REGULATION OF COMPOST under FERTILIZERS ACT & REGULATIONS – Changes to Program Administration

Compost Council of Canada
Annual Conference, Sept, 2014
Outline

• *Fertilizers Act and Regulations*
  • Regulation of Compost
  • Regulation of Digestates

• Transformational Agenda
  • Changes to the *Fertilizers Regulations*
  • Fertilizer Regulatory Modernization

• Impacts on Compost products
  • Safety labelling
  • Definition of compost
  • Compost “categories”

• Agricultural Growth Act
• Next Steps
Regulation of Compost

Compost is considered a supplement under the *Fertilizers Act and Regulations (Schedule II)*

NO person shall sell, or import into Canada any fertilizer or supplement unless it:

- has been REGISTERED as prescribed
  (MOST compost products do not require registration)
- conforms to prescribed STANDARDS
- Is properly LABELLED

**NOTE:** Manufacture, use and disposal are regulated under the Provincial and municipal regulations.
Regulation of Digestates

When sold as a plant nutrient (fertilizer) or to improve the physical condition of soil, aid in plant growth or crop yield (supplement), digestates are regulated under the *Fertilizers Act* and *Regulations*

**CURRENTLY:**
- Require registration if recommended for agricultural use (farm fertilizer).
- Exempt from registration if recommended only for use on household plants, urban gardens, lawns or golf courses or in nurseries or greenhouses (specialty fertilizer).
- May require registration as a supplement if additional active ingredients or claims (other than plant nutrient) are made about the product.

Note: subject to change via Regulatory Modernization initiative.
Transformational Agenda

• Amendments to the *Fertilizers Regulations* – April 26, 2013
  • Discontinuation of efficacy and quality regulation
  • Focus on product safety
  • Changes to pre-market assessments for fertilizers and supplements
  • Changes to marketplace monitoring activities

• Regulatory modernization of the federal *Fertilizers Regulations* (launched December, 2011)
Past Regulatory Framework

Strategic Outcome

A safe and accessible food supply and plant and animal base

Immediate Outcome

Fertilizers and supplements sold and imported into Canada are SAFE (plant, animal, human health and the environment), EFFICACIOUS (for the intended purpose) and PROPERLY LABELLED (to avoid product misrepresentation and protect consumers)

Program Elements

Pre-market assessment/registration

Activities *

Safety Assessment Efficacy/claim verification Label Review

Marketplace monitoring

* Contaminant testing (pathogens, metals, pesticide residues)
* Nutrient content
* Active ingredient testing
* Field trial inspections
* Inspections of imported products
* Compliance with EFB
* Surveys
* Complaints
* Investigations and prosecutions
* Performance claims
* Label precautionary statements

* Policy development, standard setting, program design, interdepartmental collaboration, Fed/prov outreach, International harmonization, stakeholder consultations, corporate support
2013 Changes – NO Efficacy or Quality

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CFIA’s Regulatory Modernization

Regulatory Modernization (December 2011) involves a systematic review of all regulatory frameworks for food safety, plant health and animal health. *Fertilizers Regulations* have been identified as a short term priority. The regulatory modernization proposal:

- builds on the changes introduced to program administration by the Budget 2012 decision to remove efficacy oversight;
- was developed in close consultation with the stakeholder community through government/industry working groups (the Canadian Fertilizer Products Forum – CFPF [www.cfpf-fcpf.ca](http://www.cfpf-fcpf.ca));
- was posted for public pre-consultation (Fall 2013), and ongoing consultations through CFPF continue;
- involves input from stakeholders via questionnaires (Fall 2013) to aid in measurement of costs and benefits of the proposed amendments.
Key elements of change

<table>
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<tr>
<th>FROM:</th>
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<tr>
<td><strong>Current status</strong></td>
<td><strong>Modernized Framework</strong></td>
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<tr>
<td><strong>EFFICACY</strong></td>
<td>Removes all quality provisions - buyer-beware marketplace</td>
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<td>Prescriptive numerical standards and quality criteria</td>
<td>Based on feedback from the CFPF working groups, only a few sectors are contemplating self-regulatory initiatives</td>
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<td>Requirement to substantiate ALL performance/benefit claims (pre-market assessment)</td>
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<td>Marketplace monitoring of quality</td>
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<td><strong>SAFETY</strong></td>
<td>• Maintains <strong>outcome-based approaches</strong> to safety requirements and standards</td>
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<td>Generic provisions – specific safety standards and requirements maintained through policy</td>
<td>• Strengthens authority for <strong>environmental sustainability</strong></td>
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<td><strong>DEFINITIONS AND EXEMPTIONS</strong></td>
<td>• Aligns definitions with <strong>current science</strong> and <strong>modern terminology</strong></td>
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<td>Outdated definitions that are aligned with product use patterns (farm vs. home and garden)</td>
<td>• Supports new exemption scheme</td>
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<td>Burdensome registration requirements for combination products</td>
<td>• Maintains <strong>consistency</strong> with other relevant legislation</td>
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<td>• Aligns exemptions with the <strong>risk profile</strong> of the product, ingredients and their sources</td>
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### Key elements of change (cont’d)

