OFFICE OF THE

Auditor General of British Columbia

Loss Reporting in Government

Waste Management Permit Fees

Motor Dealer Act

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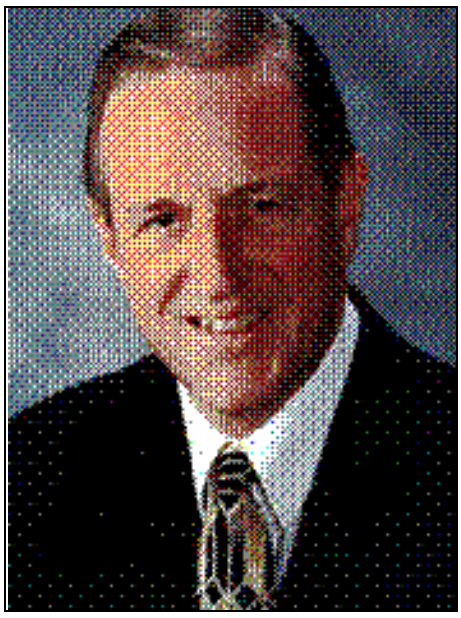


This is a report on three compliance-with-authorities audits undertaken by my staff during the past year. The three audits addressed the subjects of:

- loss reporting in government;
- waste management permit fees; and the
- Motor Dealer Act.

In our audit of loss reporting in government, we set out to determine if all government losses are being properly reported by government ministries, pursuant to the applicable policies established by the Treasury Board.

Government asset losses arise from incidents such as burglary and theft, fires, floods and weather, arson and vandalism, fraud, and other causes. Such losses have totaled several millions of dollars in recent years, and the government, for the most part, carries no insurance for asset losses. The types of assets most commonly lost or damaged are computers and other electronic equipment.

This audit was specifically aimed at checking for compliance with policies for:

- reporting all losses;
- reporting losses in a timely manner;
- reporting all the required information about the losses; and
- reporting to the appropriate authorities.

By the end of the audit, we concluded that government ministries were not satisfactorily complying with Treasury Board's policies for the reporting of all asset losses and the reporting of losses in a timely manner. Where asset losses were being reported, we found that policies about the content of the loss reports were being complied with. The audit further disclosed that policies for informing the police and providing summaries of losses to our Office were being complied with, but the policy about providing summaries of reported losses to the Office of the Comptroller General was not.

The audit report therefore contains seven recommendations to address the concerns we encountered.

Our audit of waste management permit fees was aimed at assessing whether the appropriate fees are being levied and collected in accordance with relevant legislation and regulation.

Waste management permit fees include a base fee of $100, and a variable fee component based on the quantity and concentration of pollutants, of various types, that are authorized for discharge. Separate permits are required for discharges into each environmental medium: air, land, water, and special waste storage facilities. These fees currently generate revenues of about $15 million annually.

The audit conclusion was that the Ministry of Environment, Lands and Parks has been properly levying and collecting the correct fees pursuant to the *Waste Management Act* and the related Waste Management Permit Fees Regulation, for its duly authorized waste management permits and approvals.

We have provided four recommendations to assist with certain needed administrative improvements.

Our audit of the *Motor Dealer Act* assessed the extent of compliance with the Act and its related regulations for the registration of motor dealers, the operation of the Motor Dealer Customer Compensation Fund, and the monitoring of motor dealer compliance.

The Act applies to the 1,600 motor dealers in the Province. The Registrar of Motor Dealers is empowered to conduct inspections, hold hearings, and establish registration criteria for the dealers. The $1 million Compensation Fund, established by contributions from licensed dealers, is operated to insure consumers for amounts up to $20,000 against specific losses resulting from the actions of dealers.

We concluded that the Ministry of Attorney General was ensuring that motor dealers are appropriately registered. We found, too, that the Motor Dealer Customer Compensation Fund was being properly operated in accordance with the Act. Unfortunately, however, we considered the procedures for monitoring motor dealer compliance to be insufficient to allow us to determine if motor dealers were properly complying with the Act and regulations.

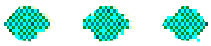
Our report contains several recommendations to improve the monitoring activities and registration procedures.

These three compliance audits have been responded to by the respective ministries responsible for administration of the subject programs. The ministry responses are included at the end of each report. I thank the respective deputy ministers and their staffs for their cooperation and helpfulness to me and my staff during the past year.

Compliance auditing is one of the three pillars of modern public sector auditing, and is practiced in my Office by a small, but very dedicated, staff who apply themselves to their assigned projects in a resolute manner. I wish to acknowledge their professional work in conducting these three assignments during the past year, and to thank them for their dedication and conscientious application to duty.

George L. Morfitt, FCA
Auditor General

Victoria, British Columbia
March 1998



loss reporting in government

loss reporting in government

An audit to determine if all government asset losses are being properly reported

Audit Report

Audit Scope

We have made an examination to determine whether government ministries were complying, in all significant respects, with Treasury Board policies relating to the reporting of government asset losses during the fiscal year ended March 31, 1997. Specifically, we examined those policies relating to:

- reporting all losses;
- reporting losses in a timely manner;
- reporting all the required information about the losses; and
- reporting to the appropriate authorities.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Audit Opinion

In our opinion, government ministries were not satisfactorily complying with Treasury Board policies for the reporting of all government asset losses and the reporting of losses in a timely manner during the fiscal year ended March 31, 1997. Where losses were reported, the policies regarding the content of the reports were being complied with in all significant respects. The policies for informing the police and providing summaries of losses to the Office of the Auditor General were being complied with, but the policy for providing summaries of reported losses to the Office of the Comptroller General was not.

summary of findings

Reporting All Losses

We concluded that the reporting of losses in the fiscal year ended March 31, 1997 was incomplete. Several types of losses relating to illegal activities—BC Benefits frauds, unauthorized timber harvesting, and Medical Services Plan fraud—were not being reported as required by policy. And, while losses of moveable physical assets and petty cash/cash receipts were being reported, the reporting itself was not complete. Based on our work at four ministries (which accounted for 61% of the reported losses in the 1996/97 fiscal year), we found that 35% (approximately $77,000) of the reports sent to the Risk Management Branch had not also been sent to ministry executive officers. In addition, based on our review of incidents reported to the British Columbia Buildings Corporation, we found that 33% (approximately $21,000) of losses arising from those incidents had not been reported to either the branch or the ministry executive.

Reporting Losses in a Timely Manner

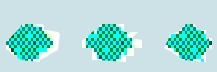
We concluded that most reports were not being forwarded to the branch within the time required by policy. During the period covered by our audit, only 31% (approximately $278,000 out of a total of $1,084,000) were forwarded within the required 48 hours.

Reporting All the Required Information

We concluded that policy was being complied with in all significant respects, in that information such as the asset, the incident, the place and the cost were given on the reports.

Reporting to the Appropriate Authorities

While the branch is sending monthly summaries to our Office as required, they are not sending monthly summaries to the Office of the Comptroller General. The police were being informed, where appropriate (i.e., for losses due to fraud, theft, misappropriation or embezzlement where the loss is over $1,000, unless employee involvement is suspected and the advice of the Comptroller General is needed).



introduction

Although financial and administrative policies, systems and procedures have been established at both the central agency and ministry levels to prevent losses of public assets, such losses still occur, most of which result in a financial cost to the taxpayer.

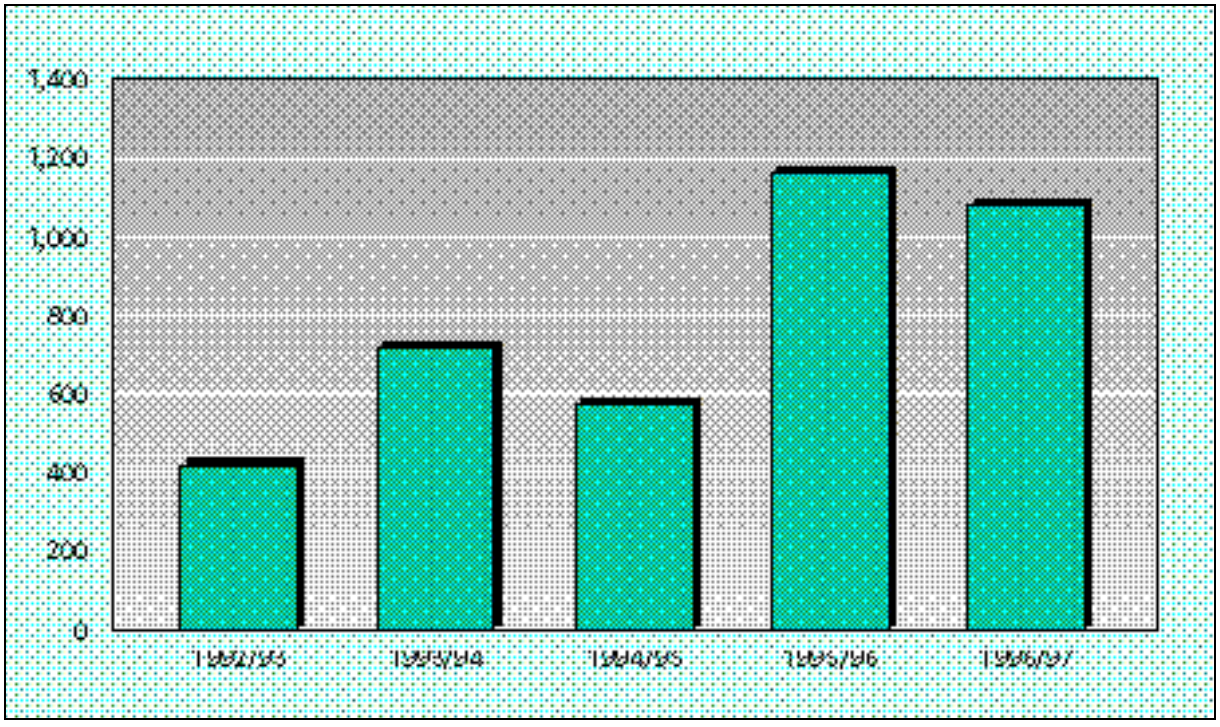
In this context, "public assets" means tangible assets owned or held in trust by ministries. These include fixed and moveable physical assets, as well as petty cash, cash receipts and other forms of securities.

Over the past five years, almost $4 million in asset losses has been reported to the Risk Management Branch of the Ministry of Finance and Corporate Relations (Exhibit 1.1).

Exhibit 1.1

Total Asset Loss/Damage Reported to Risk Management Branch

($ Thousands)



Source: Reports to Risk Management Branch from ministries

Most of these losses have been due to burglary and theft (Exhibit 1.2), with computers and peripheral equipment being the most common asset lost (Exhibit 1.3). As we explain later in this report, there are in fact more government asset losses than those reported to the Risk Management Branch.

Treasury Board policies, under the authority of the *Financial Administration Act*, require that the department where a loss occurred report it to ministry executives and the Risk Management Branch. In turn, the branch is to provide a summary report to the Offices of the Comptroller General and Auditor General. These policies are in the Treasury Board's Financial Management Operating Policy (FMOP) Manual, section 10.10.

Treasury Board has made the branch, a central government agency, accountable for the effective management of loss risks to which the government is exposed by virtue of its assets, programs and operations. The prompt and complete reporting of losses to the branch is intended to help prevent further losses.

