

ISSUES '98:

people, products & practices

The Green Industry faces a big year. Product testing is expected to do the impossible; employers face more OSHA regs; and posting/notification precedents may nullify programs that work.

By RUTH E. THALER-CARTER

As a kickoff to 1998, LANDSCAPE MANAGEMENT looked at what the Green Industry can expect in three key areas of business: legislative issues; training; and employee recruitment and retention.

How business owners, manufacturers and turfgrass managers respond to these issues will be critical to the Green Industry's success—and image—in the new year.

Food quality and pesticide use

Having the greatest impact on landscapers' use of chemicals and pesticides will be the Food Quality Protection Act (FQPA), which went into effect in 1996, but will begin to be fully implemented in 1998.

"The FQPA is primarily a federal issue," says **Allen James**, executive director of RISE (Responsible Industry for a Sound Environment), a coalition based in Washington, DC. And it's a big one.

David Crow, of DC Legislative and Regulatory Services, which lobbys for RISE, says the FQPA will have a "huge" impact on the Green Industry.

"We are in the 'era of the child'. All legislation in Congress and every regulation coming out now seems to relate to children," says Crow. "Many of the new requirements under FQPA were written to provide greater 'protection' for children, which is very misleading."

"Pesticide products already go through about 120 tests,

and take 10 to 20 years to reach the market, with as much as \$50 million spent for one product to go through the entire process," Crow explains. "There are 20,000 new substances identified each year, but comparatively few make it through the process. We already are among the most tested industries, if not the most; the degree of difficulty for a product to get through this process is mind-boggling... I don't think the public has any idea of how well tested our products are. The current process does the job."

According to James, the key issue is implementation. As things now stand, suppliers may feel compelled to withdraw registration of new products from the process, or drop uses of existing products.

"The risk is we could lose products the industry needs," James explains, who adds that more time from the EPA would help companies meet the testing requirements.

Technical details a challenge

Manufacturers also are greatly concerned about the implications of FQPA, says **Elin Miller**, a former regulator in California who now is Global Director/Government and Public Affairs for DowAgroSciences (formerly DowElanco) in Indianapolis, IN.

"The changes in FQPA are very technical," Miller says, and the major problem for manufacturers is one of timing.

"We have to step back and look at what the new law is asking. The law is an umbrella; the detail (and effect on the industry) is in implementation," says Miller. "Good science may get thrown out the window when time frames (for testing and



James: more time, EPA!

evaluation) are unrealistic. With most new laws, the agency overseeing the regulations has time to figure out how to implement them, but with FQPA, the agency was given no time. They were to implement immediately.

"The new issues are very complicated scientifically, such as what compounds act alike and how to assess any risks," Miller says. "We must focus on an appropriate amount of time to implement the guidelines."

Dow AgroSciences's Dursban, which Miller says is one of the most widely used pesticide in the world, is a good example of the possible problems of over-regulation. "We already had data and submitted full aggregate risk assessment to meet the needs of FQP on this product," Miller recalls.

"The EPA is just now starting to focus on it over a year later."

Look for information to continue to come from RISE and an industry group, the "Implementation Working Group," whose subcommittee on non-food exposure is chaired by Miller.

New testing requirements can be met by industry if the EPA allows reasonable time for companies to develop the needed data.

decisions yet. We need to focus on what's real, and assess risk based on that."

'Massive' labeling study

The Environmental Protection Agency (EPA) has completed a "massive" study on labeling pesticides. These labels are strictly regulated by the Federal Insecticide, Fungi-

cide and Rodenticide Act (FIFRA), which details "exactly what must be on the label, exactly what words to use and much more," according to **Ben Bolusky**, director of Government Affairs for the American Nursery and Landscape Association (ANLA; formerly American Association of Nurserymen).

"It has gradually come to the attention of the EPA that consumers were not reading and/or understanding the labels," says Bolusky. "They found that consumers judged labels on household cleaning products not regulated by FIFRA to be easier to read and understand than those on FIFRA-regulated products."

Regulations to make FIFRA labels more like the labels that were unregulated are being developed and may affect the products that landscape management companies use or train their employees to use.

'Repetitive stress' and workers

Another key work place issue for landscape firms will be standards for 'repetitive motion' or carpal tunnel problems, Bolusky says

"Efforts have been successful in putting a rider in the Department of Labor appropriations bill to prohibit the Occupational Safety and Health Administration (OSHA) from moving forward on this until at least September 1998," reports the ANLA spokesman.

The delay was a successful objective of the 1997 ANLA Legislative Conference, in which many other industry association members participated. ANLA still believes that OSHA should not issue standards prematurely, says Bolusky, "until there has been significant time for an independent and definitive review of available medical and scientific standards—perhaps by the National Academy of Sciences, which is a respected, independent body."

Landscape and nursery work is very labor-intensive, Bolusky notes, and "the di-

versity of operations, products and environments defy easy, sweeping standards."

