

Getting the Protection Right

**Submission to the Standing
Committee on Social Affairs on Bill
64: Banning the Sale and Use of
Cosmetic Pesticides**

June 9, 2008

**Registered Nurses' Association of Ontario
(RNAO)**

Summary of Recommendations

1. RNAO strongly supports the ban on the use and sale of pesticides for cosmetic purposes.
2. RNAO recommends use of the precautionary principle in developing the list of banned or allowed substances. RNAO further recommends employing an “inclusion list” of allowed substances, which would be more protective than a list of banned substances. An efficient and precautionary process for adding or removing substances from lists must be specified.
3. RNAO strongly supports province-wide coverage, with protection for all Ontarians, whether they live in built-up areas or in rural or remote areas.
4. RNAO supports exemptions for public health (as determined by the Medical Officer of Health), but is opposed to other exemptions such as that for golf courses.
5. RNAO is particularly concerned about the exemption for “other prescribed uses”, with those uses to be prescribed by regulation. RNAO strongly recommends that the clause exempting other prescribed uses be removed.
6. RNAO strongly urges complete removal of the clause rendering municipal pesticide bylaws inoperative. Ontario must preserve municipalities’ rights to take protective legislative measures against pesticides that go beyond those delivered by the province. Municipalities have been key partners in protecting citizens from pesticides, and they must remain partners.
7. RNAO supports the timely implementation of this legislation for the 2008 growing season, and it urges that sufficient resources are allocated for education and enforcement.

RNAO Submission on Bill 64

The Registered Nurses' Association of Ontario (RNAO) is the professional association for registered nurses in Ontario. RNAO members practice in all roles and sectors across the province. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of Ontarians. We welcome this opportunity to present our views to the Standing Committee on Social Affairs on Ontario's Bill 64: *An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes.*

Bill 64: Potentially an Important Step in the Right Direction

Environment Day 2008 was a major milestone for Ontario health and environment groups, as they cheered the introduction of important legislation on pesticides. RNAO and its members have been working hard to achieve protection against nonessential use of pesticides across the province for many years,¹ and this was a day to celebrate.

The Bill has some excellent features that could put Ontario in the forefront of protection of the public against pesticides, and RNAO welcomed its introduction:²

- It would ban the use and sales of pesticides for cosmetic purposes.
- This ban would cover residential, industrial, commercial, institutional, municipal and provincial properties, including rural residential properties.
- The Minister of the Environment announced that the implementation period would be swift, with the ban to be in effect for the 2009 growing season.³

We are however concerned about certain features of the Bill in its proposed form:

- As presently written, the Bill would empower the government to introduce other exemptions by regulation ("Other prescribed uses."). This is, in our view, a dangerous and unnecessary provision that could put current or future Cabinets under pressure from industry, and undermine the intent of the legislation. Indeed, the lawn care industry organization Landscape Ontario makes clear in its briefing note on Bill 64 that it would seek exemptions for so-called weed and insect "infestations".⁴ These exemptions make implementing pesticide legislation more costly and difficult, and represent loopholes to continue business as usual. .

- The Bill as presently written would take away from municipalities the right to exceed the provincial standard in pesticide protection. This preemption strategy has been used with great success by the pesticide industry in the US, and we don't want to see it used here. RNAO is most concerned with this because municipalities have always had a leadership role in pesticides and toxics, and because municipalities are in a good position to respond to local health issues. Some existing municipal protections (e.g., banned uses or pesticides) could be rolled back with the legislation as written.
- The Bill would exempt golf courses, which is inconsistent with RNAO's belief that exemptions should be limited to public health purposes.
- The government has released a list of pesticides that could be banned from use or sale for cosmetic purposes. The list does not include all pesticides of concern (e.g., Roundup). An inclusion list of allowed, minimally toxic substances would be a preferable approach. A precautionary approach is essential when determining which substances would be allowed.⁵
- RNAO is also seeking assurance that government will provide the needed resources to implement the new legislation, including funding for education and enforcement.

We now discuss the key issues in more detail.

The Province is Right to Ban Use and Sales

We know from research that chemical pesticides come in varying degrees of toxicity and carcinogenicity. Canada's Pesticide Management Regulatory Agency (PMRA) registers pesticides for use if it concludes from information available to it that the risk is acceptable, so long as the pesticides are used as directed.⁶ This does not imply that these pesticides are safe.⁷ Indeed, the PMRA registers pesticides that the US Environmental Protection Agency considers to be probable human carcinogens (e.g., daminozide) or likely human carcinogens (e.g., carbaryl).⁸ It has a list of pesticides that it considers to be "reduced risk".

