

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Environment, Agriculture &
 2 Flooding Subcommittee
 3 Representative McClure offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

8 Section 1. Present subsections (5) through (31) and (32)
 9 through (42) of section 576.011, Florida Statutes, are
 10 redesignated as subsections (6) through (32) and (34) through
 11 (44), respectively, and new subsections (5) and (33) are added
 12 to that section, to read:

13 576.011 Definitions.—When used in this chapter, the term:

14 (5) "Certified professional" means an individual who holds
 15 a certified crop adviser designation issued by the American
 16 Society of Agronomy, who has passed the society's Southeast

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17 Region Certified Crop Adviser Exam, who holds a 4R Nutrient
18 Management Specialty certification, and whose credentials have
19 been verified by the society's Florida Certified Crop Adviser
20 Board.

21 (33) "Site-specific nutrient management" means the
22 application of nutrients in accordance with s. 576.045(4).

23 Section 2. Section 576.045, Florida Statutes, is amended
24 to read:

25 576.045 Nitrogen and phosphorus; findings and intent;
26 fees; purpose; best management practices; waiver of liability;
27 compliance; rules; exclusions; expiration.—

28 (1) FINDINGS AND INTENT.—

29 (a) The Legislature finds that:

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

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

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42 of Agriculture Agricultural Marketing Service standards, growing
43 techniques, and market conditions.

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

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

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

63 1. Improve fertilization-management practices as soon as
64 practicable in a way that protects ~~this~~ the state's water
65 resources and preserves a viable agricultural industry. This
66 goal is to be accomplished through research concerning best

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67 management practices and education and incentives for the
68 agricultural industry and other major users of fertilizer.

69 2. Accommodate continued citrus production without
70 interruption as research to formally revise nutrient application
71 rates is completed.

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

79 (2) FEES.—

80 (a) In addition to the fees imposed under ss. 576.021 and
81 576.041, the following supplemental fees shall be collected and
82 paid by licensees for the sole purpose of implementing this
83 section:

84 1. One hundred dollars for each license to distribute
85 fertilizer.

86 2. One hundred dollars for each specialty fertilizer
87 registration.

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

90 (b) All fees paid to the department under this section are
91 due and payable at the same time and in the same manner as the

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92 fees specified in ss. 576.021 and 576.041 and are subject to all
93 provisions contained in those sections.

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

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

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

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

115 (c) ~~(b)~~ Approving, adopting, publishing, and distributing
116 interim measures, best management practices, or other measures.

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117 In the process of developing, approving, and adopting interim
118 measures, best management practices, or other measures, the
119 department shall consult with the Department of Environmental
120 Protection, the Department of Health, the water management
121 districts, environmental groups, the fertilizer industry, and
122 representatives from the affected farming groups.

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

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

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

137
138 This subsection must be implemented through a memorandum of
139 understanding between the department and the Department of
140 Environmental Protection.

141 (4) SITE-SPECIFIC NUTRIENT MANAGEMENT.—

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

146 1. When recommended nutrient application rates published
147 by the Institute of Food and Agricultural Sciences at the
148 University of Florida or other state universities and Florida
149 College System institutions that have agricultural research
150 programs are not appropriate for a specific producer due to soil
151 conditions, disease, crop varieties, subsequent crop rotations,
152 planting density, market requirements, or site-specific
153 conditions, written recommendations from a certified
154 professional may be used to tailor the recommended nutrient
155 application rates for that producer. The determination that the
156 published nutrient application rates are not appropriate and the
157 recommendation for the tailoring of nutrient application rates
158 must be documented with one or more of the following records, as
159 appropriate: soil tests, plant tissue tests, pathology reports,
160 yield response curves, growth records, or site-specific
161 conditions, together with records specifying the application
162 rate, the types or forms of nutrients used, the nutrient sources
163 used, and the placement and timing of the nutrient sources. A
164 producer must retain the records for 5 years to support the use
165 of site-specific nutrient management.

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

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

177 (b) The University of Florida Institute of Food and
178 Agricultural Sciences shall analyze the use of site-specific
179 nutrient management for crops other than citrus and crop
180 rotations, develop a research plan and interim recommendations
181 for implementation of site-specific nutrient management, and
182 submit a report to the Governor, the President of the Senate,
183 and the Speaker of the House of Representatives by December 31,
184 2022.

185 (5) WAIVER OF LIABILITY.—Notwithstanding any other
186 ~~provision of law,~~ the Department of Environmental Protection ~~may~~
187 ~~not is not authorized to~~ institute proceedings against any
188 person or the Federal Government under ~~the provisions of s.~~
189 376.307(5) to recover any costs or damages associated with
190 nitrogen or phosphorus contamination of groundwater or surface

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191 water, or the evaluation, assessment, or remediation of such
192 contamination of groundwater or surface water, including
193 sampling, analysis, and restoration of potable water supplies,
194 where the contamination of groundwater or surface water is
195 determined to be the result of the application of fertilizers or
196 other soil-applied nutritional materials containing nitrogen or
197 phosphorus, provided the property owner or leaseholder:

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

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

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

211 ~~(6)-(5)~~ COMPLIANCE.—If the property owner or leaseholder
212 implements interim measures, best management practices, or other
213 measures adopted by the department which ~~practices or measures~~
214 have been verified by the Department of Environmental Protection
215 to be effective, and complies with the following, there is a

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216 presumption of compliance with state water quality standards for
217 such criteria under this section and s. 403.067(7)(c) with
218 respect to the application of fertilizers or other soil-applied
219 nutritional materials containing nitrogen or phosphorus:

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

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

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

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

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

239 (b) Establish procedures for property owners and
240 leaseholders to submit the notice of intent to implement and

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241 comply with interim measures, best management practices, or
242 other measures.