"Many firms are voluntarily implementing 'ergonomic awareness' and finding they are reducing the level of injuries."

Are your workers legal?

Companies that hire immigrants as casual or seasonal labor, or workers from any immigrant groups, also should be aware that 1998 brings guidelines for three electronic employment verification pilot programs. These were authorized by Congress in 1996 and are expected to be launched in the new year.

The Basic Pilot program will be open for participation by a maximum of 2,000 employers in the five states believed to have the highest number of illegal aliens: California, Texas, New York,

Florida and Illinois. It will verify employees' Social Security Numbers (SSNs) through a Social Security Administration database, using an automated system

The "Citizen Attestation Pilot" will be open to employers in all 50 states and will allow simplified I-9 forms for anyone who attests to being a U.S. citizen or national; they only need a "List B" identification document.

The Machine-readable Document Pilot will first be tested in Iowa and will use a driver's license or state ID card with a machine-readable SSN for magnetic stripe readers.

Water purity on state/local fronts

"We are very concerned about water issues," says **Tom Delaney**, director of Government Affairs for the Professional Lawn Care Association of America (PLCAA), in Marietta, GA.

"We are helping our members with ordinances about phosphorus and storm water runoff guidelines that will be published in the Federal Register."

The problem, Delaney explains, is that "local entities are finding chemicals in water bodies and sewer systems, and are



Bolusky: company safety programs effective.

trying to tie these problems back to home lawn care operations, such as lawn care providers and homeowners."

There is "good research" about the improper use of such chemicals, and problems can be avoided if operators and homeowners follow "best practices," Delaney says, "but this can be an emotional

Notification regs could put some out of business.

issue; regulators look for scapegoats."

PLCAA will be doing a good deal of grassroots lobbying, using a manual recently put together by

the association to educate members before the issue reaches a crisis level, Delaney says.

"We have to educate our members (about proper use of materials) and government bodies (about what the industry is doing to protect water quality)." (The manual is available from PLCAA by phoning 800/458-3400.)

PLCAA also will undertake a "massive effort" in New York state because of a bill introduced about "notification" (the time frame given lawn care operators to let a neighborhood or community know that it will be applying control products).

"We are concerned that this will be a problem if it goes through," Delaney says.

"Some states already have regulations, but it's never enough for some communities; they want to be over-protective."

PLCAA has grassroots educational and lobbying activity about this issue and is working on new legislation about registries of chemical and pesticide users, through a new coalition. Massachusetts will be another key state for this effort.

Air quality, noise reduction, marketing

PLCAA also expects that "air-quality and noise issues are spreading to other communities and issues," Delaney adds.

"For some of these issues, there is no

Golf front: emissions, etc.

Controversial new **clean air rules** on ozone and particulate matter were finalized by the EPA in 1997. Implementation will take several years, reports the Golf Course Superintendents Association of America (GCSAA) and their impact on golf courses, such as proposals to restrict mowing, will materialize at the state level in the next three to five years. Most action on emissions from equipment will be regulatory, reports the GCSAA, although Congress may continue the debate on the 1997 clean air regulations in response to constituent pressure to take action.

Endangered species: enforcement of the Endangered Species Act has affected landowners, reports GCSAA, and reports on its effectiveness in preserving species have varied. Proposed solutions include incentives for landowners to protect endangered species, and generally allow more flexibility in ESA enforcement strategies.

Superintendents are particularly affected by how habitat is defined and by timely decision-making by enforcement agencies.

GCSAA reports major reforms are unlikely although reauthorization is needed to continue funding. GCSAA continues to act on grassroots opportunities, and uses Environmental Principles for Golf Courses to tell the golf industry's position.

Noise: Experts advise that stricter regulations on workers' exposure to noise can be expected. The National Institute on Occupational Safety and health developed recommendations for OSHA to adopt, but there has been no action so far, reports GCSAA. Local governments have been the most active on equipment noise restrictions. Key issues are using leaf blowers (also a problem in landscape applications; and hours when mowers can be used on golf courses adjacent to housing).

GCSAA says it will monitor and report on developments in this area and work with the Outdoor Power Equipment Institute as appropriate

science to deal with them yet," which is why grassroots efforts again will be the key.

An issue that had materialized at press time is a bill in Ohio that makes companies that are publicly traded exempt from certain guidelines for telemarketing activities. "We don't know how bad that may be," Delaney says.



Delaney: issues need scientific validation.

"Lawn care companies are not exempt; you could be in violation if you're servicing or marketing to your own customers, and it could cost a lot of money if you don't comply. We will use grassroots lobbying to go back to the attorney general."

Noise issue gets louder

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All of these issues, at local, state and national levels, reflect a common problem for the Green Industry and many other sectors of the economy, Delaney says.

"The basic fact of legislation, especially new laws, is that proponents often don't think enough of all the implication for all the industries that a new law may affect."

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