

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Christie signs regulations to protect Barnegat Bay," The Press of Atlantic City, 1-6-11

"N.J. Begins Barnegat Bay rescue," Asbury Park Press, 1-6-11

"Barnegat Bay Bills Signed by Governor Christie," New Jersey 101.5, 1-6-11

"Bay bill signed; runoff targeted," Courier-Post, 1-6-11

"Christie signs nation's toughest fertilizer pollution law," The Times, 1-6-11

"Fertilizer restrictions take effect," The Record, 1-6-11

"Environmentalists Happy Over Bay Bills, Want More Done," New Jersey 101.5, 1-7-11

LAW/RWH

[Third Reprint]

ASSEMBLY, No. 2290

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED FEBRUARY 18, 2010

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

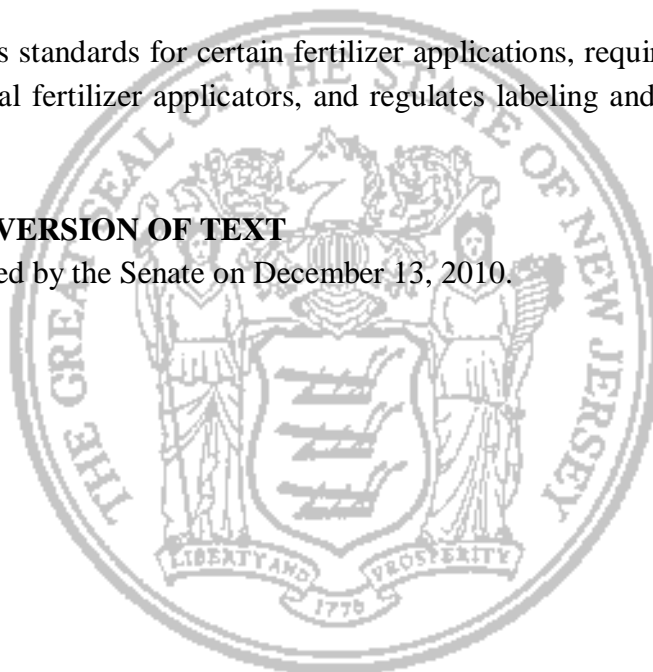
**Assemblymen Diegnan, Rumpf, Assemblywomen Gove, Wagner,
Assemblymen Holzappel, Wolfe, P. Barnes, III, Assemblywoman Jasey,
Assemblyman Rudder, Senators B.Smith, Beck, Kyrillos, Ciesla, Connors,
Van Drew, Stack, Weinberg, Bateman and S.Kean**

SYNOPSIS

Establishes standards for certain fertilizer applications, requires certification of professional fertilizer applicators, and regulates labeling and sale of certain fertilizers.

CURRENT VERSION OF TEXT

As amended by the Senate on December 13, 2010.



(Sponsorship Updated As Of: 12/14/2010)

1 AN ACT ³[reducing nutrient pollution and maintaining healthy
2 soils] concerning the application, sale, and use of fertilizer³ ,
3 amending and supplementing P.L.1970, c.66, and supplementing
4 ¹[P.L.1975, c.251 (C.4:24-39 et seq.) and] ¹Title 58 of the
5 Revised Statutes.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. (New section) As used in sections 1 through ³[8] ³9³ of this
11 act:

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

14 “Department” means the Department of Environmental
15 Protection.

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

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

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

30 ¹“Manipulated animal or vegetable manure” means manure that
31 is ground, pelletized, mechanically dried, or otherwise treated to
32 assist with the use of manure as a fertilizer.¹

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

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

39 ¹“Slow release nitrogen” means nitrogen in a form that is
40 released over time that is not water soluble.¹

41 “Soil test” means a technical analysis of soil conducted by a
42 laboratory authorized by the New Jersey Agricultural Experiment

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted September 13, 2010.

²Assembly floor amendments adopted November 22, 2010.

³Senate floor amendments adopted December 13, 2010.

1 Station at Rutgers, the State University, pursuant to section ³[5] 6³
2 of this act.

3 “Turf” means land, including residential property ²[, golf
4 courses,]² and ²[publically] publicly² owned land, that is planted
5 in closely mowed, managed grass, except ²golf courses or² land
6 used in the operation of a commercial farm.

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

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

11

12 ³[2. (New section) a. No person shall:

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

18 (2) apply any fertilizer intended for use on turf to an impervious
19 surface, and any fertilizer inadvertently applied to an impervious
20 surface shall be swept or blown back onto the target surface or
21 returned to either its original or another appropriate container for
22 reuse;

23 (3) apply fertilizer ²[containing phosphorus or nitrogen to turf
24 within ¹[25] 10¹ feet of any waterbody, except that where a drop
25 spreader, rotary spreader with a deflector or targeted spray liquid is
26 used for fertilizer application, the buffer may be reduced to ¹[10]
27 five¹ feet; except that nothing in this ¹[subsection] paragraph¹ shall
28 apply to the application of fertilizer to turf within a golf course] to
29 turf in an amount that is more than an annual total of 3.2 pounds of
30 total nitrogen per 1,000 square feet, except as provided otherwise in
31 subsection b. of this section² ;

32 (4) apply fertilizer containing ²: (a) nitrogen that is less than 20
33 percent slow release, (b)² nitrogen to turf at a rate of more than
34 ²[0.75] 0.7 pounds of water-soluble nitrogen per 1,000 square feet
35 per application, or (c) nitrogen to turf at a rate of more than 0.9²
36 pounds of ¹[water-soluble] total¹ nitrogen per 1,000 square feet
37 ²[at any one time] per application² ¹[based on the soluble fraction
38 of fertilizer] , except as provided otherwise in subsection b. of this
39 section¹; or

40 (5) apply fertilizer containing phosphorus or nitrogen to turf
41 before March 1st or after November 15th in any calendar year, or at
42 any time when the ground is frozen ², except as provided otherwise
43 in paragraph (3) of subsection b. of this section² .

44 b. ¹No professional fertilizer applicator shall:

45 (1) apply fertilizer containing nitrogen to turf at a rate of (a)
46 more than 0.7 pounds of water-soluble nitrogen per 1,000 square

1 feet per application, and (b) more than one pound of total nitrogen
2 per 1,000 square feet per application; ²[or]²

3 (2) apply fertilizer to turf in an amount that is more than an
4 annual total of 4.25 pounds of ²total² nitrogen per 1,000 square
5 feet²; or

6 (3) apply fertilizer containing phosphorus or nitrogen to turf
7 before March 1st or after December 1st in any calendar year, or at
8 any time when the ground is frozen² .

9 c.¹ ²(1)² No professional fertilizer applicator may apply
10 fertilizer to turf without first obtaining a fertilizer application
11 certification, or training if applying fertilizer under the direct
12 supervision of a certified professional fertilizer applicator, pursuant
13 to section 3 of this act.

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

18 ¹[c. No] d. Except as provided otherwise in subsection e. of
19 this section, no¹ person may apply fertilizer containing phosphorus
20 unless the person:

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

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

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

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

35 ¹e. A person may apply fertilizer containing phosphorus to turf
36 if the fertilizer consists of manipulated animal or vegetable manure,
37 includes no more than 0.25 pounds of phosphorus per 1,000 square
38 feet when applied pursuant to the instructions on the container, and
39 otherwise complies with the provisions of this act.¹

40 ²f. (1) Except as provided otherwise in paragraph (3) of this
41 subsection, no person shall apply fertilizer containing phosphorus
42 or nitrogen to turf within 25 feet of any waterbody, except that
43 where a drop spreader, rotary spreader with a deflector or targeted
44 spray liquid is used for fertilizer application, the buffer may be
45 reduced to 10 feet.

46 (2) The establishment of buffers for fertilizer application
47 pursuant to paragraph (1) of this subsection shall not preclude the

1 establishment or applicability of, or compliance with, any other
2 environmental standards established pursuant to any other State or
3 federal law, rule or regulation.

