Florida Fertilizer & Agrichemical Association

Regulatory Issues Update For 2012 Fluid Fertilizer Foundation Meeting

Mary C. Hartney
FFAA President
December 4, 2012

FL Fertilizer Regulatory Issues

- Numeric Nutrient Criteria
- Urban Fertilizers
- Proposed Changes to F.S. Chapter 576

FFAA is….

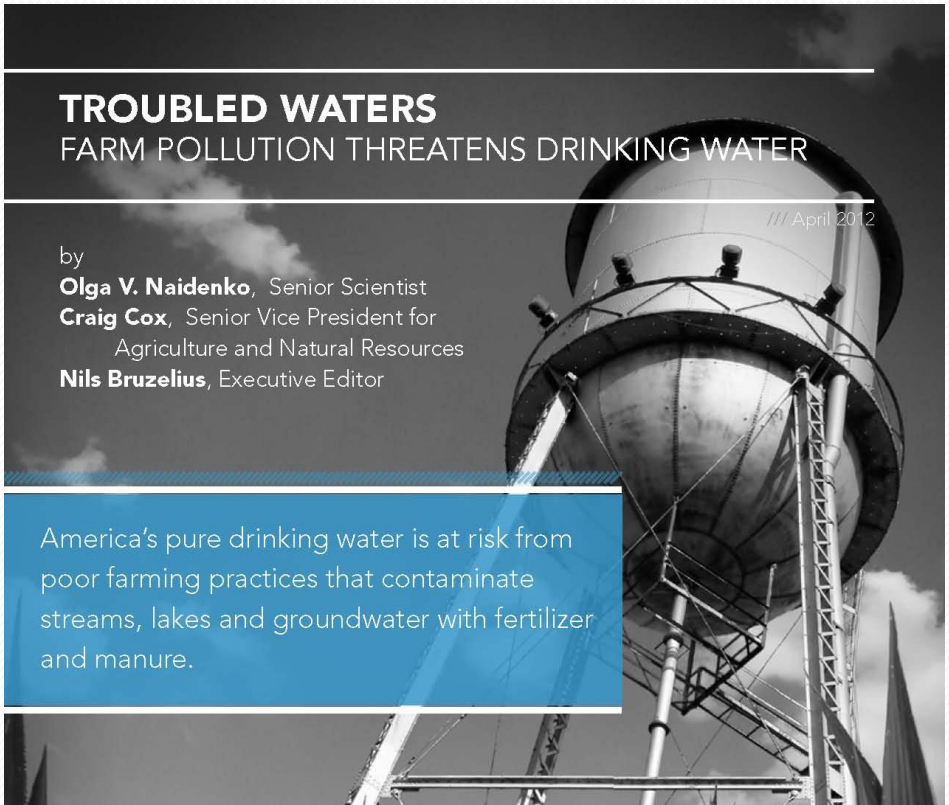
- A not-for-profit trade association founded in 1932. Currently based in Lakeland, FL.
- FFAA's Mission is to promote and defend the responsible use of plant nutrients and plant protection products in Florida.

