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SPECIAL COMMITTEE ON

COSMETIC PESTICIDES

Victoria

Monday, August 22, 2011

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DR. MARGARET MacDIARMID, MLA, CHAIR

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**SPECIAL COMMITTEE ON
COSMETIC PESTICIDES**

Victoria
Monday, August 22, 2011

Chair: * Dr. Margaret MacDiarmid (Vancouver-Fairview L)

Deputy Chair: * Rob Fleming (Victoria–Swan Lake NDP)

Members: * Bill Bennett (Kootenay East L)
* John Slater (Boundary-Similkameen L)
* Ben Stewart (Westside-Kelowna L)
* John Yap (Richmond-Steveston L)
Scott Fraser (Alberni–Pacific Rim NDP)
* Michael Sather (Maple Ridge–Pitt Meadows NDP)

** denotes member present*

Clerk: Kate Ryan-Lloyd

Committee Staff: Byron Plant (Committee Research Analyst)

Witnesses: Daphne Dolhaine (Ministry of Environment)
Jim Hofweber (Ministry of Environment)
Jim Standen (Acting Deputy Minister of Environment)

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MINUTES

SPECIAL COMMITTEE ON COSMETIC PESTICIDES

Monday, August 22, 2011
10 a.m.
Douglas Fir Committee Room
Parliament Buildings, Victoria, B.C.



Present: Dr. Margaret MacDiarmid, MLA (Chair); Rob Fleming, MLA (Deputy Chair); Bill Bennett, MLA; Michael Sather, MLA; John Slater, MLA; Ben Stewart, MLA; John Yap, MLA

Unavoidably Absent: Scott Fraser, MLA

1. The Chair called the meeting to order at 10:09 a.m.
2. The following witnesses appeared before the Committee and answered questions:
Ministry of Environment:
 - Jim Standen, Assistant Deputy Minister, Environmental Protection Division, and Acting Deputy Minister
 - Jim Hofweber, Director, Environmental Management Branch
 - Daphne Dolhaine, Manager, Integrated Pest Management Section, Environment Protection Division
3. The Committee recessed from 11:56 a.m. to 12:25 p.m.
4. The following witnesses continued their presentation and answered questions:
Ministry of Environment:
 - Jim Standen, Assistant Deputy Minister, Environmental Protection Division, and Acting Deputy Minister
 - Jim Hofweber, Director, Environmental Management Branch
 - Daphne Dolhaine, Manager, Integrated Pest Management Section, Environment Protection Division
5. The Committee recessed from 12:41 p.m. to 12:51 p.m.
6. **Resolved**, that the Committee continue its meeting in camera to discuss and review its preliminary draft business plan. (John Slater, MLA).
7. The Committee met *in camera* from 12:52 p.m. to 1:57 p.m.
8. The Committee adjourned to the call of the Chair at 1:57 p.m.

Dr. Margaret MacDiarmid, MLA
Chair

Kate Ryan-Lloyd
Clerk Assistant and
Acting Clerk of Committees

MONDAY, AUGUST 2 2011

The committee met at 10:09 a.m.

[M. MacDiarmid in the chair.]

M. MacDiarmid (Chair): Good morning, everyone. I'd like to call the meeting of the Special Committee on Pesticides to order and thank everyone for coming this morning. We've got an agenda before you, and there certainly will be an opportunity to review any other business.

I wanted to suggest to the committee that probably around 1:30 would be when we would review our draft business plan and, given the very preliminary nature of it, wanted to suggest that we move in camera for that discussion, if anyone has any discussion about that. But I thought that's probably what we would do, given it's very preliminary. Certainly, when our business plan's been finalized, that would be for the public record.

[1010]

We have got, for most of our agenda this morning, a briefing — and plenty of time for questions from committee members — from members of the staff of the Ministry of Environment. I'm going to welcome this morning Jim Standen, who is the assistant deputy minister, environmental protection division, and acting deputy minister. We have Jim Hofweber, who's the director of the environmental management branch, and Daphne Dolhaine, who is the manager of the integrated pest management section, environment protection division.

Thank you very much, all, for coming, and we will turn things over to you to get started.

Briefing: Ministry of Environment

J. Hofweber: What we're going to do today is.... We're pleased to be here; happy to serve this committee in any way possible. After discussions with Kate, we decided that the best thing to happen this morning is that we would give you some background. We're going to cover three different areas — the first being how we regulate the pesticides in B.C. currently. We'll give you a view of the federal role in regulating pesticides in B.C. and touch on the municipal regulation of pesticides as well.

Then we want to talk a bit about other jurisdictions and how they have handled the question that's before the committee. Some jurisdictions have been at this for a couple of years now; some are just coming on board. There are lessons to be learned there, for sure.

We'll also cover the consultation that was done in 2009. The throne speech committed to a discussion with the public around this issue, and we put together a very comprehensive discussion paper, put that out there for the public to have a look at and respond to, and we have the results of that summarized.

We hope that this background, all put together, will give you a good head start on your work as committee members. Daphne will do the heavy lifting today, most of the presentation. There's about an hour's worth of material to be presented, and I think, in terms of keeping the flow going, we're going to try and schedule that first break, if we can, after the majority of it, which is the first part of her presentation. So we may go 40 minutes before we have a break, if that's okay with everyone.

Because there's a lot of complexity to this, and I know you'll have questions, I'll leave it up to Daphne to coach us through that, but I think you should stop and ask questions as we go along. Just have a view to what is coming in terms of the rest of the presentation — to not get ahead of us. It's a complex issue. It begs a lot of questions, and we'd be happy to answer them as we go along.

At the very end, we can discuss other materials that you might want to have at your disposal going into the future. Of course, we'd be happy to come back at any time and answer any questions for the committee as well.

With that, I'll hand it over to Daphne.

D. Dolhaine: Thanks, Jim, and thank you members of the special committee. I'm pleased to offer a presentation to you today that does cover the following topics. As Jim said, it takes about an hour, and I'm proposing that we get through to the end of the regulation before we have a more substantive break.

I'll just really briefly touch on the issue, and that is that many British Columbians are concerned that pesticides are being used in places where they live or where they recreate and that the uses are not necessary. People are generally concerned that the unnecessary use may negatively impact the environment by impacts to water or non-targeted organisms or to their health — their own health, the health of their children, the health of their pets.

People are asking government to restrict the non-essential use of pesticides or to restrict the use of cosmetic pesticides.

What is a pesticide? It's defined under the Integrated Pest Management Act as "a micro-organism or material that is represented, sold, used or intended to be used to prevent, destroy, repel or mitigate a pest." So it covers a wide variety of products and possibilities.

Pesticides can include herbicides that are effective against plants; algicides effective against algae. There's a wide range there.

There are two terms I'll be using today to discuss pesticides. The first is "active ingredient." The active ingredient is a specific compound which is designed to adversely impact a pest. So pesticide active ingredients are generally not applied in their pure form, but they're usually included in formulations with inert or other non-active ingredients.

[1015]

The other term I'll be using is "product" or "pesticide product." That refers to the formulated product on the shelf. It's the thing that includes the active ingredient and the non-active ingredients. You can find the same active ingredient in a wide variety of products. Some products have applications around the home; other products may have applications in an industrial setting, with the same active ingredient.

So what are cosmetic pesticides? As you know, provinces and municipalities are placing restrictions, usually on the lawn and landscape use of pesticides. These are generally referred to as cosmetic pesticide bans.

Well, pesticides aren't classified as cosmetic. There's no acknowledged grouping of pesticides that are cosmetic pesticides. Defining what these pesticides are is a challenge. That's because pesticides are active against pests. Pests cause damage, and it's the management of those damages that may be considered cosmetic. You may have, for example, an active ingredient, even a single product, that may be effective against a broad spectrum of pests.

If we're talking about plants, for example, some plants may be considered unsightly, some may be beautiful, but some may be poisonous to the touch. You may have the same product operating against all of those different pests.

It's not the pesticide that's cosmetic; it's the use that's cosmetic. I'm going to try to use that term, although this is broadly the kind of accepted view of the issue here. We don't yet have a broadly accepted definition for the term "cosmetic use" or "cosmetic purpose" in British Columbia.

Why do we use pesticides? For a wide variety of reasons: everything from protecting human health to our food supply, down through the health of ornamental plants, which I think is primarily the issue that we're talking about today.

In 2008 UBCM passed two resolutions. One was to ban the sale and use of cosmetic pesticides provincewide, and the other was to control pesticide use by mandating sales and retail display restrictions across B.C. and to allow local governments to regulate more broadly than they can under the current Community Charter Wildlife Regulation. So people are asking for the province to ban the sale of a product when.... I think what they're asking for, actually, is a ban on the sale of the use, but we'll get through that.

That's just a brief introduction. We're going to launch now into pesticide regulation in British Columbia. I will be covering federal, provincial and municipal areas.

