

Understanding Nutrient Management Laws for Turf Grass, Lawn Care and Landscaping

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The potential for excess nutrients in Northwest Arkansas waterways has prompted an array of actions, including lawsuits and new nutrient regulations. In 2003, the Arkansas General Assembly passed legislation to regulate all nutrient (nitrogen and phosphorus) applications in designated nutrient surplus areas (Figure 1). The Arkansas Natural Resources Commission (ANRC) was given the charge to develop this legislation into regulations. Two of these regulations, known as titles, affect nutrient applications to turf grass, lawns and landscaping: Title XXI, Rules Governing the Arkansas Nutrient Applicator Certification Program and Title XXII, Governing the Arkansas Soil Nutrient and

Poultry Litter Application and Management Program. This fact sheet outlines the requirements from these two regulations for individuals who apply nutrients to turf grass, lawns and landscaping.

Nutrient Applicator Certification Program

All persons applying nutrients, defined as nitrogen and phosphorus, in the nutrient surplus areas (Figure 1) are required to be certified by the state. The two exceptions to this regulation are landowners or residents who make "residential applications" on 2.5 acres or less or employees who work for certified commercial applicators. In the latter case, these employees must be under the direction of at least one certified commercial applicator. The nutrient application certification program is divided into two distinct areas that have different requirements: private applicators and commercial applicators.

A private applicator is someone who applies nutrients to land he or she owns or controls via a lease agreement, for example, or someone who is hired to apply nutrients for a landowner who does not qualify as a commercial applicator. The certification requirements for private applicators are as follows:

- 1) Satisfactory completion and submission of a private certification application form to ANRC.

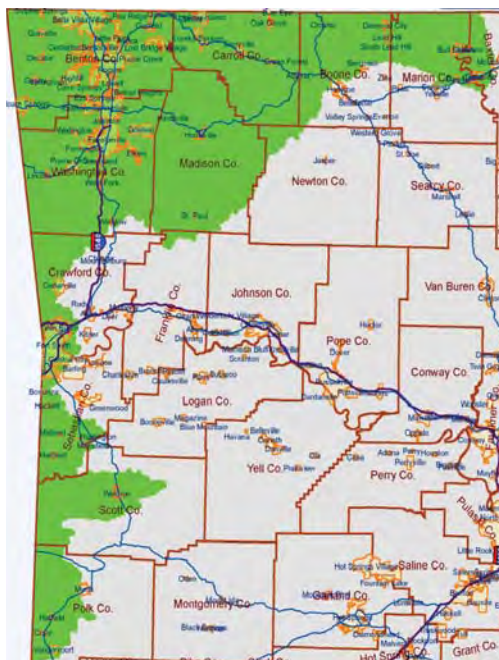


Figure 1. Location of nutrient surplus areas.

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- 2) Completion of a 2.5-hour training course on proper nutrient application provided by ANRC and conducted by the University of Arkansas Division of Agriculture.
- 3) Submission of the \$30 certification fee to ANRC upon completion of the course.

Private certification is good for five years and will automatically expire on January 1 of the fifth year unless the private applicator recertifies by taking the following actions:

- 1) Submits a private certification renewal form to ANRC.
- 2) Submits \$30 recertification fee.

A commercial applicator is someone who derives a substantial portion of his or her income from applying nutrients (nitrogen and/or phosphorus) to land owned or controlled by someone other than themselves. The commercial certification requirements are as follows:

- 1) Satisfactory completion and submission of a commercial certification application form to ANRC.
- 2) Completion of a 2.5-hour training course on proper nutrient application provided by ANRC and conducted by the University of Arkansas Division of Agriculture.
- 3) Proven competency by achieving a passing score on the exam administered by ANRC after the training.
- 4) Submission of the \$60 certification fee to ANRC upon completion of the course.
- 5) Submission of \$25 testing fee.

Commercial certification is good for five years and will automatically expire on January 1 of the fifth year unless the private applicator recertifies by taking the following actions:

- 1) Submits a private certification renewal form to ANRC.
- 2) Submits \$30 recertification fee.
- 3) Attends four hours of continuing education preapproved by the ANRC.

If recertification is not obtained by following these steps, then the applicant must meet all certification requirements again, including another passing score on the exam.

Certified applicators are subject to the rules in Title XXII discussed below in terms of application rates and methods. A certified nutrient applicator shall maintain the following application records for a period of not less than five years from the date the application was made, including:

- 1) The type and amount of nutrients applied to each individual application area.
- 2) The source or sources of nutrients applied to each individual application area by field.
- 3) The location of the application areas, field or fields where nutrients were applied.
- 4) The date of application for each individual application area.
- 5) The application rate used for each individual application area.
- 6) The name and address of the person or business for whom the nutrients were applied.
- 7) The cover vegetation for each individual application area.