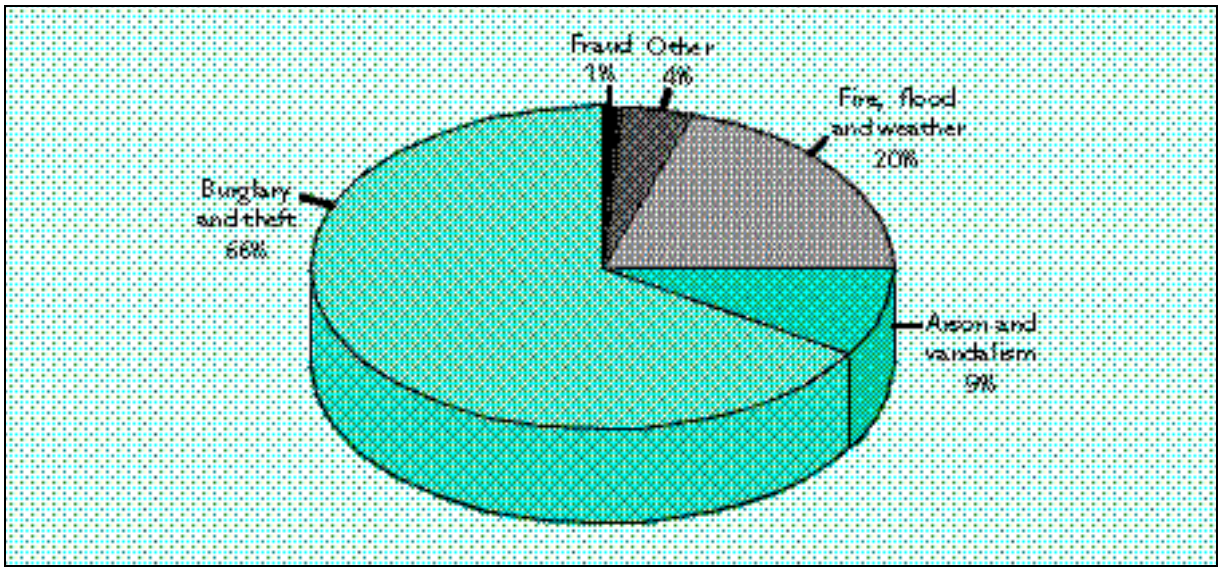
As part of its work, the branch identifies trends (such as burglaries that follow a specific pattern) and warns ministries of specific protective measures that they can take so that a loss that occurs in one ministry is not repeated across government. The branch also has the expertise, or knows where to obtain the expertise, to contain the extent of the loss. For example, a computer may appear to be undamaged after a fire, yet, unless promptly and correctly cleaned, may fail a few months later as a result of smoke-induced corrosion of the electronic components. Turning on a computer or printer after a fire to see if it works may actually cause more damage to the equipment than the fire itself, since the cooling fan draws in the corrosive smoke particles and spreads them over the electronic circuitry. Branch staff know about this kind of problem and can therefore direct ministries as needed.

The branch provides its services to many government and other public sector organizations, such as schools and hospitals, in addition to the central government ministries that were the subject of this audit. Its current staff of 14 work in the areas of Claims Administration, Business Continuation Planning, Information Security, Insurance, Risk Financing, Physical Security, and Loss Prevention.

The Risk Management Branch is also concerned about incidents involving government offices and programs which could result in a liability by government for losses due to death or injury to persons outside government, or damage to non-government property.

Exhibit 1.2

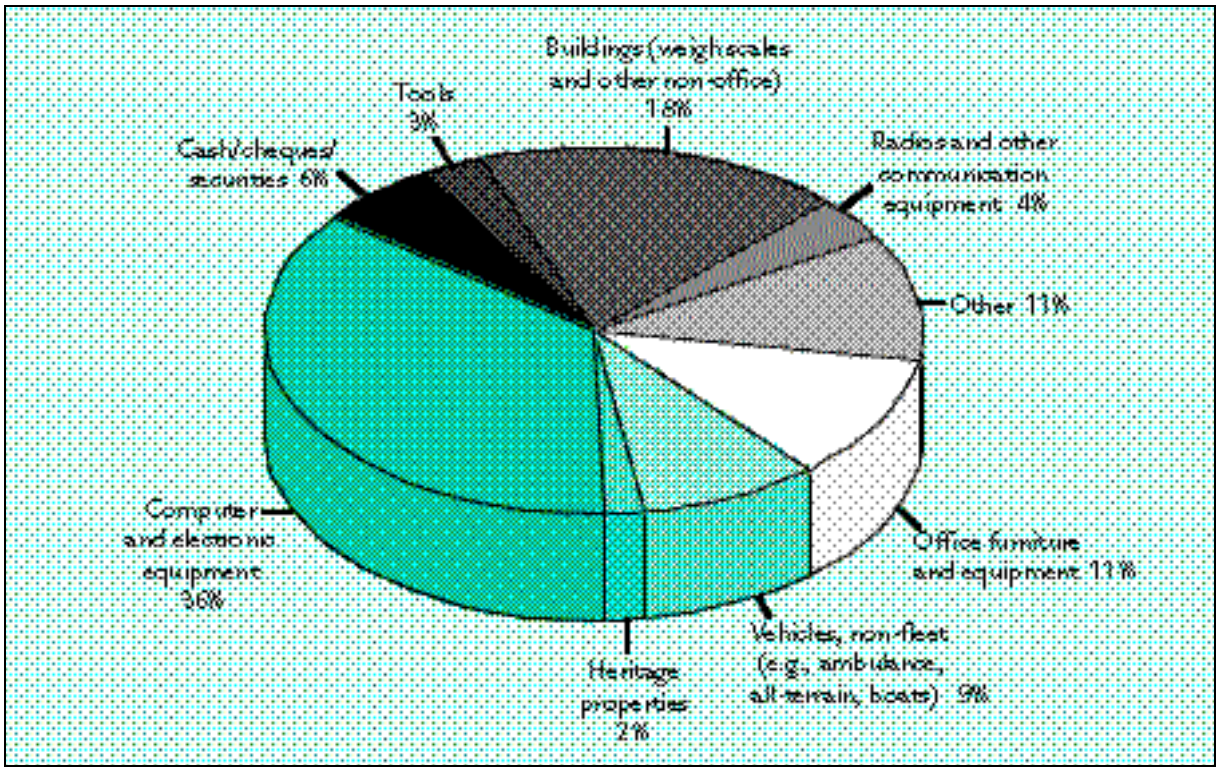
Total Losses Reported Over the Past Five Years, by Type of Incident



Source: Reports to Risk Management Branch from ministries

Exhibit 1.3

Total Losses Reported Over the Past Five Years, by Type of Asset



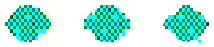
Source: Reports to Risk Management Branch from ministries

Insurance

Ministry assets are self-insured. Over the years, it has been determined that it is cheaper to pay the cost of replacing assets that are lost than to pay the cost of insuring all of them.

Government vehicles carry the minimum third-party liability insurance through the Insurance Corporation of British Columbia, as required by law, but this does not cover damage to the vehicle itself. The Inland Ferry Fleet of the Ministry of Transportation and Highways was, until June 1997, insured by outside insurers, but it too is now self-insured.

Buildings housing ministry offices are insured by the landlord. Where the landlord is the British Columbia Building Corporation, the insurance has a very high deductible.



scope

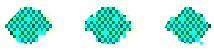
We carried out this audit to determine if government ministries were complying, in all significant respects, with Treasury Board policies in FMOP section 10.10.3 that relate to:

- reporting all losses (all losses due to fraud, theft, misappropriation and embezzlement, all losses of assets held in trust, and all losses from other causes over $1,000 must be reported);
- reporting losses in a timely manner (the department suffering the loss must forward a report within 48 hours of the discovery of the loss);
- reporting all the required information about the losses (that information must include a description of the incident, the asset and the nature of the loss, the place where the loss occurred, the account or person who suffered the loss, the amount of the loss or reasonable estimate, the circumstances that led to the loss, measures taken to recover the loss, and any applicable disciplinary action taken); and
- reporting to the appropriate authorities (the loss must be reported to the ministry executive and the Risk Management Branch, and the branch must forward a monthly summary to the Offices of the Auditor General and the Comptroller General; the police must be informed if the loss exceeds $1,000 and is due to fraud, theft, misappropriation or embezzlement).

The audit was conducted during the fall of 1997, and covered losses occurring in government ministries or reported to the branch in the fiscal year ended March 31, 1997.

The relevant Treasury Board policies, in FMOP 10.10.3, apply to the physical loss of, or damage to, tangible assets owned, or (for those assets held in trust) in the custody of government ministries. These include moveable physical assets, as well as petty cash/cash receipts and other forms of securities. The policy does not apply to the reduction in value of an asset due to economic or other reasons outside the control of the government. In addition, accounts receivable (including, for example, tax evasion), loans, and equity investments are specifically excluded.

We did not attempt to audit the correctness of the information provided on the loss reports. Instead, we audited to see if the information provided appeared to be complete.



detailed findings

Reporting All Losses

Policy requires that all losses due to fraud, theft, misappropriation and embezzlement, all losses of assets held in trust, and all losses from other causes over $1,000, be reported to both the Risk Management Branch and ministry executive officers.

We found that some types of losses are not being reported in accordance with this policy. They are reported to the ministry executive, but not necessarily to all of the appropriate parties outside the ministry where the loss occurred. If they are not reported to the branch, then it is likely that neither the Office of the Comptroller General (with the responsibility for managing and reporting on the government's financial activities) nor our Office will receive any information concerning the losses.

Without complete reporting of losses, government cannot use past loss experience to plan appropriate loss control and financing. Steps taken based on an incomplete and inaccurate knowledge of loss history could be misdirected, ultimately leading to inefficient use or waste of resources that would otherwise be available for programs.

A report by the Internal Audit Branch, Office of the Comptroller General, carried out in 1993 and issued in 1995, recommended that the Risk Management Branch continue to promote the importance of reporting losses and incidents. Each fiscal year since then, the branch has commented on the importance of loss reporting, the benefits to be gained, and the requirements of Treasury Board Policy, in its "At Risk" newsletter, distributed to ministries on a quarterly basis. The branch also introduced, in the summer of 1996, ways for ministries to file asset loss reports by e-mail. This has had some positive impact, but there are still shortcomings in ministry reporting.

Types of Losses That Are Not Reported

- **BC Benefits**

  The Ministry of Human Resources has a computer file of all cases of BC Benefits fraud that are either over $10,000 or have been brought to the attention of Crown counsel (whether or not charges were laid). The Comptroller General, who is the only one outside the ministry with

access to this file, told us that the file was reviewed on a regular basis in the first year (1993) that it was created, but that it has not been reviewed in recent years because the ministry seemed to be addressing the fraud issue satisfactorily.

We found that these frauds, as well as those not in the file (those less than the $10,000 limit or not referred to Crown counsel) are not being reported to the Risk Management Branch, as is required by Treasury Board policy.

The ministry's Prevention, Compliance and Enforcement Unit, which investigates BC Benefits fraud, told us that they had investigated almost 30,000 cases in 1996/97, and had identified over 12,000 cases of fraud. The estimated annual savings from discovering and resolving these cases is over $32 million.

- **Timber on Crown Land**

The Compliance and Enforcement Branch of the Ministry of Forests recorded over 160 violations of the *Forest Practices Act* relating to unauthorized timber harvest operations in 1996/97. The fines levied as a result of these infractions totaled more than $612,000. We found that these losses were not being reported to the Risk Management Branch as required.

Frauds relating to stumpage revenue result in the loss of an account receivable, and thus are specifically excluded from being reported pursuant to the Treasury Board policies in FMOP section 10.10.

- **Medical Services Plan (MSP)**

The Ministry of Health Investigations Unit informed us that, during 1996/97, it identified 514 cases where persons were either applying for or receiving benefits to which they were not entitled. Some of these instances were considered criminal.