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<thead>
<tr>
<th>FROM: Current status</th>
<th>TO: Modernized Framework</th>
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<tbody>
<tr>
<td><strong>SCHEDULE II</strong></td>
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<td>Outdated definitions (over 30 years)</td>
<td>• Amends existing definitions to reflect <em>current science</em> and modern manufacturing practises</td>
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<td>New safe primary materials and combinations not included</td>
<td>• Adds materials to be exempt from registration (based on history of safe use and relevance to the marketplace) - <em>risk-based approach</em> to regulation</td>
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<td>• Removes materials no longer used (e.g. garbage tankage)</td>
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<td><strong>LABELLING AND MARKET ACCESS</strong></td>
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<td>Prescriptive labelling provisions</td>
<td>• <em>Outcome-based approach</em> – removes prescriptive provisions - mandatory labelling of “core information” ONLY</td>
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<td>Prescriptive submission format requirements (application form, label etc)</td>
<td>• <em>Flexibility</em> (placement of information, etc)</td>
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<td>Two-tiered rigid registration scheme – exempt from registration or subject to full pre-market assessment</td>
<td>• <em>Less Prescriptive submission format</em> – removes application form from Schedule IV of the regulations</td>
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<td>Three year registration period</td>
<td>• Three tiered registration scheme + FIVE year registration period – <em>blend of regulatory and policy instruments</em></td>
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<td>• <em>Support innovation</em> and facilitate/ expedite market access</td>
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Product to enter Canadian Market

Exempt from registration and pre-market assessment

EXEMPTIONS IN THE REGULATIONS
• Mixed fertilizers (mineral form)
• Secondary nutrients (Ca, Mg, S)
• Schedule II materials (single ingredient)
• Combinations/mixtures of exempt products
• Exempt products + registered products
• Potting soils + registered products
• Seeds + registered products

Registration

Categorization = Pre-screening
• Text label
• Complete list of ingredients and sources
• Method of manufacture and QA/QC procedures
• Results of analysis (metals, pathogens, dioxins and furans, solubility and nutrient content when applicable to determine safe use)

TIER 1

Rapid Screening (safety and label)
• Registration number
• May request additions to the label to ensure safe use
• 5 year re-registration period
• Reduced service delivery standard

TIER 2

Full assessment (safety and label)
• Registration number
• Full safety assessments, data and rationale if applicable
• 5 year re-registration period
• 3-step review process, current service delivery standards

TIER 3
Impact on Compost products

• Fertilizer Program will no longer be monitoring quality aspects of compost products (verification of guarantees)
  • Will continue to monitor safety aspects (pathogens, heavy metals)

• Fertilizer Program will focus on safety of regulated products, including compost
  • Review of precautionary statements required on label
    – e.g. Allergenicity statements

• Definition of Compost on Schedule II of the Regulations is proposed to be changed to require designation to kind
  • Consultation ongoing to determine at what level
Precautionary statements required

Precautionary statements may be required, dependent upon the nature of the product.

Allergenicity:

• Health Canada implemented Enhanced Labelling Regulations for Food Allergens for food products that may contain the 10 priority allergens (August 2012).
  • Eggs, milk, mustard, peanuts, seafood (fish, crustaceans and shellfish), sesame, soy, sulphites, tree nuts, wheat
  • Fertilizer Program is reviewing allergenicity issues in compost products that may contain these 10 priority allergens.

Other Potential Risk Factors:

• bacterial and fungal pathogens
**Definition of Compost**

Currently, Schedule II of the *Fertilizers Regulations*:

- **Compost**: A solid mature product resulting from composting, which is a managed process of bio-oxidation of a solid heterogeneous organic substrate, including a thermophilic phase. *This product may be designated as to kind.*

Proposed revision:

- **This product must be designated as to kind.**

This revision includes two separate elements for consideration:

a) Level of detail required

b) Format / placement on label
Designation as to kind

Examples…

• Product name?
  i. seafood compost
  ii. fish, crustaceans and shellfish compost
  iii. salmon, crab, crayfish, lobster, prawns, shrimp, clams, mussels, oysters, scallops and squid compost

• Mandatory listing of ingredients?
  i. Source separated organics
  ii. Food scraps, yard and landscaping debris, paper fibers, wood waste
  iii. Fruit, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bakery items, cheese, eggshells, coffee grounds, leaves, branches, grass, weeds, floral trimmings, paper towels, cardboard, tea bags/coffee filters, wooden crates, and tree branches
Compost “categories”

Based on initial discussions with CCC, categories have been proposed for labelling of feedstocks, such that a complete list of all potential ingredients in the feedstock would not be required on a product label:

• Post consumer source-separated organics
• Leaf & Yard residues
• Municipal Biosolids
• Fishery & Aquaculture residues
• Forestry residues
• Livestock & Agrifood residues

Discussion with compost stakeholders is necessary to further justify and define the proposed compost categories.
Agricultural Growth Act (Bill C-18)

This bill was introduced in December 2013 by the Government of Canada to support agricultural sector growth through modernization.


Key authorities of note for the compost industry:

• Incorporation by reference
• Licencing of establishments
• Authorities around record keeping

If the Act receives Royal Assent, the key changes impacting the compost industry would require regulatory amendments.
Potential impacts on compost industry – Agricultural Growth Act (Bill C-18)

Incorporation by reference:
- Schedule II could be referenced in the Regulations
- Schedule II could then be updated as needed without requiring a regulatory amendment.

Licensing of establishments:
- Could require licensing of composters/manufacturers or importers.
- Include Preventive Control Plans (quality control measures) to align with food safety continuum.
- Authorities to develop regulations on what documents to keep, prepare, provide, etc.
Current challenges and next steps

- Regulatory modernization in the context of Agency’s ambitious transformational agenda – CGI– delayed till winter
- Service Delivery Standards for file processing – delays and ensuing backlog of submissions for registration
- BNQ is reviewing their compost guidelines – CFIA will participate in advisory capacity
- CFIA and CCC need to work together to elaborate the level of detail required for the designation as to kind, as pertains to compost labelling
- Research is needed to determine safety and exposure risks associated with allergens – thus precautionary statements
- Ag Growth Bill – if passed - will require significant consultation and engagement from the stakeholder community to develop new regulatory regime for licensing facilities
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