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(Hansard)**

Thursday 8 November 2001

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des débats
(Hansard)**

Jeudi 8 novembre 2001

**Standing committee on
public accounts**

Special Report,
Provincial Auditor:
Ministry of the Environment

**Comité permanent des
comptes publics**

Rapport spécial,
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Ministère de l'Environnement

Chair: John Gerretsen
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
PUBLIC ACCOUNTS**

**COMITÉ PERMANENT DES
COMPTES PUBLICS**

Thursday 8 November 2001

Jeudi 8 novembre 2001

The committee met at 1006 in room 151.

**SPECIAL REPORT, PROVINCIAL AUDITOR
MINISTRY OF THE ENVIRONMENT**

The Acting Chair (Mrs Leona Dombrowsky): Good morning, ladies and gentlemen. Welcome to the public accounts committee. I am substituting for the regular Chair of this committee, Mr Gerretsen. We are going to begin at this time. We have some more members coming. I would ask that when the speakers come to the microphone they identify themselves for the purposes of Hansard.

We have some representatives from the Ministry of the Environment at the table here this morning, ready to offer some brief comments, as I understand. No brief comments? So we can begin with questions from members of the Legislative Assembly. Each party will have 20 minutes and I would like to begin with the Liberal Party members.

Mr James J. Bradley (St Catharines): I'll let the NDP start if they want to.

Ms Shelley Martel (Nickel Belt): Thank you to the MOE staff who are here. I can't speak for the rest of the committee members, but I feel at a bit of a disadvantage since we just got a package of answers dropped on us as we arrived which may well deal with some of the questions that I had. I had hoped that this package would have been given to members before this morning, before this committee meeting started.

Let me deal with page 10 which talks about your compliance inspections. I had some specific questions actually with respect to your number of staff available for inspections. The specific question I had was to convert the number of person-years to real live bodies so we could get a sense of how many people we do have available. If I'm reading this correctly, under the chart that you have provided you have 174 individuals who, among other things, carry out inspections. Is that correct?

Mr Bob Shaw: My name is Bob Shaw. I'm the regional director of central region. That is a correct interpretation.

Ms Martel: Can I ask, in terms of their responsibilities, what portion of their responsibilities do inspections take up? They are obviously not full-time; you provided that to us this morning. What is their expecta-

tion in terms of number of inspections they will carry out, part and parcel of all their other duties?

Mr Shaw: On average they would be expected to spend approximately 20% of their time on doing proactive inspections. The actual number varies because, depending upon the type of facility which is being inspected, it can vary from three to four days per inspection to a half-day per inspection. It's the mix that will determine the final number.

Ms Martel: Do they have a certain schedule that they're to follow on an annual basis? I know you do water plants annually.

Mr Shaw: Yes, we have a work plan. That work plan is revisited every year and priorities are established every year in that work plan. The work plan would set out the minimum cycle which is expected. For example, on municipal sewage treatment plants, it would be that 25% of the facilities are inspected annually. Then each of the 15 districts in the province takes that and derives the minimum number of inspections of municipal sewage treatment plants that they would expect to do. Then, that is further divided down in that inside each district the it normally gets partitioned off in geographic areas and environmental officers are responsible for a geographic area. So it may be that after all of the inspections to be done have been determined, depending upon the types of industries and facilities inside of an environmental officer's geographic area of responsibility, that would actually determine the number of proactive inspections that particular individual would be carrying out.

Ms Martel: In terms of an entire cycle where you get back to all, to be able to ensure that all of those inspections are done, is that a three-, four- or five-year cycle?

Mr Shaw: For our priority facilities the maximum cycle is a four-year cycle. For example, municipal sewage treatment plants are on a four-year cycle. I'd like to add that where we have significant non-compliance found during an inspection, unless we have a specific compliance program in place to address the deficiencies that were found during that inspection, we will re-inspect that plant in the next year.

Ms Martel: In the next year, until they come into compliance.

Mr Shaw: Yes.

Ms Martel: Are there other priority areas—you mentioned water and sewer—where you could have a four-

year cycle? Are there others the ministry has targeted? I'm assuming this means outside the SWAT team.

Mr Shaw: Yes. For example, other priority areas are hazardous waste transfer and processing facilities—I was going to say “municipal,” but the proper term is non-hazardous waste disposal sites, PCB storage facilities. MISA dischargers: these are the industrial dischargers which are underneath the clean water regulations. You had already mentioned municipal water treatment plants.

Ms Martel: That's it?

Mr Shaw: I may have missed one or two of the priority inspection areas. I'd like to clarify those are not all of the inspection areas, but in some inspection areas we don't approach them on a cyclic basis; we approach them on doing X number of inspections per year. For example, when you go into the pesticide area and you may be looking at the storage or handling of pesticides or the use of pesticides, the numbers vary tremendously in terms of facilities every year. If we're looking, for example, at our pesticides being applied properly and perhaps we are focusing on the landscaping business, we're now down to looking at whether pesticide applicators are properly posted in a residential area that they have sprayed. Those numbers are not fixed numbers, so we try to do X number of those per year rather than ever trying to build a cycle to get through them all.

Ms Martel: What's your inspection cycle with respect to biomedical wastes?

Mr Shaw: Biomedical waste is caught up under the hazardous wastes. For the hazardous waste transfer facilities it's once every two years. It was hiding at the top of the page.

Ms Martel: Just so I'm clear, this is not a responsibility of the SWAT team, is it?

Mr Shaw: The districts carry out what we call a cyclic baseline-type inspection function. What we are trying to do using the staff of the districts is to make sure that we are carrying out inspections across all of the program areas or all of the types of facilities that the ministry regulates, and we're trying to make sure that we have a presence in all of those program areas. As we have just discussed, in some cases in those priority areas we in fact try to make sure we have visited every one of those facilities within something between one and four years.

That's the work that's being carried out by the districts. Basically, they are doing that in order that they can assess compliance with our requirements and, where they find non-compliance, that they are able to initiate abatement action to address it. It also affords us the opportunity to do some outreach, to make sure that our regulated stakeholders are aware of any changes which may have occurred in policy or regulation. Those inspections also provide us with information which can then be subsequently used for policy development. So that goes on year after year through our district offices.

SWAT adds on top of that. It's a complementary activity. It is a very focused activity.

Ms Martel: Who directs the actions of SWAT?

Mr Shaw: The environmental SWAT team operates under the director, and the director reports through to the assistant deputy minister of operations division.

Ms Martel: So the director outlines the inspections that are to be undertaken by the SWAT team?

Mr Shaw: The director, in consultation with the assistant deputy minister, would do a strategic assessment of what type of inspection should be undertaken.

Ms Martel: What I'm getting at is that it's not set by the district at all. The district has no control over what the SWAT team is doing?

Mr Shaw: The district provides input to the SWAT team. We use the intelligence coming out of the districts as to what they are finding, and that is one of the forms of information that the SWAT team would take into consideration. If you're asking me whether or not the district manager can pick up the phone and order up the SWAT team for tomorrow morning, the answer is no.

Ms Martel: In terms of the criteria for the SWAT team, are they dealing with the highest priority in terms of government's concerns about inspections?

Mr Shaw: I'm going to ask the director of the SWAT team to answer that question.

Ms Martel: Sure. Great.

Mr John Stager: My name is John Stager. I'm the director of the environmental SWAT team.

In terms of selecting the sectors of focus for the environmental SWAT team, we've actually taken a two-staged approach. We've been in existence as an organization since the fall of last year. Recognizing that we wanted to get out in the field and initiate inspection programs, our first stage of risk assessment was really an extensive dialogue with the regional and district offices. It was a dialogue based on their judgment and knowledge of sectors and the extent of risk to human health and the environment. So the first choice of sectors was really based on that kind of dialogue and the knowledge that the districts and regional staff have on the various sectors and the industries within those sectors.

Since we did that initial cut, we've taken a much more formal approach to risk assessment and we're actually using a risk assessment methodology to identify and select sectors of what we would consider highest risk to human health and the environment.

I understand that the committee members have received a copy of the Protecting the Public Interest document, which is the risk assessment methodology that SWAT is using to select our sectors. We're going through this methodology right now within SWAT, again to select the sectors that we feel represent the greatest risk to human health and the environment.

In terms of the physical selection of those sectors, it's based partly on the risk assessment; it's based on a continuing dialogue with the districts and the work they are doing and how we can complement and supplement the kind of work that's going on in the districts. It's also a dialogue with our own senior people in terms of current events and types of sectors that we feel represent risk.

Ms Martel: Can I ask where biomedical waste fits into that?

Mr Stager: Biomedical waste is not a sector that we've focused on to date.

We have focused on a number of what we would consider high-risk sectors. We've been doing work in metal electroplating because of the hazardous waste implications. We've worked in hauled septage because of the potential impact of hauled septage. We've done hazardous liquid industrial and solid waste haulers at various points in Ontario, looking at their operations, their loads and the types of instruments they need to do their work. We've looked at hazardous waste processing and transfer stations, again at locations throughout Ontario. We've looked at pesticides and we've looked at some recycling. Those sectors have been based on a risk assessment.