The ministry also informed us that while no instances involving health practitioners had been finalized during 1996/97, during the current fiscal year (1997/98) two cases have been forwarded to the RCMP as criminal fraud investigations.

We found that no instances of MSP fraud were reported by the Ministry of Health to the Risk Management Branch during 1996/97.

- **Highway Fixtures and Structures**

  Damage to highway fixtures (e.g., road signs, lamp standards and bridges) is reviewed by the Ministry of Transportation and Highways, which has established its own department for this purpose and for considering measures to recover losses. However, none of this loss information is being provided to the Risk Management Branch.

- **Other Frauds**

  During our audit, we identified four frauds involving government employees. Three were reported to the Risk Management Branch. One was reported to Internal Audit Branch at the Office of the Comptroller General, and investigated by them, but was not reported to the Risk Management Branch by the ministry. This fraud occurred between November 1994 and June 1995, although the investigation into it was not finalized until 1996/97. It was estimated that $30,000 was mis-appropriated.

In the instances of incomplete reporting noted above, the responsible ministry had its own staff assigned to investigate the losses (or used Internal Audit Branch). In these situations, the Risk Management Branch informed us that the value added by also reporting the loss to them was considered to be minimal. Some losses are unique to the assets or characteristics of a particular program, and so there may not be the same need to advise other ministries if a trend is determined. For overall management of, and reporting on government, there are agencies, such as the Offices of the Comptroller General and Auditor General, that need information about losses, and the information can be provided in summary form on a periodic basis.

However, Treasury Board's policies clearly require that all losses be reported to the branch, and there is no provision for exceptions.

We recommend that the Risk Management Branch advise all ministries generally, and in particular the Ministries of Human Resources, Forests, Health, and Transportation and Highways, of the necessity to comply with Treasury Board policy about reporting all losses to the branch. We further recommend that the branch take follow-up steps to ensure that government asset loss reporting policies are followed by ministries.

The Risk Management Branch could, if it considers it satisfactory for its program needs, and where the loss is unique to one ministry which has a sufficient and adequate investigation

process, alternatively request an amendment to the Treasury Board policy to allow for the periodic reporting to the branch of specific types of losses on a summary basis.

Moveable Physical Assets and Cash

Although we found that losses of moveable physical assets and petty cash/cash receipts were being reported to Risk Management Branch, we also found sufficient evidence to conclude that the reporting was not complete.

We visited four government ministries (the ministries of Attorney General, Environment, Lands and Parks, Health, and Transportation and Highways) which accounted for 61% by number (of the total number of 239) and 54% by value (of the total value of $1.08 million) of the losses reported to the branch in the 1996/97 fiscal year. These ministries had tabulated the losses of moveable physical assets and cash that had been reported to their executive. We compared these records with those of the branch to see if all losses reported to the ministry executive were also reported to the branch, and vice versa.

Of 131 reports to the ministry executives at these four ministries, we found that 29% (approximately $380,000) had not been reported to the Risk Management Branch. All but one of these missing reports were from the Ministry of Transportation and Highways, whose practice is to complete an investigation into a loss and determine whether any recovery is possible before providing a report to the branch. (We have recommended, in a management letter to the Ministry of Transportation and Highways, that they consider revising this policy.) At the other three ministries, we found that 87 out of 88 reports had been sent, as required, to the branch.

Conversely, we found that 35% (approximately $77,000) of the 124 reports that had been sent to the branch by these four ministries had not also been sent to the relevant ministry executive. In this instance, the lack of reporting was spread over all four ministries.

We also reviewed incident reports to the British Columbia Buildings Corporation (BCBC). As Exhibit 1.2 showed, theft is the major reason for loss of government assets, and we considered it likely that a break-in at a government office would most probably result in damage that would need to be repaired. Since BCBC is responsible for arranging for such repairs, we assumed there would be an added incentive for ministries to report these incidents to that corporation.

Of 87 reports provided to us by BCBC, we identified 21 where there had also been a loss of a government asset. Of those 21, 8 had been reported to the branch and the relevant ministry executive, 3 to the branch alone, and a further 3 to the relevant ministry executive alone. The other 7 (which totaled approximately $21,000) were reported to neither the branch nor the executive.

We also searched for media reports of losses during this period. We only found one, and that loss had not been reported to the branch, although it was to the ministry executive. The value of this loss was difficult to quantify, but it was estimated to exceed $40,000.

We recommend that the Risk Management Branch remind all ministries of the Treasury Board requirement to report to their ministry executive and the Risk Management Branch all losses of, or damage to, government assets.

We also obtained summary information on incidents reported to the City of Victoria Police Department. Victoria probably has the highest concentration of ministry offices compared to other communities in the province. This summary information only showed what type of incident had occurred at a particular street address, and so we were unable to conclude with certainty whether or not it involved specifically the loss of a government asset (e.g., the loss might have been of an employee's personal possessions, such as a purse or jacket, or it might have been from a non-government tenant at the same address). However, we were able to make some assumptions about which incidents did involve losses of government assets and which did not. On that basis we identified 29 incidents, of which only 11 had been reported to the branch. Although not definitive, this was consistent with our other findings.

Vandalism

Many ministries are reporting more incidents than is required by policy. While policy requires all losses due to fraud, theft, mis-appropriation or embezzlement to be reported, losses from other causes, including vandalism, do not have to be reported if the loss is under $1,000 (unless the loss is of an asset held in trust). However, many incidents of damage under $1,000 caused by vandalism are being reported. Often, it is not possible to tell whether the incident is really vandalism, rather than attempted theft, and so by getting these reports the Risk Management Branch may be able to identify trends in attempted thefts, and notify other government offices. We encourage this reporting to be continued.

Government Fleet Vehicles

During the period under audit, we found that damage to government fleet vehicles was being reported on Vehicle Incident Forms and sent to the appropriate regional offices of Vehicle Management Services (in the Ministry of Finance and Corporate Relations), and from there to the Risk Management Branch. However, because these reports are not being summarized in any fashion, no overall compilation of accident statistics is available.

We reviewed the reports received at the branch for March 1997. We found that for each of these reports, the damage estimate was less than $1,000 and had not been caused by fraud, theft, misappropriation or embezzlement, so none needed to have been reported pursuant to the Treasury Board policies in FMOP. (The General Management Operating Policy manual requires all vandalism and theft incidents over $100 to be reported to the ministry fleet coordinator of Vehicle Management Services, and the local police, within 24 hours.)

At the time of writing this report, negotiations were underway to have ownership of the government's vehicle fleet transferred to an outside party and leased back. In addition, management services are to be provided by an outside contractor, and staff at Vehicle Management Services are being assigned to other duties. Depending on how the terms of the leaseback are structured, it may be that for all practical purposes, these vehicles will still be government assets. If that is the case, there will still need to be reporting of loss or damage to vehicles in accordance with the policies in FMOP.

We recommend that the Risk Management Branch review any new arrangement concerning government vehicles and ensure that it is made clear whether or not ministries have to report loss or damage to vehicles in accordance with Treasury Board policies in FMOP.

Reporting Losses in a Timely Manner

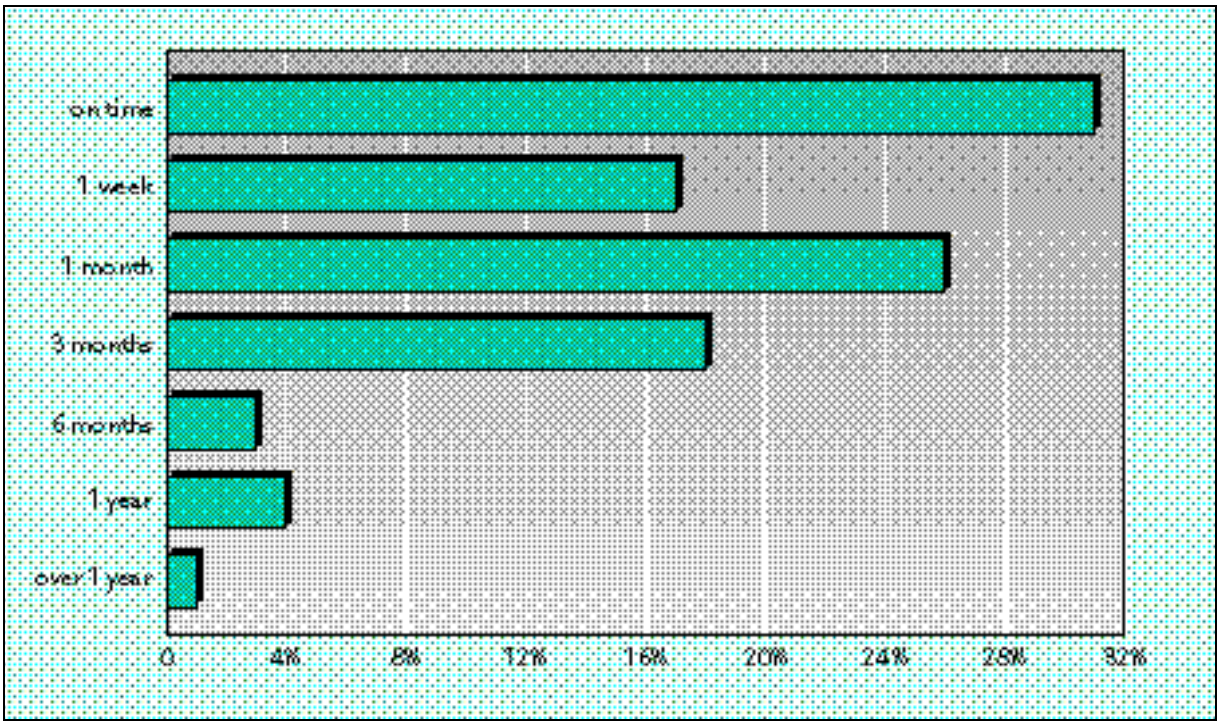
Treasury Board policies require that a report on a loss incident be forwarded within 48 hours of the discovery of the loss to the Risk Management Branch. Prompt reporting may provide the opportunity to recover the loss, as well as to minimize further losses by alerting other government offices or ensuring that appropriate steps are taken to clean and restore water or smoke damaged assets.

Our findings in this part of the audit were based on a review of the losses reported to the branch during fiscal 1996/97, and are thus limited to losses of moveable physical assets and cash.

From our analysis of 239 reports recorded by the branch during 1996/97 (which totaled $1,084,000), we found that the reports had not been forwarded to the branch on a timely basis. Allowing for weekends and statutory holidays (which might delay the reporting) we found that only 31% by number of the reports overall (which totaled $278,000) were forwarded within the required 48 hours, 17% by number (which totaled $115,000) were forwarded within one week, and another 26% by number (which totaled $542,000) within one month. The remaining 26% by number (which totaled $149,000) were forwarded more than one month after the incident occurred, including 1% (which totaled $1,735) that were not forwarded for more than 1 year (Exhibit 1.4).

Exhibit 1.4

Timeliness of Reporting to Risk Management Branch



Source: Reports from ministries recorded by the Risk Management Branch during 1996/97

We concluded therefore that these reports were not being forwarded to the Risk Management Branch in a timely manner, and certainly not within the time frame set out in Treasury Board policies.

We recommend that Risk Management Branch remind all ministries of the Treasury Board requirement to forward government asset loss reports to the Risk Management Branch within 48 hours of the discovery of the loss.

Reporting All the Required Information

According to Treasury Board policy, a loss report should contain the following information:

- a description of the incident, the asset and the nature of the loss;
- the place where the loss occurred;
- the account or person that suffered the loss;
- the amount of the loss, or reasonable estimate;
- the circumstances that lead to the loss;
- the measures taken to recover the loss; and
- any applicable disciplinary action taken.

