

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1291 Nutrient Application Rates  
**SPONSOR(S):** McClure  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1000

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee		Mamontoff	Moore
2) Appropriations Committee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

Agricultural best management practices (BMPs) are practical measures that agricultural producers can take to reduce the amount of fertilizers, pesticides, animal waste, and other pollutants entering the state's water resources. BMPs are designed to improve water quality while maintaining agricultural production. Current law requires agricultural producers to reduce their impacts to water quality through the implementation of applicable BMPs adopted by the Department of Agriculture and Consumer Services (DACS). The University of Florida's Institute of Food and Agricultural Sciences (UF/IFAS) is heavily involved in the adoption and implementation of BMPs and provides recommendations for nutrient application rates to DACS that focus on production yield and profit.

The bill authorizes agricultural producers to use nutrient application rate tailoring, which is the application of nutrients at a different rate than the published nutrient application rates under certain circumstances. The bill authorizes the use of rate tailoring when recommended nutrient applications rates published by UF/IFAS or other post-secondary institutions with agricultural research programs are not appropriate for a specific producer due to soil conditions, disease, crop varieties, subsequent crop rotations, planting density, market requirements, or site-specific conditions. The use of rate tailoring is authorized only when a certified professional makes a written determination that the published nutrient application rates are not appropriate for the specific producer.

The bill requires producers that utilize rate tailoring to enroll in and implement all other BMPs adopted by DACS and identified in the notice of intent required for enrollment.

As recommended nutrient application rates for crops are revised by UF/IFAS or other postsecondary institutions, the bill requires such recommendations to provide an application range or authorize rate tailoring to crop and field conditions.

The bill extends the expiration dates for several statutory provisions related to fertilization management, which are currently scheduled to expire on December 31, 2022, or December 31, 2027.

The bill may have an indeterminate fiscal impact on the state.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Agricultural Best Management Practices

Agricultural best management practices (BMPs) are practical measures that agricultural producers can take to reduce the amount of fertilizers, pesticides, animal waste, and other pollutants entering the state's water resources.<sup>1</sup> BMPs are designed to improve water quality while maintaining agricultural production.<sup>2</sup> Categories of BMPs include:

- Nutrient management to determine nutrient needs and sources and manage nutrient applications (including manure) to minimize impacts to water resources.
- Irrigation management to address the method and scheduling of irrigation to reduce water and nutrient losses to the environment.
- Water resource protection using buffers, setbacks, and swales to reduce or prevent the transport of sediments and nutrients from production areas to waterbodies.<sup>3</sup>

The Department of Agriculture and Consumer Services (DACS) develops and adopts BMPs by rule for different types of agricultural commodities.<sup>4</sup> Existing law provides for agricultural producers to reduce the impacts to water quality through the implementation of applicable BMPs adopted by DACS.<sup>5</sup>

The Department of Environmental Protection (DEP) develops total maximum daily loads (TMDLs) for waterbodies that have been found to be impaired.<sup>6</sup> The TMDL is a determination of the maximum amount of a pollutant (such as a nutrient) that a waterbody can receive and still meet the water quality standards that protect human health and aquatic life.<sup>7</sup>

To implement a TMDL, DEP establishes basin management action plans (BMAPs), which identify all known contributors of the pollutant within a BMAP and assign load reductions for the pollutant. A BMAP also identifies strategies to address the pollutant reductions required to achieve the TMDL.<sup>8</sup>

"Nonpoint source" contributors (sources where one cannot point at an actual discharge point), like agriculture, are responsible for implementing rule-adopted BMPs to help achieve water quality standards within BMAPs.<sup>9</sup> Therefore, any agricultural producers within a BMAP area must either enroll in DACS' BMP program and properly implement applicable BMPs, or conduct water quality monitoring prescribed by DEP or the water management district to show that they are meeting state water quality standards. The latter can be very expensive.<sup>10</sup>

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<sup>1</sup> University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS), *Agricultural Best Management Practices – About BMPs*, <https://bmp.ifas.ufl.edu/about-bmps/> (last visited Jan. 21, 2022); see also s. 576.011(2), F.S. (defining "best management practices" as practices or combinations of practices determined by research or field testing in representative sites to be the most effective and practicable methods of fertilization designed to meet nitrate groundwater quality standards, including economic and technological considerations).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> DACS, *Agricultural Best Management Practices*, <https://www.fdacs.gov/Agriculture-Industry/Water/Agricultural-Best-Management-Practices> (last visited Jan. 24, 2022).