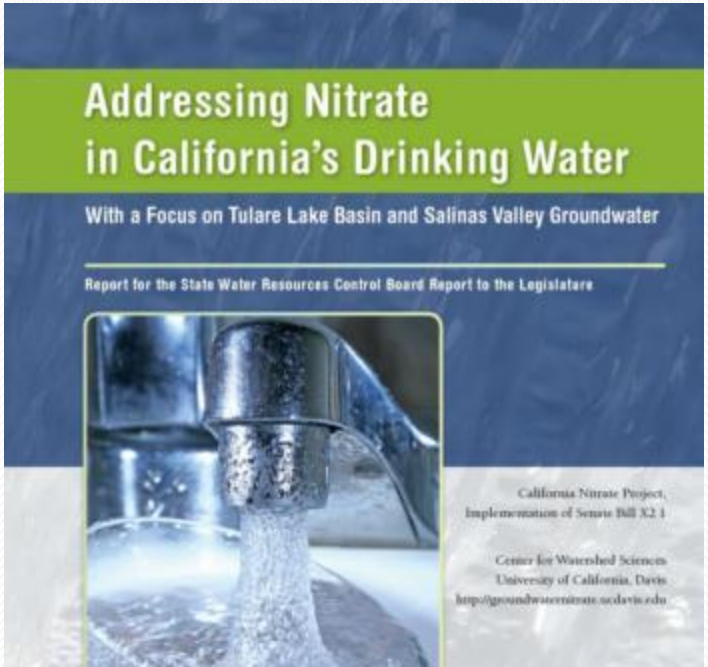
FFAA 2012-13 Directors & Officers

- Chairman: Justin Bunch, Crop Production Services
- Vice Chairman: Marshall Frasier, Triangle Chemical
- Secretary/Treasurer: Larry McCauley, DuPont

Pressure is on for Ag to Do More

Sierra Club's
"Stop the Slime"
NNC Campaigns





How Did the NNC Issue Start?

- Florida used a narrative nutrient standard to guide the management and protection of its waters.
  - Chapter 62-302.530, FAC, states that "in no case shall nutrient concentrations of body of water be altered so as to cause an imbalance in natural populations of flora or fauna."
- Activists sued EPA under the CWA - *Florida Wildlife Federation, et al. v. EPA*
  - On August 19, 2009, EPA entered a Consent Decree in the federal lawsuit under which it would publish federal numeric nutrient criteria for Florida and adopt rules under specified, strict timeframes.

What a Long Strange Trip It's Been…

January 2009
EPA determines Numeric Nutrient Criteria necessary for Florida

Slide Courtesy of David Childs
Hopping Green and Sams

Basis of TFI/Industry Lawsuit

EPA's final rule established water quality criteria that were:

- Not based on sound scientific rationale;
- Ignored causation;
- Regulated waters that are meeting their designated uses,
- EPA's rule classified some water bodies as impaired when they are not;
- EPA's criteria disregarded recommendations from the Agency's Science Advisory Board about the need to understand the causative link between nutrient levels and impairment.

