



# EPA changes bring uncertainty

*As if the FQPA isn't complex enough, EPA's high-level management changes will bring new faces and unknown agendas.*

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**A**lthough a new Congress will take its place this month, some of the more important issues in pesticide regulation will take place in the halls of the U.S. Environmental Protection Agency (EPA) and local governments, according to David Crow, legislative contact for Responsible Industry for a Sound Environment (RISE), Washington.

On the local front, attempts to ban pesticide use on public lands continue to spread, with wide-ranging effects, reports Fred Langley, RISE manager of state government relations.

Both developments have the potential to change the ways lawn care and landscape managers go about their work.

#### **FQPA tug of war**

The best intentions of legislators may be tested as the EPA plans how it will implement the Food Quality Protection Act (FQPA), Crow notes. Although the agency is charged with fair implementation of the act, many in our industry feel EPA isn't handling it correctly.

For instance, the EPA has an August, 1999 deadline to develop the first third of allowable FQPA tolerances for non-agricultural exposures to pesticides. To set the exposure levels, EPA must rely on either existing exposure data generated from tests (many of which have been conducted in the industry for pesticide certification purposes) or its own worst-case scenarios (an option EPA appears to favor). RISE and other industry groups fear the worst-case scenarios will generate unrealistic numbers for pesticide exposure and unfairly disqualify a number of materials.

"(The EPA) is thinking up worst-possible-case scenarios, which is a terrible way to regulate, especially with all the good usage data that is available," Crow says. "We (the industry) know a lot about exposure, how our products work, our market and the users. We know how people are thoughtful in the use of these products in and around their homes."

EPA's strategy to rely on its own scenarios ignores extensive evidence generated in years of testing by the industry, he adds.



"When the data is available, exposure is a tiny fraction of the model.

"EPA is acting as if we don't have this data and they can't get it readily," Crow points out. "Our exposures are reasonable, quantifiable and within the range of safety for the average family."

As the deadline approaches, RISE and other industry groups are talking with members of Congress, encouraging them to monitor EPA's process for implementing FQPA. The pressure is on to get EPA to determine tolerances for two to three years (based on current information), which would allow additional study, rather than set exaggerated, inflexible exposures in order to meet the August deadline.

Industry lobbying efforts cover two fronts, Crow explains — Congress and EPA. "We'll talk to anyone in Congress who will listen," he notes, to explain that several models are available to determine exposure, that deadlines can be extended to allow reasonable exposure levels to be set and that Congress should ask EPA to be accountable in developing its implementation programs.

When talking with EPA, industry lobbyists explain the development and use of their products, their knowledge of the market and consumer behavior and the their collective, extensive experience with those materials.

"Congress wanted to update the De-laney clause, but they didn't intend EPA to make drastic assumptions within a three-year period," Crow says. "Some members of Congress are confounded by this (EPA strategy). When people understand this is a smart industry and we have done really good work testing the molecules, they'll understand this is not an unknown thing."

He adds, "We have to make the case that no other industry (except pharmaceuticals) is tested and scrutinized as rigorously as ours."

"We'd like Congress to call the top brass

at EPA and tell them, 'We're watching you thoughtfully and if you're not even-handed, we can make changes in the law.'"

#### **EPA's revolving door**

Another area of concern is the new management of EPA. Resignations of key managers such as EPA Administrator Carol Browner and Lyn Goldman, EPA Assistant Administrator for Prevention, Pesticides and Toxic Substances, leave huge gaps in the current leadership.

Yet to be named administrators will eventually fill those positions, overseeing EPA's direction and strategies on pesticide use and exposures. For the pesticide industry, the process gets tricky.

"We don't know who we will be dealing with," Crow points out. "We worked with Lynn Goldman for six years and we understood her viewpoint and negotiating style. The replacements could be someone we already know or someone new."

He notes that the critical element will be how much the replacements understand about the pesticide industry and its issues. "These are big jobs and the administration will have to fill them soon. It will be a crucial period with a lot of questions, and the uncertainty is troubling."

#### **Public protests**

When local ordinances eliminate certain pesticide uses or limit use in even minor ways, those are attempts by pesticide activists to get around the concept of pre-emption, warns Fred Langley. "Most (lawn or landscape contractors) would say, 'That's county business and I don't do business with the county,' but they present barriers to pesticide use."

The phenomenon is spreading, he notes, explaining that ordinances limiting pesticide use on public lands eventually set precedents for land use, which can carry over into land development projects. As an

example, Langley cites permitting processes that ask land developers to consider building pesticide-free housing developments. In Gaithersburg, MD, for instance, developers would have to install all-natural landscapes with no use of pesticides in landscape maintenance. This ordinance and similar strategies are appearing in isolated areas of New York, North Carolina, and Texas, he says.

"The difficult part for us is that while we can track state legislatures and help impact how it comes out, there is no tracking system for local initiatives. By the time we hear about some of these initiatives, the act has already happened," Langley explains.

He notes that there are two different understandings of IPM. "Activists define it as no pesticides, pesticides as a last resort or

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using only the least toxic pesticide." The industry may define it as "using the right product at the right time, choosing from all the tools available based on monitoring and doing what's appropriate."

Look for more local initiatives limiting pesticide use, Langley predicts. "Activists have targeted local issues as the weak underbelly of the industry. Even if you're nonparticipatory, they are busy at the local or county level. Keep an ear to the ground and report any initiatives."

He says that local issues are best handled at the local level. "Pesticides have been villainized but pests are the problem. We've lost sight of what the problem is and we need to hear the other side of the story beyond rhetoric and inflammatory language." □

*The author is Executive Editor of Landscape Management magazine.*