

5M-1.001 Definitions.

(1) through (4) No change

(5) “Enrolled” means the status of a Producer or Landowner who has an active Notice of Intent for implementation of the Applicable BMPs identified during a site visit with Department representatives or pursuant to an Equivalent Program set forth in subsection 5M-1.001(7), F.A.C., or one whose operation ~~qualifies and~~ Enrolled by Rule in accordance with Rule 5M-1.012, F.A.C., or is classified as a Temporarily Inactive Operation in accordance with Rule 5M-1.010, F.A.C. If the Producer is not the Landowner, the Department will notify the Landowner of the date of enrollment and Applicable BMPs that are required to be properly implemented on the subject parcel(s).

(6) through (10) No change

(11) “Enrollment by Rule Notice of Intent” or “EBR NOI” means a form provided by the Department to be submitted by an agricultural Producer or Landowner to indicate intent to enroll in and properly implement the Department’s Best Management Practices for Enrollment by Rule in accordance with Rule 5M-1.012, F.A.C.

Rulemaking Authority 403.067(7)(c)2., 403.067(7)(d)2.c., 570.07(10), 570.07(23) FS. Law Implemented 403.067(7)(c)2., 403.067(7)(d)2.c. FS. History—New 11-1-17, Amended 9-12-21, 10-30-24,_____.

5M-1.004 Notice of Intent to Implement Best Management Practices.

(1) through (8) No change

(9) With the exception of updating an enrollment pursuant to subsections (7) or (8) of this rule, or Rule 5M-1.012, F.A.C., Enrollees are required to use the Request Change to Notice of Intent to Implement BMPs form (FDACS-01985, rev. 07/24), hereby adopted and incorporated by reference, to request a revision of their existing NOI. The Request Change to Notice of Intent to Implement BMPs form may be obtained from the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida 32399 or accessed online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-17089>.

(10) No change

(11) Excepting Producers or Landowners enrolled pursuant to Rule 5M-1.012, F.A.C., a ~~A~~ Producer or Landowner enrolling a parcel(s) of land under a manual for the first time or an Enrollee updating their enrollment to a revised rule or manual must implement any new BMP requirements within 18 months of enrollment or update.

Rulemaking Authority 403.067(7)(c)2., 403.067(7)(d)2.c., 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 10-30-24, Amended _____.

5M-1.008 Implementation Verification.

(1) through (3) No change

(4) The Department will collect and retain records regarding the application of nitrogen and phosphorus on the Enrolled parcel(s) as part of any implementation verification site visit conducted to confirm proper implementation of Applicable BMPs as described in subsection (3). Enrollees shall provide the required nutrient application records for the preceding two years to the Department by completing and submitting a Nutrient Application Record Form (FDACS-04005, rev. ~~XX/XX/06/24~~), adopted herein by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-17088>. Unless it is demonstrated that utilization of an electronic version is technically infeasible, Enrollees shall utilize and submit an electronic version of the form or a substantially similar form to Department representatives during the implementation verification site visit or within ten days after completion of the visit. Any substantially similar form must include the following information for the Enrolled parcel(s):

(a) ~~The NOI number and m~~The Manual of Best Management Practices in which the Enrollee is enrolled, including the identification of separate crop types and NOI numbers ~~commodities~~ if there are multiple enrollments under a specific manual;

(b) through (f) No change.

(5) through (8) No change.

Rulemaking Authority 403.067(7)(c)2., 403.067(7)(d)2.c., 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 11-1-17, Amended 9-12-21, 10-30-24, _____.

5M-1.012 Enrollment by Rule

(1) A Producer or Landowner may enroll in best management practices by rule in lieu of the best management practices programs adopted in Chapters 5M-2 through 5M-14 and 5M-16 through 5M-19, F.A.C., if the subject parcel meets the requirements established in s. 403.067(7)(d)4.a.-f., F.S., and the following criteria:

(a) The parcel is not participating in an Equivalent Program as defined in subsection 5M-1.001(7), F.A.C., or permitted for the land application of biosolids in accordance with Chapter 62-640, F.A.C.; and

(b) The parcel does not have an agricultural land use of aquaculture or silviculture production.

