



Western Australia

Biosecurity and Agriculture Management Act 2007

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

Biosecurity and Agriculture Management (Aerial Application) Regulations 2018

Contents

1.	Citation	1
2.	Commencement	1
3.	Terms used	1
4.	Director General may specify chemical product	2
5.	Qualifications or authorisations to apply controlled chemical product (Act s. 56(1))	2
6.	Director General may issue authorisation	4
7.	Person responsible to have record of application of controlled chemical product	4
8.	Transitional provision	6
	Notes	
	Compilation table	7
	Defined terms	

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

r. 4

- (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 (Act s. 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*

r. 6

Vocational Education and Training Regulator Act 2011
(Commonwealth) section 155 for —

- (a) a unit of competency in preparing and applying chemicals known as —
 - (i) “AHCCHM303 Prepare and apply chemicals”;
or
 - (ii) “AHCCHM307 Prepare and apply chemicals to control pest, weeds and diseases”;
- and
- (b) a unit of competency in transporting and storing chemicals known as “AHCCHM304 Transport and store chemicals”.

[Regulation 5 amended: SL 2021/216 r. 4.]

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. Person responsible to have record of application of controlled chemical product

- (1) If a controlled chemical product is applied from an aircraft, the person responsible for applying the product from the aircraft must —
 - (a) ensure that a record containing the information set out in subregulation (2) is made no later than 48 hours after the product was applied on the land; and

- (b) keep the record until the end of the period of 3 years beginning on the day on which the product was applied on the land.

Penalty for this subregulation: a fine of \$20 000.

- (2) For the purposes of subregulation (1), the information is as follows —
 - (a) the date and time the controlled chemical 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 exact location of the land on which the product was applied, described in sufficient detail to enable that location to be readily identified;
 - (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 the controlled chemical product from the 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

r. 8

- (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.

[Regulation 7 amended: SL 2021/216 r. 5.]

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.

Notes

This is a compilation of the *Biosecurity and Agriculture Management (Aerial Application) Regulations 2018* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	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)
<i>Biosecurity and Agriculture Management (Aerial Application) Amendment Regulations 2021</i>	SL 2021/216 17 Dec 2021	r. 1 and 2: 17 Dec 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Dec 2021 (see r. 2(b))

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)