6.1.1. These occasions are when in an emergency situation CFA personnel may be involved in demolition, excavation, dismantling of a structure or similar activities with the most relevant example being the recent New Zealand earthquake. The CFA interpretation is that these emergency response activities could fall under the current meaning of construction work as defined in 6.1.1. To avoid the CFA in an emergency situation coming under the auspices of this regulation a new subregulation 6.1.1(3)(e) should be added. The suggested wording is as follows:

- (3) In this Part, construction work does not include:
- (e) emergency service activities that involves either or a combination of:
 - (i) to assist an injured person; or
 - (ii) to remove a deceased person; or
 - (iii) that is essential to make the site safe or to minimise the risk of a further incident; or
 - (iv) that is associated with a police investigation; or
 - (v) for which an inspector or the regulator has given permission.
 - (vi) undertaking training in the requirements for matters in subregulations (a) or (b).

In addition some activities undertaken by emergency services may also fit within the definition of high risk construction work (6.1.2) such the disturbance of asbestos contained with wall sheeting found during a response to a structure fire.

CFA believes it was not the intent of this regulation to include emergency response scenarios therefore recommends this regulation be modified to enable emergency response activities to be undertaken without being in conflict with these regulations.

While emergency services have procedures and practices in place to manage these risks at these emergency incidents it would be clearly impractical for example to prepare and document a safe work statement based on the situation confronted at by the emergency service personnel on arrival prior to commencing to fight a fire (6.3.3).

It is recommend emergency response activities be included in 6.1.1 (3) to ensure it does not relate to construction work. The CFA's obligations are to provide a safe workplace would be addressed in the broader requirements as defined in the WHS Act and as applied by the regulator (WorkSafe).

Chapter 7: Hazardous chemicals

Part 7.1 Hazardous chemicals

Regulation 7.1.13 – Emergency disclosure of chemical identities

This disclosure needs to be broader and include Emergency Service Organisations (ESOs) and emergency service workers. When responding to an emergency involving hazardous chemicals, it is critical that all relevant information is made available to ESOs, delays in obtaining this information could affect life safety. The suggested amendment is as follows:

7.1.13 Emergency disclosure of chemical identities

- (1) This regulation applies if a medical practitioner or **emergency services organisation or emergency service worker:**
 - (a) believes on reasonable grounds that knowing the chemical identity of an ingredient of a hazardous chemical may help to treat a patient **or provide effective emergency control;** and
 - (b) requests the manufacturer or importer of the hazardous chemical to give the practitioner **or emergency services organisation** the chemical identity of the ingredient; and
 - (c) gives an undertaking to the manufacturer or importer that the chemical identity of the ingredient will be used only to treat the patient **or provide effective emergency control;** and
 - (d) gives an undertaking to the manufacturer or importer to give the manufacturer or importer as soon as practicable a written statement about the need to obtain the chemical identity of the ingredient.
- (2) The manufacturer or importer of a hazardous chemical must give a medical practitioner **or emergency services organisation** the chemical identity of an ingredient of the hazardous chemical as soon as practicable.
- (3) Schedule 8 does not apply to the requirement under this regulation.

Regulation 7.1.21 Person Conducting business....

Safety data sheets need to be available at all times, irrespective of the status of goods, i.e. transit must not be exempted. History indicates that incidents

occur within transit areas, i.e. warehouses, as goods are constantly moved, thus increasing risk of an unplanned circumstance. To maintain the intent and satisfy the requirements of the CFA the following amendment is suggested:

7.1.21 Person conducting business or undertaking to obtain and give access to safety data sheets

(3) Subregulation ~~(1) and (2)~~ **(2)(a) does** not apply to a hazardous chemical that:

Regulation 7.1.23 Hazardous chemical register

This register must be made available to emergency services organisations, as they may be called to respond to an incident involving hazardous chemicals. The hazardous chemical register is required by an emergency services organisation even if the chemicals are in transit. Therefore to ensure that safety of CFA members and people in the broader community, if a chemical is in transit a hazardous chemical register must be made available if there is an emergency situation and an emergency services organisation responds.

