



# The National Agricultural Law Center

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## States' Nutrient Management Plans Statutes & Regulations: *Massachusetts*



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States' Nutrient Management Plans Statutes & Regulations:  
Massachusetts

**MA Gen L ch 128 § 2(k)**  
**330 MA Code of Regs 330.31.04**

*The statutes and Constitution are current through the 2018 regular and special legislative sessions.  
The statutes are subject to changes by the Massachusetts General Court.*

**MA Gen L ch 128 § 2. Certain powers and duties defined.**

The department through its proper divisions shall have power to—

- (a) Execute and carry into effect the laws relative to dairy products, animal breeding, apple grading, plant pest control except the gypsy and brown tail moths and the tent caterpillars, apiary inspection, and the production, storage, marketing and distribution of agricultural products.
- (b) Aid in the promotion and development of the agricultural resources of the commonwealth and the improvement of conditions of rural life, the settlement of farms and the distribution of the supply of farm labor.
- (c) Establish a foreign trade section in the division of agricultural development and investigate the cost of production and marketing in all phases, and the sources of supply, of agricultural, aquacultural, floricultural or horticultural commodities, transportation, storage, marketing and distribution of said products sold, offered for sale, stored or held within the commonwealth.
- (d) Collect and disseminate data and statistics as to the food, flowers and other horticultural products produced, marketed, stored or held within the commonwealth, with the quantities available from time to time and the location thereof.
- (e) Investigate and aid improved methods of co-operative production, marketing and distribution of agricultural products within the commonwealth.
- (f) Offer prizes for and conduct exhibits of flowers, fruits, vegetables, grasses, grains or other farm crops, dairy products, honey, horses, breeding ponies, cattle, sheep, swine, poultry, poultry products, rabbits, hares, dairy goats, farm operations, and canned and dried fruits and vegetables and offer prizes for, and in aid of, the elimination and suppression of insect pests. The



department may also offer prizes for, and in aid of, such agriculturally related youth programs as the commissioner may deem approved. To properly display exhibits authorized in this paragraph, the department may expend such sums as may be appropriated therefor for the painting, renovation, remodeling and maintenance of the state agricultural and industrial building in the town of West Springfield and in the city of Brockton.

(g) Promote, develop and encourage through the Massachusetts Thoroughbred Breeding Program, the breeding of thoroughbred horses in the commonwealth by offering cash prizes to breeders of such horses in the following manner: the Massachusetts Thoroughbred Breeders Association, Inc. shall from time to time in consultation with the chairman of the racing commission and the program manager for the equine division in the department of agriculture set the percentages for bonuses to be awarded to the breeder of a Massachusetts bred thoroughbred horse, of the purse monies won by said thoroughbred horse in any pari-mutuel running horse race if said horse finishes first, second or third; the percentage for a cash prize to the owner of the stallion, at the time of service to the dam of such purse winner; provided, however, that (i) the stallion stood the breeding season of February through June in the commonwealth, (ii) the horse finishes first, second or third, and (iii) said stallion is registered with the department of food and agriculture; the percentage for a cash prize for the purse monies won by said thoroughbred horse in any unrestricted or restricted pari-mutuel running horse race held within or outside of the commonwealth to the owner of a Massachusetts bred horse if said horse finishes first, second, or third.

The Massachusetts Thoroughbred Breeders Association, Inc. is further authorized to pay cash purses for stakes races to be limited to Massachusetts bred thoroughbred race horses from the Massachusetts thoroughbred breeding program at licensed pari-mutuel race meetings authorized by the state racing commission. Such races may be betting or non-betting races and may or may not be scheduled races by the licensee conducting the racing meeting. Purse monies paid by the association under this section may be in such amounts as the association shall determine and may be the sole cash purse for such races or may be supplemental to the cash purses established by the licensee; provided, however, that no person, partnership, corporation or group of persons may receive more than five thousand dollars as a cash prize breeder's award from the association for an individual horse race within the commonwealth.

