

**Presentation to the Standing Committee on General Government
Public Testimony on Bill 167, the Toxics Reduction Act, 2009**

My name is Dean Edwardson, General Manager of the Sarnia-Lambton Environmental Association (SLEA). I would like to thank the committee for allowing me to make this brief presentation to you concerning Bill 167, the Toxics Reduction Act.

The Sarnia-Lambton Environmental Association (SLEA) is an environmental co-operative of 24 refining, petrochemical and associated industries in the Sarnia area, the SLEA promotes the maintenance of a healthy environment through sustainable development, by ensuring that members are well informed on environmental issues. Frequent seminars and workshops are held to ensure members understand and comply with current and emerging environmental issues and regulations, as well as control and prevention technologies.

A key element of our operation includes an extensive technologically-advanced environmental quality monitoring network that ensures awareness and understanding of industrial impacts on the local environment and tracks long-term change in air, water and groundwater quality. Continuous records, dating back to the early 1960's, demonstrates continuously improving environmental quality and are routinely shared with the Ministry of the Environment as a valuable resource in the selection of appropriate air and water quality standards.

The members of the Association employ approximately 3500 people and provide economic opportunities for thousands of others in the building trades and supply chain businesses. Our members are a key cornerstone of the manufacturing sector in Ontario

The SLEA supports the Ontario government's initiative to regulate toxic substances, prevent pollution and protect human health and the environment. However, our Association **does not agree** with the manner in which the government proposes to do this as outlined in the Toxics Reduction Act.

Our concerns and comments will fall under the following three main areas;

1. Federal – Provincial harmonization
2. Reporting requirements
 - a) Contents of Plan
 - b) Toxic Substance Accounting
 - c) Information Available to Public
3. Competitiveness and Confidentiality

Federal – Provincial Harmonization

The SLEA is disappointed that this legislation has not recognized or been harmonized with the Federal government's Chemicals Management Plan (CMP). The Chemicals Management Plan is one of the most stringent processes in the world for the assessment

of substances considered to be toxic. We believe that duplicating this process at the provincial level is not necessary and frankly is a wasteful expenditure of Ontario tax dollars. Ontario should align its lists with those of the CMP based toxic substances contained in the Canadian Environmental Protection Act (CEPA) Schedule 1. We also question the process by which Ontario has proposed substances as toxic. Other than those which are consistent with CEPA Schedule 1, the process does not seem to be open, transparent or clearly documented based on risk.

Reporting Requirements

The SLEA believes that the reporting of toxic substance use in the manufacturing process does not meet the test of any toxic reduction strategy nor does it address the issue of the elimination of human exposure. The Toxic Reduction Act should focus on the reduction of emissions and releases based on scientifically valid risk, where the risk is a function of both the hazards of the substance coupled with the emission exposure impacts.

a) Contents of Plan

The requirement to include a description of each process at a facility that uses or creates the toxic substance is very onerous and in many instances can be proprietary in nature.

The members of the SLEA operate very large and complex facilities and the level of detail and effort of site personnel to achieve this requirement will be resource intensive, if in fact the objective can be obtained at all. Petro chemical processes are often interdependent whereby the product of one process may be a key ingredient in another process, which may or may not result in the creation of a toxic substance. The use of a toxic substance may be a key requirement in the process which does not make it eligible for substitution or reduction strategies. It is also important to note that the process itself may in fact be intended to produce a toxic substance. Under such scenarios, the SLEA believes that efforts would be better directed to the control and elimination of potential releases as opposed to developing a meaningless reduction strategy which could only be achieved by shutting down the process or plant in question.

Although the legislation makes reference to “each process,” a more practical and meaningful approach would be to address toxic substances based on the overall infrastructure of the plant as a whole, as opposed to each individual process.

b) Toxic Substance Accounting

Although not specifically addressed in the legislation, the 2008 Toxics Reduction Discussion Paper suggested that materials accounting may be the preferred tool to assess and report on toxics reduction. The SLEA believes and suggested in our comments on the Discussion Paper, that materials accounting is only one option that can be used for toxics reduction. Most members of the SLEA do materials accounting

as part of their manufacturing management practices. However, there may be other approaches that can be used for toxic reduction. These tools may include:

- Direct monitoring of emissions
- Engineering calculations
- Risk assessments
- Use of emission factors

If materials accounting were prescribed, the SLEA would have issues around definitions, limits of detection and exemptions.

c) Information Available to the Public

Most SLEA members have Community Liaison Committees which have been in place for some time. These committees have been instrumental in helping the community better understand our operations and their impacts. In turn our members have a better understanding of the concerns the general public may have with respect to their operations. We continue to diligently address these concerns through a process of mutually respectful frank and open dialogues. We know that our community has high expectations of local industry. However, the SLEA feels that disclosure of information around the use of toxic substances may create unwarranted fears and unattainable expectations within the community. The SLEA supports the belief that the community has a right to know about toxic emissions and that industry has an obligation to limit these emissions based on a scientific evaluation of the risk for exposure and the potential for adverse effect on human health and the environment.

Competitiveness and Confidentiality

It is no secret that the manufacturing sector in Ontario has been impacted significantly by the current economic downturn. Ontario industries face unprecedented economic challenges on a global scale. To compete manufacturers must produce quality products at a competitive price. The Toxic Reduction Act as it is presently proposed will add another regulatory burden and additional costs at a most inopportune time.

Further, elements of this Act could potentially result in the disclosure of proprietary business information by disclosing the use and quantity of certain substances. Such information would not be required of company's who import similar products into Ontario.

The disclosure of certain information on the use of toxic substances may also pose security concerns as these substances could be used in a variety of illegal activities which would not be in the best interests of the general public.

In conclusion, the SLEA respectfully requests that the Ontario government consider the following recommendations:

- 1. Harmonize Ontario's efforts with respect to the reduction of toxic substances with those of the Federal government's Chemicals Management Plan (CMP) and the CEPA Schedule 1 list of compounds.**
- 2. The contents of the toxic reduction plan be facility based not processed based.**
- 3. Limit the prescriptive requirement for materials accounting and reporting, allowing for other methods as may be determined by professional judgment.**
- 4. The Toxic Reduction Plan focus on emissions based on a scientific evaluation of risk of exposure.**
- 5. The information available to the public be limited to the risk of exposure to emissions and not the use or presence of toxic substances in a facility.**

Consideration of these changes will help Ontario regulate toxic substances, protect human health and the environment and ensure that the manufacturing sector remains competitive while preserving confidentiality and security.

On behalf of the member companies of the Sarnia-Lambton Environmental Association, I wish to extend my appreciation to the Standing Committee on General Government hearing testimony on Bill 167, The Toxics Reduction Act, 2009 for allowing me to make this presentation to you today.

I would be pleased to answer any questions that you may have.