



Canadian Fertilizer Institute (“CFI”)

Submission to the

Ontario Ministry of the Environment

Regarding

Consultations on Waste Reductions Act, 2013

EBR Registry 011-9260

Ottawa, Ontario

September 4, 2013

INTRODUCTION

The Canadian Fertilizer Institute (CFI) and our Urban Fertilizer Council (UFC) support product stewardship and the need to divert waste away from landfills in the Province of Ontario. CFI has reviewed the proposed *Waste Reductions Act, 2013*. While we support the need for new legislation, the Bill in its current form requires significant amendment.

This document is to serve as CFI's submission in response to the introduction of the *Waste Diversion Act, 2013*, listed as *EBR Registry Number 011-9260* which has been recently introduced in the Ontario Legislature. This submission provides the Government of Ontario with a list of comments and recommendations on how the urban fertilizer sector suggests the Government proceed. CFI and UFC support the Government's objectives of true diversion of our products from landfills.

CFI and UFC support waste diversion. We are encouraged that the Government has taken the appropriate action of coming forward with new legislation on this issue. This will consolidate various pieces of legislation and regulation into one Bill. Our Members see this as an attempt to streamline the legislative requirements stewards must meet, making it easier for the industry to understand their responsibilities. CFI is supportive of the aims of Bill 91 but recommend significant amendments in order to effectively and equitably accomplish worthwhile goals.

WHO WE ARE

CFI is an industry association that represents manufacturers, wholesale and retail distributors of nitrogen, phosphate and potash fertilizers. The Urban Fertilizer Council was formed by lawn and garden fertilizer companies and CFI to communicate the importance of responsible nutrient use for the protection of urban environments, as well as, lakes and rivers.

As part of the "Greener World" campaign, the UFC provides the facts about fertilizers, as well as, their effective and responsible use to homeowners, provincial and municipal officials, turf management professionals and other stakeholders. Using a variety of communications means over the last couple of years, UFC has been providing information, facts and simple tips that contribute to improved environmental outcomes. They include Best Management Practices, such as 4R Nutrient Stewardship, that encourage the use of the Right Source of fertilizer @ Right Rate, Right Time, Right Place®.

All the information consumers need is on the fertilizer bag label. Working with the Canadian Food Inspection Agency, our messaging campaigns are bringing this to the attention of homeowners and helping them to carefully follow those directions.

BILL 91: GENERAL COMMENTS

This Bill in its current form does not work for small stewards of products that pose limited waste disposal issues and must be amended. Fertilizer stewards face a number of significant challenges under Ontario's current Waste Management System.

1. There is no scientific basis for including fertilizer in the Municipal Hazardous or Special Waste Program (MHSW)

The Act needs to ensure that the inclusion of products is based on criteria founded in science, as well as cost-benefit analysis and makes provision for evolution in product composition. CFI recommends Bill 91 include a review process that allows for the exclusion of any product categories based on these three factors.

In the Government's Waste Reduction Strategy, there is an acknowledgment that "the management of waste is complex and is constantly evolving. The products and packaging we have today are not the same as those we have dealt with in the past." This is true of the fertilizer sector and the industry continues to remain concerned by the ongoing misclassification of our products. The classification of Municipal Hazardous or Special Waste is not based on a scientific approach and this creates a significant unnecessary burden for stewards in our industry.

Under the existing regulations, at the outset, only registered fertilizers and some supplements were included in Phase 1 MHSW. The very nature of registered fertilizers still captured in Phase 1 has changed significantly since the inception of the MHSW program. The vast majority of registered fertilizers use to be weed & feed products, which were a combination of fertilizer mixed with a pesticide (often 2,4-D). These products have been banned in Ontario and are no longer in the market. They have since been phased out by the Pest Management Regulatory Agency and the Canadian Food Inspection Agency due to their inability to be used for spot treatment – not because either agency viewed them as being “toxic.” The result is that an already small amount of obligated materials, which are designed to be used in the environment, has been made even smaller as a result of bans and phase-outs.

