

is children themselves. We are working toward their future. We need to care for trees not just because they are our livelihood, but because they are our responsibility to the future. There is an old saying, "We do not inherit the earth from our parents, but we borrow it from our children". There are no easy answers, but there are many options for action.

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## 3PF—WHAT IT MEANS TO YOU!<sup>1</sup>

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Pesticide applicators today are confronted with a rapidly changing (and generally adverse) environment. Public perception of pesticides and pesticide applicators is at an all time low. Federal, state and local regulation of pesticides increases almost daily. Environmental concerns from ground water contamination to endangered species will continue to generate regulations imposed on applicators for many years to come. And the non-agricultural user of pesticides, those applicators using pesticides in the urban setting (trees, lawns) or for vegetation management (utilities, rights of way, forestry) will face even stiffer rules and regulations due to a perceived lack of "benefits"

from their use of pesticides and the availability of alternatives to the use of pesticides.

This paper first will present legislative and regulatory concerns for the arborist which the Pesticide Public Policy Foundation (3PF) is currently involved with. The issues facing pesticide applicators will undoubtedly have a major impact on the way in which pesticides are used in the future. Next, the paper will review the need for arborists to begin to help formulate reasoned pesticide public policy through cooperation with other pesticide applicator groups. Otherwise, future regulations may jeopardize the pesticide application industry itself.

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### Perception of Pesticides/Media Attention

The American public's perception of pesticides and toxic chemicals today, created generally by the media, environmental groups and a few, but highly effective anti-pesticide activists, is at an all time low. Here's just a few of the stories which the public hears almost on a daily basis:

- pesticide residues on food
- ground water contamination
- farm workers exposed to pesticides
- death of Navy Lt. Prior
- 2, 4-D and Kansas farmers
- data gaps, chronic effects of pesticides unknown
- allergies/sensitivities to pesticides
- dioxins, ageng orange, Love canal

It's no wonder that the public feels the way they do about pesticides after a steady diet of these stories filled, in many cases, with half-truths, innuendos and misinformation. Anti-pesticide activists and environmental groups are presented as experts. Environmental groups, including the National Coalition Against the Misuse of Pesticides, Sierra Club, Audubon Society, National Wildlife Federation, and Environmental Defense Fund, all recognize pesticides, especially when used in the urban setting, as a great issue to strike a nerve with the public.

All of this has created a number of broadly defined issues facing pesticide user industry. It's beginning with the public demanding their right to know more about pesticide use, health and safety issues, and could end up with serious impairments to the applicator's ability to conduct his business.

### Right-to-Know

The public's right-to-know has become an important buzz word among anti-pesticide groups. Communication of this right-to-know is taking many different forms as the issue arises in various locations around the country.

*Prenotification* of pesticide applications has been proposed in many areas, and has already been adopted in some areas. Proposals often include notification of not only the customer but neighbors or abutters as well. Arborists, of course, would be strongly opposed to notification of everyone in the immediate areas of an application.

Some states (RI, MA, MD, NY) have adopted regulations requiring prenotification of tree and lawn pesticide applications as *requested*. This system seems to be working well since only a small minority of people actually request prenotification and it's not overly burdensome to the applicator.

*Posting* after tree and lawn care applications is required in at least half a dozen states, and more are sure to follow. In this particular case, strong industry input into the drafting of the regulations has so far led to the use of signs only at the time of applications. Many groups are in favor of "pre" posting (putting up signs 1-2 days before the application), and should this type of posting become law, applicator costs will significantly increase.

*Central registries* of pesticide-sensitive or allergic individuals are gaining favor in some areas. Pennsylvania now has a registry for individuals with medical evidence of an allergy. The registry is then shared with applicators to allow them to prenotify allergic individuals of impending applications. Industry's reaction to this system has been positive thus far.

*Health and safety information* is frequently required to be passed along to customers. This information generally involves post application safety precautions, but in some cases, labels and MSDS's must be made available.

The newly passed federal *Community Right-to-Know Law* will also require certain pesticide applicators to provide material information to local fire departments and other emergency personnel.

*Local jurisdiction* over pesticides is often an issue which arises out of local right-to-know concerns. Federal legislation as well as legislation in many states often prohibits political entities below the state level from regulating the use of pesticides. Numerous applicator alliances have challenged the right of local governments to regulate pesticides (Wauconda, IL; Prince George County, MD), and in most cases courts have clearly upheld the right of only the federal and state government to regulate pesticides.

### Public Health & Safety

Public concern over the health effects of exposure to pesticides will continue to generate future regulations. Chronic risks from low levels of

long term exposure, particularly in food residues and drinking water are a major concern. Dislodgeable residue and potential exposure after lawn care applications is receiving considerable attention and has been one supposed justification for requiring lawn care posting.