In our audit we looked to see if all of this information had been provided in the reports made to the branch during 1996/97. We did not audit to see if the information that was provided was correct.

A total of 239 reports of losses (amounting to $1,084,000) were made to the Risk Management Branch during 1996/97.

We found that all of the required information was being reported, except that sometimes an estimate of the cost of the asset damaged or lost was not provided. This estimate was missing from 16 reports, about 7% of the total number. Such information is important because it helps determine the magnitude of the loss. Our own determinations of what the missing cost estimates on the individual reports should have been ranged from a low of $50 to a high of $15,000.

We recommend that the Risk Management Branch remind all ministries to include their estimate of the amount of each government asset loss in the reports they provide to the branch.

Despite this one concern, we concluded that Treasury Board policy is being followed, in all significant respects.

Reporting to the Appropriate Authorities

Reporting to the Police

A loss over $1,000 that is the result of (or is suspected to be the result of) fraud, theft, misappropriation or embezzlement should be reported to the police where warranted although, where employees are involved, an internal investigation may be appropriate before the police are contacted. While the police may not always be able to apprehend and prosecute the perpetrators, they often recover stolen property as a result of investigating other incidents. Unless the loss has been reported, however, the police cannot return found property to its rightful owner.

Of the 239 reports sent to the Risk Management Branch in 1996/97, relating to the loss of physical assets or petty cash/cash receipts, 106 should have been reported to the police. We found that 105 of them had been reported. We therefore concluded that, in all significant respects, ministries were informing the police of losses of physical assets and petty cash/cash receipts when required to do so.

For the types of losses that were not being reported to the branch—e.g., the BC Benefits fraud, unauthorized timber harvesting, and MSP fraud, referred to above—we found that ministries do consider the potential for criminal prosecution, but typically they provide information directly to Crown counsel without police involvement.

Reporting to the Comptroller General

Where ministry employees are suspected of being involved in losses over $1,000 that are the result of (or are suspected to be the result of) fraud, theft, misappropriation or embezzlement, a report is supposed to be made to the Comptroller General. (At the discretion of the responsible Deputy Minister, the Comptroller General's advice may be sought in these situations before the police are notified.)

For the 1996/97 period covered by our audit, we noted three losses due to fraud involving ministry employees that had been reported to the Risk Management Branch. The incidents had also been reported to the Comptroller General.

However, Treasury Board policy also requires that the branch provide the Office of the Comptroller General with a monthly summary of the losses that have been reported. We found that this was not being done. The branch informed us

that they only passed on reports where employees were suspected of being involved.

We recommend that the Risk Management Branch comply with Treasury Board policy and provide to the Office of the Comptroller General a monthly summary of the losses reported to the branch.

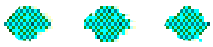
Reporting to the Auditor General

Treasury Board policy requires that the Risk Management Branch provide to the Office of the Auditor General a monthly summary of the losses that have been reported. We found that this was being done appropriately during 1996/97.

Public Reporting

We found that there was no overall public reporting of government asset losses. Some ministries refer to their enforcement activities in their annual reports, but do not always quote statistics on asset losses, although the information may be available if asked for.

We recommend that the Risk Management Branch publish annual summarized statistics of reported government asset losses, perhaps as part of its ministry's annual report.

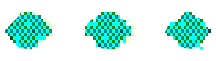


summary of recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled "Loss Reporting in Government" are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

The Office of the Auditor General recommends that the Risk Management Branch:

- *advise all ministries generally, and in particular the Ministries of Human Resources, Forests, Health, and Transportation and Highways, of the necessity to comply with Treasury Board policy about reporting all losses to the branch. We further recommend that the branch take follow-up steps to ensure that government asset loss reporting policies are followed by ministries;*
- *remind all ministries of the Treasury Board requirement to report to their ministry executive and the Risk Management Branch all losses of, or damage to, government assets;*
- *review any new arrangement concerning government vehicles and ensure that it is made clear whether or not ministries have to report loss or damage to vehicles in accordance with Treasury Board policies in FMOP;*
- *remind all ministries of the Treasury Board requirement to forward government asset loss reports to the Risk Management Branch within 48 hours of the discovery of the loss;*
- *remind all ministries to include their estimate of the amount of each government asset loss in the reports they provide to the branch;*
- *comply with Treasury Board policy and provide to the Office of the Comptroller General a monthly summary of the losses reported to the branch; and*
- *publish annual summarized statistics of reported government asset losses, perhaps as part of its ministry's annual report.*



response of the ministry of finance and corporate relations

The Ministry of Finance and Corporate Relations recognizes the importance of comprehensive loss reporting, both for business purposes and for public accountability.

In some instances, the value of loss reporting will be realized by the assignment of appropriate resources to either minimize the extent of a loss or to seek recovery from responsible parties or other available sources. Steps can also be taken to prevent additional losses by notifying all ministries and involved agencies of an obvious exposure and associated recommendations for action. At the other end of the scale, government gains the benefit of a comprehensive loss history (statistical) which allows efficient decisions to be made with regard to loss-funding mechanisms. Ultimately, we are also able to publicly report what losses are being experienced.

The Risk Management Branch (RMB) of this ministry will review the current loss reporting policy and will be recommending any necessary changes to Treasury Board.

The Auditor General's report makes reference to the current policy on loss reporting and suggests that there may be some types of losses which are unique to a particular ministry and might thus merit an exception in some form. Specific mention was made of the Ministry of Transportation and Highways, Ministry of Human Resources, Ministry of Forests, and Ministry of Health. RMB agrees with this approach and will review appropriate changes to the reporting requirements with the ministries concerned.

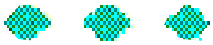
RMB agrees with recommendations 1, 2, 4 and 5, and will proceed as recommended once the policy review has been completed.

RMB has been involved in the transfer of vehicle management services from a branch of government to a contracted service provider. At the time of writing this response, the contract has not been finalized, but RMB has raised the issues of loss reporting and current Treasury Board policies.

RMB notes that it is currently complying with recommendation #6.

RMB will comply with recommendation #7 and feels that the value of this recommendation will be enhanced by more comprehensive reporting by all parties in response to the previously mentioned policy review.

RMB has endeavored to be responsive to the operational needs of ministries over the years, by cooperating in areas such as the development of simplified loss reporting (General Incident and Loss Report) and an electronic loss reporting format. It is the intention of RMB to maintain this approach of blending the operational needs of ministries with the central government policies and requirements wherever possible.



waste management permit fees

waste management permit fees

An audit to assess whether waste management permit fees are being levied and collected in accordance with relevant legislation and regulation

Audit Report

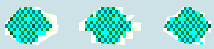
Audit Scope

We have made an examination to determine whether the Ministry of Environment, Lands and Parks had, in all significant respects, levied and collected the correct fees pursuant to section 52 of the *Waste Management Act* and the related Waste Management Permit Fees Regulation for duly authorized waste management permits and approvals issued during the twelve months of September 1996 to August 1997.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Audit Opinion

In our opinion, the Ministry of Environment, Lands and Parks had, in all significant respects, properly levied and collected the correct fees pursuant to section 52 of the *Waste Management Act* and the related Waste Management Permit Fees Regulation for duly authorized waste management permits and approvals during the twelve months of September 1996 to August 1997.



introduction

The *Waste Management Act*, enacted in 1982, is the primary legislation in British Columbia for the control of pollution. The Act establishes the requirements for maintaining a strict waste discharge control regime. Before they can discharge waste into the environment, individuals and corporations must obtain a waste management permit. The Act also provides for the collection of fees from permit holders.

The first permit fee system was introduced on September 1, 1987 by the Waste Management Permit Fees Regulation. Under that system, fees were based on the production capacity of firms or the volume of discharge of municipal waste, and did not take into consideration the type of waste discharged. In 1992, the Regulation was significantly amended to incorporate a polluter-pay principle and to recover government's regulatory cost. The fees were subsequently restructured to include two components: a base fee of $100 and a variable fee component calculated on the quantity and concentration of pollutants authorized by the ministry for discharge. This revised scheme thus introduced an economic incentive for permit holders to decrease pollution.

A separate permit is required for discharge into each environmental medium—air, land and water—and for storage of special waste. Therefore, a company may require up to four waste permits for a single site.

At the time of our audit, there were about 3,400 active permits, as follows:

- air 25%
- water or effluent 44%
- refuse 23%
- special waste storage 8%

The ministry assesses the processes of each business that applies for a permit to identify the types of discharges it produces and to determine the concentration. A permit is issued specifying the types of discharges and establishing maximum amounts that may be discharged for the year. In more complex situations, the permit also establishes the amount of testing that must be done by the permit holders and reported to the ministry.

The fee formula applies to all permit holders, including Crown corporations. However, fee exemptions are allowed for some permits. These include:

- permits held by the British Columbia government or federal government agencies;
- refuse discharge permits held by a municipality with an approved solid waste management plan that outlines the municipality's current initiatives and proposed commitment to achieve a 50% reduction in solid waste by year 2000, and a volume-based solid waste user-pay strategy;
- permits authorizing the discharge of domestic sewage or domestic refuse from a permanent residence located on an Indian Reserve; and
- air permits authorizing discharge within the boundaries of the Greater Vancouver Regional District (the district charges its own fees).

The ministry has collected $55 million from the permit holders since fiscal 1992/93. During the twelve months covered by our audit, we noted that 60% of the permit revenue was paid by only 2% of the permit holders. Conversely over 60% of the permit holders pay less than $500 annually.

Exhibit 2.1

Five Year Waste Management Permit Fee Revenue

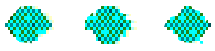
Fiscal year	Amount ($million)
1992/93	4
1993/94	11
1994/95	11
1995/96	13
1996/97	16
Total	55

Source: The Public Accounts

The waste management permit fees are recorded as revenue of the Sustainable Environment Fund, a special account within the general fund of the government's consolidated revenue fund. The Province established the fund to provide a dedicated source of funding for environmental initiatives. Currently, the fund receives revenue from the waste management permit fees and environmental levies on tires, batteries, diapers and other products.

The Pollution Prevention program of the Ministry of Environment, Lands and Parks issues permits and collects fees related to the discharge and storage of wastes under the *Waste Management Act*. The Pollution Prevention program staff of the ministry's Regional Operations department and staff of the Environment and Resources Management department in Victoria jointly administer the waste permit fees using three related computerized systems:

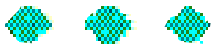
- the waste management permit fees system records permit additions, amendments, and other changes, and generates pre-billing invoices monthly which regional office staff check and approve before the invoices are sent to the permit holders;
- the permit fee verification system enables staff in the regions and Victoria to communicate the status of the pre-billing invoice verification procedures, and to provide approval for the invoices to be sent; and
- the Compushare accounts receivable system (which is maintained by Victoria staff) records fee billings and payments and provides accounts receivable information to management, including month-end listings and receivable agings.



scope and objective

We carried out this audit to determine if the Ministry of Environment, Lands and Parks had, pursuant with section 52 of the *Waste Management Act* and the related Waste Management Permit Fees Regulation, levied and collected the correct fees for duly authorized waste management permits and approvals, using the discharge quantity and characteristics as set out in the individual permits and the rates as set out in the regulation. In our audit testing, we included a sample of all active permits and approvals being administered by the ministry during the 12 months ended August 31, 1997. We did not challenge the standards used in determining the amount or appropriateness of the limits or types of discharges set out in the permits, or the completeness of the discharges allowed.

We visited four of the ministry's regional offices, in Nanaimo, Surrey, Kamloops and Prince George, and had the other three regional offices send us their pertinent information for the permit invoices we looked at. The audit was conducted during the fall of 1997.



description of the types of fees and processes

Levies of waste management permit fees involve calculating a fee for all the discharges allowed by the permit and sending an invoice to the permit holder.

