

1999 HOUSE AGRICULTURE
HB 1252

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

House Agriculture Committee

Conference Committee

Hearing Date 1-21-99

Tape Number	Side A	Side B	Meter #
ONE HB 1252		x	23. to 50.5
TWO HB 1252	x		0.0 to 15.8
Committee Clerk Signature <i>Oleiv Hansen</i>			

Minutes:

Summary of Bill: Relates to the sale and use of Agricultural Chemicals registered in Canada.

Rep Brandburg: This bill would allow the North Dakota farmer access to the same chemicals the Canadian farmer is at the same or near the same prices. It would give our farmers an equal opportunity to compete in this world market. In the past to many Environmental Concerns have taken precedence clouding the decision makers view. When the environment becomes more important then the lively hood of our farmers out there we need to do something about.

Jim Harmon: ND FB supports HB 1252 Seems wrong to have chemicals across the border and we can't use them and yet we compete in the same world market place. Puts us at an unfair disadvantage. Thinks EPA should be challenged on this issue.

Mark Sitz: ND FU supports HB 1252 Doesn't know how much this will help level the playing field but should help to some extent.

Page 2

House Agriculture Committee
Bill/Resolution Number Hb 1252

Gary Knutson.. Ex Dir of ND Agri Business Assoc. Opposed to bill. Membership of over 400 farm businesses in this state. Have concern with the adverse impact this bill could have on them.

A B Basu: American Crop Protection Assoc. Wash D.C. (testimony attached) Opposing this bill puts them at an awkward position as most of the time they are on the farmers side. This is a very complex issue. Extends far beyond the borders of North Dakota. They are working with the Farm Bureau in State of New York. We have a couple of avenues you might follow.:

1. A resolution from the Gov and from the Legislature empathize to the Congress the urgency of this issue.

2. Currently Kansas, Georgia, North Carolina, Wyoming, Ohio, are considering resolutions working with the Farm Bureau to trying a resolve this issue,

Rep Nowatzki: As a charter member of the Canola Growers the problem we had was getting the EPA in Wash to accept the regulations as presented in these other countries. The Canadians would like to be able to use some of the chemicals we have too.

A.B. Basu: Don't forget Canada does not have the EPA as we have.

Rep D Johnson: As consumers and producers in USA what's the process to study crop residue on crops brought into USA from other countries.

Rep Mueller: Large part of expense of chemicals is due to EPA regulations. What % of chemicals I buy can I attribute to EPA.?

Rep Stefonowicz: If all the barriers were taken down and I went to Canada and bought my round-up what would be your position?

A.B. Basu: If it's legal I guess we would not oppose it.

No action

Page 3

House Agriculture Committee

Bill/Resolution Number Hb 1252

Committee action 2-11-99. Tape 1 side A 41 to 46

Rep Brandenburg: Amendments for HB 1252.. as proposed and places it as an emergency.

Moved by Rep Brandenburg to approve the amendments, second by Rep Johnson. Carried.

Motion by Rep Renner for a DO PASS as amended, second by Rep Pollert

Vote total: YES 12 NO 3 ABSENT 0

Motion carried

Carrier: Rep Brandenburg

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: _____ Amendment to: Eng. HB1252 Conf. Com.
 Requested by Legislative Council Date of Request: 4-12-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: The engrossed bill would require the commissioner of agriculture, in cooperation with the Environmental Protection Agency, to use tolerance data established or obtained in North America in the pursuit of special local needs exemptions for crop protection products. It also requires the commissioner to work with appropriate public and private entities to foster development of joint labeling processes for crop protection products and report progress at least twice during the to the legislative council. It requires the agriculture commissioner to petition the EPA for American registration of crop protection products approved for use in Canada.

It has not been determined whether the 24c-registration process under the Federal Insecticide Fungicide and Rodenticide Act could be used to register products not registered in the U.S. If this process proves workable, 1 FTE (\$80,000) would be required plus operating funds to enter into contracts with experts to assist in preparation of 24c packages (\$45,000) and travel to consult with chemical companies (\$21,000). It is assumed that Section 4 does not mean that the State of North Dakota would become the registrant of a product. The costs for the state to become a registrant are potentially enormous and would likely include compensation for registration data and registration fees. State liability issues are also unresolved.

Fostering the development of a joint labeling process would require staff to participate in NAFTA Technical working group public sessions involved with pesticide harmonization (\$3,000)

State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$100	\$500	\$950	\$4,750	0	0
Expenditures	0	\$15,000	0	\$134,000	0	0

2. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: \$15,000 (\$0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: \$134,000 (\$0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: \$0 (\$0)

3. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

Signed: _____
 Typed Name: Jeff Weispfenning
 Department: Agriculture
 Phone Number: 328-2231
 Date Prepared: 4-12-99

FISCAL NOTE

(Return original and 10 copies)

Resolution No.: _____ Amendment to: Eng. HB1252

Requested by Legislative Council Date of Request: 3-30-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: The engrossed bill would require the commissioner of agriculture, in cooperation with the Environmental Protection Agency, to use tolerance data established or obtained in North America in the pursuit of special local needs exemptions for crop protection products. It also requires the commissioner to work with appropriate public and private entities to foster development of joint labeling processes for crop protection products and report progress at least twice during the to the legislative council.

It has not been determined whether the 24c-registration process under the Federal Insecticide Fungicide and Rodenticide Act could be used to register products not registered in the U.S. If this process proves workable, 1 FTE (\$80,000) would be required plus operating funds to enter into contracts with experts to assist in preparation of 24c packages (\$45,000) and travel to consult with chemical companies (\$21,000). Fostering the development of a joint labeling process would require staff to participate in NAFTA Technical working group public sessions involved with pesticide harmonization (\$3,000). This assumes funding from the EARP fund as proposed in SB2009 and dual labeling of twenty-one products

- State fiscal effect in dollar amounts:

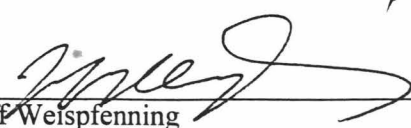
	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$100	\$500	\$950	\$4,750	0	0
Expenditures	0	\$15,000	0	\$134,000	0	0

- What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: \$15,000 (\$0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: \$134,000 (\$0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 2001-03 biennium: \$0 (\$0)

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

Signed: 
 Typed Name: Jeff Weispfenning
 Department: Agriculture
 Phone Number: 328-2231
 Date Prepared: 3-31-99

FISCAL NOTE

(Return original and 10 copies)

Resolution No.: _____ Amendment to: HB1252
 Requested by Legislative Council Date of Request: 2-24-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: The engrossed bill would allow the sale in North Dakota of agricultural chemicals registered and approved for use in Canada. The sale and use of such products, if not registered with the Environmental Protection Agency, would still be in violation of federal pesticide laws. The Department of Agriculture currently enforces federal pesticide laws under an agreement with EPA.

This would also require the Commissioner of Agriculture to take actions against chemical manufacturers that sell agricultural chemicals in North Dakota at prices greater than those charged in Canadian provinces bordering the state. Investigating and prosecuting such price inequities would take the staff time of two FTE's and require additional operating funds to conduct investigations and to prosecute violations. We estimate that these costs would be approximately \$160,000 for the biennium and that they would NOT be eligible for federal funding.

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$160,000			

- What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: \$160,000 (\$0)
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 2001-03 biennium:

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

Signed: _____
 Typed Name: Jeff Weispfenning
 Department: Agriculture
 Phone Number: 328-2231
 Date Prepared: 3-1-99

90452.0101
Title.

Prepared by the Legislative Council staff for
Representative Brandenburg
February 1, 1999

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1252

Page 1, line 2, after "Canada" insert "; and to declare an emergency"

Page 1, after line 12, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency
measure."

Re-number accordingly

Date: 2-12
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1252

House AGRICULTURE Committee _____

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amendments

Motion Made By Renner Seconded By Pollert

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chaiman	✓		Bob Stefonowicz		✓
Dennis E. Johnson, Vice Chm	✓				
Thomas T. Brusegaard	✓				
Earl Rennerfeldt	✓				
Chet Pollert	✓				
Dennis J. Renner	✓				
Michael D. Brandenburg	✓				
Gil Herbel	✓				
Rick Berg	✓				
Myron Koppang	✓				
John M. Warner		✓			
Rod Froelich	✓				
Robert E. Nowatzki		✓			
Phillip Mueller	✓				

Total (Yes) 12 No 2

Absent _____

Floor Assignment Brandenburg

Page 2, remove line 8

Page 2, line 9, remove "appropriated subject to board of higher education approval." and remove "fund"

Page 2, line 10, remove the overstrike over "of revenue and expenditures of the other funds by source of funds"

Page 2, line 12, remove the overstrike over "special revenue fund and"

Page 2, line 14, remove "3."

Page 2, line 21, remove "4."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1252: Agriculture Committee (Rep. Nicholas, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1252 was placed on the Sixth order on the calendar.

Page 1, line 2, after "Canada" insert "; and to declare an emergency"

Page 1, after line 12, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1291: Transportation Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1291 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "39-06-03.1.", after the fifth comma insert "subsection 1 of section 39-06-14.", and after "and" insert "section"

Page 1, line 12, remove the overstrike over "To any person who is under the age of sixteen years, except that the director may"

Page 1, line 13, remove the overstrike over "issue" and insert immediately thereafter "an instructional permit"; remove the overstrike over "a restricted" and insert immediately thereafter "instructional"; remove the overstrike over "permit" and insert immediately thereafter an underscored comma, remove the overstrike over "or" and insert immediately thereafter "restricted"; remove the overstrike over "license", after "it" insert "under"; remove the overstrike over "sections" and insert immediately thereafter "39-06-04", and remove the overstrike over "39-06-05" and insert immediately thereafter an underscored comma

Page 1, remove the overstrike over line 14

Page 1, line 15, remove the overstrike over "2."

Page 1, line 19, remove the overstrike over "3." and remove "2."

Page 1, line 22, remove the overstrike over "4." and remove "3."

Page 2, line 1, remove the overstrike over "5." and remove "4."

Page 2, line 3, remove the overstrike over "6." and remove "5."

Page 2, line 6, remove the overstrike over "7." and remove "6."

Page 2, line 9, remove the overstrike over "8." and remove "7."

Page 2, remove lines 13 through 21

1999 SENATE AGRICULTURE

HB 1252

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

Senate Agriculture Committee

Conference Committee

Hearing Date 3/18/99

Tape Number	Side A	Side B	Meter #
1	X		3300-END
1		X	0-END
2	X		0-3268
3/26	1	X	2045-2910
Committee Clerk Signature <i>Jocia Ferguson</i>			

Minutes:

Senator Wanzek called the meeting to order, roll call was taken, all were present.

Senator Wanzek opened the hearing on HB 1252.

Representative Brandenburg introduced the bill. Don't want to mislead any farmers or give any farmers that this bill will make it legal to go to Canada and get chemicals. We are trying to work on harmonization, it is the most important part of this bill.

Senator Sand: If we ban the sale of chemicals are we shooting ourselves in the foot with this bill.

Representative Brandenburg: That could happen.

Senator Sand: I have heard that Canadian and American farmer's have come to an agreement on what chemicals can be used on canola, can you help me?

Representative Brandenburg: The specifics on that, I don't know for sure.

Senator Wanzek: Part of the problem is that fewer people understand what goes into producing food.

Representative Brandenburg: Absolutely.

Representative Pollert spoke in support of the bill.

Representative D. Johnson spoke in support of the bill.

Representative Froseth spoke in support of the bill.

Representative Lemieux spoke in support. Passed out handouts. Proposed amendments.

Senator Sand: If a chemical cost \$10 you would like to levy a 20% tax on it, if we do that the \$10 dollar chemical becomes \$12, and you buy it and send your receipt to the ag commissioner and then he gives you your \$2 back.

Representative Lemieux: This says if you buy a product and it costs you \$10 per unit acre, and the people in Canada are buying that same product for \$8 an acre the tax commissioner would have levied a tax on the manufacturer of that product of \$2 per unit. Had the manufacturer not brought forward any information that said it costs him more to do business and then myself as a producer would send in a rebate form to the ND tax commissioner to get a rebate of what my share of the dollars would be.

Senator Sand: If I were selling a product and I had a penalty of \$2 in every unit I sold I'd put that on my price so my customer would be really paying it so what you are going to do is rotate the money and curve the cost of distributing it. I don't see how you can gain, you yourself are going to end up a little short.

Representative Lemieux: The concept of a business privilege tax levied in such a manner is if the chemical company increases the price of the product and they don't increase the price of the same product in Canada, their business privilege tax will increase however much they increase.

Senator Sand: I would suggest that these chemical companies if you could make it stick, will not do business in ND. The other factor is inter state commerce, we can't interfere with that.

Representative Lemieux: My friends in Manitoba tell me that until they formed a cooperative venture and they were going to purchase chemicals from Israel in mass that the chemical companies treated the Canadian people the same way and since they did that the chemical prices came down substantially.

Senator Wanzek: What is the importance of 50 miles?

Representative Lemieux: I am not sure.

Richard Schlosser from the ND Farmer's Union spoke in support of the bill. Intent of the bill is that we can reduce the input cost. Feels this is a frustrating issue.

Brian Kramer from the ND Farm Bureau spoke in support of the bill. Feels the price disparity needs to be addressed.

Kelly Shockman from the National Farmers Organization stood in support of the bill.

Paul Thomas from the ND Grain Growers spoke in support of the bill. Realize there may be some political implications but feel this is one of the hottest issues amongst the members.

Senator Sand: If Canadian government hadn't stolen the savings of it old people and a dollar was a dollar, how would you feel about this?

Paul Thomas: We don't have that situation, to change it over night probably won't happen. We need something done now.

Senator Wanzek: The prices are quoted in US dollars.

Paul Thomas: Correct we changed them.

Roger Johnson, Ag Commissioner spoke neutrally. Testimony enclosed.

Senator Urlacher: Were you contacted when this bill was drafted?

Roger Johnson: I don't think so.

Senator Urlacher: Through your contacts have you identified who the delayed contacts are?

Roger Johnson: I'd rather defer that question.

Kerrigan Clough from the US EPA spoke in opposition of the bill. Handouts enclosed.

Senator Kroeplin: Acceleration of harmonization activities, is that a priority group, or what do you mean by that?

Kerrigan Clough: In the more detailed report there is more information.

Senator Kroeplin: It talks about corn, grapes, and strawberries, I would assume those are all minor crops in Canada.

Kerrigan Clough: Grapes wouldn't be in Ontario or strawberry.

Senator Kroeplin: Seems like we are on the short end of the stick.

Kerrigan Clough: Down the page there is a lot about canola.

Senator Kroeplin: Is wheat on here any place?

Kerrigan Clough: I believe it is discussed.

Senator Sand: Tell me about taxes that the US government lays on chemicals before they are sold.

Kerrigan Clough: I'm not familiar with that.

Senator Wanzek: How can we be assured that we're going to be kept abreast of what is going on?

Kerrigan Clough: I would have concerns too, but I assure you it has been on my front burner.

Senator Wanzek: Your major concern is with the fact that unregistered chemicals from Canada can not be legally sold down here, what about the section that registered chemicals that are sold here and in Canada, the price is being equalized. Is that a violation of federal law as well?

Kerrigan Clough: No.

Senator Kroeplin: We could legally import a cert from Canada.

Kerrigan Clough: It has to have a US EPA label on it.

Senator Kroeplin: If it is the same chemical it doesn't matter.

Kerrigan Clough: Correct.

Tom Borgen from the Northern Canola Growers spoke neutrally on the bill. Feels harmonization does work.

Senator Wanzek: You feel there has been progress.

Tom Borgen: There has been.

Senator Wanzek: Something of this issue might hinder progress?

Tom Borgen: It might.

John Olson from ACPA spoke in opposition. Testimony enclosed.

Senator Klein: The amendments that we saw would that be the constitutions commerce clause that would not allow us to put the amendments on?

John Olson: Absolutely.

Ab Basu from the American Crop Protection Association spoke in opposition to the bill.

Testimony enclosed.

Senator Mathern: Are you familiar with the total production cost?

Ab Basu: There's not a real bottom line.

Senator Wanzek: Is there any ability for the company to equalize?

Ab Basu: That would be the decision of the company.

Gary Knutson from the ND Ag Association spoke in opposition of the bill. Testimony enclosed.

Steve Strege from the ND Grain Dealer Association spoke in opposition to the bill. Testimony enclosed.

Senator Sand: If we did something wrong in ND could we destroy international trade?

Steve Strege: I don't know if we could destroy it.

Senator Sand: Could we destroy our image.

Steve Strege: Food safety is an important thing, it could be a problem, yes.

Paul Germolus and Beth Baumstark from the Attorney General's office stood for questions.

Senator Wanzek: If we passed this would the Attorney General have to defend any one if they were stopped at the border?

Beth Baumstark: Not in that context.

Senator Klein: It may be difficult to protect, that we may win this situation?

Beth Baumstark: We would find it difficult to defend.

Senator Wanzek closed the hearing on HB 1252.

MARCH 26, 1999

Discussion was held.

Page 7

Senate Agriculture Committee

Bill/Resolution Number Hb 1252

Hearing Date 3/18/99

Senator Sand made the motion for a Do Pass on the amendments.

Senator Mathern seconded.

Motion carried.

Senator Mathern made the motion for a Do Pass as amended.

Senator Klein seconded.

ROLL CALL: 7 Yes, 0 No

CARRIER: Senator Wanzek

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1252

Page 1, line 1, after "4-35" insert "and a new chapter to title 57"

Page 1, line 2, after "Canada" insert "and a privilege tax on and rebates for certain agricultural chemicals based on price differentials of those goods in Canada and North Dakota; to provide a continuing appropriation; to provide a contingent effective date"

Page 1, after line 13, insert:

"SECTION 2. A new chapter to title 57 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Agricultural chemical" means commercial fertilizer, fungicide, seed treatment, inoculant, fumigant, herbicide, insecticide, or adjuvant of such a product used by a farmer or commercial applicator for agricultural purposes.
2. "Canadian retail price" means the manufacturer's suggested retail price of an agricultural chemical sold at retail in Canada within fifty miles [80.47 kilometers] of North Dakota.
3. "North Dakota retail price" means the manufacturer's suggested retail price of an agricultural chemical sold at retail in North Dakota within fifty miles [80.47 kilometers] of the Canadian border.

