

KDHE

Works Conference

March 2011

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Pesticide Laws in Kansas

■ F.I.F.R.A

- Federal Insecticide Fungicide and Rodenticide Act

■ Kansas Pesticide Law

- Certification, licensing, registrations, unlawful acts, penalties and other requirements

■ Kansas Agricultural Chemical Act

- Registration of pesticide products

■ Kansas Chemigation Safety Law

- Certification and permitting of chemigation equipment operators and chemigation user permits.

Pesticide Secondary Containment

- K.A.R. 4-13-25 through 4-13-25m.
- Pesticide Container size – **In KS what is bulk?**
 - Quantities greater than 55 gallons liquid measure
 - Quantities greater than 100 pounds dry net weight.
- **Facility Requirements in K.A.R. 4-13-25b**
- A facility is subject to the requirements of K.A.R. 4-13-25 through K.A.R. 4-13-25k if any of the following conditions is met:
 - (a) A cumulative total of 1,000 gallons or more of liquid bulk pesticide is transferred away from the facility during any consecutive 365-day period.

Facilities Requirements in K.A.R. 4-13-25b

- A facility is subject to the requirements of K.A.R. 4-13-25 through K.A.R. 4-13-25k if any of the following conditions is met:
 - (b) A total of 1,000 gallons or more of liquid bulk pesticide is stored, held, or maintained at the facility at any time.
 - (c) A cumulative total of 3,000 pounds or more of dry bulk pesticide is transferred away from the facility during any consecutive 365-day period.
 - (d) A total of 3,000 pounds or more of dry bulk pesticide is stored, held, or maintained at the facility at any time.

Pesticide Secondary Containment

Liquid includes bulk tanks and shuttles



Pesticide Secondary Containment Regs Changes

- 4-13-25, Definitions.
- 4-13-25i, Compliance Dates.
- 4-13-25j, Bulk pesticide storage facility inspection and maintenance requirements.
- 4-13-25l, Penalty for noncompliance with pesticide containment.
- 4-13-25m, Change in owner or operator of bulk pesticide storage facility; reporting requirements.
- Available at www.ksda.gov

Pesticide Secondary Containment

- How does your containment compare to this?



none

Storage and Disposal: Read the label.

STORAGE AND DISPOSAL

DO NOT contaminate water, food, or feed by storage or disposal.

STORAGE

Store unused product in original container only, out of reach of children and animals.

PESTICIDE DISPOSAL

Pesticide wastes are acutely hazardous. Improper disposal of excess pesticide is a violation of federal law. If these wastes cannot be disposed of by use according to label instructions, contact your State Pesticide or Environmental Control Agency, or the Hazardous Waste representative at the nearest EPA Regional Office for guidance.

CONTAINER DISPOSAL

Nonrefillable Container. DO NOT reuse or refill this container. Triple rinse or pressure rinse container (or equivalent) promptly after emptying; then offer for recycling, if available, or reconditioning, if appropriate, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities.

Triple rinse containers small enough to shake (capacity \leq 5 gallons) as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank, or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times.

Pressure rinse as follows: Empty the remaining contents into application equipment or mix tank. Hold container upside down over application equipment or mix tank, or collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container and rinse at about 40 PSI for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.

In case of minor spills or leaks, soak up with sand, earth or other suitable material and dispose of as pesticide waste.

Storage and Disposal: Read the Label

- Is this proper disposal?
- When does this become waste?
- What does pesticide waste cost to dispose of?



EPA Container Rule – NEW!!

Category	Non-refillable Containers	Refillable Containers
Who must Comply	Registrants	Registrants Refillers (retailers and distributors)
Major requirements	DOT Container design construction and marking standards Container dispensing capability Standard closures Residue removal Record keeping	DOT container design construction and marking standards <u>Serial number marking</u> <u>One-way valves or tamper evident devices</u> Stationary container requirements
Compliance Date	8-17-2009	8-17-2011

EPA Container Rule

Overview: Purpose of the Rule

- Containers
 - Minimize human exposure during container handling
 - Facilitate container disposal and recycling
 - Encourage use of refillable containers



EPA Container Rule

Scope of Non-refillable Container, Refillable Container & Repackaging Regulations



- All pesticide products other than MUPs, PIPs, and exempt antimicrobials must comply with the non-refillable container, refillable container, and repackaging requirements.

