

330 CMR: DEPARTMENT OF AGRICULTURAL RESOURCES

330 CMR 31.00: PLANT NUTRIENT APPLICATION REQUIREMENTS FOR AGRICULTURAL LAND AND NON-AGRICULTURAL TURF AND LAWNS

31.01: Purpose

330 CMR 31.00 establishes limitations on the application of plant nutrients to lawns and non-agricultural turf to prevent these non-point source pollutants from entering the surface and groundwater resources of the Commonwealth of Massachusetts. These state-wide limitations on plant nutrient applications will enhance the ability of municipalities to maximize the credits provided in the National Pollution Discharge Elimination System permits issued by the United States Environmental Protection Agency. 330 CMR 31.00 further ensure that plant nutrients are applied to agricultural land in an effective manner to provide sufficient nutrients for plant growth while minimizing the impacts of the nutrients on water resources in order to protect human health and the environment.

31.05: Limitations on the Application of Phosphorus Containing Fertilizer; Requirements for the Application of Plant Nutrients and Phosphorus Containing Fertilizer to Non-agricultural Turf and Lawns

- (1) The following shall apply to Phosphorus Containing Fertilizer:
 - (a) No Person may purchase and apply, or authorize any Person, by way of service contract or other arrangement, to apply any Phosphorus Containing Fertilizer on Non-agricultural Turf or Lawns except under the following conditions:
 1. Soil Test, taken not more than three years before the application, indicates that additional phosphorus is needed for growth; or
 2. The Phosphorus Containing Fertilizer is used to establish new Lawn or new Non-agricultural Turf area.

A new Lawn or Non-agricultural Turf area shall be defined as bare ground or as part of a Renovation. The use of phosphorus for these purposes shall be limited to the first growing season.
- (2) The following shall apply to Animal Manure, Fertilizer, Organic Compost, Natural Organic Fertilizer, Biosolids, Agricultural Byproducts, Digestate, or combination thereof:
 - (a) The amount of nitrogen and phosphorus must be known and accounted for;
 - (b) A Soil Test is taken prior to the initial application;
 - (c) Application of these materials shall not exceed the maintenance phosphorus rates for Non-agricultural Turf or Lawn as specified in *UMass Guidelines*; and
 - (d) The requirement in 330 CMR 31.05(2)(a), (b), and (c) shall not apply to:
 1. A single application made within a 12 month period at an application rate not to exceed 0.25lbs of P₂O₅ per 1,000 square feet; or
 2. Any product used containing 0.67% or less available P₂O₅.
- (3) In addition to the requirements of 330 CMR 31.00, any application of Biosolids to

Non-agricultural Turf and Lawns shall comply with the requirements of 310 CMR 32.00: *Land Application of Sludge and Septage*.

(4) For applications of Plant Nutrients, including Phosphorus Containing Fertilizer, to Non-agricultural Turf and Lawns, no applications shall be made:

- (a) To Frozen Soil, Snow Covered Soil, Saturated Soil, Frequently Flooded Soils, or soils when flooding is expected. An expectation of flooding includes, but is not limited to a prediction of Heavy Rain;
- (b) Within 20 feet of Surface Waters, if using a broadcast application method,
- (c) Within ten feet of Surface Waters, if using a drop spreader or rotary spreader with a deflector or a targeted spray;
- (d) Within a Zone I of a Public Water Supply Well;
- (e) Within 100 feet of Surface Waters that are used for public water supplies;
- (f) In an amount that is inconsistent with the annual recommended rate established by the *UMass Guidelines* for turf;
- (g) To any Impervious Surface, including parking lots, roadways, and sidewalks, by means of direct application, spills, overspray, or run-off to impervious areas;
 - 1. if such direct application, spills, overspray, or run-off occurs, the product material must be cleaned completely from the surface and be either:
 - 2. contained or disposed of legally; or
 - 3. applied to Non-agricultural Turf or Lawn as allowed.
- (h) For the purpose of de-icing Impervious Surfaces; or
- (i) To drought dormant, cold dormant, inactive or otherwise brown turf.

(5) Should *UMass Guidelines* not be available when referenced in 330 CMR 31.00, the applicator or operator must follow the equivalent extension service standards or standard industry practices until such time that *UMass Guidelines* become available.

31.06: Soil Testing for the Application of Plant Nutrients, Including Phosphorus Containing Fertilizer, to Non-agricultural Turf and Lawns

(1) Soil Tests shall be valid for three years and only for the Management Unit on which the sample was collected. Any subsequent phosphorus applications to the same Management Unit shall be based on the results of a valid Soil Test.

(2) Standard Soil Test analyses shall be conducted by a laboratory using methods and procedures recommended by *UMass Guidelines*.

31.07: Record Keeping Requirements for Applications of Plant Nutrients or Phosphorus Containing Fertilizer to Non-agricultural Turf and Lawns

(1) Any Person who applies Plant Nutrients or Phosphorus Containing Fertilizer to Non-agricultural Turf or Lawns shall maintain records of each application. The following information shall be recorded electronically or *via* hard copy:

- (a) Name of Applicator;
- (b) Date of application;
- (c) Address or location description of the application site;
- (d) Soil Test results for the property or Management Unit;
- (e) Name of product applied;
- (f) Size of the area on which the application is made;
- (g) Representative nutrient value or analyzed values, or guaranteed analysis;
- (h) Method and rate of application; and
- (i) Total amount used.

(2) Records shall be kept for at least three years, may be kept electronically or in hard copy format, and shall be made available for inspection by the Department upon request.

(3) The record keeping requirements in 330 CMR 31.07 shall not apply to any Person making Non-professional applications of Plant Nutrients.

31.09: Enforcement; Assessment of Civil Penalty

- (1) The Department may impose a fine on any Person who violates any provision of 330 CMR 31.00 as follows:
 - (a) Not more than \$250 for a first violation, \$500 for a second violation, and \$1,000 for a third or subsequent violation; and
 - (b) Each day a violation occurs under 330 CMR 31.00 is a separate violation.

- (2) In assessing a fine imposed under 330 CMR 31.09(1), the Department shall give consideration to the following:
 - (a) The willfulness of the violation, the extent to which the existence of the violation was known to the violator, but uncorrected by the violator, and the extent to which the violator exercised reasonable care;
 - (b) Any actual harm to human health and safety or to the environment, including injury to, or impairment of, the use of the waters or the natural resources of the Commonwealth;
 - (c) The nature and degree of injury to, or interference with, general welfare, health, and property;
 - (d) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health and safety; and
 - (e) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

31.10: Appeal

Any Person aggrieved by any decision of the Department over the assessment of a fine imposed under 330 CMR 31.00 may appeal by filing a notice of appeal with the division of administrative law appeals within ten days of receipt of the notice of the fine pursuant to the provisions set forth in M.G.L. c. 128, § 2(k).

31.11: Exemptions

Educational institutions and researchers may apply to the Department for an exemption to 330 CMR 31.00 for research, education, and demonstration purposes.

REGULATORY AUTHORITY

330 CMR 31.00: M.G.L. c. 128, §§ 2(k) and 65(A).