I'm going to start with the federal regulations, but I just want to cover this term. A significant part of the regulatory regime, both federally and provincially, has to do with risk. I just want to touch briefly on the word because people use it in different ways in different settings. Generally, when we talk about risk, we talk about

the probability of adverse impact. It refers to the probability of some kind of damage occurring.

When we talk about risk assessment for the purposes of consumer products, generally we talk about hazard and exposure. You can see it's an equation: if one of the factors here is high and the other is low, you can potentially get a low-risk rating. As an example, let's take gasoline.

Gasoline, I think we all know, is a hazardous substance. We know we don't want to be drinking it; we don't want to be breathing it in; we don't want it even to touch our skin. I think we can manage the exposure, because most people aren't going to drink gasoline. Consumers can still pump gas into their own vehicles, because we've taken steps to minimize exposure. We do that by special hoses, with special fittings in our vehicles. That allows and minimizes the exposure of any individual to gasoline.

[1020]

That's just a brief description there, and now I'm going to launch into each of these areas in a bit more detail.

Generally, the federal government, under the Pest Control Products Act, evaluates and registers pesticides. They provide the label directions right on the products. Provincially, in B.C., under the Integrated Pest Management Act, there are additional conditions for the sale and use of pesticides — basically to ensure that the pesticide application is carried out in a manner that protects the environment, the applicator and bystanders. The province regulates how the products are used, when and where pesticide use is appropriate and how that will be carried out.

Municipalities in B.C. have authority under the B.C. Community Charter to restrict pesticide use on "outdoor trees, shrubs, flowers, other ornamental plants and turf," and they could do that on private residential land and in land vested in the municipality.

A bit more detail again, just talking about the federal role. Before pesticides can be imported, manufactured, sold or used in Canada, they must be registered by Health Canada's Pest Management Regulatory Agency. We refer to them as the PMRA. Before pesticides can be registered by the PMRA, they need to go through a scientific evaluation to make sure that they're acceptable for a particular use and that they remain acceptable for that use once they're on the market.

The PMRA has a staff of over 300 trained professionals. They conduct health and environmental reviews, and they establish conditions and limitations for the use of pesticides. Their stated goal is to prevent unacceptable risk to people and the environment.

Here's just a snapshot of the elements of a federal risk assessment. I need you to know that I'm by no means an expert on this topic. I just think it's helpful for you to understand the whole system.

Toxicological evaluations. Those are health assessments that look at the potential for the pesticide to cause an adverse effect. They look at things like cancer, birth defects, endocrine disruption, that type of thing.

Exposure assessments examine the sources and roots of potential exposure, including exposures through diet, from drinking water, and from contact to treated areas, like on a lawn. They estimate the amount of pesticide that people may come into contact with, both during and after a pesticide application.

Food residue assessments. For those pesticides that come in contact with food, they set the maximum limits for the residue on food.

Environmental risk assessments consider risk to organisms, and they think about the fate of pesticides in the environment.

And then value and efficacy is an assessment of the value as it relates to the efficacy of the product. Basically, does the product work on what it's intended to work on?

Once all these evaluations are done, PMRA determines whether or not a registration should be granted. They do re-evaluate products, which sometimes will result in a label change, or occasionally, registration will be refused. The PMRA have cancelled registration of a number of lawn and landscape pesticides, particularly those for domestic users. They do allow the continued use of hundreds of other products, though, for lawn and landscape pest management.

The PMRA recently reviewed the most common lawn herbicide, which is 2,4-D, and concluded that it's safe to use against weeds on lawn and turf if users follow label directions.

In addition to detailed risk assessments and the label instructions, the PMRA also classifies each product into the following classifications.

The manufacturing class is for products that are going to be used in other pesticides. The restricted class can only be used under certain circumstances by specially trained people. These generally aren't available to the general public. Commercial-class products are restricted to commercial activities, and they're indicated right on the label. These also are not available to the general public for use in and around the home. And then, finally, there are domestic-class products. Those are the ones that are classified as appropriate for use by untrained individuals in and around the home.

[1025]

The Ministry of Environment currently does not conduct risk assessments on pesticide products. We rely on Health Canada to do that.

Then on to B.C., under the Integrated Pest Management Act. The role of the province is to regulate the use or the actual application of pesticides. In B.C., under the IPMA, as we call it — it's the short term — we impose additional restrictions on pesticide use in order to protect human health and the environment. We do that through a pesticide classification system, which I'll touch upon — through some specific provisions for authorizations.

Then there are two key pieces that underpin the system. Those are the last two bullets here.

The first is no unreasonable adverse effect. Under the Integrated Pest Management Act, a person must not "use, handle, release, transport, store, dispose of or sell a pesticide in a manner that causes or is likely to cause, an unreasonable adverse effect." This applies to the use of all pesticides. This general prohibition, in concert with the requirements for IPM, underpins the ministry's approach to regulation of pesticides.

What is IPM? IPM is a decision-making process, and it includes all of these elements. It's proactive. It's preventative. It requires that before a pesticide is used, the use should be necessary, because pests are to be identified and monitored.

It requires that before a pesticide is used, other methods should be considered. Those other methods are things like physical, cultural or mechanical methods. They're not always chemical methods.

Key regulatory tools and processes. The first is pesticide classes. We have our own scheme, which I'll go through.

The next set of bullets there are all authorizations under the IPMA. Certificates are issued for dispensing or applying specified pesticides. Certificates are issued to individuals who have training and, generally, have passed an exam. Licences are for the sale and use of pesticides.

What we call pesticide use notice confirmations — that's a bit of a mouthful; generally, we call them confirmations — are for specified large-scale programs. They require integrated pest management plans and ministry notification. Licences and confirmations are issued without a statutory decision.

Finally, there are permits. Those are for use of pesticides of particular concern, for uses of concern or for unusual types of uses that aren't already named in the regulation. Those require a statutory decision.

The regulation also contains requirements for storage, transportation, public notification, consultation, reporting, recordkeeping, as well as standards for protection of human health and the environment. That's through the training of pesticide users, notice to bystanders and then some specific provisions for protection of water — that type of thing.

In B.C. we also have a classification system. It's generally the same as the federal class system. It has these two additional classes.

The first is permit restricted. These pesticides are listed by name in the regulation. They are most strictly controlled. They require a permit to purchase or to apply them. Pesticides are on this list because it's been determined that each use needs to be evaluated.

[1030]

There are two products right now on this list. One of them is no longer registered for use in British Columbia, and the other is a pesticide that's used to control bird populations. Because of the potential for adverse effect with that product, any use of that product needs government oversight.

The other class is the excluded class. These pesticides are listed, again, by name or by type of use in the regulation. They're excluded from the requirement for a licence, a certificate or a permit — for any authorization. They're assigned to this class because the administrator considers that excluding them from requirements for an authorization will not increase the risk of unreasonable adverse effect.

The administrator considers factors like: the products may be regulated by another agency; that the type of training the province delivers doesn't actually offer any additional benefit; they may be used by highly qualified people already in an industrial setting. Sometimes the mode of action just influences a pest's behaviour. It doesn't actually have a toxic effect. So there's a wide variety of factors that the administrator considers.

Some examples of products in this class are things like laundry additives that might be used in manufacturing products for public health; anti-microbial purposes like hard-surface disinfectants or swimming pool chemicals; there is a bunch of wood preservatives in there as well; and again, products with a mode of action that influences a pest's behaviour, like bear spray or pheromones.

There are a few lawn and landscape products in this class. They were added in 2005 when the new act and reg came out. They were added to the list primarily in response to community bans. There are things like domestic-grade acetic acid, which is very similar to household vinegar; insecticidal soaps; diatomaceous earth, which is like a desiccant.

Any product on the excluded list does not need a licence or a certificate to sell it. It doesn't need a licence or a certificate to use it. There is no record-keeping required for the use or sale of these products, and there is no notification or signage required to use these products.

When is authorization required to sell pesticides? To use them on public land, so there's a wide.... As an example, pest management activities there. To apply pesticides as a service, or to apply pesticides in and around multi-resident dwellings. Multi-resident dwellings are those with four or more units, like strata situations, and the intention for the authorization there is to ensure that residents are aware when pesticides are applied in common areas around where they live.

There are also a number of industrial uses or larger-scale programs that require IPM plans, authorizations and notification of the ministry. There is also, as I said before, a number of pesticide uses that require a permit or a statutory decision.

There is no provincial authorization or special conditions for pesticide use on private residential land when it is done by the owner or the resident on that land except when someone is providing a service or when that application is taking place in this multi-resident dwelling.

The next two slides just cover some of the specific requirements that I think are relevant to this issue. The first is the sale of domestic-class pesticides. In B.C.

the sale of domestic pesticides — those are the ones intended for use in and around the home — require a vendor licence and a dispenser certificate. Dispensers are required to inform purchasers that label directions are to be followed, and they are also to be available to provide advice about pest management.

Record-keeping is not required for the sale of domestic products. The ministry does not have B.C.-specific information that characterizes the trends in the sales of domestic-class pesticides.

[1035]

We are aware that several retailers have voluntarily removed all but excluded pesticides from the shelves. They don't need a licence anymore to do that, to sell those products.