We continue to do that, and we are right now identifying potential sectors for the future for the SWAT to focus on, again in conjunction with the district offices.

1020

Ms Martel: I just want to be clear on the number of inspections that have been undertaken by SWAT so far, because there are a couple of different numbers in some information we've received. On page 10, we have "December 2000, completed 78 inspections in 2000-01." Was that for the period December to March 31, 2001?

Mr Stager: Yes, it is.

Ms Martel: OK. Now, we had a second set of numbers given to us June 25, 2001. This is from a Ministry of the Environment media backgrounder which says that in September 2000 the minister created this, and up to this point, which was June 25, we had had 250 inspections. That's up to the end of June. Can you tell us what the number is as close as you can to this date?

Mr Stager: Sure. I think you did receive an update as of September 7. The numbers were 460 inspections. Obviously it's an ongoing initiative, so we've done considerably more inspections since then.

If you look at the sectors right now, for example, we've done a total of over 600 inspections. I've certainly got the numbers within the sectors, and I can provide you with that as well.

Ms Martel: Let me be clear. As of today, we should say that SWAT has done 600; is that correct?

Mr Stager: Yes. Over 600.

Ms Martel: And that is the period from when to when?

Mr Stager: That is the period from December of last year to the present.

I will say that this number also includes some facilities that are no longer in operation, and the inspection—this is specific to septage haulers, but the inspection was done because the basic facility and the operation is still there; it's just no longer in business. So we did inspect facilities and disposal sites for those kinds of operations that are actually not physically around any more but still potentially have an impact on the environment.

Ms Martel: That would be almost a full year. Originally, at a committee meeting I was not at, I understood the ministry said the SWAT team would be doing 1,000 inspections per year. Will you hit that target for next year, because you won't for this year?

Mr Stager: I believe the wording does say "in its first full year of operation," and the period between December and April of this year was a building time for SWAT, when we were still hiring the 30 inspectors. We anticipate, though, that we will accomplish 1,000 inspections this year.

Ms Martel: What is your term for "year"? I thought you said December, and today is November 8. You're up to 600. I don't think you're going to get 400 done in the next three weeks. Do you?

Mr Stager: Well, it goes until the end of December, the calendar year.

Ms Martel: All right. So you may. OK.

Mr Stager: We may accomplish that. We feel that we can accomplish that.

I do want to add something to that, though, and this is something that Bob Shaw had mentioned earlier. Keeping in mind the kinds of inspections we do, we can do a septage hauling inspection that takes us four hours. We can do a hazardous waste facility with 10 officers that takes us four to five days to do. So there is a lot more to it than the number of inspections. It's also the types of inspections that we focus on where we believe there will be problems.

Ms Martel: And I want to be clear: you have 30 full-time staff dedicated to the SWAT team?

Mr Stager: We have 30 full-time inspectors. We also have nine investigators.

Ms Martel: And those are permanent positions?

Mr Stager: Yes, they are.

Ms Martel: OK. The 174 positions that are mentioned on page 10, where there's a combination of inspection responsibilities and others, are full-time positions as well?

Mr Carl Griffith: Carl Griffith, ADM of operations division. Yes, they are.

Ms Martel: OK. So would this committee be fair in assuming that we have at least 30 for sure who do inspections full-time and another 174 ministry staff who have inspections as a part of their responsibility? That would be the staff complement that would deal with inspections? Is that a fair—

Mr Griffith: Yes, that's a fair assessment.

Ms Martel: OK. And all of those are permanent, obviously.

What is clear is that the inspections with respect to municipal water system or municipal sewer and water—I apologize if it's just water—are annual, and then you've given us a cycle for the others. Every year—

Mr Griffith: Yes. I'm sorry.

Ms Martel: This year you had, if I'm correct, a number of contract staff who were also employed to help with the water inspections?

Mr Shaw: As of the beginning of this fiscal year, fiscal 2001-02, the ministry received funding which enabled it to proceed with hiring 25 additional staff members. Most of their time is spent doing the inspections of the water treatment plants. They have been distributed to the districts throughout the province.

Ms Martel: Let me ask: are those positions permanent?

Mr Shaw: Those positions are two-year contract positions.

Ms Martel: Two-year contract? And we are where in terms of that contract? Were they hired on April 1, 2001? Is that the start date?

Mr Shaw: Their funding goes through to the end of fiscal 2002-03.

Ms Martel: March 31, 2003?

Mr Shaw: That's correct.

Ms Martel: And by virtue of the fact of having those folks on, you are able to do all of the water treatment plants in the province? If you didn't have them, would you be able to?

Mr Shaw: We could do them, but we would then have to pull back on inspections in other sectors. By having these additional people on, we are able to maintain our normal cycle of inspections, and then also do all of the water treatment plants annually.

Ms Martel: So your ability to continue that without having to redeploy from other areas depends on whether or not some of that funding can continue after 2003.

Mr Shaw: That's correct.

Ms Martel: Just so I'm clear on the number of inspections—I'm sure that it was in the documentation—it was about 4,000?

Mr Shaw: Sorry, the total number of inspections?

Ms Martel: Yes.

Mr Shaw: That are carried about by district offices?

Ms Martel: No, not by district. I think we have the full numbers in some briefing material. I'm just looking at your cycles; my apologies. It looks like this year, a little over 4,200.

Mr Shaw: By "this year," the fiscal year we're in or the one we have finished? In the one we have finished—that would be fiscal 2000-01—a little over 4,200 inspections were conducted by the district staff. That does not include the 78 inspections that Mr Stager spoke about that were carried out by SWAT, nor does that include any inspections that were carried out by the smog patrol.

Ms Martel: Can you give us those numbers?

The Acting Chair: Ms Martel, that would conclude your time.

Ms Martel: Maybe in the next round you can just give us that number.

Mr Shaw: Certainly.

The Acting Chair: We will go to the members of the government.

Mr Steve Gilchrist (Scarborough East): Thank you for what appears to be a very comprehensive series of responses to the questions. I'd like to follow up first so we can encapsulate all of the lead-in questions Ms Martel

has just asked you to respond to into some short, pithy little conclusions here.

Am I correct, then, if we have 174 folks assigned to the normal inspection process and 39 more on the SWAT team, that that 213 would be greater than—when you cite 211 was the total number of environmental officers back in 1996, there were no other groups akin to a SWAT team off on the side back then? We would be comparing, honestly and realistically, 211 people focused on this aspect of the ministry's work; today you have 213?

Mr Shaw: If I may run the numbers, in 1995-96, the number of environmental officers in district offices only was 211. That number was reduced subsequently to 174. Since that time, we have now added 30 permanent inspector positions through SWAT; I'd better do the math carefully here.

Mr Gilchrist: And I thought you said there were nine others.

Mr Shaw: Those are investigators, who were not included in that original number.

Mr Gilchrist: So there would have been investigators back in 1996 as well?

Mr Shaw: There were also investigators in 1996.

Mr Gilchrist: OK, I just wanted to get a handle on apples to apples.

Mr Shaw: Then we have also added 25 inspectors who deal with our water treatment plants. That brings us to 229 people: 55 of those people are dedicated to conducting inspections and another 174 carry out inspections as part of their regular job duties.

Mr Gilchrist: Now, those inspections, the regular duties—and forgive me as somebody just subbing on to committee here today and not having been privy to past discussions here in public accounts—am I correct in my recollection that industries are now required to fill out their own engineering reports and send them in to the MOE to demonstrate that they are operating in compliance with the regulations?

1030

Mr Shaw: We have a requirement under the drinking water protection act that the municipalities retain an independent engineer and undertake an assessment of their works and submit those to the Ministry of the Environment. I don't know whether that's what you are thinking of.

Mr Gilchrist: Sorry, municipal corporations, yes. How many of those compliance reports does the ministry receive or has the ministry received?

Mr Shaw: Every municipality complied with that requirement.

Mr Gilchrist: OK. So every municipality may not have a waterworks, but—

Mr Shaw: Sorry, let me rephrase my answer, if I may. Every municipality that had a waterworks submitted one of those engineering reports for every waterworks it had. For example, the city of Toronto has more than one waterworks; it submitted one of those reports for each of its waterworks.

Mr Gilchrist: Would it be fair to characterize that this is an inspection in another form that historically either was not done or would have to have been done by the MOE?

Mr Shaw: You could characterize it that way, but the inspections that are carried out by the district staff or by SWAT we call compliance inspections. The intent there is to go out and determine whether or not the facility or the activity is taking place within the limits set out by legislation and regulation. The engineering report was an assessment of the works to determine whether or not the works were capable of performing or delivering to the standard set by the province. So in essence it is a type of compliance inspection, but it's a different type of assessment, much more detailed.

Mr Gilchrist: The one being done by the engineers?

Mr Shaw: The one the engineers did, yes.

