



Bill 66: The Great Lakes Protection Act

Submission to the Standing Committee on General
Government

September 23, 2015



The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RN), nurse practitioners (NP) and nursing students in all settings and roles across Ontario.

RNAO welcomes the introduction of Bill 66, which in many respects is an improvement on its predecessor, Bill 6 (2013). It represents an opportunity for Ontario to take a leading role in Great Lakes protection. We thank the Standing Committee on General Government for this opportunity to offer recommendations to strengthen environmental protection under the Bill.

Background: RNAO's Work on Toxics

For RNAO, supporting a clean and sustainable environment is a matter of protecting health. Nurses have a holistic approach to health: they believe that prevention is just as important as treatment and cure. And we know that what is in the environment ultimately affects human health. The Great Lakes-St. Lawrence basin covers a huge swath of Ontario, and its waters are ultimately the repository of much of society's waste, and that works its way back into the water supply and food chain. It is far better to stop that waste from getting into the environment and the fresh water than it is to attempt to filter it out when we come to consume it. Bill 66 is a major opportunity for Ontario to begin meeting its obligations to reduce peoples' exposure to pollutants.

For years, RNAO has focused on reducing environmental, occupational and product exposures to toxics^{1 2 3 4 5} and this Bill presents an important window to protect against toxics. RNAO was mobilized to act because of Ontario's poor record on toxics. The province ranks very high in terms of total releases, relative to its American and Canadian counterparts.⁶ There have been successes. RNAO was a proud member of a coalition of health and environment groups that sought and received gold-standard protection against cosmetic uses of pesticides in Ontario. The government is to be applauded for this significant step forward.

The *Toxics Reduction Act*(TRA) was another important achievement, but more action is needed in the following areas:

- bringing into force of penalties and enforcement sections,⁷
- a mechanism to deal with unlisted substances of concern,⁸
- proclamation of section 50 (1)(o.1) regulating the manufacture, sale or distribution of a toxic substance, substance of concern or other prescribed substance.⁹
- proclamation of section 50 (1)(o.2) requiring manufacturers, vendors and distributors of the above substances to notify the public about those products.¹⁰

Furthermore, the TRA was hamstrung by a failure to include:¹¹

- targets
- mandatory substitution
- an institute that would consolidate information on best practices on toxics reduction

There has been progress on toxics, within and without the TRA. For example, the reporting of toxic substances is under way, and many facilities are implementing plans to reduce use or release of toxics.¹² The Living List process of updating the list of substances covered under the TRA has been finalized¹³ and will soon be implemented on-line. Outside of the TRA, there have been a number of measures to reduce toxic releases: the program to reduce the releases of bee-killing neonicotinoids; the closure of coal-fired power plants; and other steps to reduce greenhouse gases, which bring the co-benefits of cleaner air. Nevertheless, given that Ontario has started from a high base of toxics releases and has had mixed progress in recent years, it is incumbent on the government to seize any appropriate opportunity to reduce toxics release. Bill 66 is well suited to that end because it allows regulation of pollutants and because it covers a very large, and the most populous, part of Ontario – the Great Lakes-St. Lawrence basin.

Changes in Bill 66 from Bill 6 (2013)

There are a number of improvements in Bill 66 over its predecessor, Bill 6 (2013). They include articulation of guiding principles:

- An ecosystem approach
- A precautionary approach
- An adaptive management approach
- The importance of collaboration between government and interested persons and organizations in seeking to achieve the purposes of this Act
- The importance of government accountability to the public for actions taken to achieve the purposes of this Act
- The recognition of First Nations and Métis communities that have a historic relationship with the Great Lakes-St. Lawrence River Basin

Language addressing pollutants is now included:

- a purpose “to protect human health and well-being” “through the elimination or reduction of harmful pollutants.” (1. (2) 1.)
- ensuring the monitoring and reporting on harmful pollutants (and more generally of ecological conditions) (7. (1) 1.)
- allowing for policy tools that could require the reduction of harmful pollutants. (Schedule 1, 1.4(i))

In addition, Bill 66 mandates a Great Lakes Strategy and associated monitoring and reporting, which will deliver transparency and accountability. It also empowers ministers to set targets and prepare plans to achieve those targets. Planning is optional and not mandatory, while the target setting is only mandatory for reduction of algal blooms. It would be much more powerful if target setting and planning were mandatory.

