
AGRICULTURE AND FOOD

AG301

Biosecurity and Agriculture Management Act 2007

Biosecurity and Agriculture Management (Aerial Application) Regulations 2018

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Biosecurity and Agriculture Management (Aerial Application) Regulations 2018*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* Part 2 Division 3 comes into operation.

3. Terms used

In these regulations —

aircraft means a machine that can derive support in the atmosphere from the reactions of the air;

apply, in relation to a controlled chemical product, means to drop or spray the product on land;

controlled chemical product —

- (a) means an agricultural chemical product as defined in the Agvet Code of Western Australia; but
- (b) does not include —
 - (i) a meat bait product registered under Part 2 of the Agvet Code of Western Australia containing sodium fluoroacetate (1080); or
 - (ii) a chemical product specified under regulation 4;

micro to medium weight RPA means one of the following remotely piloted aircrafts as defined in the *Civil Aviation Safety Regulations 1998* (Commonwealth) Dictionary Part 1 —

- (a) a micro RPA;
- (b) a very small RPA;
- (c) a small RPA;
- (d) a medium RPA.

4. Director General may specify chemical product

- (1) The Director General may, by notice published in the *Gazette*, specify that a chemical product of a particular kind is not a controlled chemical product.
- (2) A notice published under subregulation (1) may be amended or revoked by a subsequent notice published in the *Gazette*.

5. Qualifications or authorisations to apply controlled chemical product (section 56(1))

- (1) For the purposes of section 56(1) of the Act, a person who applies a controlled chemical product from an aircraft must —
 - (a) have a certificate or other document issued as evidence of successful completion of the Spraysafe Pilot Accreditation conducted by Aerial Application Association of Australia Ltd (ACN 002 501 886); or
 - (b) have successfully completed the training required to obtain a technician's licence under the *Health (Pesticides) Regulations 2011* regulation 38 endorsed to allow the licensee to undertake pest control in crops and pastures; or
 - (c) be of a class of persons authorised under regulation 6(1); or
 - (d) if the aircraft is a micro to medium weight RPA operated in accordance with subregulation (2) — have the qualification set out in subregulation (3).
- (2) For the purposes of subregulation (1)(d), a micro to medium weight RPA (the **RPA**) is operated in accordance with this subregulation if —
 - (a) the operator of the RPA —
 - (i) operates only that RPA during the operation; and
 - (ii) is the owner of the RPA or operates the RPA on behalf of the owner of the RPA; and
 - (iii) operates the RPA over land owned or occupied by the owner of the RPA;and
 - (b) the following persons receive no remuneration as a direct result of the operation of the RPA —
 - (i) the owner of the RPA;
 - (ii) the operator of the RPA;
 - (iii) the owner of the land over which the RPA is operated;
 - (iv) the occupier (if any) of the land over which the RPA is operated.
- (3) For the purposes of subregulation (1)(d), the qualification is a valid statement of attainment issued by a training organisation registered by the Australian Skills Quality Authority (the

National VET Regulator) established under the *National Vocational Education and Training Regulator Act 2011* (Commonwealth) section 155 for —

- (a) a unit of competency in preparing and applying chemicals entitled “AHCCHM303 Prepare and apply chemicals”; and
- (b) a unit of competency in transporting and storing chemicals entitled “AHCCHM304 Transport and store chemicals”.

6. Director General may issue authorisation

- (1) If the Director General is satisfied that a class of persons is qualified to apply a controlled chemical product from an aircraft, the Director General may issue an authorisation for that class of persons.
- (2) An authorisation issued under subregulation (1) —
 - (a) must be published in the *Gazette*; and
 - (b) may be amended or revoked by a subsequent notice published in the *Gazette*.

7. Keeping prescribed records (section 56(6))

- (1) For the purposes of section 56(6) of the Act, a person responsible for applying a controlled chemical product from an aircraft must keep the prescribed records for a period of 3 years beginning on the day on which the product was applied on the land.
- (2) For the purposes of subregulation (1), the prescribed records are records of the following made within 48 hours of the controlled chemical product being applied on the land —
 - (a) the date and time the product was applied;
 - (b) the name and residential address of the person who applied the product on the land;
 - (c) the name and address of an owner or occupier of the land on which the product was applied;
 - (d) the total area of the land on which the product was applied;
 - (e) the location of the land on which the product was applied;
 - (f) the estimated velocity and the direction of the wind at the time the product was applied;
 - (g) the product that was applied;
 - (h) the quantity and concentration of the product that was applied per hectare;
 - (i) the equipment used to apply the product;
 - (j) the type of crop on the land on which the product was applied.

- (3) For the purposes of subregulation (1), the person responsible for applying a controlled chemical product from an aircraft is —
- (a) if the person who applies the product from the aircraft is acting as an employee of another person (the **employer**) who is conducting a business of applying chemical products — the employer; or
 - (b) if the person who applies the product from the aircraft is acting, otherwise than as an employee, for or on behalf of another person (the **principal**) who is conducting a business of applying chemical products — the principal; or
 - (c) otherwise — the person who applies the product from the aircraft.

8. Transitional provision

- (1) In this regulation —
- certificate** has the meaning given in the *Aerial Spraying Control Act 1966* section 3;
- commencement day** means the day referred to in regulation 2(b);
- transitional period** means the period of 3 years beginning on commencement day.
- (2) During the transitional period, a person is taken to hold a prescribed qualification to apply a controlled chemical product from an aircraft for the purposes of section 56(1) of the Act if the person —
- (a) held a certificate immediately before commencement day; and
 - (b) is complying with the conditions (if any) attached to that certificate.

N. HAGLEY, Clerk of the Executive Council.