<sup>5</sup> *Id.*; see also s. 576.045, F.S.

<sup>6</sup> DACS, *Agricultural Best Management Practices*, <https://www.fdacs.gov/Agriculture-Industry/Water/Agricultural-Best-Management-Practices> (last visited Jan. 24, 2022).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> UF/IFAS, *Agricultural Best Management Practices – About BMPs*, <http://bmp.ifas.ufl.edu/about-bmps/> (last visited Jan 21, 2022).

To enroll in the BMP program, agricultural producers must meet with DACS's Office of Agricultural Water Policy (OAWP) and submit a notice of intent to implement the BMPs.<sup>11</sup> These producers are then subject to inspection and recordkeeping requirements.<sup>12</sup> After verification by DEP, producers implementing BMPs receive a presumption of compliance with state water quality standards for the pollutants addressed by the BMPs, and those who enroll become eligible for technical assistance and cost-share funding for BMP implementation.<sup>13</sup> According to the DACS annual report on BMPs, approximately 62 percent of agricultural acreage in the state is already enrolled in the BMP program.<sup>14</sup>

The University of Florida's Institute of Food and Agricultural Sciences (UF/IFAS) is heavily involved in the adoption and implementation of BMPs.<sup>15</sup> UF/IFAS provides expertise to DACS and agricultural producers, conducts research to issue recommendations for improvements, and issues training certificates for BMPs that require licenses.

DACS is required to perform onsite inspections of agricultural producers enrolled in BMPs at least every two years to ensure that BMPs are being properly implemented.<sup>16</sup> DACS is also required to collect and retain nutrient application records and provide these records to DEP.<sup>17</sup>

### Nutrient Management

Since the BMP program was implemented in 1999, DACS has adopted and incorporated by reference the following ten BMP manuals that cover all major agricultural commodities in Florida:

- Citrus<sup>18</sup>
- Cow/Calf<sup>19</sup>
- Dairy<sup>20</sup>
- Equine<sup>21</sup>
- Nurseries<sup>22</sup>
- Poultry<sup>23</sup>

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<sup>11</sup> Section 403.067(7)(c)2., F.S.; see Fla. Admin. Code R. 5M-8.002, 5M-8.004, 5M-8.006.

<sup>12</sup> Section 403.067(7)(c)2., F.S.; see Fla. Admin. Code R. 5M-8.006.

<sup>13</sup> Section 403.067(7)(c)3., F.S.

<sup>14</sup> DACS Office of Agricultural Water Policy (OAWP), *Status of Implementation of Agricultural nonpoint Source Best Management Practices, 2 (July 1, 2021)*, available at

<https://www.fdacs.gov/ezs3download/download/98328/2665697/Media/Files/Agricultural-Water-Policy-Files/BMP-Implementation/2021-status-of-bmp-implementation-report.pdf> (last visited Jan 24, 2022).

<sup>15</sup> UF/IFAS, *Agricultural Best Management Practices – About BMPs*, <http://bmp.ifas.ufl.edu/about-bmps/> (last visited Jan 21, 2022).

<sup>16</sup> Section 403.067(7)(d)3., F.S.

<sup>17</sup> *Id*

<sup>18</sup> Fla. Admin. Code R. 5M-16.001; DACS, *Water Quality/Quantity Best Practices for Citrus (2012 Edition)*, DACS-P-01756, available at [https://www.fdacs.gov/ezs3download/download/25410/516289/Bmp\\_FloridaCitrus2012.pdf](https://www.fdacs.gov/ezs3download/download/25410/516289/Bmp_FloridaCitrus2012.pdf) (last visited Jan 24, 2022).

<sup>19</sup> Fla. Admin. Code R. 5M-11.002; DACS, *Water Quality/Quantity Best Practices for Florida Cow/Calf Operations (2008 Edition)*, DACS P-01280, available at

<https://www.fdacs.gov/ezs3download/download/64582/1525731/Media?Files/Agricultural-Water-Policy-Files/Best-Management-Practices/dairyBMPFinal.pdf> (last visited Jan. 24, 2022).

<sup>20</sup> Fla. Admin. Code R. 5M-17.001; DACS, *Water Quality/Quantity Best Practices for Florida Dairy Operations (2015 Edition)*, FDACS-P-02008, available at

<https://www.fdacs.gov/ezs3download/download/64582/1525731/Media/Files/Agricultural-Water-Policy-Files/Best-Management-Practices/dairyBMPFinal.pdf> (last visited Jan. 24, 2022).