Privilege tax on agricultural chemicals. A privilege tax is imposed based on the price differential on the sale at retail in this state and Canada of an agricultural chemical sold or intended for sale at retail in this state. The tax on sale of an agricultural chemical is determined by subtracting the Canadian retail price from the North Dakota retail price of the agricultural chemical. There is no tax if the North Dakota retail price of the product is equal to or less than the Canadian retail price. The tax commissioner shall determine the North Dakota and Canadian retail price for each calendar quarter for agricultural chemicals based upon the manufacturer's suggested retail price for sales of agricultural chemicals within fifty miles [80.47 kilometers] on either side of the North Dakota-Canadian border in the most recently completed calendar quarter for which the data is available. The tax under this section is payable by the manufacturer upon the sale at wholesale in this state of an agricultural chemical or upon the sale at retail of an agricultural chemical for use in this state for which the sale at wholesale occurred outside this state.

Credit against tax liability. A manufacturer who demonstrates to the tax commissioner by clear and convincing evidence that the manufacturer's per unit cost of development, production, distribution, sale, and regulatory compliance in the United States is greater than that manufacturer's comparable costs in Canada is entitled to a credit against the per unit tax under this chapter equal to the per unit cost differential. Information furnished to the tax commissioner under this section is a public record.

Administration. The provisions of chapter 57-39.2 governing administration of the sales tax including provisions for penalties, interest, liens, refunds, credits, returns, and liability of limited liability company or corporation officers which are not in conflict

with the provisions of this chapter govern the administration of the tax under this chapter. However, taxes collected under this chapter must be deposited in the agricultural chemical privilege tax rebate fund.

Rebate claims - Continuing appropriation. The purchaser at retail of a product subject to the privilege tax under this chapter is entitled to claim a rebate of the net tax collected from the manufacturer on the product under this chapter. Rebate claims must be filed with the tax commissioner on a form and with documentation as required by the tax commissioner by rule. The tax commissioner may draw from the agricultural chemical privilege tax rebate fund amounts necessary to cover costs of administration of the tax under this chapter and the net amount remaining may be distributed as rebates under this section. Moneys in the agricultural chemical privilege tax rebate fund are appropriated as a standing and continuing appropriation to the tax commissioner for the purposes of this section.

SECTION 3. CONTINGENT EFFECTIVE DATE. Section 2 of this Act becomes effective on the first day of the first calendar quarterly period beginning after a ruling by the North Dakota supreme court or a federal court of competent jurisdiction that section 1 of this Act is unconstitutional."

Renumber accordingly

March 25, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1252

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act relating to sale and use of crop protection products; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Crop protection products - Canadian labels. The agriculture commissioner, with the advice and consent of the appropriate agricultural commodity group, may authorize the sale and use in this state of a crop protection product that has a Canadian label, if the commissioner determines that a crop protection product having an American label contains substantially similar active ingredients and that the authorization does not violate federal law. The commissioner shall require an applicator to possess the American label and apply the product in accordance with the American label provisions.

SECTION 2. Special local needs exemption - Tolerances. The agriculture commissioner, in cooperation with the environmental protection agency, shall use tolerance data established or obtained in North America in pursuing special local needs exemptions for crop protection products under the federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

SECTION 3. Crop protection products - Registration process - Joint labeling. The governor and the agriculture commissioner shall work with all appropriate public and private entities to foster the development of a single, uniform process for the joint North American labeling of crop protection products not available for sale and use in this state as of the effective date of this Act.

SECTION 4. Crop protection products - Joint labeling - Report to legislative council. During the 1999-2000 interim, the agriculture commissioner shall report at least twice to the legislative council regarding the efforts to develop a single, uniform process for the joint North American labeling of crop protection products.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

Date: 3/26
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

Senate Agriculture Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amendments

Motion Made By Sand Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin	✓				
Senator Mathern	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/26
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

Senate Agriculture Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Mathern Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin	✓				
Senator Mathern	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Senator Wanzek

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1252, as engrossed: Agriculture Committee (Sen. Wanzek, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1252 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act relating to sale and use of crop protection products; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Crop protection products - Canadian labels. The agriculture commissioner, with the advice and consent of the appropriate agricultural commodity group, may authorize the sale and use in this state of a crop protection product that has a Canadian label, if the commissioner determines that a crop protection product having an American label contains substantially similar active ingredients and that the authorization does not violate federal law. The commissioner shall require an applicator to possess the American label and apply the product in accordance with the American label provisions.

SECTION 2. Special local needs exemption - Tolerances. The agriculture commissioner, in cooperation with the environmental protection agency, shall use tolerance data established or obtained in North America in pursuing special local needs exemptions for crop protection products under the federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

SECTION 3. Crop protection products - Registration process - Joint labeling. The governor and the agriculture commissioner shall work with all appropriate public and private entities to foster the development of a single, uniform process for the joint North American labeling of crop protection products not available for sale and use in this state as of the effective date of this Act.

SECTION 4. Crop protection products - Joint labeling - Report to legislative council. During the 1999-2000 interim, the agriculture commissioner shall report at least twice to the legislative council regarding the efforts to develop a single, uniform process for the joint North American labeling of crop protection products.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

1999 HOUSE AGRICULTURE
HB 1252
CONFERENCE COMMITTEE

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

House Agriculture Committee

Conference Committee

Hearing Date 3-31-99

Tape Number	Side A	Side B	Meter #
One HB 1252 conf	x		0.0 to 54.0
One Hb 1252 conf		x	0.0 to 28.0
Committee Clerk Signature <i>Arlin Hanson</i>			

Minutes: HB 1252 came out of the House saying any chemical used in Canada can be used in North Dakota. This is in conflict with Federal Laws and this is why a conference committee in needed. Members of Conference committee. Rep Nicholas, Rep Brandenburg, Rep Froelich, Sen Wanzek, Sen Klein, Sen Kinnoin. House Majority Leader Rep John Dorso. Commission of Agr Roger Johnson.

Summary of bill: Relates to the sale and use of Agr Chemicals registered in Canada.

Chairman Nicholas explained the need for the conference committee. The House wants to concur with the Senate amendments but they would be setting up North Dakota farmers to be charged with violating Federal Law if they did concur.

Rep Brandenburg: Bill passed the house saying any chemical used in Canada could be used in North Dakota. Now the EPA got into act and we are trying to bring everyone up to date. We now have an amended bill before us in Conference Committee. We had a lot of help from many

different entities and people. The House leadership, Rep Dorso and many other legislators. We need to make a little change.

John Olson: Represents the Crops Protection Assoc. We have been involved with Rep Brandenburg for some time working on this bill to come up with a solution that satisfies everyone and is in compliance with Federal Law. It doesn't matter what the Agriculture Committee authorizes, its what's in Federal Law.

Kerry Plough: present from EPA pesticide program out of Wash DC. speaker phone with Jim Jones, and Ken Garvey in Wash in DC on speaker phone.

Chm Nicholas: Happy you are with us this morning. We are very interested in moving this bill forward out of committee and out on the floor for final passage.

Kerry Clough: we have been working with the Department of Agr and various other agencies trying to come with a solution to this problem.

We are going over the list of Chemicals and seeing if its ok to go ahead with some of them.

We'll have a report back to State by coming Monday.(4-5-99) We will be able to concur on what is Dual Label=Now in use. Joint Label=When new chemical comes into use in both countries.

We are willing to work we you and see if we can come up with that compromise.

Jim Jones: Wash DC EPA. We have had a little time to consult with the Attorneys here at EPA and we think that as drafted currently in particular Section one does not violate Federal Law. Basically the way its drafted and needs to be worked out so as to move these products from Canada into the US because the products that will get this authorization will apparently be in violation of Federal Law. There seems to be a fundamental drafting problem here.

Chm Nicholas: Can we have John Olson explain the amendment and we think that will take care of the problem you speak of.

John Olson: The amendment would remove authorization and replace that language with the importation and use, this complies with Federal Law.

Jim Jones: I think we are going to need to consult with our attorneys here and get back to you. Section 2, little difficult to understand what you are trying to achieve with 24c.

Chm Nicholas: That's the point Canada has access to all these chemicals and we don't have access to them. Canada has such an advantage on us on price on these chemicals that we need to get this process expedited.

Jim Jones: I think we need to spend a little time with your staff to clarify this issue. We are not sure what this particular section is trying to achieve.

Sen : I believe the goal of section 2, is simply to make EPA accept the data from Canada for 24C in this country. Up until this time they do not accept that data.

Jim Jones: Current use policy is do we accept Canadian data. I would expect our attorneys to say that State Law can't direct the agency to accept those tolerances when they don't exist.

Ken Garvey: By tolerance data we assume you mean we should adopt the Canadian data. We need to spend some time with staff to try and resolve this issue. 4 years ago USDA asked EPA for this approval.

Chm Nicholas: Is there any reason this issue can't be put on a fast track with you people and come up with a solution soon so we could use them for the 1999 crop season? Are you going to be able to do that for us?

Jim Jones: We are trying to provide you with some tech support so that you actually get what you are looking for.

Chm Nicholas: we appreciate that.

Jim Jones: Instructed Kenny to tell the Sen and Rep which ones you are talking about so far.

Kenny Garvey: Glendon was registered just this week on Wheat, barley, canola, sugar beets,

Rep Brandenburg: I have a question concerning the risk cup, the things that we have learned discussing here, my understanding is that when the risk cup gets full of chemical that EPA accepts the Chemicals that are imported from other countries first before chemicals that are used in the US. When the risk cup gets full we can't use the chemicals from this country.

Jim Jones: When the risk cup is full what happens is that one of things that happens we are not allowed to add an additional crop to that pesticide. If the risk cup is full the agency needs to take action to see that it is not full. We do not give any preference or priority to allow a non-domestic uses over domestic uses. The issue that I think the growers have raised is that if the risk cup is full for the product that is registered in Canada before the agency took some kind of regulatory action they may still be using that product in Canada but it can't be allowed for use here. Now if there is no US tolerance the export of that product to the US would not be illegal. but if there is not detectable tolerance might be able to get around it that way.

Rep Brandenburg: Chemicals that we have now that have a Canadian label and the same chemical with US label is there some way we can get this dual labeling pushed along faster?

Basically you have the same chemical in the US and Canada and the price difference is so great is there some way with this dual labeling that we can get this going faster?

Jim Jones: We have suggested for fast track purposes that the Manufacture come to us and work on this dual labeling and work with us and come up with something that would allow us to do that. There are difference's in Canadian labels over US labels that are significant. I think our ability to unilaterally do it is somewhat limited. I think if we got into a confrontation with the Manufacture who didn't want to do it our only alternative would be to cancel the US Registration and I don't think we really would have any basis for that.

Rep Brandenburg: That's would we are trying to do here Sir is to bring everyone together and talk it over with the EPA and chemical companies.

Sasba: Washington consultant. We believe we can work with current language in bill we can work together. When talking about US and Canadian issues we can work with them.

Chm Nicholas: On lists two and three what kind of a time frame do you think we are going to have?

Jim Jones: What do you mean, are you trying to determine the status, or actual registration?

Chm Nicholas: Both

Jim Jones: What we are going to provide to you is the by the end of this week or early next week we will be able to categorize all of the chemicals and the crops pretty significantly one category will be:

#1. Those that have been registered now.

#2. What we plan to register by Oct 1.

#3. What we plan to register after Oct 1.

#4. What we don't have petition for yet.

Rep Dorso: Define who a petitioner is?

Jim Jones: Usually a manufacturer or the US Govt. Once in awhile someone else does but not often.

Rep Dorso: So to clarify our State Agriculture commissioner could be petitioner?

Jim Jones: Certainly.

Chm Nicholas: Would this lead to price harmonization?

Jim Jones: EPA try not to get to evolved in that issue.

Rep Dorso: We were through sec 2 now do you have any problem with section 3 & 4?

Sen Wanzek: I know this is a very important issue to our farmers. Very frustrated now the way it has been carried out. I think some of them are ready to draw a line in the sand and duke it out.

What guarantees do we have that once we come to a solution to working together what

guarantees do we have that this is going to remain on the front burner for us and for our producer

Terry Clough: I've been here twice and ready to work continuously with you people. That's our guarantee. Have report to you both by Monday. We won't drop the ball. We understand it's a difficult time for Agriculture. Its not going to happen fast in some areas. Science comes into play.

List 1. Dual labeling. we have a good relationship with the Manufacture and hope this will continue in the future.

Ken Garvey: There is a high level meeting for in that understanding of Registrants, CEO's that has now been expanded to include growers, USDA is hosting a meeting May 6th in Wash DC and we are hoping Agriculture Commissioner Roger Johnson can attend that. That is principally on identifying what the highest priority is for getting products across the border. On May 24th there will be a meeting of the NAFTA Industry working group. Fundamentally pricing is not an

issue the EPA has anything to do with. I think Manufactures need to participate in this dialogue and help define to what extent a North American Label will help achieve consistent pricing across this International border.

Sen Wanzek: Let me say in my time communication and cooperation have gotten me a lot further the confrontation but I just want to have some assurance that this is an important issue to us and sense this is what your folks feel.

Roger Johnson: Com of Agri. St of ND. I think its important that we the public understands the difference in the 2 lists we are talking about. Lists 2 and 3 are lists that we should move as rapidly as possible, they are lists that EPA and the St of North Dakota have some authority over. Its a matter of pushing it as rapidly as possible.

List 1 is more troublesome, it is more troublesome because Govt agencies don't have authority over pricing like they do over registration and licensing. That is a list the chemical companies are going to have trouble with. Theres a difference in being obstacle and being the problem.

Understand I'm not for or against this law. We will do what ever the Legislature makes law. I'm concerned the EPA doesn't have the authority to address this issue.

Jim Jones: We share your reading of this issue & if it goes forward as stated it won't work.

Majority Leader Dorso: Appreciate your visiting about it with us. We are trying to make some thing happen soon. Farming situation is desperate out here and any progress we can do will help. We adjourn soon and our hope is that this conference committee can get something done by the first of the week.

Dual Labeling can we work together and make this happen? Another thing can the Agriculture Commissioner and commodity groups work together and be the Petitioners?

Jim Jones: Your bill and Dorgan's bill are the logical way to go.

Terry Clough: We need a law to work with.

Rep Dorso: Wanzek bottom line. We need to put some teeth in this process if it doesn't move along. How do we put more teeth into the law? We want to cooperate but the bottom line is desperation. We don't want a watered down bill. We will advise the committee to work with all concerned to move this along.

Rep Lemiux: Question for EPA and Abasu.. If ND producer not allowed to use same chemicals, what is EPA doing to insure that the products from other countries are safe to use if they are using some of these chemicals.?

Question 2: Wondering if I can compete in World Market when competitors are using products I can't. Theirs money being made in Canada using products I can't use on my crops.

Terry Clough: Complicated question. Issue posed here is the chemical being used in Canada have the same compounds as in the US. If there aren't any issues concerning chemical compounds the EPA is willing to register the Cdn version of the product.

Sen Wanzek: Thinks we should hold up any action until after we hear from Wash. about the lists

Chm Nicholas: Adjourn the committee for now.

REPORT OF CONFERENCE COMMITTEE

HB 1252, as engrossed: Your conference committee (Sens. Wanzek, Klein, Kinnoin and Reps. Nicholas, Brandenburg, Froelich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1067-1068, adopt amendments as follows, and place HB 1252 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1067 and 1068 of the House Journal and pages 915 and 916 of the Senate Journal and that Engrossed House Bill No. 1252 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act relating to sale and use of crop protection products; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Crop protection products - Canadian labels. The agriculture commissioner, with the advice and consent of the appropriate agricultural commodity group, may authorize the sale and use in this state of a crop protection product that has a Canadian label, if the commissioner determines that a crop protection product having an American label contains substantially similar active ingredients and that its importation and use does not violate federal law. The commissioner shall require an applicator to possess the American label and apply the product in accordance with the American label provisions.

SECTION 2. Special local needs exemption - Tolerances. The agriculture commissioner, in cooperation with the environmental protection agency, shall use tolerance data established or obtained in North America in pursuing special local needs exemptions for crop protection products under the federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

SECTION 3. Crop protection products - Registration process - Joint labeling. The governor and the agriculture commissioner shall work with all appropriate public and private entities to foster the development of a single, uniform process for the joint North American labeling of crop protection products not available for sale and use in this state as of the effective date of this Act.

SECTION 4. Crop protection products - Request to petition for registration. On the written request of any agricultural commodity group, the agriculture commissioner shall petition the environmental protection agency for the American registration of a crop protection product approved for use in Canada.

SECTION 5. Crop protection products - Joint labeling - Report to legislative council. During the 1999-2000 interim, the agriculture commissioner shall report at least twice to the legislative council regarding the efforts to develop a single, uniform process for the joint North American labeling of crop protection products.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed HB 1252 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY
HB 1252

**STATEMENT BY THE AMERICAN CROP PROTECTION ASSOCIATION
BEFORE THE HOUSE COMMITTEE OF AGRICULTURE
FIFTY-SIXTH LEGISLATIVE ASSEMBLY OF NORTH DAKOTA**

JANUARY 21, 1999

CONCERNING HB1252

LADIES AND GENTLEMEN:

THE AMERICAN CROP PROTECTION ASSOCIATION IS THE NOT-FOR-PROFIT TRADE ASSOCIATION, BASED IN WASHINGTON, D.C., THAT REPRESENTS THE COMPANIES THAT PRODUCE, SELL AND DISTRIBUTE VIRTUALLY ALL OF THE CROP PROTECTION AND PEST CONTROL CHEMICALS REGISTERED FOR USE IN THE UNITED STATES.

ACPA APPRECIATES THE INVITATION OF THIS COMMITTEE TO TESTIFY ON THE BILL BEFORE YOU: HB1252.

