DPI&F notes Queensland Government
Department of Primary Industries and Fisheries

Agricultural Chemicals Distribution Control Act 1966:
Regulating ground distribution of herbicides from ground equipment in Queensland

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Introduction

In Queensland, the Department of Primary Industries and Fisheries (DPI&F) administers the *Agricultural Chemicals Distribution Control Act 1966* (ACDC Act). The ACDC Act controls **ground distribution** (spraying, spreading or dispersing) of herbicides from **ground equipment** and also aerial distribution (spraying, spreading or dispersing) of agricultural chemicals from aircraft.

This DPI&F Note concentrates on the regulatory aspects of ground distribution of herbicides. A separate DPI&F Note *"Regulating aerial distribution of agricultural chemicals from aircraft in Queensland"* covers aerial distribution.

A key control mechanism for ground distribution of herbicides is the dual licensing of not only persons who operate ground equipment from which ground distribution is carried out but also the organisations and individual contractors who carry on the business of ground distribution or direct or authorise ground equipment to be used by licensed spray operators when carrying out ground distribution of herbicides in Queensland.

Persons who wish to operate ground equipment to carry out ground distribution of herbicides onto land that they or their relatives [v] do not own or occupy must be **licensed commercial operators** holding a commercial operator's licence issued under the ACDC Act to do so. Alternatively, a licensed pest management technician holding a current pest management technician's licence under the *Pest Management Act 2001* and a relevant pest management qualification (licensed, qualified PMT) is taken to hold a commercial operator's licence, and consequently may also carry out such work.

Ground equipment used by persons to carry out ground distribution of herbicides may only be used in the course of the business of, at the direction of, or upon the authority of either a **licensed ground distribution contractor** or **licensed aerial distribution contractor**.

[v] A relative as defined in the Act can be a spouse, son or daughter, father, mother, brother or sister, grandparent or grandchild.

This DPI&F Note is NOT a replacement for the legislation. It acts as a useful guide to help explain the legislative provisions relating to ground distribution of herbicides in Queensland. It cannot be relied upon for precise legal interpretation. Readers seeking precise legal interpretation need to refer to the actual wording of the legislation by consulting the appropriate sections of both the *Agricultural Chemicals Distribution Control Act 1966* and the *Agricultural Chemicals Distribution Control Regulation 1998* – refer to the section of this DPI&F Note headed " Where can copies of the legislation be obtained?"

Information contained in this publication is provided as general advice only. For application to specific circumstances, professional advice should be sought. The Department of Primary Industries and Fisheries has taken all reasonable steps to ensure the information in this publication is accurate at the time of publication. Readers should ensure that they make appropriate inquiries to determine whether new information is available on the particular subject matter.

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Does regulation of ground distribution apply throughout Queensland?

In many local authorities of Queensland, particularly those in western regions, the provisions of the ACDC Act do not apply. These areas have been traditionally used for grazing animal production, with only limited crop production. The map provided shows the shires where the ACDC Act applies as well as those areas where its provisions do not apply at this point in time.

What is ground distribution?

Ground distribution as defined in the ACDC Act is the spraying, spreading or dispersing of any herbicides or any preparation containing any herbicide from ground equipment.

What is ground equipment?

Ground equipment is any machine or apparatus other than an aircraft in flight used or intended for the distribution of a herbicide. Licensing applies to ground distribution when the following ground equipment is used:

A. *in areas of Queensland not declared a Hazardous Area* [v]

   Ground equipment (such as engine driven or motorised) but NOT equipment that is powered by hand or by compressed air or gas applied directly to the spray liquid for distribution without the use of air blast techniques; nor a hose proportioning device.

B. *in a declared Hazardous Area* [v]

   Any item of ground equipment, including engine driven, motorised or hand powered ground equipment.

[v] Refer to the sections of this DPI&F Note *"What are hazardous areas?"* and *"Where are the hazardous areas located? "* for further information.

Who is a licensed commercial operator?

A licensed commercial operator is a person who holds a commercial operator's licence [o] issued under the ACDC Act that enables the person to operate ground equipment to carry out ground distribution of herbicides on land that the person or his or her relative [v] does not own or occupy.

A licensed commercial operator is also permitted to supervise any number of unlicensed operators to use ground equipment to carry out ground distribution provided he or she is present throughout the duration of such ground distribution being carried out and maintains close supervision at all times.

