

## General

### **1. When do the section 10 amendments take effect?**

The amendments to section 10 of O. Reg. 419/05 take effect on July 1, 2018. After July 1, 2018, the next time you prepare or update your Emission Summary and Dispersion Modelling (ESDM) report you need to ensure that the applicable operating scenarios set out in section 10 are considered. This could occur during an annual update of an ESDM report – either as required by regulation (which is to be done each year by March 31<sup>st</sup>) or as required by a condition of an Environmental Compliance Approval (ECA). As well, this could occur when submitting or revising an ESDM report in support of an ECA application, site-specific standard request, EASR registration or in other situations when an ESDM report is required (e.g., URT exceedence).

### **2. What happens if I now determine non-compliance with air standards when I consider section 10 as amended?**

If your facility does not meet the air standards, you will need to come into compliance. If a standard is exceeded, notification must be made to the local district office as soon as practicable in accordance with section 28 followed by submission of an abatement plan under section 29 of O. Reg. 419/05. Note that refinement of emissions under section 12 may be your first step in confirming whether there is an exceedence. In certain instances to achieve compliance you may need to look to technical solutions for improvements, such as installing air pollution control technology, requesting a site-specific standard or registering under a technical standard (if one is available for your sector). Site-specific standard or technical standard compliance approaches require facilities to use the best available controls and practices to reduce the risk to public health and continue to operate responsibly.

## Permissions

### **3. If I submit an ECA application or register in the EASR before July 1, 2018, what is expected in regards to the application of section 10?**

The amendments to section 10 are meant to clarify, by way of specifying operating scenarios in subsection 10 (1.5), what should be considered when determining the highest concentration of a contaminant at a point of impingement (POI) that your facility is capable of. In some instances, these scenarios may have been previously considered and the maximum POI concentrations predicted may not change.

You can apply or register using the Emission Summary and Dispersion Modelling (ESDM) report that complies with O. Reg. 419/05 at the time of submission. However,

## Ministry of the Environment, Conservation and Parks

### Local Air Quality Regulation

#### Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05

for ECA applications submitted prior to July 1, 2018 the ministry may require facilities to consider operating scenarios outlined in the amended section 10 of O. Reg. 419/05 on a case-by-case basis. After July 1, 2018, the next time you prepare or update your ESDM report you need to ensure that the amended section 10 requirements are met.

#### **4. What is the ministry's expectation for ESDM reports that have already been completed to support registration under the Air Emissions EASR regulation? Do facilities need to update their ESDM reports now to address the amendments?**

Emission Summary and Dispersion Modelling (ESDM) reports are required to be prepared and kept under O. Reg. 1/17: Registrations Under Part II.2 of the Act – Activities Requiring Assessment of Air Emissions (Air Emissions EASR Regulation). The Emissions Summary Table of the EASR ESDM report is submitted as part of a facility's registration.

The Air Emissions EASR regulation clearly states that the EASR ESDM report needs to be fully assessed at least once in every ten year period. Prior to making any modifications to the facility, the EASR ESDM report and report supplement, must be updated to reflect the proposed modification. However, if the licensed engineering practitioner is of the opinion that the information in the EASR ESDM report/report supplement will remain accurate they can provide an addendum to the reports. As such your ESDM report does not need to be updated to reflect the regulatory amendments that took effect on July 1<sup>st</sup> unless one of the above triggers occur or there are concerns raised in regards to discharges at your facility and the ministry requires you to update it (e.g. follow-up action from an inspection or audit).

### **Petroleum Refineries**

#### **5. What is expected of petroleum refineries in respect of the amended section 10?**

The amendments to section 10 clarify requirements for assessing operating conditions by specifying the types of operating scenarios that all facilities should consider for the purposes of paragraph 1 of subsection 10(1) when determining the operating scenario that would result in the highest concentration of a contaminant at a point of impingement (POI).

In addition to modelling a scenario described in subsection 10 (1), facilities in the petroleum refining sector identified under North American Industry Classification System (NAICS) codes 324110 and 324190 are required to assess emissions of sulphur dioxide during transitional operating conditions related to acid gas flaring. In order to determine the acid gas flaring scenario that would result in the highest one-hour POI concentration of sulphur dioxide, there is a requirement to consider the following types of scenarios:

## Ministry of the Environment, Conservation and Parks

### Local Air Quality Regulation

#### Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05

- The scenario that assumes operating conditions at the facility when no sulphur recovery unit (SRU) at the facility is operating and the flare system is receiving the mass flow rate of sulphur that would otherwise have been processed by all of the SRUs at the facility;
- Any other scenarios occurring when acid gas is flared.

