

STRATEGIES

New Show, Old Tricks

New administration could cause floodtide of new and renewed pesticide regulations. BY TOM CRAIN

For the past eight years under President George W. Bush's watch, the pesticide industry has enjoyed mostly calm waters. But now that a new administration under President Barack Obama is marching in with a political brigade of some proven industry adversaries and a newly-published report by 28 influential environmental groups containing strong anti-pesticide rhetoric, Washington insiders are forecasting the spigots to open up on churning seas ahead.

The combination of a Democratic Administration and Congress will no doubt revisit the regulatory focus on a number of industries, products and environmental issues, including the use of pesticides.

Just ask Tom Delaney, director of government affairs for the Professional Landcare Network (PLANET), an international association headquartered in Washington, D.C. PLANET represents the professional lawn care industry before the U.S. Congress and federal agencies such as the Environmental Protection



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Agency (EPA), Department of Labor, Department of Transportation and the Federal Trade Commission.

“The past eight years under President Bush have been fair and less radical, but the industry is expecting a shift back toward more pressure on pesticides

under an Obama administration,” says Delaney.

Allen James, executive director for Responsible Industry for a Sound Environment (RISE) agrees. RISE is a national not-for-profit trade association representing producers and suppliers of

specialty pesticides and fertilizers based in Washington, D.C. “The players are more aggressive and more biased against our industry,” he explains. “We anticipate increased pressures with legislative changes. If there are, they will begin at the congressional level. If it goes to

THE NOT SO MAGNIFICENT 7

1. For the past two years, **Debra Edwards**, Ph.D., Director of the EPA’s Office of Pesticide Programs (OPP), has proven to be a competent scientist and reasonable person, according to pesticide industry representatives who’ve maintained a good working relationship with her. Although she is not a political appointee, most political industry insiders believe she could be influenced by increased pressures from recent political appointees above her who are not favorable toward the pesticide industry.

2. Former EPA Administrator **Carol Browner** will serve as Assistant to the President for Energy and Climate Change. During her tenure leading the Bill Clinton EPA, Browner was instrumental in the passage of the Food Quality Protection Act (FQPA) which broadened the standards that govern the use of pesticides and specifically addressed their effects on human health, particularly that of children.



3. **Lisa Jackson**, President Obama’s pick to head the EPA, is a protégé of Carol Browner whom she previously served while at the EPA working in the federal Superfund site remediation program. In Jackson’s confirmation testimony before the Senate, she outlined the key objectives of her environmental initiatives, which include a hard look at toxic chemicals.

4. Los Angeles Deputy Mayor **Nancy Sutley**, a former member of the California State Water Resources Control Board, has been nominated to lead the White House Council on Environmental Quality. She has a long record of working on environmental and natural resources policy.



5. U.S. Senator **Barbara Boxer** chairs the Environment and Public Works Committee and advocates for greater regulation of chemicals. Boxer said Jackson’s nomination marks a “turning point” for the EPA. “The EPA has hurt people and made them less safe over the last eight years,” Boxer says of the agency under President Bush. “We have an agency and a set of laws that are already in place to do what must be done. But that agency as it was conceived of by President Nixon needs to be awakened from a deep and nightmarish sleep.”



6. U.S. Representative **Henry Waxman** of the 30th District in Los Angeles is the newly-elected chair of the House Energy and Commerce Committee. Like Boxer, he also advocates for greater regulation of chemicals. Waxman has placed toxins under the jurisdiction of the Committee’s consumer protection panel. He was instrumental in the passage of The Food Quality Protection Act (Public Law 104-170) which establishes a comprehensive food regulatory system.



7. U.S. Representative **Dennis Cardoza** of the 18th District in Central California is expected again to chair the House Agriculture Committee’s Subcommittee on Horticulture and Organic Agriculture, which has jurisdiction over pesticides.



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ONE CLICK AWAY

Want to take the first step in being proactive on pesticide regulation this year? PLANET provides a Legislation Overview section of its Web site (www.landcarenetwork.org/cms/legislation/overview.html) that contains information on federal and state legislation, industry position statements, a representative contact page, and a Lawn and Landscape Issues Communication Toolkit for contractors to use to address concerns in their states.

For information on pesticide products, including manufacturers, pests/weeds/diseases they control, usable locations and states permitted for use, visit *Lawn & Landscape's* MSDS page at www.lawandlandscape.com/msds.

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hearings, then legislation may come out of that."

The jury is still out on how President Obama himself may act when it comes to pesticide regulations. But the good news is most political experts in the pesticides industry agree any legislative actions that would constrict small businesses or increase their costs won't be catching the light of the President's day while the economy is in the tank.

A PRO-ACTIVE APPROACH. President Obama's administration will be the fourth James has worked with on pesticide issues. "Throughout the four administrations, one thing has remained fairly consistent – the EPA has continued to take a science-based approach to regulation."

Amy Simpson, spokesperson for TruGreen ChemLawn confirms that "Obama and his incoming administration have emphasized how important it is for policy decisions by the EPA, FDA and other related regulatory agencies to be 'science based.'"

This is one of the reasons that Memphis-based TruGreen ChemLawn, the largest U.S. lawn care company, knows pesticide manufacturers must continue to provide sound and compelling science on safety issues regarding their products.

TruGreen is making a number of proactive efforts to ensure it's prepared, including the establishment of extensive, formal environmental stewardship principles, backed by regular monthly and annual audits within each of its regions; joining the EPA's Pesticide Environmental Stewardship Program (PESP), a voluntary partnership designed to reduce any potential health and environmental risks associated with pesticide use; introducing a new targeted lawn care program designed to limit the amount of pesticides used in applications; and introducing organic lawn care offerings nationwide in 2010.