7.1.23 Hazardous chemicals register

(4) Notwithstanding subregulation (5) the person must ensure that the hazardous chemicals register is readily available to an emergency service organisation or emergency service worker.

(5) Subject to subregulation (4) this regulation does not apply to a hazardous chemical if:

- (a) the chemical is in transit, unless there is a significant or frequent presence of the chemical in transit at the workplace; or
- (b) the chemical is:
 - (i) a consumer product; and
 - (ii) the person is not required to obtain a safety data sheet for the chemical under regulation 7.1.21.

Regulation - 7.1.26 (3) Manifest of hazardous chemicals

The regulation states the manifest must be kept in a place determined in agreement with the primary emergency services authority that is readily available to an inspector and the emergency services organisation.

In an emergency situation to enable ready identification and location of the manifest of hazardous chemicals, the manifest should be located in a common location at all work sites where it is readily accessible to emergency services organisations. In Victoria historically, the location of the manifest has been adjacent to the outer warning placard at the front of the premises at the main entrance in a weatherproof housing unless there is a specific agreement for it to be located elsewhere, and the suggested amendment is as follows:

7.1.26 Manifest of hazardous chemicals

...
(3) The manifest must be kept adjacent to the outer warning placard at the front of the premises at the main entrance in a weatherproof housing unless there is a specific agreement with the relevant emergency service organisation for it to be located elsewhere.

Regulation 7.1.27 (3) Regulator must be notified if manifest quantities are exceeded.

The regulation states the notification must include several elements including the name and ABN of the person conducting the business or undertaking. However there appears to be no requirement to provide the actual street address of the business or undertaking.

The regulation should be modified to include a requirement to provide the actual street address and an option to provide the geo-coded location so information can be readily shared with the emergency services authority. Suggested amendment is as follows:

7.1.27 Regulator must be notified if manifest quantities to be exceeded

- (3) The notification must include the following:
- (a) the name and ABN of the person conducting the business or undertaking;
 - (b) the type of business or undertaking conducted;
 - (c) if the workplace of the business or undertaking was previously occupied by someone else—the name of the previous occupier, if known;
 - (d) the address of the workplace;
 - (e) the activities of the business or undertaking that involve using, handling or storing hazardous chemicals;
 - (f) the manifest prepared by the person conducting the business or undertaking under regulation 7.1.26.

Regulation 7.1.29 Outer warning placards – requirement to display

The CFA believes that the exclusion of service stations (retail fuel outlets) from the requirement to display “Outer Warning Placard” is providing the necessary warning to an emergency service organisation and therefore suggest that subregulation 7.1.29(3) should be deleted.

If this subregulation is not deleted then as a minimum the wording in 7.1.29(3)(b)(i) should be consistent and the suggestion is for the wording I to be:

7.1.29(3)(b)(i) Class 2.1 or 3 dangerous goods; or

Regulation 7.1.37(2) Flammable and combustible material not to be accumulated

The regulation does not include combustible dusts and flammable solids. There are numerous published reviews concerning the hazards of combustible dust accumulation. These dusts are not readily recognised and can have catastrophic consequences if ignited. Within the United States there have been at least 119 fatalities including emergency service personnel caused by dust explosions during the last 25 years. (see for example Journal of Hazardous Materials 2007, vol 140, p 7-44 and United States Chemical Hazard and Safety Investigation Board Report 2006:H-1). As well as numerous reports of major incidents involving flammable solids.

The regulation should be modified to include combustible dusts and flammable solids (Class 4) as in the following suggestion:

7.1.37 Flammable and combustible material not to be accumulated

(2) In this regulation:

flammable or combustible substances includes the following:

- (a) flammable and combustible liquids, including waste liquids, in containers, whether empty or full;
- (b) gas cylinders, whether empty or full;
- (c) combustible dusts and flammable solids (class 4).

Regulation 7.1.38 Ignition sources

The CFA understands that an ignition source can be required within a workplace as part of a deliberate process. For clarification could examples of what is meant by “part of a deliberate process or activity” be provided.