Fertilizers do not belong in MHSW. As an alternative, the Government should examine our “Greener World” campaign that provides facts about fertilizers, as well as, their effective and responsible use to homeowners, provincial and municipal officials, turf management professionals and other stakeholders. Public awareness is an important tool that is being under-utilized in Bill 91 as an effective means of ensuring diversion.

Recommendations:

- Should Bill 91 pass, we request the removal of fertilizers, which are designed to be used in the environment, from the Municipal Hazardous or Special Waste Program in the ensuing regulations based on scientific analysis, cost benefit analysis and changes in product composition.
- Work with Stewards and waste management experts to ensure all materials captured under MHSW are properly categorized using a science based approach.

2. Lack of Standardization and Harmonization

Further complicating the issue described above is the power the Bill gives municipalities to individually make waste collection decisions and allows them to decide if they will collect compensation from stewards without a system for standardization. This creates problems for stewards who must deal with many systems across a multitude of jurisdictions. This is inefficient and often leads to more collection instead of actual diversion as many municipalities ignore the Provincial standard and collect items which are not obligated under MHSW. Our sector is small and fertilizer stewards cannot be expected to speak with each individual municipality in Ontario. The Province needs to be the body of authority that provides direction by setting a single standard. Doing so will provide clarity to municipalities and stewards alike.

This lack of standardization goes beyond just Ontario. When it comes to waste diversion, there is no national standard and this negatively impacts producers’ ability to develop new, innovative products. An effort needs to be made to harmonize waste management systems across multiple jurisdictions in Canada.

Recommendations:

- Provide clear direction by setting the provincial standard for waste management that is adhered to by all jurisdictions within the province.
- Standardize the list of materials for collection both for Blue Box and MHSW. Ensure that these standards are met by all municipalities.
- Make efforts to harmonize waste management systems across multiple jurisdictions in Canada.

3. Fertilizer stewards need effective Dispute Resolution under Bill 91

Fertilizer stewards are committed to paying their fair share with the program to date, but current Stewardship Ontario (SO) practices are inequitable towards our products and companies. Many non-fertilizer products have been incorrectly classified by SO as Phase 1 fertilizer at the time of collection, thus significantly overstating the volume of fertilizers being returned. Despite this error which stems from the lab pack assessment, SO refuses to share with stewards what figure is currently used to attribute costs to the fertilizer sector and refuses to acknowledge there is a problem. Consequently, the accumulated deficit attributable to fertilizers is grossly overstated and we believe that SO is continuing to over assess stewards under Regulation 11/12. This needs to be resolved as the province transitions into a new system.

We have repeatedly and consistently requested both verbally and in writing the methodology and lab pack splits for these products. To date, we have not received this information. In fact, the Urban Fertilizer Council has approached Waste Diversion Ontario on this matter and asked for their assistance in getting this information but even they have been unable to obtain clear answers. We still have not received the methodology or the lab packs. This too must be resolved as the province transitions into the new system.

The industry fears that these issues will remain when the the system changes and would ask that the Government ensure a cost effective and smooth transition period be put in place so existing problems are resolved.

Recommendations:

- Bill 91 needs to have an effective dispute resolution mechanism to deal with legacy and transition disputes under the old legislation and new issues as they arise.
- Bill 91 and the subsequent regulations must enshrine principles that ensure the methodologies and allocation of costs is transparent and accurately reflects stewards' contribution to the waste stream.
- The Government needs to work to ensure there is a cost effective and smooth transition between the two regimes.

4. Confidential business information must remain confidential

There is no information in the new Act that indicates how confidential business information will be handled under the transition of oversight from Stewardship Ontario to the Waste Reduction Authority.

Recommendation:

- The Government must ensure that confidential business information, especially category sales data, will not be disclosed during the establishment of waste reduction targets or under the operations required by Bill 91 and its regulations.

