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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (5) through (33) and (34)
through (42) of section 576.011, Florida Statutes, are
redesignated as subsections (6) through (34) and (36) through
(44), respectively, and new subsections (5) and (35) are added
to that section, to read:

576.011 Definitions.—When used in this chapter, the term:
(5) "Certified professional" means an individual who holds



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12 a certified crop adviser designation issued by the American
13 Society of Agronomy, who has passed the society's Southeast
14 Region Certified Crop Adviser Exam, who holds a 4R Nutrient
15 Management Specialty certification, and whose credentials have
16 been verified by the society's Florida Certified Crop Adviser
17 Board.

18 (35) "Site-specific nutrient management" means the
19 application of nutrients in accordance with s. 576.045(4).

20 Section 2. Section 576.045, Florida Statutes, is amended to
21 read:

22 576.045 Nitrogen and phosphorus; findings and intent; fees;
23 purpose; best management practices; waiver of liability;
24 compliance; rules; exclusions; expiration.-

25 (1) FINDINGS AND INTENT.-

26 (a) The Legislature finds that:

27 1. Nitrogen and phosphorus residues have been found in
28 groundwater, surface water, and drinking water in various areas
29 throughout this ~~the~~ state at levels in excess of established
30 water quality standards. The Legislature further finds that some
31 fertilization-management practices could be a source of such
32 contamination.

33 2. Nutrient application rate recommendations are presently
34 under review by the University of Florida Institute of Food and
35 Agricultural Sciences so that they can reflect the latest
36 methods of producing agricultural commodities and changes to
37 nutrient application practices which are appropriate due to
38 disease, new crop varieties, changes in United States Department
39 of Agriculture Agricultural Marketing Service standards, growing
40 techniques, and market conditions.



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41 3. To gain efficiency and be able to compete successfully
42 with foreign producers that benefit from lower costs of
43 production and favorable trade conditions, many producers in
44 this state grow more product per acre, resulting in higher
45 production at lower overall costs. This high-efficiency crop
46 production requires nutrient application to be based on the
47 intensity of production on a per-acre basis, rather than the
48 lower per-acre production on which past research based its
49 recommended nutrient application rate.

50 4. Florida citrus faces challenges that include citrus
51 greening, citrus canker, windstorms, a freeze in 2022 that
52 resulted in the smallest citrus harvest since 1946, labor and
53 supply chain shortages in 2022, and other events that result in
54 the fruit not being harvested. In order to continue production
55 of this state's iconic crop, nutrient application rates must
56 reflect fruit grown on the tree after the bloom during the
57 growing season and not fruit ultimately harvested for market
58 delivery.

59 (b) It is the intent of the Legislature to:

60 1. Improve fertilization-management practices as soon as
61 practicable in a way that protects ~~this~~ the state's water
62 resources and preserves a viable agricultural industry. This
63 goal is to be accomplished through research concerning best
64 management practices and education and incentives for the
65 agricultural industry and other major users of fertilizer.

66 2. Accommodate continued citrus production without
67 interruption as research to formally revise nutrient application
68 rates is completed.

69 3. Authorize the use of site-specific nutrient management



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70 for Florida citrus to adjust recommended nutrient application
71 rates when site-specific nutrient management is supported by
72 written recommendations from a certified professional and
73 documented using production and field data that is retained for
74 review during the best management practices implementation
75 verification process.

76 (2) FEES.—

77 (a) In addition to the fees imposed under ss. 576.021 and
78 576.041, the following supplemental fees shall be collected and
79 paid by licensees for the sole purpose of implementing this
80 section:

81 1. One hundred dollars for each license to distribute
82 fertilizer.

83 2. One hundred dollars for each specialty fertilizer
84 registration.

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

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

91 (c) All fees paid under this section must be deposited into
92 the General Inspection Trust Fund and are exempt from ~~the~~
93 ~~provisions of~~ s. 215.20. These funds are to be appropriated
94 annually to the department and allocated according to a
95 memorandum of understanding between the department and the
96 Department of Environmental Protection. The allocation of
97 indirect costs to these funds by any state agency is
98 specifically prohibited.



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99 (3) USE OF FUNDS PURPOSE.—The funds collected pursuant to
100 subsection (2) must be used by the department for:

101 (a) Research, development, demonstration, and
102 implementation of suitable interim measures, best management
103 practices, or other measures used to achieve state water quality
104 standards for nitrogen and phosphorus criteria, including site-
105 specific nutrient management. Implementation of interim
106 measures, best management practices, and other measures may
107 include cost-sharing grants, technical assistance,
108 implementation tracking, and conservation leases or other
109 agreements for water quality improvement.

110 (b) Completing the analysis, research plan and
111 recommendations, and report required under paragraph (4) (b).

