

§4-66-45 Experimental use permits; generally.

Experimental use permits may be issued for the intrastate shipment, delivery or use of a pesticide product which is to be tested further to determine the scope and limitations of its usefulness and the effect of its use on humans and the environment. Permits may be issued for products for use in experimental programs under the supervision of applicators certified in demonstration and research pest control and broad scale testing under normal conditions of use. The head may require the information and data concerning the product and the proposed testing program which is deemed necessary to make determinations on the merits of the proposals. [Eff. 7/13/81; am and comp **DEC 16 2006**

](Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §§172.20 - 172.26) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §§172.20 - 172.26)

§4-66-46 Experimental use permits; prohibitions.

No permits shall be issued for any of the following:

- (1) A product containing an active or inert ingredient which is currently subject to an EPA cancellation or suspension of registration order, or which is currently subject to an EPA notice of intent to suspend or cancel registration because of human health, environmental, or efficacy consideration; except that a permit may be issued for a product for purpose or in a formulation which:
  - (A) Is not specifically considered in, or which is not subject to, suspension or cancellation proceedings, after consultation with appropriate EPA officials; or
  - (B) Was specifically considered during the proceedings but not suspended, canceled, or subject to a notice of intent to suspend or cancel.
- (2) A use of a product which has been the subject of a notice of denial of registration under FIFRA; and
- (3) A use of a product, which may involve use in or on food or feed other than as authorized in section 4-66-47. [Eff. 7/13/81; am and comp

**DEC 16 2006**](Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.24) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.24)

§4-66-47 Experimental use permits; exceptions.

No experimental use permit is required for the intrastate shipment or use of a substance or mixture of substances being put through laboratory, greenhouse, or limited field trials of less than one-fourth acre, in which the purpose is to determine its value as a

pesticide or to determine its toxicity, or other properties, where the tests are being conducted by recognized research personnel and from which the user does not expect to receive any benefit in pest control from its use. These substances or mixture of substances are not considered to be pesticides within the meaning of the Act or this rule. No experimental permit is required if an experimental use permit has been issued by the EPA for the proposed trial(s).

[Eff. 7/13/81; am and comp **DEC 16 2006** ] (Auth: HRS §§149A-19, 149A-22, 149A-33, 7 USC §136(v)(a)) (Imp: HRS §§149A-19, 149A-22, 149A-33)

§4-66-48 Experimental use permits provisions for issuance. (a) A permit is required for a pesticide intended for experimental use which is not exempt under section 4-66-47. If a pesticide is to be tested for a use, which is likely to result in a residue on or in food or feed, a permit for experimental use may be issued provided:

- (1) A tolerance or exemption from the requirements of a tolerance has been established under section 408 of the Federal Food, Drug, and Cosmetic Act; or a regulation established under section 409 of the Federal Food, Drug, and Cosmetic Act; or
- (2) The food or feed product shall be destroyed or used only for laboratory or experimental animals for testing purposes; or
- (3) Convincing evidence is submitted by the applicant that the proposed use shall not result in residues that would be in excess of that authorized under section 408 of the Federal Food, Drug, and Cosmetic Act, or a regulation established under section 409 of the Federal Food, Drug, and Cosmetic Act which would be hazardous to man, other animals, or the environment.

(b) A permit shall be issued only if it is clearly shown in the permit application that the applicant's instructions for use reasonably assure the protection of humans and the environment.