Only persons who are at least 17 years of age may be issued a commercial operator's licence.

A licensed, qualified PMT is taken to hold a commercial operator's licence and as such assumes all the functions and responsibilities of a licensed commercial operator when carrying out ground distribution of herbicides. Refer to the section of this DPI Note *"What qualification does a pest management technician need to carry out ground distribution without a commercial operator's licence?"* for further information.

[o] There are two classes of commercial operator's licences: *unrestricted class* and *restricted class*. Whereas an unrestricted class of licence allows an operator to carry out ground distribution of unlimited registered herbicides from any ground equipment the restricted class of licence restricts the number of herbicides and types of ground equipment an operator can use. Applicants are strongly encouraged to seek an unrestricted class of licence over a restricted class.

[v] A relative as defined in the Act can be a spouse, son or daughter, father, mother, brother or sister. grandparent or grandchild.

Who is a licensed ground distribution contractor?

A ground distribution contractor is any person or organisation carrying on the business of ground distribution of herbicides. In addition, any person or organisation that directs or authorises ground equipment to be used to carry out ground distribution of herbicides is a ground distribution contractor.

A licensed ground distribution contractor holds a **ground distribution contractor licence** issued under the ACDC Act.

A person who is self employed as a ground distribution contractor and who operates ground equipment in his or her own right must meet the licence obligations for a commercial operator and also hold a ground distribution contractor licence.

Who is a licensed aerial distribution contractor?

An aerial distribution contractor is any person or organisation carrying on the business of aerial distribution of agricultural chemicals. In addition any person or organisation that directs or authorises an aircraft to be used to carry out aerial distribution is an aerial distribution contractor.

A licensed aerial distribution contractor holds an **aerial distribution contractor licence** issued under the ACDC Act.

The ACDC Act provides for a licensed aerial distribution contractor to also carry on the business of ground distribution of herbicides from ground equipment or to direct or authorise ground equipment to be used to carry out such ground distribution.

How does a person make application for a commercial operator's licence?

A person who wishes to obtain a commercial operator's licence needs to hold the necessary qualification. As mentioned previously, there are two classes of commercial operator's licence, unrestricted and restricted. The qualification for an unrestricted class of licence is an accreditation [λ] approved by the Agricultural Chemicals Distribution Control Board (ACDC Board) or a pass in the licence examination offered by DPI&F. The qualification for a restricted licence is a pass in an oral examination offered by DPI&F.

[λ] The approved accreditation that will qualify a person to apply for or hold a commercial operator's licence is the holding of Statements of Attainment issued by a registered training organisation (RTO) registered under the *Training and Employment Act 2000* or similar legislation of another State, certifying competency at Australian Qualifications Framework level 3, with respect to the following national units of competency:

RTC 3704A – Prepare and apply chemicals
RTC 3401A – Control weeds
RTC 3705A – Transport, handle and store chemicals.

Training certificates issued by training providers who are not RTOs are not acceptable as a qualification for the licence. Persons who hold such certificates would need to obtain the approved accreditation from an RTO or pass the licence examination to qualify for the licence.

A separate DPI&F Note " *Obtaining a commercial operator's licence*" provides more detailed information about making application for the licence including gaining the necessary licence qualification by either the approved accreditation or examination route. This additional DPI&F note, the application forms and information on the fees required can be obtained by contacting the DPI&F Call Centre on 13 25 23 between 8am and 6pm weekdays. The forms incorporate useful background information including where applicants may lodge their applications.

This licence is issued for either a three or one year period, nominated by the applicant at time of application.

How does a person or organisation make application for a ground or aerial distribution contractor licence?

There is no qualification or pre-requisite required for a ground distribution contractor licence. However a person or organisation wishing to apply for an aerial distribution contractor licence requires an aerial work licence (air operator certificate) endorsed to conduct agricultural operations issued by the Civil Aviation Safety Authority (CASA).

A copy of the application form and information on the application fees can be obtained by contacting the DPI&F Call Centre. The form incorporates useful background information to assist applicants to complete the application form including where applications may be lodged.

This licence is issued for either a three or one year period, nominated by the applicant at time of application.

What qualification does a pest management technician require to carry out ground distribution without a commercial operator's licence?