Types of Permit Fees

The main type of fee is the annual permit fee. Other prescribed fees include the permit application fee, the amendment application fee, and the approval fee.

Annual Permit Fee

The annual permit fee includes a base fee of $100 and a variable fee component that is based on the quantity and concentration of discharged contaminants. The variable fee is calculated by multiplying the authorized amount of a contaminant by the fee per tonne per year for that contaminant as set out in regulation or policy. The total variable fee is the sum of the fees for each contaminant. In this way, annual permit fees are now based on the quantity and concentration of maximum discharge authorized by permit, not on actual discharge levels.

Determining the variable fee in this way ensures that larger and more hazardous discharges are subject to higher fees. For example, all effluent permit holders discharging suspended solids must pay $9.20 per tonne of suspended solids authorized in their permit. The fee per tonne for arsenic, which is many times more detrimental to the environment than suspended solids, is $184 per tonne.

Permit Application Fee

The application fee is $100 plus 10% of the annual variable fee, as determined by the quantity and quality of the discharge in the application. The application fee is capped at $50,000.

Amendment Application Fee

If a business expands or reduces its operation, or alters the processes it uses, any of these changes may result in the business having to amend its permit.

The minimum fee for amending a permit (including responding to requests for a name change or for a decrease in the quantity or unproved quality of discharge) is $100. In

Exhibit 2.2

Contaminant Fees for Permits or Approvals

	Fee Per Tonne Discharged
Air Emissions	
Ammonia	$11.30
Asbestos	11.30/Unit
Carbon Monoxide	0.30
Chlorine and Chlorine Oxides	7.60
Fluorides	453.60
Hydrocarbons	11.30
Hydrogen Chloride	7.60
Metals	453.60
Nitrogen Oxides	7.60
Phenols	11.30
Sulphur and Sulphur Oxides	8.80
Total Particulate	11.30
TRS	378.00
VOCs	11.30
Other contaminants not otherwise specified	11.30
Effluent Discharges	
Acute Toxicity	10.10/Unit
Ammonia	69.30
AOX	184.00
Arsenic	184.00
BOD	13.90
Chlorine	184.00
Cyanide	184.00
Fluoride	69.30
Metals	184.00
Nitrogen and Nitrates	27.70
Oil and Grease	46.20
Other Petroleum Products	46.20
Other Solids	9.20
Phenols	184.00
Phosphorous and Phosphates	69.30
Sulphates	2.70
Sulphides	184.00
Surfactants	46.20
Suspended Solids	9.20
Other contaminants not otherwise specified	9.20
Refuse Discharges	
Coarse Coal Refuse (Annual fee is based on one day's average daily discharge of coarse coal refuse)	4.00/m^3
Refuse	0.50/tonne

Source: Waste Management Permit Fees Regulation

addition, a variable fee equal to 10% of the requested increase in quantity or quality of a discharge is applicable.

Approval Fee

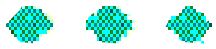
In some situations, a business requires approval for only a one-time discharge of contaminants or approval to discharge over a specific period rather than on an ongoing basis.

Under the *Waste Management Act*, an "approval" for the introduction of wastes into the environment for a specified period of up to 15 months can be issued upon the payment of an approval fee, calculated in the same manner as is done for the annual discharge permit fees. The approval fee is due at the time of application for the approval and is based on the quantity and quality of the pollutants authorized to be discharged over the period for which the approval is granted.

Calculation of Fees

Once fees have been calculated, an invoice is sent out to the permit holder. As noted above, permit fees are based on the quantity and concentration of contaminants authorized to be discharged by the permit. The concentration of contaminants is sometimes specified in the permit. Other times, the permit may describe the discharges as typical of a process employed by a business. In these cases, fees are calculated according to discharge factors derived from a number of sources, including the United States Environmental Protection Agency and various ministry sources. More complicated permits may contain tens of discharge factors.

The permitted discharge data are captured in the waste management permit fees system and form the basis for the calculation of the annual fee levies.



findings

Accuracy of Calculation

We found that, in the majority of cases, the quantity of discharges specified in the permits was correctly converted from volume (cubic meters per year) to an annual mass (tonnes per year), the appropriate rates from the regulation were used to calculate the fees, and the fees were being accurately calculated.

We found that the data input was correct in the majority of the cases. However, some instances of error were observed when transferring permit information to the system files. These included data transcription errors, omissions, and misapplication of discharge factors or rates. It should be noted that most of the errors we observed resulted in only minor adjustments, and the total dollar amounts involved were not significant. Nevertheless, the frequency of occurrence warrants attention by the ministry to ensure the accuracy of the data captured for fee calculations.

We recommend that the Ministry of Environment, Lands and Parks review data input procedures to ensure that the waste management permit data captured for fee calculation purposes are recorded accurately.

Consistency in Applying Policy

For refuse discharge permits for industrial sites, fees are based on the amount of material authorized for discharge in a year. The ministry has specified a standard conversion factor of 0.3491 to convert refuse discharge from volume to mass. We observed that in one region a different conversion factor of 0.1333 was being used in calculating refuse discharged from some industrial sites. We were advised that this lower conversion rate should only apply to municipal solid waste discharges for municipal government sites. Although the amount of fees involved was not significant, the result was that refuse permit holders for industrial sites in the one region were paying lower fees than permit holders in the other regions.

We recommend that the ministry review instructions to regional staff to ensure that the policy on fee calculation is applied uniformly in all regions.

Collection of Fees

The requirement for the payment of fees is set out in section 8 of the Regulation. It states that the annual fee for a permit is payable on the anniversary date of the permit, or 30 days after the date an invoice issued for the amount owing, whichever is later.

We found that the annual fee invoices are normally issued by the accounts receivable staff in Victoria during the first half of each permit's anniversary month and collected within a time frame specified in policy. For the permits we tested, we found that there were a few instances where fees remained outstanding at the time of our audit, but adequate reasons were provided. We also observed that approximately $900,000 for waste management permit fees from Skeena Cellulose were not being collected at the time of our audit, and this was considered a special case. Application, amendment and approval fees were collected by the regions in advance of the permit period, as required.

Invoices on "Hold" Status

Annual fee invoices are sometimes put on hold at the request of regional offices for various reasons associated with the calculation of the fees. One common reason is that an application for a discharge reduction amendment is being processed. The ministry informed us that because of staff workloads, this amendment approval can sometimes be delayed. In the samples we examined, we found that six permit invoices, with a value of over $523,000, were on hold.

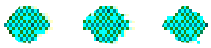
Ministry policy states that invoices for annual fees can only be held up with written approval from the Director of the Pollution, Prevention, and Remediation Branch. We found that this procedure was not complied with in most of the cases we observed. Furthermore, in two cases where the fees totalled $387,000, although regional staff had removed the hold status, the invoices were still not sent out because the change in status had been overlooked.

We recommend that the ministry review the invoice-on-hold procedures to ensure that ministry approval policy has been complied with and that follow-up procedures are taken to ensure invoices are subsequently issued on a timely basis.

Revenue Recording

Annual fee invoices issued are tracked and maintained by staff in Victoria with the aid of the Compushare accounts receivable system, a subsidiary ledger system. To ensure the accuracy of this separate subsidiary ledger, the Financial Management Policy Manual requires that summary information be posted into a control account in the government's general ledger. During the audit, we found that this was not happening promptly. No such posting was done for invoices issued during the period of April to November 1997.

We recommend that the ministry post invoice summary information to the government control account on a timely basis in order to comply with government financial management policy.

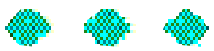


summary of recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled "Waste Management Permit Fees" are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

The Office of the Auditor General recommends that the Ministry of Environment, Lands and Parks:

- *review data input procedures to ensure that the waste management permit data captured for fee calculation purposes are recorded accurately;*
- *review instructions to regional staff to ensure that the policy on fee calculation is applied uniformly in all regions;*
- *review the invoice-on-hold procedures to ensure that ministry approval policy has been complied with and that follow-up procedures are taken to ensure invoices are subsequently issued on a timely basis; and*
- *post invoice summary information to the government control account on a timely basis in order to comply with government financial management policy.*



response of the ministry of environment, lands and parks

We are pleased to note the audit found that in all significant respects, the ministry properly levied and collected the fees during the audit period. We also note that the ministry exercised good management practises and conducted its own internal audit in the Spring of 1997.

Our comments on the audit report are:

Exhibit 2.1 – Five Year Waste Management Permit Fees Revenue

The amount of $16 million noted for 1996/97 may be somewhat misleading. The increase over the 1995/96 figure of $13 million is mainly attributable to the higher fees assessed under the Wood Residue Burner and Incinerator Regulation as an incentive to phase-out the burners. Those fees generated an additional $2 million.

Findings – Accuracy of Calculation

The ministry agrees that errors occur in the data input process. There are procedures in place to address this issue and the ministry will review those procedures to determine where improvements can be made. In addition, the ministry conducts internal audits in order to detect and correct input errors.

Findings – Consistency in Applying Policy

The ministry agrees that one region was using an incorrect conversion factor for some permits. This was corrected immediately when brought to our attention. The incorrect conversion factor was meant to be used specifically for regional government refuse permits whereas a higher factor was to be used for industrial permits. The ministry will review procedures to ensure fee calculations are applied uniformly.

Findings – Collection of Fees

At the time of the audit, the amount owing from Skeena Cellulose could not be collected as the company was under the protection of the Companies' Creditors Arrangement Act.

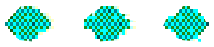
Findings – Invoices on "Hold" Status

The ministry agrees that invoice-on-hold procedures be reviewed. That review has taken place and revised procedures will be put in place to ensure consistency with policy and proper follow-up. The ministry questions that the status change was "overlooked" although it is agreed that the invoices might have been issued in a more timely manner.

Findings – Revenue Recording

The ministry agrees to post invoice summary information to the government control account on a timely basis and, to that end, will be posting the information on a quarterly basis.

We would like to thank the Office of the Auditor General for the audit report. These audits are very valuable in ensuring proper financial procedures are being followed.



motor dealer act

motor dealer act

An audit to assess compliance with the* Motor Dealer Act *and related regulations for the registration of motor dealers, operation of the Motor Dealer Customer Compensation Fund, and monitoring of motor dealer compliance with the Act and regulations

Audit Report

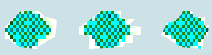
Audit Scope

We have made an examination to determine whether the *Motor Dealer Act* and related regulations were complied with, in all significant respects, by the Ministry of Attorney General during the months of September to December 1997, regarding the initial and ongoing registration of motor dealers and the operation of the Motor Dealer Customer Compensation Fund. We also examined the ministry's procedures for monitoring the ongoing compliance of motor dealers with the Act and regulations.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Audit Opinion

In our opinion, during the months of September to December 1997, the Ministry of Attorney General was ensuring that motor dealers were being appropriately registered and their registrations maintained in accordance with the requirements of the Act. We also found that the Motor Dealer Customer Compensation Fund was being operated by the ministry in accordance with the Act. However, the ministry's procedures for monitoring ongoing compliance with motor dealer operating requirements were not sufficient to allow us to determine if they ensured compliance by motor dealers with the Act and regulations.

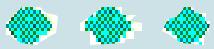


overall findings

Overall, we found that:

- the ministry was administering the initial and ongoing registration of motor dealers in accordance with the *Motor Dealer Act* and regulations;
- we were not able to conclude if motor dealers in the Province of British Columbia were complying with the requirements of the *Motor Dealer Act* and related regulations. We found that sufficient systematic work was not being conducted by the ministry to prove whether there was ongoing compliance by motor dealers with a variety of significant aspects of the legislation;
- the Motor Dealer Customer Compensation Fund was being operated in compliance with the requirements of the *Motor Dealer Act* and the Motor Dealer Customer Compensation Fund Regulation.

