

Fertilizer in the Bull's-Eye



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Lawn pros cite lack of flexibility, need for consistency as new fert laws kick in



The State of New Jersey and a growing number of regions, citing environmental concerns, are enacting laws outlining the types of lawn fertilizers that can be used and when they can be used.

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There's a reason why only physicians are allowed to prescribe medicine. Our society has determined that it takes proper training, licensing and oversight to ensure that medicines provide a benefit rather than a danger.

The same approach has begun to be taken with lawn fertilizers, which can be tremendously helpful if used properly, but also pose environmental risks when misused. Due to research showing that fertilizer runoff – particularly phosphorus and nitrogen – is causing unintended consequences to the environment, a growing number of states are enacting laws to control the types of lawn fertilizers that can be sold, when they can be put down and who can apply them. For lawn care professionals in those states, that means new rules to work within. Some report that the disruption is minimal, while others say that the new fertilizer laws are creating confusion.

In 2011, New Jersey passed the first and probably most restrictive state lawn fertilizer regulations in the United States. Among other things, this law put in place a training and certification process (those who have been trained but have not passed the certification test can only apply fertilizer under the direct supervision of a certified applicator). It also set limits on what types of fertilizer can be applied, and when.

Carl Bombardieri, owner of Bombardieri Lawn Care in Hopatcong, N.J., says he isn't opposed to controlling fertilizer applications, but the manner in which

the law was instituted has left a lot to be desired. "I live in a lake community, so I believe in the need to prevent phosphorus from getting into the water," he states. "Things needed to be contained and restricted a little bit, because we had people out there spreading fertilizer who didn't know anything about it. So the training was good, but the way they went about it wasn't. They just sort of shoved it in our faces."

He says that lawn care pros were given too little time to get trained and certified: just a couple of months before the 2012 spring season kicked off. Bombardieri adds that the online training posed another challenge: "Younger people are used to taking classes online, but for the older people – I'm 54, so I'm not super high-tech – it was a little tougher. But I got through it."

The New Jersey law limits when fertilizers containing phosphorus can be applied, but Bombardieri says he hasn't been impacted by this particular regulation. "I've been phosphorus-free for about eight years. In general, I don't think the turf needs it and I believe it makes things harder down the road by creating more turf disease," he explains. "If you take a soil test and the soil needs phosphorus, or you're doing a reseeding, you're still allowed to use it, so that's not a problem."

Calendar dates unnecessary

However, Bombardieri says that the calendar-based restrictions on fertilizer applications have impacted his business. For example, late-season fertilizer applications have to stop by Dec. 1. "We have to be done by that date. For a smaller company like mine, that's lost revenue. For the bigger companies, it means laying people off earlier," he explains. "I completely understand that if the ground is frozen there will be runoff – and runoff into lakes and streams and waterways is the biggest thing they're trying to prevent – but the ground isn't frozen on December 1 here."



Bombardieri says he would like to see the state reconsider how that end of season cut-off date is set, perhaps based more on actual conditions than on a predetermined calendar date. He says that New Jersey's new beginning date – March 1 – doesn't pose a hardship for his business. "I don't go out there before March 15 anyhow," he says.

But Mike Epstein, who operates Lawn Sheriff in Woodbury, N.J., says he already has felt an impact from the hard start date included in the new fertilizer law. "Last year, we had a really mild winter and we were hitting 55 degrees in January. So, in my own opinion, the first preemergent application should have gone down a few weeks earlier than allowed," he recalls. "We ended up getting a lot of crabgrass so I took a hit and had a lot of explaining to do to customers. That also meant that I had to put down extra material later on to control it."

Epstein also feels that actual weather conditions should somehow dictate when fertilizer can be put down rather than firm calendar dates: "They definitely need to adjust that part of it."

Otherwise, though, he says the fertilizer law hasn't impacted his business too much. "I don't have any problem with them taking phosphorus out of the fertilizer. Basically, the only time I would need it anyway is if I were seeding a lawn," says Epstein. He does, however, wonder if the regulation governing the makeup of lawn fertilizer sold within the state may have resulted in higher costs for fertilizer in New Jersey. "There were definitely some pretty significant price increases this year," he states.

Otherwise, Epstein says, the requirements of the new state law haven't had a huge impact in how he operates his business. "A lot of the law is common sense, and I've always been somebody who has followed laws and regulations to the letter," says Epstein. That includes keeping good records of what fertilizers he's put down on specific lawns and the timing and rate of application, he notes, so the new law hasn't posed any extra burden in that regard.

"The only big problem I have with it is that they're targeting the commercial applicators. I feel that if they want to make a law like this, it should apply to homeowners, too." While the law does limit what types of fertilizers homeowners can purchase and when they can be put down, Epstein says that there is no training requirement for DIYers, and enforcement seems to be a focus only on the commercial side.

Epstein also seconds the notion that the online-only fertilizer training can be challenging for some people accustomed to more traditional educational settings. "It's not like a seminar or a class where there's an instructor giving you a lot of tips and summaries," he explains. "There's a lot of intense reading. For me, reading anything on the computer gives me a headache. If they had booklets they could have mailed out, that would have been better."

Why the rush job?

He says the speed with which the law was passed and put into effect left everyone scrambling, from those at Rutgers University charged with creating the training to professional applicators across the state who needed to be trained and certified in just a couple of short months before they could put down any fertilizer.



In Maryland, a similar situation is taking place right now. That state has already passed a law similar to New Jersey's that will require that all commercial lawn fertilizer applicators become certified. That law will take effect on Oct. 1, 2013, and as of press time there still was no final training curriculum or test created. "We're close to having a training manual finished and when we do it will be put up online," explains Judy McGowan, urban nutrient management specialist with the Maryland Department of Agriculture. "We also plan to have in-person training for those who want it, but we don't have anything scheduled yet."

