

# Chapter 1

## Section 1.05

Ministry of the Environment, Conservation and Parks

# Environmental Approvals

Follow-Up on VFM Section 3.05, 2016 Annual Report

### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3		1	2		
Recommendation 2	1	1				
Recommendation 3	2	2				
Recommendation 4	2		1	1		
Recommendation 5	3	1	1	1		
Recommendation 6	1			1		
Recommendation 7	3	1		2		
Recommendation 8	2		1	1		
Recommendation 9	1		1			
Recommendation 10	3	1		1	1	
Recommendation 11	3		3			
Recommendation 12	4			4		
<b>Total</b>	<b>28</b>	<b>6</b>	<b>8</b>	<b>13</b>	<b>1</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>21</b>	<b>29</b>	<b>46</b>	<b>4</b>	<b>0</b>

## Overall Conclusion

As of July 25, 2018, the Ministry of the Environment, Conservation and Parks (Ministry) fully implemented 21% of the actions we recommended in our 2016 Annual Report and made progress in implementing a further 29%. The Ministry has fully implemented actions such as:

- developing and implementing a risk management framework and updating its enforcement plan to include emitters operating without appropriate approvals;
- establishing a one-year service standard for reviewing higher-risk Environmental Compliance Approvals and monitoring performance to ensure these targets have been met; and
- completing improvements to its existing emitter database to include key information

relating to financial securities required to cover estimated clean-up costs.

As well, the Ministry is in the process of:

- incorporating expiry dates into Environmental Compliance Approvals, especially for high-risk activities;
- integrating data into its information system to support the identification of high-risk emitters; and
- assessing public complaints related to the activities of emitters eligible for self-registration.

However, the Ministry has made little or no progress in implementing a further 46% of the recommended actions, which include:

- establishing guidelines and targets to ensure approved emitters are operating with conditions consistent with current standards;
- revising its risk-based policy to include requirements for how frequently to inspect high-risk emitters;
- revising its financial security policy to ensure that financial security amounts are regularly re-evaluated to accurately reflect future clean-up costs; and
- regularly obtaining and analyzing data from emitters to assess whether the environmental approvals system effectively regulates pollution or the cumulative impact of emissions on human health.

The status of actions taken on each of our recommendations is described in this report.

## Background

Under the *Environmental Protection Act* and the *Ontario Water Resources Act*, anyone who wants to engage in activities in Ontario that release contaminants into the air, land or water—or transport, store or dispose of waste—must obtain an environmental approval from the Ministry of the Environment, Conservation and Parks (Ministry).

In this report, anyone releasing a contaminant or pollutant is referred to as an emitter.

The *Environmental Protection Act* broadly defines a contaminant to include solids, liquids, gases, odours, heat, sound, vibrations and radiation resulting from human activities that can cause harm to the environment and human health.

In 2010, the Ministry launched its Modernization of Approvals initiative intended to make the environmental approvals program more accessible, flexible and efficient. Overall, our 2016 audit found that the Ministry's environmental approvals program was not effectively managing the risks to the environment and human health from polluting activities. Specifically:

- While the Ministry had some processes to identify emitters that were operating without the required environmental approvals, its approach was largely reactive. By the time the emitters were identified and the Ministry took action, the emitters had often been operating without proper approvals for years.
- More than 200,000 approvals issued more than 15 years previously had not been updated to meet current environmental standards or to reflect emitters' current operations. Approvals prior to 2000 did not contain many of the operational requirements that similar current approvals include.
- Approximately 80% of the 32,500 emitters that had been issued approvals in the 15 years prior to our audit had never been inspected—despite the fact that there was a high level of non-compliance with the environmental requirements for conducting their activities by emitters that had been inspected.
- One-third of the emitters that were issued penalties from 2009 to 2016 were issued penalties for more than three violations. The Ministry had not assessed whether its penalties were effective in discouraging individual companies from repeatedly violating environmental regulations.