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

7 As used in this paragraph, “rescue treatment” means a fertilizer
8 application, consistent with the nitrogen content applied by a
9 professional fertilizer applicator pursuant to paragraph (1) of
10 subsection b. of this section, applied no more than once a year to an
11 area between 10 and 25 feet of a waterbody.²]³

12

13 ³2. (New section) a. No person shall:

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

19 (2) apply any fertilizer intended for use on turf to an impervious
20 surface, and any fertilizer inadvertently applied to an impervious
21 surface shall be swept or blown back onto the target surface or
22 returned to either its original or another appropriate container for
23 reuse; or

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

28 b. No professional fertilizer applicator shall apply fertilizer
29 containing phosphorus or nitrogen to turf before March 1st or after
30 December 1st in any calendar year, or at any time when the ground
31 is frozen.³

32

33 ³3. (New section) a. In addition to the requirements set forth in
34 section 2 of this act, no person, other than a professional fertilizer
35 applicator, shall:

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

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

45 b. No professional fertilizer applicator shall:

46 (1) apply fertilizer containing nitrogen to turf at a rate of (a)
47 more than 0.7 pounds of water-soluble nitrogen per 1,000 square

1 feet per application, and (b) more than one pound of total nitrogen
2 per 1,000 square feet per application; or
3 (2) apply fertilizer to turf in an amount that is more than an
4 annual total of 4.25 pounds of total nitrogen per 1,000 square feet.
5 c. (1) No professional fertilizer applicator may apply fertilizer
6 to turf without first obtaining a fertilizer application certification, or
7 training if applying fertilizer under the direct supervision of a
8 certified professional fertilizer applicator, pursuant to section 4 of
9 this act.
10 (2) No person, other than a certified professional fertilizer
11 applicator or a person trained and under the direct supervision of a
12 certified professional fertilizer applicator, may apply fertilizer to a
13 golf course.
14 d. Except as provided otherwise in subsection e. of this section,
15 no person may apply fertilizer containing phosphorus unless the
16 person:
17 (1) determines that the fertilizer is necessary for the specific
18 soils and target vegetation pursuant to a soil test performed no more
19 than three years before the application, and pursuant to the
20 associated annual fertilizer recommendation issued by the New
21 Jersey Agricultural Experiment Station at Rutgers, the State
22 University;
23 (2) is establishing vegetation for the first time, such as after land
24 disturbance, provided the application is in accordance with the
25 standards and requirements established under the "Soil Erosion and
26 Sediment Control Act," P.L.1975, c.251 (C.4:24-39 et seq.), and the
27 rules and regulations adopted pursuant thereto;
28 (3) is reestablishing or repairing a turf area; or
29 (4) is delivering liquid or granular fertilizer under the soil
30 surface directly to the feeder roots.
31 e. A person may apply fertilizer containing phosphorus to turf
32 if the fertilizer consists of manipulated animal or vegetable manure,
33 includes no more than 0.25 pounds of phosphorus per 1,000 square
34 feet when applied pursuant to the instructions on the container, and
35 otherwise complies with the provisions of this act.
36 f. (1) Except as provided otherwise in paragraph (3) of this
37 subsection, no person shall apply fertilizer containing phosphorus
38 or nitrogen to turf within 25 feet of any waterbody, except that
39 where a drop spreader, rotary spreader with a deflector or targeted
40 spray liquid is used for fertilizer application, the buffer may be
41 reduced to 10 feet.
42 (2) The establishment of buffers for fertilizer application
43 pursuant to paragraph (1) of this subsection shall not preclude the
44 establishment or applicability of, or compliance with, any other
45 environmental standards established pursuant to any other State or
46 federal law, rule or regulation.

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

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

9 g. No person may apply fertilizer to turf exceeding the nitrogen
10 standards set forth in subsections a. and b. of this section, unless the
11 person is establishing vegetation for the first time, such as after land
12 disturbance, provided the fertilizer application is in accordance with
13 the standards and requirements established under the “Soil Erosion
14 and Sediment Control Act,” P.L.1975, c.251 (C.4:24-39 et seq.),
15 and the rules and regulations adopted pursuant thereto.³

16
17 ³[3.]⁴ (New section) a. The New Jersey Agricultural
18 Experiment Station at Rutgers, the State University, shall, in
19 consultation with the Department of Environmental Protection,
20 establish a fertilizer application certification program. The
21 certification program shall provide professional fertilizer
22 applicators with training and education in at least the following
23 subject areas:

24 (1) the proper use and calibration of fertilizer application
25 equipment;

26 (2) the hazards involved in, and the environmental impact of,
27 applying fertilizer, including nutrient pollution to the State’s
28 waterbodies;

29 (3) all applicable State and federal laws, rules and regulations;

30 (4) the correct interpretation of fertilizer labeling information;
31 and

32 (5) the best management practices developed by the ¹New
33 ¹Jersey¹ Agricultural Experiment Station for nutrient management in
34 turf.

35 b. In establishing a fertilizer application certification program,
36 the ¹New Jersey¹ Agricultural Experiment Station may:

37 (1) charge reasonable fees, including, but not limited to, an
38 annual re-certification fee, to cover costs associated with the
39 certification program;

40 (2) require continuing education ¹or training¹ for certified
41 professional fertilizer applicators;

42 (3) designate one or more qualified organizations to train
43 ¹[and] ¹certify¹, and recertify¹ professional fertilizer applicators
44 and provide that a designated organization may charge fees to cover
45 reasonable costs associated with the certification training and
46 education; and

1 (4) recognize the training program of any person employing
2 professional fertilizer applicators **'[as meeting] if it meets'**¹ the
3 certification **'and recertification'**¹ training and education standards
4 established by the program pursuant to this section.

5 c. The **'[Department of Environmental Protection] New Jersey**
6 **Agricultural Experiment Station**¹ shall conduct examinations to
7 certify that an applicant possesses sufficient knowledge of the State
8 and federal laws, rules and regulations, standards and requirements
9 applicable to the use and application of fertilizer. No person may
10 take the certification examination until the **'[department] New**
11 **Jersey Agricultural Experiment Station**¹ determines that the
12 applicant has obtained the education and training established by the
13 fertilizer application certification program pursuant to this section.

14 d. An application for certification shall be made in a manner
15 and on such forms as may be prescribed by the **'[department] New**
16 **Jersey Agricultural Experiment Station**¹. The filing of an
17 application shall be accompanied by an application fee that shall
18 cover the costs of processing the application and developing and
19 conducting the examination.

20 e. The **'New Jersey'**¹ Agricultural Experiment Station shall, in
21 consultation with the department, establish a training program for
22 those professional fertilizer applicators who will apply fertilizer
23 only under the direct supervision of a certified professional
24 fertilizer applicator. The **'New Jersey'**¹ Agricultural Experiment
25 Station shall establish minimum standards and criteria for a training
26 program conducted pursuant to this subsection. In establishing the
27 training program, the **'New Jersey'**¹ Agricultural Experiment Station
28 may:

29 (1) charge reasonable fees to cover **'[the]'**¹ costs associated with
30 the training program;

31 (2) require continuing education or training for professional
32 fertilizer applicators who apply fertilizer only under the direct
33 supervision of a certified professional fertilizer applicator;

34 (3) designate one or more qualified organizations to train
35 professional fertilizer applicators who will apply fertilizer only
36 under the direct supervision of a professional fertilizer applicator
37 certified pursuant to this section and provide that a designated
38 organization may charge fees to cover reasonable costs associated
39 with the training process; and

40 (4) recognize the training program of any person employing
41 professional fertilizer applicators **'[as meeting] if it meets'**¹ the
42 training requirements established by the **'New Jersey'**¹ Agricultural
43 Experiment Station pursuant to this subsection.

44 **'f. The New Jersey Agricultural Experiment Station shall**
45 **publish and maintain a list of all certified professional fertilizer**
46 **applicators and make the list available on its Internet website.**¹

1 ³[4.] 5.³ (New section) a. ³[²(1)²]³ Any professional fertilizer
2 applicator who violates this act, or any rule or regulation adopted
3 pursuant thereto, shall be subject to a civil penalty of ²[up to
4 \$2,500] \$500² for the first offense and up to ²[\$5,000] \$1,000² for
5 the second and each subsequent offense, to be collected in a civil
6 action by a summary proceeding under the "Penalty Enforcement
7 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the
8 violation is of a continuing nature, each day during which it
9 continues shall constitute an additional, separate and distinct
10 offense. ²The Superior Court and the municipal court shall have
11 jurisdiction to enforce the provisions of the "Penalty Enforcement
12 Law of 1999" pursuant to this subsection.