Mr Gilchrist: If in fact they are more detailed than the compliance inspections that traditionally have been done by the MOE, is it, again, fair to characterize it that there is a far more thorough analysis being done of the infrastructure, not just at the end of the pipe, as it were, but, if I'm getting you correctly, the very capacity of the systems to operate within standards, to demonstrate that municipalities have maintained them properly? If that's true and if they were all built to manufacturers' specs and maintained that, it would be fair to have an expectation that the system should be performing properly. While it's still extremely appropriate to go in and inspect, there's probably a lower risk factor in that site, if all of those other sort of preconditions have been dealt with?

Mr Shaw: When we go in to inspect, one of the things we examine is whether or not the facility is producing a quality of water which complies with the provincial water quality standards. If the facility was built and designed in accordance with the requirements of the ministry and maintained, there is an expectation, therefore, that that facility would be able to produce water which is compatible to the Ontario drinking water standards. But we look at other aspects as well when we go in to do an inspection. So that engineering review is certainly increasing the confidence levels that the municipal waterworks in the province, if operated in accordance with their design, will produce a quality of water which meets the provincial drinking water standards.

Mr Gilchrist: Thank you for that answer. In your response under "Projected Compliance Inspections," you list the number of environmental officers, but you also list the number of inspections. I'm pleased to hear that the SWAT team expects to meet its goal of 1,000 inspections in its first full year. Is it fair to expect that the inspections being done by the 174 other environmental officers will be maintained at or around the number in 2000-01? Or is there a trend line—

Mr Shaw: There is a trend line which is actually going up.

Mr Gilchrist: It is going up?

Mr Shaw: It's not going up incredibly steeply, but there's been something like a 12% increase in the number

of inspections conducted by staff in the district offices only over the last three years. So we are seeing an increasing trend line.

Mr Gilchrist: That's an impressive productivity improvement. Therefore, it would be accurate to suggest that when we add the 4,270 inspections that were done by the environmental officers last year, which I take from your comments will at least be repeated this year and probably increased, plus 1,000 inspections by the SWAT team, would that total of 5,270-plus legitimately allow the ministry to claim that's the greatest number of inspections in its history? I see the highest number you've listed here was in 1996 at 4,953. Had it ever been higher in the years before that?

Mr Shaw: I cannot attest to whether it's ever actually been higher. If it has been higher, it would not have been significantly higher. It would have been maybe at the 4,500-to-5,000 mark. It would be legitimate to say that the combined efforts of the district offices in 2001-02, plus the approximately 1,000 inspections SWAT intends to carry out in the fiscal year 2001-02, will result in more inspections having been conducted by ministry staff than in any other year we are aware of.

Mr Gilchrist: That's very reassuring.

The only question I had on this particular topic—perhaps you could elaborate on the chart shown in number 1. With the same number of environmental officers, the person-years that have been spent performing inspections have increased by 50% from 1998 to 2000. I guess it follows that a lot more of their time has been allocated to that specific function, or is that a mischaracterization?

Mr Griffith: I'm sorry. Which table are you referring to?

Mr Gilchrist: On page 10, you have a chart showing that there were 28.19 total person-years spent performing inspections, and that has increased to 43.04, which is just over a 50% increase in two years. That is impressive.

Mr Shaw: The increase between 1998-99 and 1999-2000 was an actual increase which would be reflected in terms of additional staff resources going to inspections. The majority of the increase in 2000-01 was due to the fact that in a six-month period the ministry inspected every municipal water treatment plant in Ontario. That had not been planned in. Although I don't have figures, as we're not at the end of the fiscal year, I expect that number of 43 person-years will even be higher in 2001-02. There is definitely an increase. As we talked earlier, there are in fact now more inspectors than there have been carrying out inspections.

Mr Gilchrist: Excellent.

Let me quickly raise another topic, because I don't want to take all the time from my colleagues. For certificate of approval compliance—and forgive me, I had just crossed two wires when I talked about an in-the-water context—what are industries expected to submit to the ministry now to show they're within compliance of the C of A process?

Mr Shaw: If it is an industry which is regulated by one of the clean water regulations, more commonly

referred to as the MISA regulations, then each one of those regulations sets out a distinct reporting requirement and what analysis must be done for each one of those industries. Generally, I think that the reporting requirement is on a quarterly basis. If you are an industry and you are not regulated under the MISA regulations, then your reporting requirements to the ministry would be set out in your certificate of approval. I'm only talking about those industries which would have, say, an effluent discharge to a water body or watercourse.

Mr Gilchrist: How has that reporting process changed over the years? Is this something that has always existed or can it reasonably be stated that this is another level of protection, another source of information that historically was not available to the ministry, or at least in as much detail?

1040

Mr Shaw: Prior to the introduction of the clean water regs, that type of information did not exist in the level of detail that it currently does to the ministry. When the clean water regs were brought in, the initial phases of the clean water regs involved a monitoring component only, and then subsequently, after I believe a minimum of two years of monitoring, the limits were established. All of the operation clean water regs are now—this probably isn't the proper jargon—compliance-type regs. They set the limits that the companies must meet.

Mr Gilchrist: When industry sends you their detailed reports claiming that they're within compliance, presumably there have been opportunities for the ministry to have performed inspections on some of those sites, or maybe many of those sights. Have you seen any kind of a pattern of misinformation from industry, or do you find in the course of your inspections that you can rely on the information that has been supplied and that in the overwhelming or—I shouldn't characterize it; I'll let you tell me. What percentage of time do you find that this information has been accurate?

Mr Shaw: I'll use the term "overwhelming" because I don't know what better one to use. In the vast majority of times the information is accurate. Maybe I should put it the other way: I'm not aware of an attempt by a company to submit erroneous data to the ministry on purpose.

Mr Gilchrist: That's really reassuring. Let me just state it right out: it would appear then, if that is the case, that this has added another entire local complexion to the ability for any ministry of the government, which is very centralized and even with your assortment of offices around the province it's tough to get to every factory, it's tough to get to every waterworks every day—it would seem to me, if that's the experience you've had, that the ministry probably looks on this as their almost private sector inspection branch. I'd like to know from you, again, the level of expertise that's required. Do you have to be an engineer to sign off on these reports? Can we rely therefore on the professional standards within that profession to give us some comfort?

Mr Shaw: I'm going to ask one of my colleagues. We're going a little deeper than I am comfortable with.

Mr Steve Klose: I'm Steve Klose, manager of the certificate of approval review section within the environmental assessment and approvals branch. In terms of the sign-off that Mr Shaw was referring to, the engineers' reports that are submitted under the clean water regulation are required to be signed by a professional engineer. If we look a little broader in terms of submissions to the ministry for approvals—I'll focus on approvals—we don't require professional engineers, but clearly we want someone to be able to sign off on the technical quality of the report and the information that is submitted.

Mr Gilchrist: I'll speak only for myself. It's important to know that the ministry has capable, qualified and an adequate number of staff out there as our front line, but I think it's doubly reassuring to know your experience to date. I believe Mr Shaw said he's not aware of a single incident where a company has been found to have been deliberately trying to mislead the ministry. I'm glad to see that partnership has certainly amplified the ability of the ministry to maintain control.

Before I pass it on, I want to put on the record that I am extraordinarily grateful to the Ministry of the Environment for the work you've been doing at the Manson site. I know it's not on the topic before us here today, but I have been told by the ministry that it's the most inspected site in the history of Ontario, and it should be. It was a world-class asbestos disaster area. A report done for the federal government in the early 1980s came to that conclusion. On behalf of the constituents in Scarborough East, I want to thank you and Allison Lee Lai, who's your on-site rep, for the extraordinary work you have been doing and continue to do to give some assurance to the folks in the community.

The Acting Chair: Actually, that would conclude the government members' time at this time. Now we will move to the Liberal Party members.

Mr Bradley: Speaking of information provided, was it not true that the SWARU incinerator had misinformation provided by the operators to the Ministry of the Environment? If that misinformation was provided, what action was taken to ensure that the correct information was provided? There was an allegation that they had doctored the results of their testing on the SWARU incinerator in Hamilton.

Mr Michael Williams: I'm Michael Williams, director of environmental assessment and approvals branch for the ministry. I want to apologize, Madam Chair, because I'm not intimately familiar with the issue that the member is raising. I can tell you that we are conducting at present a focused review of the SWARU certificates of approval and we're currently looking at two certificates of approval to replace the existing one. I want to assure you that the engineers who are looking at that, under the direct supervision of Mr Klose, whom you met a few minutes ago, will ensure that the information provided through any of the test results or other things that come to us will go under very intense scrutiny. I do apologize to the committee. I don't have that level of detailed information here, but I do want to assure you that Mr Klose

and I will go back and ensure that the results that are a part of the engineer's review are accurate and we will be in a position to advise whether or not we will accept those test results.

Mr Bradley: They say there were public allegations of tampering with the results of tests. I was somewhat reassured by Mr Gilchrist's complimenting of the ministry that all was fine, that those who were providing information were providing accurate information. In the case of this incinerator, there are clear allegations that are hard to deny that in fact there was tampering with the information that came forward. I wonder how the Ministry of the Environment is able to determine whether there is tampering, how extensively and how often we take similar samples to what the operator is taking to ensure, in fact, that people are not doctoring the results.