We also found that, despite being mandated by the Premier in 2014 to “put greater emphasis on the ‘polluter pays’ principle,” the Ministry bore the brunt of the costs of delivering the environmental approvals program, including costs of future clean-up. Specifically:

- Application and self-registration fees obtained from emitters did not cover all of the Ministry’s costs for administering the environmental approvals program. In 2014/15, such fees covered only about 20% of the program’s \$23 million costs. The application fees had not been updated since 1998.
- The Ministry did not always require financial security from high-risk activities, such as hazardous waste transporters, industrial sewage systems and other industrial activities, that were likely to result in contaminant spills.
- The amount required from emitters—and imposed as a condition of the Environmental Compliance Approval—was usually based on the most reasonable estimate for future clean-up. However, our review of a sample of emitters indicated that the Ministry had collected approximately \$10 million less than what it estimated would be required for future clean-ups.
- In many cases the Ministry did not re-evaluate its long-term remediation cost estimates to determine whether it needed to collect more in financial security from emitters to cover the costs. This exposed the Ministry to the risk of having to pay potentially large clean-up costs if the emitter was unable or unwilling to pay for remediation.

With regard to public involvement in the environmental approvals program, we found the following:

- The public did not have an opportunity to provide input on any of the self-registered activities—which include wrecking yards, commercial printing and others—before the emitters started operations. Given that the Ministry—as part of its modernization

initiative—planned to convert many more activities that were subject to public input to those that are not, opportunities for meaningful public input will be reduced in the future.

- In the five years prior to our audit, the Ministry received approximately 78,000 public complaints and reports of contaminant spills, which it tracked in a database. However, the Ministry did not consistently follow up on complaints or reports of contaminant spills on a timely basis or categorize them by their underlying problem so that it could identify and act on any systemic issues.
- The publicly accessible emitter database maintained by the Ministry could not perform the basic searches for which it was designed, such as searching for emitters in a particular neighbourhood.

The Ministry did not know whether its environmental approvals program was effectively regulating polluting activities and how much impact such activities had on human health. In particular, self-registered emitters were not required to provide the Ministry with emissions information. This resulted in the Ministry not knowing whether levels of pollution from these activities were above approved levels. At the same time, when the Ministry did receive emissions information from higher-risk emitters, it did not assess the environmental and health impacts of those emissions within various regions of the province.

We made 12 recommendations, consisting of 28 actions, to address our audit findings.

We received commitment from the Ministry that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between March 29, 2018 and July 25, 2018, and obtained written

representation from the Ministry of the Environment, Conservation and Parks on October 31, 2018 that it has provided us with a complete update of the status of the recommendations we made in the original audit two years prior.

## Emitters Operating with Outdated or No Environmental Approvals

### Recommendation 1

*To ensure that all emitters that have Environmental Compliance Approvals are operating with conditions that are consistent with current environmental standards and their current operations, the Ministry of the Environment and Climate Change should:*

- *establish guidelines and targets for the timely review and update of existing Environmental Compliance Approvals;*

**Status: Little or no progress.**

### Details

Our 2016 audit identified that although the *Environmental Protection Act* authorizes the Ministry to impose renewal requirements on environmental approvals, the Ministry had chosen to issue environmental approvals that neither expired nor were required to be renewed periodically. The Ministry did not regularly review existing approvals to ensure they were consistent with current environmental standards. Instead, it relied on emitters to inform it when their approvals needed to be updated, such as when they changed their operations. However, our audit found that emitters did not always do so.

On January 1, 2017, the Ministry began reviewing a sample of higher-risk activities approved prior to 2000 to determine how many approvals it would need to amend and/or revoke based on potential risk to the environment. According to the Ministry, it will use the results of this assessment to determine appropriate next steps, which could include creating guidelines and targets for the timely review and update of Environmental

Compliance Approvals. At the time of our follow-up, the risk assessment was ongoing; hence, no action had been taken to develop guidelines or targets as recommended.

- *evaluate the benefits and costs of setting expiry dates on Environmental Compliance Approvals, especially for high-risk activities;*

**Status: In the process of being implemented by June 2019.**

### Details

Our 2016 audit noted that in four Canadian jurisdictions—British Columbia, Alberta, New Brunswick and the Yukon—environmental approvals have expiry dates that range from 15 months to 10 years from the date they are issued, which can help to ensure that these approvals reflect current environmental standards.