5. Hidden eco-fees result in an un-level playing field for stewards, retailers, and consumers

Integrated costs are only equitable when they pertain to costs that apply across all provinces. Province specific costs integrated into national pricing forces consumers in other provinces to pay for programs that they do not benefit from. Forcing provincial pricing on stewards to deal with local programs adds cost and complexity for stewards and retailers. In the end, all consumers pay for programs.

Consumers have the right to be informed of what they are paying for and the associated costs of the program. Stewards should have the ability to put a visible fee on our product. Visible costs associated with the program are a cost effective means of communicating the cost of a product's end-of-life management and a way of increasing transparency to consumers. Effective communication and awareness are key to consumers' understanding of the end-of-life responsibilities for the products they purchase and is preferable to hiding fees which unnecessarily inflate prices for goods sold in the province. All stakeholders, including consumers, should play a role in the management of waste.

Recommendation:

- Bill 91 should not determine how stewards price their products to recover the costs imposed by the legislation. That is an issue best left between stewards and their customers.

6. Targets

Consumable products such as fertilizer should not have collection targets under this legislation. They are meant to be used entirely in the environment and therefore our efforts should be to use the products as they were designed and not to enter the waste stream. Ontario's Waste Reduction framework needs to recognize and allow for a variety of approaches that support the 3R's hierarchy. UFC's "Use It, Store It, Share It" program that encourages appropriate stewardship and discourages waste disposal through public education is an example of an alternative approach.

Collection and recycling of waste is not always the most effective means of managing an obligated category under MHSW. Targets must be relevant to the objective to be achieved whether it be reduction, re-use or recycling. All stakeholders need to be consulted with regards to targets, but particularly producers who hold the expertise in their product categories.

Recommendation:

- Bill 91 should allow for a variety of approaches that support waste reduction goals, including efforts by stewards focused on public education.

SUMMARY:

Bill 91 requires amendments going forward in order to prevent undue harm to stewards, the economy, and consumers. CFI and the UFC are eager to work with the Government of Ontario to find practical solutions that achieve true diversion. We are confident that the Government of Ontario can make necessary changes to the Bill that will jointly achieve its waste management goals while protecting Ontario consumers and businesses. To re-iterate, our recommendations are as follows:

Recommendations:

- Should Bill 91 pass, we request the removal of fertilizers, which are designed to be used in the environment, from the Municipal Hazardous or Special Waste Program in the ensuing regulations based on scientific analysis, cost benefit analysis and changes in product composition.
- Work with Stewards and waste management experts to ensure all materials captured under MHSW are properly categorized using a science based approach.
- Provide clear direction by setting the provincial standard for waste management that is adhered to by all jurisdictions in the province.
- Standardize the list of materials for collection both for Blue Box and MHSW. Ensure that these standards are met by all organizations responsible for collecting designated materials.
- Make efforts to harmonize waste management systems across multiple jurisdictions in Canada.
- Bill 91 needs to have an effective dispute resolution mechanism to deal with legacy and transition disputes under the old legislation and new issues as they arise.
- Bill 91 and the subsequent regulations must enshrine principles that ensure the methodologies and allocation of costs is transparent and accurately reflects stewards' contribution to the waste stream.
- The Government needs to work to ensure there is a cost effective and smooth transition between the two regimes.
- The Government must ensure that confidential business information, especially category sales data, will not be disclosed during the establishment of waste reduction targets or under the operations required by Bill 91 and its regulations.
- Bill 91 should allow for a variety of approaches that support waste reduction goals, including efforts by stewards focused on public education.

CFI and the UFC look forward to continued discussion with the Government of Ontario on this Bill and we are eager to assist the Government in achieving its goals of waste diversion of our products.

For additional information, please contact the Canadian Fertilizer Institute's Robert Godfrey, Director of Policy and Government Relations at rgodfrey@cfi.ca or 613-786-3034.