Additionally, a certified commercial applicator shall provide the customer with a copy of the application record.

Applying Nutrients in Designated Nutrient Surplus Areas

Title XXII states that it is unlawful to apply nutrients to soils and associated crops within the nutrient surplus area (Figure 1) without a poultry litter management plan, a nutrient management plan or if applying commercial fertilizer only, according to protective rates based on soil test results. Since most turf grass, lawn and landscaping applications are in the form of commercial fertilizer, the following application requirements apply:

- 1) Determine the protective application rate for grasses (Table 1) for commercial phosphorus fertilizer based on prior soil test. (Contact your local county extension office for sampling instructions.) The University of Arkansas Division of Agriculture offers free soil testing to the public. Protective nitrogen rates are found in Table 2.
- 2) Nutrients shall be evenly distributed over application sites.

Table 1. Protective rate of commercial P fertilizer for grasses and clover. Values in lbs P₂O₅/acre.

	Low soil test P (<50 lbs/acre)	Medium Soil test P (50-100 lbs/acre)	High soil test P (>100 lbs/acre)	Soil test P not known
Fertilizer application rate (lbs P ₂ O ₅ /acre)	80	40	0	0

Table 2. Protective rates for nitrogen applications. Additional N needed refers to applications of N after four to six weeks of harvest or mowing as needed.

Forage type	Low soil test P (<50 lbs/acre)	Medium soil test P (50-100 lbs/acre)	High soil test P (>100 lbs/acre)	Additional applications
Warm-season grasses	80	80	80	Add 50-60 lbs N/acre as needed
Cool-season grasses	45	45	50	Add 50-60 lbs N/acre as needed
Improved warm-season pastures	45	45	50	Add 50-60 lbs N/acre as needed
Alfalfa	0	0	0	
Warm-season grass/clover	0	0	0	Add 80 lbs N/acre when clover is dormant
Cool-season grass/clover	60	60	60	
Cool-season grass on warm- season grass	60	60	60	Add 60-80 lbs N/acre as needed
Warm-season perennial legume	0	0	0	

- 3) Application of nutrients from poultry litter shall be made only at the rates and in the manner specified in a nutrient management plan.
- 4) If the owner or operator does not have a nutrient management plan for commercial fertilizers, then nutrient application of commercial fertilizers shall not exceed the protective rate (Tables 1 and 2).
- 5) Nutrient application shall not be undertaken when soil is saturated, frozen or covered with ice or snow.
- 6) Nutrients shall not be applied in any manner that will allow excessive nutrients to enter waters within the state or to run onto adjacent property.

As mentioned earlier, the certified nutrient applicator is responsible for keeping records for a minimum of five years and for providing the owner or customer a copy as stated above. In certain situations, it may be advantageous to obtain a nutrient management plan for turf grass, lawns or landscaping applications, especially if organic fertilizer sources such as poultry litter, sewage sludge, other animal manures or compost will be utilized. In this case, contact your local USDA service center for assistance in finding a certified nutrient management planner.

Lack of Compliance

A certified nutrient applicator will be considered in violation of code if he or she:

- 1) Provides misleading, false or fraudulent information in applying for certification.
- 2) Provides the Commission with any misleading, false or fraudulent application record, or fails to

promptly provide any application record or to allow the Commission access to inspect any records required to be kept by these rules.

Anyone can report a violation of code by a certified applicator by providing a written complaint stating the complainant's legal name and current mailing and physical addresses. The complaint must be verified by the notarized signature of the complainant. Complaints are subject to the Freedom of Information Act. The ANRC will decide if the evidence warrants a violation.

Penalties

Upon the first violation of the regulations in Title XXI by a certified nutrient applicator within any one-year period, the applicator shall be issued a warning letter. For the second violation within any one-year period, the Director may assess not more than fifty dollars (\$50) in cumulative civil penalties. Upon the third violation within any one-year period, the Director may impose a penalty not to exceed one thousand dollars (\$1,000) for each violation of this title. Following the third violation, the Commission may also choose to suspend, revoke, annul or withdraw the certified nutrient applicator's certification.

Upon the first violation of the regulations in Title XXII within any one-year period, the alleged violator shall be issued a warning letter. For the second violation within any one-year period, the Director may assess not more than fifty dollars (\$50) in cumulative civil penalties. Upon the third violation within any one-year period, the Director may impose a penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation.

If the alleged violator disputes that a violation occurred, the certified nutrient applicator must

respond to the administrative consent order within 30 days by requesting a hearing before the Commission.

Conclusion

For those who serve the turf grass, lawn care and landscaping industries in Northwest Arkansas,

adherence to Titles XXI and XXII is important to avoid penalty. Compliance with these regulations is straightforward and achievable as long as the guidelines in this document are followed and good records are kept. For more information, contact the Arkansas Natural Resources Commission at <http://www.anrc.arkansas.gov/>.

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