Since 2003, the Ministry has been incorporating expiry dates into newly issued Environmental Compliance Approvals for sewage works. It is currently evaluating applying expiry dates for all other types of activities, and has indicated that it plans to complete this evaluation by June 2019.

- *ensure its emitter database contains the information needed to support monitoring activities for all emitters, including those approved prior to 2000.*

**Status: Little or no progress.**

### Details

As noted in our 2016 report, the Ministry did not enter any information about approvals issued prior to 2000 when it implemented its current information system in late 1999. At the time of our audit in 2016, all relevant documentation regarding these approvals was stored in boxed paper files in the Ministry's off-site storage facility. Consequently, the Ministry did not know how many emitters are still operating with these old approvals.

Many of the emitters that were operating prior to 2000 might have since ceased to operate. However, our review of a sample of these approvals

selected during our 2016 audit indicated that the Ministry should further review these pre-2000 approvals because the Ministry determined, at our request, that over half of the emitters we looked at were still in operation.

Similarly to the first action item in this recommendation, the Ministry is waiting to complete its assessment of higher-risk approvals issued prior to 2000 before it begins any work, including entering information about these approvals in its emitter database.

### Recommendation 2

*To ensure that all emitters have the required environmental approvals, the Ministry of the Environment and Climate Change should improve its strategy to more proactively identify emitters that are operating without environmental approvals soon after they begin operations.*

**Status: Fully implemented.**

#### Details

At the time of our audit in 2016, the Ministry acknowledged that it was aware that some emitters were operating in Ontario without registering with the Ministry or without the required environmental approvals. However, the Ministry had not attempted to determine how many such emitters were operating or what risks they posed to the environment. In the five years preceding our 2016 audit, the Ministry had identified over 900 emitters that were operating without an approval. In contrast, our analysis of a business directory indicated that there may have been about 12,000 potential emitters operating in the province that were not in the Ministry's emitter database.

Since our 2016 audit, the Ministry has developed and implemented a risk management framework for the 2017/18 year that enables staff to identify and assess risks related to emitters operating without appropriate approvals. In February 2017, the Ministry also updated its compliance and enforcement plan to address risks from facilities

operating without the required authorizing documents by, for example:

- using geographic information system (GIS) mapping to help identify sites in areas not served by local municipalities that do not have required approvals for private, commercial and institutional sewage; and
- identifying waste transporters and pesticide applicators that are advertising their services.

Since our 2016 audit, the Ministry has identified 537 emitters operating without an approval.

### Recommendation 3

*To ensure that all emitters that apply for Environmental Compliance Approvals obtain and are operating with the required approvals containing conditions that are consistent with current environmental standards and their current operations, the Ministry of the Environment and Climate Change should:*

- *establish targets to ensure the timely review of environmental compliance approval applications;*

**Status: Fully implemented.**

#### Details

At the time of our 2016 audit, the Ministry did not have a policy regarding the time it should take staff to review applications for Environmental Compliance Approvals. We found that emitters had to wait months or years before receiving an approval, and that these timelines were increasing. These lengthy delays resulted in some emitters beginning operations before they obtained an approval, and therefore having their emissions unmonitored and unregulated during the waiting period for their approvals.

In December 2017, the Ministry implemented a one-year service standard for all higher-risk Environmental Compliance Approvals; this includes air, waste and wastewater. This service standard includes suggested timelines for each stage of the review from application screening to the decision.

- *monitor performance and staffing to ensure these targets are achieved.*

**Status: Fully implemented.**

#### Details

In 2017, the Ministry established a performance measure for meeting the one-year service standard discussed in the previous action and an internal tracking system to continually monitor and update the approvals program as required. The average time to review an Environmental Compliance Approval decreased from 22 months at the time of our 2016 audit to 12 months (from the date of receipt of application), for air/noise applications approved between December 2017 and May 31, 2018.

In order to reduce review timelines, the Ministry made certain low-risk activities that discharge airborne emissions eligible for only registration in the Environmental Activity and Sector Registry (EASR) beginning January 2017 and not requiring approvals. It retained a list of nine other activities that still require Environmental Compliance Approvals, including land disposal of waste, thermal processing of waste, certain metal plating processes, and others. Because operators engaging in low-risk activities no longer had to apply for Environmental Compliance Approvals, the number of Environmental Compliance Approval applications received by the Ministry between January 2017 and May 2018 decreased by an average of 53% per month. The reduced number of applications means that Ministry staff can focus on higher-risk activities and ensure a more timely review of Environmental Compliance Approval applications.

