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New Nitrogen BMP Bill Imposed

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On July 1, 1994 a new tax was added to all nitrogen fertilizer sold in Florida. This tax is a result of a nitrate bill (Senate Bill 2420) which authorizes the Department of Agriculture and Consumer Services (DACS) to impose additional fees on the license to distribute fertilizer (\$ 100), the registration for each of the first five specialty fertilizers (\$ 100) and for each additional specialty registration (\$25), and a fee on all fertilizer containing nitrogen and sold in Florida (\$.50 per ton).

The fees fund research and develop Best Management Practices (BMPs) to improve the state's water resources and preserve a viable agricultural industry, to fund costs necessary to implement the BMPs by rule, and to reimburse the Water Quality Assurance Trust fund for costs incurred for the restoration of drinking water wells found to contain nitrate in excess of water quality standards. The BMPs are practices determined by research or field testing in representative sites to be effective and practicable methods of fertilization designed to meet nitrate ground water quality standards, including economic and technological considerations.

The highest priority for funding of BMP research projects will be for commodities and/or regions that exceed nitrate ground water standards. The second priority shall be areas and their included commodities where new potable water well permitting, location, construction, testing, and clearance requirements, due to ground water contamination by nitrate or to vulnerability to nitrate contamination resulting from the application of fertilizers containing nitrogen. The third priority shall be commodities and/or regions for which DACS receives requests to fund studies based on agricultural trends or other factors which may be applicable to preventing nitrate contamination.

The approval and adoption of BMPs, will be contingent on successful completion of research, including demonstration monitoring, of BMPs designed to prevent nitrates from entering ground water at levels which exceed state water quality standards.

The landowner or leaseholder is released from liability for any costs or damages associated with the remediation of drinking water wells contaminated with nitrate from the application of fertilizer materials containing nitrogen if the landowner or leaseholder a) executes and submits the notice of intent to DACS, and b) implements the applicable interim measures and BMPs according to the schedule and record keeping requirements specified by rule. If the landowner chooses not to implement the applicable interim measures and BMPs adopted by rule on any properties owned, the waiver is null and void for those properties.

The first phase of DACS rule making is to adopt procedures for submittal of the Notice of Intent to comply with adopted interim measures or BMPs. Once BMPs are adopted by DACS and implemented, representative sites will be selected for verification monitoring. A BMP is successful and approved if nitrate concentrations in ground water, at a distance of 100 ft. from an application site or at the property boundary, whichever is less, are in compliance with water quality standards under normal environmental conditions for the region/area(s) in which BMPs are implemented.

The Ona Research Center has conducted many studies on the effect of nitrogen fertilization of pastures on ground water quality. Our data indicates there are no problems. We will continue to research this important environmental area to assist Florida cattlemen to use best management practices.