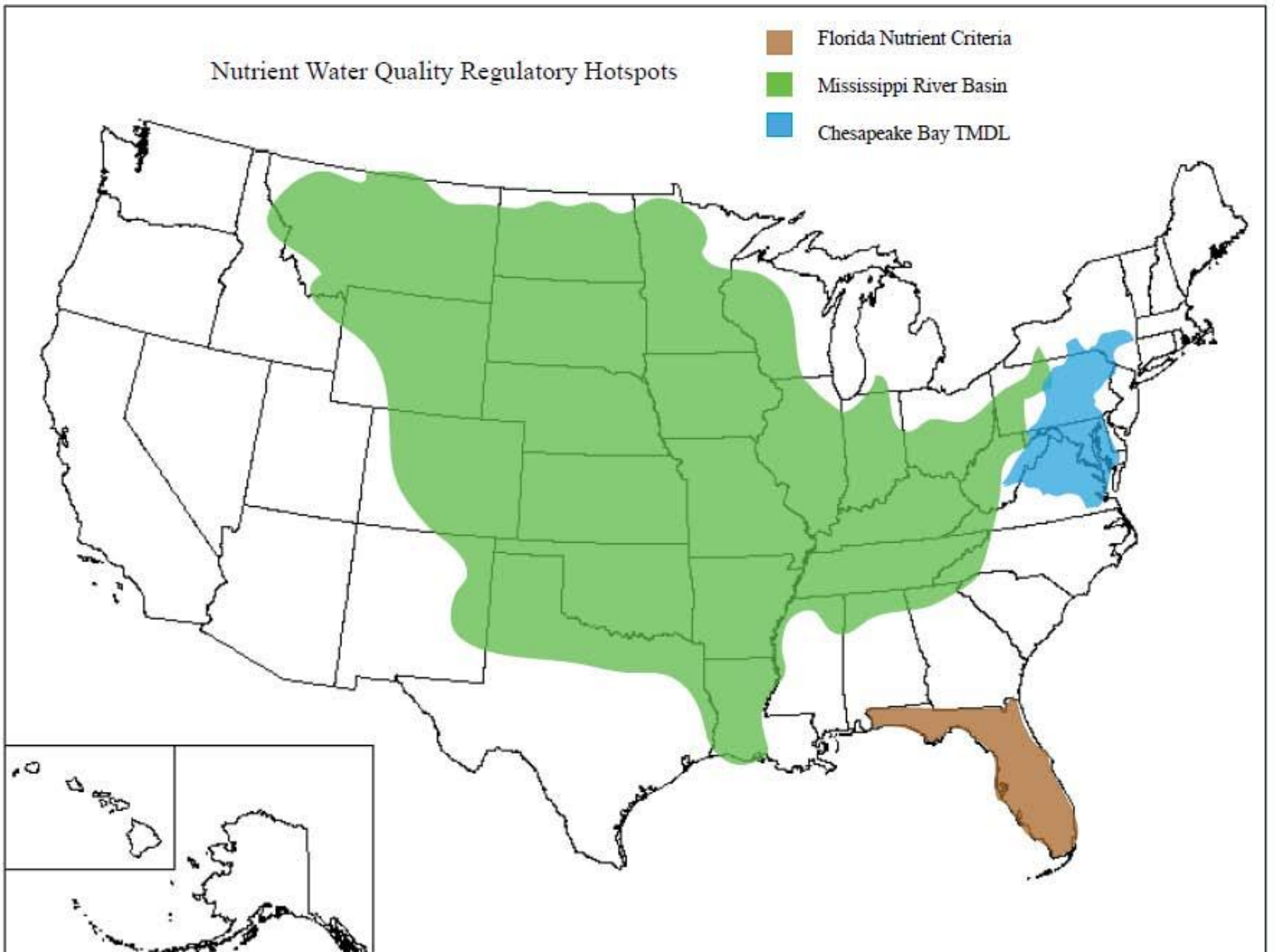
NNC Advocacy Efforts

- Industry rallied against EPA's proposed rules.
- Coordinated litigation strategy – kudos to TFI!
- Free Market Florida launched TV spots aimed at exposing nonsensical and costly environmental regulations.
  - "Water Tax" targeted proposed federal water regulations and ran on public affairs programming throughout Florida.
  - Free Market Florida Water Tax Ad

Numeric Nutrient Criteria Update

- Consent decree required EPA to promulgate criteria by 11/30/12 for additional state waters & address flaws in its streams criteria, unless EPA approved the FDEP rule first. This happened on Nov. 30, 2012.
- Another round of federal litigation seems inevitable. Unlikely that EPA's actions on the FDEP rule will satisfy all of the environmental activists.
- Meanwhile, activists have filed similar lawsuits in the Mississippi River watershed and The Fertilizer Institute is legally intervening in that case as well.

Federal Programs & Litigation



Florida Urban Turf Issues

- Homeowner use became a focus with the 2005 Lake Okeechobee Estuary Recovery Plan
- Currently, the Urban Turf Rule governs Specialty Fertilizer Products (≤ 49 pounds) labeled for turf or lawns to limit the amount of nitrogen and phosphate.
- Adopted 12/31/07 – all products compliant by 7/1/09
- Set the following:
  - Nitrogen application rates by turfgrass variety & region;
  - Low or No Phosphorus

Florida's Urban Turf Rule

- *Nitrogen:* A maximum of 0.7 lbs of readily available nitrogen per 1000 sq. ft. at any one time based on the soluble fraction of nitrogen formulated in the fertilizer. A maximum of 1 lb total (N) per 1000 sq. ft. to be applied at any one time, not exceeding annual nitrogen recommendations

Florida's Urban Turf Rule

- "**No Phosphate Fertilizer**" – fertilizer products with phosphate levels below 0.5% intended for established urban turf or lawns.
- "**Low Phosphate Fertilizer**" – fertilizer products intended for new or established urban turf or lawns, with phosphate levels equal to or above 0.5% & shall have use directions that do not exceed 0.25lbs P^2O^5 per 1000 sq. ft.

Florida's Urban Turf Rule

- Fertilization Guidelines for Established Turfgrass Lawns in 3 Regions of Florida
  Nitrogen recommendations (lbs N / 1000 ft^2 / year)

Species	North	Central	South
Bahia grass	2-3	2-4	2-4
Bermuda grass	3-5	4-6	5-7
Centipede grass	1-2	2-3	2-3
St. Augustine grass	2-4	2-5	4-6
Zoysiagrass	3-5	3-6	4-6

FFAA and other industry allies support amending the Rule to allow higher N application rates for Controlled Release Fertilizers.

