



Setting the TONE?

As New Jersey passes the most restrictive fertilizer legislation to date, other states may be looking to follow suit. BY CASEY PAYTON

AFTER TWO YEARS of negotiations, New Jersey's Fertilizer Pre-Emption Bill was signed in January, with what is now the most restrictive legislation in the country. It's no doubt that many states will soon follow suit and that has many worried about what's in store for the future of the industry.

"I was willing to adapt to any changes regarding the fertilizer type we put down or even the amount — but to put a restriction on when you can apply the product crossed the line," admits Jeff Cooper, president of Lawn Con-

nection, West Berlin NJ. "It hit a nerve with me. That'll affect my livelihood."

What Cooper is referring to is part of the legislation that prohibits fertilizer applications before March 1st or after December 1st. Among other things, the legislation restricts the amount of quick-release nitrogen allowed in products and application amounts; bans all phosphorus use (no phosphorus can be used unless a soil test proves phosphorus application is needed or after soil disturbance when reestablishing turf surfaces); prohibits applications when raining or

on impervious surfaces; requires all professionals to be certified; and establishes fines for noncompliance with all of these regulations. The comprehensiveness of this legislation has made it the strictest in the country to date.

“Other states have phosphorous bans and date restrictions but none address nitrogen restrictions and the percentage of slow-release nitrogen,” says Jim Jensen, regional sales manager, Nufarm Turf & Specialty — Nufarm Americas, and a member of the board of directors of the New Jersey Green Industry Council (NJGIC), an umbrella organization which represents, promotes and defends Green Industry interests. “All of these various elements in one bill are what makes it so restrictive. Never has a fertilizer law incorporated so much regulation.”

Lawn care operators (LCOs) are finding this troubling, but it seems the shortened season is the biggest worry of all. “Economically that’s going to zing us,” admits Cooper, who says he’s already become an organic-based company and dramatically reduced the amount of pesticides he’s putting down. “I feel like we were doing everything right, and they’re still coming after us. I value every single day I have to work, including the months of December, January and February. I feel like I’m now a seasonal business. I’m only getting nine months to operate, and if you also subtract the bad weather days, it may be down to eight.”

Nancy Sadlon, executive director of NJGIC, says unfortunately the differing date restrictions and content requirements for consumers vs. and professionals were part of the emotion-based legislation that passed without any scientific backing, including information about weather fluctuations and freeze and thaw variations. “In a world that’s regulated based on science, we would have one standard for both consumers and professionals and dates of applications would be region specific without

the limiting windows,” she says. “But now, even if the ground isn’t frozen and the turf active, they can’t apply fertilizer simply because of a law’s limiting dates. Since LCOs can only do so much in the time period they’re now dealing with, it’s going to limit business growth.”

A fight for science

NJGIC has been involved in the discussions about nutrient management since it began about five years ago. Their primary role as a consolidating voice for the whole Green Industry in New Jersey has been education and communication to regulators at New Jersey Department of Environmental Protection (NJDEP) about real world lawn care operations. Sadlon says they fought for science-based legislation when the conversation seemed to be driven by emotion. “Just one example is we surprised many of the decision makers involved when we showed them professional lawn care companies have already eliminated phosphorus from many of their programs because there was no need to add the nutrient,” she says. “This practice was started over 15 years ago.”

While Sadlon was happy with many of the compromises NJGIC was able to reach, she says a lot of emotion-based information still made it into the bill. Once these types of unscientific regulations make it into the law books, they can be hard to change, and since emotion-based policy is spreading, it would behoove others to get involved now since it does seem other states will be soon to follow suit, she adds.

“It’s already happening,” asserts John Buechner, director of technical services at Lawn Doctor, Inc. “Pennsylvania is in the draft stages of a bill, and Maryland is even a little ahead of them. Plus, Delaware and Virginia are also considering legislation because of their own proximity to the Chesapeake Bay.”

And these other states are adopting the language from New Jersey’s bill. “It’s likely New Jersey is going to be a

THOUGHTS ON NJ’S FERTILIZER PRE-EMPTION BILL

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model for future legislation,” says Buechner. “And just looking at what’s happening in these states near large bodies of water, you can predict the Great Lakes states may be the next targets.”

Buechner says LCOs can make a difference in what their regulations will be if they’re willing to get involved. “Individuals may feel helpless but they can make a difference when they join together and form coalitions with others in the industry,” he says. “Even if you don’t want to be a part of the group doing the advocating, a small contribution can help support the people who are doing it for you. Most of those people are making that effort on a volunteer basis and putting their own time and money into fighting for the best legislation for the whole industry.”

What happened in New Jersey should be a call to action for the rest

of the country, Jensen adds. “There is a clear agenda by environmentalists to characterize fertilizers as a primary cause of the nutrient problems of our waters — despite lack of evidence to prove such a claim,” he stresses adding that the basis of the environmental activists’ push is they feel nitrogen ends up in nearby waterways as a result of fertilizer runoff, but science proves there are many contributing factors. Commercial turf fertilizers are a minor contributor, but the easiest target to go after. “Legislators like to be saviors of the environment, and so long as it is perceived by their voting public to be true, they will accept these false claims about fertilizers and pesticides. Efforts to stand up for our products and practices have never been more important.”

The “Safe Playing Fields Act” (a bill that would impose a ban on the use of all pesticides at schools, child care facilities and recreation fields) is the next big issue for New Jersey, and Cooper says he’s

63



% of lawn care professionals who will purchase fertilizer or fertilizer/pesticide combination products this year.

SOURCE: LANDSCAPE MANAGEMENT

going to be ready this time around. “I’m going to learn as much about the bill as I can and represent my side — the small businesses of New Jersey. I’m learning you can’t change the world, but you can get your voice out there and be heard.”

Strong voices can make a difference in the end result of a bill, Sadlon adds.

And with regulations like these, industry professionals agree even small changes can make a big difference on business survival. **LM**

Payton is a freelance writer with six years of experience covering landscaping.

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