

Trends in violations

Who did what and where?

DURING FISCAL YEAR 1992 the EPA's Lawn Care Compliance Monitoring Initiative requested state environmental agencies to review lawn care company advertising and to conduct at least 10 extra use inspections of lawn care companies. The goals of the initiative were both to enforce existing regulations—to identify wrongdoers and to take appropriate actions against them—and to gather information on what types of violations are taking place—to provide a basis for adjusting the focus of the ongoing joint federal-state effort.

By the end of the year, the states had conducted 760 use inspections and found 257 violations. Another 37 cases were still under investigation. Nationwide, the number of actual inspections represents a tiny percentage of the industry. The adjoining charts and tables show what violations were found and what kinds of enforcement actions were taken. In bottom line terms, the good news is that two-thirds of the companies inspected were in compliance, and the bad news is that one-third of the companies inspected were breaking a variety of state and federal regulations.

How serious were the violations? That is obviously a matter of perspective. For example, every industry has its rotten apples and turf management is no exception. Witness the fact that the violations found included one person who sprayed another applicator, one who sprayed the wrong lawn, and one who illegally dumped pesticides. While these clearly were exceptional cases, they are exactly the kind of cases that make news as well as attracting regulatory attention. The Lawn Care Initiative report recommended giving higher enforcement priority to areas where the highest rates of violations are found.

How do the various regions of the country compare in terms of actual violations of environmental regulations? The following table shows the relative relationship between inspections and violations in each region (see the list of EPA regional offices on pg. 15) The first data column for each region shows the percent of the total number of inspections conducted there. The second data column shows the percent of the total number of violations which

REGION	% TOTAL INSPECTIONS	% TOTAL VIOLATIONS
1	11.4	0
→ 2	10.5	11.6
3	13.8	5.8
→ 4	12.5	18.0
5	18.0	16.0
6	6.6	1.4
→ 7	15.9	25.9
8	3.2	1.8
9	3.2	1.8
→ 10	4.6	5.4

If the percentage of inspections is higher than the percent of violations, then your region is doing an above average job of complying with environmental regulations. If the percentage of violations is higher than the percent of inspections, then your region accounted for more than its share of violations. By this reckoning, regions 2, 4, 7, and 10 are more likely targets than other regions for increased use inspections (see EPA regional offices list on pg. 15).

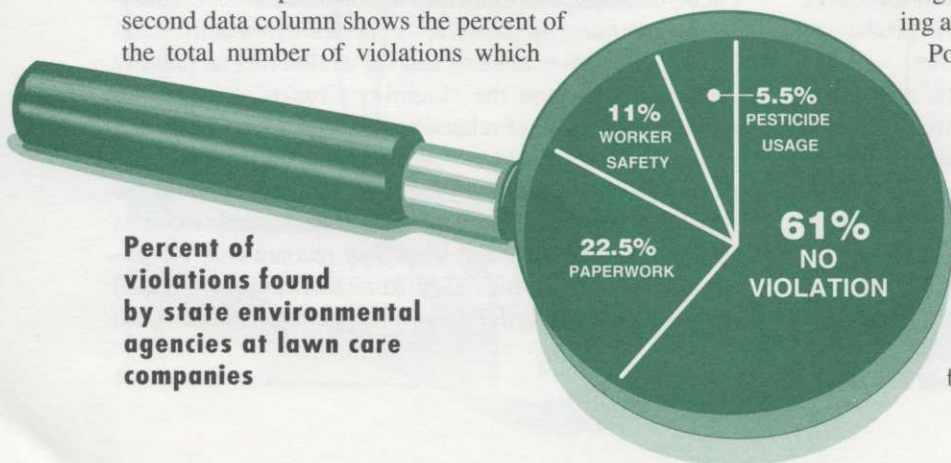
were found in each particular region.

On the whole, the industry seems to be moving toward compliance. Whether it is doing so at a reasonable rate is another judgement call. The facts are as follows: less than 6% of the lawn care companies had violations of worker safety regulations and approximately 11% had violations of pesticide usage regulations. The specific violations included drift problems resulting from spraying in adverse conditions (7% of total violations), lack of protective clothing (9%), unlicensed operators (15%), and storage (5%). Bear in mind that a 10% rate would mean that these kinds of violations were found at one in ten companies.

