

CHAPTER 112

AN ACT concerning the application, sale, and use of fertilizer, amending and supplementing P.L.1970, c.66, and supplementing Title 58 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.58:10A-61 Definitions relative to the application, sale, use of fertilizer.

1. As used in sections 1 through 9 of this act:

“Commercial farm” means the same as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

“Department” means the Department of Environmental Protection.

“Fertilizer” means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, designed for use or claimed to have value in promoting plant growth, and sold, offered for sale, or intended for sale; except that it shall not include unmanipulated animal or vegetable manures, agricultural liming materials, wood ashes, or processed sewage wastewater solids.

“Impervious surface” means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

“Local health agency” means the same as that term is defined pursuant to section 3 of P.L.1975, c.329 (C.26:3A2-3).

“Manipulated animal or vegetable manure” means manure that is ground, pelletized, mechanically dried, or otherwise treated to assist with the use of manure as a fertilizer.

“Person” means any individual, corporation, company, partnership, firm, association, political subdivision, or government entity.

“Professional fertilizer applicator” means any individual who applies fertilizer for hire, including any employee of a government entity who applies fertilizer within the scope of employment.

“Slow release nitrogen” means nitrogen in a form that is released over time that is not water soluble.

“Soil test” means a technical analysis of soil conducted by a laboratory authorized by the New Jersey Agricultural Experiment Station at Rutgers, the State University, pursuant to section 6 of this act.

“Turf” means land, including residential property and publicly owned land, that is planted in closely mowed, managed grass, except golf courses or land used in the operation of a commercial farm.

“Waterbody” means a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

“Water-soluble nitrogen” means nitrogen in a water-soluble form that does not have slow or controlled release properties.

C.58:10A-62 Actions prohibited when applying fertilizer.

2. a. No person shall:

(1) apply fertilizer to turf when a heavy rainfall, as shall be defined by the Office of the New Jersey State Climatologist at Rutgers, the State University, is occurring or predicted or when soils are saturated and a potential for fertilizer movement off-site exists;

(2) apply any fertilizer intended for use on turf to an impervious surface, and any fertilizer inadvertently applied to an impervious surface shall be swept or blown back onto

the target surface or returned to either its original or another appropriate container for reuse;
or

(3) apply fertilizer containing phosphorus or nitrogen to turf before March 1st or after November 15th in any calendar year, or at any time when the ground is frozen, except as provided otherwise in subsection b. of this section.

b. No professional fertilizer applicator shall apply fertilizer containing phosphorus or nitrogen to turf before March 1st or after December 1st in any calendar year, or at any time when the ground is frozen.

C.58:10A-63 Additional requirements.

3. a. In addition to the requirements set forth in section 2 of this act, no person, other than a professional fertilizer applicator, shall:

(1) apply fertilizer to turf in an amount that is more than an annual total of 3.2 pounds of total nitrogen per 1,000 square feet, except as provided otherwise in subsection b. of this section; or

(2) apply fertilizer containing: (a) nitrogen that is less than 20 percent slow release; (b) nitrogen to turf at a rate of more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application; or (c) nitrogen to turf at a rate of more than 0.9 pounds of total nitrogen per 1,000 square feet per application, except as provided otherwise in subsection b. of this section.

b. No professional fertilizer applicator shall:

(1) apply fertilizer containing nitrogen to turf at a rate of (a) more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application, and (b) more than one pound of total nitrogen per 1,000 square feet per application; or

(2) apply fertilizer to turf in an amount that is more than an annual total of 4.25 pounds of total nitrogen per 1,000 square feet.

c. (1) No professional fertilizer applicator may apply fertilizer to turf without first obtaining a fertilizer application certification, or training if applying fertilizer under the direct supervision of a certified professional fertilizer applicator, pursuant to section 4 of this act.

