



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

Application Restrictions Statutes & Regulations

Kansas

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Application Restrictions

STATE OF KANSAS

- 1) K.S.A. § 2-3305; K.A.R. §§ 4-20-5-8, 11, 15, 4-21-3, 5, 16
- 2) K.S.A. § 2-3313; K.A.R. § 4-20-11

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Kansas Revisor of Statutes.

1) K.S.A. § 2-3305; K.A.R. §§ 4-20-5-8, 11, 15, 4-21-3, 5, 16

§ 2-3305. Functional anti-pollution devices, requirements.

Functional anti-pollution devices shall be used in the chemigation process according to:

(a) Criteria adopted by the secretary by rules and regulations that, in the secretary's discretion, follow the latest scientific knowledge and technology and that is designed to protect the groundwater and surface water of the state; or

(b) the following criteria:

(1) Waterline check valve shall be an automatic, quick-closing device capable of preventing the backflow of water chemical mixtures into the source of water supply during times of system failure or equipment shutdown;

(2) a chemical injection line check valve shall be used to prevent flow of water from the irrigation system into the chemical supply tank and to prevent gravity flow from the chemical supply tank into the irrigation system;

(3) an interlock system shall be used between the power system of the injection unit, the irrigation pumping plant and the pivot, if involved; the interlock shall function so that if the irrigation pump stops, the injection pump will also stop;

(4) a functional vacuum relief device shall be used between the waterline check valve and the irrigation pump to reduce the chance of chemical being back-siphoned into the water source; and

(5) an automatic low pressure drain shall be used between the waterline valve and the irrigation pump.

§ 4-20-5. Waterline check valves.

- (a) Each waterline check valve required by K.S.A. 2-3305, and amendments thereto, shall be constructed and installed in accordance with the requirements specified in K.A.R. 5-6-13a.
- (b) Each check valve and all required components shall be maintained in an operating condition that prevents backflow into the source of water supply whenever a foreign substance could reasonably be expected to be introduced into the water system.
- (c) Each chemigation installation, unit, or system that can serve as a conduit for chemicals, effluent, or any substance while water is not being pumped shall also be equipped with a positive closing gate valve or its equivalent. This valve shall be located between the check valve and the point at which chemicals, effluents, or other substances enter the water distribution system and shall be closed whenever chemicals, effluents, or other substances enter the distribution system and water is not being pumped.

§ 4-20-6. Injection equipment.

- (a) The injection equipment used shall be constructed and maintained in a manner which prohibits application of any pesticide at a rate which exceeds the maximum rate of application recommended by the pesticide's label or labeling and which prohibits application of any fertilizer or animal wastes at any rate which exceeds the planned application rate. Injection equipment shall be calibrated before each chemigation application.
- (b) Chemigation users who apply only animal wastes through their irrigation distribution systems are required to install only those anti-pollution devices required by K.S.A. 2-3305.
- (c) For those chemigation users who apply fertilizers and other chemicals, injection equipment shall include:
 - (1) a manually operated valve on the supply tank;
 - (2) a strainer on the suction side of the injection pump; and
 - (3) a calibration device of sufficient volume to accurately calibrate the injection pump.
- (d) For pesticides, the following additional pieces of equipment shall be used:
 - (1) an air bleeder valve on the injection line;
 - (2) a positive displacement injection pump; and

(3) any other equipment required by the pesticide's label or labeling.

§ 4-20-7. Vacuum relief device and automatic low-pressure drain.

The vacuum relief device and automatic low-pressure drain shall be properly installed and shall be fully operational whenever the chemigation process is being used. These devices shall not be blocked, capped or otherwise modified in any manner which prevents their proper operation in any manner to render them inoperable.

§ 4-20-8. Chemical injection line and checkvavle.

The point at which any chemical, fertilizer or animal waste is injected into the irrigation distribution system shall be located on the downstream side of any waterline checkvalve. The chemical injection line shall contain a checkvalve which shall be located between the chemical injection pump and the point at which any chemical or fertilizer enters the irrigation distribution system.

§ 4-20-11. Civil penalties.

(a) The process for issuing and processing civil penalties shall follow the procedure established in K.A.R. 4-13-60 and in K.A.R. 4-13-62 through 4-13-65, except for the following:

(1) The provision of K.A.R. 4-13-62(b) shall be replaced by the provisions of subsection (b) in this regulation.

