Hawaii Pesticide Laws and Regulations

September 2018

A STUDY GUIDE
FOR PERSONS SEEKING CERTIFICATION BY
THE HAWAII DEPARTMENT OF AGRICULTURE
TO BUY, USE, OR SUPERVISE THE USE OF
RESTRICTED USE PESTICIDES

This study guide was developed in cooperation with the Hawaii Department of Agriculture’s Pesticides Branch for the Pesticide Risk Reduction Education program of the College of Tropical Agriculture and Human Resources, University of Hawaii at Manoa. Please direct any question or comment to the program’s coordinator either by email, cynagami@hawaii.edu, or telephone, 808-956-6007.
About This Study Guide

Purpose
This booklet is a study guide for the Hawaii Department of Agriculture’s examination to qualify for certification to buy, use, or supervise the use of restricted use pesticides in Hawaii. It will not tell you everything you need to know about owning, handling, or using pesticides correctly.

Scope
This study guide summarizes certain parts of a few state and federal laws and regulations intended to govern the behavior of people in Hawaii who own, use, or handle a chemical product classified as a “pesticide” in Hawaii. It does not discuss county ordinances, criminal actions, property rights, contracts, lawsuits, out-of-court agreements, or court-ordered actions. Neither does it discuss requirements that your employer sets specifically for you or the work you do.

Updates and changes
The date of this study guide is “September 2018.” It could be out-of-date by the time you read it because we may have changed important parts or because laws or regulations may have changed. You are welcome to get the latest version of this study guide, free-of-charge, from the Internet at:


Other Study Guides
This study guide is just one of a complete set of study guides. Read or download them by following the links beginning at this webpage:
https://cms.ctahr.hawaii.edu/epp/Education/Study-Guide-Packets

Here are some notes about four of the other study guides.
• Because a typical pesticide used or handled on the job is classified as a hazardous chemical, an employer may be affected by OSHA rules for protecting employees. Learn more by reading the study guide Pesticides and the HOSHL: Hawaii Occupational Safety and Health Law.
• Because a typical pesticide in storage or in a spill, leak, or fire contains an ingredient classified as a hazardous substance or an extremely hazardous substance, a storage facility manager, vehicle driver, or a pesticide application equipment operator may be affected by rules for chemical emergency planning and reporting. Learn more by reading the study guide Pesticides and the HEPCRA: Hawaii Emergency Planning and Community Right-to-Know Act.
• Because many agricultural pesticides are used in a typical forest to be harvested, farm, greenhouse, and nursery, employers of people working at these types of plant-growing operations are usually affected by a federal regulation known as the “Worker Protection Standard” or “WPS.” This nation-wide regulation makes the employer responsible for following the WPS rules. Learn more by reading the booklet How To Comply With the Worker Protection Standard for Agricultural Pesticides: What Employers Need To Know.
• Because a typical pesticide or its container intended for disposal is classified as hazardous waste, the pesticide’s owner, user, or handler may be affected by rules for storage, transport, and disposal of waste. Learn more by reading the study guide Pesticides and the RCRA: Resource Conservation and Recovery Act.

You can get other study guides named by title by downloading them from the webpage specified above or by purchasing the study packets that contain the guides.
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Introduction

This study guide explains how two government agencies can regulate any owner, user, or handler of a chemical product that is classified by law as a “pesticide” in Hawaii.

Two Pesticide Laws

The Federal Insecticide Fungicide and Rodenticide Act (FIFRA) is the federal law that authorizes the United States Environmental Protection Agency (EPA) to make and enforce pesticide rules for the entire U.S.

The Hawaii Pesticides Law is the State of Hawaii’s law that authorizes the Hawaii Department of Agriculture (HDOA) to make and enforce pesticide rules for Hawaii.

What Are Pesticides?

These pesticide laws give complicated definitions for the word “pesticide.” Put simply, pesticides are chemical products intended to do any of the following:

- Poison or control pests, including weeds.
- Bait pests by attracting and poisoning them.
- Attract pests.
- Repel pests.
- Control plant growth, such as development of roots, shoots, flowers, and fruits.
- Preserve wood, paint, and certain fuels.
- Sanitize or disinfect objects, hard surfaces, or water supplies to control germs.
- Stabilize certain nitrogen fertilizers applied to soil.

