Drift, Damage Claims, and Complaint Reporting

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Overview

• Issues
• Paraquat / Dicamba Clarification
• Reporting Form
• Case Assignments
• Complaint Investigations
• Drift
• Laws regulating misuse
Issues

• Damage Claim Form morphed into complaint report
• Public and industry misperceptions
• Investigator workload
• Paradigm shift – dicamba tolerant
Paraquat / Dicamba Clarification

• Use only by certified applicator
• Use: loading, mixing, handling, applying
• Private use
  – Private certification required for all uses
• Commercial use
  Uses MAY be performed by private certified applicator IF supervised by commercial certified applicator working from SAME LOCATION
Damage Claims

• K.S.A. 2-2457a, Statement of claim of damage from pesticide application
• KDA provides the form
• KDA sends the form to the accused cause of damage
• Purpose is to permit accused to address claim in timely manner
  – Prepare defense
  – Make reparations
Damage Claims, cont’d

• Problems with previous paper form
  – Morphed into complaint report
  – Needed information not provided
  – Purpose of damage claim lost in shuffle
  – Name of form and explained use confused public expectations
Damage Claims, cont’d

• New online multipurpose form
  – Separates Damage Claims from complaints
  – Addresses
    • Damage Claim
    • Pesticide Misuse Complaint
    • Other Complaints
    • Tips

• Example
Case Assignments

• Old process was first in first out
• Assigned by central office
• Time driven – quickly assigned
• Problems
  – Too many cases being assigned
  – Inadequate information being provided
  – Investigation process led to time consuming searches for applications
Case Assignments, cont’d

• Intermediate fix
  - If more than one likely application found, stop investigating and submit case file
Case Assignments, cont’d

• Damage claims and complaints/tips handled separately
• Claims sent immediately to accused
• Complaints / tips
  – Evaluated for enforcement potential
  – Prioritized and ranked
  – Placed in queue
  – Assigned by field supervisors
Complaint Investigations

• Purpose of KDA Investigation is to determine if someone violated pesticide use laws
Complaint Investigations, cont’d

• We don’t:
  – Diagnose people, plants, or animals
  – Determine a dollar value of loss
  – Characterize environmental contamination
  – Determine or guarantee efficacy of pesticide products or applications
  – Regulate fertilizer applications
Complaint Investigations, cont’d

- Collecting evidence of noncompliance
  - Enforcement potential
  - Preponderance not beyond reasonable doubt
- Looking for likely source of drift
- Then examine application for compliance
- Samples
  - Confirmatory / discriminatory not diagnostic
  - Only need detect not quantification
Investigation Dead Ends

- No applicators found
- Multiple applicators with same pesticide
- Mistaken customer location
Investigation Problems

• Unknown complaints
• Anonymous complaints
• Complainant doesn’t want to upset neighbor/anyone
• Extended time between application and complaint
Drift

• Not illegal
• Compliant applications can result in drift
• Application may not involve pesticide(s)
  – No use laws for fertilizers
• An indicator that an application may have been noncompliant
Laws Regulating Misuse

- K.S.A. 2-2453(a) prohibits use inconsistent with label or labeling.
  - Noncompliance depends on label used
  - EPA is struggling with uniform drift language
Laws Regulating Misuse, cont’d

- K.S.A. 2-2454(m) prohibits the use of any method or material without regard to public health, safety or welfare.
Laws Regulating Misuse, cont’d

• K.S.A. 2-2454(o) prohibits the use, storage and disposal of any pesticide material, pesticide rinsate, or container without regard to public health or environmental damage.
Laws Regulating Misuse, cont’d

• The Kansas Pesticide Law does not contain:
  – A “drift” law or “chemical trespass” law
  – A “wind speed” law
  – A definition of “drift” or “drift damage”
Questions?

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