

CUTT

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Legislative Impacts on the Turfgrass Industry in New York

The prevalence of pesticide-restrictive legislation is affecting how pests are managed in schools, offices, parks, right-of-ways, athletic fields, and numerous other places where we live, work and recreate. At a national level, pesticides are being phased out through the Food Quality Protection Act (FQPA) and the associated EPA pesticide review process. Although the FQPA does not directly affect the green industry, some chemicals that face scrutiny under that review are being removed from the marketplace either voluntarily or by mandate.

Turfgrass managers are impacted more directly by constraints on practices that may affect ground water, expose children to hazardous compounds, or are perceived as non-essential, cosmetic applications. Voters and lawmakers are sending consistent messages that they want more information on the pest control practices used in their environs, and they are less tolerant of the risks associated with these practices.

On a local level, many municipalities are mandating integrated pest management (IPM) programs and specifying exactly if, when, and where a pesticide may be used. For example, in 1996 the city of San Francisco enacted an ordinance that mandated IPM and banned most pesticides in public parks, buildings, buses, rights-of-way, and bodies of water. Two years later, they also passed a revolutionary pesticide reduction policy for schools. Their IPM program includes provisions for ongoing progress assessment, education and a communications strat-

egy. These policies are amongst the most comprehensive in the country, and are considered model programs by many environmental advocates. Another west coast city, Seattle, implemented similar regulations in 1999.

Origins of Concern

The "era of pesticides" has been with us since the second world war, and concerns over environmental and human health have been part of the public discourse since *Silent Spring*

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Legislative Impacts

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was published in 1962. So why do the regulations seem to be coming so fast and furiously now? Scientists weigh into the debate by quantifying risks, and capabilities in this area have improved dramatically. We are also digging deeper to examine multiple levels of effects on nontarget organisms, long-term ecological resources, and human health. Recent discoveries, such as the link between some commonly used pesticides and Parkinson's disease, remind the public how little is known. Although risks can be quantified by science, the acceptability of those risks is left to the court of public opinion. A one-in-a-million chance of a woodland newt being exposed to pesticides applied to turfgrass may be considered an acceptable risk. However, if children are involved, society has clearly indicated that any level of risk is unacceptable.

Another significant factor driving pesticide legislation is citizens' right to know when, what and where pesticides are being applied. Regulations requiring prior notification of pesticide applications and subsequent posting have been steadily increasing in both agricultural and community settings over the past decade. Although the logistical aspects of these laws are often considered onerous by the applicators, it is difficult to oppose the concept.

Lastly, and perhaps most importantly, the environmental movement has been gaining momentum. Concerns about pesticide use that were once considered fringe opinions have moved into the mainstream. Environmental advocacy groups are more numerous, better organized and more politically savvy than before. Strong coalitions have formed among diverse groups concerned about issues such as causes of cancer, effects on endangered species, workers' rights and safety, and the health and welfare of children. In state legislatures, once a pesticide-restrictive bill reaches the floor, it is difficult for a member to go on record as voting against it.

New York's Situation

Here in New York, we are acutely aware of the situation with the recent passage of the Neighbor Notification Law and pesticide restrictions in several localities. Pesticide phaseouts have been mandated for public properties in Suffolk, Albany and Westchester Counties, and the city of Buffalo. Generally, the rules apply

to all areas owned by the municipality, including park land, athletic fields, golf courses, and lawns, as well as building interiors. Local restrictions on private use of pesticides are complicated by conflicts with federal and state laws. Therefore, public properties have been the primary target of such legislation.

Schools are in the public domain, and more importantly involve the potential of exposing children to hazards. Pilot IPM programs have been implemented in schools across the country, with early efforts concentrating on control of interior pests such as rodents, cockroaches and lice. The New York City school system of approximately 1,200 buildings has implemented a model IPM program, with substantial reductions in pesticide use, especially rodenticides. Most school IPM programs have expanded to include school grounds and athletic fields, and national guidelines for implementation are currently under development.

In the New York State legislature, 2000 was a busy year for environmental law. According to the Environmental Planning Lobby, thirteen bills significantly affecting the environment were passed, as opposed to only two in 1999. Two of these were signed into law: the Neighbor Notification Law, and a ban on Avitrol (an avicide used to control pigeons) in New York City. Six other bills concerning pest management were passed by the Assembly, but not the Senate. These included a ban on 2,4-D; the phaseout of pesticide use by all state agencies; the phaseout of herbicide use on utility right-of-ways; and the abolition of routine pesticide sprays in schools. Although these bills did not become law, political support for them is evident.

The Neighbor Notification Law

Lawn care professionals are feeling the heat of the environmental climate with the recent passage of the Neighbor Notification Law. The law is comprised of several components that require: 1) Prior notification of pesticide applications by schools and daycare centers, 2) Posting of lawn pesticide applications by homeowners, 3) Posting of pesticide information in retail establishments that sell pesticides for home use, and 4) Prior notification of pesticide applications to neighbors by commercial lawn care companies. Once the law was signed

by the Governor last summer, the DEC was charged with writing regulations that reflect the letter and intent of the law. These regulations were officially proposed late in 2000, and were presented for public comment. The first component is mandatory for all schools and licensed daycare facilities statewide in July, whereas the law must be adopted by individual county governments in order for the remaining components to go into effect. Four counties, Suffolk, Nassau, Westchester and Albany, had passed the necessary local ordinances by the March 1st deadline, and the law is currently in effect in those areas.