Mr Shaw: My previous comment with regard to the calibre of information that was being submitted by industries was with respect to the industries which are being regulated under the clean water regulations. I'll deal with them first in trying to answer the question.

The MISA facilities are audited approximately once every year. At the time of the audit, the ministry takes a complete set of cycles for comparative purposes. The same type of process is followed when we are looking at, say, municipal water treatment plants. We do a complete set of samples for comparative purposes. When we do our municipal water treatment plants, we also sample at the time we are there, again for comparative purposes.

Mr Bradley: Are those unannounced?

Mr Shaw: In terms of the inspections that are carried out, generally, no. We tried to do unannounced inspections. Particularly with municipal water and treatment plants, we ran into a great deal of difficulty because the operator quite often isn't there; the records aren't available. We also ran into difficulties with the MISA because of the size of these facilities we are dealing with. Quite often they have to make arrangements to get our staff access into places that they normally wouldn't be able to just walk into. We don't give them six months' warning or anything like that. They would be given a few days' warning that we're coming in to do an inspection on such and such a day.

1050

Mr Bradley: This may be someone else; I noticed that there is a virtual abandonment of inspections of refrigerants and ozone-depleting substances. When you talk to individuals who are involved with those substances, they smile and say they haven't seen an inspector in years who would be dealing with ozone-depleting substances. There are a lot of automobile service centres that I suspect have not seen an inspector from the Ministry of the Environment in a long period of time; either that, or I speak to the wrong ones. Would that be a fair characterization, that that has been—let me put it kindly—de-emphasized by the Ministry of the Environment?

Mr Shaw: The ministry, when it's looking at its overall inspection program—and this is the inspection program across everything it regulates—is doing so with

regard to a number of established priorities. The first and foremost one is with regard to human health; the second one is with regard to impairment of the environment.

We have not abandoned the sector that deals with refrigerants and ozone. It is not one that we carry out a multitude of inspections in. We have been carrying out something in the range of 30 to 40 inspections a year over the last two or three years.

Mr Bradley: So of all the places that are dealing with these substances in Ontario, you had 36 inspections.

Mr Shaw: Between 30 and 40 inspections.

Mr Bradley: There may be 36 sites within an individual community that would be dealing with ozone-depleting substances in an urban municipality, and right across the entire province Ontario you've inspected 36.

Mr Shaw: That's correct.

Mr Bradley: That does give an indication of the level of priority that is placed on that, and it's an interesting conclusion that I'll come to after that.

I'm also interested in the PCB storage inspection. How is the PCB site here at the end of Wellesley Street? Just before you get to the University of Toronto, there is a PCB site. How is that one? I forget the actual municipal address. It's sometimes known as 2 Queen's Park Circle and sometimes as 36 Wellesley, or something. Can you tell us how that site is doing?

Mr Shaw: I do not have that specific information with me. I do know that generally—and I'm sorry, I'm only going to speak for the greater Toronto area, which I'm most familiar with—we find very high levels of compliance when we do inspections of PCB storage facilities. I'm not sure who the actual owner is.

Mr Bradley: I think it would be the Legislative Assembly of Ontario, since it is the basement of this building, isn't it? I think that would be the case. I was just wondering how we're doing on that inspection.

In that regard—and members of the ministry staff would know better than I—in the year 2001 we're in a different circumstance than years gone by as to the technical equipment that would be available to destroy PCBs. At one time, the only thing you seemed to be able to do was store them. Now there is some mobile equipment that can actually deal with them. Has that reduced the number of sites that have to be inspected? Has there been a consolidation and a getting rid of those PCBs?

Mr Shaw: There definitely has been, and I'm informed that the city of Toronto is moving so that by the end of this fiscal year they will have eliminated all city of Toronto PCB storage facilities. There will still be storage facilities within the geographic area of the city of Toronto, but the city of Toronto itself will have eliminated all of its PCB storage facilities, both because there have been technologies that have come on line, as well as concerted efforts.

Mr Bradley: I think my colleague had some questions she wanted to ask.

Ms Caroline Di Cocco (Sarnia-Lambton): Yes. Concerning the toxic hazardous waste site in my riding,

Safety-Kleen, the largest in Canada, both incinerator and landfill, has a SWAT team been sent to that site?

Mr Shaw: The SWAT team hasn't been sent to that site. In selecting our companies of focus as hazardous waste transfer and processing sites, we worked very closely with the district, recognizing that they have a significant role with Safety-Kleen right now. Based on that and dialogues with other district areas, we focused on the processing and transfer stations where we felt we needed a strong presence because of the district role in other processing and transfer facilities.

So we worked in consultation with the districts to identify the split of companies, and SWAT selected from that a suite that we focused on. Safety-Kleen is currently not one of those.

Ms Di Cocco: It's not one of them that is being designated?

Mr Shaw: It hasn't been done by us.

Ms Di Cocco: All right. The other aspect is with regard to the certificate of approval, so I don't know if there's a different person there. The reason I have an acute interest in the whole process is because I was one of the applicants with regard to the review for the certificate of approval for that site, both the incinerator and the landfill.

We were denied, of course—the fact that the review for the certificate of approval was not needed. Because I certainly am not an expert in the area, I did ask the Environmental Commissioner to look at it, and we submitted the information to him. He suggests that the review of our application certainly provided new evidence, with the potential of significant harm to the environment, which was not addressed at the time of the approval; in my view, it is certainly his analysis.

In the context of the process and the risk management approach to updating these certificates of approval, I believe we did send to you a great deal of evidence in that regard, corroborated by the Environmental Commissioner. Could you explain to me, then, what risk management means with regard to a site such as that, where evidence is provided that there are new risks that have been indicated?

Mr Klose: I believe the framework that Mr Stager had introduced was to look at broad sectors and broad areas of the province. Clearly, when we as a ministry or as a branch are involved with a specific file and there is a significant interest, and it was highlighted that the district office has a significant interest, we will work with them to get the best information in front of us and have a look at it and ensure that it is meeting the current conditions on their certificate.

Clearly, out of the submission that had come forward in terms of reviewing the certificates, as you correctly had identified, this is the only site in the province that is like that, so it is easy for us to look at that site and say, "Yes, this is very important." I know that Safety-Kleen has submitted a number of applications. We will continue to work in reviewing all the comments that come in to the ministry that are part of that application, as well as

relying on our experts in our standards development branch as to what the proper standards are, where standards are going in the future and how best to incorporate them into the certificates, the applications or the current certificate that we have in front of us, and find out what we need to implement to ensure that it is achieving proper environmental performance.

Ms Di Cocco: When we submit the review, it comes to your office, I presume; it comes to the central office, does it not?

Mr Klose: Correct.

Ms Di Cocco: In that request for that review, there's a lot of work done to provide the evidence. Is that not in and of itself of value in the request that was made, in requesting a review for the certificate of approval?

Mr Klose: Absolutely, it will be of value. We as a ministry right now, as we get further either amendment applications or working with the district, want to look at the certificate and make sure it offers the best protection, as a modern certificate of approval of the day, for the local community. So it is absolutely valuable information that we will take into account when we make a decision either on amendment applications or working with the district in terms of deciding if the ministry wants to initiate amendments to the certificate to say we would like something different done or greater reporting or to clarify issues; so we've clearly taken that information into account.

1100

Ms Di Cocco: But on the other hand, the response to us as applicants was, "No, there's no review required." So I'm just trying to suggest to you that what you're telling me about other considerations certainly wasn't forthcoming when the application was submitted to you in the year 2000. So the response was more or less, "Everything is fine," and "It's business as usual."

I'm just questioning the process as to what's the risk-management approach in this request for review or updating, unless these are two different things, the terminology of updating or review are two different things.

Mr Klose: Well, we will carry out our review. Let me back up a little bit. I'm aware that they have submitted applications to amend their current certificate, so we will then respond to that and carry out a detailed technical review to ensure they have provided enough information. Then, when we make a decision at the end of that as the signing director on the approval, we'll look to the entire certificate and, working with the district office in terms of having that local knowledge, figure out what's required in its entirety for that certificate to make sure it meets, as I said a little bit earlier, the best rules of the day today, the best practices that we would like to see in that certificate in terms of ensuring the proper management of that facility.

Ms Di Cocco: Maybe I'm not quite understanding, because I'm talking about the review that was already submitted. What I'm trying to suggest to you is that it was absolutely categorically stated that there was no need

to review this, even though the evidence was provided. I'll just leave it at that.

I just want to go to one other point about the certificate of approval aspect. It comes from the response provided by the commissioner on this site and the fact that Safety-Kleen failed to comply with its C of A because the company did not submit a number of results of monitoring programs to the ministry in its annual report, even in 1998 and 1999, as required. So, again, how does that evidence, when it comes to risk management approach to the largest hazardous site in Canada—to me it's contradictory to the words I'm hearing about ensuring, through this risk management approach, that we have a process in place that's working. I'm asking you to explain that, because this site, at least according to the commissioner, did fail to comply with its C of A. So what's the next step, 1998 and 1999? Even though in 2000 we asked for a review, in this case it still is considered that this is fine; they can keep doing business as usual.

