



Western Australia

Biosecurity and Agriculture Management Act 2007

**Biosecurity and Agriculture Management
(Aerial Application) Regulations 2018**

Biosecurity and Agriculture Management (Aerial Application) Regulations 2018

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Biosecurity and Agriculture Management (Aerial Application) Regulations 2018

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

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- (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

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- (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.

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- (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.

Notes

- ¹ This is a compilation of the *Biosecurity and Agriculture Management (Aerial Application) Regulations 2018*. The following table contains information about those regulations.

Compilation table

Citation	Gazettal	Commencement
<i>Biosecurity and Agriculture Management (Aerial Application) Regulations 2018</i>	28 Dec 2018 p. 4880-3	r. 1 and 2: 28 Dec 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Dec 2018 (see r. 2(b) and <i>Gazette</i> 28 Dec 2018 p. 4879)

Defined terms

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
aircraft.....	3
apply	3
certificate	8(1)
commencement day	8(1)
controlled chemical product.....	3
employer	7(3)
micro to medium weight RPA	3
principal	7(3)
RPA	5(2)
transitional period	8(1)