The amendments to section 10 of the regulation took effect on July 1, 2018. After July 1, 2018, the next time you prepare or update your Emission Summary and Dispersion Modelling (ESDM) report you need to ensure that scenarios under both subsection 10 (1) and subsection 10 (1.1) are modelled and the applicable scenarios set out in section 10 are considered in determining the scenarios to model. This could occur during an annual update of an ESDM report – either as required by regulation (which is to be done each year by March 31<sup>st</sup>) or as required by a condition of an Environmental Compliance Approval (ECA). As well, this could occur when submitting or revising an ESDM report in support of an ECA application, site-specific standard request, or in other situations when an ESDM report is required (e.g., when a section 24 notice is issued by the ministry to your facility).

#### **6. My facility is a petroleum refinery and there are concerns that it may not meet an air standard or URT as a result of section 10 amendments. What options are available in this situation?**

If your facility does not meet an air standard, including the existing air standards for sulphur dioxide, when applying the new rules, your facility will need to come into compliance. If a standard is exceeded, notification must be made to the local district office as soon as practicable in accordance with section 28 followed by submission of a written abatement plan within 30 days under section 29 of the regulation. Refinement of emissions under section 12 of the regulation is typically your first step in confirming whether there is an exceedence. Note, however, the refinement of emissions under section 12 does not apply to sulphur dioxide emissions assessed under the new petroleum refinery provisions included in subsections 10 (1.1) and 10 (1.2) .

The ministry also introduced upper risk threshold (URT) for sulphur dioxide. These URTs are in effect starting on January 1, 2019. Should your facility determine, based on any relevant information, that discharges of sulphur dioxide may exceed the URT, you are required to immediately notify the district office in writing under subsection 30 (3) and submit an ESDM report that meets the specific requirements set out in section 30 within three months as per subsection 30 (4). Note that there may be URTs for other contaminants already in place that apply to your facility and these continue to apply along with the applicable requirements in section 30.

**Ministry of the Environment, Conservation and Parks**  
**Local Air Quality Regulation**  
**Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05**

While the phase-in date of the new sulphur dioxide air standards is July 1, 2023, facilities may find themselves non-compliant with the existing standards sooner. To achieve compliance facilities may need to look to technical solutions for improvements, such as installing air pollution control technology, requesting a site-specific standard or registering under a technical standard (if one is available for your sector and contaminant). Site-specific standard or technical standard compliance approaches require facilities to use the best available controls and practices to reduce the risk to public health and continue to operate responsibly.

**Operating Scenarios**

- 7. What should be documented in relation to the sources and operating scenarios I considered (i.e. normal operations mentioned in subsection 10 (1.5)) and those I have not considered (i.e. failures to operate in a normal manner)?**

Every source of contaminant that discharges a contaminant to air at the facility must be listed in the ESDM report [see paragraphs 2 and 3 of s. 26 (1)]. All sources of contaminant should be documented in the Sources and Contaminants Identification Table regardless of whether the source of contaminant is considered in an operating scenario under section 10. If a source is not part of any of the operating scenarios considered under section 10, an explanation should be included in the Sources and Contaminants Identification Table.

It is good practice to set out the operating scenarios considered when determining which scenario would result in the highest concentration that a facility is capable of (e.g. the various start-up scenarios, the various shut-down scenarios etc.) as well as other operating scenarios that may occur at the facility but that were not considered (e.g. by-pass scenarios) and provide a brief explanation of why the scenario was not considered (e.g. part of a failure to operate in a normal manner). The ESDM report must contain a description of the operating conditions that were used in accordance with section 10 when using an approved dispersion model [see s. 26 (1) 6]]. Refer to Guideline A10: Procedure for Preparing an Emission Summary and Dispersion Modelling (ESDM) Report for more information.

