

The Western Australian Farmers  
Federation (Inc)

Submission

to

Productivity Commission

Annual Review of Regulatory Burdens  
On Business – Primary Sector

June 2007

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## 1. INTRODUCTION - BACKGROUND INFORMATION

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The Western Australian Farmers Federation (Inc) (WAFarmers) is WA's largest and most influential rural lobby and service organisation.

WAFarmers represents West Australian farmers from a range of primary industries including grain growers, meat and wool producers, horticulturalists, dairy farmers and beekeepers plus rural small business owners.

It is estimated that collectively our members are major contributors to the \$6.1 billion gross value of production that agriculture in its various forms contributes to Western Australia's economy on average (WA Agri-Food Industry Outlook).

Additionally, through differing forms of land tenure, our members own, control and capably manage many millions of hectares of the State's land mass and as such are responsible for maintaining the productive capacity and environmental well being of that land.

## 1.1 THE REVIEW

The review has particular reference to:

1. Identify specific areas of Australian Government regulation that:
  - a) are unnecessarily burdensome, complex or redundant; or
  - b) duplicate regulations or the role of regulatory bodies, including in other jurisdictions.

WAFarmers submission points to this review are generic on the one hand and detailed for some specific areas.

By its very nature, primary production of food and fibre is a business that suffers the consequence of un-intended application of legislation and regulations because beauracrats take the one size hat fits all situations when specifically targeting an issue or aspect being regulated. There also needs to be a serious stock taken of the need for regulation in areas that have been regulated for regulations sake i.e. to ensure beauracracy has something meaningful to do.

The other real imperative that farmers face is the fact that addressing increasing levels of regulation costs dearly in time and money but because they are price takers cannot pass on these increased costs and or take on extra staff to address the regulatory burden. Of further significance is the compliance and enforcement action when undertaken by beauracratic staff that is not objective and or non existent because the point of compliance is farcical in any event.

These points are not about protecting farmers as a different species but about getting regulatory standards, where required in any event, to be a set of objective standards and then allowing each industry group to achieve those standards in their own way. This will facilitate ownership of the standards and a simpler and practical way of addressing whatever the problem may be. This is the opposite of designing regulation to force compliance on the few rogue elements in any industry sector as then over regulation occurs and the majority then take a view of catch me if you can. (They take the risk of something going wrong to be caught out!)

To further complicate the situation regulations are now written in the context that you are guilty until YOU prove otherwise and that 'Codes of Practice' are now becoming the only means of defence. While this maybe a step in the right direction some Ministers are taking the decision to not allow Codes of Practice to be developed as these will clearly allow individual industry groups to deal adequately with the peculiar situations. Plus there is a long time delay in the rewriting of legislation to take this new format further exacerbating the confusion and lack of applicable knowledge in all of these areas.

## **2. ACTS & REGULATION SUMMARY**

State Acts likely to affect Farmers May 2007.

**Agricultural and Veterinary Chemicals (Western Australia) Act 1995**  
**Agricultural Practices (Disputes) Act 1995**  
**Auction Sales Act 1973**  
**Biosecurity and Agricultural Management Bill 2005(New Act)**  
**Bulk Handling Act 1967**  
**Bush Fires Act 1954**  
**Carbon Rights Act 2003**  
**Conservation and Land Management Act 1984**  
**Contaminated Sites Act 2003**  
**Dog Act 1976**  
**Environmental Protection Act 1986**  
**Exotic Diseases of Animals Act 1993**  
**Fire and Emergency Services Authority of Western Australia Act 1998**  
**Grain Marketing Act 2002**  
**Growers Charge Act 1940**  
**Land Drainage Act 1925**  
**Local Government Act 1995**  
**Main Roads Act 1930**  
**Mining Act 1978**  
**Rights in Water and Irrigation Act 1914**  
**Road Safety Council Act 2002**  
**Soil and Land Conservation Act 1945**  
**Swan and Canning Rivers Management Act 2006**  
**Tree Plantation Agreements Act 2003**  
**Water and Rivers Commission Act 1995**  
**Water Corporation Act 1995**  
**Water Supply Sewerage and Drainage Act 1912**  
**Waterways Conservation Act 1976**  
**Wildlife Conservation Act 1950**  
**Workers Compensation and Injury Management Act 1981**