GENERAL LEGAL CONCERNS

THE CROP PROTECTION INDUSTRY RECOGNIZES THE LEGITIMATE CONCERNS AMONG THE GROWERS IN THIS STATE THAT HAVE GIVEN RISE TO HB 1252 AND RELATED LEGISLATIVE PROPOSALS. HOWEVER, WE BELIEVE THAT HB1252 WILL NOT PROVIDE THE NECESSARY RELIEF TO GROWERS. TO THE CONTRARY, WE BELIEVE STRONGLY THAT ENACTMENT OF THIS KIND OF LANGUAGE WILL LEAD TO VERY CONTENTIOUS, LENGTHY LEGAL WRANGLING, NOT TO A PRODUCTIVE SOLUTION.

PRELIMINARY LEGAL REVIEW RAISES THE FOLLOWING CONCERNS:

- HB 1252 VIOLATES THE SUPREMACY CLAUSE OF THE CONSTITUTION OF THE UNITED STATES;
- HB 1252 VIOLATES THE INTERSTATE COMMERCE CLAUSE
- HB 1252 DOES NOT ACCOUNT FOR DIFFERENCES IN THE PATENT LIFE OF PRODUCTS
- THE COSTS OF REGISTERING A CROP PROTECTION PRODUCT WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) AND STATE GOVERNMENTS, INCLUDING TOLERANCE FEES. FOR EXAMPLE, JUST LAST MONTH, EPA STATED IT IS INVESTIGATING A TEN-FOLD INCREASE IN TOLERANCE FEES FOR A SINGLE PRODUCT FROM AN AVERAGE \$30,000 TO \$300,000! WHO KNOWS WHAT IMPACT SUCH A MOVE WOULD HAVE ON PRODUCT AVAILABILITY AND PRICE?
- INTENDED USE OF THE PRODUCT.

- CURRENCY FLUCTUATIONS. DUE TO THE FLOATING EXCHANGE RATE BETWEEN THE U.S. AND CANADIAN DOLLARS, WHO WOULD MONITOR DAILY FLUCTUATIONS, LET ALONE MAKE THE NECESSARY CALCULATIONS TO ARRIVE AT A PRICE? AND AT WHAT COST?

WE DO NOT BELIEVE HB1252 IS A WORKABLE BILL THAT ADEQUATELY ADDRESSES CONCERNS AMONG THE GROWERS IN NORTH DAKOTA.

PRODUCT REGISTRATION PROCESS IN THE UNITED STATES

ACPA MEMBER COMPANIES' PRODUCTS ARE REGULATED BY THE FEDERAL AND STATE GOVERNMENTS UNDER THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA) AND THE FEDERAL FOOD, DRUG AND COSMETIC ACT (FFDCA), BOTH OF WHICH WERE AMENDED IN 1996 BY THE FOOD QUALITY PROTECTION ACT (FQPA).

I WOULD LIKE TO EMPHASIZE THAT THE U.S. FOOD SAFETY SYSTEM PROTECTS OUR ENTIRE FOOD SUPPLY THROUGH RIGOROUS TESTING.

- EACH EPA-REGISTERED PESTICIDE UNDERGOES 120 OR MORE TEST DESIGNED TO DETERMINE HUMAN HEALTH, SAFETY AND ENVIRONMENTAL EFFECTS.
- ON AVERAGE, ONLY ONE IN 20,000 CHEMICALS EVER MAKES IT FROM DISCOVERY IN THE CHEMIST'S LABORATORY TO USE BY THE FARMER IN THE FIELD.
- PESTICIDE DEVELOPMENT, TESTING AND EPA REGISTRATION NOW AVERAGE ALMOST 12 YEARS TO COMPLETE AT A PER-PRODUCT COST OF UPWARDS OF \$100 MILLION! (FOREIGN REGISTRATION, ON THE OTHER HAND, IS AVERAGING JUST OVER EIGHT YEARS, WHICH PUTS U.S. FARMERS AT A DISTINCT DISADVANTAGE IN THE NEW-PRODUCT MARKET PLACE.)

THE FOOD QUALITY PROTECTION ACT: EPA IMPLEMENTATION WILL HAVE SIGNIFICANT IMPACT ON GROWERS ACROSS THE COUNTRY

UNDER FQPA, PESTICIDES MUST NOW MEET A "REASONABLE CERTAINTY OF NO HARM" STANDARD. TO HELP UNDERSTAND THE CHANGES BROUGHT ABOUT BY FQPA, THINK OF THE EXPOSURE THAT CAN BE SAFELY ALLOWED FOR A PARTICULAR PESTICIDE AS FILLING A "RISK" CUP. THIS CUP CONTAINS THE AMOUNT OF PESTICIDE RESIDUE THAT A PERSON CAN BE EXPOSED TO DAILY WITHOUT AFFECTING HEALTH.

BEFORE FQPA, EACH PESTICIDE HAD ITS OWN RISK CUP, WHICH HELD ONLY THE RISK FROM USE ON FOOD CROPS; FOR EXAMPLE, FROM CORN OR APPLES. UNDER FQPA, THE RISK CUP MUST NOW MAKE ROOM NOT ONLY FOR RESIDUES ON FOOD, BUT ALSO FROM THOSE FOUND IN

DRINKING WATER, FROM USES IN AND AROUND THE HOME, SUCH AS ON LAWNS AND GARDENS, AND ON PUBLIC SPACES, SUCH AS PARKS, RIGHTS-OF-WAY AND GOLF COURSES. EXPOSURE FROM THESE MULTIPLE SOURCES IS COMBINED AS "AGGREGATE" RISK.

WHEN DATA PERTAINING TO A PESTICIDE'S EFFECTS ON CHILDREN'S HEALTH CALL FOR IT, EPA ALSO MAY ADD AN EXTRA TEN-FOLD OR MORE MARGIN OF SAFETY. IN THESE CASES, THE RISK CUP BECOMES EVEN SMALLER, RESULTING IN POTENTIALLY FEWER PESTICIDES AND/OR PESTICIDE USES.

FURTHERMORE, UNDER A CONCEPT KNOWN AS "CUMULATIVE" RISK, IF TWO OR MORE PESTICIDES ACT ON HUMAN HEALTH IN THE SAME MANNER, FQPA REQUIRES THEM TO SHARE A COMMON RISK CUP, AGAIN SHRINKING THE NUMBER OF AVAILABLE PESTICIDES AND/OR PESTICIDE USES.

IN ADDITION, FQPA CONTAINS A PROVISION REQUIRING THAT ALL PESTICIDES BE TESTED FOR THEIR POTENTIAL EFFECTS ON THE HUMAN ENDOCRINE SYSTEM. FINALLY, THIS MASSIVE REASSESSMENT OF THE MORE THAN 9,000 PESTICIDES AND PESTICIDE USES MUST BE COMPLETED WITHIN TEN YEARS.

UNFORTUNATELY TO THIS DAY, EPA HAS NOT ISSUED ANY REGULATIONS OR GUIDELINES TO FOLLOW IN ADHERING TO THESE NEW REQUIREMENTS. THIS LEADS TO SIGNIFICANT DELAYS IN RE-REGISTERING EXISTING PRODUCTS AND THE REGISTRATION OF NEW PRODUCTS AND USES.

BECAUSE THE AGENCY IS SO FAR BEHIND IN IMPLEMENTING THE LAW, IT HAS ASKED MANUFACTURERS TO PRIORITIZE THEIR TOP FIVE PRODUCT USES, WHICH AFFECTS BOTH AVAILABILITY AND PRICE. FOR EXAMPLE, A MAJOR MEMBER-COMPANY ACKNOWLEDGES PRIVATELY TO ACPA THAT, BECAUSE OF FQPA IMPLEMENTATION DELAYS, IT HAS BEEN WAITING FOR FINAL EPA ACTION ON AT LEAST THREE CANOLA REGISTRATIONS FOR A LONG TIME, WITH NO END IN SIGHT.

INDUSTRY CONCERNS WITH QUICK TABULATIONS OF PRODUCT AND PRICE DATA

WE ALSO WOULD URGE YOU NOT TO CONSIDER HB1252 BASED ON PRELIMINARY COMPARISON TABULATIONS OF PRODUCTS AND PRICES IN THE US AND CANADA WITHOUT ASKING SOME TOUGH QUESTIONS. FOR THE RECORD, TO MY KNOWLEDGE, NEITHER ACPA NOR ANY MEMBER COMPANY HAS DEVELOPED A PRICE LISTS; TO DO SO WOULD VIOLATE FEDERAL ANTITRUST LAW. HOWEVER, WE HAVE SEEN SOME HERBICIDE COMPARISON LISTS DISTRIBUTED BY GROWERS IN NORTH DAKOTA AND

THERE ARE SERIOUS QUESTIONS THAT NEED TO BE CONSIDERED WHEN LOOKING AT THEM::

- WHAT IS THE RECOMMENDED RATE OF POUNDS PER ACTIVE INGREDIENT USED ON THAT SPECIFIC TARGET WEED FOR THAT SPECIFIC CROP USE?
- WHAT IS THE FORMULATION OF THE PRODUCT IN THE U.S.? IN CANADA?
- WHAT IS THE SPECIFIC CROP USE AND TARGET WEED? FOR EXAMPLE, THE CONTROL OF ONE WEED IN CANOLA MAY REQUIRE THE SAME USE RATE FOR A PRODUCT IN BOTH THE U.S. AND CANADA. HOWEVER, A DIFFERENT WEED MAY REQUIRE A VASTLY DIFFERENT USE RATE.
- WERE SOIL TYPE, CLIMATE AND SEASON TAKEN INTO ACCOUNT WHEN ARRIVING AT DATA FOR SUCH PRICES?

THE CROP PROTECTION PRODUCT REGISTRATION PROCESS IS VERY COMPLEX AND QUICK DATA ANALYSES ARE NOT JUSTIFIED. IT WOULD LITERALLY BE LIKE COMPARING APPLES TO ORGANGES: IT IS NOT THE SAME PRODUCT ON THE SAME TARGET PEST, ON THE SAME CROP, AT THE SAME APPLICATION RATE AND FORMULATION.

ANOTHER ISSUE IS THE IMPORTANCE OF A CROP TO A PARTICULAR STATE, REGION OR COUNTRY. CANOLA ENJOYED GREAT POPULARITY FOR DECADES IN EUROPE AND CANADA BEFORE PLANTED IN ANY SIGNIFICANT ACREAGE IN THE U.S. THIS HELPS TO EXPLAIN WHY THERE ARE SO MANY MORE CROP PROTECTOIN PRODUCTS AVAILABLE FOR CANOLA IN CANADA THAN THERE ARE IN NORTH DAKOTA.

HARMONIZATION - WHAT AND WHEN?

SOME THOUGHTS ON THE HARMONIZATION OF THE REGULATORY PROCESSES AMONG CANADA, THE U.S. AND MEXICO:

- UNDER NAFTA, A U.S./CANADA/MEXICO TECHNICAL WORKING GROUP WAS FORMED TO HARMONIZE THE REGULATORY REQUIREMENTS FOR PESTICIDES. WERE TESTING HARMONIZED, FOR EXAMPLE, WE BELIEVE WE WOULD HAVE COME A LONG WAY TOWARDS ADDRESSING GROWERS OVER PRODUCT AVAILABILITY AND PRICE.
- LAST DECEMBER, THE U.S. DEPARTMENT OF AGRICULTURE SIGNED A DOCUMENT OF UNDERTANDING TO EXPLORE HARMONIZATION ISSUES OF CONCERN TO GROWERS ACROSS THE COUNTRY. IN MARCH, USDA WILL CONVENE A GROUP OF CANADIAN AND U.S. REGULATORY OFFICIALS AND SEVERAL CEO'S OF CROP PROTECTION COMPANIES TO EXPLORE THE ISSUES OF CONCERN. I URGE YOU TO MONITOR DEVELOPMENTS IN THESE TALKS.
- DESPITE THESE NEW DEVELOPMENTS IN HARMONIZATION, WE FEAR THAT THE AVAILABILITY AND COST ISSUE MAY WORSEN BECAUSE OF THE CURRENT, UNCLEAR WAY IN WHICH EPA IS IMPLEMENTING FQPA. .

**HOW INDUSTRY, NORTH DAKOTA AND NORTH DAKOTA FARMERS CAN
WORK TOGETHER : HELPFUL SUGGESTIONS**

**VIA AN OFFICIAL STATE RESOLUTION OR PROCLAMATION,
EMPHASIZE TO CONGRESS, THE WHITE HOUSE AND EPA THE NEED FOR
PREDICTABLE, SCIENCE-BASED IMPLEMENTATION OF FQPA**

MICHIGAN, IDAHO AND PENNSYLVANIA BECAUSE OF GRASSROOTS
PRESSURE FROM GROWERS AND AGRIBUSINESS HAVE ADOPTED SUCH
FQPA RESOLUTIONS. ALSO, THE NATIONAL GOVERNORS ASSOCIATION
AND THE NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF
AGRICULTURE HAVE PASSED SIMILAR POLICY POSITIONS ON FQPA.

CURRENTLY, KANSAS, OHIO, WYOMING, NORTH CAROLINA AND GEORGIA
ARE CONSIDERING FQPA RESOLUTIONS, AND ACTIVITY IS UNDERWAY IN
NEW YORK AND FLORIDA TO SECURE GUBERNATORIAL FQPA MESSAGES..
I WOULD BE PLEASED TO PROVIDE THE COMMITTEE WITH A MODEL
DRAFT RESOLUTION ON FQPA FOR YOUR CONSIDERATION.

WASHINGTON AND CALIFORNIA HAVE HOSTED FQPA "GROWER
CONCERN" MEETINGS FOR TOP EPA OFFICIALS AND THEIR U.S.
REPRESENTATIVES (THE ENTIRE STATE DELEGATION ATTENDED THE
WASHINGTON MEETING!), AT WHICH POTENTIAL FQPA-CRISES OF
PRODUCT AVAILABILITY WERE AIRED..

WHEN STATE AFTER STATE--ESPECIALLY STRONG AG STATES—SEND
SUCH CLEAR FQPA CONCERN SIGNALS TO WASHINGTON, WE KNOW THOSE

INSIDE THE BELTWAY LISTEN. IN 1995, FOR INSTANCE, YOU WILL RECALL
THAT THE UNFUNDED MANDATES ACT PASSED CONGRESS RECEIVED
SEVERAL STATE RESOLUTIONS AND OTHER COMMUNICATIONS OPPOSING
THE PASSING ON TO THE STATES OF FEDERAL GOVERNANCE COSTS.

**WORK WITH REGULATORS, YOUR STATE CONGRESSIONAL
DELEGATION AND THE INDUSTRY FOR FASTER HARMONIZATION.**

THANK YOU FOR THE OPPORTUNITY TO COMMENT ON THE LEGISLATIVE
PROPOSALS BEFORE YOU TODAY. I WOULD BE PLEASED TO ANSWER ANY
QUESTIONS YOU MAY HAVE.

House Bill 1252
North Dakota House of Representatives
Agriculture Committee
January 21, 1999

Chairman Nicholas and members of the House Agriculture Committee. My name is Gary Knutson. I serve as Executive Director of the North Dakota Agricultural Association. Our membership includes over 400 retailers, distributors, manufacturers and individual service providers of seed, fertilizers, crop protection products and equipment for farmers. Our members play an important role in our rural and state economies. Many dealerships and agricultural service centers are leading employers in our communities. We appreciate the direct correlation between a healthy farm community and success for our businesses.

We have concerns with the adverse impact of the proposed legislation^a will have on agribusiness throughout North Dakota. Current federal law prohibits retailers from selling and applying products which are not registered for use in the United States by the Environmental Protection Agency. This will place our members at a disadvantage.

It is the position of the North Dakota Agricultural Association that if the United States and Canadian crop protection product national registration requirements and registration approval timelines were similar, market demand would allow farmers similar product choices and product pricing on both sides of the national border.

We have asked Mr. Ab Basu with the American Crop Protection Association in Washington DC to provide you information on the status of Harmonizing crop protection product registration procedures with Canada, the impact of re-registering of existing products required in the US by the Food Quality Protection Act and any other information you may wish to have to create informed legislation.




OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

COPY

MEMORANDUM

Heidi Heitkamp
ATTORNEY GENERAL

TO: Representative Rick Berg
CC: Beth Baumstark, Division Director
Charles Carvell, Division Director
Roger Johnson, Agriculture Commissioner
Barry Coleman, Dept. of Agriculture
FROM: Paul C. Germolus, Assistant Attorney General 
DATE: January 25, 1999
RE: House Bill 1252
Canadian Agricultural Chemicals

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600 E. Boulevard Ave.
Bismarck, ND 58505-0040
701-328-2210
FAX 701-328-2226

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Gaming Division
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Licensing Section
701-328-2329
FAX 701-328-3535

House Bill 1252, if passed, would allow any agricultural chemical approved for use and registered in Canada to be offered for sale in North Dakota. You have asked this office for an opinion on whether such a bill would be permissible under Federal Law and what implications this may have on North Dakota farmers.

CAPITOL COMPLEX
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900 E. Boulevard Ave.
Bismarck, ND 58505-0041
FAX 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

Bureau of Criminal
Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
800-472-2185
Toll Free in North Dakota
FAX 701-328-5510

Fire Marshal
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5555
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Fargo Office
P.O. Box 2665
Fargo, ND 58108-2665
701-239-7126
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The registration and use of pesticides in the United States is governed by the Federal Insecticide, Fungicide, and Rodenticide Act of 1996. Pub.L. 104-170, 7 USC §136 (hereafter "FIFRA"). Under FIFRA, Congress established a comprehensive scheme for registration and regulation of pesticides, the purpose of which is "to protect man and his environment." See Merrell v. Thomas, 608 F.Supp. 644 (D.Or. 1985), aff'd. 807 F.2d 776, (9th Cir. 1986).

FIFRA permits states to regulate Federally registered pesticides if their regulation does not permit a sale or use prohibited by federal law. States are permitted to enact more stringent pesticide regulations if such regulations do not conflict with Federal law. Federal law would preempt any state or local regulation in conflict with FIFRA. See Central Main Power Co. v. Town of Lebanon, 571 A.2d 1189 (1990).

