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Nitrogen Fertilizer Firestorm Still Burning in Florida

Thu, Mar 24, 2011

[General](#)

Should a town or a county have the right to pass a law more restrictive than a state law when it comes to fertilizers? That's been a raging question that is heating up again in Florida this week for Scotts Miracle-Gro, just as the company is trying to bask in the glow of its [public relations coup](#) on Tuesday when it declared it would remove all phosphorus from lawn fertilizers.

"The issue down here isn't phosphorus, it's nitrogen," said the Sierra Club's Cris Costello. "In the ocean, by which everyone knows Florida is surrounded, the algae blooms and water quality are impacted by nitrogen, not phosphorus. Scotts doesn't want anyone limiting the amount of nitrogen in lawn fertilizers, nor does the company want lawn fertilizers to be restricted no matter what."

The issue is becoming a hot button again in Florida because a bill now moving through the state legislature would remove the rights of local governments to enact their own laws regarding fertilizer use. Sen. Greg Evers, the owner of a farm and garden supply store, is among a determined cadre of legislators leading the charge for Scotts and the chemical fertilizer industry.

THE HISTORY OF THE ISSUE

Sarasota County in Florida made American history in 2007 by becoming the first region of the nation to restrict the application of lawn fertilizers during the summer rainy season. Much of Florida can receive upwards of 10 inches of rain per month from June to September — often times in deluges that drop several inches at once — and these powerful weather events will often rinse lawn fertilizers into the ocean. Algae blooms are often visible after heavy rain events in Florida and the Sarasota County officials decided to take action that was soon emulated by other towns and counties.

Currently 47 municipalities in the state have enacted fertilizer restrictions similar to Sarasota's. Pinellas County, which includes part of the Tampa Bay region, took things a step further last year by restricting both the sale and application of the fertilizers, as well as requiring that 50 percent of the nitrogen in the fertilizer be of a slow-release nature. Since Scotts Miracle-Gro doesn't have any lawn products that comply with that stipulation, the company's products were literally pulled off the shelves in Pinellas County.

That enraged Scotts Miracle-Gro, according to numerous observers. Chris Wible, the chief sustainability officer for the company, has visited Florida repeatedly to make his company's point

that local governments aren't smart enough to make their own decisions. He was present last January when the Pinellas County Commissioners, in front of hundreds of people who were hotly debating this issue across three courthouse floors, voted 6-1 in favor of the ban.

Scotts and numerous other industry lobbyists, including a high-powered consultant named Barry Edwards and an Orlando attorney Dan Gerber, vowed to keep up the fight that night. A web site has since been launched — TheFertilizerFix.com — aimed at building support for a less restrictive statewide fertilizer law.

"They want one state law with only minimal restrictions on nitrogen," said the Sierra Club's Costello, who has relentlessly championed the fertilizer bans since their inception.

AN OFFICIAL POLICY

In fairness to Scotts, the company isn't alone in its campaign to take away local control on fertilizers. TruGreen (ChemLawn) is reportedly paying Gerber and Edwards and, at the national association meeting for the fertilizer industry last year, this statement was adopted as official policy:

"The Association of American Plant Food Control Officials (AAPFCO) is vitally interested in the protection of the environment; and believes that appropriate fertilizer use can improve the quality of the environment. AAPFCO recognizes that the regulation of fertilizers must be based on sound scientific principles and that local ordinances regulating the registration, labeling, packaging, sale, storage, distribution, use and application of fertilizer can significantly disrupt the uniform movement of these products in commerce and could harm the environment. Municipalities and other forms of local government may lack the proper scientific expertise to properly and adequately regulate fertilizers; therefore, the Association of American Plant Food Control Officials does not support the development of local regulation of fertilizers by political subdivisions below the level of the State. Furthermore, the **Association recommends that all states move quickly to develop legislation that prohibits the regulation of fertilizers below the level of the State in order to insure that these materials are regulated based on sound scientific principles needed to protect the environment.**"

This same sort of "state-preemption" law campaign happened in the lawn and garden pesticide industry in 1991 after the town of Hudson, Quebec, became the first municipality in North America to ban pesticides. Forty-one of 50 states made it against the law beginning in 1991 for a town or county to pass a law regarding pesticides that is more restrictive than the state law.

Back then, with no Internet, the lobbying for state-preemption went on without even a smidgen of public scrutiny. This time around, though, the fallout from Sarasota County's law — and the subsequent domino effect throughout Florida — has been played out in public.

Despite the fact that Scotts Miracle-Gro has led concerted efforts to overturn these local laws at least three times in the past and failed, and appears to be dedicating even more resources to the fight this time, numerous environmentalists are hopeful they can keep local control in place.

"Nothing would surprise me, on one hand, but on the other hand, I'm optimistic," said Costello.

"Local communities deserve the right to protect their own waterways. The big industry down here is tourism, which is dependent on clean water. That's vastly larger than the lawn fertilizer industry, so we have that in our favor.

"You can never underestimate the power of Scott Miracle-Gro, though. They'll do just about anything to get their way."

So the question remains: Should local governments be able to enact their own laws to protect the environment? The answer seems clear from here, but protecting that right requires all of us to speak out and make sure that Scotts' money doesn't buy the wrong outcome.

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This post was written by:

[Paul Tukey](#) - who has written 689 posts on [Safelawns Daily Post and Q&A Blog](#).

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One Response to “Nitrogen Fertilizer Firestorm Still Burning in Florida”



[Ginny Stibolt](#) Says:

[March 25th, 2011 at 11:36 am](#)

Thanks for posting this Paul. We can't let this law pass, because we know that Gov. Scott would sign it. Communities should be able to be proactive in protecting the environment.

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