The ACDC Act recognises certain qualifications of pest management technicians holding a pest management technician's licence under the *Pest Management Act 2001* (licensed, qualified PMTs) as sufficient to enable these persons to carry out ground distribution of herbicides, without the need to hold a commercial operator's licence. A licensed, qualified PMT does not need to hold a commercial operator's licence under the ACDC Act to carry out ground distribution if holding the following relevant pest management qualification.

> A Statement of Attainment issued by a registered training organisation under the *Training and Employment Act 2000* or similar legislation in another State stating that the licensed, qualified PMT has successfully completed each of the following competencies:
>
> - PRMPM05 – *modify environment to manage pests;*
> - PRMPM06 – *apply pesticides to manage pests*; and
> - PRMPM18 – *maintain an equipment and consumables storage area.*

A licensed, qualified PMT is automatically taken to hold a commercial operator's licence to carry out ground distribution of herbicides. However, any ground distribution the licensed, qualified PMT undertakes may only be carried out in the course of the business of, at the direction of or on the authority of a licensed ground or aerial distribution contractor.

What ground distribution records are required to be made and kept by distribution contractors?

Ground and aerial distribution contractors are responsible under the ACDC Act for ensuring that records of each and every ground distribution carried out on their behalf are made and kept for at least two years and made available to authorised officers on request.

It is recognised that for practical purposes the operator of the ground equipment will more likely make these records. However, it remains the responsibility of the ground or aerial distribution contractor to ensure that these records are made and kept for the required period.

The types of ground distribution records to be made and kept are set out under section 26 of the ACDC Act and are summarised below:

- the name of the licensed operator carrying out or supervising the carrying out of the particular ground distribution;
- the name and address of the person for whom the ground distribution is carried out;
- identification of the agricultural chemical (herbicide) or chemical mixture used including any product distinguishing number;
- description and amount of any additives added to the spray mixture (eg wetting agents);
- the quantity and concentration of the chemical mixture being applied;
- exact location of the land being treated;
- total area of the land being treated;
- the type of crop or situation being treated;
- the purpose for which the ground distribution has been carried out;
- the date or dates and start and finish times when the ground distribution was carried out; and
- the wind velocity and direction at the commencement of the ground distribution and details of any changes to the wind velocity and direction during the ground distribution including the time of such changes.

A separate DPI&F Note "*A guide to making and keeping records for ground distribution of herbicides*" is available, which explains the requirements of section 26 of the ACDC Act in greater detail. Contact the DPI&F Call Centre for a copy.

How can operators of ground equipment help avoid spray drift?

Before ground distribution takes place operators should check their ground equipment to ensure it is in sound condition and in good working order and not likely to cause damage to livestock, or crops not intended to be treated. Spray nozzles should be checked to ensure they are delivering the correct droplet size to ensure even distribution of the herbicide to reduce or avoid spray drift. The prevailing meteorological (weather) conditions should also be considered before commencing ground distribution. Spraying in meteorological conditions that might reasonably be expected to cause damage or injury to livestock, or crops not intended to be treated should be avoided. It is an offence to carry out ground distribution with equipment or under meteorological conditions that might reasonably be expected to cause damage to crops not intended to be treated, or livestock.

A person must not open containers of volatile formulations of the herbicides 2,4-D, MCPA and picloram within 25 metres of any crop that is susceptible to damage from such herbicides, unless the person has a reasonable excuse to do so.

Operators also have an obligation under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* (Chem Use Act) to ensure that chemical products, including herbicides that are registered or approved by the Australian Pesticides and Veterinary Medicines Authority (APVMA) are used for ground distribution. Operators should also ensure that use of any chemical product is carried out in accord with label instructions or APVMA permit conditions.

Do landholders who carry out ground distribution on their own or relatives' [v] land require a licence?

Landholders who carry out ground distribution of herbicides on land that they or their relatives [v] own or occupy are not required to hold a licence under the ACDC Act. However, landholders who carry out ground distribution on land owned by neighbours not related to them, do need a commercial operator's licence and will also require a ground distribution contractor licence if they are a self employed business. In hazardous areas, landholders who wish to spray restricted herbicides on their own or relatives' property will need to be licensed. Refer to the section of this DPI&F Note "*Are there obligations for landholders carrying out ground distribution of herbicides on their own land in a hazardous area*?" for more information.

[v] A relative as defined in the Act can be a spouse, son or daughter, father, mother, brother or sister. grandparent or grandchild.

What are hazardous areas?