(2) No person, other than a certified professional fertilizer applicator or a person trained and under the direct supervision of a certified professional fertilizer applicator, may apply fertilizer to a golf course.

d. Except as provided otherwise in subsection e. of this section, no person may apply fertilizer containing phosphorus unless the person:

(1) determines that the fertilizer is necessary for the specific soils and target vegetation pursuant to a soil test performed no more than three years before the application, and pursuant to the associated annual fertilizer recommendation issued by the New Jersey Agricultural Experiment Station at Rutgers, the State University;

(2) is establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the rules and regulations adopted pursuant thereto;

(3) is reestablishing or repairing a turf area; or

(4) is delivering liquid or granular fertilizer under the soil surface directly to the feeder roots.

e. A person may apply fertilizer containing phosphorus to turf if the fertilizer consists of manipulated animal or vegetable manure, includes no more than 0.25 pounds of phosphorus

per 1,000 square feet when applied pursuant to the instructions on the container, and otherwise complies with the provisions of this act.

f. (1) Except as provided otherwise in paragraph (3) of this subsection, no person shall apply fertilizer containing phosphorus or nitrogen to turf within 25 feet of any waterbody, except that where a drop spreader, rotary spreader with a deflector or targeted spray liquid is used for fertilizer application, the buffer may be reduced to 10 feet.

(2) The establishment of buffers for fertilizer application pursuant to paragraph (1) of this subsection shall not preclude the establishment or applicability of, or compliance with, any other environmental standards established pursuant to any other State or federal law, rule or regulation.

(3) A professional fertilizer applicator may apply a rescue treatment to turf in a buffer area established pursuant to paragraph (1) of this subsection.

As used in this paragraph, "rescue treatment" means a fertilizer application, consistent with the nitrogen content applied by a professional fertilizer applicator pursuant to paragraph (1) of subsection b. of this section, applied no more than once a year to an area between 10 and 25 feet of a waterbody.

g. No person may apply fertilizer to turf exceeding the nitrogen standards set forth in subsections a. and b. of this section, unless the person is establishing vegetation for the first time, such as after land disturbance, provided the fertilizer application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the rules and regulations adopted pursuant thereto.

C.58:10A-64 Fertilizer application certification program.

4. a. The New Jersey Agricultural Experiment Station at Rutgers, the State University, shall, in consultation with the Department of Environmental Protection, establish a fertilizer application certification program. The certification program shall provide professional fertilizer applicators with training and education in at least the following subject areas:

- (1) the proper use and calibration of fertilizer application equipment;
- (2) the hazards involved in, and the environmental impact of, applying fertilizer, including nutrient pollution to the State's waterbodies;
- (3) all applicable State and federal laws, rules and regulations;
- (4) the correct interpretation of fertilizer labeling information; and
- (5) the best management practices developed by the New Jersey Agricultural Experiment Station for nutrient management in turf.

b. In establishing a fertilizer application certification program, the New Jersey Agricultural Experiment Station may:

- (1) charge reasonable fees, including, but not limited to, an annual re-certification fee, to cover costs associated with the certification program;
- (2) require continuing education or training for certified professional fertilizer applicators;
- (3) designate one or more qualified organizations to train, certify, and recertify professional fertilizer applicators and provide that a designated organization may charge fees to cover reasonable costs associated with the certification training and education; and
- (4) recognize the training program of any person employing professional fertilizer applicators if it meets the certification and recertification training and education standards established by the program pursuant to this section.

c. The New Jersey Agricultural Experiment Station shall conduct examinations to certify that an applicant possesses sufficient knowledge of the State and federal laws, rules and regulations, standards and requirements applicable to the use and application of fertilizer. No person may take the certification examination until the New Jersey Agricultural Experiment Station determines that the applicant has obtained the education and training established by the fertilizer application certification program pursuant to this section.

d. An application for certification shall be made in a manner and on such forms as may be prescribed by the New Jersey Agricultural Experiment Station. The filing of an application shall be accompanied by an application fee that shall cover the costs of processing the application and developing and conducting the examination.

e. The New Jersey Agricultural Experiment Station shall, in consultation with the department, establish a training program for those professional fertilizer applicators who will apply fertilizer only under the direct supervision of a certified professional fertilizer applicator. The New Jersey Agricultural Experiment Station shall establish minimum standards and criteria for a training program conducted pursuant to this subsection. In establishing the training program, the New Jersey Agricultural Experiment Station may:

- (1) charge reasonable fees to cover costs associated with the training program;
- (2) require continuing education or training for professional fertilizer applicators who apply fertilizer only under the direct supervision of a certified professional fertilizer applicator;
- (3) designate one or more qualified organizations to train professional fertilizer applicators who will apply fertilizer only under the direct supervision of a professional fertilizer applicator certified pursuant to this section and provide that a designated organization may charge fees to cover reasonable costs associated with the training process; and
- (4) recognize the training program of any person employing professional fertilizer applicators if it meets the training requirements established by the New Jersey Agricultural Experiment Station pursuant to this subsection.

f. The New Jersey Agricultural Experiment Station shall publish and maintain a list of all certified professional fertilizer applicators and make the list available on its Internet website.