Any chemical product is considered a pesticide if its label shows an EPA Registration Number or EPA Reg. No. (Figure 1). All pesticides offered for distribution or sale in Hawaii must be licensed by the HDOA.

Responsibilities of Pesticide Owners, Users, or Handlers

Upon taking possession of a pesticide, the owner, user, or handler takes on two basic responsibilities. One responsibility is to comply with the Hawaii Pesticides Law and the pesticide rules set by the HDOA, including those discussed in this study guide. The second responsibility is to follow the directions on that pesticide’s labeling.

Labeling and Labels

A pesticide’s “labeling” and “label” both show words and pictures that explain how to use, store, and dispose of the product correctly. But there is an important difference when a product’s directions are complex and lengthy. For those products, the label is only one type of labeling, and other
Three kinds of labeling

Labeling includes all of the following types of documents:

• **Label**—This kind of labeling is the manufacturer’s set of directions that is securely attached to the pesticide’s container. By law, each manufacturer must ensure that a label is attached to every one of its pesticide containers. Labels are usually printed on paper or a plastic sheet which is then glued to the container or wrapped around it. The label transmits important messages from the manufacturer to people who will use or handle the product or its container. It is the primary source of information about doing so safely and legally. Some labels give just basic information and then refer the reader to other types of labeling for details.

• **Manufacturer’s booklet, brochure, tag, or safety data sheet (SDS) accompanying the container of pesticide**—Any one or more of these kinds of labeling may be loosely packaged with the containers. Typically, they are referred to by a statement on the label and give important warnings or detailed instructions that would not fit on the label. Not all pesticides have this type of labeling.

• **User’s guide not accompanying the container of pesticide**—These kinds of labeling are completely separate from the containers and outer packaging. Typically, user’s guides are referred to by a statement on the label and give important warnings or detailed instructions that would not fit on the pesticide’s label. Here is an example of a statement on a label that refers to a user’s guide:

  “Personal protective equipment requirements will vary depending on how the chlorine is being used. Refer to Chlorine Institute Pamphlet # 65 for specific recommendations.”

Not all pesticides have user’s guides.

Enforcement

Pesticide regulators enforce the do’s and don’ts on both the label and other kinds of labeling. So for each pesticide, review its label to find the directions that apply to you. Also watch for statements that refer you to directions on other kinds of labeling and, if any, follow the ones that apply to you.

Misuse of Pesticides

The labels and other kinds of labeling show words and pictures that tell the pesticides’ owners, users, or handlers about any or all of the following actions:

• Storing the pesticide
• Transporting an opened container of pesticide
• Preparing to apply the pesticide
• Mixing or diluting the pesticide
• Loading a pesticide or its mixture into application equipment
• Setting up, operating, cleaning or maintaining application equipment
• Applying the pesticide
• Supervising an application of a pesticide
• Following up after applying the pesticide
• Disposing of the pesticide or its container
• Preventing poisoning and pollution

Pesticide regulators may take into account each of these possible actions when enforcing pesticide laws and regulations. They may compare the do’s and dont’s in the product’s labeling to the actions or inactions of the owner, user, or handler. Thus, the pesticide’s labeling becomes the set of rules for that product. Every label shows a reminder of this in the form of a misuse statement:

  “It is a violation of Federal law to use this product in a manner inconsistent with its labeling.”

This means that a pesticide owner’s, user’s, or handler’s action or inaction is a “misuse” of the
pesticide if it does not follow the labeling’s directions (except as explained below in the sections Not a Misuse and Special Local Needs “Label”).

The HDOA’s pesticides inspectors conduct inspections and investigations to determine if pesticides were misused. A citation or penalty may be issued for each misuse they find. They conduct inspections and investigations in both commercial agricultural and other settings including home yards and gardens. In other words, the do’s and don’ts described by the labeling are requirements, not merely suggestions or recommendations.

Following are some situations which lead to misuses.

Secure storage

If a pesticide’s labeling requires locking a storage or posting it with a pesticide storage sign, not meeting the requirement would be a misuse.