(c) All applications for an experimental use permit shall be filed by a qualified person on a form approved by the head. Each application shall contain the following:

- (1) Name and address of the shipper and the consignee and place or places from which the shipment shall be made;
- (2) Proposed date of shipment or proposed shipping period not to exceed one year and quantity to be shipped;
- (3) A statement of the composition of material to be covered by the permit which should apply to a single material or similar formulations of the material;

- (4) The name, address and telephone number and qualification of the person responsible for conducting the test; Available data or reference to available data on the analytical method and toxicity of the pesticide;
- (5) The purpose or objective of the proposed tests; a description of the proposed testing program including test parameters; a designation of the pest organism or organisms involved; the amount of pesticide product proposed for use; the crops, fauna, flora, sites, modes, dosage rate and situation of applications on or in which the pesticide is to be used; the number of acres, number structure sites, or number of animals to be treated or included in the area of experimental use; the proposed dates or period or periods during which the testing program is to be conducted and the manner in which supervision of the program shall be accomplished and the method of destruction or disposal of treated food or feed;
- (6) A statement that the pesticide is intended for experimental use only;
- (7) Proposed labeling which shall bear:
  - (A) The prominent statement "for experimental use only" on the container label and any accompanying circular or other labeling;
  - (B) A warning or caution statement which may be necessary and if complied with is adequate for the protection of those who may handle or be exposed to the experimental formulations;
  - (C) The name and address of the applicant for the permit;
  - (D) The name or designation of the formulation; and
  - (E) If the pesticide is to be sold, a statement of the names and percentages of the principal active ingredients in the product; provided, that, if the shipper shall submit a copy of a valid experimental permit issued under the provisions of FIFRA the accepted labeling related thereto, the head may exempt the shipper from the requirement of submitting a part of the application, the data and information herein specified in this subsection; and
- (8) A statement as to the disposal of any unused portions of the experimental pesticide.

[Eff. 7/13/81; am and comp **DEC 16 2006** ] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.24) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.24)

§4-66-49 Experimental use permit; restrictions.

(a) The head may limit the quantity of a pesticide covered by a permit to a lesser quantity than requested if available information on effectiveness, toxicity, or other hazards is not sufficient to justify the scope of experimental use proposed in the application, or make other limitations in the permit as may be determined to be necessary for the protection of the public.

(b) A pesticide shipped or delivered solely for experimental use shall not be offered or advertised for general sale or use.

(c) Unless revoked by the head, permits shall be effective for a specified period of time, usually one year, depending upon the crop or site to be treated and the testing program submitted. Permits may be renewed upon request if circumstance warrants. [Eff. 7/13/81; comp **DEC 16 2006** ] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.25) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.25)

§4-66-50 Experimental use permits; reports. The holder of a permit shall submit periodic reports to the head regarding the status of the experimental program. Reports shall be submitted at specific intervals as may be prescribed by the head (but shall report immediately incidents of unreasonable adverse effects on the environment from use, or from exposure to pesticides covered by an experimental use permit). These reports shall include the following information:

- (1) Quantity of the pesticide shipped and used during the reporting period;
- (2) Name and address of consignee and ultimate destination and amount of each shipment;
- (3) A summary of data on effectiveness, phytotoxicity, or other pertinent information regarding usefulness obtained during the permit period;
- (4) Any additional data obtained on residue or analytical methods obtained;
- (5) Any additional data obtained on toxicity or unreasonable adverse effects to humans, non-target animals, or the environment;
- (6) Any residue data obtained on the treated crop or site on which determination can be made regarding reentry into the treated area;
- (7) Disposition of unused pesticide; and
- (8) Such other information and data as may be prescribed by the head.

[Eff. 7/13/81 am and comp **DEC 16 2006** ] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.25) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.25)

§4-66-51 Experimental use permits; monitoring and revocation. (a) The head shall monitor the testing program if it is determined necessary for protection of

the public health and environment. It shall be the responsibility of the holder of a permit or person supervising the experiment to report immediately incidents or adverse reaction from use of, or exposure to the pesticide covered by an experimental use permit.

(b) The head shall revoke an experimental use permit if it is determined that the terms or conditions are being violated, or that its terms or conditions are inadequate to avoid unreasonable adverse effects on humans or the environment.

[Eff. 7/13/81 am and comp **DEC 16 2006** ] (Auth: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.25) (Imp: HRS §§149A-19, 149A-22, 149A-33, 40 CFR §172.25)