

BOUND BY RESTRICTIONS

The industry addresses fertilizer and pesticide regulations at the local, state and national levels. **BY DAN JACOBS**

LOCATION, LOCATION, LOCATION. The oft-cited phrase used to justify the price and salability of any home is equally good at describing the state of fertilizer and pesticide regulations across the country.

In some places, New Jersey for example, the rules are relatively set and contractors are learning to deal with the requirements. In areas where things are less settled, lawn care companies and industry associations are working furiously to ensure those who oppose fertilizers and pesticides are unable to have their loud protestations enacted into law.

One of the myths everyone jumps to is people oppose chemical product use, and they don't, says Karen Reardon, vice president, public affairs, for Responsible Industry for a Sound Environment (RISE). It's up to the industry to do a better job of reminding consumers about the public health aspects of these products.

And it's not just the public that needs to be educated. It's politicians, too.

"The biggest problem in a lot of these regulations, in addition to having to jump through more hoops, has



been these blackout periods, when legislators arbitrarily decide when the frost will come in a state," says Tom Delaney, director of government affairs for the Professional Landcare Network (PLANET). Politicians set hard dates about when products can be applied.

"In New York it cut back almost a full month from when lawn care professionals could fertilize," Delaney says. "Usually lawn care professionals started in March, depending on the weather, but now they can't start until April. Some of these guys are still trying to figure out the influence on their business."

STARTING THE CONVERSATION

Since politicians serve at the pleasure of the public, they often use public polls to guide their decisions.



"Most people, we know from surveys, agree products should be available and used when needed," Reardon says. "Some of these policies and proposals are not reflective of broader public opinion when you remind folks about why we need pesticides."

The problem is, politicians aren't polling on these issues. Instead they are hearing the voices of those opposing the use of chemicals. Anti-pesticide activists are engaging in conversation with legislators at the local and state levels while many contractors are busy running their businesses. The voice of the industry is often left unheard, Reardon says.

"Opponents and activists are very vocal and very dedicated to driving the policy discussion and debate at the state and sometimes at the local level about these products," she says. "They've been at it at quite some time. Although they certainly are a minority, they are well known and they have something to say. They're influential because they show up. As the saying goes, 'The world is run by those who show up.'"

Industry associations like RISE and PLANET track proposed rule and regulation changes across the country, but they can't fight the battle by themselves.

"Don't be ignorant of what's happening in other states, because it will come to you," Delaney says. "Be vigilant when things are introduced in your legislature and play an active role, even if it's just being supportive and attending a hearing by showing your interest in a subject."

And there is plenty to be paying attention to.

STATE ACTIVITY

Some states have preemption laws, which prevent local governments from enacting their own pesticide ordinances that are stricter than the state's rules.

New fertilizer laws and restrictions have been the hotbed of activity recently. When enacted, the two-year-old New Jersey fertilizer law was one of the most comprehensive and restrictive to date. It has applicator training and certification requirements, rules on when applications can be made (March 1 through Dec. 1), where product may be applied and what types may be used (no phosphorus may be applied unless a soil test shows it's necessary).

Other states have followed suit. Maryland is one of them.



TOM
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"Next year, because of the new fertilizer law, we'll have blackout dates that will prevent us from putting fertilizer down from March 1 to Dec. 1," says Rick LaNore, technical director and co-owner of MRW Lawns, in La Plata, Md. His firm historically has begun applications around President's Day, so it will take a hit next year. "That's about two weeks of billings, probably around \$100,000, that we're not going to have." The Maryland law, which will be effective Oct. 1, also will have a certification and licensure component for applying fertilizer, as many other states have adopted.

In some of the states that require applicators to be certified and/or licensed before they can apply products, getting the systems up and running isn't always a smooth process.

Rutgers University is in charge of New Jersey's training and testing. Once you've gone through the study materials, a contractor pays a \$75 fee to take the test. Those who pass the test become certified for five years and pay a \$25 per year fee to keep that certification. As certified applicators, they are able to train other employees in the business. Those secondary certifications cost \$25 and are only good for one year.