FIFRA provides that, with certain exceptions, no person in any state may distribute or sell any pesticide that is not registered by the EPA. 7 USCA § 136a. Exceptions are provided for registration of pesticides for experimental use and emergencies. §§ 136 c and p. The registration requirements apply regardless of whether a chemical is classified as "restricted use" or "general use". The purpose of Federal registration is to keep products off the market until after their safety has been tested and also to place the burden of demonstrating their safety on industry

rather than government. See Continental Chemiste Corp. v. Ruckelshaus, 461 F.2d 331(7th Cir. 1972).

EPA registration of pesticides under FIFRA generally precludes imposition of liability for actions such as CERCLA, negligence, strict liability, and breach of warranty. Consequently, the reverse would also be true. Farmers using pesticides not registered under FIFRA may face certain liability since no determination was made by the EPA that such pesticide was not unreasonably risky to humans or dangerous to the environment. See Redwing Carriers, Inc. v. Saraland Apartments, Ltd., 875 F.Supp. 1545 (S.D. Ala. 1995) aff'd in part, rev'd in part, 94 F.3d 1489 (11th Cir. 1996); Little v. Dow Chemical Co., Inc., 559 N.Y.S.2d 788, (N.Y. Supp. 1990).

Federal law makes it unlawful for any person to distribute, sell, or use any pesticide that is not registered under FIFRA. Whenever any pesticide is found to be in violation of FIFRA, the EPA may issue stop sale orders, seize such pesticides, and dispose of such pesticides after condemnation. Persons violating FIFRA may be held both civilly and criminally liable. Civil penalties range from \$1,000.00 to \$5,000.00. Criminal penalties range from \$1,000.00 to \$50,000.00, and may carry imprisonment for a period of thirty days to one year depending on the category of the person violating FIFRA.

House Bill 1252 seeks to allow use of agricultural chemicals that have been registered in Canada, but may not have been registered in the United States. Such action would be in direct conflict with federal law and is therefore preempted. See U.S. Const. Art. VI, cl.2. If HB 1252 should become law and a N.D. farmer used a pesticide unapproved under FIFRA, he faces civil fines, criminal fines, imprisonment, tort liability, and EPA's seizure of the pesticides.

PCG/djc

e:\nr\germolus\pesticid\memo.reprickberg.doc

John M. Olson
Attorney

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ATTORNEYS

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March 17, 1999

SENATE AGRICULTURE COMMITTEE

HB 1252

CHAIRMAN TERRY M. WANZEK AND COMMITTEE MEMBERS:

My name is John M. Olson and I represent the American Crop Protection Association. Our association opposes this bill for the following reasons:

1. **The use and distribution of pesticides not registered by the U.S. government, or registered for different purposes, will expose farmers and distributors to direct liability for violations of federal pesticides and food protection laws, as well as to private tort actions.**
 - The Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"). 7 U.S.C. § 136, prohibits the distribution, sale or use of any pesticide not registered by the United States Environmental Protection Agency ("EPA"). Farmers found to be violating FIFRA by using unregistered pesticides are subject to civil and criminal liability. Civil penalties for sale and distribution of unregistered pesticides may run as high as \$5,000 for each offense. Criminal penalties for wholesalers, dealers, retailers and other distributors include fines up to \$25,000, imprisonment for up to one year, or both. Seizure of unregistered pesticides is also authorized by FIFRA.
 - Food or feed crops with residues from unregistered pesticides are considered adulterated under the Federal Food, Drug and Cosmetic Act ("FFDCA"), 21 U.S.C. § 342. Tolerances for pesticide residues are typically set when a pesticide is registered under FIFRA. Adulterated foods may be seized, and civil and criminal penalties imposed for the sale of adulterated food.
 - The federal laws regulating pesticides and pesticide residues on food generally limit the liability of pesticide users and distributors against claims of personal injury or property damage arising out of the use of registered pesticides in accordance with the EPA-approved label. The sale and use of unregistered pesticides would expose farmers, neighbors or consumers who claim harm from contact with unregistered pesticides or foods on which unregistered pesticides may have been used.

Additionally, farmers and distributors would no longer be shielded from the harshest effects of lawsuits by the “deep pockets” of the pesticide registrants.

2. HB 1252 violates the Supremacy Clause of the United States Constitution.

The Supremacy Clause of the United States Constitution provides that the law of the United States “shall be the supreme Law of the Land . . .” U.S. Constitution article VI, cl. 2. The United States Supreme Court has held that preemption occurs when Congress has passed a federal law, such as FIFRA, that expresses a clear intent to preempt state law. *Louisiana Public Service Commission v. F.C.C.*, 476 U.S. 355, 368 (1986). FIFRA comprehensively regulates both the interstate and the intrastate sale and use of pesticides. While a state may pass laws more strictly regulating the sale and use of pesticides, it may not allow activities strictly prohibited by FIFRA, HB 1252, which allows for the sale and use of pesticides not registered under FIFRA, would be in violation of the Supremacy Clause, and would not withstand judicial review.

3. HB 1252 violates the Constitution’s Commerce Clause.

In addition to violating the Supremacy clause of the U.S. Constitution, passage of HB 1252 would also violate the Interstate Commerce clause, which prohibits a state from passing laws that discriminate against interstate commerce. HB 1252 does this by allowing the sale of pesticides in North Dakota at a lower price than allowed by other states, thereby discriminating against out-of-state pesticide suppliers and farmers to benefit local economic interests, the farmers of North Dakota. HB 1252 would similarly infringe upon Congress’ exclusive power to regulate foreign commerce, which is also granted by the Constitution’s Commerce Clause.

4. Higher prices of U.S.-registered pesticides include costs of meeting U.S. safety standards and differing patent protection periods.

Pesticides must undergo rigorous testing as part of the FIFRA registration process. The standards for establishing and maintaining tolerances for food and use pesticides under the FFDCA have been significantly tightened as a result of the Food Quality Protection Act of 1996. Costs of registration, re-registration and tolerances influence the price that is charged for EPA-registered products. Prices of pesticides that retain patent protection in the U.S. also tend to be higher in order to permit the original manufacturers to recoup a portion of their research and development costs.

5. The sale of Canadian products could violate U.S. patent laws.

The United States patent system provides a limited monopoly for inventors in order to encourage the invention of new products and processes, including pesticides, by allowing the inventor to recoup the cost of invention through a period of exclusive sale. Under this system was manufacturer of a new product has the exclusive right to sell its invention for 20 years before the invention becomes public property, and available for sale by others. This system was established by the Constitution, and administered and enforced by the federal government. The sale of Canadian pesticides manufactured by a company other than that the holder of the U.S. patent would violate federal patent laws, and possibly result in an injunction against such sales, as well as civil penalties for the seller.

Thank you for your consideration.

COMMISSIONER OF AGRICULTURE
ROGER JOHNSON



PHONE (701) 328-2231
(800) 242-7535
FAX (701) 328-4567

House Bill 1252
18 March 1999
9:00 AM
Roosevelt Park Room
Roger Johnson

Testimony before the Senate Agriculture Committee

Chairman Wanzek and members of the Senate Agriculture Committee, I am Roger Johnson, Commissioner of the North Dakota Department of Agriculture. I am here to testify on House Bill 1252.

Differential access to agricultural chemical products by our producers compared to Canadian producers and differential pricing of agricultural chemicals between Canada and North Dakota are competitive realities that our producers face. Our producers often come out on the short end of the stick. House Bill 1252 is a reflection of this situation.

Unfortunately, HB 1252 is in conflict with federal law. The Environmental Protection Agency, in a letter (copy attached) from Kerrigan Clough, has made it clear that distribution of federally unregistered pesticides is illegal under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Secondly, the North Dakota Agriculture Department has been delegated primary enforcement responsibility for pesticide use violations by the EPA. This responsibility could be lost if this bill became law and regulatory enforcement activities would revert to the federal government. This would include enforcement responsibilities for section 18 exemptions and special local need registrations. Do we really want EPA to assume primary enforcement activities rather than have the agriculture department work with dealers, applicators and farmers to ensure compliance with pesticide regulations?

Pesticide registration harmonization is an important process that is urgently needed to reduce inequities of pesticide availability and pricing. House Concurrent Resolutions 3014, 3029 and 3035 all recognize the competitive disadvantage faced by North Dakota producers because of agricultural chemical products that are legal in Canada but not in the United States. The latter two resolutions support the goal of accelerating pesticide registration harmonization processes between the two countries. These efforts should be vigorously promoted to level the playing field between North Dakota and Canadian producers.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 8

999 18TH STREET - SUITE 500

DENVER, CO 80202-2466

MAR - 8 1999

Ref: 8P-P3T

Roger Johnson, Commissioner
North Dakota Department of Agriculture
State Capitol
600 E. Boulevard
Bismarck, North Dakota 58505

Dear Commissioner Johnson:

We have become aware that North Dakota House Bill 1252 has passed the House and is now in the Senate for consideration. EPA has serious concerns with this legislation. This bill, if enacted into law, would place North Dakota State law in conflict with the current Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) in several ways. First, FIFRA Sections 3 and 12 make it unlawful to distribute a federally unregistered pesticide. The North Dakota bill would sanction the distribution of federally unregistered pesticides and thus would create a conflict between Federal and State law. It would set up situations where pesticide dealers and distributors would be in compliance with State law, yet be in violation of Federal law, resulting in possible Federal prosecution. We doubt that the Legislature intends to place North Dakota businesses who sell pesticides in good faith into a situation of being in violation of Federal law.

Second, FIFRA Section 24(a) states that, "A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this subchapter." House Bill 1252 conflicts with FIFRA, in that it allows the sale and distribution of pesticides that are not registered in the U.S. by permitting any agricultural chemical approved for use and registered in Canada to be offered for sale and sold in North Dakota. EPA, in cooperation with the U.S. Customs Service, will not allow the importation of unregistered pesticides into the United States.

Third, North Dakota has been delegated primary enforcement responsibility for pesticide use violations under Section 26 of FIFRA. The State pesticide use enforcement program would be jeopardized by the enactment of a law that is not "adequate" according to FIFRA Section 26(a)(1) in that the State law would permit distribution of pesticides prohibited by Federal law. This could result in EPA being required to take action under FIFRA Section 27(b) to notify the State of the inadequacy of its program, triggering a 90-day period in which deficiencies would



2

have to be addressed in order for the State to retain primary enforcement responsibility for pesticide use violations. The State Agriculture Department does a fine job of regulating pesticides in North Dakota and providing compliance assistance to pesticide dealers, distributors, and farmers. We believe strongly that the State should continue as the lead regulatory agency with EPA as the back-up. House Bill 1252 could cause a reversal in this approach.

Lastly, I want to acknowledge the very real regulatory and economic difficulties faced by North Dakota's farmers with United States and Canadian pesticide regulations frequently being in conflict with each other. We are working with our counterparts in the Canadian government to harmonize the regulations and pesticide registrations. It is not easy; there are literally thousands of registrations that must be addressed. We would be glad to provide you, and the North Dakota farmers, more specific information on our harmonization efforts if you think that would be useful.

Further, I will attend an EPA national meeting in Atlanta later this month with the senior management of the EPA pesticides program and will press for a more focused, active attention to the harmonization issue. I will report results back to you.

If you need any further information, please call me at 303.312.6241.

Sincerely,



Kerrigan G. Clough
Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

**STATEMENT BY THE AMERICAN CROP PROTECTION ASSOCIATION
BEFORE THE NORTH DAKOTA SENATE
COMMITTEE ON AGRICULTURE**

IN OPPOSITION TO H.B.1252

MARCH 18, 1999

Mr. Chairman, Ladies and Gentlemen of the Committee:

Thank you for allowing me to testify on the bill before you this morning: H.B.1252. I am Ab Basu, Manager for State and Regional Affairs for the American Crop Protection Association. We are a national trade association, based in Washington, D.C., that represents virtually all of the manufacturers, formulators and distributors of crop protection products within the United States.

There are a variety of very significant reasons why you should vote against passage of this bill, which we have summarized in the following points:

House Bill (H.B.) 1252 would allow North Dakota farmers to use pesticides labeled for use in Canada and force agricultural chemical manufacturers to sell their products at the same price to North Dakota retailers as to Canadian retailers. If enacted, this bill would reduce competition, subject North Dakota farmers and retailers to federal penalties, and, in the end, hurt North Dakota farmers. **House Concurrent Resolution (H.C.R.) 3035** and **H.C.R. 3030** offer better long-term solutions for the product availability issue through urging greater efforts to harmonize U.S. and Canadian registration requirements and a fair, sound-science implementation of the Federal Food Quality Protection Act (FQPA).

H.B. 1252 Does Not Provide A Solution to the Real Issues:

- Agricultural chemicals manufacturers recognize the concerns among some North Dakota growers regarding the availability and cost of agricultural chemicals on crops grown in both countries. Two policy areas must be addressed:
 1. ***Harmonization of pesticide registration requirements between U.S. and Canada:***
 - Since 1993, U.S. EPA and its northern counterpart, the Canadian Pest Management Regulatory Agency, have been working to harmonize regulatory requirements and review processes for pesticides. While these agencies are working together on pilot projects for joint review of pesticides, the pace towards harmonization is far too slow.
 - If pesticide product testing were harmonized, the agricultural chemicals manufacturers believe this would enable farmers to have similar product choices on both sides of the national border.
 - The 56th North Dakota Legislative Assembly is urged to strongly endorse H.C.R. 3035 to send a strong message to Congress, the White House, and U.S. EPA to increase resources for and efforts to harmonize pesticide registration requirements between the two countries.

2. Implementation of FQPA threatens many pesticide registrations:

- In the current economic difficulties, North Dakota farmers cannot afford any unnecessary threats to their crops through loss of proven pest control tools. Federal EPA's implementation of FQPA has taken a "rush to judgement" approach through the use of overly conservative assumptions rather than allowing adequate time to develop the best scientific methodology and data to evaluate pesticide uses.
- Two important classes of insecticides, organophosphates and carbamates, are currently at risk. These products are crucial to Integrated Pest Management programs and are the only insecticides available for key North Dakota crops such as barley, canola, oats, and rye. The evaluation of these insecticides will set the precedent for many vital products in the farmer's crop protection arsenal.
- EPA's focus on reassessment of current products has resulted in a dramatic slow-down in registrations of new products and emergency exemptions that are critical to many North Dakota crops.
- The 56th North Dakota Legislative Assembly is urged to strongly endorse **H.C.R. 3030** to send a strong message to Congress, the White House, and U.S. EPA to implement FQPA in a fair, sound-science manner to avoid serious economic losses to farmers due to lower crop yields.

H.B. 1252 Directly Conflicts with Federal Law:

- The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and state law govern the registration and use of pesticides in the United States. Federal law preempts any state or local regulation in conflict with FIFRA. FIFRA provides that, with certain exceptions, no person in any state may distribute or sell any pesticide that is not registered by the EPA. Canadian products brought into North Dakota, under H.B. 1252, will not be registered by EPA.

Farmers using these unregistered agricultural chemicals face criminal and civil liability. According to Paul C. Germolus, Assistant Attorney General for the State of North Dakota, "If HB 1252 should become law and a N.D. farmer used a pesticide unapproved under FIFRA, he faces civil fines, criminal fines, imprisonment, tort liability, and EPA's seizure of the pesticides." He also wrote that, "Civil penalties range from \$1000.00 to \$5000.00. Criminal penalties range from \$1000.00 to \$50,000.00, and may carry imprisonment for a period of thirty days to one year depending on the category of the person violating FIFRA."

H.B. 1252 Will Negatively Impact Agricultural Retailers

- Allowing Canadian labeled agricultural chemicals to be used by North Dakota farmers puts the state's agricultural chemical retailers in a precarious position. If they attempt to sell the Canadian labeled product to maintain their farmer-customer's business, they will be subject to federal civil and criminal penalties. If North Dakota agricultural retailers choose not to sell these products, they would face significant losses in business activity.
- In many smaller towns, the agricultural chemical retailer can be the major employer. Agricultural chemical retailers are negatively impacted by the downturn in the agricultural economy. H.B. 1252 would only serve to exacerbate these businesses' current difficulties.

H.B. 1252 Creates an Unwieldy Government Bureaucracy:

Pricing legislation inevitably creates a new bureaucracy and imposes new regulatory and legal costs. The

Testimony
House Bill 1252

North Dakota
Fifty-Sixth Legislative Assembly
Senate Agriculture Committee
March 18, 1999
Mr. Terry Wanzek, Chairman

Chairman Wanzek and members of the Senate Agriculture Committee. My name is Gary Knutson. I serve as Executive Director of the North Dakota Agricultural Association. Our membership includes over 400 dealers, distributors, manufacturers and individual service providers of seed, fertilizers, crop protection products and crop production equipment for farmers. Our members play a critical role in our rural state economy. Our dealerships and agricultural service centers are leading employers in our local communities. We very much understand the direct correlation between a healthy farm economy and success for our businesses. We deeply appreciate the concerns expressed in this legislative session for improvement in the economic climate of North Dakota agriculture.

We oppose H.B. 1252 however, because we have concerns with the likely adverse impact the proposed legislation will have on agribusiness throughout North Dakota. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and state law control the product registration and use of pesticides in this country. Federal law preempts a state or local regulation in conflict with FIFRA. Dealers may not distribute or sell any pesticide that is not registered by EPA. If the legislation were to pass, our dealers would face significant losses of business activity should farmer customers attempt to purchase and use Canadian labeled products from outside sources. Allowing Canadian labeled agricultural chemicals to be used by North Dakota farmers would place our dealers in a precarious position. They would be subject to civil and criminal penalties if they attempted to distribute Canadian labeled products and in not doing so, they likely face important business activity losses.

As we indicated in prior testimony as dealers and industry, it is the position of NDAA to support harmonization of crop protection product registration requirements between the United States and Canada. We are offering our support for House concurrent resolution 3035 which addresses the issue of harmonization directly.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

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TESTIMONY ON HB 1252 - MARCH 18, 1999
NORTH DAKOTA SENATE AG COMMITTEE, TERRY WANZEK, CHMN

The North Dakota Grain Dealers Association supports chemical harmonization between the United State and Canada. We testified in favor of HCR 3014 in both houses for that reason. Those of us who favor cross-border harmonization of chemical registration and use find HB 1252 very tempting. This bill has attracted lots of attention, including that of federal agencies with an interest. Good. Those agencies need to pick up the pace on re-registering chemicals and harmonization.