WA State Regulations impacting Farmers June 2007

**Aboriginal Heritage Regulations 1974**  
**Agricultural and Veterinary Chemicals (Western Australia) Regulations 1995**  
**Animal Welfare (General) Regulations 2003**  
**Biosecurity and Agricultural Management Regulations (New Regs)**  
**Building Regulations 1989**  
**Bulk Handling Act Regulations 1967**  
**Bush Fires Regulations 1954**  
**Conservation and Land Management Regulations 2002**  
**Contaminated Sites Regulations 2006**  
**Country Areas Water Supply (Clearing Licence) Regulations 1981**  
**Country Areas Water Supply By-laws 1957**  
**Dangerous Goods (Transport) (General) Regulations 1999**  
**Dangerous Goods (Transport) (Road and Rail) Regulations 1999**

Electricity Regulations 1947  
Emergency Management Regulations 2006  
Energy Safety Regulations 2006  
Environmental Protection (Clearing of Native Vegetation) Regulations 2004  
Environmental Protection (Controlled Waste) Regulations 2004  
Environmental Protection (Noise) Regulations 1997  
Environmental Protection (Rural Landfill) Regulations 2002  
Environmental Protection (Unauthorised Discharges) Regulations 2004  
Environmental Protection Regulations 1987  
Enzootic Diseases Regulations 1970  
Exotic Diseases (Emergency Powers) Regulations  
Exotic Diseases (General) Regulations 1970  
Explosives and Dangerous Goods (Dangerous Goods Handling and Storage) Regulations 1992  
Fire and Emergency Services Authority of Western Australia Regulations 1998  
Fire Brigades Regulations 1943  
Firearms Regulations 1974  
Grain Marketing Regulations 2002  
Harvey Waroona and Collie River Irrigation Districts By-laws 1975  
Health (ANZ Food Standards Code Adoption) Regulations 2001  
Health (Food Hygiene) Regulations 1993  
Health (Meat Hygiene) Regulations 2001  
Health (Pesticides) Regulations 1956  
Health (Swimming Pools) Regulations 1964  
Health (Temporary Sanitary Conveniences) Regulations 1997  
Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974  
Health Act (Underground Water Supply) Regulations 1959  
Home Building Contracts Regulations 1992  
Industrial Relations (Approval of Representatives) (Forms) Order 2002  
Industrial Relations (Employer-employee Agreements) Regulations 2002  
Industrial Relations (General) Regulations 1997  
Industrial Relations (Industrial Agents) Regulations 1997  
Land Administration (Land Management) Regulations 2006  
Land Administration Regulations 1998  
Land Drainage By-laws 1986  
Land Drainage Regulations 1978  
Land Tax Assessment Regulations 2003  
Local Government (Uniform Local Provisions) Regulations 1996  
Mining Regulations 1981  
Motor Vehicle (Third Party Insurance) Regulations 1962  
Motor Vehicle Repairers Regulations 2007  
Occupational Safety and Health Regulations 1996  
Pay-roll Tax Assessment Regulations 2003  
Piggeries Regulations 1952