Our findings should not be interpreted as meaning motor dealers are, or are not, generally complying with the *Motor Dealer Act*. The work performed by the ministry's investigators was not sufficient to enable us to determine whether or not the industry was operating in compliance with various aspects of the Act.



introduction

Registrar

The Motor Dealer Act (the Act) and its related regulations (Motor Dealer Act Regulation, Motor Dealer Consignment Sales Regulation, Motor Dealer Customer Compensation Fund Regulation, Motor Dealer Leasing Regulation) regulate the approximately 1,600 motor dealers in British Columbia. The Act and regulations are the responsibility of the Ministry of Attorney General. It establishes the Registrar of Motor Dealers, who is charged with responsibility for administrating the Act and regulations. Motor dealers must be licensed with the Registrar and pay an annual registration fee. The Act empowers the Registrar to conduct inspections, hold hearings on matters relating to the registration of motor dealers, and establish criteria for registration. While there is no requirement in the Act to do so, the Registrar requires periodic inspections of motor dealers to be performed to monitor the industry's ongoing compliance with the Act.

The Registrar is also responsible for the administration of the Motor Dealer Customer Compensation Fund. The purpose of the fund is to insure consumers against specified losses resulting from the actions of motor dealers. The fund is financed by annual contributions from motor dealers.

Requirements of the Act

The *Motor Dealer Act* is an important piece of consumer legislation, originally introduced in 1977. The legislation has many purposes. Primarily, it is designed to protect consumers by setting requirements for the registration and ongoing operation of businesses selling motor vehicles to consumers.

In order to protect consumers, the Act requires that all persons engaged in the business of selling vehicles to the public be registered. The Act governs only persons in the business of selling vehicles to consumers; it does not prevent or regulate the private sale of vehicles by individuals.

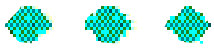
The Act and its regulations outline the minimum information that must be disclosed about vehicles in advertising, purchase and sales contracts, as well as in lease and consignment agreements. For instance, the Act requires dealers to disclose material facts such as use as a taxi, police, emergency, or lease vehicle, or has suffered significant damage, or has been registered in another province. They also prohibit

certain dishonest practices such as altering odometers (frequently referred to as "spinning" the odometer), and establish minimum standards for vehicle display and repair facilities.

Organization

The Registrar of Motor Dealers is part of the Community Justice Branch of the Ministry of Attorney General. This branch also administers other consumer legislation relating to cemeteries and funeral services, travel agents, direct sellers, debtor assistance, debt collection, and residential tenancy. In addition, the Registrar of Motor Dealers has also been appointed the Registrar of Cemetery and Funeral Services. The Registrar and her five staff in Victoria process new applications, administer ongoing registrants, manage the motor dealer customer compensation fund, and conduct hearings.

Inspections of new applicants and registered dealers, as well as consumer complaint investigations, are performed by 13 consumer operations investigators under the supervision of the Manager of Compliance. The investigators' main office is located in Burnaby, with field offices staffed by full time investigators in Victoria, Kelowna, Kamloops, Prince George and Cranbrook. In addition to the *Motor Dealer Act*, investigators are also responsible for conducting inspections and investigations relating to several other pieces of consumer legislation governing such areas as trade practices, direct sellers, debt collectors, and travel agents.



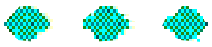
audit scope

Our audit work was conducted during the months of September to December 1997, and was focused in three areas. The first phase concentrated on how new applications were processed and whether this procedure, and that for the ongoing registration of motor dealers, were in compliance with the *Motor Dealer Act* and regulations. This work was conducted primarily in Victoria on information sent to the Registrar by Motor Dealers.

The second phase of our work involved an examination of the procedures for monitoring compliance with the Act by motor dealers. Our intent was not to audit the industry's compliance with the Act directly, but rather to determine if the work performed by the ministry was sufficient to conclude that the industry was complying with the Act. As part of assessing the Registrar's monitoring activities, we accompanied ministry investigators on dealer inspections and, as well, performed a number of limited, unaccompanied tests. We also conducted a review of print advertising to determine if dealer advertisements were in compliance. We interviewed staff and accompanied investigators on inspections of motor dealers in Burnaby, Kamloops, Kelowna and Victoria.

We examined the files of the Motor Dealer Customer Compensation Fund in the final phase of our audit. We tested a number of successful and unsuccessful claims against the fund to determine if payments were made or denied, in accordance with governing legislative provisions. All information relating to the administration of the fund was located in Victoria.

We did not examine the ministry's compliance with sections of the legislation that describe administrative procedures not directly related to regulating the motor dealer industry.



audit findings

Registrations

New Applicants

Overall, we found that the ministry was administering the registration of new motor dealers in accordance with the *Motor Dealer Act* and regulation.

The Registrar has established clear requirements for new dealers, and procedures for processing their applications. We found that the Registrar's staff were very knowledgeable about the requirements, and that procedures were being followed. All required information was obtained and verified with applicants if necessary. Registration with the Registrar of Companies was confirmed, and information regarding directors and other key personnel was compared for consistency with the corporate registry. Authorization for credit and police checks were properly obtained, and the resulting credit and criminal histories were fully reviewed. All required registration fees and compensation fund contributions were properly collected prior to approval of applications. In compliance with the Act, an adequate system for the recording of registrations and payments has been established and maintained.

The Registrar has made the issuance of a business license from the appropriate municipal authority a prerequisite for approval as a motor dealer. A copy of a business license was obtained before the approval of each application. This not only ensures that there is proper zoning for the business, which is a legislative requirement, but it also fosters good relations with municipal authorities by allowing them to approve the location of a dealership before it is licensed by the Province.

All applicants are inspected by ministry investigators prior to the approval of their applications. A motor dealer registration number is not issued until the dealer has passed this inspection. Investigators check to ensure that the proposed business premises are adequate for the selling of motor vehicles to the public, and they provide applicants with information about operating requirements. These inspections effectively ensured all applicants' business premises met Act and Registrar requirements before motor dealer licenses were issued.

Required Forms

The Motor Dealer Act Regulation requires the use of prescribed forms for new applications, registration renewals, changes of information, and voluntary cancellations of registration. An Order-in-Council, approved by the Lieutenant-Governor, is required to make any changes to these forms, and this process can take considerable time. Recent changes in ministerial responsibility and fee structures have rendered these forms out-of-date. Rather than give out incorrect information, the Registrar amended the forms. Strictly speaking, this action was not in compliance with the Act, but we concluded that it was reasonable in the circumstances.

While the Regulation prescribes specific forms, the *Motor Dealer Act* requires only change of address information and voluntary cancellations of registration to be in writing. We found that in some cases, the Registrar had, contrary to the Regulation but in keeping with the Act, accepted written change of address information and registration cancellations that were not on the prescribed forms. There appears to be little benefit in one form of written notification over another. These notifications were provided to the Registrar in a timely manner and in writing as required. Again, we believe that although this may be an issue of non-compliance, it seems justifiable.

To address these types of problems and make compliance with the Act more practicable for motor dealers, we believe the ministry should be able to revise forms as necessary.

We recommend that the Ministry of Attorney General seek removal from the Motor Dealer Act Regulation, the requirement to use prescribed registration, renewal, amendment and cancellation forms, and substitute a requirement for information to be in writing and in a form acceptable to the Registrar of Motor Dealers.

Notice of Right to Hearing

The Act requires the Registrar to inform applicants or dealers of their right to a hearing if she refuses to register or renew a registration, or if she cancels or suspends a registration. We found that some applicants who were refused registration were not notified of their right to be heard. Similarly, dealers whose registration was not renewed were not always apprised of this right.

***We recommend that all motor dealer applicants who are refused registration, and all dealers whose registrations have not been renewed, be informed of their right to a hearing, as prescribed in section 6 of the* Motor Dealer Act.**

Motor Dealer Operations

We were not able to conclude overall if motor dealers in British Columbia are satisfactorily complying with the requirements of the *Motor Dealer Act*. We found that the amount of systematic work being conducted by ministry staff was insufficient to prove whether there was ongoing compliance by motor dealers with a variety of significant aspects of the legislation.

Our findings should not be interpreted as meaning motor dealers are, or are not, generally complying with the *Motor Dealer Act*. The work performed by the ministry's investigators was not sufficient to enable us to determine whether the industry was operating substantially in compliance with the Act, or not. In order for us to make such a determination, we would have had to conduct extensive direct testing of individual motor dealers. Such examinations of private sector business operations were outside the scope of this audit.

Renewals

Motor dealers are required to renew their registrations annually with the Registrar. We found that annual renewals were actively sought and processed in a timely manner by the Registrar's staff. Application and renewal fees were being properly collected and recorded in accordance with the legislation.

However, we found that motor dealer files were not being reviewed on an annual basis to determine, under section 5 of the Act, if it was in the public's best interest for the registration of a dealer to be continued. Some of the recommendations contained in this report suggest that additional information should be sent to the Registrar to improve her ability to monitor the industry. In order for these recommendations to have any practical effect, this information should be reviewed at the time dealer registrations come up for renewal.

We recommend that the Registrar of Motor Dealers review each dealer file when the dealer's registration comes up for renewal, and that this review be evidenced in writing.

Motor Dealer Operations Monitoring

We found that while some requirements of the *Motor Dealer Act* were adequately monitored to ensure compliance, many were not monitored, or were not being monitored sufficiently to allow us to determine whether dealers were complying with the legislation. Furthermore, we found significant variation in the work performed by different investigators. Because investigators are required to work independently and exercise their own judgment, we recognize that each will inevitably bring his or her own style and approach to the job. Nonetheless, we expected that a minimum standard for routine inspections would be communicated to investigators and would be performed by them.

The Registrar, under the direction of the minister, has overall responsibility for ensuring motor dealers comply with the requirements of the *Motor Dealer Act* and regulations. Inspections of motor dealers are performed not because of a specific legislative requirement, but because the Registrar requires inspections be done to assist her overall monitoring of the industry. Consequently, the Registrar's requirements and expectations determine the type and extent of work that is performed during inspections.

We encountered neither clearly imparted expectations nor effective minimum inspection standards employed in practice. Although the Registrar has created draft guidelines entitled "Administrative Guidelines for Motor Dealer Licensing," the ministry's investigators we interviewed were not aware of their existence. Additionally these guidelines, while clearly outlining procedures for processing applications and renewals, do not address dealer inspections in adequate detail.

Our specific comments are not to be taken as general commentary on the performance of the ministry's investigators. Our examination looked at only one aspect of their responsibilities, and although it is an important function which does absorb a significant portion of their time, investigators have other areas of responsibility, some of which may have a higher priority than motor dealer inspections. Indeed, investigators have responsibilities relating to motor dealers that are broader than routine inspections under the *Motor Dealer Act*. For instance, we were made aware of several investigations under the *Trade Practices Act* relating to motor dealers. Such work performed by investigators was outside of the scope of this audit.

Inspection Objectives

The Registrar expects that an inspection should gather sufficient evidence to give her assurance that a motor dealer is or is not operating in compliance with all the requirements of the *Motor Dealer Act*. In some cases, we found that this expectation was being met. These inspections were conducted in detail, most significant aspects governed by the Act were examined, and evidence was gathered to enable an investigator to determine if there was compliance.

In other cases, inspections provided much less assurance. Rather than asserting that a dealer was operating in compliance with the Act, many inspections could only be interpreted as meaning that nothing came to an investigator's attention that lead him or her to believe there was significant non-compliance by a particular dealer. There may or may not even have been a detailed examination to support this conclusion.