A recent GAO report alleging inadequate EPA testing of most pesticides will surely speed up the federal reregistration of many pesticides to bring them up to current registration standards. At the same time, many states have lost confidence in the EPA's ability to adequately regulate pesticides and protect the public. Thus, some states (CA, MA) will begin to require their own registration data. Both of these developments will surely lead to higher pesticide costs and product loss as manufacturers conclude that the economics of a product simply doesn't justify continued registration.

The public also is increasingly hearing the question of risk/benefit analysis on pesticides used non-agriculturally. Why, some ask, take any risk what-so-ever to simply have a green lawn or control vegetation which could be controlled mechanically? Non-agricultural users of pesticides have not done a good job communicating benefits of their use of pesticides.

### **Employee Health and Safety**

The health of applicators regularly using pesticides is receiving increased attention. Proposed and enacted legislation/regulation in this area alone will add huge costs to applicator companies in the future. Consider the following examples:

- OSHA'S Hazard Communication Standard requiring health and safety information to be shared with employees;
- a newly proposed EPA worker protection standard requiring health monitoring and extensive personal protection equipment;
- strengthened certification and training requirements in most states and the adoption of federal minimum standards for certification and training;
- a narrowly defeated Senate bill which would have required extensive monitoring of the health of employees occupationally exposed to toxic chemicals;

- a newly implemented regulation requiring drivers carrying hazardous substances to carry commercial driver's licenses;
- proposed changes in pesticide labeling which should make them more readable for applicators, yet labels will contain more detailed information than ever.

Employee health issues will undoubtedly drive up the cost of doing business and at the same time make it increasingly difficult to find employees in an increasingly tight labor market.

### **Environmental Concerns**

Numerous concerns for the environment will place further scrutiny on the non-ag pesticide applicator. Concern for the impact of pesticides on endangered species is leading to areas where specific pesticides simply will not be allowed. Wildlife concerns have recently led to the banning of diazinon on golf courses and sod farms. Pesticide container and waste disposal (RCRA, Superfund) has led to volumes of regulation.

The granddaddy environmental concern, however, is ground water contamination. As the EPA concludes its current survey of wells around the country, and more trace amounts of pesticides are found in wells, more and more public misunderstanding, fear, regulation and product loss and restriction are bound to impact pesticide applicators.

### **Legal Issues**

Several legal issues are currently being debated as well. While some of these wouldn't seem to have an immediate impact on the non-ag pesticide user, their long term impact could be immense:

- *User indemnification* on cancelled or suspended products is being debated as part of a new FIFRA bill in Congress. Currently the EPA is responsible for the cost of disposing of cancelled products. Under a new FIFRA bill, this will change. Numerous applicator advocates and trade associations are working to ensure users of pesticides are not responsible for the disposal cost of inventories they have on hand at the time of cancellation.
- *Applicator liability* on issues such as ground water contamination is another issue debated as part of the new FIFRA bill. Farm groups are cur-

rently proposing that their members be exempt from liability should they be able to show they used a pesticide in accordance with all label directions. If this exemption is allowed, should it be extended to the non-ag user as well?

- *Private right of action*, or the ability of a citizen to bring suit against an applicator for pesticide misuse, another issue within the proposed FIFRA bill, could change our thoughts on liability forever.
- *Local regulation* of pesticides continues to be debated at the federal level as well as within many states. Although applicators have won a few battles in this area, the war is far from over. With over 88,000 individual government entities in the US, all pesticide users should easily understand the chaos which would be created should local governments be given the authority to regulate pesticides.

### **Industry/Applicator Response**

Industry's response to many of these issues in the past has not been adequate. It's time industry becomes more proactive in terms of defending the legitimate use of pesticides. The public must be made more aware of pesticide's benefits: regulators and extension people must be better educated on the professionalism which already exists within our user industries, and all of us must work towards reasonable pesticide public policy.

At the same time, applicators need to do all they can to get their own house in order. Applicator training requires the highest priority, and operations must be run squeaky clean. Applicators also need to understand that they must adapt to many

changes on the horizon such as IPM, new application equipment, and new products which will change forever the pesticide application business.

Alliances (local-state-national) of pesticide users need to be formed and become actively involved in pesticide policy formation. A few state alliances, as well as the Pesticide Public Policy Foundation, are already working toward this goal, but the job is immense and much more needs to be done. The opposition, the anti-pesticide forces, are well organized and funded, and network extremely well. Pesticide users need to rise up to face their challenge.

A major goal of the Pesticide Public Policy Foundation is to foster the formation and development of state wide pesticide user alliances. Applicator alliances must be formed rapidly and in as many states as possible to allow applicators to be heard on the many important issues facing them today.

Arborists are a vital component of the urban pesticide applicator industry. 3PF looks forward to working closely with individual arborists, state arborist associations, and the International Society of Arboriculture toward a common goal. For more information on how to become actively involved in 3PF or your local state coalition, call 3PF at 1-800-GET-PPPF.

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