**Poisons Regulations 1965**  
**Pollution of Waters by Oil and Noxious Substances Regulations 1993**  
**Rail Freight System (Corridor Land) Regulations 2000**  
**Registration Enforcement and Discharge of Local Authority Charges on Land Regulations**  
**Rights in Water and Irrigation Regulations 2000**  
**Road Safety Council (Specified Offences) Regulations 2002**  
**Road Traffic (Charges and Fees) Regulations 2006**  
**Road Traffic (Drivers Licences) Regulations 1975**  
**Road Traffic (Infringements) Regulations 1975**  
**Road Traffic (Towed Agricultural Implements) Regulations 1995**  
**Road Traffic (Vehicle Licensing) Regulations 1975**  
**Road Traffic (Vehicle Standards) Regulations 2002**  
**Road Traffic (Vehicle Standards) Rules 2002**  
**Road Traffic Code 2000**  
**Soil and Land Conservation Regulations 1992**  
**Statistics Regulations**  
**Transfer of Land (Surveys) Regulations 1995**  
**Transfer of Land Regulations 2004**  
**Transport Co-ordination Regulations 1985**  
**Water Agencies (Charges) By-laws 1987**  
**Water Agencies (Entry Warrant) Regulations 1985**  
**Water Agencies (Infringements) Regulations 1994**  
**Water Agencies (Water Restrictions) By-laws 1998**  
**Water Services Coordination Regulations 1996**  
**Water Services Licensing (Extension of Enactments) Regulations 1997**  
**Waterways Conservation Regulations 1981**  
**Weights and Measures Regulations 1927**  
**Western Australian Land Authority Regulations 1999**  
**Wildlife Conservation Regulations 1970**  
**Workers Compensation and Injury Management Regulations 1982**

### **3. PRIMARY PRODUCERS AND REGULATIONS - WA**

Primary producers' and regulations are a significant problem that in today's domestic and global trading environment are overly prescriptive, conflicting and confusing, and are generally treated with the one size fits all mentality by beauracrats. They lack simple standards that can be efficiently put in place by farmers in this day and age. This complication is further exacerbated by the fact that primary producers are price takers in a government disorientated global market place where as the Australian market place basically is unfetted from government control but not regulation red tape.

The following are provided as a means of addressing parts of the situation and at least ensuring simple and efficient application of minimalist levels of regulation.

#### **3.1 HEAVY VEHICLE ACCREDITATION**

Primary Producers – Heavy Vehicle Accreditation Business Rules, this comes under Road Traffic (Vehicle Standards) Regulations 2002 and Occupational Safety and Health Regulations 1996.

##### **The Current Situation**

The current Heavy Vehicle Accreditation business rules for WA rope in primary producers to comply with accreditation, fatigue and roadworthiness requirements, and audit requirements that is high cost in time and \$'s but with less than 15,000 road kilometres in any one year on average.

WA Heavy Vehicle Accreditation will be mandatory for individuals and organisations which:

- operate a B-double or road train; or
- operate a truck and trailer at over 42.5 tonnes gross mass; or
- operate under a concessional loading scheme; or
- require an annual oversize vehicle permit or notice; or
- require more than 4 single permits.

who perform the transport task as a part of a commercial business or other money-making enterprise.

WA Accreditation consists of Fatigue and Maintenance modules, each applied to a different aspect of transport operation.

The medical check for drivers of commercial vehicles would need to be undertaken every three years

### **New Situation Required**

The strategy of ensuring road safety could be achieved with this large industry group (approx 6000 grain producers in WA with at least 2000 requiring accreditation) by mandating an annual roadworthiness check at an accredited workplace. The road worthiness certificate would need to be carried in the truck cab and no annual audit is required.

Fatigue management is covered under existing working hours regulations as farmers do not drive trucks for long distances over extended periods of time. The requirement to use a time log book for the driving of the truck when it is on a trip that will be more than 100 kms radius from the truck's garaged location (licensed address), would adequately deal with fatigue management and compliance issues.

Current HVA requirements cost farmers:

System set up and entry –	\$3700
Annual audit –	\$500
Yearly system data entry –	\$2400

Plus the time and cost of MainRoads WA administering the database.

New system cost for farmers:

Road worthiness check - \$500 approximately pa, which is a cost that farmers do spend now on repairs and maintenance for the truck as a minimum each year before the grain harvest transport task.