112 (c) Approving, adopting, publishing, and distributing
113 interim measures, best management practices, or other measures.
114 In the process of developing, approving, and adopting interim
115 measures, best management practices, or other measures, the
116 department shall consult with the Department of Environmental
117 Protection, the Department of Health, the water management
118 districts, environmental groups, the fertilizer industry, and
119 representatives from the affected farming groups.

120 (d) ~~(e)~~ Reimbursing the Department of Environmental
121 Protection for costs incurred which are associated with:

122 1. Monitoring and verifying the effectiveness of the
123 interim measures, best management practices, or other measures
124 approved and adopted under subsection (7) ~~(6)~~ at representative
125 sites. The Department of Environmental Protection shall use its
126 best professional judgment in making the initial determination
127 of the effectiveness of the interim measures, best management



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128 practices, or other measures.

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

134

135 This subsection must be implemented through a memorandum of
136 understanding between the department and the Department of
137 Environmental Protection.

138 (4) SITE-SPECIFIC NUTRIENT MANAGEMENT.—

139 (a) The use of site-specific nutrient management to tailor
140 recommended nutrient application rates is authorized for citrus
141 crops where site-specific nutrient management is supported by a
142 certified professional.

143 1. When recommended nutrient application rates published by
144 the Institute of Food and Agricultural Sciences at the
145 University of Florida or other state universities and Florida
146 College System institutions that have agricultural research
147 programs are not appropriate for a specific producer due to soil
148 conditions, disease, crop varieties, subsequent crop rotations,
149 planting density, market requirements, or site-specific
150 conditions, written recommendations from a certified
151 professional may be used to tailor the recommended nutrient
152 application rates for that producer. The determination that the
153 published nutrient application rates are not appropriate and the
154 recommendation for the tailoring of nutrient application rates
155 must be documented with one or more of the following records, as
156 appropriate: soil tests, plant tissue tests, pathology reports,



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157 yield response curves, growth records, or site-specific
158 conditions, together with records specifying the application
159 rate, the types or forms of nutrients used, the nutrient sources
160 used, and the placement and timing of the nutrient sources. A
161 producer must retain the records for 5 years to support the use
162 of site-specific nutrient management.

163 2. Citrus producers using site-specific nutrient management
164 must be enrolled in and implementing all other best management
165 practices adopted by the department and identified in the
166 enrolled notice of intent required under subsections (5) and (6)
167 and s. 403.067(7)(c).

168 3. Notwithstanding any other law, citrus producers
169 implementing site-specific nutrient management in compliance
170 with this section are provided a presumption of compliance with
171 state water quality standards, may rely on the waiver of
172 liability in subsection (5), and may be deemed to be in
173 compliance with s. 403.067(7)(c) and subsections (5) and (6).

174 (b) The University of Florida Institute of Food and
175 Agricultural Sciences shall analyze the use of site-specific
176 nutrient management for crops other than citrus and crop
177 rotations, develop a research plan and interim recommendations
178 for implementation of site-specific nutrient management, and
179 submit a report to the Governor, the President of the Senate,
180 and the Speaker of the House of Representatives by December 31,
181 2022.

182 (5) WAIVER OF LIABILITY.—Notwithstanding any other
183 provision of law, the Department of Environmental Protection may
184 not is not authorized to institute proceedings against any
185 person or the Federal Government under the provisions of s.



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186 376.307(5) to recover any costs or damages associated with
187 nitrogen or phosphorus contamination of groundwater or surface
188 water, or the evaluation, assessment, or remediation of such
189 contamination of groundwater or surface water, including
190 sampling, analysis, and restoration of potable water supplies,
191 where the contamination of groundwater or surface water is
192 determined to be the result of the application of fertilizers or
193 other soil-applied nutritional materials containing nitrogen or
194 phosphorus, provided the property owner or leaseholder:

195 (a)1. Provides the department with a notice of intent to
196 implement applicable interim measures, best management
197 practices, or other measures adopted by the department which
198 ~~practices or measures~~ have been verified by the Department of
199 Environmental Protection to be effective; and

200 2. Implements applicable interim measures, best management
201 practices, or other measures as soon as practicable according to
202 rules adopted by the department or no longer applies fertilizers
203 or other soil-applied nutritional materials containing nitrogen
204 or phosphorus; or

205 (b) No longer applies fertilizers or other soil-applied
206 nutritional materials containing nitrogen or phosphorus ~~as of~~
207 ~~the effective date of this section.~~

208 (6) ~~(5)~~ COMPLIANCE.—If the property owner or leaseholder
209 implements interim measures, best management practices, or other
210 measures adopted by the department which ~~practices or measures~~
211 have been verified by the Department of Environmental Protection
212 to be effective, and complies with the following, there is a
213 presumption of compliance with state water quality standards for
214 such criteria under this section and s. 403.067(7)(c) with