<sup>21</sup> Fla. Admin. Code R. 5M-14.002; DACS, *Water Quality/Quantity Best Management Practices for Florida Equine Operations (2011 Edition)*, DACS P-01531, available at <https://www.fdacs.gov/content/download/30687/file/equineBMP-lores.pdf> (last visited Jan. 24, 2022).

<sup>22</sup> Fla. Admin. Code R. 5M-6.002; DACS, *Water Quality/Quantity Best Management Practices for Florida Nurseries (2014 Edition)*, DACS-P-01267, available at <https://www.fdacs.gov/content/download/37570/file/nurseryBMP-lores.pdf> (last visited Jan. 24, 2022).

<sup>23</sup> Fla. Admin. Code R. 5M-19.001; DACS, *Water Quality/Quantity Best Management Practices for Florida Poultry Operations (2016 Edition)*, FDACS-P-02052, available at

<https://www.fdacs.gov/content/download/71304/file/Poultry%20BMP%20Manual.pdf> (last visited Jan. 24, 2022).

- Sod<sup>24</sup>
- Specialty Fruit and Nut Crops<sup>25</sup>
- Vegetable and Agronomic Crops<sup>26</sup>
- Wildlife (state Imperiled Species)<sup>27</sup>

With only one exception (Wildlife/State Imperiled Species), all of these BMP manuals address nutrient management in ways specific to each commodity. For example, the BMP manual for citrus entitled *Water Quality/Quantity Best Management Practices for Citrus* (Citrus BMP Manual) contains BMPs on nutrient management, which it defines as the control of the source, rate, placement, and timing of nutrient applications and soil amendments to ensure sufficient soil fertility for citrus tree production and to minimize impacts to water quality.<sup>28</sup>

Excess nitrogen and phosphorus are the most common causes of water quality impairments in the state because they enter surface waters through stormwater or irrigation run-off or leach through soils into groundwater.<sup>29</sup> Accordingly, the Citrus BMP Manual includes recommended nutrient application rates for nitrogen and phosphorous. The recommended rates are based on normal, healthy tree development based on the age of the tree; however, where disease, salinity, or other factors inhibit normal tree development, fertilizer application should be adjusted accordingly.<sup>30</sup>

### Nutrient Application Rates

UF/IFAS publishes recommended nutrient application rates based on scientific rate studies that focus on production yield and profit. Depending on the crop and soils, natural fertility may not provide adequate levels of all required nutrients for desired plant growth.<sup>31</sup> Fertilizers are used to provide additional nutrients in order to achieve economical crop production. In order to attain adequate nutrients for crop production while minimizing the risk of loss of nutrients to the environment, attention must be given to the four major soil fertilization factors: right source, right rate, right placement, and right timing. These factors, known as the 4Rs, should be evaluated when reviewing soil testing results to develop a personalized, integrated approach to nutrient management that makes efficient use of fertilizer investment for crop production and for environmental protection.<sup>32</sup> The rate of fertilizer is a part of the overall nutrient management program. The recommended rates have been determined to provide adequate nutrient amounts even under highest yield potentials. Rate recommendations may change depending on new research.<sup>33</sup>

DACS adopts the nutrient application rates published by UF/IFAS as part of the BMP manuals and requires adherence to those rates as well as the implementation of additional mitigating BMPs to ensure that nutrients are being utilized in the most efficient manner possible.

<sup>24</sup> Fla. Admin. Code R. 5M-9.002; DACS, *Water Quality/Quantity Best Management Practices for Florida Sod* (2008 Edition), DACS-P-01330, available at

[https://www.fdacs.gov/ezs3download/download/25407/516286/Bmp\\_FloridaSod2008.pdf](https://www.fdacs.gov/ezs3download/download/25407/516286/Bmp_FloridaSod2008.pdf) (last visited Jan. 24, 2022).

<sup>25</sup> Fla. Admin. Code R. 5M-13.002; DACS, *Water Quality/Quantity Best Management Practices for Florida Specialty Fruit and Nut Crops* (2011 Edition), DACS P-01589, available at

[https://www.fdacs.gov/ezs3download/download/25409/516288/Bmp\\_FloridaSpecialtyFruitNut2011.pdf](https://www.fdacs.gov/ezs3download/download/25409/516288/Bmp_FloridaSpecialtyFruitNut2011.pdf) (last visited Jan. 24, 2022).