No person shall be eligible for the prizes provided herein unless the following standards are met:



(1) The foal of a thoroughbred mare that drops said foal in the commonwealth and is bred back to the Massachusetts registered stallion shall be Massachusetts bred; or

(2) The foal of a thoroughbred mare who resides in the commonwealth from the fifteenth day of October of the year prior to foaling, and continues such residence until foaling and foals in the commonwealth shall be Massachusetts bred.

(3) In either the case of subparagraph (1) or (2) each thoroughbred foal dropped in the commonwealth shall be registered with the Jockey Club and the department of food and agriculture.

(4) Prior to the first day of September of each year, each person standing a thoroughbred stallion in the commonwealth at either private or public service shall file with the department of food and agriculture: (a) a list of all thoroughbred mares bred to such stallion in that year; and (b) a verified statement representing that said stallion stood the entire breeding season in the commonwealth.

The Massachusetts Thoroughbred Breeders Association, Inc. is hereby further authorized to expend up to eight percent of the amount received each fiscal year for said program for advertising, marketing, promotion, and administration of the thoroughbred breeding program in the commonwealth.

The state auditor shall audit the books of the Massachusetts Thoroughbred Breeders Association, Inc., to ensure compliance with this section, in accordance with generally accepted government auditing standards, as often as the state auditor determines is necessary.

(h) Allot to fairs monies for the purchase, rental or installation of facilities to further aid in the display of exhibits and the health and comfort of the general public; provided, however, monies shall not be expended on any portion of the fair used for horse racing.

It may also publish annually a leaflet relative to trees and birds, which shall be approved by the commissioner of education, and may distribute the same to the superintendents and teachers of rural and suburban public schools prior to Arbor and Bird Day.

[There is no paragraph (i).]

[Paragraph (j) effective until July 31, 2019. See 2001, 139, Sec. 45 as amended by 2005, 176, Sec. 13; 2006, 54, Sec. 12; 2006, 449, Secs. 19 and 21; 2008, 290, Sec. 12; 2009, 167, Sec. 12; 2010, 203, Sec. 12; 2011, 77, Sec. 12; 2011, 194, Sec. 84; 2014, 264, Sec. 11; 2016, 176, Sec. 11; 2017, 56, Sec. 11; and 2018, 159, Sec. 11.]



(j) Promote, develop and encourage, through the Massachusetts Standardbred Breeding Program, the breeding of standardbred horses in the commonwealth by offering cash prizes to breeders of such horses. The representative organization of standardbred breeders and owners approved by the state racing commission shall, from time to time in consultation with the chairman of the racing commission and the commissioner of the department of food and agriculture, set the percentages for purses to be awarded to the breeder of a Massachusetts standardbred horse.

The representative organization of standardbred breeders and owners approved by the state racing commission may pay cash purses and stallion awards for stakes races limited to Massachusetts bred standardbred race horses and qualified Massachusetts stallions from the Massachusetts standardbred breeding program at licensed pari-mutuel racing meetings authorized by the state racing commission. Such races may be betting or non-betting races and may or may not be scheduled races by the licensee conducting the racing meeting. All races for the standardbred breeding program shall be held at a licensed pari-mutuel facility. Purse monies and stallion awards paid by the representative organization of standardbred breeders and owners approved by the state racing commission may be paid in such amounts as the representative organization shall determine and may be either the sole cash purse for such races or may be supplemental to the cash purses established by the licensee of the pari-mutuel facility.

The standardbred horses eligible to participate in the purses provided herein shall be limited to those of racing ages 2 and 3 and shall have met the following requirements:

- (1) the qualifying standardbred horses shall have been sired by a Massachusetts registered stallion on file with the department of food and agriculture; provided, however, that the stallion shall have stood the entire breeding season of February 1 to July 15, inclusive, in the commonwealth in the year any such eligible foal was conceived; or
- (2) the foal of a standardbred mare that drops the foal in the commonwealth and is bred back to a Massachusetts registered stallion; or the foal of a standardbred mare that resides in the commonwealth from December 1 of the year prior to foaling and continues such residence until foaling and foals in the commonwealth;
- (3) in either the case of subparagraph (1) or (2), each standardbred foal dropped in the commonwealth shall be registered with the United States Trotting Association and the department of food and agriculture.