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

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

247 (8)~~(7)~~ OTHER PROVISIONS.—

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

255 (b) This section does not limit federally delegated
256 regulatory authority.

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

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

269 ~~(9)-(8)~~ EXPIRATION OF PROVISIONS.—Subsection (4) expires on
270 December 31, 2027. Subsections (1), (2), (3), (5) ~~(4)~~, and (7)
271 ~~(6)~~ expire on December 31, 2032 ~~2022~~. Subsections (6) ~~(5)~~ and
272 (8) ~~(7)~~ expire on December 31, 2037 ~~2027~~.

273 Section 3. Paragraph (c) of subsection (7) of section
274 403.067, Florida Statutes, is amended to read:

275 403.067 Establishment and implementation of total maximum
276 daily loads.—

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

279 (c) *Best management practices.*—

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

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291 2. The Department of Agriculture and Consumer Services may
292 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
293 suitable interim measures, best management practices, or other
294 measures necessary to achieve the level of pollution reduction
295 established by the department for agricultural pollutant sources
296 in allocations developed pursuant to subsection (6) and this
297 subsection or for programs implemented pursuant to paragraph
298 (12) (b). These practices and measures may be implemented by
299 those parties responsible for agricultural pollutant sources,
300 and the department, the water management districts, and the
301 Department of Agriculture and Consumer Services shall assist
302 with implementation. In the process of developing and adopting
303 rules for interim measures, best management practices, or other
304 measures, the Department of Agriculture and Consumer Services
305 shall consult with the department, the Department of Health, the
306 water management districts, representatives from affected
307 farming groups, and environmental group representatives. Such
308 rules must also incorporate provisions for a notice of intent to
309 implement the practices and a system to assure the
310 implementation of the practices, including site inspection and
311 recordkeeping requirements.

312 3. When interim measures, best management practices, or
313 other measures are adopted by rule, the effectiveness of such
314 practices in achieving the levels of pollution reduction
315 established in allocations developed by the department pursuant

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316 to subsection (6) and this subsection or in programs implemented
317 pursuant to paragraph (12)(b) must be verified at representative
318 sites by the department. The department shall use its best
319 professional judgment in making the initial verification that
320 the best management practices are reasonably expected to be
321 effective and, when applicable, shall notify the appropriate
322 water management district or the Department of Agriculture and
323 Consumer Services of its initial verification before the
324 adoption of a rule proposed pursuant to this paragraph.
325 Implementation, in accordance with rules adopted under this
326 paragraph, of practices that have been initially verified to be
327 effective, or verified to be effective by monitoring at
328 representative sites, by the department, or are authorized by s.
329 576.045, shall provide a presumption of compliance with state
330 water quality standards and release from s. 376.307(5) for those
331 pollutants addressed by the practices, and the department is not
332 authorized to institute proceedings against the owner of the
333 source of pollution to recover costs or damages associated with
334 the contamination of surface water or groundwater caused by
335 those pollutants. Research projects funded by the department, a
336 water management district, or the Department of Agriculture and
337 Consumer Services to develop or demonstrate interim measures or
338 best management practices shall be granted a presumption of
339 compliance with state water quality standards and a release from
340 s. 376.307(5). The presumption of compliance and release is

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341 limited to the research site and only for those pollutants
342 addressed by the interim measures or best management practices.
343 Eligibility for the presumption of compliance and release is
344 limited to research projects on sites where the owner or
345 operator of the research site and the department, a water
346 management district, or the Department of Agriculture and
347 Consumer Services have entered into a contract or other
348 agreement that, at a minimum, specifies the research objectives,
349 the cost-share responsibilities of the parties, and a schedule
350 that details the beginning and ending dates of the project.

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

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

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

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

387 Section 4. This act shall take effect July 1, 2022.
388

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to nutrient application rates; amending s. 576.011, F.S.; defining the terms "certified professional" and "site-specific nutrient management"; amending s. 576.045, F.S.; providing legislative findings and intent; authorizing the use of site-specific nutrient management in specified circumstances; authorizing citrus producers to use written recommendations from certified professionals to tailor their recommended nutrient application rates under certain circumstances; requiring citrus producers to keep records regarding the determination that the published nutrient application rates are not appropriate and any recommendations for site-specific nutrient management for a specified period of time; requiring producers using site-specific nutrient management to enroll in and implement certain applicable best management practices; providing a presumption of compliance with certain requirements for producers using site-specific nutrient management; directing the University of Florida Institute of Food and Agricultural Sciences to analyze the use of site-specific nutrient management for certain crops, develop a research plan and certain recommendations, and submit a report to

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1291 (2022)

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414 | the Governor and Legislature; extending the expiration of a
415 | certain provision; amending s. 403.067, F.S.; conforming a
416 | provision to changes made by the act; providing an
417 | effective date.

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