

Lead Not Follow

By Heather Wood

While many golf course operators show concern about environmental issues, they could be doing more to show they're positive contributors. This was the message of members of the golf and resort industry team of the law firm Foley & Lardner LLP, which hosted a Webcast about environmental concerns in the golf industry recently.

While a large percentage of golf course superintendents are concerned about environmental issues that affect golf courses, few are active in the regulation process, they say.

In a recent Foley & Larnder study, 66 percent of superintendents who participated said they currently aren't implementing water-reduction programs, yet the issue of water resources ranked as the top issue facing golf courses today, followed closely by pesticide regulation.

Seventy percent of respondents were "concerned" or "very concerned" about the impact of increased pesticide regulation.

At the same time, only 10 percent of respondents considered themselves "actively involved" in regulatory issues affecting the industry. That number should be easy to increase, says Thomas Maurer, a partner.

"Thinking about environmental issues and trying to deal with them in a proactive way is a win-win situation," he says. "Not only

does it approve appearance and the golf experience, but you minimize environmental impacts, save money and it's to the workers' advantage. Hit low-hanging issues without waiting for the government to get involved."

Maurer and his colleagues detailed steps golf course operators can take on their own courses to record conditions and make improvements where necessary, making it more difficult for regulators to find fault with the industry.

BEST MANAGEMENT PRACTICES

Florida took a proactive step with environmental issues this past January. The state's Department of Environmental Protection published Best Management Practices for quality on Florida golf courses. Most of the practices can be used anywhere in the country, Maurer says. Best Management Practices should be created before the course is built, if possible.

"Monitoring the conditions of the course before you start is great," Maurer says. "You can see how it's doing before the course is built versus after."

The plan covers elements including drainage, play area design and naturalizing nonplay areas, wildlife management, water quality and maintenance facilities.

Other BMPs Maurer outlined include:

- Nutrition and fertilization: Make sure the turf-grasses have the essential

nutrients and analyze the fertilizer types used;

- Cultural practices: Monitor mowing and blend it with the right amount of aerification and other cultivation practices;

- Lake and aquatic plant management: Weigh the benefits of lakes (water hazards, aesthetics, irrigation, storm water treatment) with the negatives (sedimentation, nuisance vegetation, littoral zones)

- Pest management: Practice integrated pest management, keep up with the latest regulations, keep records of applications, handle and store pesticides properly; and

- Maintenance operations: Make a plan and monitor fueling, equipment washing and waste handling.

ENVIRONMENTAL DUE DILIGENCE

Completing an environmental assessment might be required, especially for courses that are up for sale, Maurer says. The process is based on the regulations that came from the Environmental Protection Agency's Standards and Practices for All Appropriate Inquiries, now known as All Appropriate Inquiry.

The Phase I Environmental Site Assessment is focused on potential contamination issues involved with pesticides or maintenance procedures. A new buyer would be responsible for cleaning up any problems if they ever come to light,

Maurer says. If it is determined that there potentially are contamination issues, the next step – Phase II – is to test the soil to determine if there really is a problem.

Also, document the course's water source and make sure the course has a permit to use it.

Another factor to consider is the buildings on site. If they're older, conduct tests to find out they contain asbestos or lead-based paint, Maurer says.

WATER USE

A golf course superintendent who leaves a job at a course in the Eastern United States to take a job at a course in a Western state will have to learn a new set of water usage rules. There are two different doctrines regarding water use, says Matt Riopelle, who was a summer associate. The Western states follow "prior appropriation" guidelines. A core component is the "beneficial use" rule.

"California says the use of potable water on a golf course is not beneficial if another source is available," Riopelle says.

The right to a water source is simply stated as "first in time, first in right," which means first come, first served. The story is different in the Eastern states, where water isn't as scarce. Riparian rights mean that land ownership results in rights to the water. The riparian right is regulated by requiring a reasonable use of water on the property.

An increasing number of courses are using reclaimed or recycled water in the East and the West, and that number will only grow as water becomes scarcer and more courses are being required by law to switch from potable water sources, says senior counsel Wayne Rosenbaum. California law requires that golf courses use recycled water if it's available.

Unlike potable water, most contracts for recycled water require a facility to take a given amount of water per day or month.

"In planning a golf course, you will need to talk to a water purveyor in terms of the quality of the water provided to decide on utilization and irrigation

timing," Rosenbaum says.

Superintendents will have to think about whether people will come in contact with the water to determine the quality needed, Rosenbaum says. They also should think about how turfgrass management techniques might have to change when the course transitions to recycled water. More frequent water and soil testing will need to be conducted.

Also, the irrigation system likely will need be retrofitted and more pumping systems might be needed. The system should be checked for clogged sprinkler heads, which is more likely to occur with reclaimed water.

To ensure water isn't leeching into the ground-

water supply, monitor the groundwater before and after incorporating recycled water.

FIFRA

Reviewing the components of the Federal Insecticide, Fungicide and Rodenticide Act can protect the course against penalties, which can include having pesticides confiscated, says associate Julie Solmer, who addressed issues related to pesticide management and residual pesticide contamination.

Check for state or local laws. Some states might have their own use rules in addition to FIFRA, Solmer says. In Florida, there's a state law governing irrigation systems that are used to

apply pesticides.

Minimum-risk pesticides, including castor oil, citronella, garlic, linseed oil and white pepper, are exempt.

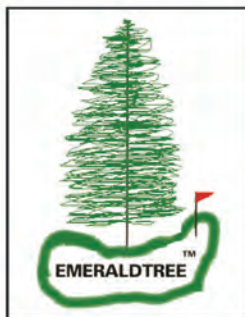
The pesticide must be used in a manner consistent with the label.

Pesticides can only be applied by or under direct supervision of a certified applicator.

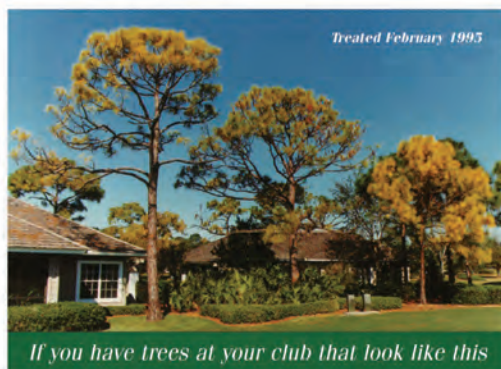
Commercial applicators shown to be in "knowing" violation of the law could face penalties of \$25,000 for each offense or one year in prison. Both the violator and the employer can be held criminally liable, Solmer says.

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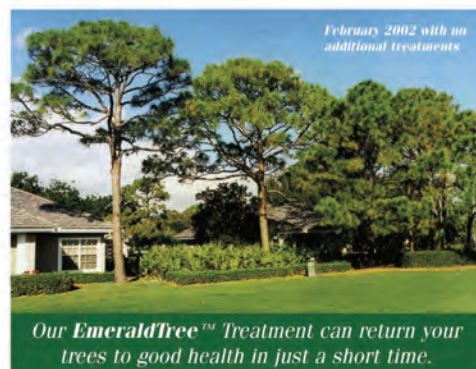
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