Container disposal

It would be a misuse to refill or reuse an empty plastic bottle or jug for a liquid pesticide. It must be rinsed three times, punctured and disposed of correctly. For those types of containers, there will be a requirement about this on the label in the Storage and Disposal section. Here’s a simplified example for a 2½-gallon plastic jug:

‘For plastic containers less than or equal to 5 gallons: Do not reuse or refill this container. Triples rinse container (or equivalent) promptly after emptying. Then offer for recycling if available or puncture and dispose of in a sanitary landfill.’

Only a few pesticide products are packaged in containers that may be legally reused or refilled.

Regulations referred to by labeling

It would be a misuse of a pesticide to not follow any applicable part of a regulation referred to
by its labeling. Here’s an example of a statement on a label that refers to a regulation:

“Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170.”

Here’s another example:

“When using this product, you must follow the measures contained in the Endangered Species Protection Bulletin for the county in which you are applying the product. To obtain Bulletins, no more than six months before using this product, consult http://www.epa.gov/espp/ or call 1-800-447-3813. You must use the Bulletin valid for the month in which you will apply the product.”

Plant, animal, object, or site to be treated

It would be a misuse of a pesticide to treat a plant, animal, object, or site that is not described by its labeling. For example, it would be a misuse to apply a pesticide along the side of a road if the product’s labeling does not name “roadside” or some other site that includes roadsides.

But even if the labeling does name the plant, animal, object, or site to be treated, the pesticide applicator must heed restrictions elsewhere on the labeling that would prohibit a treatment, like these seven examples:

“For use only in Florida and Louisiana.”

“Not for use or storage in or around the home.”

“This product must not be mixed/loaded, or used within 50 feet of all wells, including abandoned wells, drainage wells, and sinkholes.”

“Do not use on dogs less than 12 weeks old.”

“Do not apply within 28 days of harvest.”

“Do not apply to trees that will bear harvestable fruit within 12 months of application.”

“Do not apply this product while bees are actively visiting the treatment area.”

A careful reading of a pesticide’s entire labeling is needed to find those kinds of restrictions.

Safety equipment and protective clothing

It would be a misuse when the pesticide applicator or handler does not wear whatever protective clothing or personal protective equipment is required by the labeling. (Protective clothing includes a long sleeve shirt, long pants, shoes and socks, and a hat. Personal protective equipment can be boots, gloves, safety glasses, goggles, face shield, respirator, or a chemical-resistant apron, jacket, pants, coveralls, or hat.)

The labeling for some pesticides show two lists of items to wear. One list is for people who handle the undiluted product and a different list is for those who apply a dilution of the product.

Recommendations

If a misuse results from applying a pesticide according to a recommendation or a report on pest control research, the applicator is responsible, regardless of who gave the recommendation or published the report. So pesticide users must be sure to apply a pesticide only according to its labeling.
Combining or tank-mixing pesticides

It would be a misuse to apply two pesticide products together if the directions for either prohibits tank-mixing, like this example:

“Do not combine this product with any type of sulfur spray.”

If two products will be applied together, the user should carefully review the labeling of both for any after-application waiting periods and heed the longer waiting period. These waiting periods are usually the number of hours or days to keep people, pets, or livestock from entering or reentering the treated area, as in this example:

“Do not enter or allow worker entry into treated areas during the restricted-entry interval (REI) of 12 hours.”

Though on labeling for some pesticides, a reentry period may be less specific, like this:

“Keep children and pets out of the treated area until sprays have dried.”

For pesticides labeled for treating an agricultural plant, animal, or site, the waiting periods usually say how long after the treatment to prevent harvesting, grazing, slaughtering, selling (of milk), or some other agricultural operation. It would be a misuse to apply two products together and then allow the agricultural operation before the longer waiting period ends.

Method or equipment

It would be a misuse to apply a pesticide by a method or with equipment prohibited by its labeling. Here are three examples of such prohibitive statements on labels:

“Do not use as a space spray indoors.”

“Apply this product only through the following sprinkler irrigation systems: center pivot, lateral move, end tow, side (wheel) roll, traveler, big gun, solid set, micro sprinkler, or hand move. Do not apply through any other type of irrigation system.”

Dosage

It would be a misuse to apply a dosage that is higher than allowed by the labeling. For example, it would be a misuse to apply 3 ounces of a pesticide per 1,000 square feet if its labeling allows a maximum of 2 ounces per 1,000 square feet.