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215 respect to the application of fertilizers or other soil-applied
216 nutritional materials containing nitrogen or phosphorus:

217 (a)1. Provides the department with a notice of intent to
218 implement applicable interim measures, best management
219 practices, or other measures adopted by the department; and

220 2. Implements applicable interim measures, best management
221 practices, or other measures as soon as practicable according to
222 rules adopted by the department or no longer applies fertilizers
223 or other soil-applied nutritional materials containing nitrogen
224 or phosphorus; or

225 (b) No longer applies fertilizers or other soil-applied
226 nutritional materials containing nitrogen or phosphorus ~~as of~~
227 ~~the effective date of this section.~~

228 (7)~~(6)~~ RULEMAKING.—The department, in consultation with the
229 Department of Environmental Protection, the Department of
230 Health, the water management districts, environmental groups,
231 the fertilizer industry, and representatives from the affected
232 farming groups, shall adopt rules to:

233 (a) Specify the requirements of interim measures, best
234 management practices, or other measures to be implemented by
235 property owners and leaseholders.

236 (b) Establish procedures for property owners and
237 leaseholders to submit the notice of intent to implement and
238 comply with interim measures, best management practices, or
239 other measures.

240 (c) Establish schedules for implementation of interim
241 measures, best management practices, or other measures.

242 (d) Establish a system to assure the implementation of best
243 management practices, including recordkeeping requirements.



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244 (8)~~(7)~~ OTHER PROVISIONS.—

245 (a) This section does not limit the authority of the
246 Department of Environmental Protection to regulate discharges
247 associated with the commercial feeding of livestock and poultry
248 defined in chapter 585, including that of dairy farm and egg
249 production operations, or the disposal of sludge, residuals, or
250 septage. This paragraph does not grant additional authority to
251 regulate these discharges.

252 (b) This section does not limit federally delegated
253 regulatory authority.

254 (c) The Department of Environmental Protection may adopt
255 rules to establish criteria for dairy farms which provide
256 reasonable assurance that state nitrate groundwater quality
257 standards will not be violated and which, provided such criteria
258 are met, shall prohibit the Department of Environmental
259 Protection from instituting proceedings against any dairy farmer
260 under ~~the provisions of~~ s. 376.307(5) and shall provide a
261 presumption of compliance with safe nitrate groundwater quality
262 standards.

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

266 (9)~~(8)~~ EXPIRATION OF PROVISIONS.—Subsection (4) expires on
267 December 31, 2027. Subsections (1), (2), (3), (5) ~~(4)~~, and (7)
268 ~~(6)~~ expire on December 31, 2032 ~~2022~~. Subsections (6) ~~(5)~~ and
269 (8) ~~(7)~~ expire on December 31, 2037 ~~2027~~.

270 Section 3. Paragraph (c) of subsection (7) of section
271 403.067, Florida Statutes, is amended to read:

272 403.067 Establishment and implementation of total maximum



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273 daily loads.—

274 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
275 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

276 (c) *Best management practices.*—

277 1. The department, in cooperation with the water management
278 districts and other interested parties, as appropriate, may
279 develop suitable interim measures, best management practices, or
280 other measures necessary to achieve the level of pollution
281 reduction established by the department for nonagricultural
282 nonpoint pollutant sources in allocations developed pursuant to
283 subsection (6) and this subsection. These practices and measures
284 may be adopted by rule by the department and the water
285 management districts and, where adopted by rule, shall be
286 implemented by those parties responsible for nonagricultural
287 nonpoint source pollution.

288 2. The Department of Agriculture and Consumer Services may
289 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
290 suitable interim measures, best management practices, or other
291 measures necessary to achieve the level of pollution reduction
292 established by the department for agricultural pollutant sources
293 in allocations developed pursuant to subsection (6) and this
294 subsection or for programs implemented pursuant to paragraph
295 (12) (b). These practices and measures may be implemented by
296 those parties responsible for agricultural pollutant sources,
297 and the department, the water management districts, and the
298 Department of Agriculture and Consumer Services shall assist
299 with implementation. In the process of developing and adopting
300 rules for interim measures, best management practices, or other
301 measures, the Department of Agriculture and Consumer Services



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302 shall consult with the department, the Department of Health, the
303 water management districts, representatives from affected
304 farming groups, and environmental group representatives. Such
305 rules must also incorporate provisions for a notice of intent to
306 implement the practices and a system to assure the
307 implementation of the practices, including site inspection and
308 recordkeeping requirements.

