



HB 0509

2003

1 A bill to be entitled
 2 An act relating to agricultural fertilizers; amending s.
 3 576.045, F.S.; adding phosphorus contamination to the
 4 water quality issues addressed by this section; including
 5 surface water in the types of waters in which residues are
 6 found; applying the provisions relating to nitrate
 7 fertilizers to phosphorus-containing fertilizers;
 8 including a fee for fertilizer that contains phosphorus;
 9 providing purposes for use of collected funds; providing
 10 that adopted rules be consistent with provisions of s.
 11 403.067(7)(d), F.S.; revising dates for expiration of
 12 certain provisions; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 576.045, Florida Statutes, is amended
 17 to read:

18 576.045 Nitrate and phosphorus; findings and intent; fees;
 19 purpose; best-management practices; waiver of liability;
 20 compliance; rules; ~~report~~; exclusions; expiration.--

21 (1) FINDINGS AND INTENT.--

22 (a) The Legislature finds that nitrate and phosphorus
 23 residues have been found in groundwater, surface water, and
 24 drinking water in various areas throughout the state at levels
 25 in excess of established water quality standards. The
 26 Legislature further finds that some fertilization practices
 27 could be a source of nitrate and phosphorus contamination.

28 (b) It is the intent of the Legislature to improve
 29 fertilization ~~fertilizer-management~~ practices as soon as
 30 practicable in a way that protects the state's water resources



HB 0509

2003

31 and preserves a viable agricultural industry. This goal is to be
 32 accomplished through research concerning best-management
 33 practices and education and incentives for the agricultural
 34 industry and other major users of fertilizer.

35 (2) FEES.--

36 (a) In addition to the fees imposed under ss. 576.021 and
 37 576.041, the following supplemental fees shall be collected and
 38 paid by licensees for the sole purpose of implementing this
 39 section:

40 1. One hundred dollars for each license to distribute
 41 fertilizer.

42 2. One hundred dollars for each of the first five
 43 specialty fertilizer registrations and \$25 for each registration
 44 after the first five.

45 3. Fifty cents per ton for all fertilizer that contains
 46 nitrogen or phosphorus and that is sold in this state.

47 (b) All fees paid to the department under this section are
 48 due and payable at the same time and in the same manner as the
 49 fees specified in ss. 576.021 and 576.041 and are subject to all
 50 provisions contained in those sections.

51 (c) All fees paid under this section must be deposited
 52 into the General Inspection Trust Fund and are exempt from the
 53 provisions of s. 215.20. These funds are to be appropriated
 54 annually to the department and allocated according to a
 55 memorandum of understanding between the department and the
 56 Department of Environmental Protection ~~to be adopted by October~~
 57 ~~1, 1994~~. The allocation of indirect costs to these funds by any
 58 state agency is specifically prohibited.

59 (3) PURPOSE.--The funds collected pursuant to subsection
 60 (2) must be used by the department consistent with the process



HB 0509

2003

61 provided in s. 403.067 for ~~by the department for the sole~~
62 ~~purpose of:~~

63 (a) Research, development, demonstration, and
64 implementation of suitable best-management practices or other
65 measures used to achieve water quality standards. Implementation
66 of best-management practices and other measures may include
67 cost-sharing grants, technical assistance, implementation
68 tracking, and conservation leases or other agreements for water
69 quality improvement. Contracting, where appropriate, with the
70 Institute of Food and Agricultural Sciences at the University of
71 Florida and the College of Engineering, Science, Technology, and
72 Agriculture at Florida Agricultural and Mechanical University to
73 conduct research relating to best-management practices designed
74 to prevent nitrates from fertilizers or other soil-applied
75 nutritional materials from entering groundwater at levels in
76 excess of state water quality standards. Such contracts must be
77 for fixed periods of time and must require interim reports
78 concerning the progress of the research.

79 ~~(b) Approving, adopting, publishing, and distributing~~
80 ~~best management practices. In the process of approving and~~
81 ~~adopting best-management practices, the department shall consult~~
82 ~~with the Department of Environmental Protection, the Department~~
83 ~~of Health, the water management districts, environmental groups,~~
84 ~~the fertilizer industry, and representatives from the affected~~
85 ~~farming groups.~~

86 (b)(c) Reimbursement of Reimbursing the Water Quality
87 Assurance Trust Fund for costs incurred by the Department of
88 Environmental Protection for:

89 1. Monitoring and verifying the effectiveness of the best-
90 management practices approved and adopted ~~under paragraph (b)~~ at



HB 0509

2003

91 representative sites. The Department of Environmental Protection
 92 shall use best professional judgment in making the initial
 93 determination of best-management practice effectiveness.

94 2. Sampling, analysis, and restoration of potable water
 95 supplies, pursuant to s. 376.307, found to contain levels of
 96 nitrate in excess of state water quality standards, which excess
 97 is determined to be the result of the application of fertilizers
 98 or other soil-applied nutritional materials containing nitrogen.