## Ministry's Environmental Monitoring and Enforcement Insufficient to Deter Violations

#### Recommendation 4

*To ensure that all self-registered emitters and emitters with Environmental Compliance Approvals, particularly those that pose the highest risk to the*

*environment, are appropriately monitored and non-compliance issues are identified and corrected on a timely basis, the Ministry of the Environment and Climate Change should:*

- *gather and record data in its information system to support the identification of all high-risk emitters;*

**Status: In the process of being implemented by April 2020.**

#### Details

Our 2016 audit identified that the Ministry's emitter database had information about the emitters' location, inspections and public complaints. However, the Ministry did not compile such emitter-specific information to form risk profiles for individual emitters. Therefore, the Ministry did not have assurance that not monitoring these emitters was justified, because it did not have information regarding the risks posed by individual emitters.

In August 2017, the Ministry began implementing a new information system to track its compliance activities. It estimates that it will complete the integration of risk for individual emitters into the new system by April 2020.

- *revise its risk-based policy to include requirements on how frequently to review and inspect these emitters and ensure that the policy is followed.*

**Status: Little or no progress.**

#### Details

We noted in our 2016 audit that in 2014/15, 230 inspectors inspected approximately 3,000, or about 9%, of approximately 33,400 emitters that were known to the Ministry at that time. Given this inspection rate, it would take the Ministry more than 11 years to inspect every emitter with an Environmental Compliance Approval. Our audit noted high rates of non-compliance with emitters with environmental compliance approvals, indicating the need for more frequent inspections. For example, in the five years preceding our 2016 audit,

20% of 4,147 hazardous-waste-related inspections, 35% of 4,876 air-related inspections and 47% of 1,228 sewage-related inspections identified non-compliances that could have environmental or health consequences.

According to the Ministry, its new compliance information system (discussed in the previous action item), once fully implemented, will provide information about emitters that have been issued approvals to allow the Ministry to determine which emitters to inspect and how often. However, the Ministry has not begun or established a timeframe by which it plans to identify the types of information it will gather to enable this determination.

### Recommendation 5

*To ensure that all emitters, particularly those that pose the highest risk to the environment, are appropriately monitored, and that its system of penalties is effective in correcting non-compliance issues on a timely basis, the Ministry of the Environment and Climate Change should:*

- *assess, as part of its ongoing reviews of its penalties program, how effective its penalties are in discouraging individual emitters from being non-compliant with environmental regulations;*  
**Status: In the process of being implemented by June 2019.**

#### Details

We found in our 2016 audit that the penalties levied by the Ministry often did not deter repeat offenders. Nineteen of the 55 emitters that were issued penalties from 2009 to 2016 were issued penalties for more than three violations. The *Environmental Protection Act* requires the Ministry to review its penalty program every five years. The Ministry's 2012 review analyzed penalties that were issued from 2007 to 2011, focusing on the types of violations and the sectors in which violations occurred. However, the review did not assess the effectiveness of penalties in deterring repeated violations by individual emitters.

In April 2018, the Ministry began reviewing the use of monetary tools, such as tickets and fines, in its penalty program. The objectives of this review included:

- increasing compliance and improving deterrence for significant sources of environmental and public health risk;
- reducing the regulatory burden for entities that represent lower environmental risk; and
- updating tools for provincial officers to ensure efficient and client-focused compliance services through the use of modern techniques in proportion to offence and level of risk.

The Ministry expects to complete its review and recommend changes for Cabinet approval by June 2019.

- *establish a clear progressive penalty policy and process for dealing with repeat offenders;*  
**Status: Fully implemented.**

#### Details

Our 2016 audit identified that despite the high rate of non-compliance identified through inspections, the Ministry relied on emitters to voluntarily comply with the conditions of their environmental approvals, and often did not impose stringent enforcement measures. Over 40% (287 of 659) of the emitters found to have exceeded the contaminant or pollutant limits from 2010 to 2014 did so on more than three occasions during those years. These same emitters accounted for 96% of the approximately 17,500 reported instances of emitters exceeding contaminant or pollutant limits.