Exhibit 3.1

Buying a Used Vehicle

Better Business Bureau statistics show the used car market is a major source of consumer complaints. There are many highly reputable used car dealers who offer good buys at competitive prices and stand behind their guarantees. There are also those who aren't reliable.

The keys to successfully buying a used car are to do your research, get expert help, and get every part of the deal in writing.

Study ads and used vehicle guides and visit car lots to get an idea of market values. This way you'll be better able to judge a good buy from a buy that's "too good to be true."

Ensure that any dealer you speak to is registered. Look for a current registration certificate from the Registrar of Motor Dealers.

Always have any vehicle you are interested in purchasing inspected by an independent mechanic before you buy it. Any reputable dealer will allow this – you should not do business with them if they refuse. The British Columbia Automobile Association can recommend a competent mechanic.

Ensure the dealer has performed an Insurance Corporation of B.C. crash check—a check of the vehicle's accident history, and ensure there are no outstanding liens on the vehicle. Ask to see these reports.

Ensure that any specific claims about a vehicle (e.g. a new transmission or rebuilt motor), conditions on sale (e.g. sale subject to any repairs) or warranties are in writing. Don't sign any contracts or offers to purchase until you are ready to buy.

Source: The Ministry of Attorney General publication "Buying a New or Used Vehicle"

We found considerable variation in investigators' stated expectations for inspections. At one extreme was the view that routine inspections almost always revealed some non-compliance; at the other extreme was the view that routine inspections rarely turned up any significant issues. These divergent views translated into markedly different inspections. Where there was an expectation of encountering non-compliance, inspections tended to be more thorough, documents were examined in detail, the continuity of odometer readings, previous damage and other material disclosures were checked, and discrepancies were resolved. Where there was an expectation that inspections were not productive, the results tended to be self-fulfilling. Documents, if examined at all, were given minimal attention. Instances of non-compliance were passed over.

The Registrar told us that she preferred thorough inspections over superficial reviews, even if this resulted in inspections being conducted less frequently. We believe cursory examinations do not provide sufficient evidence to conclude whether dealers are complying with the requirements of the *Motor Dealer Act*, and do not meet the Registrar's expectations of routine, periodic inspections. Intervals of once every three years would satisfy the Registrar's requirement for periodic inspections. Most investigators suggested they preferred to complete inspections annually, or at least every 18 months, and that it mattered more to have visited a dealer, albeit briefly, than to allow long periods of time to elapse.

The Registrar's very brief *Motor Dealer Act* Inspection Report (Exhibit 3.2) provides the only real guidance to investigators as to what is expected of inspections. All investigators we interviewed expressed uncertainty as to what was expected of motor dealer inspections, and all stated that they performed work which they felt was reasonable given the time available, the circumstances, and their work load. All investigators said that they had not been specifically trained to do their jobs, but had learned as they went along, in consultation with their peers.

We did not encounter any sort of uniform minimum standard being employed in inspections. There was considerable variation in the extent of examination, the types of items examined, and the standards imposed. For instance, on the simple matter of what constitutes a minimum acceptable number of spaces for the display of vehicles, some investigators were requiring 6, while others required 10. As another example, some investigators described a normal inspection as consisting

of examining two or three months' transaction records; others considered an examination of only three or four individual transactions to be normal.

Also of concern to us was that investigators were, in some cases, providing different, if not contradictory, information to dealers. For example, any vehicle damage requiring repairs costing over $2,000 must be disclosed in all future contracts. Some investigators have told dealers that they must perform an ICBC "crash check" on all used vehicles they sell, to search for a history of damage. Other investigators have told dealers they have no obligation, and it is the customers' responsibility to check with ICBC if they want to. We found no rational explanation for this disparity. There was also variation in basic administrative procedures. For instance, most investigators fill out the *Registrar's Motor Dealer Act* Inspection Report on site, have the dealer sign the report in the space provided, and leave a copy with them. However, one investigator was performing inspections, taking notes and then filling out the inspection reports back in his office, without ever providing copies to the dealers.

We believe inspection objectives would be much improved if a guide for motor dealer inspections was created. While no guide could provide an exhaustive discussion for every possible contingency, a good, basic reference would serve to establish minimum, common standards, including the Registrar's expectations in areas requiring discretion.

We recommend that the Registrar of Motor Dealers provide ministry investigators with written instructions outlining the objectives of routine motor dealer inspections, minimum inspection procedures, and standard administrative practices.

This recommendation is not intended to remove the ability of investigators to exercise their judgment in determining if a more detailed examination is required in any given circumstance. Rather, it is to ensure that a minimum level of coverage and a consistency of application and documentation exists for all investigators.

It came to our attention during the audit that neither the Registrar nor any of her staff had ever conducted an inspection or accompanied the ministry's investigators on an inspection. We believe that such experience would prove invaluable in assisting the Registrar to formulate written inspection objectives and procedures. We suggest, therefore, that the Registrar of Motor Dealers and the Registrar's staff periodically accompany the ministry's investigators on routine motor dealer inspections

in order to enhance their knowledge and understanding of the work that is performed, and how they can rely upon it.

Quality of Inspections

The Registrar provided us with a summary of inspections performed by each investigator, spanning a period from late-1996 to mid-1997. The summary showed the name of the dealer, the date of the inspection, and the time of the inspection. The time the inspections took place proved to be revealing. While the dates showed that some investigators had performed up to 12 inspections in a regular working day, the time of the inspection revealed that in some instances, as little as 10 or 15 minutes elapsed during each inspection.

The time required to perform an inspection will vary with individual circumstances. Our experience and discussions with the ministry's investigators suggest that considerably more than 10 minutes is required to talk to dealership staff, walk about the lot looking at vehicle pricing, and inspect documents. Investigators themselves estimated the time required for a normal inspection to range from one half to two hours, depending on the size of the dealer and what problems, if any, were encountered. Consequently, we believe the very short time periods shown in this summary to be highly indicative of inadequate inspections.

We examined the reports produced from some of these brief inspections and determined that, in several cases, the work performed was not sufficient to enable us to conclude if the motor dealer was operating in compliance with the *Motor Dealer Act*. To illustrate this point, one of these reports made reference to business premises being shared by two dealers. It was not identified that one of these dealers had never been registered to operate as a motor dealer, and was thus operating in contravention of the Act. In addition, it was not clear which vehicles were being sold by which dealer. Only later, in response to a consumer complaint where there was confusion between the registered and the unregistered dealers, did the ministry become aware of these circumstances. A thorough inspection would have uncovered this situation before it became a problem for consumers.

We believe there should be closer scrutiny of the inspection reports, including the inspection times recorded by investigators. We believe this sort of management review should be performed on an ongoing basis by the Manager of Compliance, who has responsibility for the investigators. Issues of concern arising from this review should be forwarded to the Registrar.

We recommend that, as a standard management control, the Manager of Compliance regularly review motor dealer inspection reports.

Inspection Report

Ministry investigators are required to complete, in triplicate, a one-page *Motor Dealer Act* Inspection Report (Exhibit 3.2). The report consists of a series of checklists, with a small amount of space for comments. There is also space on the report for signatures of both the investigator and the dealer. The investigator keeps the original report, one copy is forwarded to the Registrar, and one copy is to be left with the dealer. We found that not all investigators were leaving a copy of the inspection report with dealers, nor even having them sign the report in the space provided. It is clear that dealers' signatures are required, and that it is intended that a copy be left with dealers for their future reference. Because a copy of the report establishes a written communication to dealers of any shortcomings and gives formal notice where remedial action is required, it is important that this procedure be clarified, in conjunction with our recommendation that administrative procedures be documented.

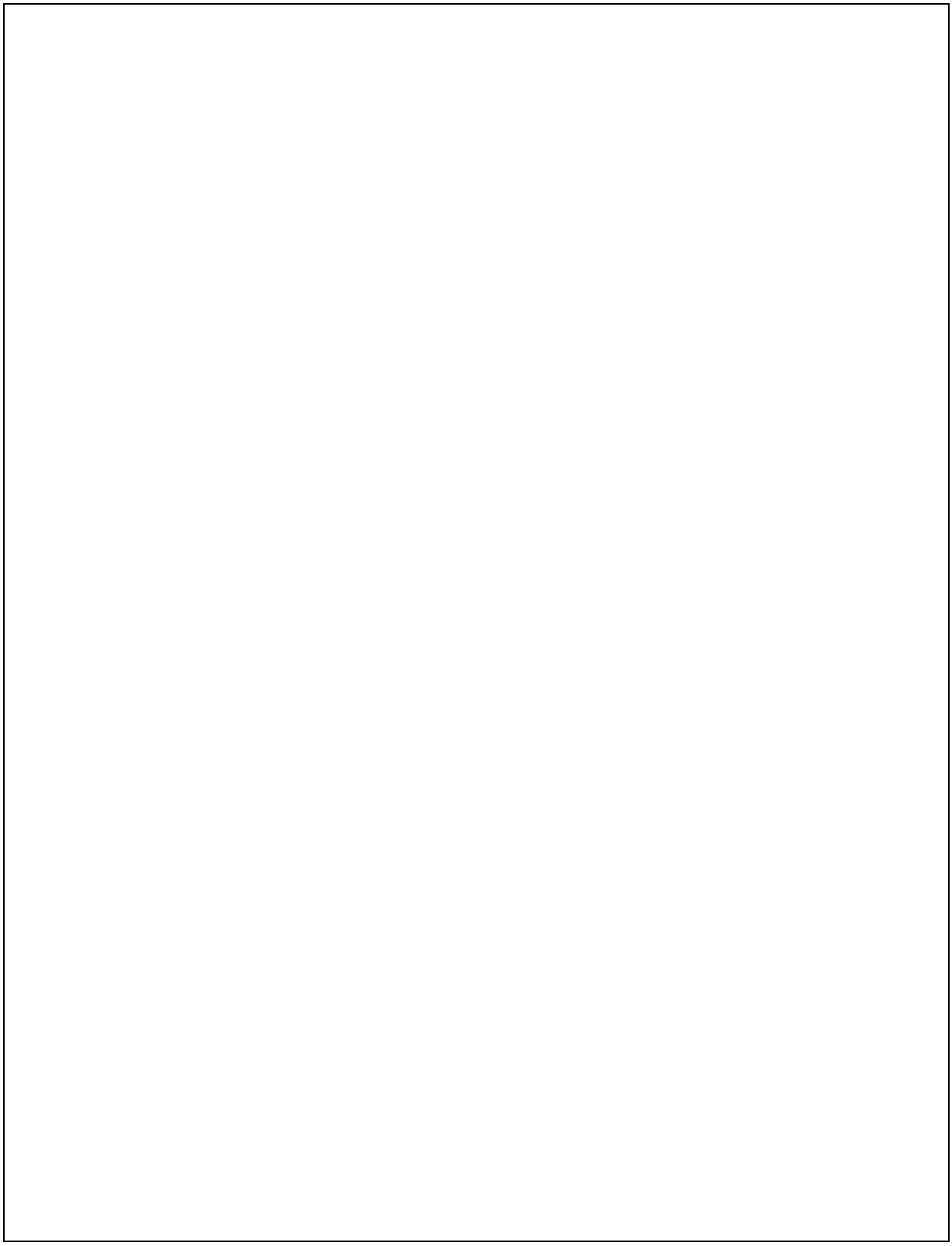
We also noted a number of deficiencies in the report. It does not ask for sufficient detail and, in some cases, asks the wrong questions. For example, investigators are not required to document the extent of tests performed to determine if a motor dealer is complying with the Act and regulations, such as the number of vehicles or agreements that were examined. If management is to monitor inspections properly, we feel this information is essential.