Regulation 7.1.41 Fire protection and firefighting equipment

In general fire protection is broader than designed and built to take into account fireload, and compatibility. It should be considered in the context of a risk control measure to prevent or minimise the impacts of a fire on the safety of workers, emergency service personnel, community and the environment. Fire protection is best achieved through sound design and management of the workplace. The following points clarify the fire protection obligations of the person in control. They include:

- Compartment design and construction;
- Fire detection;
- Immediate fire management such as sprinklers; and
- Fire/spill water management.

Fire detection systems play a critical role so that workers can evacuate safely particularly in the case of flammable liquid/gas fires where rapid fire spread is common. Data from the UK shows full compartment fires can result from fires involving flammable liquids in less than 10 minutes.

In combination with fire suppression systems such as sprinklers it has been demonstrated fire losses can be reduced by more than 96% and allow persons to successfully evacuate. This consequently significantly enhances the safety of emergency service personnel at a fire as well as the likelihood the fire will be successfully extinguished before any significant impacts on exposures.

Fire water or spill water management is also an important element of the approach to manage fires.

It is recommended the approach outlined above should also be emphasised in the regulation, given the obvious potential to improve the safety of workers, emergency service personnel, reduce losses and protect the environment. Thus a separate bullet point including the above considerations be incorporated.

7.1.41 (2) protection and firefighting equipment

The regulation outlines the obligations of persons if their fire protection and firefighting equipment becomes unserviceable. However, whilst the regulation states the person is required to manage risks it is vague. The regulation would immensely benefit from more precise guidance to ensure the person is in no doubt about their obligations if their fire protection system fails ranging from ceasing operation to putting in place a temporary system that is as effective as the normal fire protection system.

It is recommended the regulation be modified and the following bullet point be included

2 (c) Alternative measures are taken to control, to the same level of effectiveness, those risks that were controlled by the system when functioning fully; and system returned to full operation as soon as possible.

Regulation 7.1.41 Fire Protection

No fire service input into assessing fire protection requirements

- No requirement to seek written advice of the fire service in relation to the design, effectiveness and compatibility of fire protection systems.
- No requirement to notify fire services if the system is damaged, being maintained, altered or modified.
- Current Australian standards for hazardous chemicals (dangerous goods) are very generic and provide general guidance for industry to consider. To cover this gap, the Victorian Fire Services have built a team of fire experts, who work with industry to advise as to what fire safety options are available. This level of support is critical for small to medium size business who often do not have either the expertise or financial capacity to engage fire engineers to design suitable fire safety systems

The impacts with this change, to the current Victorian situation include;

- Fire protection may not be fit for purpose or site specific, could lead to inadequate on site fire protection.

- Could result in CFA having to increase resources, such as fire pumpers and water tenders for industrial precincts, as premises may not provide the requisite fire protection.
- Increase risk to Victorian premises storage and handling Hazardous Chemicals (Dangerous Goods), due to the potential for inadequate/inappropriate fire safety. This could lead to situations where premises may not be able to contain large incidents, due to the level of fire-fighting equipment on site, especially in relation to fire deluge systems, fire pumps and suitable volumes of water.

The potential solution would be to require premises that store in excess of two times Manifest Quantities, not including retail outlets with underground fuel tanks, to obtain advice, for their consideration, from the relevant fire service. This will limit the impact on the community to premises who store significant volumes of Hazardous Chemical (Dangerous Goods) and are not a Major Hazard Facility

7.1.41 Fire protection and firefighting equipment

- (1) A person conducting a business or undertaking at a workplace must ensure that:
 - (b) the workplace is provided with fire protection and firefighting equipment that:
 - (i) is designed and built for the types of hazardous chemicals at the workplace in the quantities in which they are used, handled or stored at the workplace, and the conditions under which they are used, handled or stored, having regard to:
 - (A) the fire load of the chemicals; and
 - (B) the fire load from other sources; and
 - (C) the compatibility of the chemicals with other substances and mixtures at the workplace; and
 - (D) compartment design and construction; and
 - (E) Fire detection; and
 - (F) Immediate fire management or suppression such as sprinklers; and
 - (G) Fire/spill water management.
 - (ii) is compatible with firefighting equipment used by the primary emergency services authority; and
 - (b) the fire protection and firefighting equipment is properly installed, tested and maintained; and
 - (c) a dated written record is kept of the latest testing results and maintenance until the next test is conducted.
- (2) If a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the person must ensure so far as is reasonably practicable that:
 - (a) the implications of the equipment being unserviceable or inoperative are assessed; and
 - (b) for risks that were eliminated or minimised by the equipment when functioning fully, alternative measures are taken:

- (i) to eliminate the risks; or
 - (ii) if it is not practicable to eliminate the risks—to minimise the risks.
- (c) Alternative measures are taken to control, to the same level of effectiveness, those risks that were controlled by the system when functioning fully; and system returned to full operation as soon as possible
- (3) The person must ensure that the fire protection and firefighting equipment is returned to full operation as soon as practicable.

Regulation 7.1.43 Emergency Plans

Need to ensure that part 3.4 includes all sites (Jeff I think that this is covered in Part 3.4 and if you agree these lines can be deleted before submitting).

Regulation 7.1.56 Duty to provide information...

For completeness the induction process should not only include the effective operation of the emergency management plan but also knowledge of the of the sites emergency management plan.

7.1.56 Duty to provide information training and supervision

- (3) The induction, ongoing training and supervision of the worker must include information in relation to the following:
 - (d) the knowledge of and the effective operation of the emergency plans for the workplace;

Regulation 7.1.68 Pipelines – Pipelines carrying hazardous chemicals must be marked with the correct technical name/or UN No. of the material it is transferring

7.1.68 Pipeline operator's duties

- (4) The operator of a pipeline used to transfer a hazardous chemical must ensure so far as is reasonably practicable that the chemical transferred is identified by its technical name and UN number on a label, sign or another way on or near the pipeline in regular intervals.

7.1 Subdivision 4 Emergency Plans and safety equipment

Part 7.2 Inorganic lead

Part 7.3 Asbestos

Emergency Service Organisation exemption Divisions 1 and 3

As highlighted in section 6 (Construction Work) emergency services maybe be confronted at emergency situations where asbestos maybe present. The definition of work involving asbestos 7.3.1 (2) could be applied to emergency workers where they are required to disturb or handle asbestos / ACM such as wall sheeting as part of the emergency activity (e.g. house fire).

CFA fully supports the requirements to have risk controls in place relevant to the tasks being undertaken but certain regulations will impact on the emergency response activity and potentially the safety of its emergency workers if its application applies. The CFA is not seeking to be exempt from its responsibilities to provide a health and safe environment for its workers but ensure clarity on the application of this regulation.

Therefore the recommendation is to specifically exclude the CFA from the requirements of Part 7.3 Divisions 1, 3 and 5 for the purposes of emergency response only, in line with the exclusion suggested for 6.1.1. The suggested amendments are as follows:

7.3.1 Work involving asbestos or ACM—prohibitions and exceptions

(3) Subregulation (1) does not apply if the work involving asbestos is any of the following:

- (j) emergency service activities that involves any or a combination of:
 - (i) to assist an injured person; or
 - (ii) to remove a deceased person; or
 - (iii) that is essential to make the site safe or to minimise the risk of a further incident; or
 - (iv) that is associated with a police investigation; or
 - (v) for which an inspector or the regulator has given permission.
 - (vi) undertaking training in the requirements for matters in subregulations (a) or (b).

And

7.3.3 Application

(3) This Division does not apply to a workplace if there is in situ asbestos at the workplace and there are emergency service activities that involves any or a combination of:

- (i) to assist an injured person; or
- (ii) to remove a deceased person; or
- (iii) that is essential to make the site safe or to minimise the risk of a further incident; or
- (iv) that is associated with a police investigation; or
- (v) for which an inspector or the regulator has given permission.
- (vi) undertaking training in the requirements for matters in subregulations (a) or (b).