The training, she says, will include topics such as the benefits and hazards

of applying fertilizer; environmental impact; use and calibration of equipment; laws and regulation; interpretation of fertilizer labels; and University of Maryland recommendations. "It's mainly aimed at making sure people who are new to the industry have a certain minimum level of competence before they go out and start spreading fertilizer," McGowan explains. "For people who already have a pesticide license, a lot of it will be a repetition of what they've learned already."

After completing the training, lawn care professionals will then have to pass a test in order to become certified. Not every lawn tech within a company needs to be certified, says McGowan. "They either have to be certified or work under the direct supervision of someone who is," she states.

The state explains the purpose of the law this way: "Nutrients, primarily nitrogen and phosphorus, are key ingredients in lawn fertilizer. When it rains, excess nutrients can wash off the land and into the streams and rivers that feed the Chesapeake Bay. Once in our waterways, excess fertilizers fuel the growth of algae blooms that block sunlight from reaching Bay grasses, rob the water of oxygen and threaten underwater life."

Among other things, the new law will limit the total amount of nitrogen that can be applied on lawns in each application (.9 pounds per 1,000 square feet), and can apply only .7 pounds of water soluble nitrogen per application. It also will prohibit the use of lawn fertilizers containing phosphorus, except in the case of starter fertilizers. Soil tests already are required to be completed every three years in Maryland. The new law will enact restrictions on when fertilizer can be put down – professional applicators, for example, can't put down any nitrogen or phosphorus between Dec. 1 and March 1.

Homeowners are not completely exempt in the new law: They cannot apply fertilizer after Nov. 15, for example, and can't apply fertilizer with phosphorus unless a soil test indicates a need for it or a new lawn is being started. They also must follow University of Maryland recommendations for lawn fertilizer applications.

Lots of questions remain

McGowan says she's had many inquiries from lawn care professionals in the state eager for more details on when the training and certification process will begin. Ron Miller with Super Lawns in Rockville, Md., says he has plenty of questions. "There's supposed to be a training program already, but they haven't created one yet," he says. Given the cost and time it will take to get employees trained, "right now, the logistics is what concerns me the most," he says.

Maryland has already enacted regulations to remove phosphorus from most lawn fertilizers. "It's made a major difference in what's for sale, but that part hasn't really impacted us. We haven't put down phosphorus in fertilizers in years," says Miller. "The soils have enough phosphorus, so we don't bother putting it down."

The aspect of the new law he is concerned about is the limited window for

when fertilizer can be applied. "They want everything done by the first of December, but a lot of times the leaves are still on lawns at that point. So I'm not sure what we're going to do," says Miller, adding that it's likely he's going to have to have more employees at that time of the year to get the big late-season fertilization rush done before the deadline. Similarly, in years with warm weather, fertilization has been able to start in February in the past. Now he's worried he'll be forced to sit around and wait, or apply a different type of fertilizer (straight potash) that won't be as beneficial for the lawns. Miller says Super Lawn's goal is to try to service a good number of customers in a timely manner with a reasonable amount of employees – and he's worried the new law will prove to be a challenge in that regard.

While state fertilizer laws may be a concern to some, lawn professionals in Florida say there's something even worse: a patchwork of local and county regulations, on top of state rules. Florida's Department of Environmental Protection has endorsed a fertilizer "Best Management Practices" program created by the University of Florida. Training programs are conducted during the winter months to allow lawn care professionals to become trained and certified in these BMPs. However, some counties and local governments have enacted their own fertilizer regulations, leading to some confusion within the industry.

"Florida has not adopted any one fertilizer law, there's really a multitude different counties having their own," explains Roger Collins with McCall Service in Jacksonville. There, in Duval County, the regulations aren't as strong as they are some other counties, he says. For example, there are no fertilizer blackout dates in that county. "But we also have an office in Marion County and an office in Tampa, so the people we have working there have to follow different guidelines than we do up here," Collins explains. "We have to keep our techs abreast of everything, because if we borrow techs from one area to another, they have to be aware of the different rules and regulations."

Even in areas without county regulations, Collins says that McCall Service as a company adheres to the state BMPs. He's hoping that one uniform set of reasonable statewide rules can be implemented in Florida to cut down on the confusion. "That would make it easier for everyone to understand, and to police, as well," he explains.

Lawn Medic is another service provider that operates in multiple counties in Florida (Lee and Collier counties). Fortunately, regulations in those two counties are essentially the same, says owner Keith Krueger. "In that sense, it has not been too much of a challenge," he explains. There are some local fertilizer ordinances, though, and that makes things really tricky, Krueger points out: "Sanibel Island, for example, has their own licensing. So we choose just not to work there."

The fertilizer law passed in New Jersey superseded all existing municipal regulations and became the law for the entire state. Krueger says that Florida has been trying to declare that the existing best management practices guidelines are what regulates fertilizer applications across the state, and that counties cannot pass their own laws. "We keep hearing about

it, but that hasn't happened yet," he notes. "It would certainly be easier if there was one set of rules."

Local governments, says Krueger, sometimes don't even look at the program that's been created by the University of Florida and the science behind those best management practices: "They think that if there's a 3-foot barrier, then 15 feet must be better, when that's not necessarily the case. So we continually have to watch local rules and be aware of them," he explains.

Equally frustrating, says Krueger, is the presumption by some county lawmakers that lawn care professionals are "the bad buys" in the debate of regulating fertilizer. "The guys who are doing lawn care, most of us think we're the stewards of the environment. We do not want to pollute," says Krueger. "We also need to make money, so we're not going to over-fertilize. We're going to be using label rates and following the correct procedures, because the cost of fertilizer is continually going up."

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