C.58:10A-65 Violations, penalties.

5. a. Any professional fertilizer applicator who violates this act, or any rule or regulation adopted pursuant thereto, shall be subject to a civil penalty of \$500 for the first offense and up to \$1,000 for the second and each subsequent offense, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" pursuant to this subsection.

b. Any person, other than a professional fertilizer applicator or person who sells fertilizer at retail, who violates this act, or any rule or regulation adopted pursuant thereto, may be subject to a penalty, as established by municipal ordinance, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this subsection.

c. (1) This act, and the rules and regulations adopted pursuant thereto, may be enforced by any municipality, county, local soil conservation district or local health agency.

(2) A local soil conservation district may institute a civil action for injunctive relief in Superior Court to enforce this act and to prohibit and prevent a violation of this act, or any rule or regulation adopted pursuant thereto, and the court may proceed in the action in a summary manner.

C.58:10A-66 Program of public education.

6. a. The New Jersey Agricultural Experiment Station shall, in consultation with the Department of Environmental Protection, develop a program of public education which shall include but need not be limited to the dissemination of information regarding nutrient pollution, best management practices for fertilizer use, soil testing, proper interpretation of fertilizer label instructions, and the proper use and calibration of fertilizer application equipment. The New Jersey Agricultural Experiment Station shall provide informational posters to retailers for display, and make any information and literature developed pursuant to this subsection available online on its Internet website.

b. The New Jersey Agricultural Experiment Station shall identify laboratories which participate in the North American Proficiency Testing Program of the Soil Science Society of America, follow the recommended soil testing procedures for the northeastern United States, are authorized to conduct soil tests to determine the level of nutrients required for turf, and provide a final report to the requestor with the results of the soil test that is consistent with the best management practices established by the New Jersey Agricultural Experiment Station.

C.58:10A-67 Preemption of existing ordinances, resolutions.

7. The provisions of this act, and the rules and regulations adopted pursuant thereto, shall preempt any ordinance or resolution of a municipality, county or local health agency concerning the application of fertilizer to turf, except as authorized pursuant to subsection b. of section 5 of this act.

C.58:10A-68 Inapplicability to commercial farms.

8. Sections 1 through 9 of this act shall not apply to the application of fertilizer to commercial farms.

C.58:10A-69 Rules, regulations.

9. The Department of Environmental Protection, in consultation with the Department of Agriculture, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement sections 1 through 8 of this act.

C.4:9-15.8a Requirements for specialty fertilizer; definitions.

10. Any specialty fertilizer labeled for use on turf and intended for use by consumers shall:

a. Contain no more than 0.7 pounds of water-soluble nitrogen and no more than 0.9 pounds of total nitrogen at least 20 percent of which shall consist of slow release nitrogen per 1,000 square feet when applied pursuant to the instructions on the container; and

b. Contain no phosphorus, except when specifically labeled for the following purposes:

(1) providing nutrients to specific soils and target vegetation as determined to be necessary pursuant to a soil test conducted by a laboratory identified pursuant to subsection

b. of section 6 of P.L.2010, c.112 (C.58:10A-66) and performed no more than three years before the application, and pursuant to the associated annual fertilizer recommendation issued by the New Jersey Agricultural Experiment Station at Rutgers, the State University;

(2) establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.) and the rules and regulations adopted pursuant thereto;

(3) reestablishing or repairing a turf area; or

(4) delivering liquid or granular fertilizer under the soil surface, directly to the feeder roots.

c. Nothing in this section shall apply to fertilizer derived from processed sewage wastewater solids or manipulated animal or vegetable manure.

d. As used in this section:

"Consumer" means an individual who buys fertilizer for personal or household use and not for business purposes.