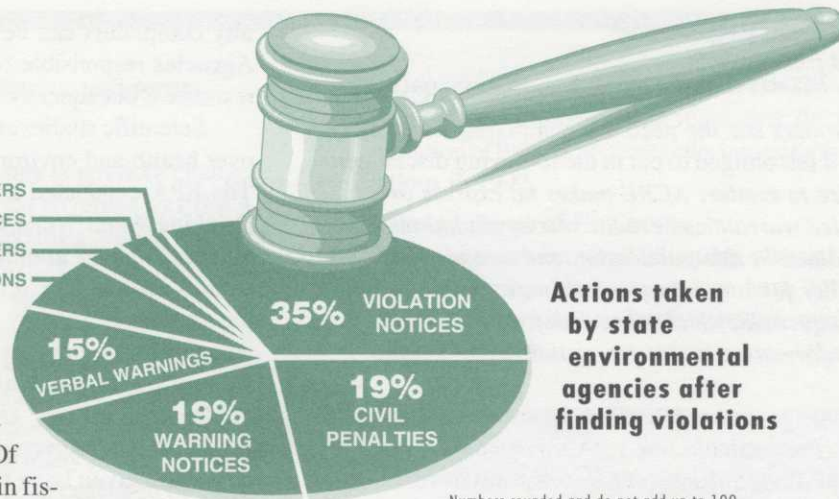
A far greater number of the companies (22.5% or slightly over two out of ten companies) were found to be violating what might be called internal and external paperwork regulations, such as those regarding record keeping and posting and notification of sprayed areas.

Posting and notification violations accounted for 17% of the total violations found. With the implementation of the new Worker Protection Standard and the related emphasis on community right-to-know issues, paperwork regulations will continue to receive a lot of attention.

In 1992, the states conducted a total of 760 inspections and found 257 violations.



1% ADVISORY LETTERS
2% FIELD NOTICES
2% ADVERTISING LETTERS
6% OTHER STATE ACTIONS



Actions taken by state environmental agencies after finding violations

Numbers rounded and do not add up to 100

The EPA's Lawn Care Initiative also looked at advertising. Of 934 literature reviews conducted in fiscal year 1992, only 41 violations were found.

Another 39 cases were referred by the states to the Federal Trade Commission (FTC). Some states also referred cases to their own Attorney General offices. In other words, 96% of the advertising was found to be in compliance, and 4.4% was found to be in violation—with another 4% or so still listed as possible violations. Again, these figures mean that violators represented less than one in every ten companies inspected.

The next obvious question is how serious were the resulting enforcement actions? And were they in proportion to the violations? Once again, the obvious question involves a value judgement. The facts are simply that, in most cases, the actions taken amounted to a verbal or written warning. Less than one in every four violation enforcements stemming from inspections resulted in civil penalties.

Near-term adjustments

GIVEN LAST YEAR'S ENFORCEMENT RESULTS, the EPA expects to continue its Lawn Care Monitoring Initiative, but the low rate of advertising violations will result in backing off the emphasis given to lawn care advertising in 1992. It still will be a part of routine inspections, and tips and complaints will continue to be pursued. Increased inspections and enforcement actions will be targeted to areas with the highest violation rates in 1992.

The EPA is also aiming to help increase the level of compliance by developing and making available a variety of informative materials:

- A LAWN CARE COMPLIANCE ASSISTANCE packet for distribution by state inspectors
- REVIEWING WHETHER THE LAWN CARE application violations related to restricted use products, which may then require a revision of training and certification materials
- AND A PROPOSED SET OF LAWN CARE advertising guidelines.

For turf managers, the most immediate use of these violation and enforcement facts is as a guide to your own compliance efforts. In short, use them to identify and

prioritize the kinds of violations that you need to look for: unlicensed operator/business equipment, lack of protective clothing and other applicator safety problems, spraying in adverse conditions that result in pesticide drift, and pesticide storage, misuse, and label violation. Because these violations involve risks to workers or to the public, eliminating them should be a top priority.

Even more likely are paperwork violations. On one level, complying with paperwork rules should be easier than complying with rules covering the handling of hazardous materials. There is no special clothing or equipment involved. What is involved, however, is keeping careful records and making sure that workers understand the rules.

Beyond immediate compliance concerns, these facts should help turf managers to communicate more effectively with the public and with legislators. ■

The regulatory burden has varied, in part, because individual states and localities have moved at differing speeds in adopting new regulations. For example, this July Georgia became the twenty-third state to pass a pesticide posting law. The adjoining table shows the spread of state bans on using landfills for yard wastes. ▼

STARTING DATES FOR STATE BANS ON LANDFILLING YARD WASTES

- 1988 New Jersey
- 1989 no states
- 1990 Minnesota*, Illinois, Pennsylvania
- 1991 Connecticut, Iowa, Maine, Massachusetts*
- 1992 Florida, Minnesota*, Missouri, South Carolina, Massachusetts*
- 1993 Arkansas, North Carolina, Wisconsin, Michigan, West Virginia, Ohio
- 1994 Indiana, Nebraska, Maryland
- 1995 South Dakota, Michigan

*Phase-in plan