

## Notice of Emergency Rule

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NO.: RULE TITLE:

5MER24-9 Hurricane Debby Replacement Fertilizer Applications

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** As a result of the impacts to the agricultural industry and its perishable commodities caused by Hurricane Debby, extreme and unusual circumstances exist that threaten the livelihood of producers throughout the affected area. The damage and destruction caused by Hurricane Debby require immediate action to replant and reestablish important food crops. Further, the storm washed away the fertilizers previously applied by agricultural producers. Thus, producers require additional fertilizer applications that would otherwise result in the improper implementation of best management practices adopted by the Department by rule. These circumstances present an immediate danger to public health, safety and welfare, and require emergency action.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** This emergency rule was initiated at the request of industry representatives and only affects those producers that are enrolled in the best management practices program administered by the Department and are located within counties that were impacted by hurricane force or tropical storm force winds and/or excessive rainfall. There are no affirmative requirements of any other citizens or property owners in Florida and the affected producers need only maintain accurate records of soil or tissue tests and replacement fertilizer amounts, which are routinely maintained in accordance with best management practices. For these reasons, notice of the emergency rule will provide at least the procedural protection given by other statutes, the State Constitution, and the United States Constitution, and is both necessary and fair.

**SUMMARY:** This emergency rule authorizes agricultural producers that are enrolled in Best Management Practices (BMPs) for Florida Vegetable and Agronomic Crop Operations (Rule Chapter 5M-8, F.A.C.), Florida Sod (Rule Chapter 5M-9, F.A.C.), Florida Cattle Operations (Rule Chapter 5M-11, F.A.C.), Florida Specialty Fruit and Nut Crop Operations (Rule Chapter 5M-13, F.A.C.), Florida Citrus Operations (Rule Chapter 5M-16, F.A.C.), and Florida Dairy Operations (Rule Chapter 5M-17, F.A.C.) and that have encountered hurricane force or tropical storm force winds and/or extreme rainfall as a result of Hurricane Debby (either three inches in three days or four inches in seven days) to apply replacement fertilizer to reestablish impacted crops. The emergency rule requires the application of replacement fertilizer to be made between August 9, 2024, and the expiration of the rule. The emergency rule also provides that the application of replacement fertilizer by these producers shall not constitute an improper implementation of best management practices for implementation verification purposes. The emergency rule encourages soil or tissue testing to confirm the need for replacement fertilizer prior to application and requires producers to maintain records of such tests and applications.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:** Angela Chelette, Chief, Bureau of Policy Planning and Coordination, 407 South Calhoun Street, Mail Stop AX2, Tallahassee, Florida 32399-0800, (850)617-1719.

THE FULL TEXT OF THE EMERGENCY RULE IS:

### **5MER24-9 – Hurricane Debby Replacement Fertilizer Applications.**

(1) The following counties encountered hurricane force or tropical storm force winds and/or received rainfall that exceeded either three inches in three days or four inches in seven days as a direct result of Hurricane Debby: Alachua, Baker, Bradford, Charlotte, Citrus, Clay, Collier, Columbia, Dixie, Duval, Franklin, Gadsden, Gilchrist, Hamilton, Hernando, Hillsborough, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Nassau, Pasco, Pinellas, Putnam, Sarasota, St. Johns, Sumter, Suwannee, Taylor, Union, and Wakulla counties. Producers in these counties that are enrolled in Best Management Practices (BMPs) for Florida Vegetable and Agronomic Crop Operations (Rule Chapter 5M-8, F.A.C.), Florida Sod (Rule Chapter 5M-9, F.A.C.), Florida Cattle Operations (Rule Chapter 5M-11, F.A.C.), Florida Specialty Fruit and Nut Crop Operations (Rule Chapter 5M-13, F.A.C.), Florida Citrus Operations (Rule Chapter 5M-16, F.A.C.), and Florida Dairy Operations (Rule

Chapter 5M-17, F.A.C.) are authorized to apply replacement fertilizer applications to reestablish crops impacted by Hurricane Debby.

(2) Replacement fertilizer applications must be made between August 9, 2024, and the expiration of this rule. The Department recommends that producers conduct soil testing or tissue testing to confirm the need for replacement fertilizer prior to applications.

(3) Any replacement fertilizer applications authorized by this rule shall not constitute an improper implementation of best management practices for BMP implementation verification purposes pursuant to Rule Chapter 5M-1, F.A.C.

(4) In addition to nutrient application records required by the department rules referenced in subsection (1), producers applying replacement fertilizer, pursuant to this rule, shall maintain all testing records and nutrient application records for the replacement fertilizer.

Rulemaking Authority 403.067(7)(c)2., 570.07(10), 570.07(23) FS. Law Implemented 403.067(7)(c)2., 403.067(7)(d)2.c., 403.067(7)(d)3. FS. History – New 8/21/2024.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 08/21/2024