

# A Call for Change

## Why Ontario's Air Pollution System Fails to Protect Public Health



Canadian  
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# Executive Summary

## Ontario must fix its approach to regulating air pollution so that human health is protected equally across the province.

To demonstrate how and why Ontario must modernize its approach to air pollution regulation, the Canadian Environmental Law Association (CELA) has **supported two individuals** from communities impacted by air pollution in **filing a formal request** for a review of the province's Cumulative Effects Assessment (CEA) in Air Approvals policy.

This summary report highlights the problems and impacts of Ontario's approach to regulating air pollution as detailed in the formal Application for Review (the Application) filed under the Environmental Bill of Rights (EBR), hereafter cited as EBR Application<sup>1</sup>.

As detailed in the Application, air pollution is already seriously harming the health of Ontarians, and some communities are unfairly exposed to higher levels of pollution, particularly low-income and Indigenous communities located near multi-facility industrial areas.

<sup>1</sup> Application for Review, Filed Pursuant to section 61 of the Environmental Bill of Rights, 1993 RE: Cumulative Effects Assessment (CEA) in Air Approvals.



## Although the stated goal of the province's air pollution approach is to protect human health by limiting exposure to air pollution, this is undermined by two fundamental flaws in Ontario's regulatory system:

- 1 the failure to consider pre-existing pollution from other facilities, and
- 2 the broad exemptions provided to polluters.

In response to court rulings and pressure from public health advocates, the province attempted to address the first flaw by enacting a CEA policy in 2018.

The Application, however, documents how this policy has failed to improve air quality in Ontario because of its extremely narrow scope and the government's failure to apply it in the approval process.

**No review of the CEA policy has taken place since it came into force in 2018, despite the government's commitment to review it within two years.** The Application contends that such a review is necessary to ensure government accountability and to address the ongoing risks to human health and the environment.

More broadly, the Application points to the need for a broader examination of how Ontario regulates air pollution and how a people-centred approach can better protect communities from cumulative exposure to pollution.



# Why Should We Care?

## Health Impacts of Air Pollution

Air pollution harms the health of Ontarians, particularly people from low-income and disadvantaged communities.

**According to the World Health Organization, air pollution is the world's greatest environmental risk to human health** (EBR Application, p. 20). Exposure to air pollutants is linked to a wide range of adverse health outcomes, including respiratory and cardiovascular disease, neurodegenerative disease, reproductive health problems, endocrine disruption, and cancer. Children are particularly vulnerable to these impacts (EBR Application, p. 20).

These harms are well documented in Ontario. Air pollution is estimated to be responsible for approximately **7 percent of all deaths in Ontario**, corresponding to 6,580 premature deaths in 2016. This represents 47 premature deaths per 100,000 people per year, the second-highest mortality rate of all the provinces and territories (EBR Application, p. 21).

Air pollution also causes illness and disrupts daily life. According to Ontario's Commissioner of the Environment, exposure to air pollutants resulted in 17.2 million symptom days and 6.9 million restricted activity days in 2016. This is equivalent to each Ontarian experiencing, on average, **1.8 days of pollution-related symptoms** or having to restrict their activities, such as work, school, or exercise (EBR Application, p. 21).

The economic costs of these health impacts are substantial. The estimated economic impact of premature deaths attributable to air pollution in Ontario in 2016 was \$49.2 billion, the highest of all provinces and territories (EBR Application, p. 40).



Hamilton



Sarnia



Sudbury



Sault Ste. Marie

## Notably, the effects of air pollution are also not shared equally.

A study of the City of Hamilton found a correlation between income level and exposure to fine particulate matter and sulphur dioxide (EBR Application, p. 28). Between 2015 and 2021, Sarnia and Aamjiwnaang First Nation experienced the highest number of Special Air Quality Statements in the province (EBR Application, p. 23).