Urban Turf/Landscape Issues Update

- Problem: Environmental Activists Lobbying Cities and Counties for “stronger” fertilizer regulations
- No consistency in local government approaches
- Florida Partnership for Sustainable Greenspaces
  - Reaching Legislators with key messages, specialized materials and targeted advertising
  - Targeted Media Lists & Press Kit; Earned Media and Editorial Board meetings; Social Media; Broadcast Advertising & More

2013 Florida Legislative Fertilizer Proposals

- **Sections proposed for amendment:**
  - 576.051 Inspection, sampling, analysis.
  - 576.061 Plant nutrient investigational allowances, deficiencies, and penalties.
  - 576.181 Administration; rules; procedure.

Proposed F.S. 576 Changes

- Chapter 576.051(3), F.S., Inspection, sampling, analysis. -- This section provides the referee sample analysis protocol to be used for samples found to be deficient in one or more nutrients.
  - If the results reported on the fertilizer analysis report agree within the matching criteria defined in rule ~~checks within three-tenths of 1 actual percent~~ with the department's analysis on each element for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's fertilizer analysis report results do not agree within the defined matching criteria ~~shows a variation of greater than three-tenths of 1 actual percent from~~ with the department's analysis in any one or more elements for which an analysis was made…

Proposed F.S. 576 Changes

- Chapter 576.061(1) F.S., Plant nutrient investigational allowances, deficiencies, and penalties -- This section provides the investigational allowances utilized to determine whether fertilizer samples are in compliance with label guarantees.
  - (1) A commercial fertilizer shall be deemed deficient if the analysis of any nutrient is below the guarantee by an amount exceeding the investigational allowances. The Department shall establish, by rule, the ~~I~~investigational allowances to be utilized to determine whether any fertilizer is deficient in plant food. ~~are set as follows:~~
  - Remove (a-e)

Proposed F.S. 576 Changes

- Chapter 576.181(2), F.S., Administration; rules; procedure. -- This section provides the Department with the authority to administer and enforce this chapter and establish rules.
  - (2) The department is authorized, by rule, to implement, make specific, and interpret the provisions of this chapter, and specifically to determine the composition and uses of fertilizer as defined in this chapter, including, without limiting the foregoing general terms, the taking and handling of samples, the establishment of investigational allowances and matching criteria for referee analysis, the establishment of deficiencies…

2013 Elections

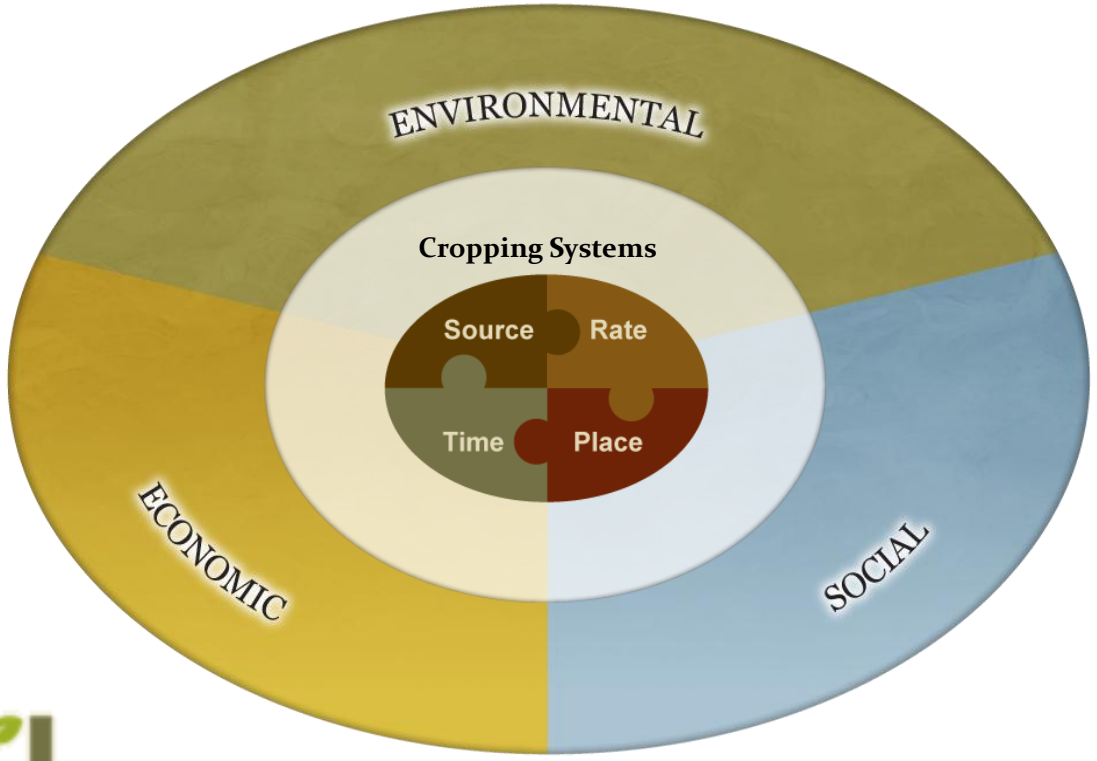
- Key election results/appointments
  - Sen. Charlie Dean – Senate Environmental Pres/Consv
  - Sen. Bill Montford – Senate Agriculture
  - Sen. Wilton Simpson – Senate Community Affairs