13 ³[(2)²] In addition to the imposition of a civil penalty, the
14 Department of Environmental Protection may ²:

15 (a)² suspend or revoke the certification of any professional
16 fertilizer applicator who violates this act ²; or

17 (b) impose a civil administrative penalty of not more than
18 \$1,000 for each violation, and each day during which each violation
19 continues shall constitute an additional, separate, and distinct
20 offense. No civil administrative penalty shall be imposed until after
21 the person has been notified by certified mail or personal service.
22 The notice shall include: a reference to the section of the act, rule,
23 regulation, order, or permit violated; a concise statement of the
24 facts alleged to constitute a violation; a statement of the amount of
25 the civil administrative penalties to be imposed; and a statement of
26 the person's right to a hearing. The person shall have 20 days from
27 receipt of the notice within which to deliver to the commissioner a
28 written request for a hearing. Subsequent to the hearing and upon
29 finding that a violation has occurred, the commissioner may issue a
30 final order or civil administrative penalty after imposing the amount
31 of the fine specified in the notice. If no hearing is requested, the
32 notice shall become a final order or a final civil administrative
33 penalty upon the expiration of the 20-day period. Payment of the
34 penalty is due when a final order is issued or when the notice
35 becomes a final order or a final civil administrative penalty. The
36 authority to levy a civil administrative penalty is in addition to all
37 other enforcement provisions in this section, and the payment of a
38 civil administrative penalty shall not be deemed to affect the
39 availability of any other enforcement provision in connection with
40 the violation for which the penalty is levied. A civil administrative
41 penalty imposed under this subparagraph may be compromised by
42 the commissioner upon the posting of a performance bond by the
43 violator, or upon terms and conditions the commissioner may
44 establish by rule or regulation² .]³

45 b. Any person, other than a professional fertilizer applicator or
46 person who sells fertilizer at retail, who violates this act, or any rule
47 or regulation adopted pursuant thereto, ³[shall] may³ be subject to

1 a ³[civil]³ penalty ³[of up to \$250 for the first offense and up to
2 \$500 for the second and each subsequent offense] , as established
3 by municipal ordinance³ , to be collected in a civil action by a
4 summary proceeding under the ²"Penalty Enforcement Law of
5 1999,"² P.L.1999, c.274 ²(C.2A:58-10 et seq.)² . ³[If the violation
6 is of a continuing nature, each day during which it continues shall
7 constitute an additional, separate and distinct offense.]³ ²The
8 municipal court shall have jurisdiction to enforce the provisions of
9 the "Penalty Enforcement Law of 1999" in connection with this
10 subsection.²

11 c. ³[The department or] (1) This act, and the rules and
12 regulations adopted pursuant thereto, may be enforced by any
13 municipality, county, local soil conservation district or local health
14 agency.

15 (2) ³A local soil conservation district may institute a civil action
16 for injunctive relief in Superior Court to enforce this act and to
17 prohibit and prevent a violation of this act, or any rule or regulation
18 adopted pursuant thereto, and the court may proceed in the action in
19 a summary manner.

20 ²[d. The ¹[Superior Court, and the]¹ municipal court ¹[for
21 violations processed under subsection b. of this section,]¹ shall
22 have jurisdiction to enforce the provisions of the "Penalty
23 Enforcement Law of 1999" in connection with this act.]²

24
25 ³[5.] ³6. (New section) a. The New Jersey Agricultural
26 Experiment Station ¹[,]¹ shall, in consultation with the Department
27 of Environmental Protection, develop a program of public education
28 which shall include but need not be limited to the dissemination of
29 information regarding nutrient pollution, best management practices
30 for fertilizer use, soil testing, proper interpretation of fertilizer label
31 instructions, and the proper use and calibration of fertilizer
32 application equipment. ¹The New Jersey Agricultural Experiment
33 Station shall ³[; (1)]³ provide informational posters to retailers for
34 display, and ³[(2)]³ make any information and literature developed
35 pursuant to this subsection available online on its Internet website.¹

36 b. The ¹New Jersey¹ Agricultural Experiment Station shall
37 identify laboratories which participate in the North American
38 Proficiency Testing Program of the Soil Science Society of
39 America, follow the recommended soil testing procedures for the
40 northeastern United States, are authorized to conduct soil tests to
41 determine the level of nutrients required for turf, and provide a final
42 report to the requestor with the results of the soil test that is
43 consistent with the best management practices established by the
44 ¹New Jersey¹ Agricultural Experiment Station.

1 ³[6.] 7.³ (New section) ¹[The] ²[a. Except as provided in
2 subsection b. of this section, the¹] The² provisions of this act, and
3 the rules and regulations adopted pursuant thereto, shall preempt
4 any ordinance or resolution of a municipality, county or local health
5 agency concerning the application of fertilizer to turf ³.except as
6 authorized pursuant to subsection b. of section 5 of this act³ .

7 ²[¹b. A municipality, county or local health agency may adopt
8 an ordinance or resolution prohibiting the application of fertilizer
9 containing phosphorus or nitrogen to turf up to 25 feet of any
10 waterbody, except that where a drop spreader, rotary spreader with
11 a deflector or targeted spray liquid is used for fertilizer application,
12 the buffer may be reduced to up to 10 feet.¹]²

13
14 ³[7.] 8.³ (New section) Sections 1 through ³[8] 9³ of this act
15 shall not apply to the application of fertilizer to commercial farms.

16
17 ³[8.] 9.³ (New section) ³[a. Within one year after the date of
18 enactment of this act, the] The³ Department of Environmental
19 Protection, in consultation with the Department of Agriculture,
20 ¹[shall] may¹ adopt, pursuant to the “Administrative Procedure
21 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), ¹[any]¹ rules and
22 regulations ¹[necessary]¹ to implement sections 1 through 8 of this
23 act.

24 ³[b. This act, and the rules and regulations adopted pursuant
25 thereto, ¹[shall] may¹ be enforced by the Department of
26 Environmental Protection, ¹[and may be enforced by a] or any
27 municipality, county, ¹ local soil conservation district or local
28 health agency.]³

29
30 ³[9.] 10.³ (New section) Any specialty fertilizer labeled for use
31 on turf and intended for use by consumers shall:

32 a. Contain no more than ²[0.75] 0.7 pounds of water-soluble
33 nitrogen ³[or] and no³ more than 0.9² pounds of ¹[water-soluble]
34 total¹ nitrogen ¹at least ²[30] 20² percent of which shall consist of
35 slow release nitrogen¹ per 1,000 square feet when applied pursuant
36 to the instructions on the container; and

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

39 (1) providing nutrients to specific soils and target vegetation as
40 determined to be necessary pursuant to a soil test conducted by a
41 laboratory ¹[authorized] identified¹ pursuant to ¹[section 7]
42 subsection b. of section ³[5] 6³ of P.L. , c. (C.) (pending
43 before the Legislature as this bill) and performed no more than
44 three years before the application, and pursuant to the associated
45 annual fertilizer recommendation issued by the New Jersey
46 Agricultural Experiment Station at Rutgers, the State University;

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

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

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

9 c. Nothing in this section shall apply to fertilizer derived from
 10 processed sewage wastewater solids ¹or manipulated animal or
 11 vegetable manure¹.

12 d. As used in this section:

13 “Consumer” means an individual who buys fertilizer for personal
 14 or household use and not for business purposes.

15 ¹“Manipulated animal or vegetable manure” means manure that
 16 is ground, pelletized, mechanically dried, or otherwise treated to
 17 assist with the use of manure as a fertilizer.

18 “Slow release nitrogen” means nitrogen in a form that is released
 19 over time that is not water soluble.¹

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

24 ¹“Water-soluble nitrogen” means nitrogen in a water-soluble
 25 form that does not have slow or controlled release properties.¹

26 ²“Water-soluble nitrogen” means nitrogen in a water-soluble
 27 form that does not have slow or controlled release properties.²

28
 29 ³[10.] 11.³ (New section) a. No person may sell at retail
 30 specialty fertilizer which contains more than ²[0.75] 0.7 pounds of
 31 water-soluble nitrogen or more than 0.9² pounds of ¹[water-
 32 soluble] total¹ nitrogen per 1,000 square feet ¹at least ²[30] 20²
 33 percent of which shall consist of slow release nitrogen when applied
 34 pursuant to the instructions on the container¹ and is intended for use
 35 on turf by consumers.

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

39 (1) for application to specific soils and turf as determined to be
 40 necessary pursuant to a soil test conducted by a laboratory
 41 ¹[authorized] identified¹ pursuant to ¹[section 7] subsection b. of
 42 section ³[5] ³6 of P.L. , c. (C.) (pending before the
 43 Legislature as this bill) and performed no more than three years
 44 before the application, and pursuant to the associated annual
 45 fertilizer recommendation issued by the New Jersey Agricultural
 46 Experiment Station at Rutgers, the State University;

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

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

7 c. Nothing in this section shall apply to fertilizers derived from
8 processed sewage wastewater solids ¹or manipulated animal or
9 vegetable manure¹.