Hazardous areas 1, 2 and 3 have been declared in response to the volatility of some herbicides that can cause damage in susceptible cropping areas. Certain herbicides have restrictions placed on their use in a hazardous area. Refer to the section of this DPI&F Note " *What restricted herbicides require a distribution permit for ground distribution in a hazardous area?"* for more information.

Where are the hazardous areas located?

The attached map shows these three hazardous areas.

Each hazardous area's location description is set out as follows:

Hazardous Area No. 1
This area consists of the Cities of Caloundra and Redcliffe and the Shires of Caboolture, Maroochy, Noosa and Pine Rivers.

Hazardous Area No 2
This area consists of the City of Toowoomba, the Town of Dalby and the Shires of Cambooya, Clifton, Jondaryan, Millmerran, Pittsworth, Rosalie, Wambo and Warwick.

Hazardous Area No. 3
This area consists of the Shires of Bauhinia, Belyando, Duaringa, Emerald and Peak Downs, and the part of the Broadsound Shire west of the top of the Broadsound and Connors Ranges.

What is a distribution permit and when is it issued?

A distribution permit is a permit issued under the ACDC Act to either a licensed ground or aerial distribution contractor that permits ground distribution of restricted herbicides in a hazardous area to be carried out by licensed commercial operators.

However, there are exceptions. A permit is not needed for these herbicides when applied in a hazardous area by the following application methods (authorised techniques):

- cut stump, basal bark and frill ringing provided they occur more than 100 metres away from crops susceptible to the herbicide and growing on neighbouring properties, or
- stem injection.

On receipt of an application for a distribution permit the area to be treated with the restricted herbicide is assessed by an inspector. An evaluation is made regarding the possible impact of the spray activity before a distribution permit is granted. This permit

confines distribution to specific individuals, specific time periods, weather conditions, spraying limitations and herbicide(s) to be used.

What restricted herbicides require a distribution permit for ground distribution in a hazardous area?

The following herbicides are restricted in their respective hazardous areas and a distribution permit is required to carry out ground distribution of these herbicides.

Hazardous Area No. 1

The restricted herbicides in Hazardous Area No. 1 requiring a distribution permit if applied other than by an authorised technique [Φ] are any herbicides containing picloram or an ester formulation of 2,4-D and MCPA.

Hazardous Area No 2

The restricted herbicides in Hazardous Area No. 2 requiring a distribution permit if applied other than by an authorised technique [Φ] are any herbicides containing an ester formulation of picloram.

Please note that any ester formulation of 2,4-D is totally banned from use in hazardous area No.2.

Hazardous Area No. 3

The restricted herbicides in Hazardous Area No. 3 requiring a distribution permit if applied other than by an authorised technique [Φ] are any herbicides containing an ester formulation of 2,4-D.

[Φ] An authorised technique not requiring a distribution permit is

- cut stump, basal bark and frill ringing provided they occur more than 100 metres away from crops susceptible to the herbicide and growing on neighbouring properties, or
- stem injection.

What obligations are placed on landholders carrying out ground distribution of herbicides on their own land in a hazardous area?

Landholders in hazardous areas wishing to apply restricted herbicides on their own land, other than by authorised technique, will need to either engage the services of a licensed commercial operator holding a distribution permit or be a licensed commercial operator themselves and obtain a distribution permit for the particular ground distribution. Landholders seeking a commercial operator's licence under these circumstances will most likely also need a ground distribution contractor's licence.

Landholders wishing to carry out ground distribution using herbicides other than the restricted herbicides in a hazardous area <u>on their own land</u> with ground equipment are not required to be licensed nor do they need to obtain a distribution permit. However, in a hazardous area landholders who undertake ground distribution of these other herbicides by any method on the property of a neighbour, who is not a relative [γ], will need to be licensed.

There is an obligation on all users (licensed commercial operators; licensed, qualified PMTs; or private landholders) in any of the hazardous areas not to distribute herbicides with equipment and under meteorological conditions that might reasonably be expected to cause damage or injury to crops not intended to be treated, or livestock. This is an offence under the ACDC Act and imposes extra responsibilities on anyone undertaking ground distribution of herbicides within a hazardous area.

[γ] A relative as defined in the Act can be a spouse, son or daughter, father, mother, brother or sister. grandparent or grandchild.