In March 2018, the Ministry created a guidance document to focus its compliance and enforcement resources more effectively on corporate or individual repeat offenders. The strategy aims to align resources to respond to patterns of ongoing non-compliance in proportion to the severity of the incidents and to bring these entities into regulatory compliance. In May 2018, the Ministry began training staff to implement the strategy.

As part of this strategy, the guidance document makes district office staff responsible for establishing and implementing processes to identify repeat offenders, and developing and putting into effect compliance plans for those identified. Repeat offenders would be subject to increasingly stringent compliance measures, with details and timelines at the discretion of the relevant manager. The Ministry has created a number of performance metrics to assess the effectiveness of the new strategy, such as:

- number of entities identified as repeat offenders; and
  - number and type of compliance tools used to address repeat offenders.
- *take swift remedial action in the event of a violation.*

**Status: Little or no progress.**

#### Details

In our 2016 audit, we noted that for over 300 air-related inspections in 2014/15 in which the Ministry identified violations that could have environmental or health consequences, 44% (107) involved repeat offenders. For 74 of the 107 repeat offenders, the Ministry used voluntary abatement measures. We also noted that even when the Ministry did levy penalties, sometimes over several years, the penalties often did not deter repeat offenders. Nevertheless, as the Ministry informed us, the purpose of a penalty is to encourage companies to comply with environmental regulations and take swift remedial action in the event of a spill, unlawful discharge or other environmental violation.

The new guidance document relating to repeat offenders was implemented in May 2018. Repeat offenders are now subject to increasingly stringent compliance measures, with details and timelines at the discretion of the relevant manager.

## Cost to Support Environmental Approvals and to Clean Up Contamination Not Fully Recovered from Emitters

### Recommendation 6

*The Ministry of the Environment and Climate Change should complete the review of its financial security policies, and ensure that financial security and/or environmental liability insurance is required for all activities that pose significant risks to the environment.*

**Status: Little or No Progress.**

#### Details

Regulations under the *Environmental Protection Act* (Act) require financial security only for large privately owned landfills that accept municipal waste, and for mobile PCB destruction facilities. Our 2016 audit found that neither the regulations under the Act nor Ministry policy require financial security for several other high-risk activities such as transporting hazardous waste, running an industrial sewage system, and other activities that can result in contaminant spills.

In December 2017, the Ministry began evaluating long-term improvements to its financial security policies. This includes exploring whether environmental liability insurance can be used as a complement or substitute for currently accepted forms of financial security, and which activities or sectors not currently requiring financial security may be considered as high risk and therefore should require it to be provided. The Ministry expects to complete by March 2019. At the time of our follow up, the Ministry had not yet determined when it expects to implement changes resulting from the review.

### Recommendation 7

*To ensure that it does not bear the future financial costs of cleaning up contamination caused by emitters whose activities it has approved, the Ministry of the Environment and Climate Change should:*

- *revise its financial security policies so that all financial security amounts are regularly re-evaluated to ensure they accurately reflect future remediation costs;*

**Status: Little or no progress.**

#### Details

Our 2016 audit found that, in some cases, the amount of financial security that the Ministry has required from emitters—as recorded in the Ministry’s emitter database—was not sufficient for future clean-up. The fixed financial security amounts for about one-fifth of the approximately 1,000 emitters with financial security requirements were established in the 1980s and had not been updated. Because financial security is often collected many years before it needs to be spent on remediating contaminated sites, the Ministry needs to periodically re-evaluate the amounts to ensure they are sufficient.

In 2016, our review of a sample of emitters indicated that the Ministry had collected approximately \$10 million less than what it estimated would be required for future clean-up. Ministry policies do not state how frequently such reviews should be conducted, and in two-thirds of cases where the security amounts had been re-evaluated by the Ministry, the amount had at least doubled from the previous estimate.