10 d. As used in this section:

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

13 ¹"Manipulated animal or vegetable manure" means manure that
14 is ground, pelletized, mechanically dried, or otherwise treated to
15 assist with the use of manure as a fertilizer.

16 "Slow release nitrogen" means nitrogen in a form that is released
17 over time that is not water soluble.¹

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

22 ¹["Water-soluble nitrogen" means nitrogen in a water-soluble
23 form that does not have slow or controlled release properties.]¹

24 ²"Water-soluble nitrogen" means nitrogen in a water-soluble
25 form that does not have slow or controlled release properties.²

26

27 ³[11.] 12.³ Section 13 of P.L.1970, c.66 (C.4:9-15.13) is
28 amended to read as follows:

29 13. a. A specialty fertilizer must be labeled as provided in
30 section 10 of ¹[this act] P.L.1970, c.66 (C.4:9-15.10)¹, and
31 additional items may be required by regulation.

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

35

36 Net Weight

37

38 ³[Brand Name

39 Grade

40 Guaranteed Analysis;

41 Total Nitrogen (N).....%

42% Ammoniacal Nitrogen

43% Nitrate Nitrogen

44% Water-Soluble Nitrogen or urea

45% Water Insoluble Nitrogen

46 Available Phosphoric Acid (P2O5).....%

47 Soluble Potash (K2O).....%

1 Additional Plant Nutrients as prescribed by regulation.
2 Potential Acidity or Basicity.....% or.....lbs.
3 Calcium Carbonate Equivalent per ton
4 Name and address of the licensee.】
5
6 Brand Name
7 Grade
8 Guaranteed Analysis:
9 Total Nitrogen (N).....%
10% Ammoniacal Nitrogen
11% Nitrate Nitrogen
12% Urea Nitrogen
13% Other Water Soluble Nitrogen
14% Water Insoluble Nitrogen
15 Available Phosphate (P2O5).....%
16 Soluble Potash (K2O).....%
17 Additional Plant Nutrients as prescribed by regulation.
18 Name and address of the licensee.³

19
20 c. ¹(1)¹ The container of a specialty fertilizer intended for use
21 on turf ¹【must】 that does not contain pesticides regulated pursuant
22 to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7
23 U.S.C.s.136 et seq., shall¹ also contain the following summary of
24 best management practices for nutrient management in turf in a
25 readable and conspicuous form:

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

30 ¹(2) A container of a specialty fertilizer intended for use on turf
31 that also contains a pesticide regulated pursuant to the "Federal
32 Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C.s.136 et seq.
33 ^{3,3} shall include the environmental hazard statement recommended
34 by the United States Environmental Protection Agency for that
35 product.¹

36 d. As used in this section ¹【:

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

41 (cf: P.L.1970, c.66, s.13)

42
43 ³【12.】 ³ 13.³ ¹【This】 ²【Sections 9, 10 and 11 shall take effect on
44 January 1, 2012 and the remainder of this¹】 ³【This² act shall take
45 effect on the first day of the 13th month after the date of
46 enactment.】 Sections 1, 2, and 9 of this act shall take effect
47 immediately, section 11 shall take effect two years after the date of

1 enactment of this act, and the remainder of this act shall take effect
2 one year after the date of enactment, but the Commissioner of
3 Environmental Protection and the New Jersey Agricultural
4 Experiment Station may take such anticipatory action in advance
5 thereof as shall be necessary for the implementation of this act.³

ASSEMBLY, No. 2290

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 18, 2010

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblymen Diegnan, Rumpf and Assemblywoman Gove

SYNOPSIS

Establishes standards for certain fertilizer applications, provides for certification of professional fertilizer applicators, and regulates sale and labeling of certain fertilizers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/14/2010)

1 AN ACT reducing nutrient pollution and maintaining healthy soils,
2 amending and supplementing P.L.1970, c.66, and supplementing
3 P.L.1975, c.251 (C.4:24-39 et seq.) and Title 58 of the Revised
4 Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) As used in sections 1 through 8 of this act:

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

12 “Department” means the Department of Environmental
13 Protection.

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

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

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

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

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

34 “Soil test” means a technical analysis of soil conducted by a
35 laboratory authorized by the New Jersey Agricultural Experiment
36 Station at Rutgers, the State University, pursuant to section 5 of this
37 act.

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. (New section) a. No person shall:

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

7 (2) apply any fertilizer intended for use on turf to an impervious
8 surface, and any fertilizer inadvertently applied to an impervious
9 surface shall be swept or blown back onto the target surface or
10 returned to either its original or another appropriate container for
11 reuse;

12 (3) apply fertilizer containing phosphorus or nitrogen to turf
13 within 25 feet of any waterbody, except that where a drop spreader,
14 rotary spreader with a deflector or targeted spray liquid is used for
15 fertilizer application, the buffer may be reduced to 10 feet; except
16 that nothing in this subsection shall apply to the application of
17 fertilizer to turf within a golf course;

18 (4) apply fertilizer containing nitrogen to turf at a rate of more
19 than 0.75 pounds of water-soluble nitrogen per 1,000 square feet at
20 any one time based on the soluble fraction of fertilizer; or

21 (5) apply fertilizer containing phosphorus or nitrogen to turf
22 before March 1st or after November 15th in any calendar year, or at
23 any time when the ground is frozen.

24 b. No professional fertilizer applicator may apply fertilizer to
25 turf without first obtaining a fertilizer application certification, or
26 training if applying fertilizer under the direct supervision of a
27 certified professional fertilizer applicator, pursuant to section 3 of
28 this act.

29 c. No person may apply fertilizer containing phosphorus unless
30 the person:

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

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

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

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

45

46 3. (New section) a. The New Jersey Agricultural Experiment
47 Station at Rutgers, the State University, shall, in consultation with
48 the Department of Environmental Protection, establish a fertilizer

- 1 application certification program. The certification program shall
2 provide professional fertilizer applicators with training and
3 education in at least the following subject areas:
- 4 (1) the proper use and calibration of fertilizer application
5 equipment;
 - 6 (2) the hazards involved in, and the environmental impact of,
7 applying fertilizer, including nutrient pollution to the State's
8 waterbodies;
 - 9 (3) all applicable State and federal laws, rules and regulations;
 - 10 (4) the correct interpretation of fertilizer labeling information;
 - 11 and
 - 12 (5) the best management practices developed by the Agricultural
13 Experiment Station for nutrient management in turf.
- 14 b. In establishing a fertilizer application certification program,
15 the Agricultural Experiment Station may:
- 16 (1) charge reasonable fees, including, but not limited to, an
17 annual re-certification fee, to cover costs associated with the
18 certification program;
 - 19 (2) require continuing education for certified professional
20 fertilizer applicators;
 - 21 (3) designate one or more qualified organizations to train and
22 certify professional fertilizer applicators and provide that a
23 designated organization may charge fees to cover reasonable costs
24 associated with the certification training and education; and
 - 25 (4) recognize the training program of any person employing
26 professional fertilizer applicators as meeting the certification
27 training and education standards established by the program
28 pursuant to this section.
- 29 c. The Department of Environmental Protection shall conduct
30 examinations to certify that an applicant possesses sufficient
31 knowledge of the State and federal laws, rules and regulations,
32 standards and requirements applicable to the use and application of
33 fertilizer. No person may take the certification examination until
34 the department determines that the applicant has obtained the
35 education and training established by the fertilizer application
36 certification program pursuant to this section.
- 37 d. An application for certification shall be made in a manner
38 and on such forms as may be prescribed by the department. The
39 filing of an application shall be accompanied by an application fee
40 that shall cover the costs of processing the application and
41 developing and conducting the examination.
- 42 e. The Agricultural Experiment Station shall, in consultation
43 with the department, establish a training program for those
44 professional fertilizer applicators who will apply fertilizer only
45 under the direct supervision of a certified professional fertilizer
46 applicator. The Agricultural Experiment Station shall establish
47 minimum standards and criteria for a training program conducted

1 pursuant to this subsection. In establishing the training program,
2 the Agricultural Experiment Station may:

3 (1) charge reasonable fees to cover the costs associated with the
4 training program;

5 (2) require continuing education or training for professional
6 fertilizer applicators who apply fertilizer only under the direct
7 supervision of a certified professional fertilizer applicator;

8 (3) designate one or more qualified organizations to train
9 professional fertilizer applicators who will apply fertilizer only
10 under the direct supervision of a professional fertilizer applicator
11 certified pursuant to this section and provide that a designated
12 organization may charge fees to cover reasonable costs associated
13 with the training process; and

14 (4) recognize the training program of any person employing
15 professional fertilizer applicators as meeting the training
16 requirements established by the Agricultural Experiment Station
17 pursuant to this subsection.