Covering the requirements for landscaping licensees, here's just a quick summary of them. At schools, parks, any public land, on the multi-residence properties or when providing a service, a licensee must use integrated pest management. There are requirements to provide notice, pesticide applicators are to be certified, and there are recordkeeping and reporting requirements as well.

That covers the overview of the provincial regulation, and now I just want to touch upon municipalities. Under the Community Charter, municipalities may choose to restrict the use of pesticides for maintaining outdoor trees, shrubs, flowers, other ornamental plants or turf. That's on municipal land and on land used for residential purposes.

There are approximately 37 B.C. municipalities that have bylaws that restrict the pesticide use in their communities. The majority of these bylaws, I say, go the furthest extent to prohibit the pesticide use. They don't allow any pesticide, except excluded pesticides, on any outdoor trees, shrubs or flowers on all the municipal land and on the residential land. Not all the bylaws are equal, though.

There's just a snapshot of all the different municipalities with bylaws. Some of the differences between them are here. Some allow certain municipal lands to continue to receive pesticides, like sports fields. Some have a permitting allowance so that the municipality can make a decision to allow the pesticide use. Some have signage requirements, and some have additional pesticides allowed beyond the excluded list.

Some have exceptions, where no decision is required by the municipality. One is for noxious weed management, which is specified in the Community Charter. At least one municipality allows certified integrated pest management, or the use of IPM and certified applicators to apply pesticides, so anyone with a licence is allowed to use them.

There are some exceptions that are only allowed by municipal permit. Those are for pests that threaten ecosystems; for infestations — and it's not clear what that means or what infestations would be allowed; and then for pests of danger to people.

That covers the overview of the regulatory scheme in B.C. I thought this would be a good time, maybe, to take some questions about the presentation.

M. MacDiarmid (Chair): Thank you very much, Daphne.

Any questions from committee members?

B. Stewart: Thanks very much, Daphne, for a very good presentation. I just have a question about, in the Community Charter.... Are you suggesting that municipalities, if they have commercial operations like farming, have oversight in terms of being able to control the use of commercial products?

D. Dolhaine: No, the Community Charter only allows bylaws to apply to residential land or the public land vested in the municipality. All the other private lands — private commercial lands, agriculture — are excluded.

M. Sather: The testing, the reviews that are done by the federal government on pesticides — are these based upon studies within and outside of Canada, or do they all have to be studies that are done by the federal government? If it's outside the country, what would be, roughly, the proportion of studies that would take place outside of Canada that would approve a pesticide for use within the country?

D. Dolhaine: I'm certainly not an expert on this process. I'd highly recommend that you ask a representative from Health Canada to provide some more detail around that. I do know that they look at studies done outside Canada.

[1040]

I do know that they don't necessarily conduct their own studies, but for the best understanding, I think you need to talk to Health Canada about that.

R. Fleming (Deputy Chair): Thank you, Daphne, for the presentation. I wanted to ask a couple of questions about some information you presented.

In speaking to industry that manufactures these chemicals and then retails them, it's suggested to me that cosmetic pesticides are approximately 2 percent of the market share of these types of chemical products and that 98 percent resides in agriculture and other industries, yet you would think that a much more significant market share is under examination for restriction.

I'm just wondering what percentage of Canadians' exposure to pesticides is from cosmetic applications and use in the environment. I know it's only 2 percent of the market share, but in terms of the percent of Canadians that come into contact with these types of chemicals, what percent of the interface is in residential and public lands where these are used? Is that something that you...?

D. Dolhaine: Yeah, I actually can't answer that question. We collect information about the volume of pesticides sold in B.C., but those are just the commercial products. We don't actually have information about the domestic products, so it's very difficult to make that comparison.

R. Fleming (Deputy Chair): Just another question about the slide you had on the Integrated Pest Management Act and the no-unreasonable-adverse-effect provision. In reading the regulation that no person shall use, handle, transport, release, store, dispose of, etc., pesticides in a manner that "causes or is likely to cause, an unreasonable adverse effect," how would you describe the ministry's capacity to actually monitor and enforce a provision like this? Do you have any idea what the compliance is like?

I can say anecdotally that I think a lot of people have observed the use of pesticides by people who in fact don't handle them properly or read labels properly. I'm just wondering. This is a fairly strongly worded provision that might give the public some comfort, but what in actual fact is the ministry's ability to ensure that consumers and other users are following this provision about adverse effect?

D. Dolhaine: We have regional staff that do compliance activities. Those compliance activities are generally focused on the areas of greatest risk. That provision is there for.... Where there's a potential adverse effect or where an unreasonable adverse effect has been identified, compliance action can be taken.

R. Fleming (Deputy Chair): If I could just follow up on that. I want to get sort of a picture of how this is enforced.

I do note that statistics released on enforcement activities by the Ministry of Environment last month were quite interesting, because they showed that the number of infractions typically issued annually in British Columbia has declined from something like 400 enforcement actions per year to only a couple of dozen, which would suggest that the Ministry of Environment today really has fewer people in the field examining complaints, gathering evidence and making enforcements.

That's a comment. I wouldn't take it personally at all if the ministry personnel disagreed with that, but that's one suggestion.

[1045]

When it comes back to pesticides and the enforcement of this provision, if the ministry were to receive a complaint.... I'll give you a hypothetical scenario that a neighbour of mine, for example, was using an excessive amount of pesticides in their yard, and I had concerns that it was running off into my yard and coming into contact with my pets and my children, etc.

Would the ministry have the capacity to follow up on that complaint? Does it do that sort of thing? And can you give me some examples where there has actually

been an enforcement, evidence has been gathered that somebody did cause unreasonable adverse effect and was fined or sanctioned?

D. Dolhaine: Regional staff do respond to complaints between neighbours, usually by encouraging them to talk to each other. We've never used the unreasonable-adverse-effect provision in a compliance action. We've just used other provisions. So we haven't actually used that one and charged someone with that.

In response to your comment about compliance activities, the ministry uses a compliance management approach that first encourages voluntary compliance. So where we find non-compliance, generally ministry staff work with those individuals to bring them into compliance before the ticketing action or order action is taken. So you may not always see the evidence of that activity by looking at the number of tickets issued.

R. Fleming (Deputy Chair): I had another question here. I don't know if other members do. I could come back to it.

It was about a comment that was made about British Columbia having no specific data on sales and retail trends on cosmetic pesticide use. Because these are licensed activities by retailers, I'm first of all wondering why that is the case, why the quantity and recordkeeping can't be required as a condition of licence.

I say that because one of the things that is of interest in the province of Quebec, where they banned the sale of cosmetic pesticides in 2003, is that they have shown that the public has, by and large, complied very well with the laws and embraced, I think, the environmental and public health values behind the reason for that legislation. They've seen a decline in cosmetic pesticide use from something like 25 percent of households, or one in four, to something less than 4 percent of households. That's after five years of living within that new legal framework.

I'm just wondering. You know, that would be incredibly useful — as a committee that is to make recommendations on new restrictions, potentially, for cosmetic pesticides — to basically have a baseline of now or previous years and to see how that law is taking effect, if and when one is introduced and passed.

D. Dolhaine: It is a possibility, yeah. A number of provinces don't track domestic sales, so we're not unusual in that respect. That's not to say that a requirement like that couldn't be introduced. I think the intention was that the activities are focused on the areas of risk, and domestic products were deemed as lower-risk. So that level of information isn't collected.

But like you said, it's not to say that's not possible, and there are some other provinces that are beginning to introduce the requirement to track domestic sales.

B. Bennett: A question for anybody, whoever wants to take it. Have any of the other jurisdictions in Canada — or anywhere, for that matter — attempted to define what's unnecessary in terms of the use of pesticides?

[1050]

We throw around these terms like "cosmetic," and we refer to the unnecessary use of pesticides, but it doesn't seem like there is an accepted definition or explanation of what "unnecessary" actually is. Is that correct?

D. Dolhaine: I'd say that's fair to say. Now, I will go through the other jurisdictions and walk through how they've addressed the issue, but at this point the definition of cosmetic may be just something like non-essential or unnecessary.

Generally, you can understand what that means by what the restriction is — like it applies to lawns, or it applies to ornamental plants — but there is no generally accepted definition yet, no.

M. Sather: That was along the line of one of the questions I was going to ask. So the unreasonable adverse effect, then, is not defined in legislation. Is that correct? You couldn't bring an action, then, under that definition?

J. Hofweber: In that case we rely on the dictionary definition. So if we were to see, for instance, a fish kill in a stream downstream from an application and were to lay charges under that unreasonable adverse effect, we'd have to speak to the fact that dead fish are an unreasonable adverse effect, and the courts would just go right to the dictionary definition of those words.

But you're right. It's not defined further in the statute.

M. Sather: Okay. The other question is.... You mentioned about pesticide being used in the control of birds. That's new to me. Can you explain more about what that is?