- 8. What are the benefits for me to consider and document a range of operating scenarios including failures to operate in a normal?**

Certain other legal requirements may be triggered when a facility or part thereof fails to operate in a normal manner. This may include notifying the ministry of the failures as well as spills response and reporting. It is recommended that a facility consider

operating scenarios that are failures to operate in a normal manner in advance of the scenario actually occurring to better understand whether there is potential for exceeding a standard or causing adverse effects. If the assessment predicts no exceedence or adverse effect this will simplify and streamline the actions needed should a failure occur. Also by considering a scenario prospectively, a facility may negate the need for a Director to issue a notice under subsection 10 (1.9) to consider the scenario. If a facility considered such a scenario and wishes to use the scenario for the prospective reasons mentioned above, a description of that scenario may be included in the ESDM report in accordance with paragraph 6 of subsection 26 (1) and then the Director will have been deemed to have given written notice requiring the person to consider that scenario [see s.10 (1.10)].

**9. Section 10 now clarifies that I don't have to look at operating scenarios that are non-normal or failures. I have already considered these in past ESDM reports so what do I do now?**

If you have previously considered a scenario that could be considered failure to operate in a normal manner and you are in compliance with the air standards, you could include a description of that scenario in your ESDM report. In doing so, a notice under subsection 10 (1.9), which requires this specific operating condition to be considered, is deemed to have been given (see subsection 10 (1.10)). This may be beneficial because it documents that you have considered this scenario and it is not of concern, in the event the ministry has questions about this operation. If you have modelled a non-normal operating scenario and it results in non-compliance with an air standard and you have or are taking steps to address this, then you should discuss with your local district office. The ministry may determine that the steps being taken are needed to protect the local community since your emissions must not cause an adverse effect notwithstanding any other regulatory requirements. If you no longer assess the specific non-normal operating scenario, the ministry may issue a notice under subsection 10 (1.9) to have you include it in your ESDM report.

**10. How can I calculate emissions for transitional operating conditions (TOC)? Are there established emissions factors for these operating scenarios across all sectors?**

Estimating emissions from these scenarios should use the same emission estimating methods outlined in the ESDM Procedure document (see Chapter 9). These include:

- mass balance calculations
- engineering calculations
- emission factors (where available)

**Ministry of the Environment, Conservation and Parks**

**Local Air Quality Regulation**

**Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05**

- source tests to assess a specific TOC (if applicable)
- data from a continuous emission monitor, if available
- emissions estimates from a modelling/monitoring assessment

At least one of the above emission estimating methods can be used for non-routine operations that are dealt with by processes/equipment that are designed for that purpose (e.g. flares, stand-by or back-up systems, etc.).

**11. What if process X is not used regularly and does not discharge an acute contaminant? Does it have to be assessed for para 1 of subsection 10(1)?**

Yes. All operating conditions that are designed to occur when the facility is operating as it is designed and intended to operate must be considered for the purpose of paragraph 1 of subsection 10 (1). The operating scenario that results in the maximum POI concentration must be modelled and included in the ESDM report even if it may not occur regularly.

**12. The ministry indicated it may be more concerned about contaminants with acute effects than others. Since not many contaminants have short term averaging standards, what levels do we compare emissions with?**

In assessing compliance with air standards a facility must consider operating conditions and emission rates applicable to the averaging period of the standard for each contaminant (e.g. one hour, 24 hour etc.) Some contaminants may have more than one standard and all must be used for assessment of compliance.

However, we recognize that emissions from transitional operating conditions may result in elevated concentrations over a short time-period and therefore standards with longer averaging times may not be relevant to those conditions. At this point, there are not many standards, guidelines or screening levels with short averaging times. The ministry will consider developing more short term standards, guidelines and screening levels based on available scientific information. Notwithstanding the above, discharges of a contaminant to air must not cause adverse effects.

**Operating Scenarios – Start-up and Shut down**

**13. Why are start-ups and shut downs now part of the “normal” operating scenarios that all facilities need to assess to determine if these result in the highest emissions?**

Processes that start-up and shut down are transitional in nature but can affect short and long term maximum contaminant concentrations emitted depending on how frequently they occur. These processes are often planned for and resulting emissions can be managed or controlled. There are certain sectors/facilities where it is known/expected that start-ups and shut-downs will occur frequently (e.g. gas plants) and these emissions have been assessed and approved. The emissions from these operating conditions are expected to be considered for the purpose of paragraph 1 of subsection 10 (1) for all facilities.

### **Operating Scenarios – Failure to Operate in a Normal Manner**

#### **14. How do I determine whether a specific operating scenario is a failure to operate in a normal manner?**

Subsection 10(1.5) sets out the operating conditions that must be considered and broadly comprises any operation excluding failures to operate in a normal manner. Determining when a facility or part thereof fails to operate in a normal manner is a case-specific determination. Whether a facility or part thereof fails to operate in a normal manner will be informed by the totality of the circumstances, including whether a scenario is: integral or intrinsic to the operation of the facility, planned or intended to occur, designed to occur, occurring regularly or frequently, etc.

