

# Nutrient Pollution Update: What's happened since our report was released in 2001?

---

## **Legislation:**

### Lawn Care Products Application and Notice Act

As of July 1, 2010, Illinois banned the application of phosphorus-containing fertilizers by hired applicators statewide unless a soil test shows phosphorus deficiency or it is within the first two seasons of establishment of a new lawn. The law further protects water quality by restricting application of lawn fertilizers to frozen lawns or to impervious surfaces such as driveways. Additionally, lawn care companies must not apply any fertilizer within a 15 foot buffer of any body of water. (The buffer is reduced to 3 feet if the fertilizer is being applied using a deflector.)

Prior to the statewide law, the villages of Lakewood and Wonder Lake (as well as many towns in Lake County) enacted more stringent versions of the law to further improve their water quality. These ordinances restrict the use of phosphorus-containing lawn fertilizers by both homeowners and lawncare companies. McHenry County's Water Resources Action Plan encourages communities to adopt comprehensive bans that also include homeowners. Sierra Club is interested in working with municipalities to enact more stringent ordinances in the Fox River Watershed.

### Illinois Fertilizer Act Amended

At the end of May 2012 the Illinois Fertilizer Act was amended since it had not been substantially amended since 1961. In addition to amending definitions, terms and structure of the Act to be consistent with the American Association of Plant Food Control Officials national handbook it created a Nutrient Research and Education council. This council will utilize a specified fertilizer tonnage fee to establish and implement nutrient research, education and water quality programs with a focus toward on-farm research.

Essentially the fertilizer and agricultural industry will fund programs to increase nutrient efficiency, reduce nutrient losses and protect water quality. The research and education program will in turn provide funds to Illinois universities to perform nutrient research, thus also supporting our state university research system.

The bill is part of the "Keep it for the Crop" initiative which is supported by a coalition of agricultural and environmental organizations including Sierra Club working to improve soil and water quality in Illinois. Illinois EPA estimates that 55% of nutrient pollution comes from non-point sources like agricultural run-off which can be addressed through legislation like the Lawn Care Products Act and the Illinois Fertilizer Act.

### **Creation of IEPA Nutrient Workgroups:**

Sierra Club has been working with other environmental groups and US EPA to put pressure on IEPA to apply nutrient limits in NPDES permits based on the existing narrative standard for offensive conditions caused by excessive algae and plant growth. To implement this concept IEPA has created the following four nutrient workgroups. Illinois Environmental Protect Agency created nutrient workgroups

1. Narrative Water Quality Standard. This workgroup will update 35 IAC 302.203 (the narrative water quality standard for offensive conditions) to enable the adverse effects of nutrient enrichment (cultural eutrophication) to be objectively identified.
2. Technology Based Effluent Standards for Phosphorus. This workgroup will be updating 35 IAC 304.123 (the effluent standards for phosphorus). Technically feasible and economically reasonable effluent limits for phosphorus are to be expanded to enable point sources to be regulated where they cause or contribute to excessive stream algae or aquatic plant growth, and over a longer term, to eventually require all P contributors of a certain size to remove P.
3. Determining Significant Sources of Phosphorus. This workgroup will work to determine what criteria will be used to decide whether an upstream point source is contributing significantly to phosphorus loading in a stream and how these point sources will be regulated.
4. Low Phosphorus Waters. Some streams in IL may have very low phosphorus concentrations and it is desirable to preserve this condition. Through the antidegradation standard or the effluent standard (draft 304.123(f)now mentions this) the concept of “hands off” increasing phosphorus from point sources to these designated streams could be codified. This work group will work to define and identify low phosphorus streams.

Sierra Club is particularly excited about the fourth workgroup which is designed to define and identify low phosphorus waters. Pollution regulations are often reactive rather than pro-active which leads to continuous clean-ups and mitigation efforts instead of protecting areas that are of good quality.

There is also discussion of Metropolitan Water Reclamation District implementing nutrient removal at their plants which are the largest plants in the state of Illinois. IEPA estimates 45% of nutrient pollution comes from point sources, primarily wastewater treatment plants. This means that working with municipalities and wastewater districts is vital for finding creative solutions to water quality problems and in particular reducing Illinois nutrient load to the Gulf of Mexico. The Fox River Study Group is an excellent example of collaborative problem solving that the Sierra Club has had a chance to participate in.