In March 2018, as part of its review of improvements to the financial security policies, the Ministry attempted to procure the services of an external consultant to re-evaluate fixed financial security amounts. The consultant’s responsibilities would have included making recommendations on how to ensure that financial security amounts held by the Ministry continue to reflect the cost of remediating contaminated sites and how often security amounts should be updated. However, the Ministry did not receive any bids. At the time of our follow-up, the Ministry had not yet done any further work in this area and indicated they will be seeking direction from government on next steps.

- *update its emitter database so that it:*
  - *includes all current estimated remediation costs;*
  - *reconciles the financial security collected with the estimated costs; and*
  - *indicates the last date the security was re-evaluated;*

**Status: Fully implemented.**

#### Details

We noted in our 2016 audit that the Ministry’s emitter database was intended to track the emitters from whom financial security is required, the amount the Ministry had required from each emitter, and the amount held by the Ministry. We found that, due to limitations in the Ministry’s financial security database, it could not determine the number of cases where it had sought a lesser amount of financial security because of concerns regarding the emitter’s ability to provide sufficient financial security to cover estimated clean-up costs.

In May 2017, the Ministry updated its existing emitter database to include information about current estimated financial security requirements, the amount of security actually received, and the date by which the financial security amount must be re-evaluated.

- *collect the financial security deemed necessary for clean-up from all emitters required to provide it.*

**Status: Little or no progress.**

#### Details

In our 2016 audit, we noted that as of March 31, 2016, the Ministry’s emitter database indicated that \$442 million in financial security had been required from about 1,000 emitters, and that only \$6 million had not been collected by the Ministry.

Since our audit, the Ministry has reviewed and followed up on all emitters that had not provided the required financial security and has obtained \$1 million. The Ministry wrote off another \$1 million as uncollectible because the emitters had since gone bankrupt and ceased operations. At the

time of our follow-up, \$4 million in financial security was still outstanding, of which \$2.4 million is planned to be collected over a longer period of time based on decisions required by court proceedings, settlement agreements and monthly instalments from payment plans.

### Recommendation 8

*To ensure that the Ministry of the Environment and Climate Change (Ministry) recovers the costs of administering the environmental approvals program, the Ministry should:*

- *determine its cost of administering the environmental approvals program, including costs incurred to monitor and enforce compliance;*  
**Status: In process of being implemented by April 2020.**

#### Details

We noted in our 2016 audit that, in 2012/13, the Ministry had established a goal for the approvals program to achieve full cost recovery from fees collected by spring 2014. However, at the time of our audit, the Ministry was recovering only 20% of its costs to administer the environmental approvals program. For example, in 2014/15, the Ministry spent over \$23 million to deliver the environmental approvals program, but collected only \$4.8 million in related registration and application fees.

In February 2018, the Ministry began analyzing the cost of administering its Environmental Compliance Approval program. In 2019/20, it expects to submit a plan to move toward full cost recovery for approval by the Treasury Board/Management Board of Cabinet.

- *establish appropriate registration and application fees based on the total cost of administering the program.*  
**Status: Little or no progress.**

#### Details

Our 2016 audit noted that application fees had not been updated since 1998. We noted that the 2012 report of the Commission on the Reform of Ontario's Public Services (known as the Drummond Report) also found that fees had not kept pace with the rising costs of program delivery.

In September 2016, the Ministry reviewed the costs of administering its self-registration program and found that actual costs were higher than originally forecast for the Environmental Activity Sector Registry (EASR)—the system through which operators of eligible low-risk or less complex activities or facilities can register their activities or facilities without having to apply for Environmental Compliance Approvals. The EASR program review resulted in the Ministry's commitment to increase fees starting December 2016, and to continue to increase them by 10% annually until March 2021 to move towards full cost recovery. However, the Ministry cannot begin to move toward setting fees reflective of full cost recovery until it has completed an analysis of the costs of administering the Environmental Compliance Approval program.