Mr Klose: I'll have to apologize; I'm not part of the field delivery component in terms of ensuring compliance.

Ms Di Cocco: I understand. This is the process I'm talking about, because it's indicative of a process.

Mr Klose: What we would do in terms of the environmental assessment and approvals branch is look to our local district office and look for their direction to see if this compliance issue is something that can be addressed by modifying conditions in a certificate to increase the likelihood of ensuring compliance or if it is truly a field component in terms of the district having to either have greater frequency going out to visit or the various tools to ensure compliance with the certificate. So we would work with the district to figure out if it's one or the other or if it's a combination of those things to bring a facility up to full compliance with their certificate.

Ms Di Cocco: What are the consequences to a site that consistently doesn't comply, or let's put it this way, where there are areas where it's quite evident that there's jeopardy to the environment, a jeopardizing of the environment and human health? I'm asking a general question: what consequences are there to an industry or a company that is consistently doing that?

Mr Griffith: If we were to find regular non-compliance, we would then do an investigation, probably refer it to an investigation and do a thorough investigation. Based on the merits of that investigation, if charges were warranted, then charges would be laid.

Ms Di Cocco: That's the limit with which the Ministry of the Environment—

Mr Griffith: Well, we may not necessarily take an automatic enforcement perspective if we can work with the company. Our objective is to get compliance, and we have many ways of doing that. Again, that ranges from working with the company to technical assistance to outreach and, if necessary, as a last resort to go the enforcement route and to do an investigation and, if

proved warranted, to lay charges and then go through the legal system.

Ms Di Cocco: This specific site is all self-monitored, I believe, to a great extent, and therefore, when it comes to investigating or analyses of their documents or their reports, what does the ministry do to analyze or to corroborate the reports?

The Acting Chair: Ms Di Cocco, I'm going to ask if you could just perhaps wind up your question.

Ms Di Cocco: OK. What analysis is done in conjunction to corroborate their own reports?

Mr Griffith: I think the member is aware of the fact that that site is regularly monitored and inspected by ministry staff and a full-time on-site inspector. As part of that process, we would be looking at their results and records.

The Acting Chair: That would conclude the opposition time and the first rotation. At this time, Mr Peters would like to ask a question for clarification, I understand.

Mr Erik Peters: The questions that I will pose are strictly designed to enable the researcher to complete the report and they deal largely with the answers provided in response to the miscellaneous questions on page 18. I invite the researcher, if there is other material to please raise it.

On page 18, there was a question about the co-operative agreements. At the end of the testimony on Hansard the sentence, which is highlighted there, says, "If a company doesn't live up to those provisions"—which is to reduce the overall contamination to the environment by 5%, perhaps 10% a year—"the co-operative agreement ... comes undone and they lose the flexibilities they have gained."

There are a number of answers provided, but what happens to the reduction target? At the moment, the answers deal with procedural aspects of consolidation; for example, on the next page it says, "Consolidation will improve the management of approvals activities.... Consolidation will allow both the facility and ministry to reduce the amount of time administering." So it looks at the consolidation as an administrative process. But for the purpose of finalizing the report, what happens to these overall reduction targets that you're planning once you consolidate an agreement and, as you said at that time, the consolidated agreement becomes undone?

Mr Bob Breeze: My name is Bob Breeze. I'm the associate deputy minister at the Ministry of the Environment. The co-operative agreement is a concept that was talked about in the Managing the Environment report, and over the last number of months the ministry has been in the process of working with several industrial sectors on how they should be structured and how they should roll out.

To answer that question in detail, we're a number of months away from actually getting to the point where we can answer specifically what the sanctions might be, how the sanctions might work, how the sanctions might actually kick in. I should say, though, that the co-oper-

ative agreement is an agreement that is for those industries that have demonstrated over the last three or four years that they are always in compliance. They're a continuous improvement tool. Once a co-operative agreement is eventually rolled out, once we eventually initiate a pilot project, if at any time a company doesn't comply with a standard in a regulation, they would be immediately subject to inspection, investigation and enforcement. In other words, the co-operative agreement offers no protection from non-compliance. They would be inspected, investigated and enforced as any other facility would.

In a nutshell, however, to answer your question specifically, we're a number of months away from actually seeing how we're going to put together the consolidated approvals that we have right now for compliance, how we're going to use that as part of the incentives that are going to be in the co-operative agreements. As I said, we're a number of months away.

1110

Mr Peters: Fair enough. But as a minimum the target will remain in place: the target of the co-operative agreement, of reducing the overall contamination by 5%, perhaps 10%?

Mr Breeze: When I was putting those numbers out, I was putting numbers out that could be in co-operative agreements. What we eventually end up with will be subject to that negotiation, whether it's 1% or a 2% or whatever the continuous improvement target happens to be. The enforceable number is the number that's in the regulation; it's the baseline and it's that against which we enforce.

Mr Peters: I just want to make sure that we have a fair summary for the researcher. So the term used in the testimony, "consolidation," when we write the report—that is still a very fluid situation, as to what the consolidation actually means.

Mr Breeze: We know what the consolidation means, but the question is, how are we actually going to use it and integrate it into the co-operative agreement, that continuous improvement above minimum standards? So how we are going to integrate is the question. We know what it is. It's taking the 30 or 40 certificates of approval that one large facility can have and issuing one certificate of approval around which they would have a measure of flexibility, but they would have to agree to a continuous improvement target within the terms of the co-operative agreement. How that actually will be implemented, we're not close enough yet for me to give you that explicit answer.

Mr Peters: Chair, do I have time for another question?

The Acting Chair: Actually, I'll perhaps consult with members of the committee. We will begin the second rotation now. I have been advised that it is probably appropriate that we would leave some time at the end for perhaps some in camera discussion. It has been suggested that we would continue a second rotation of 10 minutes for each party, so perhaps at the end of that rotation we

can have another conversation and see if you may have some other points to raise.

We will begin with the third party and Ms Martel: 10 minutes.

Ms Martel: I'd like to return to inspections. I want to make sure that I get the right numbers for the right fiscal years, so let me just go back to the number of inspections for 2000-01, which would be ending March 31, 2001. Can you give this committee the complete number of inspections that have been done? Because right now we're sitting with a document that tells us about 4,268, and then we've got a list for SWAT. Just before I finished my last round of questions, you were talking about smog, which is a number we weren't given in the information that was sent to us on October 4. So can you clarify exactly what we're dealing with?

Mr Shaw: The 4,268 number that I believe you quoted is the number for the district offices. The number for SWAT for 2000-01 was 78, so that would be the period from late December 2000, when they became operational. Then the third figure is for the smog patrol, and that number is 4,194. So that gives a total number of approximately 8,500, a little over 8,500.

Ms Martel: Can I ask why, when we asked for information about numbers of inspections, in your reply of October 4, 2000, unless I have read this completely wrong, we have the number of inspections for the district offices and we have the number of inspections for SWAT, but there was no reference at all to smog? I don't think we have it for this year or for any of the other years that we asked for inspections. Am I reading this wrong?

Mr Shaw: The numbers that were provided were exclusive of smog. We were trying to keep apples and apples, because the numbers that the Provincial Auditor had been looking at did not include smog either, so rather than confuse this, we tried to keep to the same sets of numbers.

Ms Martel: That's helpful. Let me then go back to the auditor's report, which is what we are dealing with in terms of us doing a draft report. I'm looking on page 119 of the auditor's report, which is the section that deals with inspections. I am bearing in mind what you just said, that the auditor in that report as well did not talk about smog. So if we want to compare apples to apples, we should bear that in mind.

If I look on the chart on page 119, I'm looking at the number of inspections for 1995-96. It looks to me like there were about 6,800 inspections done in that fiscal year. Would that be correct?

Mr Shaw: The number I have for 1995-96 is approximately 4,500 inspections. I'm sorry. My copy of the auditor's table is incredibly blurry, so I'm having difficulty.

Mr Peters: We can probably provide a copy, if I may make a comment. But this table was cleared with the ministry at that time, so it was agreed by the ministry that there were well over 6,000 inspections at that time.

Mr Shaw: OK, thanks.

Ms Martel: So can we get some agreement that it was about 6,000?

Mr Shaw: That's correct.

Interjection.

Ms Martel: We have a table—it says the source is the Ministry of the Environment—on page 119. In my read of it, it's the bottom line that I am specifically interested in right now, which would show, it seems to me, if I take that line across the top of the graph, about 6,800 inspections in 1995-96. I'm just trying to get some clarification that that is correct.

Mr Shaw: That was the number that was provided to the Provincial Auditor at that time. Of course, smog would not exist at that time and SWAT did not exist at that time.

