



Nutrient Management: a Changing Landscape in Massachusetts

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Chapter 262 of the Acts of 2012: an Act Relative to the Regulation of Plant Nutrients

- Provides for statewide pre-emption of fertilizer regulations
- Provides for protection of water resources
- Resulting regulation: **330 CMR 31.00**
**Plant Nutrient Application Requirements
for Agricultural Land and Land Not Used
for Agricultural Purposes**

- Gives Ma Dept. of Agricultural Resources (MDAR) the authority to regulate and enforce the registration and application of plant nutrients ... including, but not limited to, fertilizer, manure and micronutrients in the Commonwealth.
- Regulations intended to be designed so that municipalities can maximize the credits provided in the National Pollution Discharge Elimination System (NPDES) permits issued by EPA.

- Chapter 262 requires MDAR to work in conjunction with the University of Massachusetts Amherst Extension to ensure any regulations of the department relative to plant nutrients are consistent with the program's published information, educational materials and other public outreach programs relative to nutrient management and fertilizer guidelines.

Chapter 262 exceptions to pre-emption:

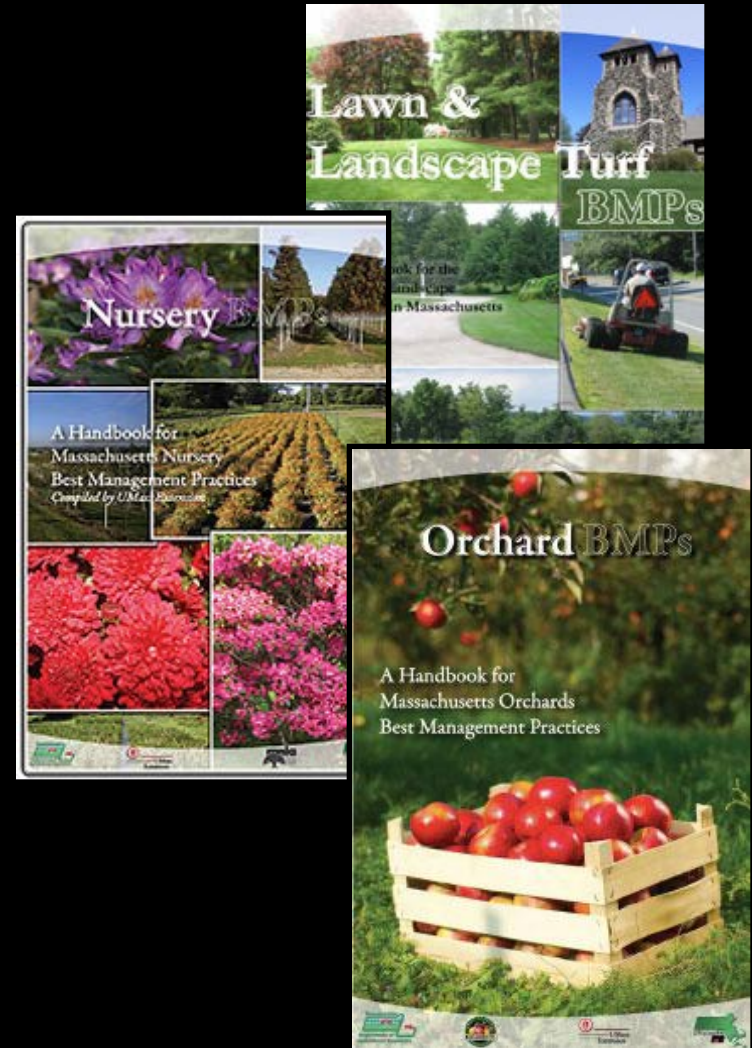
- **Cape Cod Commission, Martha's Vineyard Commission, and Nantucket Commission can adopt their own ordinances re: nutrients and fertilizers**
 - cannot be less restrictive than MDAR
 - must be in conjunction with UMass Extension
- Exception for regs if adapted in accordance with a **regional water resources mgt.plan**
- **Deadline for exceptions: Dec.31, 2014 or until 1 year from the implementation of the MDAR regulations**

Chapter 262:

- Any municipal ordinance re: nutrients or fertilizer in existence prior to 7/31/2012 shall remain enforceable. **Amended to 7/31/2013.**
(Falmouth, Orleans, Nantucket)
- Any regulation re: sewage sludge in a municipality in existence before 1/1/2013 shall remain enforceable.

What has UMass done?