## Public Not Well Informed about Activities That Cause Pollution

### Recommendation 9

*To ensure that the emitting activities eligible for self-registration are a low risk to Ontarians and the environment, and to justify the lack of opportunity for the public to have input regarding the acceptability of such activities before emitters begin operations, the Ministry of the Environment and Climate Change should regularly review whether the risk posed by such activities is indeed low. Such a review should include an evaluation of complaints from the public to better understand the risks of these activities.*

**Status: In the process of being implemented by January 2020.**

### Details

In most cases, the Ministry must post the details of individual applications for Environmental Compliance Approvals on the Environmental Registry to inform and give the public an opportunity to comment on proposed polluting activities in their neighbourhood. However, we noted in our 2016 audit that such public consultation was not required if the proposed activity is eligible for self-registration. Public consultation was only conducted on the regulation that states which activities are eligible for self-registration. As a result, the public does not have an opportunity to comment on many potentially environmentally harmful activities before emitters begin operating.

Since our audit, the Ministry has developed and implemented a business process to record complaints associated with the activities of emitters eligible for self-registration. The Ministry has also begun assessing complaints related to activities carried out by self-registered emitters, and has targeted the completion of this analysis for January 2020.

### Recommendation 10

*To enable the public to access relevant information about all emitters, the Ministry of the Environment and Climate Change should:*

- ensure all emitters that have self-registered are included in the Access Environment database;
- ensure that all emitters with Environmental Compliance Approvals, including those that were issued Environmental Compliance Approvals prior to 2000 and are still operating at sites, are also included in the Access Environment database;

**Status:** Fully implemented for self-registered emitters. Little or no progress for emitters with Environmental Compliance Approvals.

### Details

The Ministry's online database, Access Environment, is intended to enable members of the public

to access emitter information in their local area. However, we noted in our 2016 audit that this database was not user-friendly and did not allow the public to perform searches for most of the basic information that members of the public are concerned about, such as searching for emitters by name or by postal code. Further, it did not contain any information on thousands of emitters that were granted approvals prior to 2000.

In March 2018, the Ministry enhanced the database's functionality to ensure that users can identify all self-registered emitters. The fixes included giving users the ability to search by postal code and geographical radius, correcting location errors in over 24,000 records, and removing duplicate records.

The Ministry informed us that it is waiting to complete its assessment of higher-risk approvals issued prior to 2000, noted in its response to **Recommendation 1**, before it evaluates whether those approvals should be included in the Access Environment database.

- *make necessary changes to the Access Environment database to enable members of the public to readily obtain complete and relevant information about all emitters, including the emitter's history of compliance with conditions of their self-registration or Environmental Compliance Approval.*

**Status:** Will not be implemented. The Office of the Auditor General continues to believe that, in order to ensure that the public is provided with complete and readily accessible information on emitters, the Ministry should include information in the Access Environment database on emitters' history of compliance along with conditions of their self-registration and/or Environmental Compliance Approvals.

### Details

In our 2016 audit, we noted that the Access Environment database did not include information about emitters' compliance history and emissions information. In its response to this

recommendation in our *2016 Annual Report*, the Ministry informed us that it did not agree that emitters' compliance history should be made available through the Access Environment database because the information is available at Ministry district offices, and some convictions under the *Environmental Protection Act* are posted on the Ontario Newsroom website. Therefore, the Ministry will not implement this recommendation.

## Public Complaints Not Well Managed

### Recommendation 11

*To ensure public concerns on the environmental approvals program are adequately addressed, the Ministry of the Environment and Climate Change should:*

- follow up on all public complaints on a timely basis;  
**Status: In the process of being implemented by April 2020.**

#### Details

In the five years preceding our 2016 audit, the Ministry received approximately 78,000 reports of contaminant spills and public complaints about emitters that were potentially violating environmental laws and causing harm to the environment and human health. Our audit found that the Ministry did not consistently track the timeliness of its response to complaints. While most complaints were followed up on in a reasonably timely manner, at the time of our 2016 audit, over 1,800 complaints—including 265 from 2010/11—had not yet been assigned to a Ministry field inspector for follow-up. About 900 complaints on which the Ministry had done preliminary assessments and determined they warranted field inspections had not yet been followed up on.

The Ministry informed us that it would review and update its service standards for responding to incidents and public complaints. It expects that

updated service delivery standards and metrics for assessing timeliness will be incorporated into the new compliance information system by April 2020.

- categorize complaints by their underlying issue;  
**Status: In the process of being implemented by April 2020.**

#### Details

In our 2016 audit, we noted that the Ministry was not tracking and analyzing public complaint information to identify systemic issues about emitting activities, even though complaints are one of the few ways the Ministry obtains information on violations of environmental laws and regulations.

