

**APPENDIX A**

**ENFORCEMENT ACTION AND PENALTY ASSESSMENT SCHEDULE**

**Section 4-66-66.1 of the  
Hawaii Administrative Rules**

Adopted: \_\_\_\_\_, 2024

Any person who violates the Act as set forth in Chapter 149A, Hawaii Revised Statutes, or any rule promulgated thereunder, shall be subject to the following enforcement action and penalty:

**(a) Warning Notice - First Violation**

Any person who violates Chapter 149A, Hawaii Revised Statutes, or any rule issued thereunder, may, at the department's discretion, be issued a written warning notice citing the specific violation and any necessary corrective action to be taken.

Any person who subsequently violates Chapter 149A, Hawaii Revised Statutes, after receipt of a written Warning Notice, or following issuance of a citation for a first violation, shall be deemed a subsequent occurrence for which increased penalties may apply.

**(b) Administrative Penalties**

(1) Upon finding of any violation of Chapter 149A, Hawaii Revised Statutes, or rule issued thereunder, by a person acting in his or her capacity as:

(A) A licensee or registrant of any pesticide product pursuant to Chapter 149A, Hawaii Revised Statutes;

(B) A certified commercial pesticide applicator;

(C) A licensee or permittee authorized to sell or distribute restricted use pesticides; or

(D) A wholesaler, retailer, or other distributor of any pesticide product,

that person may be assessed an administrative penalty of not more than \$10,000.00 per offense.

Generally, the penalty to be assessed upon finding of violation by persons set forth in paragraph (b) (1) (A)-(D) above, may include, but is not limited to:

1st Occurrence:  
 Monetary penalty: Up to \$10,000.00;  
 Certificate suspension: Up to 6 months;

2nd Occurrence:  
 Monetary penalty: Up to \$10,000.00;  
 Certificate suspension: Up to 12 months;

3rd or more Occurrences:  
 Monetary penalty \$10,000.00;  
 Certificate suspension: 12 months.

(2) Upon finding of any subsequent violation of any provision of Chapter 149A, Hawaii Revised Statutes, or any rule issued thereunder, by any person who is a certified private pesticide applicator, or any other person not included in paragraph (b) (1) (A)-(D) above, where the subsequent violation is related to the use of pesticides while on property owned or rented by that person, or the person's employer, may be assessed an administrative penalty of not more than \$5,000.00 per offense.

Generally, the penalty to be assessed upon finding of violation by persons set forth in paragraph (b) (2) above, may include, but is not limited to:

1st Subsequent Occurrence:  
 Monetary penalty: Up to \$5,000.00;  
 Certificate suspension: Up to 6 months;

2nd Subsequent Occurrence:  
 Monetary penalty: Up to \$5,000.00;  
 Certificate suspension: Up to 12 months;

3rd or more Subsequent Occurrences:  
 Monetary penalty: \$5,000.00;  
 Certificate suspension: 18 months.

(3) Upon finding of any subsequent violation of any provision of Chapter 149A, Hawaii Revised Statutes, or any rule issued thereunder, by any person who is a certified private pesticide applicator, or any other person not included in paragraph (b) (1) (A)-(D) above, where the subsequent violation is related to licensing, transport, sale, distribution, or application of a pesticide for commercial purposes may be assessed an administrative penalty of not more than \$10,000.00 per offense.

Generally, the penalty to be assessed upon finding of violation by persons set forth in paragraph (b) (3) above, may include, but is not limited to:

- 1st Subsequent Occurrence:
  - Monetary penalty: Up to \$10,000.00;
  - Certificate suspension: Up to 12 months;
- 2nd Subsequent Occurrence:
  - Monetary penalty: Up to \$10,000.00;
  - Certificate suspension: Up to 24 months;
- 3rd or more Subsequent Occurrences:
  - Monetary penalty: \$10,000.00;
  - Certificate suspension: 36 months.

(4) Upon finding of any violation of any provision of Chapter 149A, Hawaii Revised Statutes, or any rule issued thereunder, by persons other than those set forth in paragraphs (b) (1) (A)-(D), (b) (2), and (b) (3) above, may be assessed an administrative penalty, including but not limited to:

- Any occurrence:
  - Monetary penalty: Up to \$500.00;
  - Certificate suspension: Up to 12 months.

(5) Factors to be considered by the department in determining the appropriate amount of an administrative penalty shall include the:

- (A) Seriousness of the offense;
- (B) Quantity of offenses;
- (C) Violation history;
- (D) Appropriateness of the penalty to the size of the business;
- (E) Effect an administrative penalty may have on the business's ability to continue operation;
- (F) Adverse effects to humans or the environment resulting from offense;
- (G) Corrective action taken and timeliness of corrective action; and
- (H) Administrative penalties assessed against similarly situated persons.

(6) In addition to monetary penalties, administrative enforcement actions may include:

- (A) Certificate suspension or revocation for not more than thirty-six months;
- (B) License suspension or revocation for not more than twelve months;
- (C) Permit suspension or revocation for not more than twelve months; and

(7) Seizure, stop-sale, or removal from sale of any pesticide or nonchemical pest control device that is

distributed, sold, offered for sale, transported, or delivered for transportation in violation of Chapter 149A, Hawaii Revised Statutes.

**c. Criminal Penalties**

(1) Any person who is found to have knowingly violated any provision of Chapter 149A, Hawaii Revised Statutes, or any rule issued thereunder, who:

(A) Has registered or licensed any pesticide product pursuant to Chapter 149A, Hawaii Revised Statutes;

(B) Is a certified commercial pesticide applicator;

(C) Is licensed or permitted to sell or distribute restricted use pesticides; or

(D) Is a wholesaler, retailer, or other distributor of any pesticide product,

shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$35,000.00, or imprisoned for not more than one year, or both.

The term "knowingly" shall have the same meaning as defined in section 702-206(2)(a)-(c), Hawaii Revised Statutes (2014).

(2) Any person who is found to have knowingly violated any provision of Chapter 149A, Hawaii Revised Statutes, or any rule issued thereunder, who:

(A) Is a certified private pesticide applicator; or,

(B) Other person not included in paragraph

(1) above,

shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000.00, or imprisoned for not more than one year, or both.

The term "knowingly" shall have the same meaning as defined in section 702-206(2)(a)-(c), Hawaii Revised Statutes (2014).

(3) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, shall be fined not more than \$10,000.00, or imprisoned for not more than three years, or both.

The term "intent to defraud" shall have the same meaning as defined in section 708-800, Hawaii Revised Statutes (2014).

(4) Liabilities. When construing and enforcing the provisions of Chapter 149A, Hawaii Revised Statutes, and rules promulgated thereunder, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

(5) General penalty. Any person violating any of the provisions of chapter 149A, Hawaii Revised Statutes for which violation a penalty is not otherwise provided, or violating any rule of the department of agriculture, shall be fined not more than \$500.00 per offense.

[Eff and comp ]

(Auth: HRS §§141-7, 149A-20, 149A-33, 149A-41)

(Imp: HRS §§141-7, 149A-20, 149A-33, 149A-41)