D. Dolhaine: I don't have details on that specifically. I think there are some situations where bird populations are maybe affecting agriculture or something of the sort, and so those specific birds need to be controlled. But a product like that has potential adverse effect, unreasonable adverse effect, if it's used improperly, and so it's very highly controlled. I've never witnessed it used in my time in my role.

M. Sather: Do you know how it's used? I mean, is it putting out a pesticide that a bird would eat, or how would it be administered?

D. Dolhaine: That's my guess. I honestly haven't seen it used.

R. Fleming (Deputy Chair): I just wanted to ask a question about whether there are provisions for retailers of cosmetic pesticides to explain safe use to their customers.

D. Dolhaine: Yeah. Currently any licensed vendor must have a certified dispenser. Commercial vendors need commercial dispensers; domestic vendors need domestic dispensers. Those dispensers are required to interact with the purchaser and just inform them to follow label directions. They're also there to provide any pest management advice. The model currently has a trained person in a store that is not selling excluded pesticides to provide that advice.

R. Fleming (Deputy Chair): Does the ministry have any idea how closely that is followed by retailers? I would suggest that it is not followed at all in many major retail settings. I'm wondering if that's something the ministry has heard complaints about and has looked into.

D. Dolhaine: I don't have numbers on that. We did do kind of a broad sweep of a number of vendors. I'd say it was about four years ago, and I can get you the numbers on that. That compliance activity is ongoing right now. There's another project looking at that, and there are definitely some retailers who are not following that requirement. They are being taken care of. But there are some that are.

R. Fleming (Deputy Chair): Okay. What you need are some hidden shoppers, some auditing.

I wanted to ask about certified pesticide applicators, not indoor pest control operators but those outdoors — gardeners, lawn care companies. They have to be certified, and I'm just wondering if you can describe the certification processes. Is it an on-line course or certification exam administered by the province?

[1055]

I'm just wondering if you can help me and give me an estimate of how long it would take to complete certification. If I wish to gain certification, what amount of study and knowledge would I have to have and how much time would it take me, as far as the ministry is concerned, to demonstrate it to get that certification?

D. Dolhaine: The exam is administered by the province. There are a number of trainers that offer training for the course. We have study materials that potentially certified people can purchase and do self-study. It is possible to do that. Currently there isn't an on-line system to study or take that exam.

It depends on the exam you write. We were talking about one on landscape exams. My guess is that on average, people are given about three hours to write the exam. It's estimated generally that a course takes a couple of days to take.

My guess is that depending on how knowledgeable you are, it would take a couple of days to get through the material.

R. Fleming (Deputy Chair): This is to handle the same chemicals that can be bought by a customer and applied themselves? Just to be clear.

D. Dolhaine: No.

R. Fleming (Deputy Chair): We're talking about the same types of substances in some cases?

D. Dolhaine: The active ingredients are often the same, but the products are commercial products. Commercial products generally are used.... Well, some of them may be used in a residential setting. But generally, yeah, it's also to apply the domestic products, if the landscapers intend to apply those products in that setting.

B. Stewart: Just on that point, I want to be clear that a certified pesticide applicator.... They're not taking that licence to apply domestic products. It's to apply the commercial products. Is that correct?

D. Dolhaine: That is correct. However, to apply pesticides as a service at any time, whatever pesticide you're using, you need to be certified and licensed. That requires using integrated pest management, providing notification to the resident, if you're doing that application on that space. So it has those elements built in. It's by standard notification, precautionary kind of information to hand out, and integrated pest management.

M. MacDiarmid (Chair): If there aren't further questions in this area, we could move on to the next one. I'll just give a minute, if anybody has any other thoughts. We can come back to this as well, obviously.

Also, I wanted to say that if there are questions, if there are areas the committee requires more detail on and we don't have them at hand today, we do have the ability to do research for our committee. So if there are some areas we've touched on that any member would like more detail on for the committee, we can definitely do that.

B. Bennett: I wouldn't mind just clarifying one aspect of our work as a committee, given that this is our first real substantive meeting and we intend to hold several others and may in fact be in a position at some point in the future of needing to call somebody back in to advise us on a conflict, for example, between what various groups are saying with regard to the use of these pesticides.

Is my understanding correct that the province's role here is mainly in the administrative regulation of and management of the sale of products that have been approved for use by Health Canada, as opposed to being the arbiter of the science, of taking substantive positions on whether these products are safe if they're used in accordance with the instructions on the bottle or the can?

[1100]

Is it correct that if we need to have someone in from government and get an opinion about whether or not

these products are safe, it would be more likely Health Canada than the province?

J. Hofweber: That's fundamentally correct. The baseline for us is using Health Canada's information about these products. Then British Columbia takes registered products that are deemed safe by Health Canada, and we overlay our legislative requirements and rules on top of that to provide further safeguards and guidance around the application of these things to make sure the people that are applying them are safe and that there are no other adverse effects happening.

But the fundamental toxicology about what is safe to use and not use is determined by Health Canada. We rely on that. Now, we do have toxicologists on staff in the ministry that are assigned various roles throughout all of our programs, from contaminated sites to discharges from industry, that we rely on for information on toxicology generally, but we have not used them specifically to, say, second-guess what Health Canada has done.

We do have them to go to in terms of... We might go to them with a question on adverse effects or something like that if there was an application that was called into question. But you're right. Health Canada does the initial review, makes a recommendation, registers the product as safe, and then we pick it up from there. We do not second-guess that in our program.

B. Bennett: Just a related question. You probably don't have this information, but I'm curious to know whether the municipalities that are listed in the PowerPoint presentation would have engaged with either the Ministry of Environment here in British Columbia and/or Health Canada prior to levying their bans. Do you have any idea whether they did?

D. Dolhaine: I don't have information on total numbers. I'm aware that Health Canada has briefed some municipalities, but I don't know which ones those are. We at the ministry haven't ever provided a presentation to any municipality that I'm aware of.

M. MacDiarmid (Chair): I'm not seeing any other questions at the moment. As I said, we can certainly come back to this area if need be.

Now we can continue on, and I think you were planning on giving us some information about approaches in other jurisdictions at this point.

D. Dolhaine: Okay. We're going to cover primarily what other provinces have done, but I thought it was important to point out that the federal government has taken some action. They've said that they're going to phase out the use of herbicide-fertilizer combination products and that the last date of sale of those products is the end of next year.

Just a bit of background on those particular products. These are products that are sold so that, with a single application, lawn weeds can be controlled and the lawn can be fertilized. They're often called weed-and-feed types of products. They contain a fertilizer, and the pesticide is often 2,4-D, although there are some other active ingredients in there as well.

These products are usually applied to entire lawn areas, regardless of the number of weeds. So you'll potentially get more herbicide application than would be necessary, because maybe the weeds aren't there and the intention is really just to fertilize the lawn. These are to be uncoupled and no longer sold — the domestic products, anyway — after the end of next year.

[1105]

There are six provinces that restrict cosmetic pesticides, and they've got cosmetic pesticide bans. Here they are. I'll just run through all of them. There are basically three approaches that I can see. One is to ban active ingredients. The next is to ban products based on the use of those products and, finally, to ban products based on the concentration or the package size.

Quebec was the first to do this in 2003. Over three years they phased in regulations that ban the use and the sale of products for lawns. They also banned the use of pesticides inside and outside of schools and child care facilities, and they also banned those pesticide-fertilizer mixtures. Their stated purpose was to limit harmful effects of pesticides on health and the environment.

They banned the sale of about 20 active ingredients. They require that all pesticides be sold behind the counter. And when we say "behind the counter," we mean that products are displayed in such a way that consumers don't have access to them. So in order to purchase a product, the consumer would have to interact with an employee.

They do have a list of acceptable products. At June of this year that list was estimated to have about 976 products on it. So they do maintain a list.

They banned this list of 20 active ingredients, and 2,4-D is on that list. I think in 2009 — don't quote me on that — Dow Chemical filed a NAFTA challenge against Quebec, saying that the banning of 2,4-D affected their investments, because, as I said, Quebec said that the purpose was to limit harmful effects of pesticides on health. They ended up dropping the case, but in return Quebec acknowledged that 2,4-D is acceptable to use if label directions are followed. This came right after Health Canada's re-evaluation of 2,4-D and saying that 2,4-D was safe if used according to the label.

Quebec is currently considering changing this approach to one where they focus on the specific criteria of pesticides instead of naming active ingredients. It's primarily because new information comes available, and those active ingredients may not fit the original intent. They're consulting on this right now.

What they're proposing is that the regulation lists a set of criteria of the types of pesticides that should not be sold or used on lawns, and then they'd retain a list of all the products that meet that criteria. They suggest that an approach like this just ensures that everyone understands the rules and that the users, the manufacturers, the retailers can determine whether products would fall on or off that list, as opposed to just naming an active ingredient.

They also found after a few years that they need a way to allow some uses for the treatment of unforeseen pest problems. They didn't know what they all were. They described a situation where there was a particular weed on a school ground that had an allergic effect on children. They hadn't anticipated this, so it was difficult for a product to be used to take that weed out. They do intend to amend their regulation to allow for these situations, but I don't know exactly how they're going to be doing that yet.