### Recommendation

Rewrite the business rules for the heavy vehicle accreditation system in WA to encompass an annual roadworthiness check for low annual kilometre use heavy vehicles and a time log book for driver fatigue management when over a 100 km radius from licensed address base.

## **3.2 TRACTOR DRIVER'S LICENCE AND AG EQUIPMENT**

There are five sets of regulations that need to be considered when dealing with this area of operation for the farmer. By attempting to fit the ag industry into the commercial transport industry licence classification system a considerable amount of anomalies have been created.

### **The Current Situation**

Tractors and ag implements spend 99% of there operating time on private land and when on the public roadway they do not operate like trucks, apart from the various dimensional issues of width and height and axle mass. That is to say tractors and equipment are not manufactured, in the first instance for road movement. Ease of road transport is a consideration after the initial operational characteristics have been dealt with and in this day and age farms are not all contiguous and there is a far greater service delivery by contractors to the farming sector now as well.

In WA, the requirement that a relevant level of heavy vehicle licence be held by the tractor driver, albeit through a learners permit, is a ludicrous situation. The driving of a

tractor on the roadway towing ag equipment for transport has very little to do with driving the same rig in operational mode on the farm.

Along with the seasonal nature of this work in WA, there is a real impediment for seasonal workers in getting a requisite tractor driving licence because of the distance and time cost to licensing centres in rural WA. On average a 2 hour trip each way, the sitting for a learners permit that has no relevance to driving and operating tractors and ag equipment.

### **New Situation Required**

It is strongly recommended that to operate a tractor and tow ag equip on the road in WA that the holding of a C class licence (for a car) be the only licensing requirement. It is incumbent on the farmer to ensure that adequate training is provided to an operator of plant and equipment for on the farm and for any road transport situations. There are adequate regulations covering this situation in the Road Traffic (Towed Agricultural Implements) Regulations 1995.

### **3.3 BIOSECURITY AND AGRICULTURE MANAGEMENT BILL 2005**

This Bill will eventually replace seventeen Acts and there associated sets of Regulations.

Following is a recently (5/6/07) obtained update on the progress of the BAM Bill provided by the APB.

*A report by the Legislative Council's Standing Committee on Legislation was tabled in the Upper House on 3 April. The Committee made 34 recommendations to the Bill and the BAM (Repeal and Consequential Provisions) Bill. The Government supported the majority of those recommendations, which are currently debated by the Upper House in the "Committee phase". The Department is hopeful that the Bill will be passed by Parliament in the next few months, if not weeks.*

*There is still a considerable amount of work to do before the new BAM Act can fully commence in operation. The regulations still have to be drafted, and the various lists (permitted and prohibited organisms lists, list of declared pests) have to be completed and a number of administrative arrangements need to be put into place. The Parliamentary Counsel's Office has just begun drafting one of the sets of regulations and there are at least 16 other sets of regulations to draft. Consultation will occur via the Regulations Reference Groups when the draft regulations are available. Then we will have to train inspectors before promulgating the new regulations. This may take at least 9-12 months.*

*In the meantime, WAFarmers will be engaged closely in the development of the regulations and various lists. We also intend to release a discussion paper on industry funding schemes in the near future which will be very topical. WAFarmers will be directly engaged in this discussion.*

### **3.4 STATE WATER STRATEGY**

The State Water Forum has not convened since the release of the Government Response to *A Blueprint for Water Reform in WA*.

Unfortunately, the implementation of the Government's response has not been managed with the same level of transparency and inclusiveness as the earlier process had been. Accordingly, we now find ourselves fighting the Government initially on the introduction of water licence fees being introduced under the provisions of the existing *Rights in Water and Irrigation Act 1914*.

This legislation is to be replaced with a *Water Resources Management Bill 2008*. A draft legislative framework was released days prior to Easter, a stakeholder workshop convened immediately after Easter with a public comment period of 2 weeks for written submissions.