Dilution

It would be a misuse to apply a spray mixture made more concentrated than allowed by the labeling. For example, it would be a misuse to apply a spray mixture of 3 quarts of a pesticide and 100 gallons of water if its labeling allows a maximum of 2 quarts per 100 gallons of water.

Frequency

It would be a misuse to apply a pesticide more often than allowed by its labeling. For example, it would be a misuse to apply a pesticide 10 days after a previous treatment if its labeling specifies 14 days between treatments. That would also be a misuse if the labeling allows only one treatment of the plant, animal, object, or site.
None of the information in the box below is covered by the Hawaii Department of Agriculture’s examinations to qualify for certification as applicators of restricted use pesticides in Hawaii.

To get help interpreting a pesticide’s labeling, consult the pesticide manufacturer or its local representative, or one of the Hawaii Department of Agriculture’s environmental health specialists who is not an inspector.

Phone Numbers for the Hawaii Department of Agriculture’s Pesticides Branch:

**Hawaii island** applicators—Call Hilo direct (808) 974-4143 or 333-2844.

**Lanai, Maui, and Molokai** applicators—Call Maui direct (808) 873-3078 or 793-7035, or toll-free 984-2400 x 3307 followed by “#”.

**Oahu** applicators—Call Honolulu direct (808) 973-9424 or 973-9409.

**Kauai** applicators—Call Kauai direct (808) 241-7140, or toll free 274-3141 x 17140 followed by “#”.

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### Not a Misuse

As explained above in the section *Misuse of Pesticides*, it is illegal to use a pesticide in a manner inconsistent with its labeling. But, the following four actions are allowed because they are exceptions.

1. **It is not a misuse to apply a pesticide against any target pest not specified on the labeling if the application is to a crop, animal, or site specified on the labeling; provided that the labeling does not specifically prohibit the use on pests other than those listed on the labeling.**

   For example, suppose an insecticide’s labeling gives instructions for treating a site such as the perimeter of a house and it specifies only three target pests: fleas, ticks, and ants. Applying the insecticide on the perimeter of a house to control cockroaches would be not be a misuse, provided that its labeling does not prohibit use specifically against cockroaches or generally against target pests not named on the labeling.

   For comparison, consider this example of a misuse: Suppose the labeling for a rodent bait gives instructions for treating buildings to control only the *house mouse*, and the labeling also says:

   "Do not apply to any pest not specified on this label."

   Then it actually would be a misuse of that product to treat a building to control the *roof rat*.

2. **It is not a misuse to use any method of application not prohibited by the labeling.**

   For example, suppose a herbicide’s labeling gives instructions for applying it with a sprayer. Applying the herbicide by brushing it on weeds would not be a misuse provided that the labeling does not prohibit any method of brushing.

   But this exception does not apply to *chemigation*, which is a method of applying a chemical with water through an irrigation system. It would be a misuse to apply a pesticide by chemigation if the labeling either prohibits chemigation or says nothing about it. This means that a pesticide may be applied by chemigation only if its labeling gives instructions for doing so.
(3) It is not a misuse to mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

(4) It is not a misuse to apply a pesticide at any dosage, concentration, or frequency less than that specified on the labeling when it is not prohibited by the labeling.

Here are three examples:

**Dosage**—Suppose a pesticide’s labeling says to apply a dosage of 2 ounces of product per 1,000 square feet. Then applying 1½ ounces per 1,000 square feet would not be a misuse. But it actually is a misuse when the product’s labeling prohibits applying a lower dosage, like this example:

“Do not apply at a lower dosage and/or concentration than specified on this label for applications prior to the installation of the finished grade.”

**Concentration**—Suppose a pesticide’s labeling says to apply a spray mixture diluted to a concentration of 1 pint of product per 100 gallons of water. Then applying a spray mixture diluted to a concentration of ¾ pint per 100 gallons of water would not be a misuse. But it actually would be a misuse if the product’s labeling prohibits applying a less concentrated mixture.

**Frequency**—Suppose a pesticide’s labeling says to apply the product every 7 days. Then applying the pesticide 10 days after the previous application would not be a misuse. But it actually would be a misuse if the product’s labeling prohibits applying it less frequently.

