

1 A bill to be entitled
 2 An act relating to basin management; amending s.
 3 403.067, F.S.; requiring the Department of Agriculture
 4 and Consumer Services to compile and provide the
 5 Department of Environmental Protection with annual
 6 reports of nutrient applications within certain
 7 basins; authorizing the Department of Agriculture and
 8 Consumer Services to request nutrient management and
 9 application records from responsible parties within
 10 such basins; providing an effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14 Section 1. Paragraph (c) of subsection (7) of section
 15 403.067, Florida Statutes, is amended to read:

16 403.067 Establishment and implementation of total maximum
 17 daily loads.—

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

20 (c) *Best management practices.*—

21 1. The department, in cooperation with the water
 22 management districts and other interested parties, as
 23 appropriate, may develop suitable interim measures, best
 24 management practices, or other measures necessary to achieve the
 25 level of pollution reduction established by the department for

26 | nonagricultural nonpoint pollutant sources in allocations
27 | developed pursuant to subsection (6) and this subsection. These
28 | practices and measures may be adopted by rule by the department
29 | and the water management districts and, where adopted by rule,
30 | shall be implemented by those parties responsible for
31 | nonagricultural nonpoint source pollution.

32 | 2. The Department of Agriculture and Consumer Services may
33 | develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
34 | suitable interim measures, best management practices, or other
35 | measures necessary to achieve the level of pollution reduction
36 | established by the department for agricultural pollutant sources
37 | in allocations developed pursuant to subsection (6) and this
38 | subsection or for programs implemented pursuant to paragraph
39 | (12) (b). These practices and measures may be implemented by
40 | those parties responsible for agricultural pollutant sources and
41 | the department, the water management districts, and the
42 | Department of Agriculture and Consumer Services shall assist
43 | with implementation. In the process of developing and adopting
44 | rules for interim measures, best management practices, or other
45 | measures, the Department of Agriculture and Consumer Services
46 | shall consult with the department, the Department of Health, the
47 | water management districts, representatives from affected
48 | farming groups, and environmental group representatives. Such
49 | rules must also incorporate provisions for a notice of intent to
50 | implement the practices and a system to assure the

51 implementation of the practices, including site inspection and
52 recordkeeping requirements.

53 3. Where interim measures, best management practices, or
54 other measures are adopted by rule, the effectiveness of such
55 practices in achieving the levels of pollution reduction
56 established in allocations developed by the department pursuant
57 to subsection (6) and this subsection or in programs implemented
58 pursuant to paragraph (12)(b) must be verified at representative
59 sites by the department. The department shall use best
60 professional judgment in making the initial verification that
61 the best management practices are reasonably expected to be
62 effective and, where applicable, must notify the appropriate
63 water management district or the Department of Agriculture and
64 Consumer Services of its initial verification before the
65 adoption of a rule proposed pursuant to this paragraph.
66 Implementation, in accordance with rules adopted under this
67 paragraph, of practices that have been initially verified to be
68 effective, or verified to be effective by monitoring at
69 representative sites, by the department, shall provide a
70 presumption of compliance with state water quality standards and
71 release from the provisions of s. 376.307(5) for those
72 pollutants addressed by the practices, and the department is not
73 authorized to institute proceedings against the owner of the
74 source of pollution to recover costs or damages associated with
75 the contamination of surface water or groundwater caused by

76 | those pollutants. Research projects funded by the department, a
77 | water management district, or the Department of Agriculture and
78 | Consumer Services to develop or demonstrate interim measures or
79 | best management practices shall be granted a presumption of
80 | compliance with state water quality standards and a release from
81 | the provisions of s. 376.307(5). The presumption of compliance
82 | and release is limited to the research site and only for those
83 | pollutants addressed by the interim measures or best management
84 | practices. Eligibility for the presumption of compliance and
85 | release is limited to research projects on sites where the owner
86 | or operator of the research site and the department, a water
87 | management district, or the Department of Agriculture and
88 | Consumer Services have entered into a contract or other
89 | agreement that, at a minimum, specifies the research objectives,
90 | the cost-share responsibilities of the parties, and a schedule
91 | that details the beginning and ending dates of the project.

92 | 4. Where water quality problems are demonstrated, despite
93 | the appropriate implementation, operation, and maintenance of
94 | best management practices and other measures required by rules
95 | adopted under this paragraph, the department, a water management
96 | district, or the Department of Agriculture and Consumer
97 | Services, in consultation with the department, shall institute a
98 | reevaluation of the best management practice or other measure.
99 | Should the reevaluation determine that the best management
100 | practice or other measure requires modification, the department,

101 a water management district, or the Department of Agriculture
102 and Consumer Services, as appropriate, shall revise the rule to
103 require implementation of the modified practice within a
104 reasonable time period as specified in the rule.

105 5. Agricultural records relating to processes or methods
106 of production, costs of production, profits, or other financial
107 information held by the Department of Agriculture and Consumer
108 Services pursuant to subparagraphs 3. and 4. or pursuant to any
109 rule adopted pursuant to subparagraph 2. are confidential and
110 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
111 Constitution. Upon request, records made confidential and exempt
112 pursuant to this subparagraph shall be released to the
113 department or any water management district provided that the
114 confidentiality specified by this subparagraph for such records
115 is maintained.

116 6. ~~The provisions of~~ Subparagraphs 1. and 2. do not
117 preclude the department or water management district from
118 requiring compliance with water quality standards or with
119 current best management practice requirements set forth in any
120 applicable regulatory program authorized by law for the purpose
121 of protecting water quality. Additionally, subparagraphs 1. and
122 2. are applicable only to the extent that they do not conflict
123 with any rules adopted by the department that are necessary to
124 maintain a federally delegated or approved program.

125 7. The Department of Agriculture and Consumer Services

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126 | shall compile and provide to the department annual reports of
127 | nutrient applications within each basin where a basin management
128 | action plan is required to meet total maximum daily loads. The
129 | Department of Agriculture and Consumer Services may request the
130 | release of nutrient management and application records from
131 | landowners, dischargers, and other responsible parties within
132 | such a basin.

133 | Section 2. This act shall take effect July 1, 2017.