And

7.3.21 Application—Division 5

(3) This Division does not apply to a workplace if there is in situ asbestos at the workplace and there are emergency service activities that involves any or a combination of:

- (i) to assist an injured person; or
- (ii) to remove a deceased person; or
- (iii) that is essential to make the site safe or to minimise the risk of a further incident; or
- (iv) that is associated with a police investigation; or
- (v) for which an inspector or the regulator has given permission.
- (vi) undertaking training in the requirements for matters in subregulations (a) or (b).

Regulation 7.3.20 Duty to limit use of equipment

The nature of the work undertaken by the CFA in an emergency situation of a building fire is to direct high pressure water onto the building, if the building has asbestos present then the regulations state that the high pressure water cannot be used. Therefore the CFA seeks that during an emergency situation that subregulation 7.3.20(1)(a) does not apply in an emergency situation. The suggested amendment is as follows:

7.3.20 Duty to limit use of equipment

- (1) A person conducting a business or undertaking must not use, or direct or allow a worker to use, any of the following on asbestos or ACM:
 - (a) high-pressure water spray;
 - (b) compressed air

(1A) Subregulation (1)(a) does not apply to an emergency services organisation or an emergency services worker whilst undertaking emergency service activities that involves any or a combination of:

- (i) to assist an injured person; or
- (ii) to remove a deceased person; or
- (iii) that is essential to make the site safe or to minimise the risk of a further incident; or
- (iv) that is associated with a police investigation; or
- (v) for which an inspector or the regulator has given permission.
- (vi) undertaking training in the requirements for matters in subregulations (a) or (b).

Chapter 8: Major hazard facilities

Regulation 8.3.2 Content

The content of the safety case should also for completeness include the details of the consultation that has been undertaken with the relevant emergency services organisation. The suggested amendment is to include a new subregulation similar to subregulation (d) as follows:

8.3.2 Content

- (g) a description of the consultation with the relevant emergency services organisation that:
 - (i) occurred in the preparation of the safety case outline; and
 - (ii) will occur in the preparation of the safety case.

Regulation 8.3.3 Alteration

If the MHF Safety Case is altered by the regulator then a copy of the altered Safety Case should be sent to the relevant emergency services organisation. The suggested amendment is to include a new subregulation (7) to include this requirement as follows:

8.3.3 Alteration

(7) A copy of the safety case as altered is to be provided to the relevant emergency services organisation.

Regulation 8.3.8 Security plan – duty to prepare

The regulation should be modified to ensure that the access to a MHF by an emergency services organisation is hindered by any security measures if an emergency occurs. The suggested amendment is to include a sub-sub regulation in 8.3.8 (2) to reflect this requirement, the proposal is as follows:

8.3.8 Security plan—duty to prepare

- (2) The security plan must address:
 - (c) how emergency service organisations will be able to access the site without hindrance from the security plan in force.

Regulation 8.4.5 Emergency plan- duty to test and implement

This regulation states that the operator must test the emergency plan in conjunction with emergency services at least once every three years. The CFA believes that the testing of the emergency plan every three years is too long and should be undertaken on a more frequent basis and further that there is no definition of the testing requirements. The CFA recommends that to ensure a MHF is prepared in the event of a major incident that the emergency plan is tested in conjunction with the relevant emergency services organisation at least:

1. Evaluated annually via a desktop review or test; and
2. Every three years a practical test or evaluation is undertaken.

The suggested amendment to the regulation is:

8.4.5 Emergency plan—duty to test and implement

- (2) The operator must test the emergency plan in conjunction with the emergency services organisation with whom the plan was prepared as follows:
 - (a) Evaluated annually by a desktop review or test; and
 - (b) At least once every 3 years conduct a practical evaluation.

Regulation 8.4.9 Information for local community

Emergency services organisations need to be made aware of any information given to the community with regard to a MHF. The information given to the community provides the point of reference for determining the appropriate community information to be disseminated during an emergency. Therefore the relevant emergency services organisation should be included in the dissemination of the community information. The suggested amendment to provide this is:

8.4.9 Information for local community—general

- (1) The operator of a licensed major hazard facility must ensure the provision of the following information to the local community, **the relevant emergency services organisation** and the local authority for the local authority area in which the facility and the surrounding area are located:

Regulation 8.4.10 Information for local community- major incident

This regulation states as soon as practicable after a major incident occurs the operator of the MHF must take all reasonable steps to provide the local community and local authority with information about the major incident. The regulation specifies that the information must be provided about the nature of the incident and protective actions, and yet at the same time requiring the operator to provide information about actions the operator is taking to prevent any recurrence. Does after a major incident include during the incident, in which case why is future preventative actions being discussed?

