

By Senator Farmer

34-00617-22

2022904\_\_

1                   A bill to be entitled  
2       An act relating to agricultural practices; providing  
3       legislative findings and intent; amending s. 373.4595,  
4       F.S.; revising the definition of the term "best  
5       management practice"; amending s. 403.067, F.S.;  
6       requiring, rather than authorizing, the Department of  
7       Agriculture and Consumer Services to develop and adopt  
8       rules for interim measures, best management practices,  
9       or other measures to achieve certain levels of  
10      pollution reduction statewide; requiring the  
11      department to develop and adopt rules for guidelines  
12      for providing financial assistance to parties  
13      implementing such measures and practices; providing  
14      that such financial assistance is exempt from certain  
15      provisions; requiring the department to update the  
16      rules within a specified timeframe; requiring  
17      department rules to provide specified administrative  
18      fines for failing to implement or comply with the  
19      measures or practices; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. The Legislature finds that interim measures,  
24 best management practices, and other measures implemented  
25 pursuant to ss. 373.4595 and 403.067, Florida Statutes, have  
26 multifaceted benefits, including improvements in water quality,  
27 water conservation, and climate resiliency. It is the intent of  
28 the Legislature to recognize the benefits provided by these  
29 practices and measures and to incentivize their implementation

34-00617-22

2022904\_\_

30 through prioritization from the technical and financial  
31 assistance provided by the Department of Agriculture and  
32 Consumer Services, Department of Environmental Protection, and  
33 water management districts.

34 Section 2. Paragraph (a) of subsection (2) of section  
35 373.4595, Florida Statutes, is amended to read:

36 373.4595 Northern Everglades and Estuaries Protection  
37 Program.—

38 (2) DEFINITIONS.—As used in this section, the term:

39 (a) "Best management practice" means a practice or  
40 combination of practices determined by the coordinating  
41 agencies, based on research, field-testing, and expert review,  
42 to be the most effective and practicable on-location means,  
43 including economic and technological considerations, for  
44 improving water quality and conservation in agricultural and  
45 urban discharges. Best management practices for agricultural  
46 discharges must ~~shall~~ reflect a balance between water quality  
47 improvements and agricultural productivity and must incentivize  
48 increased climate resiliency in agricultural production.

49 Section 3. Paragraphs (c) and (d) of subsection (7) of  
50 section 403.067, Florida Statutes, are amended to read:

51 403.067 Establishment and implementation of total maximum  
52 daily loads.—

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

55 (c) *Best management practices.*—

56 1. The department, in cooperation with the water management  
57 districts and other interested parties, as appropriate, may  
58 develop suitable interim measures, best management practices, or

34-00617-22

2022904\_\_

59 other measures necessary to achieve the level of pollution  
60 reduction established by the department for nonagricultural  
61 nonpoint pollutant sources in allocations developed pursuant to  
62 subsection (6) and this subsection. These practices and measures  
63 may be adopted by rule by the department and the water  
64 management districts and, where adopted by rule, shall be  
65 implemented by those parties responsible for nonagricultural  
66 nonpoint source pollution.

67 2. The Department of Agriculture and Consumer Services  
68 shall ~~may~~ develop and adopt by rule pursuant to ss. 120.536(1)  
69 and 120.54 suitable interim measures, best management practices,  
70 or other measures necessary to achieve the level of pollution  
71 reduction established by the department for agricultural  
72 pollutant sources in allocations developed pursuant to  
73 subsection (6) and this subsection or for programs implemented  
74 pursuant to paragraph (12)(b). These practices and measures must  
75 ~~may~~ be implemented by those parties responsible for agricultural  
76 pollutant sources statewide, and the department, the water  
77 management districts, and the Department of Agriculture and  
78 Consumer Services shall assist with implementation. In the  
79 process of developing and adopting rules for interim measures,  
80 best management practices, or other measures, the Department of  
81 Agriculture and Consumer Services shall consult with the  
82 department, the Department of Health, the water management  
83 districts, representatives from affected farming groups, and  
84 environmental group representatives. Such rules must also  
85 incorporate provisions for a notice of intent to implement the  
86 practices and a system to assure the implementation of the  
87 practices, including site inspection and recordkeeping