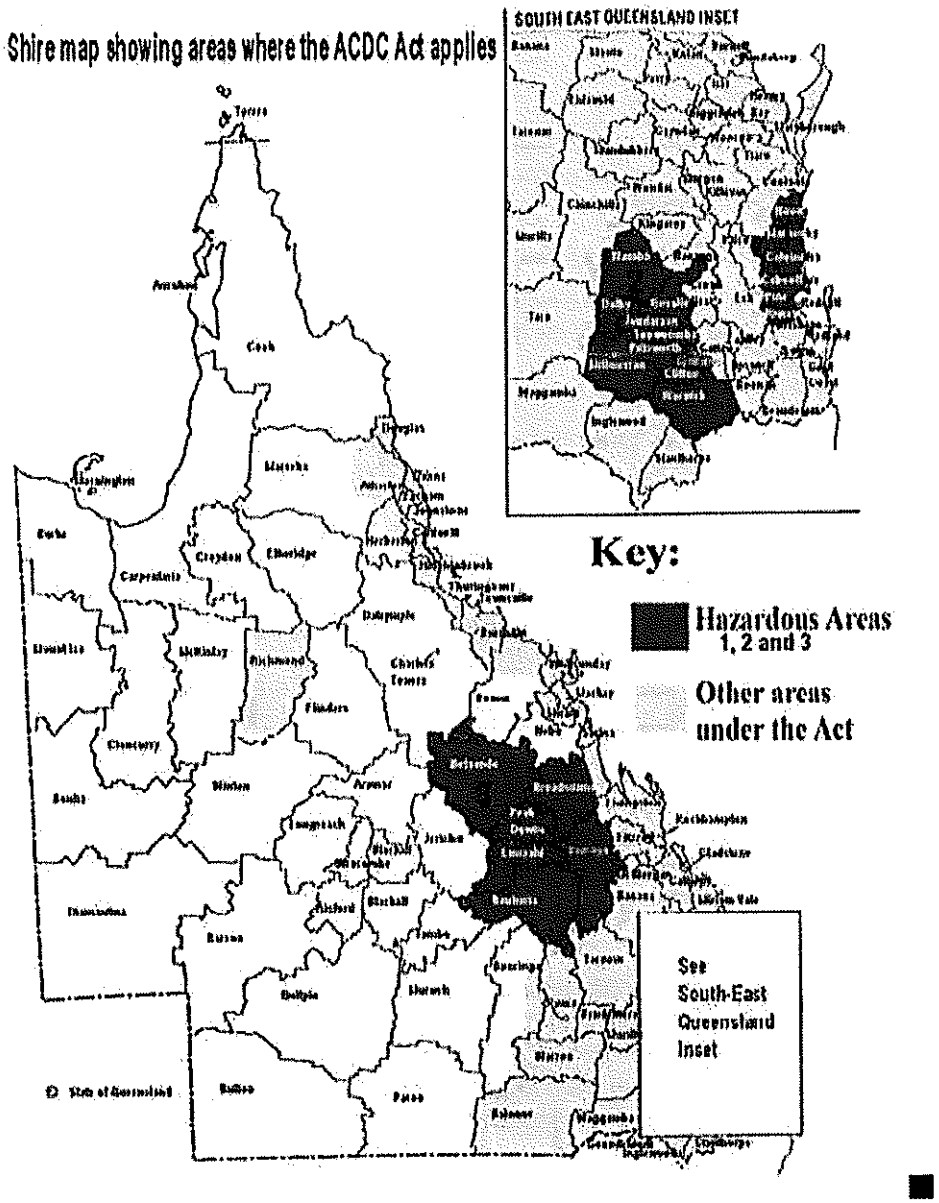
Where can copies of the legislation be obtained?

Copies of the ACDC Act and the accompanying *Agricultural Chemicals Distribution Control Regulation 1998* are available from GoPrint (telephone 1800 679 778 if calling from outside Brisbane or 07- 3246 3399 if within Brisbane) or by visiting the website of the Office of the Queensland Parliamentary Counsel website at www.legislation.qld.gov.au/Legislation.htm

Need further information?

Further information on these and other aspects of the ACDC Act or this DPI&F Note may be obtained by contacting the DPI&F Call Centre. Phone 13 25 23 (Queensland residents) weekdays between 8am and 6pm; non-Queenslanders, phone +61 7 3404 6999; email callweb@dpi.qld.gov.au. ■

The map shows areas where the Act applies and the location of Hazardous Areas Nos 1, 2 and 3



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