Ms Martel: Right. Let me go to the most recent year that we just finished dealing with, that Mr Gilchrist was so interested in. You have just told this committee that the district offices have done 4,268 inspections this year and SWAT has done 78, which would bring us to a total of 4,346 inspections for this fiscal year, correct?

Mr Shaw: That's correct.

Ms Martel: So even at this point, even with your addition of smog, in your addition of 21 people on a contract to do all of the water plants, we are still at least—what?—1,500 inspections below where the ministry was in 1995-96. Would that be a correct assessment? In fact, closer to 2,500.

Mr Shaw: I'm sorry. I lost the train of that question. We are looking at the number of inspections in 2000-01 conducted by district staff—

Ms Martel: Right, which you have told me is 4,268.

Mr Shaw: And that were conducted by SWAT, which was 78.

Ms Martel: Then I added the 78, which brings me to 4,346.

Mr Shaw: Roughly 4,300 or 4,400.

Ms Martel: We'll round it up to 4,400.

Now, if I look in 1995-96, my best guess is that it's about 6,800 inspections that were done. That would have included, if I understand you correctly, all of the inspections done by the district offices. It would not have included SWAT, because SWAT wasn't created, and it wouldn't have included smog, but that's OK, because we didn't include smog in the 4,346 that we just referenced.

What I am trying to get from the ministry is confirmation that in fact you did about 6,800 inspections in 1995-96, and the best you did last year was 4,346, which leaves me with a difference of a little over 2,400. You did 2,400 fewer inspections last fiscal year than you did in 1995-96. Is that correct? Am I reading this right?

1120

Mr Shaw: Based on the information in the table and the information we have provided, that is correct. I would like to clarify, though, that SWAT was also only operational from late December through to March, so that's less than a three-and-a-half-month period during that fiscal year.

Ms Martel: Add in what you think would be the total, then, to March 31, 2001, so we're actually comparing apples to apples. Give me your best estimate on what SWAT inspections would have been by that date.

Mr Griffith: May I just make a statement for clarification, or hopefully to clarify?

Ms Martel: Sure. That would be helpful.

Mr Griffith: I'm not guaranteeing total clarification. The chart in the Provincial Auditor's report mentions inspections and investigations. We do about 1,000 investigation a year, so that table may be including—

Mr Andrew Cheung: No, this is ministry-initiated inspections. It doesn't include investigations.

Ms Martel: It says for the staff, "including investigations and enforcement." But for the line that I'm most interested in, it says specifically, "number of ministry-initiated inspections." I'd like to ask about the staff too, but I'll bet we won't have enough time for that.

Mr Shaw: Assuming we are comparing apples and apples—

Ms Martel: Well, it's your table.

Mr Shaw: That's right. The figure we were using for SWAT earlier was that it was expected that in a full year of operation—that's a full complement of staff for a full year—SWAT is expected to conduct approximately 1,000 inspections.

Ms Martel: No, that's not what I'm asking. I'm trying to compare fiscal years, because that's what the graph from the auditor does. So 1995-96 would have taken us to March 31, 1996, correct?

Mr Shaw: Right.

Ms Martel: All right. Give me what the SWAT number is, then, to March 31, 2001.

Mr Shaw: It's 78.

Ms Martel: All right. So—

Mr Shaw: Excuse me. As I pointed out, SWAT only operated during roughly three and a half months of that fiscal year.

Ms Martel: That makes no difference. My point is that even with SWAT, the ministry is doing about 2,500 fewer inspections. Even if you add 1,000—I'll give you the benefit of the doubt that you're going to do 1,000—you're still going to be 1,500 inspections shorter this fiscal year than you were in 1995-96.

Mr Bradley: You're contradicting Mr Gilchrist.

The Acting Chair: That would conclude the third party's time. At this time we will move to the government members.

Mr John Hastings (Etobicoke North): My questions focus more around not the inputs on inspections and investigations; I would like to know what are some of the results of your investigations and inspections, particularly with respect to air quality. We have these charts in front of us with all the investigations, inspections, visits, or whatever definition you want to use. I'd be interested in knowing what are the results of some of the work you're doing in these areas: the number of prosecutions, the number of reprimands, upgrades, however you want to define it, particularly related to air quality.

Mr Wilf Ng: My name is Wilf Ng. I am the director of the investigations and enforcement branch. I want to quote you the number of charges we laid in 1999 and 2000. The number of charges laid in the year 1999 is 1,216. For the year 2000, the total number of charges laid is 1,796. If we look at the total number of convictions, for 1999 the total number of convictions is 611.

Mr Hastings: And for the year 2000?

Mr Ng: For the year 2000, the number is 770.

Mr Hastings: It's 770 for 2000; 611 for 1999.

Mr Ng: That's the total number of convictions.

Mr Hastings: What is the average fine levied or paid?

Mr Ng: The total fines levied in 1999 are \$1.5 million. For the year 2000 that number increased to \$3 million. So we see a 100% increase in fines from 1999. For the first six months of 2001, the total number of fines levied increased by 118% over the same period of time for 2000. So there has been an increasing trend in the number of convictions registered, the number of charges laid, and also the number of fines levied since 1999.

Mr Hastings: If you had to go back and compare air quality convictions, prosecutions, penalties and fines, even though the fines regime would be lower, what would be your conclusion? Is there a trend line upwards?

Mr Ng: It would be difficult to make a direct correlation between air quality and the number of fines and convictions. One would assume that prosecution has a deterrent effect. Also, one would assume that the more charges we lay and the more convictions we have, that would encourage people to come into compliance and, indirectly, that would improve the air quality. But I do not have a direct correlation between the two.

Mr Hastings: OK. Can you tell me whether it's true that the Ministry of the Environment does not have any direct influence or regulatory compliance power over air emissions from the railways, emissions of NO_x and VOCs? It is completely unregulated and even the federal government ignores this area. Is that a generally true statement? If it is, what do we plan to do about it? If it isn't, what are the results of where we've gotten to?

Mr Doug Barnes: I'm Doug Barnes, the assistant deputy minister of the integrated environmental planning division. Currently we are going through a process of putting in place regulatory structures. But I would like to say this: first of all, on the major sources of both nitrogen oxide and sulphur dioxide from industry, we have had agreements in place for a number of years for Ontario Power Generation, Inco and Falconbridge. All of those have reduced the amount of those emissions from those sectors over that period of time.

Mr Hastings: But not the railways, because they're federally regulated.

Mr Barnes: That's correct.

Mr Hastings: So is it true to say that there is no emissions regime in place from Environment Canada, since we can't regulate it?

Mr Barnes: The only regulation that would affect those emissions from trains would be the actual standards which are approved federally for the engines that are in

those facilities, and the components of fuel that are used in those particular vehicles.

Mr Hastings: Is it a major concern to you that there are such huge emissions coming from that source?

Mr Barnes: They are part of our overall transportation sector. Transportation, in terms of rail and others, is a large source of emissions. They are parts that we're trying to get to in Ontario with the controls we have. I can't speak for where the federal government is on this.

Mr Hastings: With regard to the runoff of hazardous substances from airports, which is also a federal area and I think has now been turned over to these inaccessible bodies pretty well, what progress are we making in that particular area?

I cite a specific case of nine years ago, where the Toronto international airport, then under the control of Transport Canada, emitted a considerable volume of glycol into the Etobicoke Creek. To this day, as far as I know—and I've checked recently—they have never paid their fine under the Etobicoke bylaw; now the city of Toronto bylaw, so I assume the same. They do have some better storage facilities for glycol runoff and other stuff they use at airports, but I would imagine that's not the case at the more regional airports like, say, Thunder Bay, Sudbury, Hamilton, any of those places, because they are also regulated by their own separate airport authority now; it's not Transport Canada. Does that complicate the situation too?

1130

Mr Ng: Well, it is getting a little bit into the grey area, but let me offer some comments to put some context around this issue. We're looking at two scenarios here. One is a regulation of the operation of the facilities, and clearly that is a federal jurisdiction. But we are also talking about causing adverse impact to the receiving stream. So if the airport does have a runoff which would cause adverse impact to the receiving stream, then the province would have the jurisdiction to go in and lay charges.

Mr Hastings: For the municipality? Because in some instances municipalities have bylaws to deal with these source runoffs.

Mr Ng: If it goes into the municipal sewer, then that would be under the jurisdiction of the municipalities.

Mr Hastings: All right. I guess my final question relates to technology planning.

The Acting Chair: You have one minute, Mr Hastings.

Mr Hastings: How far along are we in terms of electronic registration of certificates of approval?

Mr Ng: Well, actually, the staff are able to produce the certificate of approval from the electronic system now. The ministry embarked on a technology project two years ago. Phase 1 includes a system to provide staff to work out their certificate of approval on the system. So right now staff would be able to generate the certificate of approval from the system.

Mr Hastings: For all types? Air—

Mr Ng: Yes. I would also add that last year, in order to address the need for drinking water regulations, we developed a trans-sectional Web site by which the municipalities can submit their engineering report in an electronic form to the ministry for review.

