Navigating Environmental Regulations: A Guide for Kansas Farmers

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Ag Law and Taxation Blog: https://agriculturallaw.lawprofessorsblogs.com/
April 2026

Overview

For the Kansas producer, environmental stewardship is often synonymous with long-term business success. However, operating within the framework of state and federal environmental regulations can feel like a complex task. Staying informed ensures that your farm not only remains compliant but also stays eligible for vital conservation programs and technical support.

Whether you are managing soil health, irrigation, or pest control, understanding these key regulatory areas is essential for your operation.

This article is a basic primer (not a detailed examination) of what Kansas farmers need to know from an environmental law/regulation standpoint. The purpose is to help spot issues before they arise to avoid fines, penalties and litigation that could hurt the bottom line.

Water Rights and Use

In Kansas, water is a regulated resource. The Kansas Department of Agriculture (KDA) Division of Water Resources (DWR) administers the Kansas Water Appropriation Act.

- **Permits:** If you use water for irrigation, livestock (beyond basic domestic needs), or other agricultural purposes, you must obtain a permit to appropriate water.
- **Reporting:** Permit holders are required to submit yearly reports on their water usage.
- **Changes:** Any alteration to your water right - such as changing the point of diversion, the place of use, or the type of use - requires filing an application with the DWR and receiving approval.
- **Domestic Exception:** Water used solely for domestic purposes (household use, watering livestock on pasture, or up to two acres of lawn/garden) is generally exempt from permitting.

Effective July 1, 2026, new Kansas legislation specifies that, for non-incorporated (rural) areas, projects like bridges or culverts are explicitly exempt from permitting if the obstruction and the water it backs up are more than 300 feet from a property line. Also, the regulation of dams has shifted to focus on "Hazard Class" (A, B, or C). This is determined by what is downstream (homes, structures) rather than just the size of the dam itself. Also, application fees for constructing or modifying dams have been increased, and a new "pre-construction permit fee" applies based on the hazard classification.

Pesticide and Chemical Management

The use of pesticides is strictly regulated (both at the federal level as well as the state). All pesticides intended for use in Kansas - including those that may be exempt from federal registration - must be registered with the Kansas Department of Agriculture (KDA).

Pesticide Management Areas. The Secretary of Agriculture in Kansas has the authority to designate "pesticide management areas."[1] These are distinct from, though functionally related to, the concept of restrictive zones. Areas are developed based on factors including precipitation, topography, soil type, and depth to the water table. Once designated, these areas may be classified as permitted, modified, or prohibited regarding the use of specific types of pesticides. The Secretary defines these areas and establishes specific management plans for them, which may include guidelines for handling, application, mixing, storage, disposal, or transportation.

Generally, the Kansas Pesticide Law provides the state with exclusive jurisdiction over the sale and use of pesticides.[2] Local authorities (cities, counties, etc.) are generally prohibited from enacting ordinances or regulations in conflict with or supplemental to the state law, with limited exceptions for local zoning, fire codes, or hazardous waste disposal.

Private pesticide applicator certification. If you apply restricted-use pesticides to your own property or rent land for the production of agricultural commodities, you are required to hold a Private Pesticide Applicator license.

- **Purpose:** This allows you to apply RUPs without being a "commercial" applicator, provided you are not doing so for compensation.
- **Obtaining Certification:** You must pass an open-book examination. This can typically be arranged through your local county extension office.
- **Validity:** The certification is generally valid for five years and expires on your birthday in the fifth calendar year.
- **Renewal:** Renewal applications are mailed to your address on file. You can renew by examination or, in some cases, through approved training credits.

Understanding label restrictions. The label on a pesticide product is the law. Even as a certified private applicator, you must strictly follow all instructions, including:

- **Specific Training Requirements:** Some products (such as certain RUP dicamba formulations or paraquat) require specific, recurring training sessions that must be completed *prior* to application, even if you already hold a general private applicator license.
- **Supervision:** Note that for certain products, the label may prohibit application by an uncertified person, even under your supervision. In such cases, every person mixing, loading, or applying the product must be individually certified.