(2) The terms "state and federal pesticide laws" and "pesticide law" contained in K.A.R. 4-13-60 and K.A.R. 4-13-62 through 4-13-65 shall be replaced by the term "the Kansas chemigation safety law," as the context requires.

(3) The term "pesticide business licensee" shall be replaced by the term "person" or "swine facility," as the context requires.

(b) The amount of civil penalty assessed for each violation shall be within the following ranges:

(1) For each violation of K.S.A. 2-3305, and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(2) For each violation of K.S.A. 2-3308(a)(2), (a)(3), or (a)(4), and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(3) For each violation of K.S.A. 2-3313(a) or (b) or of K.S.A. 2-3313(f) or (i), and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(4) For each violation of K.S.A. 2-3308, and amendments thereto, not covered in paragraph (b)(2) in this regulation, the civil penalty shall be not less than \$ 100 and not more than \$ 1,000.

(5) For each violation of K.S.A. 2-3313, and amendments thereto, not covered in paragraph (b)(3) in this regulation, the civil penalty shall be not less than \$ 100 and not more than \$ 1,000.

(6) For each application of waste in violation of K.S.A. 2-3318, and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(c) For any subsequent occurrence of a violation for which a civil penalty has been assessed within a three-year period, the civil penalty assessed for the this violation shall be the maximum amount for the category listed.

§ 4-20-15. Agronomic application rates.

The agronomic application rate for swine waste shall be the amount of waste required for plant nutrition and for the nutrient-holding capacity of the surfaces or soils to which swine waste is applied, as determined by sound agronomic methods. Sound agronomic application rates shall be determined in consultation with Kansas state university. Sound agronomic methods may include the rate derived from the calculations from the form prescribed by the secretary of agriculture in K.A.R. 4-21-1 and K.A.R. 4-21-7.

§ 4-21-3. Soil samples.

(a)

(1) The soil nutrient values may be determined either by analysis of a single composite of representative samples from a field or from the mathematical average of all the results from grid samples. Grid soil sampling is defined as a systematic method of sampling that separates the field into identified subunits with each subunit sampled separately. Each composite sample shall be representative, at the time it is taken, of the soils and of the nutrient values in the field from which the sample is taken.

(2) Each field where waste is to be applied shall be sampled before the application unless the field has been sampled in the preceding 12 months, but sampling shall not be required more frequently than annually unless required by the department due to elevated nutrient levels. The sampling shall consist of a representative number of soil cores from each field and shall be collected by either of the following methods:

(A) Two composite samples shall be collected from each field by separating the top six inches of each core collected from the bottom of the

core sample. If multiple cores are taken, all samples from the top six inches of soil shall be mixed together. This composite sample shall be tested for phosphorous, zinc, copper, nitrate-N, and chloride. The bottom segment of each soil core sample from six through 24 inches shall then be mixed together, and this composite sample shall be tested for nitrate-N and chloride.

(B) Two composite samples shall be collected by obtaining individual core samples. A composite sample to be tested for phosphorous, copper, and zinc shall be collected from the top six inches of the soil and mixed if multiple cores are collected. The second composite sample shall be tested for nitrate-N and chloride, and shall be collected by taking a core sample from the soil surface to a soil depth of 24 inches. If multiple cores are taken, the samples shall be mixed before testing.

(b) The owner or operator of each swine facility shall sample the soil within 60 days following any application of waste if the application is the result of an emergency waste disposal. Each individual who collects any soil sample to comply with these regulations shall certify the location and number of representative cores collected from the field.

(c) A copy of the certification of each field and the laboratory analysis of composite or grid soil sample shall be maintained in the office of the swine facility and made available to the secretary of agriculture or designee upon request. The certification required by this regulation shall be submitted on a form prescribed by the secretary.

(d) Samples shall be taken by the secretary of agriculture or designee if, at that individual's discretion, an inspection requires a sample. Each composite soil sample taken by the secretary of agriculture or designee shall be taken in the manner required by this regulation and by K.A.R. 4-21-4. A composite soil sample taken by the secretary of agriculture or designee shall be presumed to be representative of the field. Whether a sample is representative shall be within the sole discretion of the secretary of agriculture, and the secretary's determination of whether a sample is representative shall be final.