The Minister's announcement of the implementation of water licence fees from 1<sup>st</sup> July has raised the ire of irrigators, particularly self-supply irrigators and a "coalition" of WAFarmers, WA Fruitgrowers Assn, Potato Growers Assn and Vegetable Growers Assn. has met with Ministers Chance and Kobelke to present a further submission appealing the inequity of the proposed charges and the Opposition's leader Paul Omodei and John Day to ascertain Parliamentary process to reject new regulations if and when introduced into Parliament.

An offer via Minister Kobelke to the Department of Water to meet with them to explain the inequity of the proposed charges and expand on the detail of the alternative proposed has not been taken up and a final decision from the Minister is awaited.

Stock and domestic supplies are exempt from licensing under the current legislation and this exemption has been carried forward into the proposed new legislation.

Clarification is being sought on the status of small non-commercial/owner utilised feedlots which currently fall outside this exemption.

#### **State Water Plan**

The State Water Plan 2007 was released in May. The document details aspirational targets for water efficiency and reuse across all sectors of the community to cater for climate change and population growth in the period leading up to 2030.

In the case of agriculture, efficiency improvements of 20% have been targeted.

#### **South West Yarragadee**

WAFarmers welcomed the Premier's decision to reject the Water Corporation's application to remove 45 gigalitres per annum from the SW Yarragadee aquifer to bolster Perth's water supplies.

The outcome was achieved through consistent opposition by numerous industry bodies, local governments, community and environmental groups and individuals over 4 years.

### **3.5 SUSTAINABLE ENVIRONMENTAL MANAGEMENT**

#### **Climate Change and Greenhouse**

##### State Government

The highly anticipated State Government announcements on their climate change direction have been conspicuous by their absence and the High Level Stakeholder Group on Greenhouse has not met as yet in 2007.

In the May State Budget, it was announced that a newly created Office of Climate Change (within the Department of Environment) in conjunction with the Office of Energy would jointly manage the \$100m budget allocation to fight climate change over 5 years.

More detail on these issues may be forthcoming when we meet with the Minister for the Environment; Climate Change, David Templeman on 14<sup>th</sup> June.

##### Federal Government

The Prime Ministerial Task Group on Emissions Trading has released its report which is receiving a high level of media attention in the lead up to the Federal election. Agriculture will be initially excluded from the scheme.

*The scope for implementing alternative abatement policies to agricultural emissions appears limited in the short term. Many of the factors that suggest initial exclusion of the agricultural sector from an emissions trading scheme also suggest that a carbon tax is also currently impractical.*

The report goes on to state that *the agricultural sector should be engaged to develop realistic options and The main focus for the agricultural sector at this stage in emissions trading is to increase its capacity to achieve low-cost abatement, initially via the provision of offsets.*

#### **Carbon Trading**

In response to the February General Section Council motion seeking to determine Government agency support in determining accurate details in relation to agricultural carbon emissions, contact has been made with the Department of Agriculture, summarised information has been provided with an initial meeting to be held on 11<sup>th</sup> June. Albany Zone President Gary Hine is keen to maintain an involvement as this issue is progressed.

The Avongro wheatbelt tree cropping group has initiated a working group to investigate the potential for a carbon offset and carbon credits scheme between farmers and the mining sector. WAFarmers will participate on this group.

#### **Water Soluble Fertilisers**

In March 2007, a joint Government and Fertiliser Industry Working Party released a Fertiliser Action Plan to phase out highly water soluble phosphorus fertilisers in environmentally sensitive areas of south west WA by 2011.

The plan clearly targets coastal waterways from the Moore River to the Great Northern Highway and South West Highway to the Scott River Plains, including the catchments for Swan-Canning, Peel-Harvey, Leschenault and Vasse-Wonnerup estuarine systems.

WAFarmers will be presenting a stakeholder's perspective on the plan at a Symposium to be held on 3<sup>rd</sup> July.