- Updated nutrient mgt recommendations in **BMPs**
- Gathered nutrient mgt recommendations together for easy access: google *UMass Nutrient BMPs*
- Reviewed and commented upon regulations in progress



Nutrient regulations in process as of March 2014

- **State-wide MA Dept. of Ag Resources**
 - Regulation has been released, public hearings scheduled
- **Cape Cod Commission**
 - Model bylaw developed; adoption is up to individual communities in the district
- **Martha's Vineyard Commission**
 - Regulation island-wide has been released, public hearing scheduled

All the newly proposed and model regs have some iteration of these restrictions:

- ...shall not apply, spill, or deposit fertilizer on any impervious surface and fail to remove immediately
- ...shall not apply, spill or deposit fertilizer in a manner that allows fertilizer to enter into storm drains
- ...shall not apply fertilizer during or immediately prior to heavy rainfall, or when the soil is saturated, when soil is frozen, etc
- ...no applications in Zone I or other identified resource areas

MA state regulations promulgated by
MDAR:

330 CMR 31.00

Plant Nutrient Application Requirements
for Agricultural Land and Land Not Used
for Agricultural Purposes

330 CMR 31.00: Agriculture

- Setbacks from surface waters
- Provides for crops that require proximity to water (cranberries)
- Restrictions on fall and winter appl. of fertilizers, ag by-products and process water
- Restrictions on winter in-field stacking of ag products and by-products
- Ag parcels > 10A must have nutrient mgt. plan and do recordkeeping

330 CMR 31.00: non-Agriculture (i.e. turf)

- Setbacks from surface waters
- No phosphorus w/o soil test showing need (some limited exceptions)
- Restricts application timing, N rate, P use, and placement
- Recordkeeping required (except homeowners)
- Retail posting requirement for P containing materials

MA state regulations and information
on public hearings:

<http://www.mass.gov/eea/agencies/agr/>

- **Public hearings on state regulation:**
 - April 1, 2014 10:00 a.m. to 12:00 p.m. at 100 Cambridge Street, 2nd Floor Conference Room, Boston
 - April 3, 2014 10:00 a.m. to 12:00 p.m. at the MassDEP Southeast Region Main Office, 20 Riverside Drive, Lakeville
 - April 4, 2014 at 11:00 a.m. to 1:00 p.m. at Springfield City Hall, Room 220, 36 Court Street, Springfield

Cape Cod Commission

- created District of Critical Planning Concern (DCPC) that allows the 15 Cape municipalities to adopt their own regulations
- have provided model bylaw to communities for voluntary adoption
- communities may adopt the model, modify it or not adopt it at all in which case they will be governed by state regulation

CCC model by-law

- Exempts ag, home gardening, landscape
- No P w/o soil test
- Non-certified applicators
 - no fertilizer or compost Nov 12 to April 14
 - restricts N rate, form and total N
 - water setbacks (recognition of authorities)
- Certified applicators
 - must be trained and/or qualify
 - may follow UMass BMPs

Cape Cod Commission's model bylaw

www.capecodcommission.org

- click: Pesticide & Fertilizer Use
- click: Cape-wide Fertilizer Management Area of Critical Planning Concern
- scroll almost to the bottom of the page...
Final Model Board of Health Fertilizer Management Regulation 10-21-2013

Martha's Vineyard Commission:

- Exempts ag, home gardening, landscape
 - No P w/o soil test
 - No fertilizer Nov 15 to April 15
 - Restricts N rate, form and total N
 - Provides setbacks and buffers for water
- Professionals must be licensed
 - Both licensed and non-licensed (i.e. property owners) applicators must follow same regs
 - Minor exemptions for golf courses

Martha's Vineyard Commission:

www.mvcommission.org/

click on: Calendar

Public hearing March 27, 2014 regarding regulations proposed to govern the Martha's Vineyard Lawn Fertilizer Control District, comprised of the six island towns

Nantucket

Town of Nantucket Board of Health Regulations: the Content and Application of Fertilizer for Use on Nantucket

- In effect prior to enactment of statewide statute
- Exempt ag and horticulture but not landscape
- Provide performance standards for unlicensed fertilizer applicators (i.e. homeowners)
 - application timing, N and P rate, and fertilizer placement restrictions

Nantucket

- BOH regs require training and licensing of professional fertilizer applicators who must follow *BMPs for Landscape Fertilizer Use on Nantucket Island*

BMP

Best Management Practices for Landscape
Fertilizer Use on Nantucket Island

Prepared by The Article 68 Work Group

2010-2011



Town of Nantucket website:

Board of Health

Nantucket Board of Health Rules and Regulations
75.00

Town of Nantucket Natural Resources Department
*BMPs for Landscape Fertilizer Use on Nantucket
Island*

- Note:
 - Licensing for professional fertilizer applicators required by Martha's Vineyard proposed regulation and by Nantucket regulation is not related to the state pesticide applicator license
 - Certification for fertilizer applicators in the Cape Cod Commission model by-law is not related to the state pesticide applicator license. However, by virtue of being a licensed pesticide applicator a professional can qualify to be a certified fertilizer applicator.