For those three types of deviations from the labeling, the pesticide must maintain its effectiveness. That rule applies to any and all applicators. For certain pesticide applicators, there is an additional rule: Certified commercial applicators may apply the pesticide only with the consent of the purchaser of the pesticide application service.

### Special Local Needs “Label”

Each plant, animal, object, or site that may be legally treated with a pesticide will be named on the product’s labeling and each represents a nationwide “use” registered for that specific pesticide by the EPA, a federal agency. Some pesticides have an additional use registered specifically for Hawaii by the HDOA, a state agency. Such a state-registered use for a pesticide is described only by a specific type of document called a special local needs label or SLN label. Using a pesticide according to an SLN label is allowed provided that the document is up-to-date and the pesticide applicator has a copy of it at the time of application. For such uses, a pesticide regulator would enforce the regulatory standard represented by the misuse statement and the four exceptions explained above in the two sections Misuse of Pesticides and Not a Misuse. And if the pesticide is classified as a “restricted use” pesticide, the regulator would enforce the appropriate rules explained below in the section Restricted Use Pesticides.

For details, read the study guide titled Special Local Needs Labels for Pesticides in Hawaii.

### Restricted Use Pesticides

A restricted use pesticide (RUP) is a pesticide that requires regulatory controls in addition to the rules for controlling the misuse of pesticides. The additional controls are needed to ensure that only people with special knowledge, skills, equipment, and supplies are allowed to buy, use, or supervise the use of RUPs. Others could cause potentially
serious problems for themselves, for other people, or for domestic animals or wildlife if they use, handle, store, or dispose of an RUP incorrectly. So pesticide regulators set up a system for controlling both the pesticide dealers who want to distribute RUPs and the pesticide users who want to buy, use, or supervise the use of RUPs. Without this additional system of controls, pesticide regulators would not allow distribution or use of RUPs.

Following are brief descriptions of seven of the major features of this system.

Classifying pesticides

Both the EPA and the HDOA have classified certain pesticides as RUPs.

Labels of pesticides classified for restricted use by the EPA show the phrase “RESTRICTED USE PESTICIDE” in a box near the top of the label’s front panel (Figure 2). The EPA classified each of these products for restricted use because of its chemical properties, toxicity to humans or wildlife, history of use and accidents, complexity of using it correctly, or some combination of these factors. The EPA’s reason for classifying a product as an RUP is stated in the same box directly beneath the phrase “RESTRICTED USE PESTICIDE”. These products are considered RUPs throughout the U.S.

The HDOA evaluated the other (unclassified) pesticides that distributors wished to sell in Hawaii and classified some of them for restricted use within the State of Hawaii. Labels of these RUPs lack the “RESTRICTED USE PESTICIDE” phrase. Even so, they are also considered RUPs in Hawaii.

Dealer licensing

Any pesticide product classified as an RUP by either the EPA or the HDOA may be distributed in Hawaii only by pesticide dealers who have a license from the HDOA to do so. This rule means that it is illegal for anyone, including pesticide owners, users, or handlers, to either sell or give away their RUP unless they have a dealer’s license. (Anyone in Hawaii who needs advice about transferring ownership of his or her unwanted RUP to another certified applicator should consult the HDOA.)

Hawaii’s licensed pesticide dealers must record sales of their RUPs and send a copy of their records to the HDOA. By reviewing these records, HDOA’s pesticides inspectors can determine who could be storing or using RUPs.

Applicator certification

In addition to pesticide dealer licensing, the HDOA set up a “certification” requirement for any person wishing to buy, use, or supervise the use of an RUP in Hawaii. To do so, the person must be certified by the HDOA in either a “private applicator” or a “commercial applicator” category.

People certified in a private applicator category use or supervise the use of an RUP for producing agricultural commodities on property which he or she owns or rents, or on property which his or her employer owns or rents. This certification category covers agricultural operations such as a ranch, forest to be harvested, farm, nursery, greenhouse, or mushroom or seed sprouts production. A certified private applicator may also use or supervise the use of an RUP in Hawaii for another producer of agricultural commodities if applied without compensation other than the trading of personal services between themselves.