EPA Container Rule

DOT Requirements: Background

- The pesticide container regulations refer to and adopt some of the Department of Transportation (DOT) Hazardous Materials Regulations.
- Some - not all - pesticide products are DOT hazardous materials.
- Pesticide container regulations focus on packaging, marking and continued qualification/maintenance requirements.

EPA Container Rule

DOT/United Nations Marking

- Example: un 1A1/Y 1.4/200/06/USA883466
- Important: look for X, Y or Z
 - X = meets packing group I standards
(most stringent)
 - Y = meets packing group II standards
 - Z = meets packing group III standards

EPA Container Rule

DOT/United Nations Marking



U.S. Department
of Transportation

Pipeline and
Hazardous Materials
Safety Administration



Package Selection,
Marking, and
Labeling

Identification Code for UN Standard Packaging

SINGLE PACKAGING



Z – PGIII
(minor danger)

Y – PGII
(medium danger)

X – PGI
(great danger)

u
n 1A1/Z1.4/150/05
USA/0000

§178.502; §178.503

EPA Container Rule

Label Changes: Requirements

Non-refillable Containers

- Identify container as non-refillable
- Re-use and recycling/
reconditioning statements + batch
code
- Cleaning instructions: triple rinsing
and optional pressure rinsing
 - Applies to rigid containers with
dilutable pesticides
 - Household products exempt



EPA Container Rule

Label Changes: Requirements

Refillable Containers

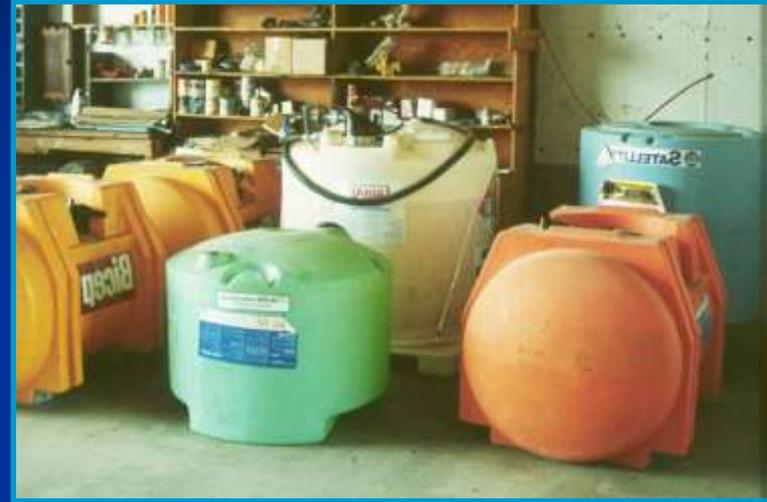
- Identify container as refillable
- Re-use statement
- Cleaning instructions before final disposal



EPA Container Rule

Refillable Containers: Implementation

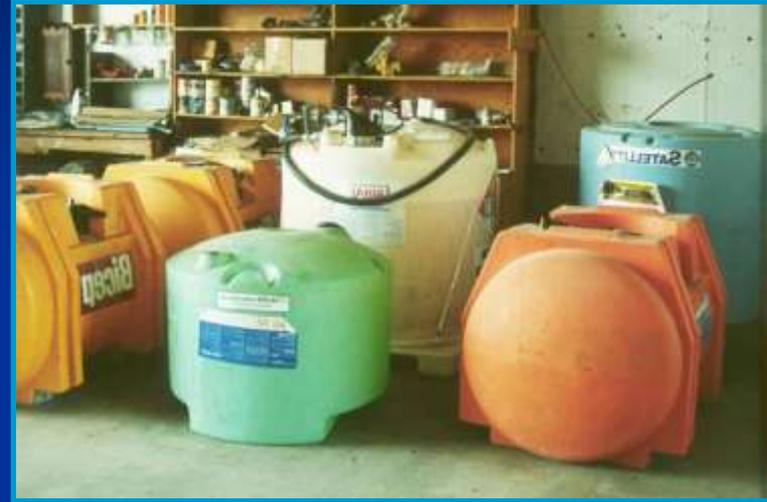
- Compliance lead: inspections by states, tribes, and regions
- DOT standards
- Marked with serial number/identifying code



EPA Container Rule

Refillable Containers: Implementation

- Tamper-evident device or one-way valve on each opening (“mini-bulks”)
- Stationary containers (\geq 500 gal or 4,000 lbs): vent and shut-off valve; no sight gauge



EPA Container Rule

Serial Number Marking

Does this mini-bulk meet the marking requirement in CFR §165.45(d)?