Next is Ontario. In April 2009 Ontario banned the sale and use of most domestic-class lawn and garden pesticide products for cosmetic uses. They made some exceptions for non-cosmetic uses. Their regime is based largely on the use which is stated right on the label, so they don't just focus exclusively on active ingredient. They've defined the word "cosmetic" as meaning non-essential.

Upon review, it appears that cosmetic uses are those uses to manage pests of almost all outdoor residential and landscaped areas. Consumers can purchase products for use outdoors but only for public health or safety reasons, such as for fighting West Nile virus, for wasps — that kind of thing — or to control plants that are poisonous to humans by touch.

[1110]

They still have some products available for use for cosmetic purposes. They do have a list of allowed products. Those are what they call lower-hazard pesticides and biopesticides.

This isn't new. In Ontario, in order to sell any pesticide, not only does it have to be registered by the PMRA, Health Canada, it also has to be classified by the Ministry of Environment in Ontario, and it needs to land on one of their schedules.

They have an established committee that recommends how to classify every registered product. Those classifications are made on some scientific data, like hazard criteria like LD50, or persistence in the environment — that kind of thing. But they also look at the technical information based on the product's application: what's the product to be used for?

If the label states that the product is for use on a lawn, garden, park, school yard or any other such outdoor private or public space, it may be banned for the use and sale unless the label has other uses stated on it and that those other uses meet a set of criteria. This means that

each and every pesticide available in Canada must be reviewed by this committee. So every product needs to be reviewed by the committee in order to classify it into one of these 11 classes.

They've banned over 250 products, and they have about 145 products controlled for cosmetic use. So those are still allowed. As new products are registered by Health Canada — which I'm now estimating at around 12 to 30 new products every year — they need to be reviewed and registered by this committee.

Those pesticide products with both non-cosmetic uses and cosmetic uses are available for sale behind the counter. That's the same model with restricted consumer access. Again, there are about 145 products on that list, and they have about 900 products that are still available for home and personal use. That goes beyond the lawn and the landscape. It's personal use like personal protection, like OFF!, that you might spray on yourself or for your pets — those types of things.

Again, dual-use products must be displayed in a manner so that consumers don't have ready access to them. The vendor is to give written information, which is approved by the director, directly to purchasers at the time of purchase, informing them that certain uses are illegal. This document, this kind of notice, is given to everyone purchasing a dual-use product, and it outlines the rules.

You may want to take a moment here. They're just saying you can't use this for a driveway. If you're controlling weeds, you can't use this product on driveways, patios, lawns or gardens, but it can be used to control plants that are poisonous to humans. And if you're talking about pests, which are often insects but could be other things like fungus, it explains where the product can be used and where it cannot be used. Then you rely on the purchaser to follow those rules.

New Brunswick introduced a ban on the sale and use of more than 200 over-the-counter lawn care pesticides in fall 2009. That ban focuses on products that may be misused or overused and, they say, which result in more pesticides being added to the environment than are necessary. Their purpose is to reduce reliance on pesticides and to contribute to a sustainable environment.

Their focus is lawns. Products used for gardens or ornamental plants are not included in the ban. They do ban 2,4-D, though, so any product containing 2,4-D is not allowed to be sold. The public is not allowed to purchase domestic herbicide-fertilizer combination products, anything concentrated — these are things that you may attach to the end of your hose or that require some kind of mixing — and any product containing 2,4-D.

[1115]

They do require integrated pest management accreditation as of February 2010 for any person carrying out lawn care services. Accreditation is a third-party system where they have a set of standards that need to be followed, and they follow up on all the people that fall

under their jurisdiction. Well, that's the wrong word. It's a third-party system, kind of like ISO. Individuals will be audited to ensure that they're following the rules.

Pesticides are banned for any lawn care application. They are acceptable for use on golf courses as long as applicators are IPM-accredited. Again, anything containing 2,4-D is not allowed.

Alberta Environment also brought in a ban. They don't call theirs a cosmetic pesticide ban. They did ban the sale of pesticide-fertilizer mixtures. They're doing this to reduce the amount of chemical runoff in their waterways.

This action involved years of water-monitoring data that they assessed. They were seeing some of the typical lawn-active ingredients downstream of urban centres. Those were not in levels that were of significant concern.

Their view was.... They figured they just shouldn't be detecting them downstream, so they removed a formulation. They didn't remove an active ingredient. It's a formulation. Alberta Environment has stated that it strongly supports science-based evidence and that it won't go further than this.

You may want to note that municipalities in Alberta don't.... There is no municipality yet that has a bylaw, but they are talking about it. Yeah, it's being discussed in the public, but to date there are no municipal bans there.

P.E.I. looks a lot like New Brunswick. It actually is the same kind of model. They're using the same purpose statement. Again, the concentrated products, the pesticide-fertilizer mixtures, 2,4-D products and use only on lawns.

Nova Scotia bans the use of all pesticides on lawns, outdoor trees, shrubs, flowers or other ornamental plants. The scope here looks a lot more like Ontario. They do this by stating in the act that no person shall sell a pesticide labelled for use on lawns, turf, outdoor trees, shrubs, flowers or ornamental plants and that it doesn't apply to forestry, agriculture, golf courses — very similar again.

I haven't actually seen this list, but my guess is that they have a list outside the regulation. This looks so similar to Ontario that it actually is conceivable that the Ontario lists could be used and applied in this situation.

They do allow pesticides to be used in the vicinity of a structure if that pest affects a structure, to control alien invasive species. They do allow the use of glyphosate over lawns for poisonous plants. Glyphosate is a broad-spectrum herbicide. A typical example of the product is Roundup.

They have a list of allowed products with similar criteria — lower-hazard products and biopesticides. Again, it looks a lot like Ontario.

Newfoundland and Labrador just announced their intention to ban. Their purpose is.... The reason they've done it is because they've listened to public concern. They've chosen five active ingredients that they intend

to ban. The focus is lawns, and they do intend to have a low-risk list that is able to be used.

This was just announced. I don't have a lot more information around their criteria to select the products that they did. It's just simply too soon.

[1120]

Just to highlight some of the key considerations that I think every province had to look at — that is, the objectives; you know, what's the purpose? — and that balance of risk versus a more precautionary approach. They had to think about the scope. We went through it. Are trees included? Are fruit trees included? Golf courses? Public or private lawns? That sort of thing. Clear criteria for any list of products. Some kind of system for exceptions for those unforeseen problems. Two provinces do use an accreditation model. That's something that can be considered.

That concludes this portion of my presentation, if there are any questions.

M. MacDiarmid (Chair): Thank you, Daphne.

J. Yap: Daphne, the Ontario model has a committee that reviews every label and classifies according to use. How does this committee work, and who is on this committee?

D. Dolhaine: I can dig up some details there. Their committee.... If you give me a moment, I can give you some more detailed information, because I did bring it with me. That committee consists of somewhere around ten people. It appears to me that they are primarily government people, but I think there's some kind of industry representation as well. I can circulate the membership of that committee so that you can get a better understanding of who is on it.

That committee has existed since before the ban. Their entire model requires that every product is classified, so they do take a look at it. That committee makes recommendations to the director, and the committee focuses primarily, again, on this hazard criterion. They look at a label. They look at all the publically available information and make some determination about hazard. Then it's the director, probably with the use of some other advisers, who read the labels and then compare and determine actually which class it should land in. It appears to me that there are sort of two groups involved in this.

J. Yap: Do the other provinces, like Nova Scotia, with a system similar to Ontario's, also have a committee that provides this advice?

D. Dolhaine: At this stage, my understanding is that Nova Scotia does not require that every product be classified. They have a much simpler classification scheme. Their act simply says that you may not sell a product for use on these types of vegetation or landscape, except for the following situations.

I'd anticipate that the end result looks a lot like Ontario's, but the mechanism to get there is different.

J. Yap: You've got a good snapshot of each province that has brought in regulation, brought in bans. Have you put these on a board and sort of gone from one end of the scale to the other — say, the most stringent, if you're able to define it, to the least stringent?

D. Dolhaine: I've tried to do that. There are different approaches, though — right? So it's hard to kind of draw that picture. You know, you can argue that there is a difference between banning concentrated products versus active ingredients.

The outcome, as far as stringency, I think, would probably be the Ontario and Nova Scotia model, simply because it applies to a wider range, and they have such large numbers of products that have been removed. But I don't know, if you look at the Prince Edward Island model, what that actually would look like on the ground. I just haven't had enough time to really figure that out.

J. Slater: Just a question on other jurisdictions. How do they deal with the agriculture and domestic interface areas? I know, coming from the Okanagan, when the sterile insect release program came in there was a lot of worry about the backyard fruit trees in private lands.

[1125]

If they couldn't spray today, it would have a really detrimental effect on the codling moth program for the SIR. How do other jurisdictions deal with something like that, when there are insects that are coming from private land and affecting agriculture?