  - Rep. Steve Crisafulli –2014-16 Speaker/State Affairs Chair
  - Rep. Ben Albritton – House Ag/NR Appropriations Sub.
  - Rep. Matt Caldwell – House Ag/NR Subcommittee

4R Nutrient Stewardship

- The foundation of fertilizer BMPs and efficient nutrient management can be described as following the "4Rs"…
  Applying the *Right Source* at the *Right Rate* at the *Right Time*
  and in the *Right Place*

- The 4Rs improve ag production while contributing to social well-being and minimizing environmental impacts

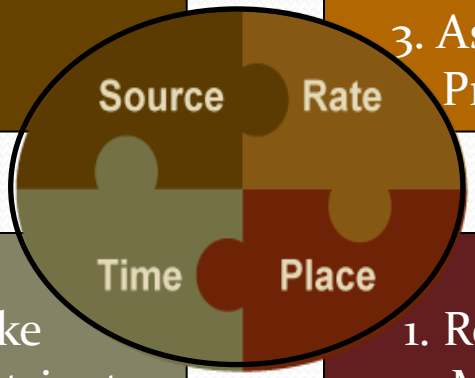


4 nutrient stewardship

Framework for management systems and education based on basic universal scientific principles

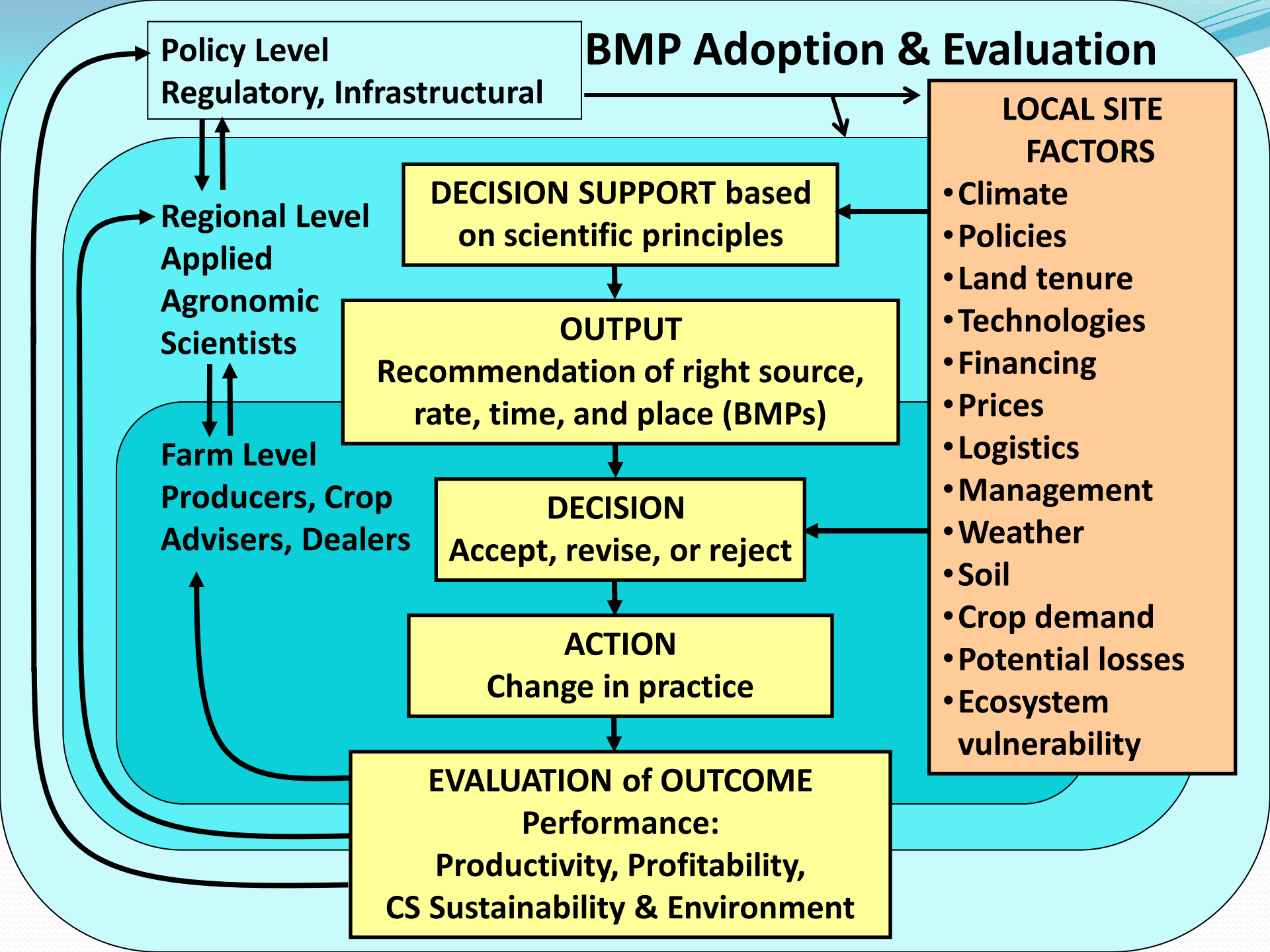
1. Supply in plant available forms
2. Suit soil properties
3. Recognize synergisms among elements
4. Blend compatibility

1. Appropriately assess soil nutrient supply
2. Assess all available indigenous nutrient sources
3. Assess plant demand
4. Predict fertilizer use efficiency



1. Assess timing of crop uptake
2. Assess dynamics of soil nutrient supply
3. Recognize timing of weather factors
4. Evaluate logistics of operations