§ 4-21-5. Agreements to apply swine waste.

Each agreement for the application of waste on land owned by a person or persons other than the swine facility that is required to prepare a nutrient utilization plan shall be in writing.

§ 4-21-6. Record keeping.

(a) Each swine facility that is required to prepare a nutrient utilization plan shall keep records required by the law for the five years immediately preceding the date of the then-current inspection or for the years the swine facility operates after January 1, 1999. The swine facility shall not be required to keep records required by these regulations for more than five years from the date of approval.

(b) Actual nutrient values of waste may be used if the analysis used to determine the values is based on generally recognized sound agronomic interpretations and laboratory methods. Book values that are generally recognized as based on sound agronomic calculations may be substituted for actual values in preparing a nutrient utilization plan except for soil nutrient contents that require assay.

(c) Only actual soil analysis values shall be used in the preparation of nutrient utilization plans.

(d) Each facility shall maintain the records required for that facility by K.A.R. 4-21-1 through K.A.R. 4-21-7, and K.A.R. 4-20-15 at the facility's site office. All records required to be kept by K.A.R. 4-21-1 through K.A.R. 4-21-7, and K.A.R. 4-20-15 shall be made available to the secretary of agriculture upon request.

2) K.S.A. § 2-3313; K.A.R. § 4-20-11

§ 2-3313. Unlawful acts.

It shall be unlawful for any person required to be registered or to hold a permit under the provisions of this act to:

(a) Make a pesticide use or application not in accordance with the directions for use shown on the label registered under the Kansas agricultural chemical act and by the federal environmental protection agency;

(b) knowingly use ineffective or improper equipment or materials;

(c) refuse or neglect to keep and maintain records required by this act or refuse or neglect to make records available when and as required by this act;

(d) make false or fraudulent records or reports;

(e) use fraud or misrepresentation in making an application for or renewal of a registration or permit issued under the provisions of this act;

(f) refuse or neglect to comply with any limitations or restrictions on or in a duly issued registration or permit;

(g) aid, abet or conspire with any person to evade any of the provisions of this act or allow a registration or permit issued under the provisions of this act to be used by a person not named on the registration or permit;

(h) impersonate any state, county or city inspector or official, as acting in their official capacity;

(i) use any chemigation method or pesticide, fertilizer or other chemical material without regard to public health, safety or welfare; or

(j) use the chemigation process without proper registration or permit issued under the provisions of this act.

§ 4-20-11. Civil penalties.

(a) The process for issuing and processing civil penalties shall follow the procedure established in K.A.R. 4-13-60 and in K.A.R. 4-13-62 through 4-13-65, except for the following:

(1) The provision of K.A.R. 4-13-62(b) shall be replaced by the provisions of subsection (b) in this regulation.

(2) The terms "state and federal pesticide laws" and "pesticide law" contained in K.A.R. 4-13-60 and K.A.R. 4-13-62 through 4-13-65 shall be replaced by the term "the Kansas chemigation safety law," as the context requires.

(3) The term "pesticide business licensee" shall be replaced by the term "person" or "swine facility," as the context requires.

(b) The amount of civil penalty assessed for each violation shall be within the following ranges:

(1) For each violation of K.S.A. 2-3305, and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(2) For each violation of K.S.A. 2-3308(a)(2), (a)(3), or (a)(4), and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(3) For each violation of K.S.A. 2-3313(a) or (b) or of K.S.A. 2-3313(f) or (i), and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(4) For each violation of K.S.A. 2-3308, and amendments thereto, not covered in paragraph (b)(2) in this regulation, the civil penalty shall be not less than \$ 100 and not more than \$ 1,000.

(5) For each violation of K.S.A. 2-3313, and amendments thereto, not covered in paragraph (b)(3) in this regulation, the civil penalty shall be not less than \$ 100 and not more than \$ 1,000.

(6) For each application of waste in violation of K.S.A. 2-3318, and amendments thereto, the civil penalty shall be not less than \$ 100 and not more than \$ 5,000.

(c) For any subsequent occurrence of a violation for which a civil penalty has been assessed within a three-year period, the civil penalty assessed for this violation shall be the maximum amount for the category listed.