



July 2017

Subject: Primacy of FIFRA in Pesticide Regulation

Background:

NALP members help homeowners and businesses maintain their lawns and landscapes and take pride in their communities. Pesticides are an important tool in maintaining green spaces and protecting people and property from pests, such as ticks, mosquitoes and rodents that can carry diseases. They are also used to control weeds that can exacerbate allergies. Unfortunately the use of these beneficial EPA approved products is threatened due to burdensome administrative requirements under the Clean Water Act (CWA) and Endangered Species Act (ESA). Before a pesticide can be used by a licensed lawn care applicator, the EPA must register the product. EPA's vigorous scientific review under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) thoroughly accounts for the potential impact of pesticide products on water quality, endangered species and their habitat. Regulation under other statutes is unnecessary.

Since 2011, some uses of pesticides require burdensome Clean Water Act National Pollutant Discharge Elimination System (NPDES) permits due to a 6th Circuit decision. These permits are typically used to regulate pollutants from factories and other point sources and are not appropriate for applications of EPA-approved pesticides. The new permits have added costly paperwork and reporting requirements for aquatic pesticide applications without providing any additional environmental protections. NALP members are concerned about the liability the permits create, leaving them vulnerable to lawsuits under the CWA. In addition, the permit requirements vary from state to state, causing confusion for lawn care providers that operate in multiple states. The Reducing Regulatory Burdens Act (H.R. 953) and Sensible Environmental Protection Act of 2017 (S. 340) would clarify duplicative NPDES permits are not needed the application of EPA-approved pesticides. The House passed H.R. 953 on May 24, but the Senate has yet to act on S. 340.

REQUESTED ACTIONS:

- **WE HOPE THAT THE SENATE WILL PASS THE SENSIBLE ENVIRONMENTAL PROTECTION ACT (S. 340).**
- **CONGRESS, EPA AND THE SERVICES SHOULD WORK TOGETHER TO FIND COMMON SENSE APPROACHES TO PROTECTING ENDANGERED SPECIES WHILE ALSO RECOGNIZING THAT THE FIFRA REGISTRATION PROCESS FULLY ACCOUNTS FOR IMPACTS TO ENDANGERED SPECIES AND THEIR HABITAT.**

Pesticide applications are also being limited by lawsuits related to Endangered Species Act (ESA) consultations. The EPA has been sued on numerous occasions for its failure to consult with the Fish and Wildlife Service and the National Marine Fisheries Service (the Services) about the impact of EPA-registered pesticides on endangered species and species habitat. While the focus of these lawsuits are procedural, the actual impact could mean the loss of vital pesticide products that are important tools in maintaining green spaces and also protecting people from tick and mosquito-borne diseases, such as Lyme Disease, West Nile Virus and the Zika Virus.

EPA and the Services have different approaches to pesticide risk assessment and the consultation process is broken. We hope that Congress, EPA and the Services can work

together to find common sense approaches to protecting endangered species while also recognizing that the FIFRA registration process fully accounts for impacts to endangered species and their habitat.