#### **15. Do I have to consider discharges from equipment that is operated during process upsets or emergency situations?**

Depending on the circumstances, there may be instances when you may have to consider discharges from emergency equipment in your compliance assessment. This is a case-specific determination and should be informed by the totality of the circumstances (e.g., if scenario is designed to occur, may occur regularly or frequently, or may last for a long time).

For example, if a facility regularly experiences a specific process upset that results in emissions from equipment designed to deal with this situation (e.g., bypass of pollution control equipment) and continues to operate in this manner, this may be a scenario that needs to be considered in the assessment for compliance. See Question 7 for ministry expectations regarding documenting operating scenarios.

#### **16. For large facilities with many pressure relief valves (PRVs), should a 'failure' scenario assume that all PRV's discharge to air at the same time? Should these facilities list and justify inclusion/exclusion of PRVs in ESDM report individually or in some other manner?**

The requirements of O. Reg. 419/05 apply to a broad range of facilities of varying complexities. Consideration for how PRVs are to be assessed for the purposes of compliance will be a case-specific determination. As specified in Guideline A10: Procedure for Preparing an Emission Summary and Dispersion Modelling Report, the facility should develop a realistic operating scenario that results in the highest POI concentration during normal venting of pressure relief valves. It is important to consider a totality of circumstances such as the frequency and duration of occurrence to determine if PRV discharges are included in the assessment of compliance. If the facility includes PRVs in the assessment, this needs to be documented in the ESDM report (for example as a source in the Sources and Contaminants Identification Table) including the number of PRVs on site, whether they are grouped if appropriate and a rationale or justification for why the individual or group of PRVs were excluded from the compliance assessment if that is the case.

**17. If a facility has to assess a failure to operate in a normal manner and there are discharges of a contaminant(s) for which there is no limit, the facility may need to undertake toxicological assessments. What are the ministry's expectations in this situation?**

During the preparation of an ESDM report, if a facility determines that a screening level on the Air Contaminants Benchmarks (ACB) list is exceeded, or no screening level is available for the contaminant, further assessment for adverse effects is needed, which may include a toxicological assessment.

The toxicological assessment should focus on the exposure scenario which is being considered. We recognize that emissions from failures to operate in a normal manner may result in elevated concentrations over a short time-period.

If the operating scenario occurs over a short duration (i.e. 1 hour or less), then the toxicological assessment, which includes a review of scientific information and other jurisdictional values used for comparison against the modelled point of impingement concentration, should also focus on and reflect these short-term exposure scenarios.

**18. Installing equipment such as bypass stacks is required to deal with upsets and emergencies. Do we need to model bypass emissions and address possible exceedences via an abatement plan under O. Reg. 419/05? If emissions from bypass stacks result in non-compliance – what more is expected?**

Under sections 19 and 20 of O. Reg. 419/05 it is an offence for a facility to exceed an air standard – regardless of the operating scenario. That said, when prospectively

## Ministry of the Environment, Conservation and Parks

### Local Air Quality Regulation

#### Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05

assessing compliance under section 10, a facility generally does not need to consider operating conditions when the facility or part of the facility fails to operate in a normal manner. However, assessing when a facility (or part of facility) fails to operate in a normal manner is a case-specific determination and consideration must be given to all circumstances relevant to the operation of a facility when identifying whether a specific operating condition is, in fact, failure to operate in normal manner. If a source of contaminant is not part of any of the operating scenarios considered under section 10, an explanation should be included in the Sources and Contaminants Identification Table. See Question 7 for ministry expectations regarding documenting operating scenarios.

As well, on a case-by-case basis, the Director may issue a notice to your facility under subsection 10 (1.9) to consider an operating condition, specified in the notice, when the facility fails to operate in a normal manner.

If your facility is required to model an operating scenario when the facility fails to operate in a normal manner and a standard is exceeded as a result, notification must be made to the local district office as soon as practicable in accordance with section 28 followed by submission of an abatement plan under section 29 of O. Reg. 419/05. Note that refinement of emissions under section 12 may be your first step in confirming whether there is an exceedence. In certain instances to achieve compliance you may consider other compliance options in O. Reg. 419/05 which include requesting a site-specific standard or registering under a technical standard (if one is available for your sector).