D. Dolhaine: I didn't talk specifically to the other provinces about a fruit tree, but we talked generally about invasive species or some types of pest that impact agriculture and how that would work. Like you say, some just completely exempt or remove that requirement. Some have a.... They don't have a permitting scheme.

I just talked to Ontario last week about invasive species, and the model does allow for the purchase of those products for that use, so those would be considered the dual-use products. Again, they're relying on the purchaser, then, to follow the rule and only use it on the invasive species versus the ornamental use.

J. Hofweber: I think it would be safe to say that the majority of them handle that question by exempting fruit trees and focus on lawns and turf.

D. Dolhaine: I actually think that issue is prevalent in Nova Scotia as well. I do know that they have an allowance for treatment of trees by injection, but that's unusual to use, actually, for agriculture, I think. Some have tried to specify that as well.

J. Slater: So where does CFIA fit into this? You know, the Canadian Food Inspection Agency kind of oversees all the chemicals that can be used in greenhouses and orchards and any agriculture activity. They are the ones that end up banning a lot of the Guthion and chemicals that are deemed to be too strong for the purpose for human consumption. So how do Health Canada and the CFIA work together on pesticides like that?

D. Dolhaine: If you're talking about how they fit into other provincial bans generally — any agricultural use, for use on farms and for that food production purpose — they're exempt from the bans. Does that answer your question?

J. Slater: Yeah. That's good.

M. Sather: You indicated that the most stringent regulations are probably in Nova Scotia and Ontario. Now, Quebec, it sounds like, made some adjustments as the result of a NAFTA challenge. Would you say that their guidelines requirements are less stringent now than they were prior to that? Would they have been, do you think, in your discussions with these jurisdictions, more or less equivalent to or even more stringent than Ontario and Nova Scotia? How does that appear to you?

D. Dolhaine: The reason I suggested that Ontario's and Nova Scotia's are more stringent is because their bans apply beyond lawns, so Quebec's ban.... They were first, but their ban currently just applies to lawns. They may go further than that. At this stage that's what their current regulation is.

M. MacDiarmid (Chair): Daphne, just to clarify the NAFTA challenge, Quebec didn't alter their legislation. They submitted a statement about 2,4-D, but they didn't change their legislation — did they?

D. Dolhaine: That's correct. They did not.

M. MacDiarmid (Chair): Other questions in this area?

R. Fleming (Deputy Chair): Daphne, I was just wondering if you have any knowledge about the World Health Organization. I mean, it doesn't really have jurisdiction over member states, but it does undertake science and offer advisory to member countries of the United Nations. If so, what warnings have they issued or recommendations on best practices have they issued around cosmetic pesticides?

[1130]

Similarly for the European Union.... I know there are developments going on there, and I'm just not sure how they manage that with respect to legislation.

D. Dolhaine: Organizations such as the World Health Organization, Environmental Protection Agency, those kinds of things, look at products, and so they'd primarily liaise with Health Canada. That information passes through Health Canada — around acceptable registration of products.

R. Fleming (Deputy Chair): Is there any disagreement between the World Health Organization and what they're currently recommending member states and Health Canada's approach and their list of acceptable chemical pesticide combinations?

D. Dolhaine: I can't answer that question.

R. Fleming (Deputy Chair): Okay.

M. Sather: Daphne, going back to the Quebec situation and the NAFTA challenge, I believe you said that subsequent to the challenge, Quebec acknowledged that 2,4-D was now an acceptable use. So before that, 2,4-D was not acceptable, as I understand it. What process, then, was it? If there was no change in legislation, was it a regulatory change? That's legislation, in a sense. How did they make the change, then?

D. Dolhaine: They haven't actually made a change yet. They did make the statement, though, that 2,4-D was acceptable for use if label directions were followed. So they're now considering....

I'd say the NAFTA challenge has kind of brought on that new look at just naming active ingredients in the legislation or in the regulation and focusing instead on the criteria of certain pesticides that should no longer be allowed on lawn and landscape use. So they may set some threshold for products that may or may not be used, and by doing that, everyone understands the rules or everyone understands which products are acceptable or not.

So it's not to suggest that they're going to change that. I don't know if they have any intention of removing that from their list. I do know that they're just looking at.... Just simply naming active ingredients is not the best way to go.

Does that answer your question?

B. Bennett: Daphne, the Ontario ban has been in place now long enough for consumers, householders, to sort of take a look at how it's working and what the impact has been on their lawns and gardens and so forth. I'm just wondering if in Ontario, or any of the other jurisdictions, you're aware of any, perhaps, polling or any research that's been done to determine, I guess first of all, whether people are seeing a difference in their lawns and gardens.

Secondly, are the bans in these various jurisdictions still heavily supported by the population, or is that

changing over time? Do we have any idea about the answers to those questions?

D. Dolhaine: The only information I can provide to you is that which I've received from people who have talked to me. The Ontario Ministry of Environment colleagues, my counterparts, say that generally, it's positively received — that generally, they're seeing compliance.

They did put significant resources into ensuring that everyone understands the rules at the front end, and I think they are doing a lot of compliance activities to confirm that.

[1135]

On the other hand, I've heard from representatives from CropLife who indicate that you can see a lot of dandelions in Ontario, but I don't have any first-hand information. I'm not aware of any polls. That's the anecdotal information I can provide you.

R. Fleming (Deputy Chair): I just wanted to follow up on Mr. Bennett's question about Ontario. It was suggested in some reporting recently that there was a claim by the Environment Minister of Ontario, John Wilkinson, that the ministry has already done a study of ten urban streams, before and after the pesticide legislation was introduced, that showed an 80 percent drop in the three most common chemicals found in pesticides.

I'm just wondering if you've been able to have a look at that — from your colleagues, your counterparts in Ontario — and what that might mean in terms of added benefits, from a proposed legislative ban, for fish health and for riparian areas.

D. Dolhaine: I am familiar with that. I did receive a presentation from a member of the Ontario Ministry of the Environment last year. That's when the results had just been released. People in the Ministry of Environment here have not analyzed them at this point.

R. Fleming (Deputy Chair): Would it be your department, your branch, that would review that, or would it be another part of the Ministry of Environment that might be interested in this particular study around water protection?

J. Hofweber: If it follows what happened in Alberta, which was the same sort of analysis, after the weed-and-feed ban.... What Alberta determined was that there was this drop in chemicals detected in the water, but they were careful to tell us that the levels were not at an effect level. In other words, the previous levels were not causing damage that they could determine.

What they did conclude was — and we're suspecting the same is true with Ontario — that it demonstrates that the chemicals are being overapplied and to an unnecessary degree. So what they focused on, rather than saying

that therefore, there's harm from these levels.... It clearly isn't necessary to have these things in the water.

I don't know if that helps you. I'm suspecting analysis of the Ontario data would show the same thing. We haven't looked at it in detail, but we can.

M. MacDiarmid (Chair): Other questions from committee members?

Just following up on that last piece, that was the thing I was curious about, and I think we'll have to look further at it. You were clear that in Alberta they wanted to address the detection of these chemicals in water, but they did say that the initial levels, before the legislation, were not at toxic or damaging.... They weren't able to see that there was damage.

I was curious to know if, for the original levels in Ontario, that was also true. That's an interesting question. We can try to find that out, again. We do have the ability to do research and look at things.

Now we have another section, the ministry consultation process. Committee members, what we could do is have a recess now and then come back to this after our lunch break.

Is that going to give us enough time, Daphne?

D. Dolhaine: Yeah, I think so.

M. MacDiarmid (Chair): How long do you think the ministry consultation process presentation would actually take?

D. Dolhaine: It's not substantial. I tried to distil a lot. Ten minutes?

M. MacDiarmid (Chair): Okay. Why don't we go ahead with that, then, and we'll have a little time for questions. If it overflows after the break, that's fine too. So we'll go ahead with the ministry consultation process.

[1140]

D. Dolhaine: A public consultation paper was prepared by Ministry of Environment to stimulate conversation and gather information on the topic of cosmetic use of pesticides. The paper was posted for public comment between December 15, 2009, and February 15, 2010. All the comments received right till the end of February 2010 were included in a summary report and posted on the ministry's website in April 2010. That's available to the members if they wish to read it. It's recommended reading.

The public consultation paper provided background information and outlined a number of issues for consideration. It presented a list of questions in order for the ministry to better understand the public concern and to better understand what people meant when they

were using the term "cosmetic pesticides" or "cosmetic use of pesticides."

The process was not designed to be an opinion poll or a statistically valid survey. It contained, primarily, open-ended questions, so it wasn't designed for a statistical analysis of the results. Campaigns both for and against a ban on the cosmetic use of pesticides were directing people to websites other than the Ministry of Environment website, where they could submit responses. So those responses came in probably without the opportunity for people to review our consultation paper.

This just meant that a lot of the responses maybe didn't provide the level of detail for which we were looking. That being said, Ministry of Environment staff did read all of the individual and different submissions. I personally was one of two people that read every individual, distinct comment that came in. While we did get some clear indications of respondents' views, the details were not necessarily consistent.