Prior to October 1 of each year, each breeder standing a standardbred stallion in the commonwealth at either private or public service shall file with the department of food and agriculture a list of all standardbred mares bred to such stallion in that year and a verified statement representing that the stallion stood the entire breeding season in the commonwealth.

The representative organization may expend up to 8 per cent of the amount received each fiscal year for the program for advertising, marketing, promotion and administration of the standardbred breeding program in the commonwealth.

The state auditor shall audit the books of the qualified organization, in accordance with generally accepted government auditing standards, as often as the state auditor determines is necessary, to ensure compliance with this section.

(k) Maintain authority to regulate and enforce the registration and application of plant nutrients put on or in soil to improve the quality or quantity of plant growth, including, but not limited to, fertilizer, manure and micronutrients in the commonwealth.

The department shall promulgate regulations that specify when plant nutrients may be applied and locations in which plant nutrients shall not be applied. Subject to appropriation, the department may also develop regulations regarding the use of plant nutrients designed to mitigate significant risks to human health and the environment. The department may limit the scope of those regulations regionally as appropriate. The department shall work in conjunction with the University of Massachusetts Amherst Extension to ensure any regulations of the department relative to plant nutrients are consistent with the program's published information, educational materials and other public outreach programs relative to nutrient management and fertilizer guidelines.

The department may establish fines for violations of regulations promulgated under this subsection which shall not exceed \$250 for a first offense, \$500 for a second offense and \$1000 for a third or subsequent offense.

A person aggrieved by the assessment of a fine under this subsection may appeal that fine by filing a notice of appeal with the division of administrative law appeals within 10 days of the receipt of the notice of the fine. An appellant shall be granted a hearing before the division of administrative law appeals under chapter 30A. The hearing officer may affirm or, if the aggrieved person demonstrates by a preponderance of evidence that the fine was erroneously issued, vacate or modify the fine. A person aggrieved by a



decision of the hearing officer may file an appeal in the superior court under said chapter 30A.

### **330 MA Code of Regs 330.31.04. Requirements for Nutrient Management Plan and Testing for Agricultural Land.**

(1) Regardless of the number of acres, any Person who applies Plant Nutrients to Agricultural Land shall comply with the Plan guidance set forth within the UMass Guidelines for the agricultural commodity. This may include multiple UMass Guidelines specific to the commodity being grown. The information maintained as part of any UMass Guideline recommendation shall constitute the Plan for the Agricultural Operation.

(2) In the event that UMass Guidelines are not available, a Plan containing the information shall be maintained by the Operator of the Agricultural Operation for all Plant Nutrient applications made to ten or more acres of Agricultural Land:

(a) Plan identification, which shall include:

1. Operator name and address;
2. location of all land under the Plan;
3. date the Plan was prepared or updated;
4. period of time the Plan covers; and
5. name and contact information of the Person responsible for the Plan development.

(b) Map or aerial photograph, which shall include:

1. one or more maps or aerial photographs that identify the location and boundaries of fields or Management Unit;
2. field or Management Unit number or identifier;
3. acreage of each field or Management Unit;
4. location of Surface Waters, Zone A, if present, and Zone I of Public Water Supply Wells, if present; and
5. identification of the areas where Plant Nutrient applications are restricted based on setbacks set forth in 330 CMR 31.03.

(c) If applicable, an inventory of generated and stored Agricultural Byproducts and Agricultural Process Water to be land-applied must be kept. A determination of available Plant Nutrients from



these sources should be based on sample analysis results of Plant Nutrient in stored Agricultural Byproducts and Agricultural Process Water or book values for Plant Nutrient content in Agricultural Byproducts and process waters as published in the UMass Guidelines.

(d) Current and/or planned crop and crop rotation for each field or Management Unit.

(e) Determination of the planned Plant Nutrient Application Rates on individual fields or Management Units, which shall be based on:

1. Crop Nutrient Needs based on crop removal rate and yield goals;
2. Soil Test or plant tissue test results;
3. application of all sources of Plant Nutrients;
4. results of phosphorus soil level assessment, if applicable;
5. nutrient credits from previous crops and Animal Manure applications, if applicable;
6. environmental factors such as setbacks and Buffers;
7. UMass Guidelines; and
8. the best information available at the time a Plan is prepared.