Is it an attempt to obligate the operator to provide public messages? If this is the case, then the message maybe incomplete and not integrated with public safety messages that will originate from the emergency service authorities. There is potential for confusion within the community. All actions should be done in conjunction with the emergency services organisation unless there prior agreed decision making criteria and public messages.

Generally, a message during a major incident should include: nature of emergency; hazard, extent of hazardous area; public protective action to implement; how to implement; time to implement and duration; and where to obtain further information. A message after a major incident has been resolved should include: nature of the emergency; extent/impact of the emergency; hazards involved; cause and actions the operator will undertake to recover the affected area and what steps the operator will undertake to prevent a future major incident and their status.

The regulation should be modified to require the operator to have integrated their decision making criteria, public protective actions and messaging with the emergency service authority doctrine. The regulation should be clearly split between what information the operator is required to provide during the major accident and after the major accident has been resolved

What ever the overall content of this regulation becomes, there is a similar requirement as detailed for regulation 8.4.9, that the relevant emergency services should be informed as well. The suggested amendment is:

8.4.10 Information for local community—major incident

As soon as practicable after a major incident occurs, the operator of the major hazard facility must take all reasonable steps to

provide the local community, **the relevant emergency services organisation** and the local authority for the local authority area in which the facility and the surrounding area are located with information about the major incident, including:

Chapter 9: Mines

Not currently available but may have impact on CFA as an emergency responder.

Chapter 10: General

Part 10.1 Review of decisions

Part 10.3 Exemptions

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Regulation B: Model Codes of Practice
General Comments
How to manage work health and safety risks
How to consult on work health and safety
Managing the work environment and facilities
4.2 The example states a fire-fighter maybe working alone and unable to see or hear another worker for an hour or more. It is recommended this is deleted as it is not a practice that occurs as fire-fighters work in a team and practices would not permit this situation to occur.
Managing noise and preventing hearing loss at work
Hazardous manual tasks
Confined spaces
Please note comments in section 4.3.
How to prevent falls at the workplace
Without exemptions or special clauses emergency services will find this Code of Practice technically precluding a broad range of emergency response activities such as rescues from a second storey house fire. In a situation such as a house fire or a structural collapse it is obviously not possible to erect fall protection as defined in this regulation (e.g. fall arrest system, barrier protection) while in storm damage response where no time critical life risks exists more formal fall protection arrangements could potentially be implemented. Please note comments in section 4.4
The Victorian OHS Regulations 2007 recognised this situation and made specific reference to emergency services. This matter was recognised in section 4.3 of the National OHS Regulations relating to emergency services undertaking confined space rescue or provision of first aid but a similar recognition has not been included in the area of falls which is recommended.
Labelling of workplace hazardous chemicals

Preparation of safety data sheets for hazardous chemicals
How to manage and control asbestos in the workplace
<p>Please note comments in section 7.3.</p> <p>Fire service workers maybe confronted by asbestos at a structural incident (e.g. fire/collapse). While in these situations fire services have defined procedures and practices their role is to control the incident the hand back management of the site to the owner / council or regulator (etc). It is recommended that clarity is provided that this COP does not apply in the case of an emergency service except where reasonably practicable to manage the health and safety of its workers.</p> <p>Regulation 4 relating to labelling is supported as this will assist the emergency services to manage the risks to its workers when entering a compliant site.</p>
How to safely remove asbestos
While it is considered this COP does not relate to emergency response activities please note comments in section 7.3 if this interpretation is incorrect.
Facilities for construction sites

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Appendix
Penalty levels
Infringement notices
Other Comments

ⁱ Reg. 3.3.1: S.R. No. 68/2006.

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