We did not check whether the respondents were B.C. residents, nor did we check whether individuals may have submitted more than one response. There were letters, and there were different types of form letters. Plus there were petitions, and we didn't cross-check those for names.

By the end of February more than 8,000 responses were received. These included a petition with over 4,000 signatures requesting that government stop the sale and use of cosmetic pesticides. There were over 3,000 form letters — so those are submitted as part of a letter-writing campaign — that indicated support for a comprehensive provincewide ban on lawn and garden pesticides.

There were almost 750 form letters that were opposed to any further restrictions on the use of pesticides, and there were approximately 800 of these detailed responses, of which, in my estimation, roughly half were in favour of strong restrictions on pesticide use. Approximately a quarter were in favour of requiring that pesticide application decisions be made by trained people, and the remaining quarter saw no need to further restrict pesticide use.

I should tell you that the ministry continues to receive letters and e-mails about this issue. If you look on the slide there, there are some totals in parentheses. That just indicates that we continued to account those form letters that were coming in. So at the end of March 31, 2010, the form letters indicating a pro-ban were at 4,500, and the form letters suggesting no further restrictions were at about a thousand.

Since March 2010 the ministry has been carbon-copied on an additional over a thousand letters that are addressed to MLAs. An increased correspondence on the issue began again here. We've kind of got a bit of a surge just at the beginning of 2011, such that the correspondence unit in the ministry began tracking them. Between March 14, 2011, and July 8, 2011, the ministry

received over 1,400 letters in support of a ban on cosmetic pesticides and 23 letters against a ban.

[1145]

By the end of February 2010 there were those 8,000 responses received. I've walked you through those.

This slide here provides a snapshot of some of the key messages. We're at slide 47. "Pesticides represent potential health risk and should not be used for cosmetic purposes" was one message. "Pesticides are highly regulated." Well, "pesticide use in my industry being the next to be banned," so there is concern from the users. And some comments that registered pesticides can be used safely and that "restricting their use would be an imposition on my rights."

This is, again, just a snapshot of those that requested a ban and those of concern. But like I said, with 8,000 responses, it's a wide variety. I can provide various examples of different groups to you, if you want to get into a bit more detail.

The general concerns from those that indicated a desire for some kind of ban.... They argue that there's no amount of risk worth taking when it comes to unnecessary use of pesticides such as lawn pesticides. There is great concern about the movement of pesticides from where they're used onto neighbouring properties and into the environment. There was concern that people do not have enough information to use pesticides safely and that many users do not read or follow product labels.

I should also tell you about people knowledgeable about integrated pest management, about IPM and that decision-making process. Those were generally in favour of requiring IPM, but people unfamiliar with IPM seem to feel that it's ineffective and that it's an excuse to apply pesticides.

Most people that are not confident with the current system would like to have a list of what they call "safe pesticides" that anybody will be allowed to use.

Those concerned with a ban. Here are just some examples of those concerns. Retailers and manufacturers want to understand clearly, if there is a ban, what exactly can be sold and what cannot be sold. They asked for time to get rid of any current stocks that they may have. Manufacturers suggest that bans stifle innovation. Without clear criteria for understanding what is or is not allowed, they may not bring new and potentially lower-risk products to market.

From the agriculture sector, the concerns were primarily focused around the idea that pests in a residential area may be a reservoir for pests that impact agriculture. So those things may propagate from the lawns or the ornamental plants to the fruit trees, and there needs to be some mechanism to ensure that those pests continue to be managed.

Then from the landscape service sector, they're indicating concerns about loss of business and the loss of effective tools for pest management. But that's not to suggest that all in the landscape service sector are con-

cerned about a ban. There are definitely some that see that it is possible to operate landscape services with a ban in place.

I'll just hand it to you, Jim.

J. Hofweber: I think now is a good time to summarize.

What you've heard today is our attempt to give you the information that we have gleaned from looking at this topic over the past couple of years. We've tried to make this so that we're not appearing to present a recommendation at all at this stage of the game. I think that's for you folks, respectfully, to consider all the information that you hear today and that you will hear in your subsequent meetings.

What we wanted to do during this, though, was to make you aware of the complexity of the issue as we see it.

The question about: "Have you put all of the provincial legislation around bans in other provinces on a whiteboard and looked at it?" We have looked at that very hard. What we've seen is a lot of different approaches and problems with almost all of the approaches that we've seen.

[1150]

They all have something wrong with them. The core things.... This list of items up here reflects on that. There's a compelling urge to do something. People generally, initially, try and start out with a scientific approach and find that if they stick with the science, they don't answer the question or satisfy the public.

What you're hearing now is just opinions of staff, by the way. This is just a little candid opinion about what the challenges are in going forward.

If they stick with the science, they almost end up back with Health Canada and what they recommend. If they try and respond to the public, it's more about precaution, and the people are asking for something that basically says: "Well, let's not wait to find out if something is bad news; let's do something ahead of time."

All of that lands on what I think is the crux of the problem, and that's about the scope and the fact that we're trying to deal with something in terms of its non-essential use. That arrives at the differences of opinion out there in terms of what's essential and what isn't. Someone's prize rose bushes that they've been breeding for years sound pretty essential to them, but to their neighbour it might not be.

So what we have gathered here today in front of you, with this information, is basically all of the potential solutions that we're aware of in terms of other jurisdictions and some of the potential problems with those things. What we'd like to do, going forward, is just make the offer. If you want more detail on any of that or if you'd like us to explore potential solutions to the problem, just contact us and we'd be happy to help.

M. MacDiarmid (Chair): Thank you very much. Questions?

J. Slater: You've got golf courses on two lines up there. Are there any other jurisdictions that have banned pesticide use on golf courses, public or private?

D. Dolhaine: I want to say yes, but right now I actually can't identify which one that is. I know that in New Brunswick there's a requirement for third-party accreditation for use on golf courses, and I think there are some provinces that do specify certain ingredients that can't be used on golf courses. If you give me a minute, I can probably look it up and find it for you. It's all right here.

J. Slater: Okay, we can get it later too.

J. Yap: With respect to the feedback from the agricultural sector, were the comments and the input from specific individual operations, or did you hear from the agricultural sector — their organization the Agricultural Council, for example?

D. Dolhaine: Yeah, I have heard from B.C. Ag Council and from individual farmers. I can dig this up for you right now; I have it in the book over there. But, yeah, it's a blend of regulatory agencies and then association representatives as well.

J. Yap: Looking at the regulations in other jurisdictions, how have they worked with the agricultural sector in those provinces — for example, Ontario? I mean, Ontario has a sizable agricultural sector as well. How has it worked for them?

D. Dolhaine: I can't comment on that specific interaction. I can find that out for you. They expressed similar concerns. Just in my interactions with the Ontario Ministry of Environment, we talked about the invasive species primarily and how that's managed, which is, again, the dual-use product and relying on the purchaser to do the right thing. But again, no province has bans that apply to the application in agriculture.

M. MacDiarmid (Chair): Other questions?

[1155]

M. Sather: Chair, are we going to continue with the same folks being here after lunch? Can we continue questions then?

M. MacDiarmid (Chair): Yes, thank you. We will. In fact, if the committee is agreeable, we can take a recess now. We'll just take a short recess for lunch. We'll come back at 20 past 12, if people feel that gives them enough time to do what they need to, and then continue with the meeting and the Environment Ministry.

I think you can still be available for us for a little while?

D. Dolhaine: Uh-huh.

M. MacDiarmid (Chair): Great. Thank you very much. We'll reconvene at 20 past 12.

The committee recessed from 11:56 a.m. to 12:25 p.m.

[M. MacDiarmid in the chair.]

M. MacDiarmid (Chair): I think we've concluded the presentation from the Ministry of Environment, but I know there may be further questions or further discussion.

M. Sather: Jim, you said in your comments, as I understood it, that when people look into bans on pesticides, looking at it from the science point of view doesn't satisfy the public.

Were you suggesting that the bans are not supported by science? I just wanted to clarify that.

J. Hofweber: Sure. Well, there are a couple of aspects to that. One is, I guess, described as the battle of the scientists, and no matter which side you land on in something that's a polarized issue, then the other side will show up with their own science. This issue is rife with that.

The other side is that we've started with science in the sense of Health Canada's PMRA and the work that their toxicologists do. But then we are presented with demands to go further, and 2,4-D is the best example of that. It's probably, I think, one of the most studied chemicals there is, but lots of people don't seem to trust the results that have come from that that says it is safe. I don't have an opinion on that, particularly. I'm just saying that that's what we see in the landscape when we look out there. So it makes this issue very difficult.

M. Sather: I must admit that it's been a few years since I've looked at this issue a bit, but when I did, the one thing that surprised me is that I expected to find a lot more scientific evidence of the efficacy — not only the efficacy but the safety of the use of pesticides — and I was astounded by the fact that so often there didn't seem to be a lot of definitive studies.