Higher levels of exposure are linked to serious health outcomes. Historical health data from Aamjiwnaang First Nation show higher-than-average hospital admissions for respiratory and cardiovascular illness between

1996 and 2000, higher-than-average cancer rates between 1986 and 1992, and a significantly skewed birth ratio between 1999 and 2003, with two girls born for every boy in certain periods (EBR Application, pp. 23–26). Similarly, a 2025 study found that declines in air pollution were associated with reduced mortality, with the greatest benefits observed among low-income earners (EBR Application, p. 21).

The Application documents multiple air pollution “hot spots” across Ontario where industrial facilities are concentrated near low-income and Indigenous communities, including **Hamilton, Sarnia, Sault Ste. Marie, and Sudbury** (EBR Application, pp. 21–39).

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# Why Ontario's Air Pollution System Is Broken

Ontario's approach to regulating air pollution is broken and needs to be replaced.

Under Ontario's Environmental Protection Act (EPA), any facility wishing to emit contaminants into the air must demonstrate that it will not exceed health-based limits established under Regulation 419/05 (EBR Application, p. 5).

However, the goal of protecting human health by limiting emissions from individual facilities is undermined by two flaws in Ontario's regulatory approach:

- 1 the failure to consider pre-existing pollution from other facilities, and
- 2 broad exemptions provided to polluters.



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## Broad Exemptions

The province provides three mechanisms that exempt facilities from health-based air standards.

**Site Specific Standards** allow an individual facility to emit more than allowed under air standards for 5 to 10 years. A facility can apply for a Site-Specific Standard if it claims that meeting the health standard would be economically or technically challenging (EBR Application, p. 6).

**Technical Standards** allow certain industrial sectors to be exempt from a provincial air standard if only two facilities in that sector believe they cannot meet the standard (EBR Application, p. 6), essentially allowing the lowest common denominator in an industry to dictate the standard.

**Abatement Plans** allow facilities that contravene health standards to continue operating while out of compliance with the air standard (EBR Application, p. 6).

As a result, many industrial facilities in Ontario operate under one of these exemptions, meaning communities living nearby may be exposed to air pollution at levels significantly higher than would otherwise be permitted (EBR Application, pp. 6–7).



## Ignoring Cumulative Exposure

In addition to these exemptions, Ontario's regulatory approach to air pollution is founded on a fundamental flaw: it ignores the fact that exposure to any one contaminant is dependent on background levels of pollution (EBR Application, p. 5), and that exposure to pollution rarely takes place in isolation (EBR Application, p. 13). In other words, the facility-by-facility approach evaluates contaminants individually and does not account for the background pollution levels or the mixture of contaminants to which individuals and communities are actually exposed.

From a human health perspective, this flaw fails to consider how cumulative chemical exposures affect human health. Chemical exposure may interact and affect the human body in two ways:

First, additive interactions occur for chemicals that are structurally similar, act through similar mechanisms, or affect the same organ or tissue in the same body (EBR Application, p. 14).

Second, synergistic interactions occur when mixtures of chemicals produce health effects greater than or different from those expected from each pollutant individually (EBR Application, p. 14).

As a result of the province's facility-by-facility approach, compounded by the widespread use of exemptions, communities with many industrial facilities are exposed to higher overall levels of pollution than others (EBR Application, p. 5). As noted, research also shows that the adverse impacts of air pollution disproportionately affect low-income, disadvantaged communities (EBR Application, pp. 3).

# Why Ontario's Cumulative Effects Policy Has Failed

Ontario enacted a cumulative effects policy in 2018, but it has failed to deliver on its objective of improving air quality in communities due to both the policy's narrow scope and the government's failure to apply the policy in the permitting process.

Since 2008, Ontario has been legally required to consider cumulative effects when issuing air approvals due to the Ontario Divisional Court decision in *Lafarge Canada v. Ontario* (EBR Application, p. 9).

In 2015, environmental and public health organizations wrote to the Minister of the Environment to highlight the government's continued failure to consider the cumulative effects of air pollution in its regulatory approach (EBR Application, p. 4). In response, the government created the Cumulative Air Emissions Assessment Working Group to review the cumulative effects policies in other jurisdictions and provide advice on the development of an Ontario policy (EBR Application, p. 4).