At NYSTA's statewide conference in Syracuse in November, the law was a hot topic, with over 200 people attending a special afternoon session dedicated to discussion of this legislation. DEC officials diligently explained the newly proposed regulations, while audience members from counties that are considering opting into the law were particularly concerned with details and compliance. Numerous terms such as "spot treatments" had to be precisely defined in the regulations, and exemptions needed clarification. Some specifics of the regulations are provided in the sidebar article on page 7. Enforcement is also an issue: the DEC has concurrent authority with the counties to enforce the regulations, but extensive enforcement may be a financial hardship for both the DEC and the counties. In the Regulatory Impact Statement prepared for the state, the DEC estimated that it will cost their agency \$150,000 per year to administer and enforce these regulations, and that individual counties may incur costs of an additional \$50,000 or more annually. The DEC also projected that implementation of the notification procedures would cost a small lawn care company approximately \$40 per account, annually.

Later in November, DEC officials were again explaining the proposed regulations—this time to a statewide meeting of Cornell Extension faculty and staff. Extension staff were keen to learn details, since they will likely provide educational support for Neighbor Notification. In January, public hearings were held across the state to discuss the proposed regulations.

The portion of the law regulating schools and daycare facilities will be administered by the department of education. Schools must establish a mechanism for notifying parents and staff prior to the application of any pesticides, interior or exterior to buildings. They must also

report all pesticide usage to staff and parents three times a year. Daycare facilities are required to conspicuously post notification of pesticide usage 48 hours prior to an application. These rules go into effect July 1, 2001.

The involvement of homeowners and retail establishments is perhaps the most surprising aspect of the law. Green industry professionals have long complained that "do-it-yourselfers" are granted unfair dispensation from pesticide regulations. They assert that homeowners are both untrained and unregulated and therefore pose the greatest safety risk when using pesticides. The Neighbor Notification Law sets a precedent by requiring home applicators to post after pesticide applications to areas greater than 100 ft². Prior notification of neighbors, however, is recommended but not mandatory. In addition, retailers of general use lawn pesticides are required to post specified information next to each display location in their stores. These newly regulated groups will likely create enforcement challenges for the counties and the DEC.

The provision for counties to opt into most aspects of the law was a compromise forged to help bridge differences in the Assembly and Senate versions of the bill. Proponents of the law feel it is considerably weakened by the provision, whereas opponents see an opportunity to win the battle on a local level. At the NYSTA conference, speakers from RISE (Responsible Industry for a Sound Environment) and audience members discussed arguments that would deter enactment by the counties. Chief among them were:

- Potentially high cost to counties (DEC estimates \geq \$50,000),
- High cost to lawn care companies, which are local businesses,
- Health and safety are already protected by pesticide applicator training,
- Off-target drift of pesticides is already illegal,
- Pre-scheduling of pesticide applications is counter to good IPM practices, and
- Notification could be provided less onerously through a registry.

A "registry" is a list of people who want to be notified of pesticide applications. Eleven states currently have a voluntary pesticide registry, the oldest of which has been in place for twelve years. Statistics provided by RISE show that fewer than 1,000 people have signed up in any one state. Assuming that participation in a

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The 2001 Cornell Turfgrass Short Course Season helped train our 1500th participant over 14 years.

Legislative Impacts

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The Future

Clearly the writing is on the wall that fewer pesticides are going to be available and that pest management practices are going to be more closely scrutinized and regulated in the future. The best defense for practitioners is to reduce your reliance on pesticides, better educate yourself about alternatives, and begin to experiment with new practices. 

Jennifer A. Grant

registry in New York would be as low as in other states, the logistics of notification would be much easier for lawn care providers. The NYS Turf and Landscape Association currently has a voluntary registry, and many in the industry are promoting its use as an efficient and complete alternative to mandatory notification of all neighbors.

For more information, the following websites are recommended:

- DEC Pesticides Management Program:
<http://www.dec.state.ny.us/website/dshm/pesticid/pesticid.htm>
- NYS IPM Program: <http://www.nysipm.cornell.edu/>
- NYS Turf and Landscape Association: <http://www.nystla.com/>
- NYSTA: <http://www.nysta.org/>
- NYPIRG: <http://www.nypirg.org/>
- Environmental Advocates: <http://www.envadvocates.org/>
- RISE: <http://www.pestfacts.org/>
- IPM institute website (for school IPM): <http://www.ipminstitute.org/>

Clippings

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NYSTA Turf and Grounds Exposition Grows!

The annual New York State Turfgrass Conference held November 14-16, 2000 in Syracuse, NY was attended by a record number of participants. The attendees have come to expect high quality education and were not disappointed. Several sessions that addressed pending legislation regarding pesticide reductions, neighbor notification, and organic turf management were filled to capacity. Stephen Smith, two-time Past President of NYSTA received the Associations highest honor, the Distinguished Service Award, for his many years of service and dedication to the turf industry in New York. Planning is already underway for the 2001 Conference; if you'd like to be a part of the excitement, contact NYSTA at (800) 873-8873 or through their website, www.nysta.org.

Cornell Trains 1500th Short Course Student

The 2001 Cornell Turfgrass Short Course Season helped train our 1500th participant over 14 years. This year the original course was held for one week and an advanced seminar series followed during January in Ithaca. The Advanced Series once again brought speakers from across the country to supplement the expertise of the Cornell Team. Additionally, over 40 professionals attended the 2nd Short Course held in the Hudson Valley in Westchester and Putnam counties. Plans are underway for the 2002 season. If you'd like more information, contact the Director of Turfgrass Education, Joann Gruttadaurio, at (607) 255-1792 or jg17@cornell.edu.