However, enactment of this bill raises some yellow flags, and maybe some red ones, in our opinion. As much as we might dislike it, these federal agencies still rule the roost on chemical use. Sale and/or use of products not approved by those agencies have the potential of getting some people in some very hot water. Farmers and grain handlers could be caught up in this. Detection of illegal residues could spoil a bin, a carload, or a whole trainload of grain. This could call more attention and scrutiny to ourselves than we'd like to deal with. Even our state government could face potential liability on this matter

1 million canola acres in ND

**US-CANADA RECORD OF UNDERSTANDING
STATUS OF ACTIVITIES
3/11/99**

1. *Acceleration of Harmonization Activities:*

- Reference Joint Registrations: February joint registration of Distinct (diflufenzopyr)-herbicide for field corn and the imminent registration of (Elevate) fenhexamid--fungicide for grapes, strawberries, and ornamentals.
- Working with commodity groups and industry to identify priorities and coordinate work (e.g., Summit Meeting).

2. *EPA and PMRA Cooperation Regarding FQPA:*

- Routine sharing of information about FQPA w/Canada (Canadian representation at TRAC advisory committee meetings).

3. *Treated Seed Policy:*

- EPA and PMRA established a working group to develop a harmonized policy in December 98. The group has held several conference calls and has compared existing regulations in the 2 countries.
- Public consultation will be considered in May in conjunction with the Summit Meeting.

4. *Improved Links with State/Provincial/Territorial Officials:*

- Invitations to the May TWG Public Meeting will be sent to state/provincial representatives.
- EPA routinely holds meetings with state pesticide officials to exchange information (SFIREG/AAPCO).

5. *Actions to Cancel Lindane/Canola in Canada:*

- Voluntary removal of lindane on canola/rapeseed labels (for seed treatment) by December 31, 1999. Existing stocks to used by July 1, 2001.
- EPA and PMRA working with Canola Growers in identifying alternatives.

6. *Status of the 6 Canola Pesticides*

- Azoxystrobin - March 5 registration
- Glyphosate - March 30
- Gluphosinate-amonium - June 30
- Tebufenozide - June 30
- Bifenthrin - September 30
- Ethametsulfuron-methyl - Will not be registered because of data

gaps. The registrant is not willing to conduct additional tests. Official denial is anticipated by May 1.

7. *Canola Strategy:*

- EPA and PMRA developing a canola strategy in coordination with the Canola growers and registrants. EPA met with Canola growers to identify their needs and to prioritize work on alternatives.
- NAFTA TWG project on IPM for canola.
- Canola Matrix for the Summit Meeting.

8. *Dry beans/Lentils/Flax:*

- EPA has received a comparison matrix from growers and will address these commodities after prioritizing work for canola, wheat, and barley.

9. *Summit Meeting:*

- Planned date is May 6, 1999. Discussions will be focused on industry and grower participation in the TWG activities.

10. *Study on Price Differentials:*

- USDA??

NAFTA TECHNICAL WORKING GROUP ON PESTICIDES

Background

Cooperative US/Canada bilateral efforts on pesticides regulatory harmonization were expanded in 1996 to include Mexico through the NAFTA Technical Working Group (TWG) on Pesticides. The goal of the NAFTA TWG is to develop a coordinated pesticides regulatory framework among NAFTA partners to address trade irritants, build national regulatory/scientific capacity, share the review burden, and coordinate scientific and regulatory decisions on pesticides.

This work has already begun to pay dividends by addressing specific trade irritants, often caused by national differences in Maximum Residue Limits (MRLs or tolerances), developing a better understanding of each regulatory agency's assessment practices, working to harmonize each country's procedures and requirements, and encouraging pesticide registrants (product owners) to make coordinated data submissions to the three NAFTA countries. NAFTA TWG partners include the Canadian Pest Management Regulatory Agency (PMRA), a consortium of Mexican agencies (CICOPLAFEST) responsible for pesticide regulation, and the US EPA Office of Pesticide Programs (OPP).

In November 1998, a document entitled *A North American Initiative for Pesticides: Operation of the NAFTA Technical Working Group on Pesticides* was issued. This document provides the conceptual framework for the work under way in the NAFTA TWG and may also be used as a tool by governments to help:

- ▶ make decisions concerning the relative priority of projects;
- ▶ ensure that the activities of government, industry and others are coordinated and are effectively contributing to the stated goals.

This proposed framework will evolve as a result of the ongoing review of the progress of the work of the NAFTA TWG.

The NAFTA TWG has established Technical Subcommittees in four key areas; these subcommittees provide opportunity for stakeholder involvement in the development and implementation of specific projects:

- 1) *Joint Review of Pesticides*: develops compatible review programs to facilitate routine sharing of the work of pesticide regulation
- 2) *Food Residues*: entails work that will create a process for establishing North American MRLs or tolerances for pesticide residues on foods, thereby helping to reduce agricultural impediments to trade
- 3) *Risk Reduction*: coordinates work on alternative approaches to pest management, including facilitating access to biopesticides and supporting integrated pest management
- 4) *Regulatory Capacity Building*: includes a diverse range of projects which contribute to the infrastructure necessary to achieve work sharing as the way to do business and

create a North American market for pesticides

In June 1997 the NAFTA Industry Technical Working Group on Pesticides was established. The Working Group includes representatives of the three national pesticide associations (CPI, Canada; ACPA, USA; and AMIFAC, Mexico) and is the principal liaison with the NAFTA TWG.

The NAFTA Executive Board meets twice annually and the full NAFTA TWG once a year; detailed progress/status reports are published every six months. The most recent report was published in November 1998. These reports are available on the Internet, along with detailed project sheets and work plans. The US EPA site is:

<http://www.epa.gov/oppfead1/international/naftatwg>, while the PMRA site is <http://www.hc-sc.gc.ca/pmra-arla> under "international activities".

The next session of the full NAFTA TWG is scheduled for May 25-26, 1999 in San Antonio Texas.

Highlights of the Activities/Achievements of the NAFTA TWG on Pesticides

Food Residues Subcommittee

- ◆ In February 1999, the Subcommittee issued its annual call for the identification of NAFTA Category A pesticide trade irritants (those where compliance violations have been reported) in conjunction with the publication of a revised version of "*Procedures for the Identification and Resolution of NAFTA Pesticide Trade Irritants*".
- ◆ The PMRA and EPA have agreed on a common approach to the use of probabilistic assessment methodology for acute dietary risk assessment.
- ◆ Residue zone maps established for Canada and the US are being expanded to include Mexico. These scientifically defined common crop zones will facilitate the development of residue data.
- ◆ Residue chemistry data requirements have been harmonized between Canada and the US. In June 1998, Canada published the *Residue Chemistry Guidelines (Regulatory Directive 98-02)* which provides details on the information required for the evaluation and assessment of pesticide residues in foods.
- ◆ In October 1998, at the US Department of Agriculture Interregional 4 (IR-4) Planning Meeting, Canada and the US selected five pesticide/crop combinations as joint minor use projects for the 1999 field season. These include tebuconazole on green onions, pirimicarb on celery, pyridaben on cherries and azoxystrobin on broccoli and cabbage.

Joint Review of Chemical Pesticides Subcommittee

- ◆ Based on experiences gained through the implementation of the joint review process, the Joint Review Subcommittee published "*Revised Procedures for Joint Review*" in January 1998.

- ◆ The first joint review, for the compound **cyprodinil** (Vanguard), was completed in April 1998. Cyprodinil is a fungicide developed by Novartis for use on fruit and nut crops.
- ◆ The second joint review, **diflufenzopyr** (Distinct, BASF) a herbicide developed for use on corn, was completed in January 1999.
- ◆ A final decision is pending for the third joint review, **fenhexamid** (Elevate, Tomen/Bayer) a fungicide for control of grey mold on grapes, strawberries and ornamentals.
- ◆ Progress has also been demonstrated through work sharing activities:
 - ▶ a final decision is pending for **sulfosulfuron** a herbicide for use in wheat (Monsanto). This is the first chemical jointly reviewed on an international basis with Canada, the United States, Australia and the European Union (with Ireland as competent authority).
 - ▶ two other compounds, **Helix** and **Zoximide** are under review. Helix (Novartis) is an insecticide to be used as a seed treatment, and for ornamental, turf and greenhouse applications. Zoximide (Rohm and Haas) is a fungicide for use on potatoes and grapes.
- ◆ The process of cooperative reevaluation of older organophosphate and carbamate insecticides has led to an agreement to share information on the associated tolerance reassessment process to minimize trade problems.

Regulatory Capacity Building Subcommittee

- ◆ Efforts to harmonize environmental fate and toxicology protocols are nearing completion. Work remains to be done in the areas of non-target plant testing, and terrestrial field dissipation study protocols. Implementation of harmonized protocols will facilitate work sharing activities.
- ◆ A prototype of a Canada-US map of ecoregions for terrestrial field studies has been completed. The use of such a map will lead to reduced data development costs.
- ◆ Evaluators at the PMRA are in the process of assessing a pilot electronic submission, comparing three different electronic formats – CADDY, PDF and web-based.
- ◆ The first complete versions of the OECD Guidance documents for the preparation of industry data submissions and country data reviews will be released in early 1999.
- ◆ A harmonised (US EPA - California EPA - PMRA) guideline document *Post application Exposure Monitoring Guidelines (Pro 98-04)* was released for comment in September 1998. The purpose of the document is to provide harmonised guidance in designing and implementing studies required to assess postapplication exposure.

- ◆ The redesign of the Pesticide Handlers and Exposure Database (PHED) has been completed. Release of the software is targeted for 1999.
- ◆ The Subcommittee has initiated a new project to formalize a process for exchanging information on formulants, and to develop a harmonized formulants policy.

Risk Reduction Subcommittee

- ◆ The Subcommittee has developed stakeholder projects to promote IPM strategies for canola and for cranberry production.
- ◆ Data requirements for pheromones (semiochemicals) have been harmonized between Canada and the US and work is also underway on microbials. This work will support that of the OECD Pesticide Forum in this area.
- ◆ Joint reviews of a pheromone and a microbial are underway.
- ◆ Draft guidelines for resistance management labelling have been developed.

NAFTA TECHNICAL WORKING GROUP ON PESTICIDES

A. PARTICIPATING ORGANIZATIONS:

U.S. Environmental Protection Agency, Office of Pesticide Programs (OPP)
Canadian Pest Management Regulatory Agency (PMRA)
Mexican CICOPLAFEST (consortium of Mexican pesticide regulatory agencies)

B. BRIEF PROJECT DESCRIPTION:

Goal: To develop a coordinated pesticides regulatory framework among NAFTA partners to address trade irritants, build national regulatory/scientific capacity, share the review burden, and coordinate scientific and regulatory decisions on pesticides.

Background: Cooperative U.S./Canada bilateral efforts on pesticides regulatory harmonization were expanded in 1996 to include Mexico through the NAFTA Technical Working Group (TWG) on Pesticides. This work has already begun to pay dividends by addressing specific trade irritants, often caused by national differences in Maximum Residue Limits (MRLs or tolerances), developing a better understanding of each regulatory agency's assessment practices, working to harmonize each country's procedures and requirements, and encouraging pesticide registrants (product owners) to make coordinated data submissions to the three NAFTA countries.

The three NAFTA countries implemented a new operational structure for the TWG and adopted Terms of Reference in June 1997. Technical subcommittees have been established in four key areas (joint review of chemical pesticides, food residues, risk reduction, and regulatory capacity building) and work plans for 28 projects completed in August 1997. These subcommittees manage the work of the TWG in accordance with priorities and directions established by the Executive Board of the NAFTA TWG and provide opportunities for stakeholder involvement in the development and implementation of specific projects.

C. HIGHLIGHTS OF 1998 ACHIEVEMENTS:

- ◆ Completed the first US-Canada joint review in April 1998 of cyprodinil (Vanguard), a fungicide developed by Novartis for fruit and nut crops
- ◆ Initiated two new joint reviews of conventional, chemical pesticides: BASF's diflufenzopyr (Distinct), an herbicide for use on corn; and Tomen/Bayer's fenhexamid (Elevate), a fungicide for control of Grey mold (*Botrytis cinera*) on grapes, strawberries and ornamentals
- ◆ Focused cooperative work to reevaluate and reregister older chemical pesticides on organophosphates, carbamates, and B2 carcinogens and agreed to share information on the associated tolerance reassessment process to minimize trade

problems

- ◆ Established an import tolerance for prometryn on carrots, a trade irritant identified by Canada.
- ◆ Developed clear categories of trade irritants and a procedure and priority scheme for their resolution
- ◆ Harmonized US/Canadian residue chemistry guidelines and Mexico advanced work on a NAFTA protocol for field trials
- ◆ Initiated review and work sharing on two new biopesticides (a biochemical and a microbial)
- ◆ Harmonized data requirements for biochemicals, supporting OECD Pesticide Forum work in this area
- ◆ Initiated a multi-stakeholder project to develop an Integrated Pest Management strategy for cranberries
- ◆ Completed a pesticide spray drift and deposit model which will enable regulatory agencies to more scientifically predict off-target movement of pesticides
- ◆ Tested a prototype ecoregion map that will lead to reduced data development costs for terrestrial field studies
- ◆ Initiated a new project to exchange information and develop a harmonized policy on formulants (other ingredients of pesticide products)

D. 1999 MEETING SCHEDULE

- The full TWG, which includes stakeholder participation, meets annually. The Executive Board meets formally two times per year.
- The TWG Executive Board will meet January 21-22 in Mexico City. The full TWG is scheduled for May 24-26 in San Antonio, Texas.

E. CONTACT:

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RECORD OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF CANADA AND THE UNITED STATES OF AMERICA REGARDING AREAS OF AGRICULTURAL TRADE

CANADA-U.S. ACTION PLAN REGARDING AREAS OF AGRICULTURAL TRADE

December 2, 1998 8:30pm

In the spirit of friendship and frankness that characterizes relations between our countries, the Governments of Canada and the United States of America have undertaken to discuss and resolve key issues in bilateral agricultural trade.

Recognizing that agricultural and agri-food products comprise an important component of our vibrant and mutually beneficial bilateral trading relationship, the Governments of Canada and the United States jointly reaffirm their commitment to maintaining an open and dynamic trading relationship in these products.

Canada and the United States affirm their commitment to market-oriented agricultural policies and ongoing efforts to promote more open and fairer trade in agricultural products. Canada and the United States further agree that actions that disrupt trade should be avoided and commit to address issues before they become problems as the preferred way of resolving bilateral trade differences.

Canada and the United States have agreed to work together to increase the broad dissemination of basic facts about our bilateral agricultural trade and its impact on our agricultural and agri-food industries, particularly in the grains and livestock/red meats sectors.

Canada and the United States also note the importance which our respective states and provinces attach to trade in agricultural products, and strongly support an increased dialogue on these issues at the state-province level.

Canada and the United States emphasize the importance of Chapter 7 of the North American Free Trade Agreement (NAFTA) on Agriculture and Sanitary and Phytosanitary Measures, and the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures, which require the application of objective, science-based criteria as the basis for sanitary and phytosanitary measures. Chapter 9 of the NAFTA on Standards-Related Measures and its associated annexes and the WTO Agreement on Technical Barriers to Trade govern the development and application of technical requirements by Canada and the United States .

We agree that inspections will be based on scientific and technical principles. We reject the unjustified use of these or other technical measures as barriers to legitimate trade.

The Canadian Minister of Agriculture and Agri-Food and the U.S. Secretary of Agriculture will meet at least annually to review the state of our bilateral agricultural trade, to address any problems that might arise, and to foster greater cooperation between the two countries on issues of common interest in other international fora. Sub-Cabinet level officials will meet at least twice per year to ensure that progress continues to be made on issues affecting access to each other's markets. Officials will meet within 30 days to continue discussions of the resolution of outstanding agricultural issues and review

progress of implementation of the agreement.

Canada and the United States agree to improve the management of bilateral agricultural trade relations by establishing a comprehensive early-warning and consultation process to resolve problems at an early stage in their development.

Canada and the United States encourage the private sector, through industry associations, to engage in a similar cross-border dialogue to increase our mutual understanding and our determination to resolve differences through consultation and discussion. For this purpose, Canada and the United States agree to urge industry to establish bilateral industry consultative mechanisms for grains, livestock and meats, and horticultural products.

Canada and the United States reiterate their strong commitment to resolving expeditiously any issues that might be brought to the attention of the respective governments in a way that is consistent with rights and obligations under the applicable international trade agreements. More specifically, Canada and the United States reaffirm their commitment as contained in international trade agreements to ensure that all necessary measures are taken to meet the obligations as contained in those agreements, including their observance by state and provincial governments.

The Governments of Canada and the United States have agreed to the attached comprehensive action plan, set forth in Annexes 1 to 17, aimed at facilitating and expanding Canada-U.S. bilateral trade in agriculture and agri-food products. The Annexes are an integral part of this Record of Understanding.

CANADA-U.S. ACTION PLAN REGARDING AREAS OF AGRICULTURAL TRADE

This action plan is designed to strengthen and expand Canada-U.S. agricultural trade relations. It consists of 17 annexes as follows:

1. Import of U.S. Slaughter Swine
2. Expansion of Northwest Cattle Project for Restricted Feeder Cattle
3. Animal Health Regionalization
4. Other Animal Health Issues
5. Exchange of Cattle Data
6. In-Transit Movement of Grain by Rail
7. Wheat Access Facilitation Program
8. Phytosanitary Requirements for the Importation of U.S. Wheat
9. Other Grain Related Issues
10. Seed Trade
11. Export Subsidies (Oats)
12. Veterinary Drugs
13. Pest Control Products
14. Horticulture
15. Joint Cooperation on Biotechnology
16. Labeling
17. Sugar-Containing Products

ANNEXES

1. Import of U.S. Swine for Immediate Slaughter

On December 3, 1998, Canada passed regulations that will allow U.S. slaughter swine to enter Canada from eligible states without the testing and quarantine restrictions that are applied to breeding animals. The regulations governing the import of U.S. slaughter swine are comprehensive. Importation under permit will be allowed to a previously approved plant. The animals must originate from states that have reached Stages IV or V under the U.S. Pseudorabies Eradication Program and travel to the Canadian plant along defined routes and within defined time frames.