<sup>26</sup> Fla. Admin. Code R. 5M-8.002(1); DACS, *Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops* (2015 Edition), FDACS-P-01268, available at

<https://www.fdacs.gov/ezs3download/download/77230/file/vegAgCropBMP-10Red.pdf> (last visited Jan. 24, 2022).

<sup>27</sup> Fla. Admin. Code R. 5M-18.001; DACS, *Florida Agriculture Wildlife Best Management Practices for State Imperiled Species* (2015 Edition), DACS-P-02031, available at

[https://www.fdacs.gov/content/download/61100/file/WildlifeBMP\\_final.pdf](https://www.fdacs.gov/content/download/61100/file/WildlifeBMP_final.pdf) (last visited Jan. 24, 2022).

<sup>28</sup> DACS, *Water Quality/Quantity Best Management Practices for Citrus* (2021), DACS-P-01756, at 13-17, available at [https://www.fdacs.gov/ezs3download/download/25410/516289/Bmp\\_FloridaCitrus2012.pdf](https://www.fdacs.gov/ezs3download/download/25410/516289/Bmp_FloridaCitrus2012.pdf) (last visited Jan 24, 2022).

<sup>29</sup> *Id.* at 4.

<sup>30</sup> *Id.* at 16-17.

<sup>31</sup> UF/IFAS, Standardized Nutrient Recommendations for Vegetable Crop Production in Florida,

<https://edis.ifas.ufl.edu/publication/CV002> (last visited Jan. 31, 2022).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

### Statutory Incentives for BMP Implementation

Section 576.045, F.S., is focused on improving fertilization-management practices as soon as practicable in a way that protects the state's water resources and preserves a viable agricultural industry.<sup>34</sup> The goals outlined in the statute include supporting BMP-related research and incentivizing BMP implementation by the agriculture industry and other major uses of fertilizer.<sup>35</sup> The statute authorizes DACS to impose and collect fees in support of various activities connected to achieving state water quality standards for nitrogen and phosphorous criteria.<sup>36</sup> It also incentivizes BMP implementation in two ways: a waiver of liability provision<sup>37</sup> and a presumption of compliance provision.<sup>38</sup>

The waiver of liability provision prohibits DEP from instituting proceedings against any person or the federal government under existing law<sup>39</sup> to recover any costs or damages associated with nitrogen or phosphorus contamination of groundwater or surface water (or the evaluation, assessment, or remediation of contamination), due to the application of fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus.<sup>40</sup> To qualify for the waiver of liability, a property owner or leaseholder must:

- Provide DACS with a notice of intent to implement applicable interim measures, BMPs, or other measures adopted by DACS, which practices or measures have been verified by DEP to be effective, and implement them as soon as practicable according to rules adopted by DACS, or no longer apply fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus;<sup>41</sup> or
- No longer apply fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus.<sup>42</sup>

The presumption of compliance provision states that if a property owner or leaseholder implements interim measures, BMPs, or other measures adopted by DACS, which practices or measures have been verified by DEP to be effective, and complies with certain requirements, there is a presumption of compliance with state water quality standards. The presumption applies for the application of fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus. To achieve the presumption, the property owner or leaseholder must:<sup>43</sup>

- Provide DACS with a notice of intent to implement applicable interim measures, BMPs, or other measures adopted by DACS, and implement them as soon as practicable according to rules adopted by DACS, or no longer apply fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus;<sup>44</sup> or
- No longer apply fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus.<sup>45</sup>

The "findings and intent," "fees," "purpose," "waiver of liability," and "rulemaking" provisions of this section are scheduled to expire on December 31, 2022. The "compliance" and "other provisions" subsections are scheduled to expire on December 31, 2027.<sup>46</sup> These expiration dates have been

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<sup>34</sup> Section 576.045(1)(b), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> The fees collected include \$100 for each license to distribute fertilizer, \$100 for each specialty fertilizer registration, and 50 cents per ton for all fertilizer sold in the state that contains nitrogen or phosphorous. Section 576.045(3), F.S.

<sup>37</sup> Section 576.045(4), F.S.

<sup>38</sup> Section 576.045(5), F.S.

<sup>39</sup> See s. 376.307(5), F.S.

<sup>40</sup> Section 576.045(4), F.S.

<sup>41</sup> Section 576.045(4)(a)1.-2., F.S.

<sup>42</sup> Section 576.045(4)(b), F.S.

<sup>43</sup> Section 576.045(5), F.S.

<sup>44</sup> Section 576.045(5)(a)1.-2., F.S.

<sup>45</sup> Section 576.045(5)(b), F.S.