[1] K.S.A. § 2-2473.
[2] K.S.A. § 2-2480.

Recordkeeping. Maintaining accurate records of all pesticide applications is a legal requirement. These records are critical for compliance and may be reviewed by KDA inspectors. Ensure your records document the:

- Product used (and common name).
- Target pest(s).
- Method and timing of application.
- Specific site/location of application.

Commercial vs. private applications. It is important to distinguish your activities:

- **Private:** Applying on property you own or rent for production without receiving payment.

- **Commercial:** Applying pesticides on someone else's property *for compensation*. If you perform custom work for a neighbor, you generally must hold a Commercial Pesticide Applicator license and, if applicable, a Pesticide Business License. Simply trading services with another producer can sometimes be an exception, but it is best to verify your specific situation with the KDA.

Resources for compliance. The KDA pesticide and fertilizer program is the authority on these statutes. KDA may be reached at (785) 564-6688 or via the KDA website. Also, K-State Research and Extension is the best resource for study manuals (Publication MF-531 for private applicators), exam scheduling, and information on required training for specific products like dicamba.

> **Note:** Always check the "Restricted Use Pesticide" block at the top of the product label before purchase or use. This section will explicitly state if there are additional requirements (such as mandatory certified-only application) that override general rules.

Disposal. Farmers are subject to specific protocols, often tied to the regulatory status of the application site, concerning the disposal of ag chemicals. Within designated "pesticide management areas," the Secretary of Agriculture holds the authority to define comprehensive management plans that may include mandatory guidelines for chemical handling and disposal. While the Kansas Pesticide Law[3] generally grants the state exclusive jurisdiction over the sale and use of pesticides (thereby preempting conflicting local ordinances) local authorities do retain limited exceptions to regulate hazardous waste disposal. Consequently, it is advisable to consult with the KDA or local extension offices for specific disposal compliance, as the KDA maintains oversight of the state's broader pesticide and fertilizer programs.

Federal Environmental Protection Agency (EPA). In the federal context, when the EPA determines that certain pesticides pose risks to endangered species or their designated critical habitats, they may implement geographically specific mitigation measures. The EPA has specific workplans to protect endangered species. Certain pesticide labels include geographic restrictions, known as Pesticide Use Limitation Areas (PULAs).

[3] In practice, the Kansas Pesticide Law is not a single statute, but rather a collection of statutes found in K.S.A. 2-2438a through K.S.A. 2-2480. These statutes govern the sale, use, and regulation of pesticides within the state under the authority of the Kansas Department of Agriculture.

Note: These limitations can be checked using EPA's *Bulletins Live! Two* system. Also, labels for many products include specific measures designed to minimize off-target movement (drift) and soil erosion/runoff into waterways. Always read and follow the current label, as it is the law.

For the 2026 and 2027 crop growing seasons, a major shift has occurred in how labels work: Many new pesticide labels (e.g., *Stryax* or *Liberty Ultra*) now require a specific number of "mitigation points" (often between zero and nine) to be applied to a field before application. Points are earned through conservation practices like using grassed waterways, non-irrigated fields, or specific nozzle types.

Open Burning

While agricultural burning - including the burning of vegetation for crop, range, pasture, wildlife, or watershed management - is generally exempt from statewide prohibition by the Kansas Department of Health and Environment (KDHE), it remains a strictly regulated activity. To ensure compliance, you must verify requirements with your local fire control authority, as county-level resolutions often dictate specific permit requirements or burn bans. Regardless of your location, you are legally responsible for ensuring that burning does not create traffic or airport safety hazards, and all fires must be actively supervised until they are completely extinguished. Additionally, be aware of the "April Burn Restrictions" that affect designated counties in the Flint Hills region and other specific areas, during which agricultural burning is more heavily restricted to manage air quality. Before initiating any burn, always check current local conditions and ensure you are following best practices, such as burning during daylight hours, monitoring wind speeds, and notifying neighbors within 1,000 feet.