34-00617-22

2022904\_\_

88 requirements. The Department of Agriculture and Consumer  
89 Services shall also develop and adopt rules to establish  
90 guidelines for providing financial assistance to parties for  
91 implementing interim measures, best management practices, or  
92 other measures. The department shall consider economic  
93 feasibility in developing the rules. Any financial assistance  
94 procured pursuant to such rules is exempt from s. 287.057. The  
95 Department of Agriculture and Consumer Services shall update  
96 rules adopted pursuant to this subparagraph at least every 5  
97 years or within a year after the completion of the scientific  
98 and technical research conducted pursuant to paragraph (f),  
99 including updates to nutrient application rates for all  
100 agricultural soil amendments.

101 3. When interim measures, best management practices, or  
102 other measures are adopted by rule, the effectiveness of such  
103 practices in achieving the levels of pollution reduction  
104 established in allocations developed by the department pursuant  
105 to subsection (6) and this subsection or in programs implemented  
106 pursuant to paragraph (12) (b) must be verified at representative  
107 sites by the department. The department shall use best  
108 professional judgment in making the initial verification that  
109 the best management practices are reasonably expected to be  
110 effective and, when applicable, shall notify the appropriate  
111 water management district or the Department of Agriculture and  
112 Consumer Services of its initial verification before the  
113 adoption of a rule proposed pursuant to this paragraph.  
114 Implementation, in accordance with rules adopted under this  
115 paragraph, of practices that have been initially verified to be  
116 effective, or verified to be effective by monitoring at

34-00617-22

2022904\_\_

117 representative sites, by the department, shall provide a  
118 presumption of compliance with state water quality standards and  
119 release from s. 376.307(5) for those pollutants addressed by the  
120 practices, and the department is not authorized to institute  
121 proceedings against the owner of the source of pollution to  
122 recover costs or damages associated with the contamination of  
123 surface water or groundwater caused by those pollutants.

124 Research projects funded by the department, a water management  
125 district, or the Department of Agriculture and Consumer Services  
126 to develop or demonstrate interim measures or best management  
127 practices shall be granted a presumption of compliance with  
128 state water quality standards and a release from s. 376.307(5).  
129 The presumption of compliance and release is limited to the  
130 research site and only for those pollutants addressed by the  
131 interim measures or best management practices. Eligibility for  
132 the presumption of compliance and release is limited to research  
133 projects on sites where the owner or operator of the research  
134 site and the department, a water management district, or the  
135 Department of Agriculture and Consumer Services have entered  
136 into a contract or other agreement that, at a minimum, specifies  
137 the research objectives, the cost-share responsibilities of the  
138 parties, and a schedule that details the beginning and ending  
139 dates of the project.

140 4. When water quality problems are demonstrated, despite  
141 the appropriate implementation, operation, and maintenance of  
142 best management practices and other measures required by rules  
143 adopted under this paragraph, the department, a water management  
144 district, or the Department of Agriculture and Consumer  
145 Services, in consultation with the department, shall institute a

34-00617-22

2022904\_\_

146 reevaluation of the best management practice or other measure.  
147 If the reevaluation determines that the best management practice  
148 or other measure requires modification, the department, a water  
149 management district, or the Department of Agriculture and  
150 Consumer Services, as appropriate, shall revise the rule to  
151 require implementation of the modified practice within a  
152 reasonable time period as specified in the rule.