18

19 4. (New section) a. Any professional fertilizer applicator who
20 violates this act, or any rule or regulation adopted pursuant thereto,
21 shall be subject to a civil penalty of up to \$2,500 for the first
22 offense and up to \$5,000 for the second and each subsequent
23 offense, to be collected in a civil action by a summary proceeding
24 under the "Penalty Enforcement Law of 1999," P.L.1999, c.274
25 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each
26 day during which it continues shall constitute an additional,
27 separate and distinct offense. In addition to the imposition of a civil
28 penalty, the Department of Environmental Protection may suspend
29 or revoke the certification of any professional fertilizer applicator
30 who violates this act.

31 b. Any person, other than a professional fertilizer applicator or
32 person who sells fertilizer at retail, who violates this act, or any rule
33 or regulation adopted pursuant thereto, shall be subject to a civil
34 penalty of up to \$250 for the first offense and up to \$500 for the
35 second and each subsequent offense, to be collected in a civil action
36 by a summary proceeding under P.L.1999, c.274. If the violation is
37 of a continuing nature, each day during which it continues shall
38 constitute an additional, separate and distinct offense.

39 c. The department or local soil conservation district may
40 institute a civil action for injunctive relief in Superior Court to
41 enforce this act and to prohibit and prevent a violation of this act, or
42 any rule or regulation adopted pursuant thereto, and the court may
43 proceed in the action in a summary manner.

44 d. The Superior Court, and the municipal court for violations
45 processed under subsection b. of this section, shall have jurisdiction
46 to enforce the provisions of the "Penalty Enforcement Law of 1999"
47 in connection with this act.

1 5. (New section) a. The New Jersey Agricultural Experiment
2 Station, shall, in consultation with the Department of
3 Environmental Protection, develop a program of public education
4 which shall include but need not be limited to the dissemination of
5 information regarding nutrient pollution, best management practices
6 for fertilizer use, soil testing, proper interpretation of fertilizer label
7 instructions, and the proper use and calibration of fertilizer
8 application equipment.

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

18

19 6. (New section) The provisions of this act, and the rules and
20 regulations adopted pursuant thereto, shall preempt any ordinance
21 or resolution of a municipality, county or local health agency
22 concerning the application of fertilizer to turf.

23

24 7. (New section) Sections 1 through 8 of this act shall not
25 apply to the application of fertilizer to commercial farms.

26

27 8. (New section) a. Within one year after the date of enactment
28 of this act, the Department of Environmental Protection, in
29 consultation with the Department of Agriculture, shall adopt,
30 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.), any rules and regulations necessary to
32 implement sections 1 through 8 of this act.

33 b. This act, and the rules and regulations adopted pursuant
34 thereto, shall be enforced by the Department of Environmental
35 Protection, and may be enforced by a local soil conservation district
36 or local health agency.

37

38 9. (New section) Any specialty fertilizer labeled for use on turf
39 and intended for use by consumers shall:

40 a. Contain no more than 0.75 pounds of water-soluble nitrogen
41 per 1,000 square feet when applied pursuant to the instructions on
42 the container; and

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

45 (1) providing nutrients to specific soils and target vegetation as
46 determined to be necessary pursuant to a soil test conducted by a
47 laboratory authorized pursuant to section 7 of P.L. , c. (C.)
48 (pending before the Legislature as this bill) and performed no more

1 than three years before the application, and pursuant to the
2 associated annual fertilizer recommendation issued by the New
3 Jersey Agricultural Experiment Station at Rutgers, the State
4 University;

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

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

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

13 c. Nothing in this section shall apply to fertilizer derived from
14 processed sewage wastewater solids.

15 d. As used in this section:

16 “Consumer” means an individual who buys fertilizer for personal
17 or household use and not for business purposes.

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

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

24

25 10. (New section) a. No person may sell at retail specialty
26 fertilizer which contains more than 0.75 pounds of water-soluble
27 nitrogen per 1,000 square feet and is intended for use on turf by
28 consumers.

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

32 (1) for application to specific soils and turf as determined to be
33 necessary pursuant to a soil test conducted by a laboratory
34 authorized pursuant to section 7 of P.L. , c. (C.) (pending
35 before the Legislature as this bill) and performed no more than
36 three years before the application, and pursuant to the associated
37 annual fertilizer recommendation issued by the New Jersey
38 Agricultural Experiment Station at Rutgers, the State University;

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

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

45 c. Nothing in this section shall apply to fertilizers derived from
46 processed sewage wastewater solids.

47 d. As used in this section:

1 “Consumer” means a natural person who buys fertilizer for
2 personal or household use and not for business purposes.

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

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

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

12 13. a. A specialty fertilizer must be labeled as provided in
13 section 10 of this act, and additional items may be required by
14 regulation.

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

18	
19	<u>Net Weight</u>
20	
21	<u>Brand Name</u>
22	<u>Grade</u>
23	<u>Guaranteed Analysis:</u>
24	<u>Total Nitrogen (N).....%</u>
25	<u>.....% Ammoniacal Nitrogen</u>
26	<u>.....% Nitrate Nitrogen</u>
27	<u>.....% Water-Soluble Nitrogen or urea</u>
28	<u>.....% Water Insoluble Nitrogen</u>
29	<u>Available Phosphoric Acid (P2O5).....%</u>
30	<u>Soluble Potash (K2O).....%</u>
31	<u>Additional Plant Nutrients as prescribed by regulation.</u>
32	<u>Potential Acidity or Basicity.....% or.....lbs.</u>
33	<u>Calcium Carbonate Equivalent per ton</u>
34	<u>Name and address of the licensee.</u>

35 c. The container of a specialty fertilizer intended for use on
36 turf must also contain the following summary of best management
37 practices for nutrient management in turf in a readable and
38 conspicuous form:

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

43 d. As used in this section:

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

48 (cf: P.L.1970, c.66, s.13)

1 through a soil test conducted by a laboratory authorized by the
2 NJAES. The bill would require that fertilizer intended for use on
3 turf include additional information concerning its ingredients,
4 including an analysis of the type of nitrogen contained in the
5 fertilizer, as well as a summary of best management practices. The
6 bill would require manufacturers of fertilizer labeled for use on turf
7 and intended for use by consumers to formulate those fertilizers to
8 conform to the application restrictions contained in the bill. The
9 bill would also prohibit the sale of fertilizer which contains
10 phosphorus or more than 0.75 pounds per 1,000 square feet of
11 water-soluble nitrogen intended for use on turf by consumers unless
12 the intended use conforms to the restrictions contained in the bill.

13 The bill would require all professional fertilizer applicators who
14 apply fertilizer to turf to obtain training or certification prior to
15 applying any fertilizer. The NJAES would be required to establish
16 programs which include training and education in: (1) proper use
17 and calibration of fertilizer application equipment; (2) the hazards
18 involved in, and environmental impacts of, applying fertilizer,
19 including nutrient pollution to the State's waterbodies; (3)
20 applicable State and federal laws, rules, and regulations; (4) proper
21 interpretation of fertilizer labeling information; and (5) best
22 management practices for nutrient management in turf.

23 Finally, the bill would require that the NJAES, in consultation
24 with the Department of Environmental Protection, develop a
25 program of public education to include the dissemination of
26 information regarding nutrient pollution, best management practices
27 for fertilizer use, soil testing, proper interpretation of fertilizer label
28 instructions, and proper use and calibration of fertilizer application
29 equipment.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2290

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 12, 2010

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No.2290.

This bill, as amended, would establish standards for the application of fertilizer to turf, direct the New Jersey Agricultural Experiment Station at Rutgers University (NJAES) to develop training and certification programs for professional fertilizer applicators applying fertilizer to turf, regulate the sale of certain fertilizer containing phosphorus and nitrogen, and require that additional information be included on certain fertilizer labels.

This bill would prohibit persons from: (1) applying fertilizer to turf during or just before a heavy rainfall; (2) applying fertilizer intended for use on turf to an impervious surface; (3) applying fertilizer to turf within 10 feet of any waterbody, except under certain circumstances; and (4) applying fertilizer to turf before March 1st or after November 15th, or at any time when the ground is frozen.