"Manipulated animal or vegetable manure" means manure that is ground, pelletized, mechanically dried, or otherwise treated to assist with the use of manure as a fertilizer.

"Slow release nitrogen" means nitrogen in a form that is released over time that is not water soluble.

"Turf" means land, including residential property, that is planted in closely mowed, managed grass, except land used in the operation of a commercial farm as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

"Water-soluble nitrogen" means nitrogen in a water-soluble form that does not have slow or controlled release properties.

C.4:9-15.13a Prohibited sales of fertilizer; definitions.

11. a. No person may sell at retail specialty fertilizer which contains more than 0.7 pounds of water-soluble nitrogen or more than 0.9 pounds of total nitrogen per 1,000 square feet at least 20 percent of which shall consist of slow release nitrogen when applied pursuant to the instructions on the container and is intended for use on turf by consumers.

b. No person may sell at retail specialty fertilizer which contains phosphorus and is intended for use on turf by consumers unless the intended use of the fertilizer is:

(1) for application to specific soils and turf as determined to be necessary pursuant to a soil test conducted by a laboratory identified pursuant to subsection b. of section 6 of P.L.2010, c.112 (C.58:10A-66) and performed no more than three years before the application, and pursuant to the associated annual fertilizer recommendation issued by the New Jersey Agricultural Experiment Station at Rutgers, the State University;

(2) for the establishment of turf for the first time, such as after land disturbance, provided the application is in accordance with the standards and requirements established under the "Soil Erosion and Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the rules and regulations adopted pursuant thereto; or

(3) for the reestablishment or repair of a turf area.

c. Nothing in this section shall apply to fertilizers derived from processed sewage wastewater solids or manipulated animal or vegetable manure.

d. As used in this section:

"Consumer" means a natural person who buys fertilizer for personal or household use and not for business purposes.

"Manipulated animal or vegetable manure" means manure that is ground, pelletized, mechanically dried, or otherwise treated to assist with the use of manure as a fertilizer.

"Slow release nitrogen" means nitrogen in a form that is released over time that is not water soluble.

"Turf" means land, including residential property, that is planted in closely mowed, managed grass, except land used in the operation of a commercial farm as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

"Water-soluble nitrogen" means nitrogen in a water-soluble form that does not have slow or controlled release properties.

12. Section 13 of P.L.1970, c.66 (C.4:9-15.13) is amended to read as follows:

C.4:9-15.13 Labeling of specialty fertilizer.

13. a. A specialty fertilizer must be labeled as provided in section 10 of P.L.1970, c.66 (C.4:9-15.10), and additional items may be required by regulation.

b. The container for a specialty fertilizer intended for use on turf must include the following information in a readable and conspicuous form and shall be considered the label:

Net Weight

Brand Name

Grade

Guaranteed Analysis:

Total Nitrogen (N).....%

.....% Ammoniacal Nitrogen

.....% Nitrate Nitrogen

.....% Urea Nitrogen

.....% Other Water Soluble Nitrogen

.....% Water Insoluble Nitrogen

Available Phosphate (P2O5).....%

Soluble Potash (K2O).....%

Additional Plant Nutrients as prescribed by regulation.

Name and address of the licensee.

c. (1) The container of a specialty fertilizer intended for use on turf that does not contain pesticides regulated pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C.s.136 et seq., shall also contain the following summary of best management practices for nutrient management in turf in a readable and conspicuous form:

"Do not apply near water, storm drains or drainage ditches. Do not apply if heavy rain is expected. Apply this product only to your lawn, and sweep any product that lands on the driveway, sidewalk or street back onto your lawn."

(2) A container of a specialty fertilizer intended for use on turf that also contains a pesticide regulated pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C.s.136 et seq., shall include the environmental hazard statement recommended by the United States Environmental Protection Agency for that product.

d. As used in this section, "turf" means land, including residential property, that is planted in closely mowed, managed grass, except land used in the operation of a commercial farm as that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3).

13. Sections 1, 2, and 9 of this act shall take effect immediately, section 11 shall take effect two years after the date of enactment of this act, and the remainder of this act shall take effect one year after the date of enactment, but the Commissioner of Environmental Protection and the New Jersey Agricultural Experiment Station may take such anticipatory action in advance thereof as shall be necessary for the implementation of this act.

Approved January 5, 2011.