Provinces and municipalities regulate pesticides because they are not safe. Chemical pesticides interfere by design in biological processes, and it is not surprising that they have side effects on the environment and on exposed human populations. There are

1,600 pesticide poisonings alone reported in Ontario per year, with over half being children under the age of six.⁹ There are also the long-term effects of “normal” exposure. We are particularly concerned about vulnerable populations, such as small children, pregnant women and nursing mothers. Available evidence makes us very concerned: there is a large body of epidemiological work that finds disturbing correlations between certain health issues (such as neurological effects, genotoxicity, reproductive effects, non-Hodgkin lymphoma and leukemia) and pesticide exposures.^{10 11 12 13 14}

Best practices in pesticide control recognize that education and outreach must be backed by strong regulation.¹⁵ We applaud the government for including a ban on sales in the legislation, as this supports and strengthens the ban on use. We also applaud the extension of coverage to all areas of the province, providing rural and remote citizens the equal protection that they need and deserve.

As a health organization, RNAO seeks to minimize public exposure to toxics, including chemical pesticides. The only justification for use of pesticides we can accept is protection of public health. If we must use a chemical pesticide, then we should use the least toxic one that does the job, and we must balance the health risk. For example, after nontoxic measures have been taken, if there is no alternative to spraying for West Nile virus, then the Medical Officer of Health should first determine that the spraying with the least toxic chemical does not cause more health problems than it avoids. The proposed legislation includes an exemption for public health, which we whole-heartedly endorse.

The legislation would leave to regulation a listing of chemicals allowed or banned from sale and specific uses. The legislation must mandate a precautionary approach,¹⁶ particularly because the legislation deals with cosmetic uses which by definition have no countervailing health benefits.

Fortunately, there are safer alternatives to most uses of chemical pesticides, and that includes lawn and garden use, which is the focus of this legislation.

Recommendations on the pesticide ban:

1. RNAO strongly supports the ban on the use and sale of pesticides for cosmetic purposes.
2. RNAO recommends use of the precautionary principle in developing the list of banned or allowed substances. RNAO further recommends employing an “inclusion list” of allowed substances, which would be more protective than a list of banned substances. An efficient and precautionary process for adding or removing substances from lists must be specified.
3. RNAO strongly supports province-wide coverage, with protection for all Ontarians, whether they live in built-up areas or in rural or remote areas.
4. RNAO supports exemptions for public health (as determined by the Medical Officer of Health), but is opposed to other exemptions such as that for golf courses.

Our Major Concerns: The “other prescribed uses” loophole and voiding municipal bylaws

We were dismayed to find two provisions in the Bill that could largely undo the wonderful work of the rest of the bill.

The opening via regulation to allow exemptions for “other prescribed uses” could be used to allow any uses, which would undermine the intent of the law. Current and future governments would be left open to strong pressure to weaken the legislation through this loophole. We are therefore asking that this clause be removed, along with the associated clause regarding regulations (5. (1) 43.).

Health and environment groups have been joined by municipalities in their concern about another very troublesome feature of this Bill: the clause that would render municipal pesticide bylaws inoperative. The protections some municipalities enjoy will be weakened. More importantly, municipalities have always led the way in public health measures, and this provision would be a roadblock to future enhancements of pesticide protection.

A more appropriate approach would be that of the Smoke-Free Ontario Act, which allows municipalities to go beyond provincial levels of protection. Removing the references to municipal pesticide bylaws would achieve that objective.

Final Recommendations

5. RNAO is particularly concerned about the exemption for “other prescribed uses”, with those uses to be prescribed by regulation. RNAO strongly recommends that the clause exempting other prescribed uses be removed.
6. RNAO strongly urges complete removal of the clause rendering municipal pesticide bylaws inoperative. Ontario must preserve municipalities’ rights to take protective legislative measures against pesticides that go beyond those in this legislation.
7. RNAO supports the timely implementation of this legislation for the 2008 growing season, and it urges that sufficient resources are allocated for education and enforcement.

This legislation has the potential to be the strongest of its kind in North America, and RNAO and its members have a big stake in making it succeed. Nurses in Ontario have fought the cosmetic pesticide battle on many fronts, and we will see this through to the end.

Our work began as a collaboration with a wide range of health and environment groups on municipal pesticide campaigns.¹⁷ As a result of our work and the work of others, at least 32 Ontario municipalities covering 45 per cent of the population now enjoy the protection of pesticide bylaws.¹⁸ Legislation banning pesticides is extremely popular with the public, and Ontarians are looking to the provincial government to extend this protection across the province. RNAO has joined a broad coalition of other health and environmental organizations to lobby for strong legislation to protect against the non-essential use of pesticides,¹⁹ and this coalition remains united and determined to work together and work with its broad constituencies to bring the protection that Ontarians want. RNAO’s members are enthusiastic about our position, and give us the strength and determination to continue to work for pesticide legislation that will work and be cutting edge in North America.

¹ Members have campaigned for years, and a 2000 AGM resolution (http://www.rnao.org/Storage/30/2423_RNAO_Pesticide_Resolution.pdf) formally called on RNAO to support municipal and provincial legislation that banned cosmetic use of pesticides.

² For RNAO's media release, see <http://www.rnao.org/Page.asp?PageID=924&ContentID=2394>.

³ <http://hansardindex.ontla.on.ca/hansardeissue/39-1/l031a.htm>.

