

ENVIRONMENTAL LEGISLATIVE UPDATE

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With as much emphasis as our society has placed on the environment, it is no surprise to me that a talk entitled "Environmental Legislation Update" seems to be a common subject in the turfgrass and ornamental plant industry. When I think of the environmental impacts of the turf and ornamental industry, I first think of the resources affected. It seems natural to identify soil, water, and air as the major resources that could be affected, but I would offer that wildlife (plant and animal), crop, and human resources that are also impacted by our activities. Soil erosion, sedimentation, pesticides, fertilizers, paints, solvents, and fuel storage are just a few items that can have an effect our environment.

In Michigan during the last 18 months, the environmental legislative activity was largely directed toward the use of pesticides. So much activity, that I feel the accomplishments are of historical proportion because these regulations will be a cornerstone for pesticide application procedures for many years to come. I also feel that your industries will obtain benefits from the regulations that goes beyond the letter of the law. These rules were written by a process known as "negotiated rule making" in which representatives from the affected parties are an integral part of writing the legislation. The turf and ornamental plant industries were well represented during these proceedings and can be proud of their efforts. Others involved in this process included applicator, environmental, and community groups. The relationships formed between these groups during this process should help to form coalitions to solve other issues that will arise in the future. The legislation involved in the activity over the last two years includes Regulation 636, 637, 640, and Senate Bill 643. A brief description of each piece of legislation is located below.

REGULATION 636 – PESTICIDE APPLICATORS

This regulation became effective in January of 1992. It created a new status of pesticide applicator called a "registered technician" which was an addition to the existing certified applicator. The law also stated that all commercial pesticide applications must be conducted by either a registered technician or a certified applicator. Lastly, it provided for a "Train the Trainer" program for certified applicators to train registered technicians. The intent of this regulation was to provide a minimum standard of competence for all commercial pesticide applicators.

REGULATION 637

This regulation involves pesticide use issues and was signed into law in late October 1992. It has been regarded as the most comprehensive pesticide use legislation in the nation. All pesticide users in your industry will feel the effect of this regulation in the coming season. While you can anticipate some growing pains, I feel the long term effects will be positive once this regulation is absorbed and incorporated into your operations. Complying with this regulation will provide a higher level of

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incorporated into your operations. Complying with this regulation will provide a higher level of environmental protection and human safety while promoting the safe use of pesticides throughout the industry. Even in the short time it has become law, it has halted several additional pesticide legislation initiatives from the state and local level. Listed below are the rules contained in the regulation with a brief highlight of the important points affecting this industry. This regulation is effective now but a couple of the rules which involve capitol improvements will not be enforced for 6–12 months. These specific dates are listed within the appropriate rules.

Rule 1–3 Definitions

The definitions create the structure and offer clarity in the language of the rules. It may be useful to refer to the definitions when reading the text of the rules.

Rule 4 – Standards for Pesticide Use

Use products consistent with labelling

Application Standards

- Apply in a manner that prevents off–target direct discharges or drift
- Do not apply during adverse weather
- Identify and prevent discharge to sensitive areas
- Minimize exposure to humans, wildlife, livestock, domestic animals
- All applicators must have immediate access to spill kit

Equipment standards

- Must be free of leaks or defects causing release
- Must be properly calibrated
- Functioning shutoff valves to prevent release
- Water drawing equipment must have anti–siphon device
- Applicators should prevent incidental releases during mixing and loading

Commercial Applicator Vehicle Identification

- Commercial vehicles must have name of the firm, telephone, address, or DOT Census Number
- This portion enforceable within 6 months (April 1,1993)

Rule 5 – Registry of Persons Requiring Notification Before Pesticide Applications

- People registered as sensitive to pesticides must be notified 24 hours before lawn and ornamental applications to adjacent properties
- Registration requires physician verification – Forms available from MDA
- Applicant must register each year
- MDA provides list to commercial applicators and county health yearly

Rule 6 – Mixing and Loading Operations

- Applies for all commercial operations who mix and load more than 10 days at one site
- Site is defined as a 1/2 mile radius
- Impervious, curbed structure, which must contain 1 minute of discharge from loading operation
- If outdoors, must be cleaned after spill or be able to contain a 6" rainfall
- Primary shutoff valve at immediate reach, emergency shutoff within 30 sec. reach
- Hand held equipment exempt
- This portion enforceable after 1 year (10/29/93)

Rule 7 – Washing and Rinsing Operations

Similar to Rule 6 but includes the washing and rinsing of equipment.