99
 100 This subsection must be implemented through a memorandum of
 101 understanding between the department and the Department of
 102 Environmental Protection ~~to be adopted by October 1, 1994.~~

103 (4) WAIVER OF LIABILITY AND PRESUMPTION OF
 104 COMPLIANCE.--Implementation of best-management practices or
 105 other measures adopted by rule pursuant to this section shall
 106 provide a release from the provisions of s. 376.307(5) and
 107 presumption of compliance with state water quality standards as
 108 provided in s. 403.067. ~~Notwithstanding any provision of law,~~
 109 ~~the Department of Environmental Protection is not authorized to~~
 110 ~~institute proceedings against any person under the provisions of~~
 111 ~~s. 376.307(5) to recover any costs or damages associated with~~
 112 ~~nitrate contamination of groundwater, or the evaluation,~~
 113 ~~assessment, or remediation of nitrate contamination of~~
 114 ~~groundwater, including sampling, analysis, and restoration of~~
 115 ~~potable water supplies, where the nitrate contamination of~~
 116 ~~groundwater is determined to be the result of the application of~~
 117 ~~fertilizers or other soil-applied nutritional materials~~
 118 ~~containing nitrogen, provided the property owner or leaseholder:~~



HB 0509

2003

119 ~~(a)1. Provides the department with a notice of intent to~~
120 ~~implement applicable best-management practices adopted by the~~
121 ~~department;~~

122 ~~2. Implements applicable best-management practices as soon~~
123 ~~as practicable according to rules adopted by the department or~~
124 ~~no longer applies fertilizers or other soil-applied nutritional~~
125 ~~materials containing nitrogen; and~~

126 ~~3. Implements practicable interim measures identified and~~
127 ~~adopted by the department which can be implemented immediately~~
128 ~~or according to rules adopted by the department; or~~

129 ~~(b) No longer applies fertilizers or other soil-applied~~
130 ~~nutritional materials containing nitrogen as of the effective~~
131 ~~date of this section.~~

132 ~~(5) COMPLIANCE. If the property owner or leaseholder~~
133 ~~implements best-management practices that have been verified by~~
134 ~~the Department of Environmental Protection to be effective at~~
135 ~~representative sites and complies with the following, there is a~~
136 ~~presumption of compliance with state nitrate groundwater quality~~
137 ~~standards:~~

138 ~~(a)1. Provides the department with a notice of intent to~~
139 ~~implement applicable best-management practices adopted by the~~
140 ~~department;~~

141 ~~2. Implements applicable best-management practices as soon~~
142 ~~as practicable according to rules adopted by the department or~~
143 ~~no longer applies fertilizers or other soil-applied nutritional~~
144 ~~materials containing nitrogen; and~~

145 ~~3. Implements practicable interim measures identified and~~
146 ~~adopted by the department which can be implemented immediately~~
147 ~~or according to rules adopted by the department; or~~



HB 0509

2003

148 ~~(b) No longer applies fertilizers or other soil-applied~~
 149 ~~nutritional materials containing nitrogen as of the effective~~
 150 ~~date of this section.~~

151 (5) ~~(6)~~ RULEMAKING.--

152 ~~(a) As provided in s. 403.067(7)(d), the department, in~~
 153 ~~consultation with the Department of Environmental Protection,~~
 154 ~~the Department of Health, the water management districts, and~~
 155 affected parties, shall adopt rules for interim measures, best-
 156 management practices, conservation plans, nutrient management
 157 plans, or other measures necessary for water quality
 158 improvement. ~~environmental groups, the fertilizer industry, and~~
 159 ~~representatives from the affected farming groups, shall adopt~~
 160 ~~rules to:~~

161 ~~1. Specify the requirements of best-management practices~~
 162 ~~to be implemented by property owners and leaseholders.~~

163 ~~2. Establish procedures for property owners and~~
 164 ~~leaseholders to submit the notice of intent to comply with best-~~
 165 ~~management practices.~~

166 ~~3. Establish schedules for implementation of best-~~
 167 ~~management practices, and of interim measures that can be taken~~
 168 ~~prior to adoption of best-management practices.~~

169 ~~4. Establish a system to assure the implementation of~~
 170 ~~best-management practices, including recordkeeping requirements.~~

171 ~~(b) Rules adopted pursuant to this subsection shall become~~
 172 ~~effective pursuant to the applicable provisions of chapter 120,~~
 173 ~~but must be submitted to the President of the Senate and the~~
 174 ~~Speaker of the House of Representatives for review by the~~
 175 ~~Legislature. The rules shall be referred to the appropriate~~
 176 ~~committees of substance and scheduled for review during the~~
 177 ~~first available regular session following adoption. Except as~~



HB 0509

2003

178 ~~otherwise provided by operation of law, such rules shall remain~~
 179 ~~in effect until rejected or modified by act of the Legislature.~~

180 (6)~~(7)~~ OTHER PROVISIONS.--

181 (a) This section does not limit the authority of the
 182 Department of Environmental Protection to regulate discharges
 183 associated with the commercial feeding of livestock and poultry
 184 defined in chapter 585, including that of dairy farm and egg
 185 production operations, or the disposal of sludge, residuals, or
 186 septage. This paragraph does not grant additional authority to
 187 regulate these discharges.

188 (b) This section does not limit federally delegated
 189 regulatory authority.

190 (c) The Department of Environmental Protection may adopt
 191 rules to establish criteria for dairy farms which provide
 192 reasonable assurance that state nitrate groundwater quality
 193 standards will not be violated and which, provided such criteria
 194 are met, shall prohibit the Department of Environmental
 195 Protection from instituting proceedings against any dairy farmer
 196 under the provisions of s. 376.307(5) and shall provide a
 197 presumption of compliance with safe nitrate groundwater quality
 198 standards.

199 (d) This section, except for subsection (2), does not
 200 apply to the manufacture, mixing, or blending of fertilizer,
 201 including fertilizer containing sludge, residuals, or septage.

202 (7)~~(8)~~ EXPIRATION OF PROVISIONS.--Subsection ~~Subsections~~
 203 ~~(1), (2) expires, (3), (4), and (6) expire~~ on December 31, 2112
 204 ~~2003~~. Subsections (1), (3), (4), (5), and (6)~~(7)~~ expire on
 205 December 31, 2017 ~~2008~~.

206 Section 2. This act shall take effect upon becoming a law.