The bill, as amended, would restrict the use of fertilizer containing nitrogen and intended for use on turf to no more than 0.75 pounds per 1,000 square feet. However, for professional fertilizer applicators, the bill would restrict the use of fertilizer containing nitrogen and intended for use on turf to no more than 0.7 pounds of water soluble nitrogen per 1,000 square feet and no more than one pound of total nitrogen per 1,000 square feet. Further, no professional fertilizer applicator may apply more than an annual total of 4.25 pounds of nitrogen per 1,000 square feet.

The bill, as amended, would prohibit the use of fertilizer containing phosphorus and intended for use on turf, except when establishing vegetation for the first time, reestablishing or repairing turf, delivering fertilizer under the soil surface, or applying nutrients deemed necessary through a soil test conducted by a laboratory identified by the NJAES. In addition, the bill, as amended, would allow the use of fertilizer that consists of manipulated animal or vegetable manure that includes no more than 0.25 pounds of phosphorus per 1,000 square feet when applied pursuant to the

instructions on the container. The bill would require that fertilizer intended for use on turf include additional information concerning its ingredients, including an analysis of the type of nitrogen contained in the fertilizer, as well as a summary of best management practices. The bill would require manufacturers of fertilizer labeled for use on turf and intended for use by consumers to formulate those fertilizers to conform to the application restrictions contained in the bill. The bill would also prohibit the sale of fertilizer which contains phosphorus or more than 0.75 pounds of total nitrogen, at least 30 percent of which shall consist of slow release nitrogen, per 1,000 square feet and intended for use on turf by consumers unless the intended use conforms to the restrictions contained in the bill.

The bill would require all professional fertilizer applicators who apply fertilizer to turf to obtain training or certification prior to applying any fertilizer. The NJAES would be required to establish programs which include training and education in: (1) proper use and calibration of fertilizer application equipment; (2) the hazards involved in, and environmental impacts of, applying fertilizer, including nutrient pollution to the State's waterbodies; (3) applicable State and federal laws, rules, and regulations; (4) proper interpretation of fertilizer labeling information; and (5) best management practices for nutrient management in turf.

Finally, the bill would require that the NJAES, in consultation with the Department of Environmental Protection, develop a program of public education to include the dissemination of information regarding nutrient pollution, best management practices for fertilizer use, soil testing, proper interpretation of fertilizer label instructions, and proper use and calibration of fertilizer application equipment.

As amended by the committee, this bill is identical to Senate Bill No. 1411 as also amended and released by the Senate Environment and Energy Committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) reduce the buffer for waterbodies when applying fertilizer to turf from 25 feet, or 10 feet with the use of a deflector or targeted spray, to 10 feet, or five feet with a deflector or targeted spray, respectively;

(2) establish application limits for turf applicable to professional fertilizer applicators of no more than one pound of total nitrogen per 1,000 square feet of which no more than 0.7 pounds may be water-soluble per application and no more than an annual total of 4.25 pounds of nitrogen per 1,000 square feet;

(3) allow the application of fertilizer containing phosphorus to turf if the fertilizer consists of manipulated animal or vegetable manure and the phosphorus content is no more than 0.25 pounds per 1,000 square feet;

(4) require the NJAES, rather than the Department of Environmental Protection, to prescribe the application and conduct examinations for the certification of professional fertilizer applicators under the bill;

(5) require the NJAES to publish and maintain a list of all certified professional fertilizer applicators and publish the list on its internet website;

(6) remove the jurisdiction of the Superior Court for certain violations under the bill;

(7) require the NJAES to provide informational posters to retailers for display and make any educational information or literature developed available on its internet website;

(8) allow a municipality, county or local health agency to adopt a wider buffer for waterbodies for fertilizer applications to turf, up to 25 feet, or 10 feet with the use of a deflector or targeted spray;

(9) allow, rather than require, the adoption of implementing regulations;

(10) change the nitrogen content limitations for fertilizer labeled for use on turf and intended for consumer use to 0.75 pounds of total, rather than water-soluble, nitrogen, and add a requirement that it contain at least 30 percent slow release nitrogen, when applied according to the directions on the container;

(11) change the requirements for the contents of specialty fertilizer sold at retail to 0.75 pounds of total nitrogen, at least 30 percent of which must be slow release, when applied according to the directions on the container;

(12) allow the sale of manipulated animal or vegetable manure that contains phosphorus;

(13) require for specialty fertilizers that also contain pesticides intended for use on turf to use the environmental hazard statement recommended by the United States Environmental Protection Agency for that product;

(14) change the effective date for sections 9, 10 and 11 of the bill to January 1, 2012; and

(15) make technical corrections.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2290

with Assembly Floor Amendments
(Proposed by Assemblyman McKEON)

ADOPTED: NOVEMBER 22, 2010

This floor amendment makes changes to fertilizer application requirements, fertilizer content, and penalties for violations under the bill. Additionally, golf courses would be exempt from the fertilizer application requirements under the bill, with the exception that fertilizer could be applied to a golf course only by a certified professional fertilizer applicator or a person trained and under the direct supervision of a certified professional fertilizer applicator.

The floor amendment also would cap the annual amount of fertilizer, applied by a person other than a professional fertilizer applicator, to 3.2 pounds of total nitrogen per 1,000 square feet and would prohibit the application, or retail sale, of fertilizer containing nitrogen: (1) with less than 20 percent slow release, (2) at a rate of more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application, or (3) at a rate of more than 0.9 pounds of total nitrogen per 1,000 square feet per application, except as otherwise provided in the bill.

The floor amendment would change the date to December 1st, after which the application of fertilizer containing phosphorus or nitrogen by a professional fertilizer applicator would be prohibited. The penalty for professional fertilizer applicators violating this bill would be reduced to \$500 for a first offense and \$1,000 for a second or subsequent offense, and, in addition to the municipal court, the penalty could be enforced in Superior Court.

The floor amendment would further establish: (1) a consistent buffer for consumers and professional applicators, for applications of fertilizer containing phosphorus or nitrogen, to be at least 25 feet of any waterbody, or at least 10 feet if a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used; and (2) preempt a municipality, county or local health agency from establishing a buffer for fertilizer applications near a waterbody.

Lastly, this floor amendment would change the effective date of the bill.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 2290

with Senate Floor Amendments
(Proposed by Senator SMITH)

ADOPTED: DECEMBER 13, 2010

These floor amendments make this bill identical to Senate Bill No.2554.

The amendments:

1) allow for the application of fertilizer exceeding the nitrogen standards set forth in the bill when 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”;

2) delete the Department of Environmental Protection’s enforcement authority;

3) revise the labeling requirements for specialty fertilizer intended for use on turf;

4) revise the effective date of the bill so that the prohibitions in section 2 of the bill concerning fertilizer application when a heavy rainfall is occurring or predicted or when soils are saturated and a potential for fertilizer movement off-site exists, application to impervious surfaces, and timing of fertilizer application take effect immediately upon enactment of the bill into law, and provide that section 11 of the bill concerning the retail sale of specialty fertilizer would not take effect until two years after the enactment of the bill into law; and

5) make technical corrections.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2290

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: DECEMBER 29, 2010

SUMMARY

- Synopsis:** Establishes standards for certain fertilizer applications, provides for certification of professional fertilizer applicators, and regulates sale and labeling of certain fertilizers.
- Type of Impact:** Establishment of program fee revenues will cover most program costs, but startup funds may be needed from the General Fund.
- Agencies Affected:** New Jersey Agricultural Experiment Station (Rutgers) and the Department of Environmental Protection.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below.		
State Revenue	Indeterminate – See comments below.		

- The bill establishes standards for the application of fertilizer to turf. It also directs the New Jersey Agricultural Experiment Station at Rutgers University (NJAES) to develop and operate training and certification programs for professional fertilizer applicators, and to develop a public information program concerning fertilizer usage and issues.
- The bill regulates the sale of certain fertilizer containing phosphorus and nitrogen and establishes penalties for violations of the bill's provisions.
- The bill authorizes the NJAES to establish and charge participant fees for training and certification programs and to use these revenues to cover any administrative expenses incurred in managing these programs.
- The Office of Legislative Services (OLS) estimates that program fees could be structured to cover most program operating costs. However, the NJAES will likely require additional funding to cover program implementation and first-year costs, plus the development of a public education program as required under the bill.