As part of its review of existing service delivery standards (described in the above action item), the Ministry expects to categorize complaints and prioritize field responses based on the risk associated with the complaint, using criteria such as:

- the contaminant released;
- the impact on the environment; and
- the impact on human health.

The Ministry has targeted this update to its service delivery standards to precede the expected completion in April 2020 of the new compliance information system, in which the new standards will be incorporated.

- take corrective action to address any systemic issues identified.  
**Status: In the process of being implemented by April 2020.**

#### Details

Our 2016 audit noted that the Ministry did not track and analyze public complaint information to identify systemic issues concerning emitting activities. We noted that complaints were one of the few ways the Ministry obtained information on violations of environmental laws and regulations.

The Ministry informed us that it would be building new procedures and service standards into its compliance information system expected for 2020 that would enable it to analyze complaint

information, identify system issues and take corrective actions.

## Ministry Does Not Know If Environmental Approvals Effectively Regulate Pollution or Cumulative Impact of Emissions on Human Health

### Recommendation 12

*To effectively regulate polluters and address potential public health concerns, the Ministry of the Environment and Climate Change (Ministry) should implement processes to:*

- *require self-registered emitters to routinely report emissions data;*

**Status: Little or no progress.**

### Details

Our 2016 audit noted that the Ministry did not have sufficient environmental and health data to determine the cumulative impact of approved emitting activities on the environment and human health. At the time of our audit there were over 4,600 known self-registered emitters, none of which were required to report the amount of their emissions to the Ministry. Consequently, the Ministry did not know to what extent these emitters were complying with the allowable emission limits, or what impact these emitters were having on the environment and human health.

In January 2017, the Ministry began requiring new self-registered emitters to prepare emissions summary reports and submit them online at time of registration for Air Emissions. These self-registered emitters are now required to provide updated emissions summary reports to the Ministry every 10 years. However, this is not applicable to all self-registered emitters, such as non-hazardous waste management systems, which make up 12% of self-registered emitters, which the Ministry identified has negligible emissions. In addition, this requirement only applies to new Air Emissions self-registrants and not other existing self-registrants.

- *analyze data from self-registered emitters and emitters with Environmental Compliance Approvals to determine the cumulative pollutant levels of current activities in regional areas;*
- *assess the environmental emissions impact of approving new emitting activities in regional areas prior to issuing approvals;*

**Status: Little or no progress.**

### Details

In our 2016 audit, we noted that although many emitters with Environmental Compliance Approvals were required to submit information to the Ministry about their levels of emissions (such as the amount of pollutants emitted over a given period), the Ministry only checked that emitters were complying with the limits and conditions of their approvals. It did not assess the cumulative environmental and health impacts of emissions in various regions throughout the province.

Now that emissions data is being collected from a large number of new self-registered emitters, the Ministry is in a position to use this data to analyze the cumulative pollutant levels of current activities in different regions. However, at the time of our follow-up, the Ministry did not have a plan to do so.

For its decisions on Environmental Compliance Approvals, however, the Ministry has developed a process for assessing cumulative effects of pollutants from multiple sources. In April 2018, the Ministry posted this policy to the Environmental Registry for assessing the cumulative effects of contaminants on local air quality when making decisions related to approvals of airborne emissions. This policy took effect on October 1, 2018, for Environmental Compliance Approval applications for two types of air contaminants in Hamilton/Burlington and Sarnia/Corunna.

- *ensure that when data from the Ministry's other environmental monitoring programs indicate that air or water quality has worsened in particular regions across the province or in the province as a whole, the Ministry should assess*

*to what extent the approvals program is responsible and take necessary corrective actions.*

**Status: Little or no progress.**

#### Details

We noted in our 2016 audit that if data from the Ministry's other monitoring programs indicated that air or water quality had worsened, the Ministry did not assess to what extent the approvals program was responsible for this and what corrective action needed to be taken.

Although no work is currently being performed on this action item, the Ministry has informed us that it will evaluate new emission rates and work with stakeholders to review and potentially expand the draft policy on assessing cumulative effects of contaminants on local air quality over time.