<sup>46</sup> Section 576.045(8), F.S.

included in the statute since it was first enacted and have been periodically extended, most recently in 2012.<sup>47</sup>

### American Society of Agronomy

The American Society of Agronomy (ASA) is the professional home for scientists dedicated to advancing the discipline of the agronomic sciences.<sup>48</sup> Agronomy employs the disciplines of soil and plant sciences to crop production, with the wise use of natural resources and conservation practices to produce food, feed, fuel, fiber, and pharmaceutical crops for the world's growing population.<sup>49</sup> A common thread across the programs and services of the ASA is the dissemination and transfer of scientific knowledge to advance the profession.<sup>50</sup>

The ASA offers certification programs to become a Certified Crop Adviser (CCA) or a Certified Professional Soil Scientist (CPSS).<sup>51</sup> Certification as a CCA is appropriate for any adviser/consultant that spends the majority of their time advising growers or farm managers/operators on agronomic practices and who can meet the standards of the program.<sup>52</sup> Certification as a CPSS is appropriate for any individual whose education, experience, and career path involves some aspect of the soil science profession and who can meet the standards of the program.<sup>53</sup>

The ASA also offers a specialty certification in 4R Nutrient Management Planning.<sup>54</sup> This specialty focuses on addressing environmental and resource management concerns in order to improve water quality and environmental stewardship. It considers the integration of agronomic practices with economic analysis and environmental interaction. Proficiency areas tested include nutrient management planning; nitrogen, phosphorous, and potassium; secondary macronutrients and micronutrients; and manure management.<sup>55</sup>

### Citrus Diseases

The Department of Citrus has reported that citrus production in Florida could drop by as much as 82 percent by 2026, due in large part to citrus diseases.<sup>56</sup> There are several diseases that pose significant threats to the industry, but citrus greening, also known as Huanglongbing (HLB), is among the most serious.<sup>57</sup> Every citrus grove in Florida is now being adversely impacted by HLB.<sup>58</sup> HLB is a bacterial disease that attacks the vascular system of plants.<sup>59</sup> Once infected, there is no cure for the disease, and in areas where the disease is endemic, citrus trees decline and die within a few years.

Another serious threat to the citrus industry is citrus canker.<sup>60</sup> Citrus canker is a bacterial disease that causes lesions on leaves, stems, and fruit. Canker causes premature leaf and fruit drop and eventually renders trees unproductive. Fruit that is infected is safe to eat, but is too unsightly to be sold.<sup>61</sup>

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<sup>47</sup> Ch. 94-311, s. 8, Laws of Fla. (creating s. 576.045, F.S.); see also ch. 2003-147, s. 1, Laws of Fla. (extending the expiration dates); see also ch. 2012-190, s. 26, Laws of Fla. (further extending the expiration dates).

<sup>48</sup> American Society of Agronomy (ASA), *Membership*, <https://www.agronomy.org/membership> (last visited Jan. 24, 2022).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> ASA, *Certifications*, [https://www.agronomy.org/certifications\\_](https://www.agronomy.org/certifications_) (last visited Jan. 25, 2022).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> ASA, *New Nutrient Management Certification Offered*, <https://www.agronomy.org/news/media-releases/releases/2015/0518/671> (last visited Jan. 24, 2022).

<sup>55</sup> *Id.*

<sup>56</sup> Florida Farm Bureau, *Hope for Florida's Declining Citrus Industry*, <https://www.floridafarmbureau.org/hope-for-floridas-declining-citrus-industry/> (last visited Jan. 24, 2022).

<sup>57</sup> DACS, *Huanglongbing (HLB)/Citrus Greening Disease Information*, <https://www.fdacs.gov/Agriculture-Industry/Pests-and-Diseases/Plant-Pests-and-Diseases/Citrus-Health-Response-Program/Citrus-Pests-and-Diseases/HLB-Citrus-Greening> (last visited Jan. 24, 2022).

<sup>58</sup> Dep't of Citrus (DOC), *Orange Production*, <https://www.floridacitrus.org/newsroom/citrus-411/orange-production/> (last visited Jan. 24, 2022).

<sup>59</sup> *Id.*

<sup>60</sup> DACS, *Citrus Canker FAQ*, <https://www.fdacs.gov/Agriculture-Industry/Pests-and-Diseases/Plant-Pests-and-Diseases/Citrus-Health-Response-Program/Citrus-Pests-and-Diseases/Citrus-Canker-FAQ> (last visited Jan. 24, 2022).