The Acting Chair: That would conclude the government time. I will now go to the opposition.

Mr Bradley: I am going to dedicate five minutes of my time to Ms Martel so she can continue to pursue the questions she had when she was cut off by time.

Ms Martel: Thanks. I'd like to return to my previous line of questions. I'm wanting to get an answer as to whether or not my read of this information is correct. I see the staff are back. Maybe you'd like to try another stab at it.

Mr Shaw: OK. The information that I have with me at this point in time would indicate that in 1995-96, we actually completed 4,474 inspections. Now, I appreciate that the table in the auditor's report shows approximately 6,800. I would have to go back to determine the derivation of the 6,800 number. I know that it was provided by the ministry to the auditor, but I cannot recall what is in that number at this point in time.

Ms Martel: Are you trying to tell us that the 6,800, as provided in this graph, which says "Source: Ministry of the Environment data," is not correct?

Mr Shaw: No, I'm simply not sure why I have two numbers at this point, and I would need to go back and determine that.

Ms Martel: So you can't confirm where the 6,800 comes from on this chart?

Mr Shaw: Not at this point. My apologies. I cannot.

Ms Martel: When can we expect this information? To be quite honest with you, it's been a long and difficult process to even get to this point in dealing with your ministry on this issue, and I think I speak for all committee members when I say that. This is the second round of questions. The reason we had you before us again is because we didn't feel we got enough answers. And now you've come before us and told us that you can't corroborate for this committee information which appears in the auditor's document. I find that unbelievable. I'm sorry, Deputy, but I do.

Ms Jan Rush: First of all, I do apologize. It was certainly not our intent to do anything but answer fully all of the questions today. I do believe the title of this chart gives us some indication of inspections and investigations and enforcement and that the answer lies somewhere in that definition. We will endeavour to get that information to you as soon as possible, and I do apologize.

Ms Martel: Let me make it clear about the questions that I'm asking. Sorry. OK, you comment.

Mr Peters: No, that's fine. I have a comment to make on that.

Ms Martel: I want the specific number of inspections that should relate to this chart that we were provided with as part of the auditor's report. I want to know the exact number of inspections that were done in 1995-96 so we

can get an exact comparison to the information you gave us this morning.

Secondly, because this affects not only this year—my read of this is you're about 2,400 inspections shorter this year than you were in 1995-96. The second dilemma that flows from that is that it's not just this fiscal year we're talking about; you also provided the committee, because we asked for it, the number of inspections planned for the next three years. On this document—and I'm looking at pages 5 and 6 specifically of the October 4 information—you gave us a total for the next three years—granted, this is an estimate—of 3,944 inspections to be completed by the ministry. I gather that's just district-led inspections. So I will assume—and you will correct me—that 1,000 more SWAT inspections should be added to that number on an annual basis.

If that is the case, that takes us up to about 4,944 inspections in total planned by the ministry for the next three years, which would still fall far short of the 1995-96 number of inspections. In fact, it would be about 1,856 fewer inspections planned over the next three years by the ministry than what the ministry was undertaking in 1995-96. Those are the questions that I hope you can get some answers to.

Mr Bradley: To follow on the question of inspections, with more ministry-initiated inspections required now for a variety of circumstances, how is that impacting on your district offices' and area offices' ability to respond to the public through the complaints they have and to conduct inspections as a result of public complaints?

Mr Shaw: We strive to achieve approximately 20% of our district environmental officers' time in preplanned inspections. It is recognized that, depending upon the nature of the incident—what we used to call a "complaint" we now call a "pollution incident"—that will take precedence. So when you have major incidents occur, it is not abnormal for that district office to have to do shifting in its resources to make sure that we can address the incident. Dealing with incidents coming from the public remains as the priority, assuming that the incidents are also of a priority nature. In other words, they are something which is in our high-priority list of things to be dealt with and not a minor matter that is being addressed. Overall, there has not really been an impact on the ability of staff to try to deal with incidents over the last three or four years.

Mr Griffith: That is one of the reasons that, when we do our work plan, we have preplanned inspections. That's what we hope to actually—the results over the time period. If our abatement response business increases, then there would be shifts in our preplanned inspection activity. We can't predict that in the future. That's why preplanned inspections by the districts can waver from year to year, depending on what else is happening and the work that the inspectors and the abatement officers have to do.

Mr Bradley: How will the anticipated constraints that will be applied to you in-year or next year affect your

ability to carry out an additional number of inspections compared to what you are carrying out this year? Since the Treasurer has indicated that we are in tough times, one can anticipate they've already warned your ministry of a potential in-year constraint and/or potential reduction next year in your resources.

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Ms Rush: Mr Bradley, that's a hypothetical question at this point.

Mr Bradley: It may be hypothetical at this point. To say it's hypothetical is not a very satisfactory answer, I might say, because you have to anticipate if you're going to have a constraint. What I'm trying to determine is what that is going to do to your inspections. I'll be back here in six months when they've applied the constraint to you and find out, I guess.

I'm asking you now what action you're taking—what anticipation you have in mind—if there is a constraint applied, because there's going to be one applied. You're going to tell me it's a hypothetical question.

Ms Rush: That is a matter for the business planning process and for government determination.

The Acting Chair: You've one minute left, Mr Bradley.

Mr Bradley: I'll be back for that one.

The 3Rs facilities: I see the annual number of inspections is 23. There's a great concern out there that somehow a lot of material that is supposed to be dealt with through the 3Rs program is in fact heading to garbage dumps. Why would your number of inspections be only 23 when a great concern has been expressed that substances are being diverted to garbage dumps instead of appropriately dealt with by 3Rs facilities?

Mr Stager: We have conducted inspections, both through the districts and through the environmental SWAT team. The environmental SWAT team has actually recognized, particularly within the industrial, commercial and institutional sector, the whole area of recycling and the need to focus on ensuring that they meet compliance.

We've actually done a fairly recent sweep of multi-unit apartment buildings at various locations in Ontario. I'm looking at the total number. We did just over 100 inspections of multi-unit apartment buildings.

In conjunction with this, we also did a fairly extensive communications program with municipalities. For example, we worked very closely with the city of Toronto in getting the message out to the apartments that a SWAT team was conducting inspections and we were looking for the fact that they, first of all, had a recycling program, that they supplied source recycling and they provided education to tenants. We provided that through the city, and a major newsletter went out to the apartment complexes to let them know it was happening. My response from the city was that there was an overwhelming response from the apartment complexes looking for recycling bids, looking for more information on recycling.

We've also identified that it will be an ongoing need, and certainly within the environmental SWAT team we will continue to conduct spot inspections within the industrial, commercial and institutional sectors.

The Acting Chair: That would conclude your time. The auditor has indicated that he would appreciate an opportunity to seek some clarification from Mr Shaw.

Mr Peters: I just wanted to put on the record that the chart we are discussing on page 119 does agree completely with the numbers that you have provided on page 10; in other words, the number of inspections we used—4,798—which is the number shown on that chart. We used 3,827, so I just wanted to put that on the table, because if there is a question whether other features were included in the previous years, that will be important for the committee to note.

Also, I note that on page 13 of today's submission you indicate that the number of funded staff conducting inspections declined by about 37 between fiscal 1996-97 and 1997-98, and it would be in this connection worthwhile for the committee, in completing its report, to know what the number of staff was back one more year to 1996 and the total staff. So if you could support the chart with the numbers that you have provided to us. Thank you.

Mr Shaw: I believe that the number of staff involved in conducting inspections, 1995-96, would be 211.

Mr Peters: It would still be 211? There's no change between—

Mr Shaw: The decrease then occurred in 1996-97. That's when we lost the 37 staff members who were in the district offices and would have spent part of their time involved in inspections.

Mr Peters: Right. So you're leaving us with the impression that there may be a different way of accumulating the inspections for the years 1996-97 and 1995-96, because your numbers seem to differ. What we're finding is that we are in agreement for 1997-98, 1998-99 and 1999-2000. That chart agrees with page 10. It's before that something happened in your statistics gathering?

Mr Shaw: The short answer is that, I don't know what happened, and we are going to have to go back and re-examine that piece of information.

The Acting Chair: We have 15 minutes at this time. Did we want another rotation?

Some concern has been raised by Mr Peters, as well, about the timing of the material that arrived here with members of the committee and whether the committee wanted to discuss or consider more clarification. They've not really had an opportunity. It was indicated they were going to get the information prior to the public accounts meeting, and perhaps there would be a need for an opportunity for them to seek clarification on some of the information that's been presented. Unfortunately, it was late. We've had some discussion already about some inconsistency or at least some lack of understanding of how information is reported and what is perceived by members of the committee. Would members of the com-

mittee have a comment at this time about what you want to do? It's your committee.

Mr Bart Maves (Niagara Falls): Divide the remaining time. Five, five, five.

The Acting Chair: It has been suggested that there would be five minutes. Do the other members have an opinion?

Ms Martel: I agree.