Figure 2. A box containing the words “RESTRICTED USE PESTICIDE” appears at the top of the label’s front panel if the EPA, a federal agency, classified the product for restricted use.
People certified in a commercial applicator category use or supervise the use of an RUP on public lands. Or, they use or supervise the use of an RUP for any purpose or on any property that is not covered by the explanation of “private applicator.”

It may be necessary for an individual to be certified in more than one category if he or she wants to buy, use, or supervise the use of RUPs for two different jobs such as farming on private property and doing wildlife conservation work on public land.

To qualify for certification in either a private or a commercial applicator category, one must be at least 18 years old and pass the appropriate written examination.

The period of certification is five years. During this period, the HDOA may suspend or revoke an applicator’s certification for violating the certification rules or any law or regulation concerning the use of an RUP. Once his or her certification has been revoked or while a suspension is in effect, the applicator may not buy, use, or supervise the use of any RUP in Hawaii.

Recordkeeping by certified applicators

Both private and commercial applicators are responsible for keeping a record of each application of their RUPs. Each record must contain 13 specific items of information; it must be kept for two years; and it must be made available for inspection during reasonable working hours. For details, read another study guide titled Recordkeeping for Restricted Use Pesticide Applications in Hawaii.

Limits and Requirements in Hawaii

Three limits and requirements are enforced because they are part of the Hawaii Pesticides Law or the HDOA’s pesticide rules.

Written notice of pesticide applications by commercial applicators in agricultural operations

This requirement is for certified commercial applicators who will apply pesticides in agricultural operations. It applies whether or not the pesticide is a restricted use product. For each application of the pesticide, the commercial applicator must provide a written notice of the upcoming application to the agricultural employer, and he or she must do it before applying the pesticide. Each notice must contain the six items of information listed in the HDOA’s pesticide recordkeeping rules. For details, read the study guide titled Recordkeeping for Restricted Use Pesticide Applications in Hawaii.

Someone else may prepare the notice and provide it to the agricultural employer but the commercial applicator is ultimately responsible for ensuring that both are done.
Aerial application of restricted use pesticides

For any application of a restricted use pesticide by aircraft in Hawaii, the certified applicator must get a special permit from the HDOA prior to the application. Also, the HDOA must be notified at least 24 hours before the application.

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USDA ARS Image Library
References

Hawaii Administrative Rules, Title 4, Chapter 66.  

Hawaii Pesticides Law, Hawaii Revised Statutes, Chapter 149A.  
https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HR-S0149A/ (as viewed on 8/8/18).

Act 045. (This State law amends the Hawaii Pesticides Law by changing some of its parts and adding parts to it. Several sections of Act 045 become enforceable on January 1, 2019.)  
https://www.capitol.hawaii.gov/session2018/bills/GM1145_.PDF (as viewed on 10/30/18).

Letter to Hawaii Certified Applicators, September 14, 2018, from John McHugh, Manager, Pesticides Program, Hawaii Department of Agriculture. (This letter explains requirements that result from Act 045.)


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Acknowledgement

The author gratefully acknowledges the comments offered by staff of the Pesticides Branch of the Hawaii Department of Agriculture: Greg Takeyama, Esther Medrano, and Adam Yamamoto.

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Disclaimers

This study guide will not tell you everything you need to know about handling and using pesticides correctly.

Where trade names are used, no endorsement is intended nor is criticism implied of similar suitable products not named.

In examples of statements found in pesticide labeling, some of the words and phrases are underlined. That is for emphasis only. The underlining may or may not appear in the actual labeling.

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*Pesticide Risk Reduction Education* is a program of the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa. Its staff provides short courses and study guides for people preparing to take the Hawaii Department of Agriculture’s examinations to qualify for certification as certified applicators of restricted use pesticides in Hawaii.

https://cms.ctahr.hawaii.edu/epp/#

These educational activities support the Hawaii Department of Agriculture’s program for certification or recertification of applicators of restricted use pesticides in Hawaii.

**The staff of the Hawai'i Department of Agriculture’s Pesticides Branch** certifies or recertifies people qualified for certification to buy, use, or supervise the use or restricted use pesticides in Hawai'i. They conduct examinations for qualifying and issue certification cards to qualified applicators.


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