<sup>61</sup> *Id.*

## Effect of the Bill

The bill authorizes agricultural producers to use nutrient application rate tailoring, which is the application of nutrients at a different rate than the published nutrient application rates under certain circumstances. The bill specifies that the Legislature finds that:

- Nutrient application rate recommendations are general guidelines, not site-specific absolute rates, and such rates may not take into account the latest methods of producing agricultural commodities or changes to nutrient application practices that are appropriate due to disease, new crop varieties, changes in marketing standards, growing techniques, or market conditions.
- To gain efficiency and be able to compete successfully with foreign producers that benefit from lower costs of production and favorable trade conditions, many producers in the state grow more product per acre, resulting in higher production at lower overall costs. This high-efficiency crop production requires nutrient application to be based on the intensity of production on a per-acre basis, rather than the lower per-acre production on which past research based its recommended nutrient application rate.
- Florida citrus faces challenges that include citrus greening, citrus canker, freezes, windstorms, and other events that result in the fruit not being harvested. In order to continue production of this state's iconic crop, nutrient application rates must reflect fruit grown on the tree after the bloom during the growing season and not fruit ultimately harvested for market delivery.

To address these concerns, the bill authorizes the use of rate tailoring when recommended nutrient application rates published by UF/IFAS or other postsecondary institutions with agricultural research programs are not appropriate for a specific producer due to soil conditions, disease, crop varieties, subsequent crop rotations, planting density, market requirements, or site-specific conditions. The use of rate tailoring is authorized only when a certified professional makes a written determination that the published nutrient application rates are not appropriate for the specific producer.

The bill defines the term “certified professional” to mean an individual who holds a certified crop adviser designation issued by the American Society of Agronomy, who has passed the society's Southeast Region Certified Crop Adviser Exam, and whose credentials have been verified by the society's Florida Certified Crop Adviser Board.

The bill requires the determination that the published nutrient application rates are not appropriate and the recommendation for rate tailoring to be documented with one or more of the following records: soil tests, plant tissue tests, pathology reports, yield response curves, growth records, or site-specific conditions, together with records specifying the application rate, the types or forms of nutrients used, the nutrient sources used, and the placement and timing of the nutrient sources. A producer must retain the records five years to support the use of rate tailoring.

The bill requires producers that use rate tailoring to enroll in and implement all other BMPs adopted by DACS and identified in the notice of intent required for enrollment.

As recommended nutrient application rates for crops are revised by UF/IFAS or other postsecondary institutions that have agricultural research programs, the bill requires such recommendations to provide an application range or authorize rate tailoring to crop and field conditions.

The bill specifies that notwithstanding any other law, producers implementing rate tailoring in compliance with the bill are provided a presumption of compliance with state water quality standards, may rely on the waiver of liability provision in current law, and are deemed to be in compliance with certain provisions related to BMP implementation.

The bill extends the expiration date for the “findings and intent,” “fees,” “use of funds,” “waiver liability,” and “rulemaking” provisions in s. 576.045, F.S., from December 31, 2022, to December 31, 2032. The bill extends the expiration date for the “rate tailoring,” “compliance,” and “other provisions” provisions from December 31, 2027, to December 31, 2037.

**B. SECTION DIRECTORY:**

- Section 1. Amends s. 576.011, F.S., relating to definitions.
- Section 2. Amends s. 576.045, F.S., relating to nitrogen and phosphorus in fertilizer application.
- Section 3. Amends s. 403.067, F.S., relating to establishment and implementation of TMDLs.
- Section 4. Provides an effective date of July 1, 2022.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The bill extends the expiration date of existing fees at their current rates from December 31, 2022, to December 31, 2032. As a result of the extension, DACS will continue to collect the fees. DACS estimates that the recurring revenue from this extension will total approximately \$342,442 annually.<sup>62</sup>

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on DACS associated with training staff and shifting needs within the BMP program.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill extends the expiration date of existing fees at their current rates from December 31, 2022, to December 31, 2032. As a result of the extension, the private sector will continue to be subject to the fees.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

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<sup>62</sup> DACS, *Agency Analysis for Senate Bill 1000*, p. 4 (Jan. 7, 2022) (on file with the Environment, Agriculture & Flooding Subcommittee). SB 1000 also contains the provision that extends the expiration of existing fees.



**B. RULE-MAKING AUTHORITY:**

DACS will be required to update its rules to incorporate provisions of the bill. DACS currently has sufficient authority to conduct this rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

Not applicable.