"Virginia has been slow in getting their training requirements in for fertilization," Delaney says. "They had that same problem in New Jersey. Rutgers took a long time to get theirs done."

The University of Florida, which also has many fertilizer restrictions, offers training on fertilization, but the state has yet to formalize training, Delaney says. At PLANET's most recent Lawn Care Summit a speaker from the Florida Department of Environmental Protection indicated the time is coming when lawn care professionals in that state will be required to show verification of their training, Delaney says.

Although fertilizer laws have been a focus as of late, pesticide restriction concerns remain. An article in the *Denver Post* in February highlighted one bout.

"The battle is so pitched that local lawn-and-garden pros fear that a Canadian-style ban on pesticides and herbicides looms and they'll be left without a powerful tool to fight landscape-decimating pests and weeds," reads the article written by Colleen O'Connor.

One of those worried about the changes going on in



his state is Tom Lynch, Fort Collins, Colo., branch manager for Swingle Lawn, Tree & Landscape Care.

“The biggest thing we can provide is an education to the decision makers of these municipalities that are faced with this type of coalition that says ‘We want to ban the use of all pesticides,’” Lynch says. “We need to be able to educate those decision makers about what we do and why we do it. We’re willing to work with them. That’s the one big thing that’s lost on this—we’re being targeted as the bad guy. We are practicing integrated pest management where we are only applying a pesticide when it’s deemed necessary.”

NATIONAL ACTIVITY

There are challenges on a national level, as well.

“We are tracking a couple of issues there, including one that might seem unusual for the lawn care industry—the Endangered Species Act (ESA),” Reardon says. “There are a number of significant lawsuits that have the potential to impact the availability of products.”

The lawsuits, typically filed by individuals or groups opposed to chemical usage, often name particular compounds.

“One of the suits we’re calling the ‘megasuit,’ would impact the use of between 300 and 400 active ingredients across the United States — touching virtually every aspect of product use, including lawn care,” Reardon says. “If provisions of a certain number of these suits have merit and go forward, essentially they would in some ways take over EPA’s product registration process with necessary ESA consultations. That, in turn, would hamper the ability to get new products into the marketplace in a timely way for lawn care and other categories of use as well.”

The Clean Water Act has had an impact on fertilizer and pesticide applications, as well. Reardon says there’s already robust legislation governing chemical applications through the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and that much of the legal action is simply duplicative.

GETTING INVOLVED

The best way to combat those opposed to the application of pesticides and fertilizers is to make sure invested business owners share their concerns with their legislators.

Reardon believes the efforts of organizations like RISE and PLANET are slowly beginning to get that message across to the industry.

“We’re meeting some of our old friends,” Reardon says. “People are really enthusiastic about speaking positively and proactively—so, changing that conversation from defense to something that is very productive.”

RISE has been talking with applicators over the winter to help educate them about the issue.

“We’ve created a great consumer-facing website that also has resources for applicators at DebugTheMyths.com,” Reardon says. “It’s really just having the conversations with your customers, with your neighbors. People really value that peer-to-peer exchange on these kinds of topics. It’s being mindful of starting those conversations before there’s an issue and taking the time to talk with folks, whether it’s at church coffee hour or on the sidelines at

the soccer games, and really distinguish yourself as a subject matter expert on this.

“We’re getting a lot of enthusiasm around that,” Reardon continues. “We know these folks have to stand up in their communities or in their states, and we’d like to help them have a conversation that’s more like one they would have with a customer versus having to be there possibly in an adversarial situation or on defense, which is not for everyone.”

PLANET has its own approach to encouraging landscapers and lawn care professionals to get involved at a grassroots level.

“We’re trying to get more people to sign up to agree to be leaders in their state,” Delaney says. That individual can help mobilize other state residents to get the message out. “That is so important,” Delaney says. **LM**

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