#### **19. Facilities currently prepare E2 plans related to emergency response. Are facilities now required to model emergency scenarios for compliance under Reg. 419? Why not rely on implementing applicable E2 plans instead?**

Depending on the circumstances, there may be instances when you may have to consider discharges from emergency equipment in your compliance assessment. This is a case-specific determination and should be informed by the totality of the circumstances (e.g., if scenario is designed to occur, may occur regularly or frequently, or may last for a long time).

The federal Environmental Emergency (E2) Regulations under the Canadian Environmental Protection Act are aimed at minimizing the effects of unplanned or accidental releases of hazardous substances into the environment through environmental emergency planning. While these rules are important in how facilities

**Ministry of the Environment, Conservation and Parks**  
**Local Air Quality Regulation**  
**Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05**

manage emissions during emergency scenarios, they are different from the framework established under O. Reg. 419/05 which sets standards that are protective of human health and the environment.

**20. How do the new provisions related to operating scenarios work in relation to existing spills regulatory requirements?**

The amendments to section 10 clarify requirements for assessing operating conditions by specifying the types of scenarios that all facilities should consider when determining the operating scenario that would result in the highest concentration of a contaminant at a point of impingement (POI).

As a general rule, a facility does not need to consider operating conditions when the facility or part of the facility fails to operate in a normal manner. Assessing when a facility (or part of facility) fails to operate in a normal manner is a case-specific determination and consideration must be given to all circumstances relevant to the operation of a facility when identifying whether a specific operating condition is, in fact, failure to operate in normal manner. On a case-by-case basis, the Director may issue a notice to your facility under subsection 10(1.9) to consider an operating condition, specified in the notice, when the facility fails to operate in a normal manner.

Discharges to air that occur when the facility fails to operate in a normal manner may be subject to existing regulatory requirements. It is an offence to discharge contaminants to air if the concentration at a point of impingement may exceed an air standard (i.e., sections 19 and 20 of O. Reg. 419/05). This applies regardless of whether the operating conditions at the facility at the time are normal (planned, intended) or failures to operate in a normal manner (accidental, emergency, unplanned). There is also a notification requirement under section 31 of O. Reg. 419/05 related to failures to operate in a normal manner. In addition, legal requirements related to spills may pertain (e.g., notification under section 15 of the Environmental Protection Act (EPA); spills response and reporting requirements under Part X of the EPA). Your facility should be aware of these requirements as they continue to apply notwithstanding the amendments to section 10 of O. Reg. 419/05.

In addition, if the ministry is concerned about a specific discharge that occurred during an event, the Director may order your facility to prepare and submit an ESDM report under section 24.1 requiring your facility to model those emissions using actual operating data, emission rates, meteorological and local land use data for the time period of the discharge event. The Director may also require your facility to provide an

**Ministry of the Environment, Conservation and Parks**  
**Local Air Quality Regulation**  
**Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05**

assessment of the circumstances surrounding the discharge including the most likely cause of the discharge.

**New O. Regulation 419/05 Notices**

**21. The notice under subsection 10(1.9) refers to the Director issuing a notice if he/she is of the opinion that there may be an acute effect associated with a contaminant discharged during the scenario. What is an acute effect and what contaminants are of concern?**

If the ministry is concerned about a scenario that may occur involving discharges of contaminants that may cause an acute effect, a notice can be issued to the company requiring that a specific operating scenario be considered when assessing compliance under the regulation. Operating scenarios that occur when the facility is failing to operate in a normal manner may result in elevated concentrations of a contaminant that may lead to “acute” effects.

An acute health effect is any impairment that may occur after short-term exposure to an air contaminant. Generally, an acute effect would be observed after minutes or hours of exposure and can range from serious to mild health impacts. Examples of acute health effects include watery eyes, irritation of nasal passages, nasal lesions and bronchial constriction (respiratory sensitization; asthma attack). Some contaminants have a greater potential for causing immediate health effects on individuals in the surrounding community (e.g. exposure that could result in acute health effects).

Many contaminants can cause acute effects at high enough levels. The effects depend on the concentration of the contaminant, its mode of action as well as the sensitivity of the exposed person. Acutely toxic contaminants cause adverse effects after an exposure less than 24 hours in duration. The ministry generally sets air standards to be protective in long-term continuous exposures (i.e., chronic air standards). However, a few air standards have also been set to be protective in acute exposures. The new sulphur dioxide standard is one example. Air standards for acute health effects are typically set with an averaging period of 1 hour or less.