The Great Lakes Protection Act Alliance (GLPAA) has provided a very useful submission¹⁴ which RNAO is pleased to endorse. That includes acknowledgement of other improvements that have occurred within Bill 66. The GLPAA also identifies one very troubling change in the Bill 66: it would empower Cabinet to exempt:

“any person or class of persons from any provision of this Act or the regulations, subject to such conditions or restrictions as may be prescribed by the regulations “ (38 (1) (I)).

RNAO Recommendations on Bill 66

A. Remove exemptions.

The broad discretion given to Cabinet to impose exemptions under paragraph 38(1)(I) is not necessary, and would risk undermining the credibility of the bill.

RNAO Recommendation 1. We strongly urge that any provisions enabling discretionary exemptions from the GLPA be deleted, including the removal of paragraph 38(1)(I).

B. Toxics, Targets and Planning.

We need to get toxics out of the environment. The Bill itself points out the urgency for action: three of Ontario's four Great Lakes are in decline. As noted above, we applaud enhancements appearing in Bill 66, including: the addition of pollution reduction and elimination in the purpose; monitoring and surveillance of pollutants and ecological conditions; and allowing for policy tools that would require pollution reduction. Missing are mandatory targets with achievable, yet meaningful timelines and mandatory plans. Without targets and plans, it is very difficult to achieve progress. Without substantial targets, progress will be limited. It is important to have aggressive timelines.

RNAO Recommendation 2. Amend Part IV (Targets) by:

a) Amending section 9(1) from:

*"To achieve one or more purposes of this Act, the Minister **may**, after consulting with the other Great Lakes ministers, establish qualitative or quantitative targets relating to the Great Lakes-St. Lawrence River Basin."*

to

*"To achieve one or more purposes of this Act, the Minister **shall**, after consulting with the other Great Lakes ministers, establish qualitative or quantitative targets relating to the Great Lakes-St. Lawrence River Basin."*

b) Amending section 9(5) from

*"With respect to a target the Minister of the Environment and Climate Change or the Minister of Natural Resources and Forestry has established under subsection (1) or (3), he or she **may**, after consulting with the other Great Lakes ministers, prepare a plan setting out the actions that may be taken to achieve the target."*

to

*"With respect to a target the Minister of the Environment and Climate Change or the Minister of Natural Resources and Forestry has established under subsection (1) or (3), he or she **shall**, after consulting with the other Great Lakes ministers, prepare a plan setting out the actions that may be taken to achieve the target."*

c) amending the timeline for a target on reduction of algal blooms in paragraph 9(2) from two years to one year.

d) adding a paragraph,

"Within one year after this section comes into force, the Minister shall establish at least one target under subsection (1) to assist in the reduction

or elimination of harmful pollutants in all or part of the Great Lakes-St. Lawrence River Basin."

RNAO further urges the government to establish several ambitious targets.

C. Principles.

The principles of the *Canadian Environmental Protection Act* (CEPA) include the precautionary principle, pollution prevention, virtual elimination of persistent and bioaccumulative toxic substances, and the "polluter pays" principle.¹⁵ The precautionary principle is included in Bill 66, but all the CEPA principles are worthy of inclusion in any piece of environmental legislation, including this one. We ask you to consider including the CEPA principles in the Bill as well.

Recommendation 3. Reference the principles of the Canadian Environmental Protection Act in the Bill.

In summary, RNAO strongly welcomes Bill 66 as an important piece of legislation that has improved in many respects from its predecessors, but we urge the Committee to amend the Bill to remove the provision allowing for discretionary exemptions of named persons from provisions of the Act; to make targets and planning mandatory and substantial, and to reference the principles of the *Canadian Environmental Protection Act*.

