

Three Federal Environmental Acts Important To Aquatic Plant Management

ROY P. CLARK

*Pesticides & Toxic Substances Branch
Environmental Protection Agency
Atlanta, Georgia*

There are three Federal environmental laws that impact on aquatic plant management. These three Acts are being implemented in part while regulations concerning certain specific sections are being promulgated. These Acts are:

- (1) Federal Insecticide, Fungicide & Rodenticide Act, P. L. 92-516, as amended September 28, 1978, Public Law 95-396.
- (2) Clean Water Act as amended November 1978, Public Law 95-576.
- (3) Resource Conservation & Recovery Act, Public Law 94-580.

The Federal Insecticide, Fungicide, and Rodenticide Act (1); The Clean Water Act (2); and the Resource Conservation and Recovery Act (3).

CLEAN WATER ACT

The Congress first approved national water quality legislation in 1948, and has updated it periodically since that time. The 1972 Act (P.L. 92-500) created major changes in Federal water pollution control laws. In contrast, the 1977 legislation—the Clean Water Act—only provides adjustments or mid-course corrections to an on-going program. The 1972 Act set a goal to eliminate pollutant discharges by 1985. It directed that where attainable an interim goal

of water quality, that would provide for protection and propagation of fish, shellfish, and wildlife and provide for water recreation, be achieved by July 1, 1983. The 1977 amendments, briefly stated, were to provide for continued funding, to clearly define responsibilities of the various government agencies, to extend program response to small communities, rural areas, and agriculture, to correct Federal shortcomings (e.g., bring governmental agencies into the same level of compliance as industry), and to expand the program to include new technology and changing philosophy.

Section 311 of the Clean Water Act requires that oil spills in water be reported by the spiller. In addition, EPA has published a proposed hazardous substance list of 299 chemicals that also must be reported. The person or Company is also required by law to clean up the spill. If the Company refuses, EPA cleans the spill. Companies are liable for \$5,000 civil penalties, plus clean-up costs for spills. Failure to report a spill carries a stiffer penalty—\$10,000 fine, or a year in jail, or both.

EPA has issued spill prevention guidelines for oil in non-transport facilities. All facilities are required to develop a containment plan which can be developed by the operator of the facility, but *it must be approved by a professional engineer*. Each plan must specify some form of secondary containment in the event of an oil spill. For example, containment can be in the form of dikes or if not feasible, catch basins may be used to control drainage. If neither of these are feasible, the facility may choose to use a high-level alarm on storage tanks.

Each EPA Regional Office has an Emergency Response Team that responds to hazardous spills and other environmental emergencies. We encourage anyone with knowledge of an unreported spill to contact either the EPA Regional Office or the U. S. Coast Guard to report details of the spill. We need to know what chemical is involved, site and quantity of the spill, how the spill happened, status of clean-up, and any other relevant details.

The U. S. Coast Guard in Washington has a 24-hour toll free number for reporting spill information:

800/424-8802

EPA also has a 24-hour number for reporting environmental emergencies:

404/881-4062

RESOURCE CONSERVATION & RECOVERY ACT

The Resource Conservation and Recovery Act (RCRA) of 1976 (P.L. 94-580) amends the Solid Waste Disposal Act in five major areas. It provides for:

- 1) A hazardous waste regulatory program
- 2) A program to eliminate open dumping
- 3) Financial and technical assistance
- 4) Grants to rural communities
- 5) Authority for research, demonstrations, and studies

One primary aspect of the Act is new controls over hazardous wastes. The law directs EPA to identify which wastes are hazardous and to prescribe proper methods for labeling, packaging, transporting, and disposing of such wastes. EPA has now developed proposed regulations for

hazardous wastes regulation from generation to disposal. Final regulations are due January 1980.

Discarded hazardous wastes are defined as material which:

- 1) Is not re-used (i.e., abandoned or committed to final disposition),
- 2) Is re-used (including materials treated prior to re-use) in disposal, or
- 3) Is used in lubricating, hydraulic, transformer, transmission or other cutting oil incinerated or burned as fuel.

Criteria for identifying hazardous waste and a hazardous waste list have been published as 40 C.F.R. 250 in the Federal Register of December 18, 1978. If the waste is on this list, the generator must run the test indicated. If the waste is not listed, the generator must test his waste for ignitability, corrosivity, reactivity, and toxicity according to the tests in the *Federal Register*. Empty pesticide containers, i.e., bags, bottles, drums, etc., are hazardous wastes. An aquatic plant manager is a hazardous waste generator unless he generates less than 220 pounds per month.

Any person who produces and disposes of less than 220 pounds (100 kilograms) per month is not a generator provided that the waste is disposed of in a sanitary landfill or is shipped to a hazardous waste facility for treatment, storage, or disposal.

A farmer disposing of pesticides is not a generator if he disposes of the product in accordance with label instructions or EPA-approved procedures, and triple-rinses each emptied container. The rinsate shall be used as make-up water in a tank mix or applied at an application rate consistent with label instructions.

All generators of hazardous waste are subject to standards designed to protect the public health and environment. Requirements have been proposed for:

- Record keeping and reporting
- Labeling and use of appropriate containers
- Furnishing information on chemical composition to persons transporting, treating, storing, or disposing of hazardous waste
- Developing and maintaining a manifest system standards for treatment, storage, and disposal facilities.

FIFRA

The third Federal law to impact on aquatic plant managers is the Federal Insecticide, Fungicide, and Rodenticide Act. FIFRA, of course, is a regulatory authority for the registration, labeling, and use of pesticides, including aquatic herbicides.

There are three types of registered pesticides currently being used by aquatic managers:

- 1) Those with EPA (or Federal) registrations
- 2) Those with State registrations to meet special local needs
- 3) Those with intrastate labels only that were being used in the State prior to October 4, 1975, and for which the registrant filed a notice of intent to register with EPA.

The 1978 amendments to FIFRA are extensive and discussion will be limited to those amendments which primarily affect users. "Use inconsistent with the label" has been re-defined. Permitted uses include those at less than label dosage, frequency, or concentration, and against an unspecified pest provided the crop, site, or animal is specified on the label. Neither is a use inconsistent if the method of application is not specifically prohibited, and when mixing with a fertilizer if not specifically prohibited.

The Act now clearly defines that a certified applicator who holds or applies registered pesticides to provide a service is not a seller or distributor. However, the applicator must not deliver any unapplied pesticide to the person served.

The amendments provide additional authorities to States. States no longer need a State Plan to register pesticides to meet special local needs, and EPA may not disapprove a registration for lack of essentiality. However, there are still stringent controls on the states. A State may not issue a registration for food or feed use if a tolerance is lacking, and potable water is considered as a food. A State registration may be disapproved by EPA if it creates an imminent hazard. Section 24(c) Regulations should be issued in July,

1979. Also, Regulations under section 5(f) should soon be issued to provide for State issuance of experimental use permits.

States are being granted primary enforcement responsibility for use violations, provided that the State has adequate laws and enforcement procedures in place. Five States in the Southeast with enforcement grants have been delegated this authority automatically: Florida, Kentucky, Mississippi, North Carolina and Tennessee. The States of Alabama, Georgia and South Carolina have received delegation of authority on the basis of their approved State Plans for certified applicators.

Most aquatic weed control personnel have been certified by States as commercial pesticide applicators in their specific category. They are knowledgeable about the hazards that can occur from misuse or misapplication of pesticides, hazards not only to humans, but particularly to the aquatic environment. In summary, it is necessary to maintain awareness of the need to continue to exercise good judgment in the use and disposal of pesticides and it is important that we continue to work together so that our land and water resources, and our human environment, may be continually improved.