EPA Container Rule

Serial Number Marking

The marking includes a serial number. The issue is whether this sticker counts as durable marking. The examples of durable marking in the reg text are: etching, embossing, ink jetting, stamping, heat stamping, mechanically attaching a plate, molding and marking with durable ink. Durable is “able to withstand wear and tear or decay; lasting.” EPA will have to issue an interpretation on this. The sticker is different than the examples provided but probably meets the definition of durable.

EPA Container Rule

Serial Number Marking

Does the bar code comply with the marking requirement?

Yes, this marking would still comply.

165.45(d) requires “a serial number or other identifying code...” A bar code counts as an “other identifying code,” although there is still the issue about whether this is durable marking.

EPA Container Rule Tamper Evident Device

What is a tamper evident device?

A tamper-evident device is a device which can be visually inspected to determine if a container has been opened.



EPA Container Rule

One-Way Valve

What is a one-way valve?

A one-way valve means a valve that is designed and constructed to allow virtually unrestricted flow in one direction and no flow in the opposite direction, thus allowing the withdrawal of material from, but not the introduction of material into a container.

EPA Container Rule

The opening has a tamper-evident device and/or one-way valve, so it complies with the requirement to have a tamper-evident device, a one-way valve, or both.



EPA Container Inspections

- The Kansas Department of Agriculture will conduct a limited number of “Container” inspections during FY2012. Since neither the Kansas Pesticide Law nor the Kansas Agricultural Chemical Act have the same container requirements as FIFRA the inspections completed will be conducted as USEPA inspections.
- KDA and EPA are still working on the requirements for the inspections.

National Pollutant Discharge Elimination System (NPDES)

EPA Pesticide General Permit for Discharges from the Application of Pesticides

Annual Treatment Area Thresholds for waters with US EPA as the permitting authority

- Mosquitoes and Other Flying Insect Pests
 - 640 acres of treatment area
- Aquatic Weed and Algae Control:
 - In Water: 20 acres of treatment area.
 - At Water's Edge: 20 linear miles of treatment area at water's edge.

NPDES (EPA permitting)

- Aquatic Nuisance Animal Control:
 - In Water: 20 acres of treatment area
 - At Water's Edge: 20 linear miles of treatment area at water's edge
- Forest Canopy Pest Control
 - 640 acres of treatment area

Kansas Contact

For waters with the State of Kansas as the permitting authority.

Kansas Department of Health and Environment

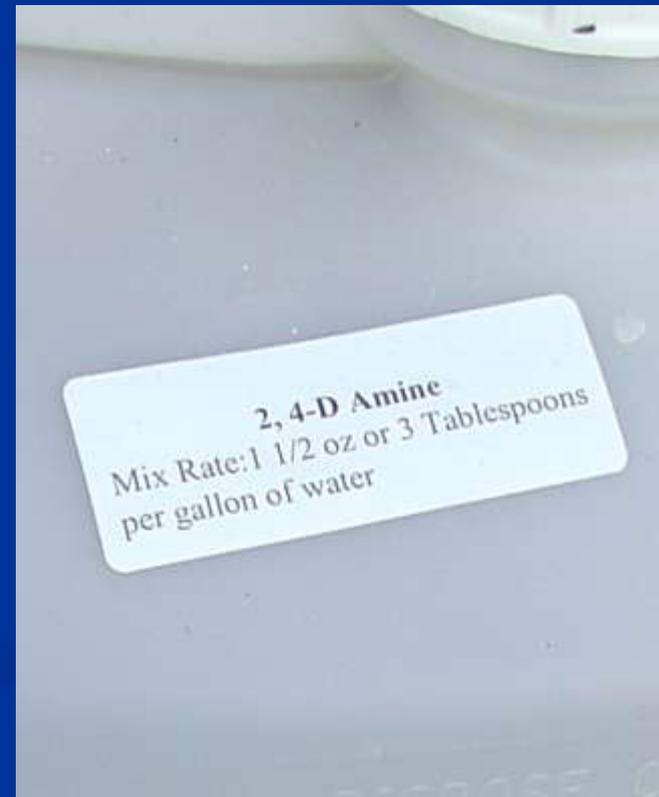
- 785-296-5547 Don Carlson

Questions on selling pesticides

- If you have 1 gallon of a pesticide left in a 2 ½ gallon container and a customer comes in and wants to buy it, can you sell it to him across the counter?
- No, it is a violation of FIFRA and EPA will fine \$7500 per occurrence
- If someone comes in and wants you to fill up their quart jar or gallon jug, can you fill it from your bulk tank or another 2 ½ gallon container, and sell it to him?
- No, it is a violation of FIFRA and EPA will fine \$7500 per occurrence

Questions on selling pesticides

- Can a dealer add mixing instructions to a pesticide container?
 - No, the instructions would constitute dealer misbranding and would be a violation of FIFRA.