2. Expansion of the Northwest Cattle Project for Restricted Feeder Cattle

The Canadian "restricted feeder" regulations (Northwest Cattle Project) were amended on August 7, 1998. "Restricted feeders" that originate from approved states may be exported to Canada during the fall and winter months without test. The imported animals are treated for anaplasmosis following their arrival and are then permitted to move without restriction. To qualify to export under the new regulations, states must be officially free of bovine brucellosis and tuberculosis and be classified by Canada as low risk for bluetongue. Feeder cattle have been entering Canada from Montana and Washington State under the provisions of the new regulations. States that meet the same criteria and whose cattle producers wish to export to Canada under the regulatory provisions for restricted feeders are encouraged to contact the Canadian Food Inspection Agency (CFIA). Under normal circumstances, CFIA will evaluate and approve states within 2 weeks of request, dependent on the adequacy of information provided.

Importation under permit is allowed only to previously approved premises. In the United States, the health certification of the animals and validation of their identification is completed by a U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS) accredited veterinarian; there is no USDA endorsement of the export certificate required.

If a country imposes new duties on cattle trade, the other country may re-balance commitments made under this section for the duration of the duty increase.

3. Animal Health Regionalization - Recognition of the Health Status of States/Zones

Canada has initiated a review of regulations governing the import of animals and their products, with a focus on the principles of zoning and regionalization. The process is scheduled for discussion at the Canadian Animal Health Consultative Committee meeting in December 1998. Both parties expect that Canada will publish a final regulation during the first quarter of 2001.

4. Other Animal Health Issues

Brucellosis and Tuberculosis (TB) Requirements

As part of the cooperative brucellosis program, some states have mandatory brucellosis vaccination requirements for cattle within the state or imported from other states or countries. Some states also have additional testing and/or certification requirements for a number of diseases beyond the U.S. federal import requirements. The following steps will be taken to address this issue:

- The U.S. Department of Agriculture will obtain an updated list of U.S. state vaccination and test requirements for brucellosis and TB for Canadian cattle by January 1999 and provide the list to the Canadian Food Inspection Agency.
- The United States will notify state veterinarians of Canada's animal health status no later than January 1999 and will work with states and industry to address

inconsistencies between U.S. state and federal requirements. Discussion between the USDA, state authorities, and industry will be scheduled during the October 1999 U.S. Animal Health Association Meetings at which time states will be given the opportunity to provide reports on actions to be taken to address these inconsistencies.

Equine Semen Imports

The United States requires an import permit and health certification for imports of equine semen from Canada. The United States agrees to initiate the regulatory process to change these regulations to eliminate the permit and certification requirements for equine semen imports from Canada and endeavor to implement a final rule eliminating these permit and certification requirements not later than January 2000.

Inspection of Live Horses

The United States currently has regulations requiring inspection at the border of all Canadian horses presented for permanent entry. Horses presented for temporary entry are not required to be inspected. The United States will initiate the regulatory process to eliminate the inspection requirement for all horses and implement a final rule eliminating this requirement by August 2000.

5. Exchange of Cattle Data

Canada and the United States will cooperate in the exchange of data on cattle trade and make publicly available a joint report within 30 days that will identify data currently available from each side; requests for additional data; and a proposal to address the needs for additional data. It is intended that the additional data will include the number of cattle on feed, cattle inventory and cattle slaughter.

6. In-Transit Movement of Grain by Rail

The Canadian Food Inspection Agency (CFIA) has developed an alternative certification program that will permit shipments of wheat, oats, barley, rye and/or triticale, excluding seed, to transit through Canada based on a certificate of origin in lieu of a phytosanitary certificate with mandatory sampling and testing. This will allow U.S. grain to be shipped on the Canadian rail system to final destinations in the United States. A certificate of origin from a state authorized under the program will be acceptable for grain if it meets all of the following conditions:

- * the grain originates in U.S. approved states;
- * the grain will transit through Canada only by rail (in sealed hopper cars);
- * the grain will return to the United States; and
- * the grain will not be unloaded in Canada.

The areas identified to participate in this program include the areas of Minnesota, Montana and North Dakota that are recognized free of Karnal bunt, wheat flag smut, and dwarf bunt. This program will become effective as soon as possible but no later than Jan. 1, 1999 for the states of Minnesota, Montana, and North Dakota. The program will be reviewed, in cooperation with the United States, six months after implementation with a view toward expanding the program to other interested states meeting the same program and science-based criteria as soon as possible.

7. Wheat Access Facilitation Program for Canadian Licensed Primary Elevators Handling U.S. Wheat

The program will improve access for U.S. farmers to primary elevators in Western Canada, while preserving the integrity of the Canadian grain quality control system. The program codifies the rules for handling of U.S. wheat by licensed Canadian primary elevators. It will enter into force on January 1, 1999.

The Canadian Grain Commission (CGC) is giving advanced authorization to handle imported wheat from the United States for those primary elevators that have indicated a desire to participate in the Wheat Access Facilitation Program. Currently, 4 grain companies have proposed a total of 27 facilities for the program, most of which are located within 60 miles of the Canada-U.S. border.

The program facilitates U.S. wheat being trucked and sold by or on behalf of U.S. producers to participating Canadian primary elevators for storage and forwarding to domestic markets or export locations. This program complements existing arrangements that facilitate the direct movement of U.S. wheat and barley to Canadian feedlots, feed mills and flour mills.

Canada and the United States will jointly publish a fact sheet by January 1, 1999, explaining the program and how producers can participate in the program.

Within six months of implementation, Canada, in cooperation with the United States, will examine how the program has functioned with a view toward ensuring that it is working effectively and identifying potential ways to streamline procedures including inspections. Within the twelve month initial phase of implementation, Canada, in cooperation with the United States, will review the program. The review will include the clarity of the information provided to U.S. and Canadian producers, the volume of shipments under the program, the effect of Canadian Customs procedures and CGC inspections, and comments from U.S. and Canadian producers and Canadian elevators. The twelve month review will also consider procedures under the program with a view to streamlining and reducing costs of the program within 30 days of conclusion of the twelve month review.

This program will not be extended to any state that fails to exempt Canadian grain from state research and promotion check-off programs in a manner equivalent to that granted to grain from other sources.

8. Phytosanitary requirements for the importation of U.S. wheat and other cereals into Canada

Wheat Access Facilitation Program - Phytosanitary Requirements:

A procedure has been developed with the cooperation of the Canadian Food Inspection Agency (CFIA) and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS) that will reduce the amount of sampling and testing required for U.S. growers participating in the Wheat Access Facilitation Program.

Individual participants (growers) may ship wheat under a "Master Phytosanitary Certificate" without the requirement to have each individual shipment tested. Wheat must originate from an approved grower in states eligible under the program, and at least one sample per grower, per crop, must be officially tested and found free of Karnal bunt spores. The Master Phytosanitary Certificate must additionally satisfy requirements for dwarf bunt and flag smut based on area freedom or official testing as appropriate.

This program will be implemented for North Dakota and Montana by January 1, 1999. The program will be reviewed, in cooperation with the United States, six months after implementation with a view toward expanding the program to other interested states meeting the same program and science-based criteria as soon as possible.

Karnal Bunt

Following the recent review of U.S. National Karnal Bunt Survey data and the confirmation that no spores of Karnal bunt were found in the non-infested states, CFIA has worked with USDA-APHIS to develop a certification program that permits wheat to be imported into Canada without the current requirement for testing. Under this program, wheat from approved states will be accompanied by a phytosanitary certificate that certifies that the grain is produced in and shipped from a state that has been officially surveyed and found free from Karnal bunt.

Following discussion with USDA-APHIS to address concerns with the domestic movement of grain from the infested areas, Canada will be prepared to implement the above-mentioned program in a progressive, risk based approach, as follows:

- after 3 years of national surveys, the states of MT, ND, MN, WI, MI, ME, VT, NH, NY, MA, PA, NJ, RI and CT;
- after 4 years of national surveys, all of the United States except the infested states;
- after 5 years of national surveys, all of the United States except infested areas of the infested states.

Canada will initiate the process to implement the above mentioned program immediately with a view to operationalize the above program for the first tier of states by March 31, 1999.

Cereals (Wheat, barley, rye, oats)

As confidence is built through the Wheat Access Facilitation Program, the In-Transit Rail Program, and the above-mentioned phytosanitary certification program, the CFIA will consider further steps toward recognition of area freedom for Karnal bunt, dwarf bunt, and wheat flag smut. CFIA and APHIS will initiate discussions on the use of alternative certification to the issuance of phytosanitary certificates for all cereals to recognize area freedom for Karnal bunt, wheat flag smut and dwarf bunt. As a first step, the Canadian Food Inspection Agency will review the Pest Risk Assessments (PRA) for each of the 3 diseases.

9. Other Grain Related Issues

Grain Trade Consultations

In order to strengthen cooperation and trust on issues of mutual interest, Canada and the United States agree to meet quarterly, or more frequently on request, to consult on global grain production and marketing. Such consultations shall include the following:

- A projection of each country's respective production, utilization and ending stocks of grain (including wheat, barley, corn and oats) for the current marketing year;
- A projection of the quantity, by commodity (including in the case of wheat, separate projections for durum), of grain likely to be exported by each country to the other in the current marketing year;
- A projection of each country's use of subsidies, credit, or other means to facilitate grain exports; as well as the use of aid programs (involving grain); in the current marketing year;
- A review of actions by third countries that may have an impact on global grain trade; and,
- Such other grain production and marketing issues as may be raised by either

country.

The first such consultations shall occur not later than February 1, 1999.

10. Seed Trade

The Canadian Food Inspection Agency (CFIA) and the Agricultural Marketing Service, U.S. Department of Agriculture agree to meet with interested state, provincial and industry representatives in the first quarter of calendar year 1999 to develop initiatives to streamline requirements and facilitate seed trade.

11. Export Subsidies (Oats)

Canada and the United States note that in the last crop year more than 700,000 tons of heavily-subsidized European Union (EU) oats were imported into North America. So far this crop year, more than 290,000 tons have been imported. Noting that the EU has eliminated barley export subsidies to North America, Canada and the United States have agreed to consider what steps might be warranted to achieve a similar result for oats.

12. Veterinary Drugs

Both the United States and Canada have stringent, scientifically based programs for the pre-market approval of veterinary drugs. While there are some differences in the regulatory approaches adopted, the outcomes are essentially equivalent in the protection of public health in the two countries.

A comparison made by the U.S. Food and Drug Administration and Health Canada has also indicated that both countries have prohibited most of the same veterinary drugs for food producing animals.

To avoid future disruption in bilateral trade, Canada and the United States have agreed to the following initiatives with respect to veterinary drugs:

- Prepare by April 30, 1999, a side-by-side comparison of veterinary drugs approved for use in both countries, the food-producing animals to which these drugs can be administered, and the maximum residue limits (MRLs) established for any foods resulting from such use.
- Bilaterally, work toward joint evaluation of drug submissions, and the harmonization of MRLs for veterinary drugs which apply to domestic and imported foods.
- Trilaterally with Mexico, implement an effective work plan for the Technical Working Group on Veterinary Drugs under the North America Free Trade Agreement Sanitary and Phytosanitary Committee.
- Multilaterally, work with Mexico to cooperate closely on matters related to the Codex Committee on Residues of Veterinary Drugs in Foods.

13. Pest Control Products

To avoid future disruption in bilateral trade, Canada and the United States agree to the following initiatives with respect to pest control products:

- The U.S. Environmental Protection Agency (EPA) and the Canadian Pesticide Management Regulatory Agency (PMRA) will work with growers and registrants in both countries to accelerate bilateral harmonization using the five year North American Initiative developed by the NAFTA Technical Working Group on

Pesticides as the framework. As a result of these efforts, there will be great potential for faster and simultaneous access to a wider range of pest control products for both major and minor crops in both countries. However, the success of this initiative hinges on the full and active participation of growers and registrants in both countries.

- EPA and PMRA will continue to cooperate with respect to U.S. implementation of the Food Quality Protection Act.
- EPA and PMRA are committed to work together to develop a harmonized policy for movement of treated seeds by December 1999.
- EPA and PMRA will investigate mechanisms to improve links with state/provincial/territorial officials as a way of providing improved information sharing and a heads up mechanism for potential pesticide/trade issues.
- Canadian canola growers have requested Canadian registrants to agree voluntarily to remove canola/rapeseed claims from labels of registered canola seed treatments containing lindane by December 31, 1999. All commercial stocks containing lindane for use on canola and lindane treated canola seed would not be used after July 1, 2001. This is contingent on registrants requesting voluntary removal. EPA, PMRA, growers and registrants will continue to work together to facilitate access to replacement products.
- For those specific canola registration reviews undertaken by the EPA on an accelerated basis, EPA and the PMRA will share work on evaluation of pesticide products to the furthest extent possible.
- EPA and PMRA will request U.S. and Canadian canola associations to prioritize pesticide registration needs from a list of pesticides now available in either country which are pending approval in the other country. The associations, in consultation with pesticide registrants, would also be asked to identify alternatives to pesticides such as organophosphates (OPs) or others with risk concerns. The resulting list will then be a basis for a longer term strategy to assure adequate, reduced risk pest control tools for canola growers and will fit with current NAFTA efforts to promote a coordinated approach to Integrated Pest Management for canola.
- For dry beans (pulses), lentils, and flax (crops grown in rotation with canola), EPA and PMRA will request that growers, in consultation with pesticide registrants in the United States and Canada, identify and prioritize pest control tools and needs for purposes of identifying grower priorities for the agencies. EPA and PMRA will jointly explore efforts to share work on evaluation of pesticide products.
- The U.S. Department of Agriculture (USDA) and Agriculture and Agri-Food Canada, in conjunction with EPA and PMRA, will convene, preferably by March 1999, a high level meeting with Chief Executive Officers of North American pesticide companies to encourage companies to take advantage of the pesticide joint review process and to encourage industry's role in harmonization goals.
- USDA and Agriculture and Agri-Food Canada will jointly conduct a study of pesticide price differentials within the United States and Canada to be completed within 6 months.

14. Horticulture

Produce Pesticide Testing

Canada and the United States have stringent, scientifically-based programs for the evaluation and monitoring of pesticide residues. While there are some differences in the regulatory approaches adopted, the outcomes provide essentially equivalent protection of public health.

The Food and Drug Administration and Canadian Food Inspection Agency agree to work toward reducing the sampling of fresh produce through the exchange of scientific data,

sampling plans and results, and taking such information into consideration in the development of annual national sampling plans. Both agencies agree to review the operation of import procedures with a view toward taking steps to streamline programs.

Bacterial Ring Rot Testing

In December 1998, the U.S. Department of Agriculture (USDA) and CFIA agree to work with appropriate industry, state, provincial and scientific representatives to explore the benefits and possible implementation of harmonizing testing procedures for bacterial ring rot of potatoes.

Potatoes

Canada and the United States agree to work aggressively and quickly to resolve outstanding potato industry issues. Canada and the United States agree to ask the U.S.-Canada Ad Hoc Potato Committee to review the issue of regulatory differences and restrictions affecting bilateral trade in potatoes and provide a report to Ministers by September 1, 1999, on how these issues might be addressed with a view to facilitating bilateral trade.

Nursery Stock Phytosanitary Requirements

The United States currently restricts certain nursery stock from Canada that has originated in other countries, and then is grown for a time in Canada, to be exported to the United States. USDA and CFIA agree to form a joint working group charged with moving this toward a resolution by prioritizing the regulatory changes in order to harmonize import requirements for nursery stock from offshore sources. The working group will meet initially the first quarter of 1999 with a view to identify and prioritize species where differences exist and identify time lines for implementation of harmonization measures.

15. Joint Cooperation on Biotechnology

Canada and the United States have enjoyed continued cooperation in the area of agricultural biotechnology. Both countries use a science based approach to regulating products of biotechnology, including, but not limited to genetically enhanced products. This approach means that regulatory decisions are predicated on a critical assessment of the best available scientific information about the product and not on the process used to develop it.

In September 1998, Canadian and U.S. regulatory officials signed a technical agreement on the regulatory requirements for the assessment of specific aspects of transgenic plants. Canadian and U.S. regulatory officials will continue to meet to compare and harmonize where possible, the regulatory review process for transgenic plants and to discuss and prioritize future areas of cooperation and information exchange that will facilitate the safe incorporation of transgenic plants into agricultural production and commerce.

Canada and U.S. policy officials will continue to meet to discuss cooperation on multilateral biotechnology issues. Canada and the United States will continue to work closely in areas relating to biosafety including the U.N. Biosafety Protocol. Canada and the United States share common views on the subject of biotechnology in both the Sanitary and Phytosanitary and Technical Barriers to Trade Committees of the World Trade Organization. In addition, both countries are exploring the issue of how to deal with biotechnology within the WTO and its subsidiary agreements as well as other fora such as the Organization for Economic Cooperation and Development, CODEX

Alimentarius Commission and Asia-Pacific Economic Cooperation. Canada and the United States will also work together to promote the science-based approach to regulating biotechnology, including capacity-building.

16. Labeling

Canada and the United States recognize the integrated nature of the North American agriculture and food economies and agree that country of origin labeling requirements on agricultural and food products will be consistent with obligations under the North American Free Trade Agreement and the World Trade Organization Agreement

17. Sugar Containing Products

No later than June 1, 1999, the United States will require an export permit issued by the Government of Canada as a condition of entry into the United States for sugar-containing products of Canadian origin for which the exporter or importer is claiming preferential tariff treatment. The products for which export permits will be required as a condition of entry will be sugar-containing products provided for in additional U.S. Note 6 to Chapter 17 of the Schedule of the United States annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade (GATT) 1994.

Canada

Wyoming
Pending before
WY legislature
1/99

HOUSE JOINT RESOLUTION

Food Quality Protection Act implementation.

A BILL

for

A JOINT RESOLUTION urging the Administrator of the Environmental Protection Agency to use sound science and real-world data from the data call-in process in establishing realistic models for evaluating risk.