Rule 8 – Management of Excess Pesticides and Pesticide Containing Materials

Allows soils, sediments, debris, and water that contain pesticides to be applied to labeled sites according to label directions

Must know what product is present in material

No altered products allowed (frozen)

Rule 9 – Personal Protective Equipment

Establishes minimum PPE for commercial applicators

Long Pants

Protective Footwear

Long Sleeves – or – short sleeves and wash water

Gloves – or – equivalent protection from sanitary program

Rule 10 – Off Target Drift

Applications must be conducted in a manner which minimizes drift

– unless prior authorization from impacted resident

Applicator must determine the likelihood and direction of drift

Applicator must identify sensitive areas

If drift is anticipated then a drift management plan (DMP) shall be utilized

If drift occurs, applicator should notify affected residents verbally or with sign

Drift does not include erosion, volatilization, or windblown soil

A drift management plan includes the following practices

Largest spray droplets

Specialized equipment

Closest release to the target

Lowest effective rates

Buffer zones

Wind shields or breaks

A DMP includes a written description of management practices

Should be updated annually

Record of sites where used

Rule 11 – Notification and Posting

Contains specific instructions for commercial applications to indoor, turf, ornamental plants, or community/ROW sites

Applies to broadcast, foliar, and space applications

Lawn applications must be posted by applicator

Golf course must post pro shop, 1 & 10 tee areas

Indoor applications of commercial or public building will post on door

Community and ROW have media notification protocol

Rule 12 – Applicator Service Agreements

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Oral or written agreements prior to service
Contracts must contain risk / benefit information
Contracts must be agreed on annually

Rule 13 – Misrepresentation of Pesticide Safety Prohibited

Prohibits misleading language on advertisements

Rule 14 – Integrated Pest Management

Within 180 days of effective date:
Schools, public buildings, and health care facilities must have an IPM program for indoor applications
Applicators must obtain IPM training for these sites
Enforceable 6 months after law is signed (4/29/93)

Rule 15 – Pesticide Use In and Around Schools

Liquid and aerosol insecticides applications
– may not be made within 4 hour student occupancy
– must notify building manager
Turf and ornamental application prohibited within 100 feet of occupied room

Rule 16 – Organic Farm Listing

A annual list will be generated to inform applicators of the location of organic farm establishments. The intent is to protect these areas from off-target drift.

REGULATION 640 – BULK STORAGE OF PESTICIDES

This regulation deals with the bulk storage of pesticides and was signed to law on 10/29/92 along with Regulation 637. The rules are directed toward topics including recordkeeping, security, secondary containment, venting, gauges, emergency procedures, and notification. Since several rules involve capitol improvements to a facility, there are specific phase-in dates ranging from 1–5 years for some rules.

SENATE BILL 643 – PRE-EMPTION BILL

Some 18 months ago, a U.S. Supreme Court decided in favor of a case which challenged the pre-emptive state authority of the Federal Insecticide, Fungicide and Rodenticide Act. For Michigan it meant that local units of government could enact their own pesticide laws. This has the potential to have a severe impact on several industries if there were a mosaic of local pesticide laws throughout the state.

Senator Nick Smith introduced a bill which would retain the Michigan Department of Agriculture and Act 171 as having pre-emptive power over local ordinances. It passed the senate and was forwarded to the house agriculture committee. There was extensive interest in the committee meetings by several user, community, and environmental groups. Based on the level of interest, committee members held public meetings around the state to solicit input and information.

The legislative session concluded in 1992 before a vote was taken on S.B. 643 and it essentially died in the hands of the committee. It is no longer an active bill and cannot be voted on or enacted. Its author Senator Smith, was elected to a Washington position in November and has resigned from the Michigan Senate. That means that local ordinances can continue to be written and imposed. If you in the landscape and turf industry still feels this is an issue, then you need to rally your state legislators to introduce a new bill in 1993 and begin this process once again.