153 5. Subject to subparagraph 6., the Department of  
154 Agriculture and Consumer Services shall provide to the  
155 department information obtained pursuant to subparagraph (d)6.  
156 ~~(d)3.~~

157 6. Agricultural records relating to processes or methods of  
158 production, costs of production, profits, or other financial  
159 information held by the Department of Agriculture and Consumer  
160 Services pursuant to subparagraphs 3., 4., and 5. or pursuant to  
161 any rule adopted pursuant to subparagraph 2. are confidential  
162 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
163 Constitution. Upon request, records made confidential and exempt  
164 pursuant to this subparagraph shall be released to the  
165 department or any water management district provided that the  
166 confidentiality specified by this subparagraph for such records  
167 is maintained.

168 7. Subparagraphs 1. and 2. do not preclude the department  
169 or water management district from requiring compliance with  
170 water quality standards or with current best management practice  
171 requirements in any applicable regulatory program authorized by  
172 law for the purpose of protecting water quality. Additionally,  
173 subparagraphs 1. and 2. are applicable only to the extent that  
174 they do not conflict with any rules adopted by the department

34-00617-22

2022904\_\_

175 that are necessary to maintain a federally delegated or approved  
176 program.

177 (d) *Enforcement and verification of basin management action*  
178 *plans and management strategies.*—

179 1. Basin management action plans are enforceable pursuant  
180 to this section and ss. 403.121, 403.141, and 403.161.  
181 Management strategies, including best management practices and  
182 water quality monitoring, are enforceable under this chapter.

183 2. ~~No later than January 1, 2017:~~

184 ~~a.~~ The department, in consultation with the water  
185 management districts and the Department of Agriculture and  
186 Consumer Services, shall initiate rulemaking to adopt procedures  
187 to verify implementation of water quality monitoring required in  
188 lieu of implementation of best management practices or other  
189 measures pursuant to sub-subparagraph (b)2.g.†

190 ~~3.b.~~ The department, in consultation with the water  
191 management districts and the Department of Agriculture and  
192 Consumer Services, shall initiate rulemaking to adopt procedures  
193 to verify implementation of nonagricultural interim measures,  
194 best management practices, or other measures adopted by rule  
195 pursuant to subparagraph (c)1.†~~and~~

196 ~~4.e.~~ The Department of Agriculture and Consumer Services,  
197 in consultation with the water management districts and the  
198 department, shall initiate rulemaking to adopt procedures to  
199 verify the proper implementation of agricultural interim  
200 measures, best management practices, or other measures adopted  
201 by rule pursuant to subparagraph (c)2.

202 5. The rules required under subparagraphs 2., 3., and 4.  
203 must ~~this subparagraph shall~~ include enforcement procedures

34-00617-22

2022904\_\_

204 applicable to the landowner, discharger, or other responsible  
205 person required to implement applicable management strategies,  
206 including best management practices or water quality monitoring  
207 as a result of noncompliance. Rules adopted by the Department of  
208 Agriculture and Consumer Services regarding the implementation  
209 of agricultural interim measures, best management practices, or  
210 other measures pursuant to subparagraph (c)2. must include,  
211 after notice and hearing, the imposition of an administrative  
212 fine in the Class II category pursuant to s. 570.971 for any  
213 failure to implement such measures or practices; failure to  
214 cooperate with the department to complete the required  
215 verification of proper implementation; or failure to properly  
216 provide records required as part of such verification.

217 ~~6.3.~~ At least every 2 years, the Department of Agriculture  
218 and Consumer Services shall perform onsite inspections of each  
219 agricultural producer that enrolls in a best management practice  
220 to ensure that such practice is being properly implemented. Such  
221 verification must include a collection and review of the best  
222 management practice documentation from the previous 2 years  
223 required by rules adopted pursuant to subparagraph (c)2.,  
224 including, but not limited to, nitrogen and phosphorus  
225 fertilizer application records, which must be collected and  
226 retained pursuant to subparagraphs (c)3., 4., and 6. The  
227 Department of Agriculture and Consumer Services shall initially  
228 prioritize the inspection of agricultural producers located in  
229 the basin management action plans for Lake Okeechobee, the  
230 Indian River Lagoon, the Caloosahatchee River and Estuary, and  
231 Silver Springs.

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