"Make no mistake, the green industry is often misrepresented and underrepresented," warns Delaney. "Pesticides, in particular, take a beating in the press and in public opinion. And because of that, any more sympathetic ears to anti-pesticide legislation, no matter how slight, can have a large impact."

A good example lies with *The Transition to Green* report endorsed by 28 leading environmental organizations presented to President Obama's transition team. The report delivered a one-two punch directly to the pesticides industry with its top environmental recommendations including environmental affects on water

and children. As a direct result of this report, The Kids Safe Chemical Act (KSCA) and the Clean Water Restoration Act (CWRA) are bills that are expected to be reintroduced early on in the new session of Congress.

Changes just in the definition of what is "navigable" could affect any application near any small water areas such as man-made lakes and ponds, drainage ditches, and the like. The group also points to storm water in urban areas as a problem that needs more regulation. The goal of KSCA is to produce a strong health-based law that presumes industrial chemicals "are guilty of producing a toxic body burden unless proven otherwise." Both these bills have much better chances of being passed this year.

President Obama has signaled that water quality will be a priority with increased funding for water clean-up and restoration efforts and tougher standards for drinking water. Congressional leaders including U.S. Senator Barbara Boxer, D-Calif., began last year by examining a wide range of drinking water contaminants. Some environmental groups are pushing for increased regulatory efforts to reduce pesticide and fertilizer runoff.

"With a year where there is a change in administration, it is more important to be concerned about killing any proposed bills and stopping regulations than focusing efforts on any introductions of new ones concerned with pesticides," says Delaney. "One of the ways that small businesses need to be proactive on these issues is to reach out to the new members of Congress and check out their backgrounds to see if there are any industry connections."

One good example is the election of U.S. Representative Kathy Dahlkemper of Pennsylvania's Third District. She is part owner of Dahlkemper Landscape Architects and Contractors, a major landscaping firm in Erie, Penn., and a PLANET member. For the past 11 years, Rep. Dahlkemper worked as the human resources manager and director of special projects for the firm. She is also cofounder and director of the Lake Erie Arboretum at Frontier Park.

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"We always hear that small business owners don't have the time to be actively involved in pesticide legislation issues," James says. "Instead, they may just hope for the best while focusing on their business. In light of what is going on with increasing pressures (on pesticide legislation and the new administration), hoping for the best won't be enough."

"Anti-pesticide advocates know how to play up emotions," agrees Paul McDonough, chair of PLANET's Government Affairs Committee. "For whatever reason, the green industry tends to shy away from playing that card."

McDonough believes that, for example, if the industry would paint a scenario where the urban dwellers' precious green space would stop being managed by pesticides and other critical tools like they are now, property values, environmental quality, safety and desired aesthetics would be in jeopardy, severely affecting urban quality of life. "That's the type of thing we need to trumpet in front of the media and our legislators," he says.

Both PLANET and RISE advocate that lawn care businesses, particularly now, need to get seriously involved. This means being part of their local lawn care association, becoming active in planning and keeping a thumb in what is going on with the industry.

When lawn care businesses are tuned



out, it can have devastating results, industry experts say. "We have already seen a situation where neighborhood notification for residential pesticide application has become mandatory," James explains. "Do you know what a hassle in cost and time that is for lawn care operators working in this community? If there was pressure from the other side on the local councilperson when the ordinance was being introduced, this probably would never have happened."

Many states in the northeast, particularly Connecticut, Massachusetts, Maryland and New York, are trying to get legislation passed to start allowing local jurisdictions to regulate pesticides. The Long Island Neighborhood Network helped draft and for the past nine years fought for the passage of neighbor notification of pesticide spraying legislation. As a result, New York State enacted a first-in-the-nation Neighbor Notice law. This legislation requires commercial pesticide applicators to notify homeowners living adjacent to the property being sprayed prior to application. The notice must include the location and date of the application, the name of the pesticide(s) being used, and the company's name, telephone number and business registration number.

"Any of the states that border Canada are of particular concern to us," says

have risen to power at the national level (see "The Not So Magnificent 7" on page 76.). Currently in California, state law preempts local governments from creating their own regulations regarding pesticide use; however, there has been a recent attempt by the legislature to eliminate or modify this statewide preemption to allow localized regulation of pesticide use. Additionally, California has passed legislation to eliminate the use of specified pesticides on school sites (AB 405, Montanez, 2005).

With respect to pesticides generally, California's Green Chemistry Initiative aims to minimize the use of toxins and develop "safer" alternatives and, additionally, provide greater information on the use of chemicals in products. Governor Arnold Schwarzenegger recently signed into law regulations authorizing the Department of Toxic Substances Control (DTSC) to identify and prioritize chemicals of concern and develop safer alternatives. Another new law would establish an online Toxics Information Clearinghouse.

Delaney cautions: "Those to watch out for are the career people (within the EPA or other related regulatory agencies) who have had a record of being less balanced on regulating pesticides. If they haven't been successful in the past, they may now have new support from newly-appointed


"Pesticides take a beating in the press and in public opinion. Because of that, any more sympathetic ears to anti-pesticide legislation can have a large impact." – Tom Delaney

James. "Canada has been successful in severely restricting pesticides even when it comes to residential lawns. Because these states share borders, they are influenced by decisions made by their northern neighbor."

As is often the case, California may well serve as a bellwether for legislative efforts at the federal level.

The Golden State has created its own EPA with its own independent review of pesticides. Many home-grown "anti-pesticide" legislators

political officials above them.

"We could see renewed efforts to ban such pesticides as 2,4-D or herbicides such as monosodium methanearsonate (MSMA); however, what could throw a monkey wrench into this type of action is how it could affect small businesses by killing jobs or costing too much," Delaney adds. "That's the industry's ace in the hole for now." 

The author is a freelance writer based in Akron, Ohio.



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