⁴ http://www.landscapeontario.com/attach/1211671861.Briefing_Note - Bill 64_Final.pdf.

⁵ There are different formulations of the precautionary principle. For example, "When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically. In this context the proponent of an activity, rather than the public, should bear the burden of proof. The process of applying the precautionary principle must be open, informed and democratic and must include potentially affected parties. It must also involve an examination of the full range of alternatives, including no action." - [Wingspread Statement](http://www.sehn.org/wing.html) on the Precautionary Principle, Jan. 1998, retrieved April 2, 2008 from <http://www.sehn.org/wing.html>.

⁶ For a discussion of the limitations of the PMRA pesticide registration process, see Basrur, S. (April 2002). *Lawn and Garden Pesticides: A Review of Human Exposure & Health Effects Research*, Toronto Public Health, http://www.toronto.ca/health/pesticides/pdf/pesticides_lawnandgarden.pdf.

⁷ For a further discussion of the limitations of the PMRA's toxicological focus, see Arya, N. (June 2008). "No one can prove pesticides are safe", Ottawa Citizen, June 5. http://www.cela.ca/newsletter/detail_art.shtml?x=3899.

⁸ US Environmental Protection Agency, Office of Pesticide Programs. (September 2007). *Chemicals Evaluated for Carcinogenic Potential* Available by request from <http://www.epa.gov/pesticides/carlist/>

⁹ Boyd, D. (June 2007). *Northern Exposure: Acute Pesticide Poisonings in Canada*, David Suzuki Foundation, Table 1, p. 8. <http://www.davidsuzuki.org/files/SWAG/DSF-pesticide-poisoning.pdf>.

¹⁰ Sears, M., C Walker, RH van der Jagt, P Claman. (Apr 2006). "Pesticide assessment: Protecting public health on the home turf", *Pediatrics and Child Health*, Volume 11 Issue 4: 229-234.

¹¹ M. Sanborn, M., K.J. Kerr, L.H. Sanin, D.C. Cole, K.L. Bassil, C. Vakil (Oct. 2007). "[Non-cancer health effects of pesticides: Systematic review and implications for family doctors](#)", *Canadian Family Physician* 53:1712-1720.

¹² K.L. Bassil, C. Vakil, M. Sanborn, D.C. Cole, J.S. Kaur, K.J. Kerr. (Oct. 2007). "Cancer Health Effects of Pesticides: Systematic Review", *Canadian Family Physician* 53:1704-1711.

¹³ Basrur, op. cit.

¹⁴ For an extensive review of the literature on the human health effects of pesticides, see *Pesticides Literature Review*, Ontario College of Family Physicians (April 2004). <http://www.ocfp.on.ca/local/files/Communications/Current%20Issues/Pesticides/Final%20Paper%203APR2004.pdf>

¹⁵ The Canadian Centre for Pollution Prevention and Cullbridge Marketing and Communications The Impact of By-Laws and Public Education Programs on Reducing the Cosmetic / Non-Essential, Residential Use of Pesticides: A Best Practices Review <http://www.pesticidefree.ca/PesticidesBestPractices.pdf>

¹⁶ See note above on precautionary principle.

¹⁷ For example, RNAO joined the broadly based Partnership for Pesticide Bylaws (PPB) in 2002, focusing on the Toronto pesticide campaign. The PPB platform

(<http://cela.ca/uploads/f8e04c51a8e04041f6f7faa046b03a7c/ppbplatform.pdf>) spelled out a common position and presented basic evidence in support of a ban. The PPB was an example of the emerging excellent collaboration on environmental health issues between health, environmental, labour and other civil society groups. By pooling their resources and community stature, these groups have molded themselves into a powerful force for public good.

Against well-funded and concerted opposition from the pesticide industry, the PPB was able to win a hard-fought battle for a pesticide bylaw in Toronto <http://www.toronto.ca/health/pesticides/index.htm>. The pesticide industry fought the bylaw all the way to the Supreme Court, and lost

<http://scc.lexum.umontreal.ca/scc-eliisa/highlight?language=EN&documentScope=judgment&documentScope=news&documentScope=bulletin&all=croplife&path=http://scc.lexum.umontreal.ca/en/bulletin/2005/05-11-18-bul.wpd/05-11-18-bul.wpd.html&query=croplife>.

This case opened the floodgates, as citizens in many other Ontario and Canadian municipalities rushed to secure similar or stronger protection against pesticides. RNAO has directly intervened in many of these campaigns, contacting all councilors and issuing action alerts to local members calling on them to support these campaigns. RNAO's submissions to Council respectfully lay out the evidence for a pesticide ban (for example, see RNAO's submission to Stratford http://www.rnao.org/Storage/33/2793_RNAO_Stratford_Pesticide_Deposition.pdf).

¹⁸ For an updated list of municipalities with pesticide bylaws, see

<http://www.flora.org/healthyottawa/BylawList.pdf>.

¹⁹ <http://www.pesticidefree.ca/OntBanStatement.pdf>.