

# LEGISLATION AND AQUATIC WEED CONTROL

Just because it's been delayed doesn't mean that the Endangered Species Act—and others—won't have an eventual effect on the aquatic site manager who applies chemicals.

by John E. Gallagher

**C**urrent legislative activity that may affect the business of aquatic weed control personnel is associated with public concern. How?

For many years, environmental activists have made the general public aware of the many "insults to the environment" associated with the use and misuse of pesticides. Now instead of speaking individually, the separate environmental groups have merged into a coalition that speaks with a loud voice. Our politicians recognize this. So the potential for far greater regulations and restrictions on the

use of pesticides (aquatic herbicides are pesticides) has now become reality.

We live and work in a social climate where pesticide use remains synonymous with "poison"—a concept not without justification, considering our past mistakes. Your personal and business philosophies must take this organized public concern into consideration in your future operations.

## The CAST 2,4-D report

Concerted action can also work for the pesticide industry. The combined voices of the weed science societies, the growth regulator society and the aquatic plant management society worked recently. All speaking in defense of

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John E. Gallagher is a graduate of Penn State University. He spent 20 years as aquatic weed control specialist with various companies. He is now retired.



Aquatic site managers who apply pesticides should know about some important legislation coming down the pike.



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2,4-D, the organizations were able to persuade CAST (Council for Agricultural Science and Technology) to form a task force to do a critique and summary of the "Kansas Farm Worker Study" and other epidemiological studies on 2,4-D and cancer among farmers.

A report "Perspectives on the Safety of 2,4-D" was produced and is available from CAST at a price of \$2.

The task force summary concluded that, "2,4-D—as it is generally used—does not represent a significant health threat." It did, however, recommend that "users should apply it with care and respect required of every chemical that can cause harmful effects at high doses." This report should be read and carried by any applicator applying 2,4-D for aquatic weed control.

### The Endangered Species Act

Again, concerted efforts on the part of many individuals and state agencies, helped the EPA decide to delay implementation of the Endangered Species Act. The act and associated product label modifications required of pesticide registrants do not take effect until Sept. 15, 1988.

The Endangered Species Act is a federal law administered by two agencies of the U.S. Department of the Interior: the Office of Endangered Species of the U.S. Fish and Wildlife Service and the Office of Protected Species of

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the National Maritime Fisheries Service. EPA becomes involved (and subsequently the pesticide industry) since EPA is responsible for registration and labelling of pesticide products including aquatic weed control herbicides.

The basic premise of the act is "a prohibition on the use of pesticides in the range of endangered or threatened species or their habitat."

Section 7(a)2 of the act requires that all federal agencies (including the EPA) conform to the above requirement. The EPA notified manufacturers, formulators and registrants of pesticides of a label reform program which would put it in compliance with the law. This statement was to appear on product labels or on supplemental labelling which must be distributed at the time of sale.

### Endangered Species restrictions

The following notice arrived on the desk of company representatives in May of 1987, with a compliance date of Feb. 1, 1988: "Before using this product (specific cluster) in a county listed below, you must contact the endangered species specialist in the regional/field office of the U.S. Fish and Wildlife Service. You must provide FWS with your name and phone number, the products you intend to use and the specific location in which you intend to use it. The F&W Service will inform you whether your proposed use is in the range of endangered species. Use of this product in the range of endangered species as defined for you by the F&W Service is prohibited."

Industry began to implement the proposed label changes. The problems of a lack of accurate county species habitat maps and an incomplete list of clusters (pesticides with common use patterns) led to the confusion that began the concerted action among pesticide users.

The ESA implementation has been delayed, but once the needed accurate county habitat maps are produced and other necessary compromises have been made, the

ESA will, I believe, become an enforceable reality. You, as the ultimate product user, will have to continue to abide by the restrictions on the label.

### Groundwater legislation

A very critical legislative battle is under way. It will also affect the daily working operations of the aquatic weed control applicator.

The Durenberger-Leahy S.B. 1419 has as its major premise a requirement that all groundwater come under the regulations that govern drinking water contamination.

The pesticide industry as a whole favors H.R. 2463 which defines potable water—current or potential—on the basis of common sense criteria such as depth, hydrology and water quality. The opposition, environmental groups in support of S.B. 1419, argue that all water must be pure and that the concept of uncontaminated groundwater is a basic property right.

The groundwater issue is much too complex to do more here than to alert you that it, too, is very real. Within a relatively short time, legislation of some sort will be passed.

One final note about groundwater legislation: EPA is encouraging the states to take over. But there is a feeling that a single federal law will either under-restrict or over-restrict.

To get a feel for what can happen, read published information on California's Proposition 65 now in force. Proposition 65 states, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to cause cancer or reproductive activity." The law includes a provision concerning the discharge of chemicals into drinking water. Iowa and Arizona have passed their own safe drinking water acts and it is expected that more will do the same.

This paints a somewhat dreary picture for the commercial aquatic herbicide applicator. But, as indicated earlier, concerted effort on the part of you and your societies can control some of the unrealistic over-regulation that is being proposed. To paraphrase an old movie, you should "support your local Congressman" to let him know how you feel about these proposed legislative actions and why you feel as you do. You also are concerned about environment pollution. For the industry as a whole, hope for reasonable regulations is totally dependent on cooperative dialogue with concerned environmental groups. It can work.

Consider, for example, the comments made by Richard K. Long, director of corporate communications at Dow Chemical, as reported in the March 14 *Chemical and Engineering News*, on the editor's page:

### 'The image of chemicals'

"I am glad to talk about public fears of chemicals and technology. Recent publicity shows that not nearly enough is being done to address public concern.

"News media aren't perfect, nor has the chemical industry always been helpful—reporters have seen 'charm school' treatment, wasted threats of legal action and other stonewalling tactics by public relations people. Net result? Prickly reporters, angry industry officials, an often confused public and mostly negative news coverage of chemicals and chemistry.

"Six major environmental laws were enacted in Washington. This suggests that the pro-environmental lobbying was more effective than the industry's effort.

"Experience says that if an industry wants to win, it must be seen as part of the solution, not the problem. Instead of saying 'There's no problem,' we must say with conviction, 'We'll fix it.'"  
LM

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