(f) If applicable, determination of whether a Nutrient Application Rate should be based on nitrogen or phosphorus as a limiting factor.

1. high, above optimum or excessive phosphorus soils: Recommendations for fields with soils containing a high, above optimum or excessive phosphorus level shall follow UMass Guidelines for high-phosphorus soils.
2. optimum or less than optimum phosphorus soils: Nutrient Application Rates on fields with soil phosphorus levels that are optimum or less may be based on nitrogen;

(g) Application records shall include the following:

1. Soil Test results and recommended Nutrient Application Rates;
2. quantities, analyses, and sources of Plant Nutrients applied;
3. dates and method(s) of nutrient application;
4. crops planted and estimated yields; and



5. all activities or protocols recommended or required by the Plan.

(h) Guidance for implementation, operation and maintenance, and record keeping.

(3) Record Keeping for Agricultural Land under ten acres and for which no UMass Guidelines are available. The following must be kept by any Operator or Person that does not meet the Plan requirements set forth in 330 CMR 31.04(1) or (2). Records shall be maintained by the Operator or Person and shall include:

- (a) Soil Test results and recommended Nutrient Application Rates;
- (b) Quantities, analyses, and sources of Plant Nutrients applied;
- (c) Dates and method(s) of Plant Nutrient application; and
- (d) Crops planted and estimated yields.

(4) Plan Updates and Revisions. For Agricultural Operations that are required to keep a plan, updates and revisions of a Plan shall be made based on review of crop-year specific information and operation specific information. Information used to develop crop-year specific field-based plans shall be reviewed and updated annually, if necessary. Operation-specific information shall be reviewed and updated every three years, or as necessary when changes occur, including, but not limited to, the following:

- (a) If the planned crop or cropping rotation, or introduction of a new crop is not currently addressed in an existing Plan, unless the new crop will have fertility management similar to that crop originally planned;
- (b) If nutrient source or Soil Test results indicate a change in nutrient recommendations;
- (c) If 10% or greater change in acreage managed, or 30 acres, whichever is less; or
- (d) If a change in Animal Manure production is 10% or greater, and will require significant management adjustments.

(5) All testing of soils, plant tissue, Agricultural Byproducts, and Agricultural Process Water done in accordance with 330 CMR 31.04 shall comply with the following:

- (a) Each field, or group of fields with similar soils and crops and history of lime and Fertilizer applications, shall be Soil Tested at least every three years. Soil Tests shall include analyses for phosphorus, potassium, pH, and soil organic matter. Standard Soil Test analyses shall be conducted in accordance with UMass Guidelines;



(b) Sampling and testing of Agricultural Byproducts and Agricultural Process Water shall comply with the following, unless UMass Guidelines require an alternative sampling and testing requirement:

1. materials shall be analyzed for nitrogen (total nitrogen, and ammonia-N), total phosphorus, total potassium, percent solids;
2. if there is no prior sampling history, testing shall be done annually for a minimum of three consecutive years. The average of the results shall be used as a basis for nutrient allocation to fields. Materials shall then be tested every three years;
3. samples of these materials shall be collected, prepared, stored, shipped and tested following UMass Guidelines; and
4. tests shall be performed whenever there is a significant change in animal numbers, species, diet, storage method, bedding materials, or additions of other Agricultural Byproducts, including those from offsite.

(c) Plant tissue testing shall be done in accordance with UMass Guidelines.

(6) All Plan and record keeping information required under 333 CMR 31.04 shall be kept for three years in either electronic or hard copy format and shall be made available for inspection by the Department upon request.

(7) The application of Plant Nutrients must follow any Plan required by 330 CMR 31.04.

(8) Should UMass Guidelines not be available when referenced in 330 CMR 31.00, the Applicator or Operator must follow the equivalent extension service standards or standard industry practices until such time that UMass Guidelines have become available