Now that may have changed, although with the reduced regulatory environment, I don't know whether it would have, and there are a lot of them out there, as you've pointed out too. I'm sure you're absolutely right. As it is in any endeavour, you get battling scientific opinions as well. So thank you.

M. MacDiarmid (Chair): Did you want to make a further comment?

J. Hofweber: No. If I've answered your question, then I think we're ready for the next question.

M. MacDiarmid (Chair): Thank you.

Any other questions that have come up over the break?

I very much appreciate the ministry's offer to assist us, and we will invite you back if need be, most definitely.

Bill, you had a question.

B. Bennett: Just to follow up on my friend's comment there of a minute ago, I don't know if you used the expression "duelling scientists" or not. If you didn't, you probably were thinking it.

Isn't it fair to say that the Ministry of Environment for the province of British Columbia accepts the science of Health Canada?

J. Hofweber: That's fair to say. We don't dispute it. Absolutely.

B. Bennett: So if you don't dispute it, you must accept it.

J. Hofweber: Yes. Right.

B. Bennett: The fact that there is disagreement with the science provided by Health Canada is interesting, but the science that is used in this country to base public policy on is the science that's produced by Health Canada.

[1230]

J. Hofweber: Yes, but.... This is where I can get into trouble, I guess.

There are critics of Health Canada that point out some fundamental limitations to what they can do with what they have, and some of those concerns have some validity to them.

I think any time we deal with anything as complicated as this, and as complicated as toxicology and epidemiology, where you can't actually take these materials and feed them to humans and see what happens, you have to rely on very circuitous route of science to end up with conclusions. There's always room for doubt and room for new information.

Our approach in the ministry is that this is the state of the art right now. We accept it, but that's not to say that things might be different in the future or that there's another way to go about it. But we're not in a position to second-guess that.

I'm sure that doesn't help at all.

B. Bennett: No, no. It does. It's the same. I mean, there's a similar argument with other science-based issues that there's no such thing as settled science. So that's basically what you're saying.

R. Fleming (Deputy Chair): Thank you for the comments from all of the staff and the presentation. I think it was very well put together. The jurisdictional comparisons, I think, are very helpful, because this is a very

active file in provinces across Canada and one that is in the process of change. One of my colleagues asked about sort of the spectrum of where provinces lay, and of course, we are on the spectrum of having the least-stringent restrictions on pesticide use in the country. That is, of course, why this committee is examining the subject at hand.

I appreciate the work and policy work that you have done and presented, in part, to the committee this morning.

I have a few questions about some specific points that were presented this morning. One was about New Brunswick. There was a response to a question about the golf industry, and I don't believe any of the provinces, if I heard the response right, prohibit pesticide use at this point in time on golf courses. But in New Brunswick there's a set of third-party guidelines. I'm just wondering if I could get a little bit more information about that and about the third-party organization.

D. Dolhaine: I can give you an overview, and I'd be able to provide more information after this.

I am aware of an organization called Plant Health Atlantic. They're a third party that has an accreditation scheme. So landscapers, certified people, need to belong to this accreditation body in order to conduct certain activities.

That body then audits its own members on a relatively frequent basis, I would imagine. But again, those details could be provided outside of this forum.

There was a proposal to have a similar scheme in B.C. called Plant Health B.C. I'm not familiar about their status right now. I know they're not actually active, but they did take many, many steps to develop themselves also as a third-party accreditation system.

So the idea is.... I want to compare it to ISO standards, or there are a number of other accreditation schemes that I'm aware of outside of the pesticide realm.

Does this answer your question, or do you need other examples?

R. Fleming (Deputy Chair): I think if you have information that you come across — and I know that you're going to get back to committee members on a number of things — if you could include that, that would be great.

I wanted to just ask Jim to go a little further in his comments about Health Canada, because in the sort of realm of duelling scientists, one of the things that perhaps the public doesn't understand sometimes is that Health Canada doesn't do its own independent trials and research on the ingredients in commonly found cosmetic pesticide products. They do sort of a verification or review of whatever peer-reviewed science is submitted by the product owner, generally the brand owner, I would presume. Is that, in fact, the case?

[1235]

Also, if you could specify, to your knowledge, the frequency of reviews and the updating of the scientific knowledge.

M. MacDiarmid (Chair): If I can just....

R. Fleming (Deputy Chair): Is it every decade, or is it every 15 years currently?

M. MacDiarmid (Chair): I'm just going to interject here.

R. Fleming (Deputy Chair): Sorry.

M. MacDiarmid (Chair): I'm perfectly happy for you to answer the question, but I wanted to let committee members know that we did actually ask Health Canada to come today because we feel having a presentation for the committee from Health Canada will be very instructive for us. Then they can speak to these things, and we can directly question them. Although I know you have great knowledge of Health Canada, Health Canada will have more knowledge of Health Canada, I would imagine. I believe they will come to meet with us at a future meeting — it's not scheduled yet, but I think in September.

Just to frame that, and then, Jim, any response that you would have.

J. Hofweber: Thank you, Madam Chair. That's accurate. I was going to defer most of the answer to the PMRA folks, who will show up here at some point, I guess, for you to ask questions about it.

My understanding is that in terms of the documents that they review, it's not restricted to one particular source. They review whatever is out there in terms of work done at universities, work done by independent scientists, required work done by the manufacturers as well. But they'll be able to tell you how that lands in terms of proportions and so on and so forth.

R. Fleming (Deputy Chair): Just to clarify, too: the most common ingredient is 2,4-D, in most of the products that we've been discussing this morning. Just to be clear: 2,4-D is a banned substance now for cosmetic pesticide applications. It is banned from retail sale in Ontario, Quebec, Nova Scotia and the other maritime provinces. Not in Alberta, but in every other province that was under discussion this morning, it's banned. Is that correct?

D. Dolhaine: I believe that's correct. I can't tell you that it's all seven, but at least five of them. I can confirm that, probably in the next five minutes, for you.

M. MacDiarmid (Chair): Any other questions from committee members? Rob, did you have any follow-up questions?

R. Fleming (Deputy Chair): I just wanted to ask Jim a question about how he introduced the topic this morning. I think you did a really good job of an even-handed presentation. You characterized, I guess, the policy options that governments have as weighing different factors. Public opinion, of course, counts for a lot.

I wanted to ask you about risk because that was presented as sort of the framework issue. Health Canada and other regulatory bodies basically are assigning risk levels. They're looking at background levels of chemicals in the environment, what reasonable exposure limits there may be and establishing guidelines for use, which we hope are followed but may not be.

Isn't this really a discussion...? You know, the legislation that's being looked at across Canada — isn't it really about risk tolerance, what a provincial government sees as evidence of misuse and improper retail sale, all of the warnings and regulatory features that they have to date and looking at risk and what comfort level of risk the province has in its role and its ability to regulate retail sale? Is that a fair way to characterize what our committee may be grappling with?

In other words, we will recommend to the Legislative Assembly. We will take into account the science. We will look at many of the discussions around the ingredients and the harm they may induce and the links they may have to certain types of diseases, but at the end of the day, we're looking at risk tolerance and where the province of British Columbia should land in that debate.

J. Hofweber: Well, it's probably not necessarily for me to say, but I think you just described what your job is — yes. You know, we're public servants. We're here to gather the information, factual information, and make policy recommendations. But in the end, issues like this do come down to: what does the public want, what will they tolerate, and what's good public policy coming from that? And the only folks that can make that decision are you guys.

[1240]

M. MacDiarmid (Chair): Further questions?

Looks like for the moment we've exhausted our questions for Ministry of Environment officials. We do thank you. I think all committee members thank you very much for your presence here today and thoughtful presentation and also responses to our questions. I understand that there are some things that we don't have answers to that we will provide for the committee at a later date.

We very much also appreciate your offer to provide us ongoing information and assistance as we need it as a committee. I'm sure we'll be calling on you again. Thank you very much.

I'd like to suggest, I think, that we'll move into our discussion about our draft business plan, which we will

do in camera. Let's just take five minutes to transition into that part of the meeting. Then we'll reconvene. Let's say we'll reconvene at ten to one.

The committee recessed from 12:41 p.m. to 12:51 p.m.

[M. MacDiarmid in the chair.]

M. MacDiarmid (Chair): I will call us back to order. The next item on the agenda is to review the draft business plan, which I believe everybody had sort of mid-week last week to have a look at. I thought we would go through it.

I'm advised that we should have a motion to go in camera, so I'll ask for that motion, please.

A Voice: So moved.

The committee continued in camera at 12:52 p.m. to 1:57 p.m.

[M. MacDiarmid in the chair.]

M. MacDiarmid (Chair): Back on the public record. Thank you very much for that discussion. We will continue the discussion. We haven't concluded our discussion about our formal business plan. We will convene a conference call to do that.

Thank you very much, everyone, for your time and for your thoughts today. I know you're putting a lot into this committee, and I really appreciate it.

I will accept a motion that we adjourn.

The committee adjourned at 1:57 p.m.

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