The ministry does not currently have a specific list of contaminants that cause acute effects at certain levels. At present a case by case determination will be made by the Director on the acute effect associated with the contaminant discharged from a specified operating scenario in the notice.

**22. When/why would the ministry issue a Director’s notice under subsection 10(1.8) or subsection 10(1.9)?**

**Ministry of the Environment, Conservation and Parks**

**Local Air Quality Regulation**

**Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05**

The ministry would issue a notice under subsection 10 (1.8) of the Regulation if there are concerns that a specific operating scenario of a type mentioned in subsection 10 (1.5) has not been considered at all or not assessed properly and that this operating scenario could result in a concentration of a contaminant(s) that is the highest the facility is capable of. Examples of when a subsection 10 (1.8) notice could be issued include the following:

- (a) The ministry has information from review of a previous or similar ESDM report that the start-up of a certain process results in very high concentrations of a contaminant, possibly the highest, and this operating scenario is not the one used to determine compliance.
- (b) During normal operation of the facility there are measurements of a contaminant that indicate there may be an exceedance of a standard or that indicate concentrations that are not in line with what has been documented in an ESDM report.

In accordance with a notice issued under subsection 10(1.8), the facility would be required to assess this specified operating scenario and document its findings.

The ministry would issue a notice under subsection 10 (1.9) of the Regulation if there are concerns about discharges from a specific operating scenario that is of a type outside those outlined in subsection 10 (1.5) and the ministry is of the opinion that this scenario should be considered to determine compliance. The nature of the contaminant discharged in this operating scenario is a prime consideration. A notice under subsection 10 (1.9) can be issued on a preventative basis, when dealing with discharges of contaminants that may cause acute effects. In the case of contaminants with chronic effects, frequent discharges of the contaminant may also warrant issuance of a notice under subsection 10 (1.9). Other factors, such as closeness to sensitive receptors, density of industrial facilities in the area etc. may also be considered.

The ministry must issue a draft prior to issuing the notice to allow 30 days for the facility to comment. Concerns can be addressed at that time.

**23. My facility's ECA includes an odour limit requirement. How does a Director's notice under subsection 10 (1.9) (e.g. related to emergency releases, bypasses) work in relation to contaminants that have limits expressed in odour units?**

## Ministry of the Environment, Conservation and Parks

### Local Air Quality Regulation

#### Q & A to Support Amendments to Section 10 of Ontario Regulation 419/05

If your facility is issued a Director's notice under subsection 10 (1.9) requiring that a specified operating scenario (e.g., emergency release, bypass) be considered for a specified averaging period for the purposes of assessing compliance with air limits, that operating scenario will have to be considered in each assessment for the contaminant(s) specified in the notice (e.g. each time an ESDM report is required to be prepared or updated by your facility).

If your facility has an odour limit requirement included in an ECA, your facility needs to consider operating scenarios set out in a subsection 10 (1.9) Director's notice when assessing compliance with the ECA odour limit.

#### **24. In regards to a notice that the Director can issue under subsection 10 (1.9), what is considered an operating scenario that may occur too frequently?**

This is a case-by-case assessment made by the ministry. The Director could consider a number of criteria, including the nature of the contaminant, the potential adverse effects experienced, the duration and magnitude of emissions and distance to human receptors, in addition to information related to past incidents that occurred at the site or at other facilities with similar operations.

#### **25. My facility has received a notice under section 10? Does it last forever? Do I always have to model the operating condition mentioned in the notice every time I do an ESDM report?**

Yes, in all future ESDM reports, including but not limited to ESDM reports submitted in support of applications to amend the facility's ECA, site-specific standard requests and URT exceedence, you must consider the operating condition mentioned in the notice when determining the scenario to be modelled until the notice is amended or revoked.

**IMPORTANT NOTE:** This document is to be used as guidance to support Ontario Regulation 419/05 and is not considered law. One must refer to the Regulation for a comprehensive understanding of the legal requirements of facilities. Ontario Regulation 419/05 will take precedence in the event of a conflict between the Regulation and this document. The ministry's [Rules on air quality and pollution](#) web site contains wide-ranging information including Guideline Documents, forms and a link to the Regulation itself.