1. Recognize root-soil dynamics
2. Manage spatial variability
3. Fit needs of tillage system
4. Limit potential off-field transport


BMP Adoption & Evaluation
Policy Level
Regulatory, Infrastructural
Regional Level
Applied
Agronomic
Scientists
Farm Level
Producers, Crop
Advisers, Dealers
DECISION SUPPORT based on scientific principles
OUTPUT
Recommendation of right source, rate, time, and place (BMPs)
DECISION
Accept, revise, or reject
ACTION
Change in practice
EVALUATION of OUTCOME
Performance:
Productivity, Profitability,
CS Sustainability & Environment
LOCAL SITE FACTORS
• Climate
• Policies
• Land tenure
• Technologies
• Financing
• Prices
• Logistics
• Management
• Weather
• Soil
• Crop demand
• Potential losses
• Ecosystem vulnerability

To Learn More and To Do More

- Continue to Support the Fluid Fertilizer Foundation, TFI, ARA, FFAA, and others supporting you!

- Attend UF/IFAS Turfgrass Research Symposium
  - January 15, 2013
    TBD, FL

- Attend FFAA Winter Business Meeting
  - January 17-18, 2013
    Hilton, 3003 Highway A1A, Melbourne Beach, FL

- Become a 4R Nutrient Stewardship Partner
  - **www.nutrientstewardship.org**