Instead pass out pesticide product/service information cards to customers.

Some Noxious Weed Depts. already do this.

Product/Service Information

Small Quantity Mix Rates:

<u>Sprayer Size</u>	<u>2, 4D Amine</u>	<u>Roundup</u>	<u>Tordon 22K + 2,4D Amine</u>
1 Gallon	1 1/2 ounces	3 ounces	1/2 ounce + 1/1/2 ounces
2 Gallons	3 ounces	6 ounces	1 ounce + 3 ounces
14 Gallons	1 1/3 pints	1 1/4 quarts	5 ounces + 1/1/3 pints
25 Gallons	1 quart	2 quarts	8 ounces + 1 quart
50 Gallons	2 quarts	1 gallon	1 pint + 2 quarts

MIX RATES FOR REMEDY: (Sericea Lespedeza)

<u>Sprayer Size</u>	<u>Rate</u>	<u>Sprayer Size</u>	<u>Rate</u>
1 Gallon	1 1/3 Fluid Ounce	25 Gallons	1 Quart
3 Gallons	4 Fluid Ounces	50 Gallons	2 Quarts
5 Gallons	6 1/2 Fluid Ounces	100 Gallons	1 Gallon
10 Gallons	13 Fluid Ounces		

Distribution of Pesticides

- Problems- Labels that are not complete or legible.



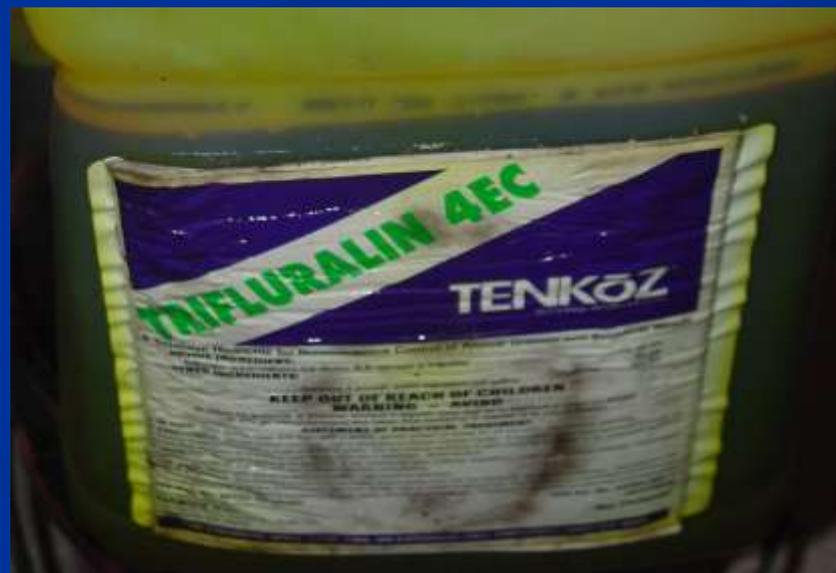
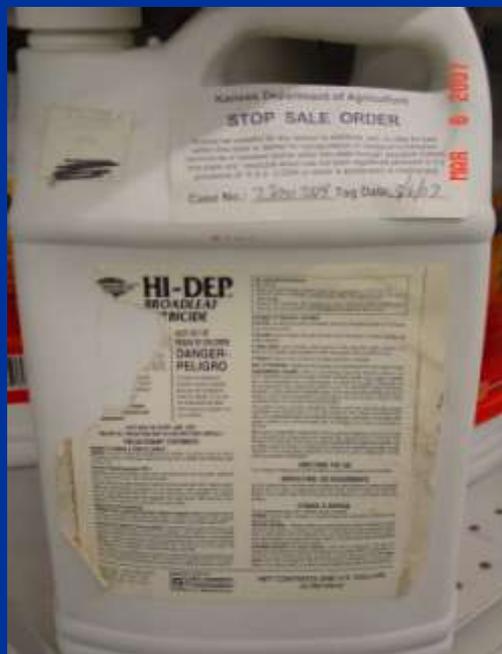
It is unlawful to distribute, sell, or offer for sale any pesticide unless it is in the pesticide registrant's or the pesticide manufacturer's unbroken immediate container and there is affixed to such container the registrant's label which is complete and legible and which can be read through any package wrappers.