309 3. When interim measures, best management practices, or
310 other measures are adopted by rule, the effectiveness of such
311 practices in achieving the levels of pollution reduction
312 established in allocations developed by the department pursuant
313 to subsection (6) and this subsection or in programs implemented
314 pursuant to paragraph (12)(b) must be verified at representative
315 sites by the department. The department shall use its best
316 professional judgment in making the initial verification that
317 the best management practices are reasonably expected to be
318 effective and, when applicable, shall notify the appropriate
319 water management district or the Department of Agriculture and
320 Consumer Services of its initial verification before the
321 adoption of a rule proposed pursuant to this paragraph.
322 Implementation, in accordance with rules adopted under this
323 paragraph, of practices that have been initially verified to be
324 effective, or verified to be effective by monitoring at
325 representative sites, by the department, or are authorized by s.
326 576.045, shall provide a presumption of compliance with state
327 water quality standards and release from s. 376.307(5) for those
328 pollutants addressed by the practices, and the department is not
329 authorized to institute proceedings against the owner of the
330 source of pollution to recover costs or damages associated with



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331 the contamination of surface water or groundwater caused by
332 those pollutants. Research projects funded by the department, a
333 water management district, or the Department of Agriculture and
334 Consumer Services to develop or demonstrate interim measures or
335 best management practices shall be granted a presumption of
336 compliance with state water quality standards and a release from
337 s. 376.307(5). The presumption of compliance and release is
338 limited to the research site and only for those pollutants
339 addressed by the interim measures or best management practices.
340 Eligibility for the presumption of compliance and release is
341 limited to research projects on sites where the owner or
342 operator of the research site and the department, a water
343 management district, or the Department of Agriculture and
344 Consumer Services have entered into a contract or other
345 agreement that, at a minimum, specifies the research objectives,
346 the cost-share responsibilities of the parties, and a schedule
347 that details the beginning and ending dates of the project.

348 4. When water quality problems are demonstrated, despite
349 the appropriate implementation, operation, and maintenance of
350 best management practices and other measures required by rules
351 adopted under this paragraph, the department, a water management
352 district, or the Department of Agriculture and Consumer
353 Services, in consultation with the department, shall institute a
354 reevaluation of the best management practice or other measure.
355 If the reevaluation determines that the best management practice
356 or other measure requires modification, the department, a water
357 management district, or the Department of Agriculture and
358 Consumer Services, as appropriate, shall revise the rule to
359 require implementation of the modified practice within a



360 reasonable time period as specified in the rule.

361 5. Subject to subparagraph 6., the Department of
362 Agriculture and Consumer Services shall provide to the
363 department information obtained pursuant to subparagraph (d)3.

364 6. Agricultural records relating to processes or methods of
365 production, costs of production, profits, or other financial
366 information held by the Department of Agriculture and Consumer
367 Services pursuant to subparagraphs 3., 4., and 5. or pursuant to
368 any rule adopted pursuant to subparagraph 2. are confidential
369 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
370 Constitution. Upon request, records made confidential and exempt
371 pursuant to this subparagraph shall be released to the
372 department or any water management district provided that the
373 confidentiality specified by this subparagraph for such records
374 is maintained.

375 7. Subparagraphs 1. and 2. do not preclude the department
376 or water management district from requiring compliance with
377 water quality standards or with current best management practice
378 requirements in any applicable regulatory program authorized by
379 law for the purpose of protecting water quality. Additionally,
380 subparagraphs 1. and 2. are applicable only to the extent that
381 they do not conflict with any rules adopted by the department
382 that are necessary to maintain a federally delegated or approved
383 program.

384 Section 4. This act shall take effect July 1, 2022.

385
386 ===== T I T L E A M E N D M E N T =====

387 And the title is amended as follows:

388 Delete everything before the enacting clause



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389 and insert:

390 A bill to be entitled
391 An act relating to nutrient application rates;
392 amending s. 576.011, F.S.; defining the terms
393 "certified professional" and "site-specific nutrient
394 management"; amending s. 576.045, F.S.; providing
395 legislative findings and intent; authorizing the use
396 of site-specific nutrient management in specified
397 circumstances; revising the authorized uses of
398 specified funds; authorizing citrus producers to use
399 written recommendations from certified professionals
400 to tailor their recommended nutrient application rates
401 under certain circumstances; requiring citrus
402 producers to keep records regarding the determination
403 that the published nutrient application rates are not
404 appropriate and any recommendations for site-specific
405 nutrient management for a specified period of time;
406 requiring producers using site-specific nutrient
407 management to enroll in and implement certain
408 applicable best management practices; providing a
409 presumption of compliance with certain requirements
410 for producers using site-specific nutrient management;
411 directing the University of Florida Institute of Food
412 and Agricultural Sciences to analyze the use of site-
413 specific nutrient management for certain crops,
414 develop a research plan and certain recommendations,
415 and submit a report to the Governor and Legislature by
416 a specified date; extending the expiration of certain
417 provisions; amending s. 403.067, F.S.; conforming a



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provision to changes made by the act; providing an
effective date.