BILL DESCRIPTION

Assembly Bill No. 2290 (2R) of 2010 establishes standards for the application of fertilizer to turf; directs the NJAES to develop and operate training and certification programs for professional fertilizer applicators applying fertilizer to turf; establishes regulations for the sale of certain fertilizer containing phosphorus and nitrogen; establishes penalties for violations of the bill's provisions; and requires the NJAES to develop a public information program that addresses nutrient pollution, best management practices, soil testing, calibration of fertilizer application equipment, and the proper interpretation of fertilizer label instructions. The bill authorizes the NJAES to establish and charge participant fees for training and certification programs and to use these revenues to cover any administrative expenses incurred in managing these programs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that fees charged by the NJAES to operate training and certification programs under the bill, or organizations that may be designated by the NJAES to operate these programs, could be structured to cover most program operating costs. However, the OLS also estimates that the NJAES would likely require additional funding to cover the startup and first-year costs of these programs. Further, the NJAES may also require additional funding to develop a public education program as required under the bill. Due to time constraints and a lack of available information pertinent to this bill, the amount of additional funding needed for these efforts cannot be estimated at this time.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 2290

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: JANUARY 7, 2011

SUMMARY

- Synopsis:** Establishes standards for certain fertilizer applications, provides for certification of professional fertilizer applicators, and regulates sale and labeling of certain fertilizers.
- Type of Impact:** Establishment of program fee revenues will cover most program costs, but startup funds may be needed from the General Fund.
- Agencies Affected:** New Jersey Agricultural Experiment Station (Rutgers) and the Department of Environmental Protection.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below.		
State Revenue	Indeterminate – See comments below.		

- The bill establishes standards for the application of fertilizer to turf. It also directs the New Jersey Agricultural Experiment Station at Rutgers University (NJAES) to develop and operate training and certification programs for professional fertilizer applicators, and to develop a public information program concerning fertilizer usage and issues.
- The bill regulates the sale of certain fertilizer containing phosphorus and nitrogen and establishes penalties for violations of the bill's provisions.
- The bill authorizes the NJAES to establish and charge participant fees for training and certification programs and to use these revenues to cover any administrative expenses incurred in managing these programs.
- The Office of Legislative Services (OLS) estimates that program fees could be structured to cover most program operating costs. However, the NJAES will likely require additional funding to cover program implementation and first-year costs, plus the development of a public education program as required under the bill.

BILL DESCRIPTION

Assembly Bill No. 2290 (3R) of 2010 establishes standards for the application of fertilizer to turf; directs the NJAES to develop and operate training and certification programs for professional fertilizer applicators applying fertilizer to turf; establishes regulations for the sale of certain fertilizer containing phosphorus and nitrogen; establishes penalties for violations of the bill's provisions; and requires the NJAES to develop a public information program that addresses nutrient pollution, best management practices, soil testing, calibration of fertilizer application equipment, and the proper interpretation of fertilizer label instructions. The bill authorizes the NJAES to establish and charge participant fees for training and certification programs and to use these revenues to cover any administrative expenses incurred in managing these programs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that fees charged by the NJAES to operate training and certification programs under the bill, or organizations that may be designated by the NJAES to operate these programs, could be structured to cover most program operating costs. However, the OLS also estimates that the NJAES would likely require additional funding to cover the startup and first-year costs of these programs. Further, the NJAES may also require additional funding to develop a public education program as required under the bill. Due to time constraints and a lack of available information pertinent to this bill, the amount of additional funding needed for these efforts cannot be estimated at this time.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2554

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED DECEMBER 9, 2010

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JENNIFER BECK

District 12 (Mercer and Monmouth)

Co-Sponsored by:

**Senators Kyrillos, Ciesla, Connors, Van Drew, Stack, Weinberg, Bateman
and S.Kean**

SYNOPSIS

Establishes standards for certain fertilizer applications, requires certification of professional fertilizer applicators, and regulates labeling and sale of certain fertilizers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2010)

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

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) As used in sections 1 through 9 of this act:

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

11 "Department" means the Department of Environmental
12 Protection.

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

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

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

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

30 "Person" means any individual, corporation, company,
31 partnership, firm, association, political subdivision, or government
32 entity.

33 "Professional fertilizer applicator" means any individual who
34 applies fertilizer for hire, including any employee of a government
35 entity who applies fertilizer within the scope of employment.

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

5

6 2. (New section) a. No person shall:

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

12 (2) apply any fertilizer intended for use on turf to an impervious
13 surface, and any fertilizer inadvertently applied to an impervious
14 surface shall be swept or blown back onto the target surface or
15 returned to either its original or another appropriate container for
16 reuse; or

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

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

25

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

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

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

38 b. No professional fertilizer applicator shall:

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

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

45 c. (1) No professional fertilizer applicator may apply fertilizer
46 to turf without first obtaining a fertilizer application certification, or
47 training if applying fertilizer under the direct supervision of a

1 certified professional fertilizer applicator, pursuant to section 4 of
2 this act.

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

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

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

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

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

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

24 e. A person may apply fertilizer containing phosphorus to turf
25 if the fertilizer consists of manipulated animal or vegetable manure,
26 includes no more than 0.25 pounds of phosphorus per 1,000 square
27 feet when applied pursuant to the instructions on the container, and
28 otherwise complies with the provisions of this act.

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

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

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

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

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

8
9 4. (New section) a. The New Jersey Agricultural Experiment
10 Station at Rutgers, the State University, shall, in consultation with
11 the Department of Environmental Protection, establish a fertilizer
12 application certification program. The certification program shall
13 provide professional fertilizer applicators with training and
14 education in at least the following subject areas:

15 (1) the proper use and calibration of fertilizer application
16 equipment;

17 (2) the hazards involved in, and the environmental impact of,
18 applying fertilizer, including nutrient pollution to the State's
19 waterbodies;

20 (3) all applicable State and federal laws, rules and regulations;

21 (4) the correct interpretation of fertilizer labeling information;
22 and

23 (5) the best management practices developed by the New Jersey
24 Agricultural Experiment Station for nutrient management in turf.

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

27 (1) charge reasonable fees, including, but not limited to, an
28 annual re-certification fee, to cover costs associated with the
29 certification program;

30 (2) require continuing education or training for certified
31 professional fertilizer applicators;

32 (3) designate one or more qualified organizations to train,
33 certify, and recertify professional fertilizer applicators and provide
34 that a designated organization may charge fees to cover reasonable
35 costs associated with the certification training and education; and

36 (4) recognize the training program of any person employing
37 professional fertilizer applicators if it meets the certification and
38 recertification training and education standards established by the
39 program pursuant to this section.

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

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

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

16 (1) charge reasonable fees to cover costs associated with the
17 training program;

18 (2) require continuing education or training for professional
19 fertilizer applicators who apply fertilizer only under the direct
20 supervision of a certified professional fertilizer applicator;

21 (3) designate one or more qualified organizations to train
22 professional fertilizer applicators who will apply fertilizer only
23 under the direct supervision of a professional fertilizer applicator
24 certified pursuant to this section, and provide that a designated
25 organization may charge fees to cover reasonable costs associated
26 with the training process; and

27 (4) recognize the training program of any person employing
28 professional fertilizer applicators if it meets the training
29 requirements established by the New Jersey Agricultural
30 Experiment Station pursuant to this subsection.

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

34

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

46 b. Any person, other than a professional fertilizer applicator or
47 person who sells fertilizer at retail, who violates this act, or any rule
48 or regulation adopted pursuant thereto, may be subject to a penalty,

1 as established by municipal ordinance, to be collected in a civil
2 action by a summary proceeding under the "Penalty Enforcement
3 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The
4 municipal court shall have jurisdiction to enforce the provisions of
5 the "Penalty Enforcement Law of 1999" in connection with this
6 subsection.

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

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

15

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

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

36

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

42

43 8. (New section) Sections 1 through 9 of this act shall not
44 apply to the application of fertilizer to commercial farms.

45

46 9. (New section) The Department of Environmental
47 Protection, in consultation with the Department of Agriculture, may
48 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,

1 c.410 (C.52:14B-1 et seq.), rules and regulations to implement
2 sections 1 through 8 of this act.