Note: For additional details on open burning regulations impacting farming and ranching operations in Kansas see the article at the following link: MF3601 Kansas Prescribed Burning – Rules and Regulations

Federal Conservation and Wetland Compliance

Swampbuster. Compliance with federal conservation provisions is often a prerequisite for participating in USDA programs (like crop insurance or commodity programs). Known as "Swampbuster" provisions, these rules require that producers maintain farm program eligibility by not converting wetlands into cropland. "Swampbuster" is the common name for the Wetland Conservation Compliance provisions established in the 1985 Farm Bill. It is not an outright ban on altering land, but rather a conditional program: it links your eligibility for most USDA farm program benefits (including commodity payments, farm loans, and federal crop insurance) to your commitment not to convert wetlands for agricultural production.

Note: The Natural Resources Conservation Service (NRCS) in Kansas offers voluntary, science-based technical assistance. Working with your local NRCS field office to develop a conservation plan can help you navigate compliance while improving soil health and water efficiency.

The core requirement. Under Swampbuster, you are ineligible for USDA benefits if you convert a wetland after December 23, 1985, to make the production of an agricultural commodity possible. Conversion activities that trigger this include:

- **Draining:** Installing new surface ditches or subsurface tile in a wetland.
- **Filling/Leveling:** Placing soil or other material to create a level, dry field.
- **Clearing:** Removing woody vegetation (trees/shrubs) in a way that removes stumps and makes agricultural production possible.

What Is "prior converted" (PC) cropland? Land that was drained or manipulated for agricultural production *before* December 23, 1985, is generally classified as Prior Converted (PC) Cropland.

- **Status:** PC cropland is exempt from Swampbuster requirements. You can continue to farm this land as you always have.
- **Important Caveat:** If the land has been abandoned (i.e., it has reverted to a natural wetland state because it hasn't been farmed in many years), its PC status could be lost. Always check with the Natural Resources Conservation Service (NRCS) before assuming an old drainage system can be revitalized.

Key exceptions & flexibility. If the NRCS determines that a proposed activity will have only a "minimal effect" on the wetland's functional values, you may be allowed to proceed without losing eligibility. In addition, you are generally allowed to maintain drainage systems that existed prior to 1985 to the *same* effect on the "wetland and farming regime."[4] This means that a particular drainage device can be manipulated (i.e., enhanced) as long as the impact of the change doesn't alter the impact on the land.

> **Note:** NRCS personnel often misinterpret the law on this point by claiming that you cannot improve or expand the *drainage device* in or near a regulated wetland.

Also, it's important to note that Swampbuster does not regulate non-farming activities, such as building a road or a house.

How to ensure compliance. Because wetland determinations can be complex and the consequences (loss of federal support) are severe, you should take these steps before making any changes to your land:

1. **Request a Determination:** Before you fill, drain, or clear any area that holds water, contact your local USDA Service Center to request an official "Wetland Determination." Do not rely on your own assessment of whether a site qualifies as a wetland.
2. **Get it in Writing:** Ensure you have the NRCS determination documentation on file. If the land is labeled "PC," you have the flexibility to work that field.
3. **Consult Before You Act:** If you plan to install new tile, clean out a ditch, or clear brush, discuss the project with the NRCS first. They can help you identify if your project is compliant or if it triggers a need for mitigation.

[4] *See, e.g.,* Barthel v. United States Department of Agriculture, 181 F.3d 934 (8th Cir. 1999).

Clean Water Act (CWA) Section 404

While "normal" farming, ranching, and silviculture activities are generally exempt from “Section 404” permits (which cover the discharge of dredged or fill material into waters of the U.S. (WOTUS)), converting a wetland to upland for a new farming use usually requires a permit from the U.S. Army Corps of Engineers.