WHEREAS, the Food Quality Protection Act of 1996 (FQPA) instituted changes in the types of information the Environmental Protection Agency is required to evaluate in the risk assessment process for establishing tolerances for pesticide residues in food and feed; and

WHEREAS, the Food Quality Protection Act further emphasizes the need for reliable information about the volume and types of pesticides being applied to individual crops and what residues can be anticipated on these crops; and

WHEREAS, risk estimates based on sound science and reliable real-world data are essential to avoid misguided decisions, and the best way for the Environmental Protection Agency to obtain this data is to require its development and submission by the registrant through the data call-in process; and

WHEREAS, the absence of reliable information will result in fewer pest control options for United States and Wyoming agriculture and significant disruption of successful integrated pest management program in the State and will jeopardize the availability, affordability, and quality of foods to consumers at all economic levels; and

WHEREAS, the absence of reliable information will also result in fewer control options for urban and suburban uses, with potential losses of personal property and increased costs for human health concerns.

Now, Therefore, Be It Resolved By the Members of the Legislature of the State of Wyoming:

Section 1. That the Administrator of the Environmental Protection Agency use sound science and real-world data from the data call-in process in establishing realistic models for evaluating risks.

Section 2. That the Environmental Protection Agency establish and publish uniform policies which will be used to ensure consistent implementation of the Food Quality Protection Act.

Section 3. That the Congress of the United States exercise sufficient oversight of the Environmental Protection Agency to ensure that the Food Quality Protection Act is implemented in a manner that will not

disrupt agricultural production nor negatively impact the availability, diversity and affordability of food.

Section 4. That the Secretary of State transmit copies of this resolution to the Environmental Protection Agency, the United States Department of Agriculture, the Governor's office, and the Wyoming Congressional Delegation

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IDAHO '98

Passed both chambers

The Office of the Governor
Resolution

Executive Department
State of Idaho

State Capitol
Boise

WHEREAS, the US Congress passed legislation identified as the Food Quality Protection Act (FQPA) in 1996 and the legislation was signed into law on August 3, 1996 by President Clinton; and

WHEREAS, the purpose of the FQPA was to assure that pesticide tolerance decisions and policies are predicated upon sound science and reliable data; and

WHEREAS, another purpose of FQPA was to assure that pesticide tolerance decisions and policies are formulated in an open and transparent manner; and

WHEREAS, EPA has not published rules on the implementation of the pesticide use provision of the Food Quality Protection Act; and

WHEREAS, the targeted organophosphate and carbamate pesticides are essential elements used in integrated pest management in the general production of all Idaho commodities; and

WHEREAS, Idaho agriculture producers continue to use these crop protection products in a safe and responsible way, and the impending loss of many chemicals will jeopardize the very foundation of the safest/abundant food supply for all Americans; and

WHEREAS, the possibility of elimination of these products would be devastating to the economy of our state and jeopardize the very livelihood of many Idaho agricultural producers; and

WHEREAS, EPA continues to use default exposure assumptions and data, likely resulting in numerous cancellations of tolerances beginning as early as this year;

NOW THEREFORE BE IT RESOLVED, that Governor Phillip E. Batt; the Director of the Idaho State Department of Agriculture, Pat Takasugi; Leadership of the Idaho State Senate and Idaho House of Representatives; and the Chairman of the Idaho Legislative Senate and House Agriculture Affairs Committees urge the US Congress to conduct an ongoing Congressional review of EPA and their procedures in the use of real chemical data to determine these cancellations; and

BE IT FURTHER RESOLVED, that the FQPA 1999 deadline be delayed until 2001 or until EPA, USDA, industry leaders and producers can provide the data as to use, application and residue of the pesticides under review.

Phillip E. Batt

The Honorable Phillip E. Batt, Governor
State of Idaho

Pat Takasugi
Pat Takasugi, Director
Idaho State Department of Agriculture

Jerry E. Switzer
Senator Jerry Switzer, President of the
Idaho Senate

Michael Simpson
Representative Michael Simpson, Speaker
Idaho House of Representatives

Cecil Ingram
Senator Cecil Ingram, Chairman
Senate Agriculture Affairs Committee

Doug Jones
Representative Doug Jones, Chairman
House Agriculture Affairs Committee

As of 3/11/98 passed both chambers

Michigan Senate Resolution

Whereas, the Food Quality Protection Act of 1996 (FQPA) was signed into law on August 3, 1996, by President Clinton;

Whereas, among the purposes of the FQPA was to assure that pesticide tolerance decisions and policies are predicated upon sound science and reliable data;

Whereas, another purpose of the FQPA was to assure that pesticide tolerance decisions and policies are formulated in an open and transparent manner;

Whereas, EPA is required by the FQPA to have reviewed approximately 3,000 of the approximately 9,700 existing tolerances by August 1999 to determine whether these tolerances meet the safety standards established by the FQPA;

Whereas, the implementation of FQPA by the EPA could have a profound negative impact on domestic agriculture production and on consumer food prices and availability. With Michigan's diverse agriculture this impact could be especially severe on our numerous specialty crops.

Now therefore, based on the aforementioned premises, it is resolved that:

1. EPA should be directed by Congress to immediately initiate appropriate administrative rulemaking to ensure that the policies and standards it intends to apply in evaluating pesticide tolerances are subject to thorough public notice and comment prior to final tolerance determinations being made by the agency; and
2. EPA should be directed by Congress to use its authorities under the FQPA to provide interested persons the opportunity to produce data needed to evaluate a pesticide tolerance so that the agency can avoid the use of unrealistic default assumptions in making a pesticide tolerance decision.
3. EPA should be directed by Congress to implement the FQPA in a manner that will not disrupt agricultural production nor negative impact on the availability, diversity, and affordability of food.
4. Congress should immediately conduct oversight hearings to ensure that actions by EPA are consistent with FQPA provisions and Congressional intent. Following oversight hearings Congress should if necessary, take appropriate action or amend the FQPA to correct problem areas.

Pennsylvania 198

INTRODUCED BY REP. DEW.

OCT 6, 1998

House

A RESOLUTION

1 Urging the Administrator of the Environmental Protection Agency
2 to use sound science and real-world data from the data call-
3 in process in establishing realistic models for evaluating
4 risks.

5 WHEREAS, The Food Quality Protection Act of 1996 institutes
6 changes in the types of information the Environmental Protection
7 Agency is required to evaluate in the risk assessment process
8 for establishing tolerances for pesticide residues in food and
9 feed; and

10 WHEREAS, The Food Quality Protection Act further emphasizes
11 the need for reliable information about the volume and types of
12 pesticides being applied to individual crops and what residues
13 can be anticipated on these crops; and

14 WHEREAS, Risk estimates based on sound science and reliable
15 real-world data are essential to avoid misguided decisions, and
16 the best way for the Environmental Protection Agency to obtain
17 this data is to require its development and submission by the
18 registrant through the data call-in process; and

1 WHEREAS, The absence of reliable information will result in
2 fewer pest control options for United States and Pennsylvania
3 farmers, especially for minor crops, and significant disruption
4 of successful integrated pest management programs in the State
5 and will jeopardize the availability and affordability of fresh
6 fruits and vegetables to consumers at all economic levels; and

7 WHEREAS, The absence of reliable information will also result
8 in fewer pest control options for urban and suburban uses, with
9 potential losses of personal property and increased costs for
10 human health concerns; therefore be it

11 RESOLVED, That the House of Representatives of the
12 Commonwealth of Pennsylvania strongly urge the Administrator of
13 the Environmental Protection Agency to use sound science and
14 real-world data from the data call-in process in establishing
15 realistic models for evaluating risks; and be it further

16 RESOLVED, That the House of Representatives of the
17 Commonwealth of Pennsylvania urge the Environmental Protection
18 Agency to establish and publish uniform policies which will be
19 used to ensure consistent implementation of the Food Quality
20 Protection Act; and be it further

21 RESOLVED, That the Congress of the United States should
22 exercise sufficient oversight of the Environmental Protection
23 Agency to ensure that the Food Quality Protection Act is
24 implemented in a manner that will not disrupt agricultural
25 production nor negatively impact the availability, diversity and
26 affordability of food; and be it further

27 RESOLVED, That copies of this resolution be transmitted to
28 the Administrator of the Environmental Protection Agency, 401 M
29 Street SW., Washington, DC 20460.

Adopted by NGA
August 1998

3.2.7 Pesticides.

The debate on farm and agriculture legislation also may encompass issues related to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Modifications to this law should preserve and maintain the current balanced cooperative partnership between the U.S. Environmental Protection Agency (EPA) and the states in the administration and enforcement of FIFRA. Any expanded or additional requirements delegated to the states should be readily attainable by the states and accompanied by sufficient funding.

THE GOVERNORS URGE THE ENVIRONMENTAL PROTECTION AGENCY (EPA) TO IMPLEMENT THE 1996 FOOD QUALITY PROTECTION ACT (FQPA) BY RELYING ON SOUND SCIENCE, WITH THE INTERESTS AND NEEDS OF FARMERS AND CONSUMERS IN MIND. EPA AND USDA SHOULD WORK TOGETHER TO GATHER ACTUAL FARMER PESTICIDE USE AND EXPOSURE DATA WHEN CONDUCTING TOLERANCE STATE ASSESSMENTS. RELIANCE ON DEFAULT ASSUMPTIONS, WHILE SOMETIMES NECESSARY & APPROPRIATE, MUST NOT OVERESTIMATE ACTUAL PESTICIDE USE AND SHOULD BE MINIMIZED WHEREVER POSSIBLE. ALTERNATIVE PEST MANAGEMENT TOOLS SHOULD ALSO BE REVIEWED PRIOR TO PESTICIDE CANCELLATION. EPA SHOULD BE REQUIRED TO FULFILL ITS OBLIGATIONS UNDER FQPA.

Nothing that

Minor crops, including many fruit, vegetable, nursery stock, and horticultural products, contribute more than \$30 billion to the farm-level agricultural economy. Because sales from minor use pesticides do not pay for the high cost of generating the data required by EPA, for economic reasons, pesticide manufacturers are voluntarily dropping smaller volume minor use products scheduled for registration under the compressed schedule of FIFRA and deferring registering new products for use on minor crops. The minor crop pesticides issue should be resolved by correcting this unintended consequence of the reregistration process established in the 1996 pesticide legislation. The Governors recommend that this be accomplished by extending the time period for gathering data required for reregistration and by extending registrants' exclusive data rights to such pesticides.

National Association of State Departments of Agriculture
1998 Proposed Resolution

Submitted By: Tommy Irvin
Originating State: Georgia
Individual Contact: Tommy Irvin
Phone Number: (404) 656-3600
Date Submitted: March 1, 1998

NASDA Action:
Policy Position Number:
Date Received:

Action by Policy & Planning Committee:

Action by Membership:

SUMMARY:

The Food Quality Protection Act (FQPA) of 1996 institutes changes in the types of information EPA is required to evaluate in their risk assessment process for establishing tolerances for pesticide residues in food and feed. FQPA further emphasizes the need for reliable information about the volume and types of pesticides being applied to individual crops and what residues can be anticipated on these crops. Risk estimates based on sound science and real world data are essential to avoid misguided decisions. The best way for the United States Environmental Protection Agency to obtain real world data is to require its development and submission by the registrant through the data call in process. The absence of reliable information will result in fewer pest control options for farmers, especially for minor crops, higher prices for food for consumers, and state pesticide programs will likely process and request more emergency exemptions due to cancellation of registered uses.

RESOLUTION:

Resolved that, the National Association of State Departments of Agriculture (NASDA), meeting in Washington, D. C. on March 3, 1998, strongly urges the Administrator of the Environmental Protection Agency, in the cases of the first two groups to be evaluated under the new requirements of the FQPA, namely, the organophosphates and the carbamates, to use real world data from the data call-in process in establishing realistic models for evaluating risks rather than relying on default decisions in the absence of real-world data as seems to be the current intention of the agency, and to establish and publish uniform policies which will be used to ensure consistent implementation of the Food Quality Protection Act.

Author: Jon Leafstedt at USAGSA01
Date: 7/29/98 4:39 PM
Priority: Normal
TO: basu@acpa.org at Gateway
Subject: Nat'l. Assoc. of Counties - - FQPA Resolution

Ab:

The National Association of Counties held its annual conference in mid July. More than 5,000 county officials were in attendance. At this conference, a strong resolution (see below) advocating a common sense implementation of FQPA was passed.

Jon Leafstedt

RESOLUTION ON FOOD QUALITY PROTECTION ACT

WHEREAS, the Food Quality Protection Act (FQPA) was signed into federal law on August 3, 1996 and became effective the same day; and

WHEREAS, the United States Environmental Protection Agency (EPA) is charged with implementation of this law; and

WHEREAS, the provisions of FQPA require a review of all currently registered pesticides. This review is supposed to use the best science and data available for making decisions; and

WHEREAS, this review, if not conducted properly, could reduce or eliminate many of the currently available uses of important pesticides, especially on minor crops (Minor crops are defined in this law as those grown on less than 300,000 acres nationally):

THEREFORE, BE IT RESOLVED that the National Association of Counties urges the EPA to recognize the potential large negative economic impact of the loss of important crop protection chemicals in agricultural areas of the nation; and

BE IT FURTHER RESOLVED that the National Association of Counties urge the EPA to implement the law using the best available scientific data on pesticide use, residues on crops, and toxicity, so that important pesticide uses are preserved; and

BE IT FURTHER RESOLVED that the National Association of Counties urge the United States Congress to provide oversight on the EPA as they implement this law.

1252

Attention: ND Legislature

Date: Thursday,

Company:

Number of Pages: 7

Fax Number: 1 701 328 1997

Voice Number: 1 888 NDLEGIS

From: Marvin E. Nelson

Company:

Fax Number: (701)477-3422

Voice Number: (701)477-3422

Subject: For Representative Doug Lemieux

Comments:

Marvin Nelson
PO Box 577
Rolla, ND 58367
(701)477-3422

Representative Doug Lemieux
State Capital

Doug,

I was planning on testifying today on the chemical bills in the Senate Ag Committee, but I just can't make it. If you could get them this info I would sure appreciate it.

Here's copies of the previous comparison sheet where I put some important herbicides on in usage groups, and the latest sheet where they are listed mostly in Canadian alphabetical order. Almost all herbicides in the Manitoba Guide to Crop Protection 1999 are listed. If there is a similar US product I tried to list it. US products not available in Canada are not yet on the list, I just haven't had time yet.

There are some conclusions which can be reached.

1. There are more registered total US products than Canadian due to corn and soybeans(I would assume also cotton, tobacco, etc would increase the difference, but don't concern ND)
2. Canada has more products for small grains, canola, flax, lentils, peas, forage seed, and forages than ND.
3. Price differences are not consistently one way with a couple exceptions.
 - a. Most grass control in broadleaf crop herbicides cost more in Canada.
 - b. Everything to control wild oats in small grains is significantly higher in US.
These herbicides are #'s 4a, 4b, 12a,12b,12c,18a,18b,18c,31,32a,32b,33,40a,43,47,59.
Canadians can control their wild oats and broadleaves for less than a ND producer can control wild oats.
 - c. All glyphosate products are higher in US.
4. Herbicides that are older, off patent commodities such as 2,4-D and atrazine tend to be very closely priced when adjusted for exchange rate.

Objection is not the price the companies charge only that they charge different prices.

Companies say this is their right, but government usually regulates prices when granting monopolies.

Companies have monopoly rights due to patents and the slowness of the registration process. Both reduce competition, but government regulation has not stepped in to assure fairness in pricing.

Cost of registration is often mentioned, but cost is same on lower priced herbicides as higher.

Companies often point to lost sales due to slow registration, but never mentioned increased sales for same reason. For instance, Zeneca would say that the fact Achieve did not receive a label in time for this last season cost them millions in lost sales, but Agrevo doesn't mention that the same thing made them millions in additional sales.

Concerning the price study:

USDA and Ag Canada are in the midst of such a study. GAO was doing one but it was dropped in favor of USDA. The study is due in June. The administrator in the Economic Research Service in charge of the study is Kitty Smith her phone # is (202)694-5200.

Sorry to send so much stuff, the truth tends to disappear in the quantity of info.