Distribution of Pesticides

- Problems- Labels that are not complete or legible.

Without the complete label the pesticide was manufactured with, the pesticide cannot be sold.

The pesticide label is stuck together and unreadable. The dealer may not offer a pesticide product which its label is unreadable.



Distribution of Pesticides

- Problem- Damaged packaging.

Patching of pesticide containers/bags is only OK if required parts of the label are still readable and the contents of the packaging are complete.

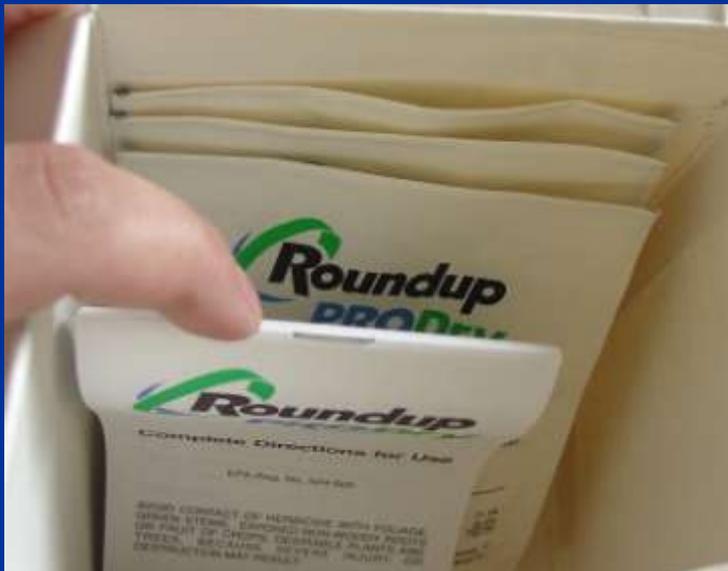


Distribution of Pesticides

- Problem- Partial packages

Only 3 packets remain in the labeled 5 unit box.

This is a partial container and cannot be sold or distributed.



1.156 pounds of Roundup ProDry™ herbicide contains 0.75 pound acid, and is equivalent to 1 quart of liquid Roundup Pro® herbicide

NET 5 (1.5 OZ) UNITS

EPA Est. 067891-MX-001

EPA Reg. No. 524-505

Distribution of Pesticides

- Problems- Partial container sales.

Sales of individual packs or Units from a larger multi-unit product container are not allowed unless it was intended by the manufacturer and each individual unit has its own complete label.



Distribution of Pesticides

■ Problems- Residue on Containers



It is unlawful to distribute, sell, or offer for sale any pesticide product with pesticide or pesticide residue on the container or packaging.

Distribution of Pesticides

- **Problem-** Unregistered, cancelled or suspended pesticides. All pesticides sold or distributed must be currently registered with the USEPA and KDA.



The dealer can not distribute or sell pesticides which do not have a registered EPA Reg. No., such as older products showing only a USDA Reg. No. or any pesticides banned or cancelled by the EPA for retail sale such as Dursban.

Environmental Issues Pesticide & Fertilizer Runoff



23 11:04 AM

Project Good Neighbor



Project Good Neighbor

- A pilot project began in Douglas County in 2003 led by Douglas County Extension & the Kansas Rural Center.
- Project Good Neighbor is an expansion of the pilot project and was a cooperative effort of KDA, KSU Extension, the Kansas Rural Center, and the Kansas Center for Sustainable Agriculture.
- KDA has established a registry of sensitive crops on the KDA website www.ksda.gov.



Project Good Neighbor

- Applicators should check the web site to learn where sensitive crops are grown and plan how to avoid drift to these areas.
- Hormonal type herbicides can drift and/or volatilize and damage sensitive crops.



Project Good Neighbor

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Description: Sign to warn applicators that herbicide, pesticide drift could harm crop near a sign. Register a sign with KS Dept. of Ag. so applicators know where sensitive or organic crops are.
Author(s):
Publication Date: August 2008
Tags: S-151, signage, Project Good Neighbor, herbicide damage, organic
Resource Type: text
Format: PDF
Language: English
View Publication:
<http://www.ksre.ksu.edu/library/crpsl2/s151.pdf> (345 KB)

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