(2) A Producer or Landowner whose parcel meets the requirements in subsection (1) and who elects to enroll by rule shall either:

(a) Enroll through the Department's Enrollment by Rule Portal (WEB ADDRESS), or

(b) Submit to the Department a completed Enrollment by Rule Notice of Intent to Implement Best Management Practices form (FDACS-XXXX, date) (hereinafter "EBR NOI"), hereby adopted and incorporated by reference. Copies of the EBR NOI may be accessed online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-17087> or may be obtained from the Department's Office of Agricultural Water Policy, <https://www.fdacs.gov/Divisions-Offices/Agricultural-Water-Policy>. A completed EBR NOI may be submitted to EBR_NOI@FDACS.gov or the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida 32399. The Department prefers enrollment by rule through the Department's Enrollment by Rule Portal (WEB ADDRESS).

(3) A Producer or Landowner may not enroll multiple parcels under one EBR NOI unless the parcels are contiguous, total 25 acres or less, and meet all requirements listed in paragraphs (1)(a) through (b). For the purpose of this rule, parcels are considered contiguous if they share a common boundary or corner and are managed as a single agricultural operation.

(4) A Producer or Landowner that qualifies for enrollment by rule shall provide a brief description of their agricultural production and implement all best management practices applicable to their operation listed in 1.0 and 4.0 of Section 6 of the EBR NOI, and follow the recordkeeping requirements in Rule 5M-1.011, F.A.C.

(5) A Producer or Landowner that qualifies for enrollment by rule shall select and implement the best management practices applicable to their operation listed in 2.0 and 3.0 of Section 6 of the EBR NOI. Each BMP listed in 2.0 and 3.0 of Section 6 of the EBR NOI is assigned a point value. The selected practices must equate to a minimum number of BMP points as described below:

(a) The selected Fertilization practices must equate to a minimum of 5 BMP points;

(b) The selected Livestock practices must equate to a minimum of 7 BMP points; or

(c) If the production system includes Fertilization and Livestock practices, the selected practices from Sections 2.0 and 3.0 must equate to a minimum of 12 BMP points.

(6) If a Producer or Landowner indicates none of the best management practices in the EBR NOI are applicable, they will remain unenrolled and may be subject to the requirements in ss. 403.067(7)(b)2.g.-h., F.S.

(7) If a Landowner or Producer fails to submit a complete EBR NOI with all required documentation or fails to complete all requirements and submit all required documentation through the Department's Enrollment by Rule Portal, they will not be enrolled by rule.

(8) Enrollees by rule shall implement the required and selected applicable best management practices within 12 months of being notified by FDACS that they are Enrolled by Rule.

(9) The Department will annually conduct implementation verification site visits on 20 percent of all enrollees by rule pursuant to s. 403.067(7)(d), F.S., and the implementation verification procedures in Rule 5M-1.008, F.A.C.

(10) Enrollees by rule must annually submit records regarding the application of nitrogen and phosphorus on the subject parcel(s) enrolled by rule to the Department using a Nutrient Record Application Form (FDACS-04005, rev. XX/XX) or a substantially similar form that meets the requirements in Rule 5M-1.008(4), F.A.C., using one of the methods in subsection 5M-1.012(2), F.A.C.

(11) If at any point the Department determines the subject parcel(s) does not meet the requirements in subsection (1), the EBR NOI may be subject to termination.

(12) An EBR NOI will remain in effect pursuant to subsections 5M-1.004(5) through (8), F.A.C.

(13) An Enrollee by rule is required to use the EBR NOI or the Department's Enrollment by Rule Portal to notify the Department of changes to the subject parcel and to request a revision of their existing enrollment. Changes requiring submittal of a revised EBR NOI or that must be submitted through the Department's Enrollment by Rule Portal include, but are not limited to, changes in specified best management practices, land use type, acres of production, production type, parcels, or ownership.

(14) Enrollees by rule are subject to the NOI termination clause in subsection 5M-1.004(10), F.A.C., and the implementation assistance procedures in Rule 5M-1.009, F.A.C.

(15) An enrollment by rule is not transferable to a third party.

(16) Enrollment by rule does not relieve the Enrollee of the need to comply with all applicable federal, state, and local laws.

(17) Enrollment by rule does not convey to the Enrollee or create in the Enrollee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the Enrollee, or convey any rights or privileges other than those specified in this rule.

Rulemaking Authority 403.067(7)(d)4., FS. Law Implemented 403.067(7)(d)4., FS. History—New 04-XX-26.