Marv

North Dakota-Manitoba/Saskatchewan Herbicide price comparisons

Number	Ingredients	US Name	Formulation	rate	US Price	Canadian Name	Formulation	rate	Canadian Price	Exch	US Equivalent	Difference US - Canada	Comments
1a	2,4D	2,4-D amine	3.8S	1 pt	\$1.62	2,4-D amine	500 g/L	0.5 L	\$2.90	0.67	\$1.94	(\$0.32)	
1b	2,4-D	2,4-D ester	3.8E	.67 pt	\$1.33	2,4-D ester	700g/L	0.33 L	\$2.80	0.67	\$1.88	(\$0.55)	
1c	MCPA amine	MCPA amine	4S	1 pt	\$2.25	MCPA amine	500 g/L	0.5L	\$3.25	0.67	\$2.18	\$0.07	
1d	MCPA ester	MCPA ester	4E	1 pt	\$2.30	MCPA ester	500 g/L	0.5 L	\$3.70	0.67	\$2.48	(\$0.18)	
1e	mecoprop	MEC Amine-D	4D	1 pt	\$3.50	Mecoprop	160 g/L	2.2L	\$12.87	0.67	\$8.62	(\$5.12)	
2	nicosulfuron	Accent	75DF	0.5 oz	\$15.00	Accent	75DF	13.5 g	\$23.14	0.67	\$15.50	(\$0.50)	
3	quinclorac	Paramount	75DF	0.33lb	N/A	Accord	75DF	54 g	\$8.40	0.67	\$5.63		
4a	tralkoxydim	Achieve	80DG	3.5oz	\$16.50	Achieve	80DG	0.1kg	\$16.13	0.67	\$10.81	\$5.69	US from local dealer
4b	tralkoxydim	N/A				Achieve Extra	40DG	case per	\$21.95	0.67	\$14.71		
	bromoxynil						280 g/L	20 acres					
	MCPA ester						280 g/L						
5a	metasulfuron	Ally	60DF	0.1oz	\$2.20	Ally Toss-N-G	60DF	2.8 g	\$4.83	0.67	\$3.24	(\$1.04)	
5b	metasulfuron	Escort	60DF	0.35oz	\$8.75	Escort	60DF	10 g	\$17.50	0.67	\$11.73	(\$2.98)	
6	triasulfuron	Amber	75DF	0.38 oz	\$3.60	Amber	75DF	11 g	\$3.95	0.67	\$2.65	\$0.95	
7	amitrol	Amitrole-T	2L	1 gal	\$32.00	Amitrol 240	240 g/L	3.8 L	\$21.76	0.67	\$14.58	\$17.42	
8	Imazamethabenz	Assert	2.5S	1 pint	\$15.65	Assert	300 g/L S	0.53L	\$12.20	0.67	\$8.17	\$7.48	
9	quizalofop ethyl	Assure II	0.88E	7 oz	\$6.80	Assure II	98 g/L E	0.2 L	\$16.50	0.67	\$11.06	(\$4.28)	
10	atrazine	Atrazine	4L	2 pt	\$3.50	Atrazine	480 g/L	0.95 L	\$5.50	0.67	\$3.69	(\$0.19)	
11	fluroxypyr	Starane plus Salv	N/A	1.5 pt	N/A	Attain	180g/L	0.24 L	\$8.27	0.67	\$5.54		
	2,4-D LV ester						564 g/L	0.4 L					
12a	triallate	Fargo	4EC	1 pt	\$10.05	Avadex BW	400 g/l	1.21 L	\$11.22	0.67	\$7.52	\$2.53	
12b	triallate	Fargo	10 G	10 lb	\$9.20	Avadex BW	10 G	4.45 kg	\$11.62	0.67	\$7.79	\$1.41	
12c	triallate	Buckle	10G	12.5 lb	\$14.13	Fortress	10G	5.67 kg	\$17.83	0.67	\$11.95	\$2.18	
	trifluralin		3G				4G						
13	difenzoquat	Avenge	2S	3 pt	\$17.65	Avenge	200 g/L	1.42 L	\$16.00	0.67	\$10.72	\$6.93	
14	dicamba	Banvel	4S	3 oz	\$2.18	Banvel	480 g/L	0.089 L	\$2.89	0.67	\$1.94	\$0.24	
15	cyanazine	Bladex	90DF	2 lb	\$12.50	Bladex	90DF	0.91 kg	\$17.65	0.67	\$11.83	\$0.67	
16a	bromoxynil	Bronate	2E	1 pt	\$6.00	Buctril M	280 g/L	0.405 L	\$6.06	0.67	\$4.07	\$1.93	
	MCPA ester		2E				280 g/L						
16b	bromoxynil	Buctril	2E	1 pt	\$7.15	Pardner	280g/L	0.405L	\$7.50	0.67	\$5.03	\$2.13	
17	dichlobenil	Casoron	4 G	150 lb	\$307.50	Casoron	4G	68 kg	\$476.00	0.67	\$318.92	(\$11.42)	
18 a	thifensulfuron					Champion Ex	50 G	case per	\$19.70	0.67	\$13.20		
	tribenuron						25 G	40 acres					
	fenoxaprop-p-ethyl (+sefener)						92 g/L						
18 b	fenoxaprop-p-ethyl					Champion Plu	45 g/L	case per	\$20.50	0.67	\$13.74		
	MCPA ester						210 g/L	20 acres					
	2,4-D ester						70 g/L						
	thifensulfuron						75G						
18c	fenoxaprop-p-ethyl	Cheyenne	0.487E	case per	\$20.25								
	MCPA ester		2.16 E	40 acres									
	thifensulfuron		50G										
	tribenuron		25 G										
19	clopyralid	Curtail M	0.42	1 3/4 pt	\$9.20	Curtail M	50 g/L	0.80 L	\$10.93	0.67	\$7.32	\$1.88	
	MCPA ester		2.35 S				280g/L						
20	metolachlor	Dual II	7.8E	2 pt	\$17.75	Dual II	935 g/L	0.95L	\$22.80	0.67	\$15.14	\$2.61	
21a	dicamba					DyVel	84 g/L	0.5 L	\$5.18	0.67	\$3.47		
	MCPA ester						336 g/L						
21b	dicamba					DyVel DS	110 g/L	0.34 L	\$4.23	0.67	\$2.83		
	2,4-D amine						295 g/L						
	mecoprop						80 g/L						
22	ethafluralin	Sonalan	10G	12.5 lb	\$13.75	Edge	5G	11.3 kg	\$21.84	0.67	\$14.63	(\$0.88)	

P. 4
 (701) 477-3422
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 Mar 18 99 10:08a

North Dakota-Manitoba/Saskatchewan Herbicide price comparisons

P. 5
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Number	Ingredients	US			US Price	Canadian			Exchange	US Equivalent	Difference US - Canada	Comments	
		Name	Formulat	rate		Name	Formulat	rate					
23	2,4-DB	Butyrac 200	2S	4 pt	\$19.00	Embutox 625	625 g/L	0.71 L	\$12.92	0.67	\$8.66	active ingredient rates much higher in Canada	
24a	EPTC	Eptam 7E	7E	4 pt	\$15.00	Eptam 8-E	800g/L	2L	\$21.10	0.67	\$14.14		\$0.86
24b	EPTC + safener	Eradicane EC	6.7E	4.75 pt	\$16.00	Eradicane 8-E	800 g/L	2.23 L	\$21.19	0.67	\$14.20		\$1.80
25	dichlorprop 2,4-D ester					Estaprop	300 g/L	0.71L	\$9.00	0.67	\$6.03		
26a	tribenuron	Express	75DF	1/6 oz	\$2.95								
26b	tribenuron 2,4-D LV ester					Express Pack	75DF	4 g	\$4.10	0.67	\$2.75		
							660 g/L	0.24L					
27	dimethanamid	Frontier	6L	20 oz	\$13.30	Frontier	900g/L	0.51L	\$21.22	0.67	\$14.22	(\$0.82)	
28	fluzifop-P	Fusilade DX	2E	8 oz	\$8.67	Fusilade II	125 g/L	0.324 L	\$12.65	0.67	\$8.48	\$0.19	
29	fenoxaprop-p-ethyl	Fusion	0.66E	10 oz	\$10.80	Fusion	80.5g/L	0.19 L	\$11.95	0.67	\$8.01	\$2.79	US premix Canada separate containers
	fluzifop-p-butyl		2E				125 g/L	0.32L					
30a	paraquat	Gramoxone Extra	2E	2 1/3 pt	\$8.45	Gramoxone	200 g/L	1.1 L	\$21.06	0.67	\$14.11	(\$5.66)	
30b	paraquat					Gramoxone F	132 g/L	0.8 L	\$8.00	0.67	\$5.36		
	diquat						66 g/L						
31	thifensulfuron					Harmony Tot	50DF	one case	\$19.95	0.67	\$13.37		
	tribenuron						25DF	40 acres					
	clodinafop-propargyl+safener						240g/L						
32 a	diclofop-methyl	Hoeion	3E	2 pt	\$16.00	Hoe-Grass 26	284 g/L	1.13 L	\$15.16	0.67	\$10.16	\$5.84	formulations cause different active rates
32b	diclofop methyl bromoxynil					Hoe-Grass II	230 g/l	1.4 L	\$19.67	0.67	\$13.18		
							80 g/L						
33	clodinafop-propargyl					Horizon	240 g/L	0.085 L	\$15.43	0.67	\$10.34		
34	propyzamide	Kerb	50 WSP	2 lb	\$70.00	Kerb 50-W	60WSP	0.91 kg	\$72.80	0.67	\$48.78	\$21.22	
35	bentazon	Laddok	2.5L	1.67 pt	\$9.20	Laddok	200 g/L	1.21 L	\$13.55	0.67	\$9.08	\$0.12	
	atrazine		2.5L				200 g/L						
36a	fenoxaprop-p-ethyl					Lasar DF	336 g/L	case per	\$11.18	0.67	\$7.49		
	MCPA ester						28 g/L	20 acres					
	thifensulfuron						75 DF						
36b	fenoxaprop-p-ethyl	Dakota	0.234E	1 pt	\$7.40								
	MCPA ester		2.84 E										
37	glufosinate	Liberty	1.67S	20 oz	\$15.60	Liberty	150 g/L	1.1L	\$18.54	0.67	\$12.42	\$3.18	
38	linuron	Lorox	50DF	3 lb	\$36.00	Lorox Toss-N	50DF	1.36 kg	\$40.80	0.67	\$27.34	\$8.66	
39a	clopyralid	Stinger	3S	0.5 pt	\$30.30	Lontrel	360 g/L	0.23 L	\$30.50	0.67	\$20.44	\$9.87	
39b	clopyralid	Transline	3S	0.5 pt	\$20.30								
39c	clopyralid	Reclaim	3S	0.5 pt	\$14.00								
40 a	ethametsulfuron-methyl					Muster Gold II	75DG	box per	\$19.50	0.67	\$13.07		
	quizofop-p-ethyl						96 g/L	40 acres					
40b	ethametsulfuron-m	Muster	75DF	0.33 oz	N/A	Muster Toss-	75DF	8 g	\$14.00	0.67	\$9.36		
41a	imazamox					Odyssey	35DG	12 g	\$17.64	0.67	\$11.82		
	imazethapyr						35DG						
41b	imazethapyr	Pursuit	2AS	2.9 oz	\$9.67	Pursuit	240 g/L	0.085L	\$20.50	0.67	\$13.74	(\$4.07)	
41c	imazamox	Raptor	1S	4 oz	\$20.00								
41d	imazamox	Motive	1S	4oz	N/A								
42	metribuzin					Pea Pack	75DF	case per	\$5.95	0.67	\$3.99		
	MCPA sodium salt						300 g/L	40 acres					
43	clodinafop-propargyl					Platinum	240 g/L	case pr	\$21.50	0.67	\$14.41		
	bromoxynil						280g/L	20 acres					
	MCPA ester						280 g/L						
44	sethoxydim					Post FlaxMa	184 g/L	case per	\$20.87	0.67	\$13.98		
	clopyralid						50 g/L	23 acres					

North Dakota-Manitoba/Saskatchewan Herbicide price comparisons

Number	Ingredient	US Name	Formulat	rate	US Price	Canadian Name	Formulat	rate	Canadian Price	Excha \$1C=	US Equivalent	Difference US - Canada	Comments
	MCPA ester						280 g/L						
45	sethoxydim	Poast	1.5E	12oz	\$7.30	Poast Ultra	450 g/L	0.13L	\$11.50	0.67	\$7.71	(\$0.41)	
46	fluroxypyr					Prestige	180 g/L	case per	\$14.65	0.87	\$9.82		
	clopyralid						50 g/L	20 acres					
	MCPA ester						280 g/L						
47	tralkoxydim					Prevail	80 DG	package	\$28.40	0.67	\$17.69		
	clopyralid						50 g/L	per 20 acres					
	MCPA ester						280 g/L						
48	metolachlor	Bicep II	3.33 L	2.4 qt	\$21.00	primextra Ligt	330 g/L	2.35 L	\$19.16	0.67	\$12.84	\$8.16	
	atrazine		2.67 L				170 g/L						
49	simazine	Princep Caliber 90	90DG	1 lb	\$4.00	Princep Nine	90 DG	0.45 g/L	\$12.85	0.67	\$8.61	(\$4.81)	
50	rimsulfuron	Matrix	25 DF	1 oz	\$12.00	Priem	25 DF	0.024 kg	\$18.58	0.67	\$12.45	(\$0.45)	
51	fenoxprop-p-ethyl+ safener	Puma	1EC	0.67 pt	\$19.90	Puma Super	92 g/L	0.405 L	\$15.70	0.67	\$10.52	\$9.38	
52	thifensulfuron methyl	Harmony Extra	50 DF	0.3 oz	\$4.20	Refine Extra	50DF	8 g	\$5.36	0.67	\$3.59	\$0.61	
	tribenuron methyl		25 DF				25 DF						
53	diquat	Diquat	2L	2pt	\$19.75	Reglone	200 g/L	0.95 L	\$20.25	0.67	\$13.57	\$6.18	
54 a	glyphosate	Glyfos	3S	2pt	\$8.00	Glyfos	360 g/L	0.95 L	\$8.50	0.67	\$5.70	\$2.31	US price from dealer
54 b	glyphosate	Roundup Ultra	3S	2 pt	\$8.75	Roundup Trai	360 g/L	0.95	\$8.54	0.67	\$5.72	\$3.03	
54c	glyphosate					Roundup Fas	400 g/L	1.2 L	\$13.19				
	glufosinate						16 g/L						
54d	glyphosate	Fallow Master	1.1 S	28 oz	\$3.95	Rustler	132 g/L	1L	\$5.99	0.67	\$4.01	(\$0.06)	
	dicamba		0.5S				60 g/L						
54E	glyphosate	Touchdown	5SL	1.8 pt	\$10.20	Touchdown	640 g/L	0.85 L	\$10.46	0.67	\$7.01	\$3.19	
55	clometholol	Select	2E	6 oz	\$7.85	Select	240 g/l	0.08 L	\$18.44	0.67	\$12.35	(\$4.50)	
56	metribuzin	Sencor	75 DF	0.25 lb	\$4.75	Sencor	75DF	0.114 kg	\$7.25	0.67	\$4.86	(\$0.11)	
57	propanil	Stampede	80EDF	1.25n lb	\$5.90	Stampede	80EDF	0.5 kg	\$8.50	0.67	\$5.70	\$0.21	
58	trifluralin	Treflan	4EC	1 pt	\$4.25	Treflan	480 g/L	0.49L	\$6.45	0.67	\$4.32	(\$0.07)	
59	fenoxaprop-p-ethyl					Triumph Plus	56 g/L	box per	\$20.75	0.67	\$21.42		
	thifensulfuron						75DF	40 acres					
60	MCPB					Tropotox Plus	375 g/L	1.11L	\$12.65	0.67	\$8.48		
	MCPA						25 g/L						
61	bromoxynil					Unity	280 g/L	case per	\$6.64	0.67	\$4.45		
	triasulfuron						75WG	40 acres					
62	hexazinone	Velpar	75DF	0.87 lb	\$15.40	Velpar	75DF	0.3kg	\$21.65	0.67	\$14.51	\$0.89	
Constants used:													
	1 oz=28.3495 g												
	1 lb=454g												
	1 gal=3.7854 L												
	1 lb/ga/=120g/L												
Information from 1999 NDSU Guide to Weed Control and 1999 Guide to Crop Protection from Manitoba Agriculture unless noted otherwise													
Prepared by Marvin Nelson, PO Box 577, Rolla, ND 58367 701-477-3422													

Comparison of US/Canadian Herbicide Prices

		Chemical	US Name	Rate	US \$ Cost/Acre	Canadian Name	Rate	Canadian Cost \$C	Equal US\$/Acre	Difference US \$/Acre
Wild Oat										
Herbicides	1	imazamethabenz	Assert	1 pt	\$15.65	Assert	0.53 L/acre	\$12.20	\$8.17	\$7.48
	2	difenzoquat	Avenge	2.5 pt	\$14.70	Avenge	1.42 L/acre	\$16.00	\$10.72	\$3.98
	3	fenoxaprop-P	Puma	2/3 pt	\$19.90	Puma Super	0.405 L	\$15.70	\$10.52	\$9.38
	4	diclofop	Hoelon	2 pt	\$16.00	Hoe-Grass 284	1.01 L/acre	\$13.56	\$9.09	\$6.91
	5	clodinafop-propargyl				Horizon	0.095 L	\$15.43	\$10.34	
	6	trilalate	Fargo gran	10 lb	\$9.20	Avadex BW gra	4.45 kg	\$11.62	\$7.79	\$1.41
	7	tralkoxydim	Achieve	7 oz	\$11.90	Achieve	0.1kg	\$16.13	\$10.81	\$1.09
Broadleaf Herbicides		+1pt Bronate				Extra Gold		\$21.95	\$14.71	
	1	bromoxynil + MCPAe	Bronate	1 pt	\$6.00	Buctril m	0.405 L/ac	\$6.08	\$4.07	\$1.93
	2	bromoxynil	Buctril	1 pt	\$7.15	Pardner	0.405 L/ac	\$7.50	\$5.03	\$2.13
	3a	clopyralid 2,4-D	Curtail	2 pt	\$9.50					
	3b	clopyralid + MCPA e	Curtail M	1.75 pt	\$9.20	Curtail M	0.81 L/acre	\$10.93	\$7.32	\$1.88
	4	MCPAe	MCPA ester	1 pt	\$2.30	MCPA ester	0.5L	\$3.70	\$2.48	(\$0.18)
	5	2,4-D	2,4-D amine	1 pt	\$1.62	2,4-D amine	0.5 L	\$2.90	\$1.94	(\$0.32)
	6	thifensulfuron + tribenuron	Harmony Ex	0.4 oz	\$5.60	Refine Extra	0.4 oz	\$5.36	\$3.59	\$2.01
Grass & Broadleaf Herbicides	1a	fenoxaprop + MCPAe	Dakota	1 pt	\$7.40					
	1b	fenoxaprop + MCPAe + thifensulfuron				Laser DF	20 acres	\$11.18	\$7.49	
	2	fenoxaprop + MCPA + 2,4-D	Tiller	1.7 pt	\$18.50					
	3	fenoxaprop + MCPA + thifensulfuron + tribenuron	Cheyenne T	40 acres	\$20.25	Triumph Plus	40 acres/b	\$20.75	\$13.90	\$6.35
	4	glufosinate	Liberty	28 oz	\$21.85	Liberty	.81L	\$13.65	\$9.15	\$12.70
	5	glyphosate	Roundup Ultra	1 qt	\$8.75	Roundup transo	1 L	\$8.99	\$6.02	\$2.73
			Glyfos	1 qt	\$11.75	Glyfos	1L	\$8.95	\$6.00	\$5.75
All prices from NDSU Extension Service Crop Protection Guide 1999 and								Exchange rate: \$1 C		
Manitoba Agriculture Guide to Crop Protection 1999								\$0.67 US		
Comparison prepared by Marvin E. Nelson, PO Box 577, Rolla, ND 58367 (701)477-3422 on 2/11/99										