



Current and Emerging Air Issues Post Lafarge

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Outline

- **What is “Lafarge”?**
- **Air quality standards – Ambient Air Quality Criteria and Regulation 419**
- **How to determine compliance with Regulation 419**
- **Reporting requirements**
- **Lafarge and cumulative effects assessment**

The Lafarge Decision

- **Application for a C of A (Air) to burn municipal solid waste in a cement kiln**
- **Received approval from the Director**
- **Concerned citizen group appealed to the Environmental Review Tribunal**
- **ERT & Court found mere compliance with 419 was not enough**

Lafarge Ruling

- **MOE has to consider its Statement of Environmental Values before granting a C of A:**
 - Ecosystem Effects
 - Precautionary Principle
- **ERT and Court ruled that cumulative effects assessment may be necessary to allow consideration of**
 - Ecosystem Effects
 - Precautionary Principle

Ambient Air Quality Criteria

- **Ambient air quality is the cumulative effect of emissions from all sources impinging at any POI**
- **AAQC are the “desirable levels” of ambient air quality for listed substances**
- **Averaging times are effects based: 24 hours, 1 hour and 10 minutes**
- **Published MOE Guideline**

Air Quality Standards in Regulation 419/05

- **Schedule 1: Standards with Half Hour Averaging Times**
- **Schedule 2: Updated Standards with Half Hour Averaging Times After 2010**
- **Schedule 3: State of the Art Standards with Variable Averaging Times – US EPA Models – Being Phased In**
- **PLUS - Upper Risk Thresholds (Schedule 6)**

Schedule 3 Standards

- **Schedule 3 POI Standards are set equal to AAQC (for all but one substance)**

- **This creates a Dilemma:**

There is no allowance for background

Compliance with 419 Schedule 3 Exceedance

- **Reportable under Regulation 419**
- **Reporting triggers obligation to file abatement plan within 30 days**
- **Can result in abatement orders and prosecutions**

Compliance with 419 –AAQC Exceedance

- **Leads to MOE presumption of adverse effect**
- **Adverse effect reportable under Regulation 419**
- **Reporting triggers obligation to file abatement plan within 30 days**
- **Causing an adverse effect is non-compliant with 419 and the *Environmental Protection Act***
- **Can result in abatement orders and prosecutions**

What constitutes exceedance?

20. (1) A person shall not discharge ... **a contaminant** listed in Schedule 3 into the air if a standard is set out in that Schedule for **the contaminant** ... and the discharge results in the concentration of **the contaminant** at a point of impingement exceeding that standard

Reporting is Required

- **When modeling or monitoring shows an exceedance of a 419 standard or adverse effect**
- **Modeling is facility specific and ignores background and significant neighbouring sources**
- **Monitoring measures the cumulative effect of facility and background**

Who is Obligated to Report

- **Consultants: NO**
- **Discharger: YES**
- **Which Discharger?**
 - If Director combines two properties under s.4
 - Share raw materials, products, or services
 - Both responsible for exceedance

Reporting Triggers

28. (1) A person who discharges ... shall, as soon as practicable, notify a provincial officer in writing if,

(a) the **person uses an approved dispersion model to predict concentrations of the contaminant that result from the discharges and...**

the use of the model indicates that discharges of the contaminant may result in a contravention ...

(b) **measurements of air samples **indicate** that discharges of the contaminant may result in a contravention ...**

Cumulative Air Impacts Post Lafarge

- **ERT and Court ruled that Director should have considered cumulative effects on ecosystem**
- **Adding facility modelled POI impact to measured background could result in exceedance**
- **Exceedance = adverse effect = no C of A?**

Certificates of Approval

Director can impose different or more stringent standard:

21. Sections 18, 19 and 20 do not apply to a discharge of a contaminant if a certificate of approval imposes a more stringent standard

Is Cumulative Effects Assessment Now Mandatory?

- **Not in every case**
- **Lafarge does require the Director to consider whether cumulative effects assessment needed**
- **How? In the beginning, informal triage. Eventually MOE will have to develop a screening process**
- **US EPA NSR/PSD may be a precedent**



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