The Acting Chair: Agreed. Very well, we will do that. Mr Peters also has an additional comment to make, but we will begin with the third party.

Ms Martel: Let me follow up from where Mr Peters just finished, which was that it appears that on page 10 of the document you've provided us this morning, all of the other figures corroborate the chart on page 119, which is in the auditor's report. So I find it even more difficult right now to understand how that one single fiscal year that I happened to stumble on—1995-96—could not also be correct. If the rest of the information in the chart, as it appears, is correct, how is it that the ministry is now calling into question or questioning the figure of 6,800 inspections for 1995-96?

Mr Shaw: We're not questioning whether the number is accurate. The problem is that I have two numbers, and in order to ensure that we understand the 6,800 number we need to go back and check information that I do not currently have with me.

Ms Martel: Can you just tell us why you're calling into question the 6,800? Because you have a different number with you to suggest a different number of inspections in that year?

Mr Shaw: I have an incomplete understanding at this point of time of the 6,800 number, and I wish to go back and make sure that we understand that number fully.

Ms Martel: Can I ask, then, in terms of who prepared this document for us, which corroborates the rest of the information, is that individual here and could that individual possibly tell us what his or her understanding is of the years previous?

Mr Shaw: The short answer is no, that person is not here.

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Ms Martel: All right. You're going to go away and get us some information, and I trust that's going to be as soon as possible. I want to just be clear that you understand the significance for the out years. I'm questioning this fiscal year because on the face of it, from my look at the chart and the information you've provided, the ministry would be about 2,500 inspections short, this year, from 1995-96.

As serious a consideration is that you also provided us with your projected inspections for the next three years in a document on October 4, which we all have. Your projected inspections appear to be about 3,944. This is on page 6 of the October 4 document. I would assume that is district-led inspections. If I give you the benefit of the doubt and add 1,000 SWAT inspections on top of that—and I'll give you that benefit of the doubt—that will take

us up to 4,944 inspections that the ministry itself has said it estimates it will do over the next three years.

My concern is this: if the 6,800 number is correct, in the next three years you will still do 1,500 fewer inspections, and I think that's a significant problem, especially given what happened in Walkerton. I think it's a more specific problem, because you've already told this committee that 25 of the people who are doing inspections for you right now are 25 people whose contract ends in 2003. So I would think there's a likelihood of fewer, not more, inspections after 2003 if those people are on contract and if you can't get money to extend that contract. That is my concern. The auditor was very critical, frankly, in his report of the decline in inspections, and it doesn't seem to me that we are anywhere back to the 1995-96 numbers, not now and not in a projection for the next three years.

Perhaps one other thing is to give us a confirmation of the numbers, because the other thing I noticed on this chart was the listing of the MOE staff. This is page 119.

The Acting Chair: Could you please complete your question quickly?

Ms Martel: Who has staff of over 730 that are listed? I'm going to assume that's not all staff that were dedicated to inspections, but it would be most useful if you could give us a clarification of what that staff complement refers to on page 119 and how it relates back to the information you gave us today with respect to the number of funded EO positions in district and area offices.

The Acting Chair: That would conclude your time. I'm sure the staff from the ministry will get that information, along with the other information that you've indicated you can provide to members of the committee. At this time, government members.

Mr Maves: You also gave to us today this risk management framework. My understanding is—and we've had this discussion around the table in the past. Your risk management approach basically says that in the past the ministry has done inspections of all kinds of workplaces. In many cases you were inspecting year after year companies, for instance, that were in full compliance. So you may have done more inspections—it remains to be seen—but you were often doing inspections of people who year after year were in compliance. So the risk management approach, which document is before me, for the inspection, investigation and enforcement, says, "We're not going to do some inspections of some of these companies that are constantly in compliance. We're not going to concentrate on them. Instead, we're coming up with a risk management model that says we're going to focus on bad actors or industries where there's likely to be non-compliance." Is that an accurate description of your new risk management approach?

Mr Stager: I think it's certainly an important part of the way we do business. I think to some extent the ministry has looked at risk elements in the way that we conduct our business, particularly in compliance of inspection work in the past. What we're moving toward now is a much more focused and formal approach to risk

assessment. If I can use the SWAT example in the way that we're using risk as a tool for the division, what we want to do is to focus on the areas where we feel there will be the most significant risk, both from a human health perspective and an environmental perspective.

Mr Maves: Since 1995-96, you've tightened some of the air quality standards, for instance, so that both good and bad actors now have to comply with stricter standards. Is that true?

Mr Stager: Yes, that's true.

Mr Maves: If your risk management identification approach is good and is working, because you're concentrating on people whom you're identifying as being a high risk, you should find that you're finding non-compliance, you're fining people and you're going for convictions. You should find that increasing over at least the first few years that you have this approach, if your approach is working. Is that correct?

Mr Stager: I think that's correct, yes.

Mr Maves: And is that the case?

Mr Stager: I can speak again from the SWAT perspective, that what we're doing is focusing on sectors and companies based on the element of risk within the company. We feel very strongly that the focus in the inspection that we do will have a significant change in levels of compliance, again, because we focus on specific companies within specific sectors, not only from an inspection and enforcement perspective but also from a communications and outreach perspective, letting them know what's wrong and working with them behind the scenes to make sure that they are moving proactively toward compliance. So the physical inspection part of it is one of the tools that we use, but it is one of the tools. At least as important is to make sure that they understand what's wrong and that they are working proactively to ensure compliance within their sector or within their company. Obviously the risk assessment in the picking of those companies is an important part of the work we do.

It also then follows that, with your inspection of these bad actors and if you're successfully spotting the right ones, there's going to be non-compliance. You're going to fine them; you're going to press for convictions. Over time, as Ontario companies and facilities find that out, you should find that actually peaking and then decreasing. Because of the tougher standards and enforcement measures, they'll all more likely come into compliance.

Mr Stager: I think that speaks to the whole role of compliance and enforcement, and I think that's exactly what we're trying to do, using those kinds of tools to really up the level of compliance overall—no question about it.

The Acting Chair: That would conclude the government members' time. We now move to the opposition.

Mr Bradley: My question deals with your inspections of water treatment facilities and sewage treatment facilities by municipalities and the action that you're taking against municipalities that are not proceeding to meet your requirements, in other words, that have failed the inspections. It is said by these municipalities that they do

not have the money to carry out the necessary works because they can't get enough money or can't get any money out of the OSTAR program or SuperBuild to assist them in meeting new and more extensive obligations. What action are you taking when these municipalities do not comply?

Mr Shaw: I'd like to break this into two pieces, if I may. In terms of finding non-compliance issues when we are carrying out our inspections—and these are things such as finding out that a municipality has failed to take the appropriate number of samples or determining that they aren't maintaining the right level of chlorine residuals in their systems or their operators are not licensed—when we are finding situations like that, provincial officers' orders are being issued to the municipalities and the matters are referred to IEB for consideration for investigation, particularly when we find that this is a repeat pattern.

When we find cases where we are not meeting the provincial water quality standards and in fact the treatment system does not meet the minimum treatment requirements of the new Ontario drinking water regulation, we are not pursuing orders against these companies at this point in time, as the regulation provides, until December 31, 2002, for them to come into compliance with those requirements.

Mr Bradley: There are some municipalities that have complained—I think Hamilton is one, but I could be wrong on that—that they cannot get approvals from your ministry for the work that has to be undertaken. Therefore, they will be out of compliance because they cannot get the ministry staff to undertake an inspection and an approval. What are you doing to solve that problem?

Mr Williams: With respect to the issue about Hamilton, we are actually having a meeting concurrently this morning with people in Hamilton who are meeting with my engineering staff to sort out the very issues around their application and their engineering report. I'm hopeful that by the time we return to the office, we will certainly have a solution for Hamilton.

With respect to all of the other municipalities, I can tell the committee that we have 460-odd engineering reports returned to the municipalities for their purview and comment now. We will complete the rest of them over the next seven weeks. There are approximately 680 yet to go out and they will be done by the end of the year.

Mr Bradley: Having spotted the problem that particularly smaller and less affluent municipalities have encountered in making significant structural changes to their water treatment system and perhaps their sewage treatment system, are you making representations to Management Board of Cabinet to change the rules for programs such as OSTAR and SuperBuild, number one, and number two, to accelerate the application process so that the money is in the hands of those municipalities?

Ms Rush: Anything before a cabinet committee, sir, would be confidential at this point.

The Acting Chair: One more minute, Mr Bradley.

Mr Bradley: I'm having a hard time getting answers. I've had one answer declared that it was hypothetical and another that it was something confidential. I must say the attitude I'm encountering as a member of this committee from the Ministry of the Environment is not satisfactory. I intend to indicate to the minister that I'm not satisfied with the answers. I have no further questions to ask, since I'm not going to get answers.

The Acting Chair: It is now 12 o'clock and it is the time that we regularly close this meeting. I would like to thank the members of the Ministry of the Environment staff who have been with us today.

This meeting will be adjourned until the next regularly scheduled public accounts meeting.

The committee adjourned at 1202.

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