References:

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- ¹Registered Nurses' Association of Ontario. (2008). *Move Now to Protect Public Health: Submission to the Toronto Board of Health on Environmental Reporting and Disclosure*. July 3. Retrieved September 21, 2015 at http://rnao.ca/sites/rnao-ca/files/storage/related/3479_RNAO_Submission_to_TBOH_Community_Right_to_Know_July_2008.pdf
- ²Registered Nurses' Association of Ontario. (2009). *Time to Show the Money: The Toxics Reduction Act, 2009: Submission on Bill 167 to the Standing Committee on General Government*. May 13. Retrieved September 21, 2015 at http://rnao.ca/sites/rnao-ca/files/storage/related/5080_Microsoft_Word_-_Bill_167_submission_-_May_13_2009.pdf.
- ³Registered Nurses' Association of Ontario. (2010). *Re: Proposed Ontario Regulation 455/09, Toxic Reduction Act and Policy Options for Enhanced Planning -- EBR Registry Number 010-9349*. May 18. Retrieved September 21, 2015 at http://rnao.ca/sites/rnao-ca/files/RNAO_EBR_submission_-_toxic_reduction_act_-_010-9349_-_May_18.pdf.
- ⁴Registered Nurses' Association of Ontario. (2008). *Briefing Note: The Environment and Human Health*. January. Retrieved September 21, 2015 at http://rnao.ca/sites/rnao-ca/files/storage/related/3111_Briefing_Note_-_The_Environment_and_Human_Health.pdf.
- ⁵Registered Nurses' Association of Ontario (2009). *Nurses commend government for law aimed at reducing dangerous toxics*. Retrieved September 21, 2015 at <http://rnao.ca/news/media-releases/Nurses-commend-government-for-law-aimed-at-reducing-dangerous-toxics>.
- ⁶Council for Environmental Cooperation. (2006). *Toxic Chemicals and Children's Health in North America*. May. In 2002, Ontario ranked second in total releases of recognized developmental and reproductive toxicants, and fifth in terms of carcinogens, of all US states and Canadian provinces. Retrieved September 21, 2015 at <http://www3.cec.org/islandora/en/item/2280-toxic-chemicals-and-childrens-health-in-north-america-en.pdf>.
- ⁷For sections of the TRA that are not yet in force, see highlighted sections of: Ontario. (2013). *Toxics Reduction Act, 2009*. Retrieved September 21, 2015 at http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_09t19_e.htm#BK16.
- ⁸Section 11 on reporting substances of concern has not been proclaimed by Cabinet. Ibid.
- ⁹Section 50 (1)(o.1) has not been proclaimed by Cabinet. Ibid.
- ¹⁰Section 50 (1)(o.2) has not been proclaimed by Cabinet. Ibid.
- ¹¹Registered Nurses' Association of Ontario (2009). *Government's legislation on toxics bad for people's health*. Retrieved September 21, 2015 at <http://www.newswire.ca/en/story/481271/government-s-legislation-on-toxics-bad-for-people-s-health>.
- ¹²Ontario Ministry of the Environment. (2014). *Minister's Report on Toxics Reduction: 2014*. Retrieved September 22, 2015 at <https://dr6j45jk9xcmk.cloudfront.net/documents/2530/112-moe-toxicsreductionreport-2014-en.pdf>.
- ¹³Government of Ontario Environmental Registry. (2014). *Policy Decision Notice: Living List Framework to guide review and possible changes to the lists of the substances prescribed under the Toxics Reduction Act*. Retrieved September 22, 2015 at <https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeld=MTIxMzAz&statusId=MTg2NTg0>.
- ¹⁴Great Lakes Protection Act Alliance. (2015). *Submission to the Standing Committee on General Government: Recommendations Regarding Amendments to Bill 66 – Proposed Great Lakes Protection Act*.
- ¹⁵Canadian Environmental Protection Act (S.C. 1999, c.33). Retrieved September 23, 2015 at: <http://laws-lois.justice.gc.ca/eng/acts/c-15.31/>.