3

4 10. (New section) Any specialty fertilizer labeled for use on turf
5 and intended for use by consumers shall:

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

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

12 (1) providing nutrients to specific soils and target vegetation as
13 determined to be necessary pursuant to a soil test conducted by a
14 laboratory identified pursuant to subsection b. of section 6 of
15 P.L. , c. (C.) (pending before the Legislature as this bill) and
16 performed no more than three years before the application, and
17 pursuant to the associated annual fertilizer recommendation issued
18 by the New Jersey Agricultural Experiment Station at Rutgers, the
19 State University;

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

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

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

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

31 d. As used in this section:

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

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

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

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

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

45

46 11. (New section) a. No person may sell at retail specialty
47 fertilizer which contains more than 0.7 pounds of water-soluble
48 nitrogen or more than 0.9 pounds of total nitrogen per 1,000 square

1 feet at least 20 percent of which shall consist of slow release
2 nitrogen when applied pursuant to the instructions on the container
3 and is intended for use on turf by consumers.

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

7 (1) for application to specific soils and turf as determined to be
8 necessary pursuant to a soil test conducted by a laboratory
9 identified pursuant to subsection b. of section 6 of P.L. ,

10 c. (C.) (pending before the Legislature as this bill) and
11 performed no more than three years before the application, and
12 pursuant to the associated annual fertilizer recommendation issued
13 by the New Jersey Agricultural Experiment Station at Rutgers, the
14 State University;

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

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

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

24 d. As used in this section:

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

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

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

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

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

38

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

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

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

Net Weight

- 1
- 2
- 3 Brand Name
- 4 Grade
- 5 Guaranteed Analysis;
- 6 Total Nitrogen (N).....%
- 7% Ammoniacal Nitrogen
- 8% Nitrate Nitrogen
- 9% Urea Nitrogen
- 10% Other Water Soluble Nitrogen
- 11% Water Insoluble Nitrogen
- 12 Available Phosphate (P2O5).....%
- 13 Soluble Potash (K2O).....%
- 14 Additional Plant Nutrients as prescribed by regulation.
- 15 Name and address of the licensee.

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

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

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

32 d. As used in this section, "turf" means land, including
 33 residential property, that is planted in closely mowed, managed
 34 grass, except land used in the operation of a commercial farm as
 35 that term is defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-
 36 3).

37 (cf: P.L.1970, c.66, s.13)

38

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

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

This bill would establish standards concerning the application of fertilizer to turf, direct the New Jersey Agricultural Experiment Station (NJAES) at Rutgers University to develop training and certification programs for professional fertilizer applicators applying fertilizer to turf, regulate the sale of certain fertilizer containing phosphorus and nitrogen, and require that additional information be included on certain fertilizer labels.

Upon the date of enactment of this bill into law, all persons would be prohibited from: (1) applying fertilizer to turf during or just before a heavy rainfall; and (2) applying fertilizer intended for use on turf to an impervious surface. Additionally, all persons, except for professional fertilizer applicators, would be prohibited from applying fertilizer to turf before March 1st or after November 15th or at any time when the ground is frozen. A professional fertilizer applicator would be prohibited from applying fertilizer to turf before March 1st or after December 1st or at any time when the ground is frozen.

One year after the date of enactment of this bill into law, the use of fertilizer containing nitrogen and intended for use on turf, and applied by a person other than a professional fertilizer applicator, would be restricted to 3.2 pounds of total nitrogen per 1,000 square feet. The bill would prohibit the application, or retail sale, of fertilizer containing nitrogen: (a) with less than 20 percent slow release, (b) at a rate of more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application, or (c) at a rate of more than 0.9 pounds of total nitrogen per 1,000 square feet per application, except as otherwise provided in the bill. Additionally, the bill would prohibit all persons from applying fertilizer to turf within 25 feet of any waterbody or 10 feet of any waterbody if certain equipment is used, with the exception of a rescue treatment.

Also beginning one year after the date of enactment of this bill into law, the use of fertilizer containing nitrogen and intended for use on turf, and applied by a professional fertilizer applicator, would be restricted to an annual total of 4.25 pounds of total nitrogen per 1,000 square feet. The bill would further prohibit a professional fertilizer applicator from applying fertilizer containing nitrogen to turf at a rate of more than 0.7 pounds of water-soluble nitrogen per 1,000 square feet per application, and more than one pound of total nitrogen per 1,000 square feet per application.

Two years after the date of enactment of this bill into law, the bill would prohibit the sale of fertilizer containing phosphorus and intended for use on turf except when establishing vegetation for the first time, reestablishing or repairing turf, delivering fertilizer under the soil surface, or applying nutrients deemed necessary through a soil test conducted by a laboratory identified by the NJAES. The bill would further prohibit the application of fertilizer exceeding the

1 nitrogen standards set forth in the bill except when establishing
2 vegetation for the first time.

3 The bill would require that fertilizer intended for use on turf
4 include additional information concerning its ingredients, including
5 an analysis of the type of nitrogen contained in the fertilizer, as well
6 as a summary of best management practices. The bill would require
7 manufacturers of fertilizer labeled for use on turf and intended for
8 use by consumers to formulate those fertilizers to conform to the
9 application restrictions contained in the bill. The bill would also
10 prohibit the sale of fertilizer which contains phosphorus unless the
11 intended use is for the application on specific soils as deemed
12 necessary pursuant to a soil test, or for the establishment of turf for
13 the first time. The bill would also prohibit the sale of fertilizer, that
14 when applied according to the package directions, contains more
15 than 0.7 pounds of water-soluble nitrogen or more than 0.9 pounds
16 of total nitrogen per 1,000 square feet, and at least 20 percent of
17 which consists of slow release nitrogen, per 1,000 square feet.

18 The bill would require all professional fertilizer applicators who
19 apply fertilizer to turf to obtain training or certification prior to
20 applying any fertilizer. The NJAES would be required to establish
21 programs which include training and education in: (1) proper use
22 and calibration of fertilizer application equipment; (2) hazards
23 involved in, and environmental impacts of, applying fertilizer,
24 including nutrient pollution to the State's waterbodies; (3)
25 applicable State and federal laws, rules, and regulations; (4) proper
26 interpretation of fertilizer labeling information; and (5) best
27 management practices for nutrient management in turf.

28 Finally, the bill would require that the NJAES, in consultation
29 with the Department of Environmental Protection, develop a
30 program of public education to include the dissemination of
31 information regarding nutrient pollution, best management practices
32 for fertilizer use, soil testing, proper interpretation of fertilizer label
33 instructions, and proper use and calibration of fertilizer application
34 equipment.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2554
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: DECEMBER 21, 2010

SUMMARY

- Synopsis:** Establishes standards for certain fertilizer applications, provides for certification of professional fertilizer applicators, and regulates sale and labeling of certain fertilizers.
- Type of Impact:** Establishment of program fee revenues will cover most program costs, but startup funds may be needed from the General Fund.
- Agencies Affected:** New Jersey Agricultural Experiment Station (Rutgers) and the Department of Environmental Protection.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below.		
State Revenue	Indeterminate – See comments below.		

- The bill establishes standards for the application of fertilizer to turf. It also directs the New Jersey Agricultural Experiment Station at Rutgers University (NJAES) to develop and operate training and certification programs for professional fertilizer applicators, and to develop a public information program concerning fertilizer usage and issues.
- The bill regulates the sale of certain fertilizer containing phosphorus and nitrogen and establishes penalties for violations of the bill’s provisions.
- The bill authorizes the NJAES to establish and charge participant fees for training and certification programs and to use these revenues to cover any administrative expenses incurred in managing these programs.
- The Office of Legislative Services (OLS) estimates that program fees could be structured to cover most program operating costs. However, the NJAES will likely require additional funding to cover program implementation and first-year costs, plus the development of a public education program as required under the bill.

BILL DESCRIPTION

Senate Bill No. 2554 of 2010 establishes standards for the application of fertilizer to turf; directs the NJAES to develop and operate training and certification programs for professional fertilizer applicators applying fertilizer to turf; establishes regulations for the sale of certain fertilizer containing phosphorus and nitrogen; establishes penalties for violations of the bill's provisions; and requires the NJAES to develop a public information program that addresses nutrient pollution, best management practices, soil testing, calibration of fertilizer application equipment, and the proper interpretation of fertilizer label instructions. The bill authorizes the NJAES to establish and charge participant fees for training and certification programs and to use these revenues to cover any administrative expenses incurred in managing these programs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that fees charged by the NJAES to operate training and certification programs under the bill, or organizations that may be designated by the NJAES to operate these programs, could be structured to cover most program operating costs. However, the OLS also estimates that the NJAES would likely require additional funding to cover the startup and first-year costs of these programs. Further, the NJAES may also require additional funding to develop a public education program as required under the bill. Due to time constraints and a lack of available information pertinent to this bill, the amount of additional funding needed for these efforts cannot be estimated at this time.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).