To qualify as a WOTUS, a water body or wetland must meet two specific conditions: 1) be a "relatively permanent, standing or continuously flowing body of water" (such as streams, oceans, rivers, and lakes) that is connected to traditional navigable waters; and 2) have a continuous surface connection to a relatively permanent water body, making it "indistinguishable" from that water.[5]

Food Safety

If your operation includes the growing, harvesting, packing, or holding of fresh produce, you may be subject to the FDA Produce Safety Rule (PSR), part of the Food Safety Modernization Act (FSMA). This rule focuses on risks related to agricultural water, soil amendments, animal intrusion, and worker hygiene. Not all farms are covered. Small farms (based on a three-year average of produce sales) or farms growing produce rarely consumed raw may be exempt or eligible for modified requirements.

As of April 2026, "small businesses" (produce sales between $250,000 and $500,000) must now complete a formal pre-harvest agricultural water assessment. Operations with sales between $25,000 and $250,000 have until April 5, 2027, to comply with these water assessment requirements.

Soil Erosion

While federal and state agricultural policy in Kansas strongly emphasizes the *prevention* of soil erosion, it is important to distinguish between voluntary incentive-based conservation and mandatory regulation. Unlike some environmental issues where you face strict permits or penalties for non-compliance, soil erosion management on private agricultural land is primarily handled through voluntary participation in federal and state-supported programs.

While there is no "federal law" that requires every acre of farmland to meet a specific erosion rate, there is a powerful conditional requirement tied to federal program benefits. Under the Food Security Act of 1985 (and subsequent Farm Bills), if you participate in most USDA programs - such as federal crop insurance, commodity payments, or conservation loans - you are required to maintain an "actively applied" conservation plan on highly erodible land (HEL). If you fail to implement or maintain the conservation system required for your HEL, you risk losing eligibility for those federal benefits. The Natural Resources Conservation Service (NRCS) assists producers in developing these plans. Their goal is to help you achieve a level of soil loss that is sustainable (often referred to as "T," or the tolerable soil loss rate).

At the state level, Kansas law[6] established the State Conservation Commission and local Conservation Districts. The core mission is to promote, develop, and implement efficient soil and water conservation programs. Kansas generally does not impose a mandatory state-level regulatory cap on soil erosion for general farming practices. Instead, the state focuses on working through local conservation districts to design terraces, ponds, grassed waterways, and other

[5] Sackett v. United States Environmental Protection Agency, 598 U.S. 651 (2023).
[6] K.S.A. 2-1901 *et seq.*

erosion-control structures. Also, financial assistance may be available via coordination with federal partners to offer cost-share programs for installing conservation practices.

> **Note:** It is worth noting that Kansas law does contain provisions for dealing with "soil-blowing" (wind erosion) as a public nuisance, allowing for county-level action if specific land conditions cause significant, unremediated blowing that impacts the health or safety of the community.[7] This is a rare, localized enforcement mechanism rather than a day-to-day regulatory requirement for standard operations.

Because participation in federal programs (especially crop insurance) is critical for most operations, "compliance" is effectively the standard practice. Thus, make sure to keep your conservation plans updated with the NRCS, especially if you change cropping patterns, tillage practices, or crop rotations on HEL. Also, be aware that while you have significant flexibility in *how* you control erosion, the *result* must satisfy the conservation plan on file for your specific tracts. If you are audited or if there is a question regarding your land's conservation status, having current, documented plans from your local NRCS field office is your primary defense.

Conclusion

Environmental regulation is not just about avoiding penalties; it is about protecting the natural resources that drive your bottom-line profitability. Your local USDA Service Center (housing the NRCS and Farm Service Agency) and the KDA field offices are your best resources for clarifying how rules apply to your specific land and operation. Having a formal conservation plan with the NRCS can help you identify resource concerns before they become regulatory issues and often opens the door to financial assistance through programs like EQIP (Environmental Quality Incentives Program). Also, keep in mind that regulations change. Whether it's updates to water appropriations, pesticide label requirements, or food safety guidelines, keep an eye on official communications from the KDA and the EPA.

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[7] Also, it is worth noting that effective July 1, 2026, Kansas law clarifies that the authority to file certain public nuisance claims is centralized with the Attorney General. The purpose of the legislation is to prevent localized litigation from disrupting broader agricultural operations.