In 2018, the Cumulative Effects Assessment in Air Approvals (CEA) policy came into force. The goal of the policy was to improve air quality in communities hosting multiple industrial facilities by strengthening and clarifying how cumulative effects are considered during the approvals process (EBR Application, p. 11).

However, both the extremely narrow scope and lack of application of the CEA policy have prevented it from meeting its stated objectives.

## The scope of the CEA policy is too narrow to address existing air pollution because:

The CEA policy applies only to new or expanding facilities and does not address existing sources of pollution, which are often responsible for current cumulative exposure (EBR Application, p. 10).

The CEA policy applies only to two contaminants (benzene and benzo[a]pyrene) and therefore fails to account for the wide range of pollutants released into Ontario's air each day (EBR Application, p. 10).

The CEA policy is restricted to just two areas of the province, specifically, Hamilton and Sarnia. Thus, it excludes other regions of the province that experience elevated pollution levels (EBR Application, p. 10).

This narrow scope has made the policy an ineffective tool for improving air quality in Ontario. Moreover, the policy appears never to have been meaningfully applied.

According to information provided by the government, the Ministry of the Environment, Conservation and Parks (MECP) declined to apply the policy on six occasions when it was considered after coming into force in 2018 (EBR Application, p. 11).

As a result, the CEA policy has had no measurable impact on addressing cumulative air pollution or improving air quality in affected communities.



# What Needs to Change

Ontario must update its approach to air pollution regulation so that human health is protected equally across the province.

As outlined above, Ontario's current approach to regulating air pollution is broken. The province's framework is designed to manage emissions at individual facilities or industries, rather than protect communities from cumulative harm. As a result, some communities can legally be exposed to higher levels of pollution than others, and at levels that put their health at risk.

The system is further weakened by exemptions and loopholes. Facilities that say they cannot meet health-based air standards can apply for special rules. These exemptions allow facilities to emit more pollution for longer periods of time, turning **Ontario's air pollution regime into a patchwork that prioritizes flexibility for polluters over consistent protection for people.**

**Ontario needs a new approach to regulating air pollution. This approach should be grounded in the principle that everyone has the right to breathe healthy air, regardless of their income or where they live.**

# What's CELA Doing and Why It Matters

In response to these failures of Ontario's air pollution system, CELA has supported two individuals whose communities are impacted by cumulative air pollution in filing an Application for Review under subsection 61(1) of the EBR.

The Applicants are Crystal George, a member of Aamjiwnaang First Nation who has long-standing concerns about the adverse health and environmental impacts of air pollution from facilities located near her community, and Ian Borsuk, Executive Director of Environment Hamilton and a long-time advocate for cleaner air in Hamilton.

An Application for Review under the EBR empowers members of the public to request a review of any policy, law, or regulation they believe may need to change to protect the environment (EBR Application, p. 2).

The Applicants believe that the CEA policy has been “an abject failure in addressing the adverse health and environmental impacts of air pollution caused by facilities in Ontario” (EBR Application, p. 3). They contend that a failure to review the CEA policy has “the potential to cause serious harm to human health and the environment” (EBR Application, p. 20).

**Although the CEA policy was enacted with laudable objectives, the Application demonstrates that it has failed to achieve its objectives or improve air quality in Ontario.**

The Application also seeks to hold the government accountable to its own commitments. The government committed to review the CEA policy within two years of its release in 2018 (EBR Application, p. 41). **Eight years later, no such review has taken place**, and the Application states that “government accountability warrants this commitment to be fulfilled” (EBR Application, p. 41).

This Application is important because it seeks to help fix Ontario’s broken air pollution laws and regulations. By calling for a formal review of the CEA policy, the Applicants are requesting an opportunity to develop a more people-centred approach to air pollution regulation, replacing a system that fails to account for the cumulative pollution experienced by individuals and communities.

**This review represents an opportunity to ensure that Ontario’s air pollution laws and policies provide equal protection to all communities across the province.**





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