As well, the report asks if required material disclosures (odometer readings, previous damage, use as a lease or police vehicle) are being made, but does not inquire as to the substance of the issue, which is whether there is continuity in these disclosures from buy-in documents to sale agreements. In the material disclosures section of many reports, investigators simply wrote "is aware," but gave no indication if the disclosures were examined. Such a comment was written on the report for an inspection we accompanied, even though several significant disclosures were found to be missing and the dealer had had the same problem on two previous inspections. "Aware" was something the dealer definitely did not seem to be.

The report provides investigators with a checklist of items related to purchase and sale agreements. However, it does not provide any sort of checklist for lease or consignment

Exhibit 3.2

Motor Dealer Act Inspection Report



Source: The Ministry of Attorney General

agreements. We found, possibly because they were not mentioned on the inspection report, that these types of agreements were not receiving adequate scrutiny. The report asks if records are available on the premises, but does not stipulate that they should be for the last two years' transactions.

The report asks if vehicles are priced, when that is only a small part of the required information for new vehicles. There is no mention of other significant elements that are required to be disclosed, such as the total price, the cost of extra features, an itemized list of options and accessories, and the vehicle identification number. We found that many dealers were not listing these required items on new vehicles, and investigators were not checking for them.

The inspection report should provide investigators with a useful, practical checklist of items that must be examined so that investigators can obtain sufficient evidence to determine if the Act is being complied with. It should also facilitate documenting the extent of work done in the inspection.

We recommend that the motor dealer inspection report be revised to include details of the amount and type of work performed, and a more accurate and comprehensive checklist for requirements of purchase and sale, lease, and consignment agreements.

Risk-based approach

We were surprised to find that there had not been established a mechanism for determining the need for conducting more frequent or more detailed inspections, based on the potential for encountering problems. A risk-based approach could assist in rationalizing investigators' limited time and focusing their efforts on problem areas.

Investigators and the Registrar were in general agreement that new dealers have an inherently greater risk of running afoul of the legislation than experienced dealers with a history of good inspections. While we found that prospective dealers were adequately inspected prior to commencing operations, these inspections necessarily did not review actual transaction documents. Often, new dealers do not even have contracts printed at the time of the initial inspection. Consequently, there would seem to be a need to revisit new dealers soon after they have commenced business to ensure that their operations are being conducted in compliance with the Act and regulations.

We found several instances where new dealers' operations were not inspected for as long as three years after their

opening. While some investigators did make a point of visiting new dealers during their first year of business, this was not being done by others and was not required by the Registrar. We believe this risk of non-compliance with the *Motor Dealer Act* should be acknowledged by instituting a requirement to re-inspect new dealers shortly after they begin operations, perhaps at an interval of six months.

We recommend that the Registrar institute a requirement to inspect new motor dealers soon after they have commenced operations.

The Registrar requires that routine inspections be performed for all motor dealers at least every three years. When inspection reports are processed, a system-generated date, three years in the future, is given for the next inspection. Although we found that in some cases as much as six or seven years had passed between inspections, for the most part the three year requirement was met. We agree that periodic, routine inspections are a practical means of ensuring compliance, and we believe a three year interval to be a reasonable period where dealers have no history of problems.

However, when it came to dealers that did have a history of non-compliance, in several cases we found little consideration had been given to the increased risk such a history presented. Regardless of the outcome of the inspection, the system-generated date for the next required inspection was at the standard three year interval. We found many instances where investigators inspected problem dealers more frequently than the minimum required, but this was not always the case.

We believe that, based on their experience with inspections and investigations for any given dealer, investigators should suggest an appropriate date for the next inspection. The Registrar should issue guidelines for making these determinations.

We recommend that the Registrar develop a risk-based inspection system that incorporates dealer inspection and complaint histories as a significant factor in determining the timing of subsequent inspections.

Investigations

The activities of the ministry's investigators in relation to motor dealers have three primary goals. The first, of course, is to perform inspection to check for compliance with the *Motor Dealer Act* and regulations. The second is an educative role, providing dealers with information on legal and other

requirements. The third is to investigate possible non-compliance with the *Motor Dealer Act* and other legislation in response to complaints from consumers or other dealers, at the request of the Registrar, or as a result of findings from inspections. Investigators frequently collect significant amounts of information concerning motor dealers during these investigations.

The Registrar is responsible for monitoring the motor dealer industry. To do this, she must rely on the field work, be it inspections or investigations, performed by the ministry's investigators. For this arrangement to be effective, the information gathered by the investigators must be made available to the Registrar. It did not seem that this communication was functioning as well as it should, to allow the Register to fulfill her regulatory responsibilities under the *Motor Dealer Act*. Our examination of the Registrar's files in Victoria revealed a shortage of relevant information regarding complaints received and investigations conducted by the ministry's investigators.

We do not believe there has been a clear understanding of the role investigators play as agents of the Registrar of Motor Dealers. While it is reasonable to conclude that there is an agency relationship between the person responsible under the legislation, the Registrar, and the investigators acting on her behalf, unless there is effective communication between the investigators and the Registrar, we cannot say that this agency relationship is functioning properly.

A significant amount of assurance about motor dealer compliance can be obtained through the ministry's investigations. However, much of the information obtained in investigations is not being conveyed to the Registrar. Investigation files can be very thick, so one would not reasonably expect their entire contents to be forwarded to the Registrar. However, a summary for each investigation, indicating the key findings and the investigation's outcome, would provide the Registrar with useful information to consider when she is deciding whether to continue to register dealers who have been the subject of investigations. It could also be used by the Registrar to identify areas that should be the subject of additional scrutiny during routine inspections. We noted that most investigation files already result in the production of short summaries of the circumstances, actions, and results of investigative work.

We note that investigations involving motor dealers are often conducted for possible contraventions of the *Trade Practices Act* rather than the *Motor Dealer Act*. We believe that the results of any investigation involving motor dealers is relevant to the Registrar of Motor Dealers, and consequently should be sent to her office.

We recommend that for every investigation involving a motor dealer performed by the Ministry of Attorney General's community justice investigators, an investigation summary should be forwarded to the Registrar of Motor Dealers.

Division of responsibilities

The effectiveness of the ministry's review of contracts would be improved if some of the responsibilities currently allocated to ministry investigators were undertaken by the Registrar. A central review of documentation would also help ensure uniform standards across the Province.

We suggest that investigators should have primary responsibility for inspecting the content of contracts, ensuring that they are reasonable in the circumstances, and verifying information on a test basis. It is important that investigators review, on site, the continuity of material disclosures such as odometer readings, previous damage, out-of-province registration, or rental use.

However, issues relating to the form of contracts, or those contracts dealing with complex disclosures or calculations, would be better reviewed centrally. For instance, under the legislation, there are many detailed requirements for purchase and sale, lease, and consignment contracts. Section 4 of the Motor Dealer Leasing Regulation stipulates certain terms that can and cannot be used in contracts, as well as the requirement for using "plain language." Elements such as the size of print or the calculation of financing rates, may be difficult to examine on site with any degree of certainty or in a timely manner.

We recommend that, during routine inspections, ministry investigators take copies of all contract forms used by motor dealers, and forward them to the Registrar for detailed review.

This recommendation would be particularly applicable to new dealers. Blank copies of contracts for sales, leases, and consignments should be provided to the Registrar and reviewed as part of the approval process for new motor dealers.

Advertising

The *Motor Dealer Act* and regulation require dealers to include their dealer registration number in all advertisements, and prohibit the advertising of any price for a vehicle other than the total asking price inclusive of the cost of accessories and options physically attached to the vehicle, and of charges for transportation, pre-delivery and inspection. The inspection report asks about the inclusion of the dealer number, but does not inquire about the advertised price of vehicles. At no time did we see evidence that investigators had ensured that advertised prices were in fact the total asking prices.

We recommend that the* Motor Dealer Act *Inspection Report be amended to include a question about whether the advertised price of vehicles is the total asking price, inclusive of accessories and items of optional equipment that are physically attached to it, transportation charges for its delivery to the dealer, and any pre-delivery and inspection service charged by the dealer.

It was brought to our attention by both ministry investigators and individual motor dealers that disparities exist in the advertising standards enforced in the various regions of the Province. Many of these problems relate to the detailed disclosure requirements contained in the *Trade Practices Act,* which was not specifically examined in this audit.

We reviewed advertising in various cities and found that while most dealers were complying, there were still many instances of non-compliance with the vehicle pricing and dealer registration number requirements of the *Motor Dealer Act*. We also noted several instances of non-compliance with the disclosure requirements of the *Trade Practices Act*. There were noticeable differences in the degree of compliance between regions, and we conclude that these differences may be due to inequities in the standards of enforcement. Given that retailers in most locations in the Province compete for customers from other regions as well as from their own, motor dealer and consumers have the right to expect uniform advertising standards to be enforced across the Province.

We recommend that the Registrar of Motor Dealers periodically compare advertising from all regions of the Province, and direct investigators to take appropriate action where advertising does not meet the requirements of the* Motor Dealer Act. *We further recommend that the Manager of Compliance review advertising to ensure compliance with other relevant legislation.

Odometers

Section 34 of the Act prohibits persons from altering, disconnecting or replacing a motor vehicle's odometer with the intent to mislead a prospective purchaser as to the distance traveled by the vehicle. We believe that the ministry's inspections were insufficient to ensure that odometers were not tampered with.

We found that investigators did not always check the continuity of odometer readings between buy-in and sale documents. When they were checked, discrepancies or missing information was not always followed up. Buy-in documents were not compared to the actual odometer readings of vehicles in inventory. Documents relating to the repair or replacement of odometers were not examined, even though the Act requires that permanent written records of such work be kept. Several investigators stated plainly that they knew or suspected that significant odometer roll-backs were occurring, but this was not being actively investigated.

We recommend that the Registrar of Motor Dealers require the examination of odometers and supporting documents as part of routine motor dealer inspections.

We recognize that a number of factors complicate this issue. It is our understanding that vehicles with rolled-back odometers may have been brought into British Columbia. However, in order for charges to be laid, it is necessary to know where an offence occurred. Since there is no national registry of vehicles, it is often difficult to determine where a vehicle originated, let alone prove if and where any tampering may have taken place. Consequently these cases are difficult to pursue. So, while our recommendation is aimed at dealing with odometer tampering in British Columbia, the combined efforts of regulators and law enforcement agencies in other jurisdictions would be needed to address the issue on a national basis.

Curbsiders

For regulation of the motor dealer industry to be effective, it is essential that all persons engaged in the business of the retail sale of vehicles be registered as motor dealers. Curbsiders (or "curbers") are persons engaged in the business of selling vehicles to the public, but are not registered. Curbsiding is prohibited under the *Motor Dealer Act* and is subject to a $250 ticket under the *Offense Act*.

Exhibit 3.2

Be Aware and Beware of Curbers

The private sale of vehicles accounts for close to 70% of used car transactions in B.C. While no one wants to discourage private sales, consumers should be aware and beware of curbers. Unregistered dealers, also known as curbers, often offer cars at discounted prices, but there are risks.

Some curbers alter odometers, fail to disclose liens, or misrepresent a vehicle's history. If you buy from unlicensed dealers you may find it hard to get compensation when there are problems.

Beware of unregistered dealers posing as private sellers; if you see the same telephone number repeated for different vehicles in newspaper ads, the seller is probably a curber.

Don't meet a seller at a mall or other public place to view vehicle, nor should you let him or her bring the car to you. Go to the sellers' premises, otherwise you have no way of tracking the person down should you encounter problems after the sale.

Make sure you examine the vehicle registration form closely. Insist on seeing the original, not a photocopy. Is the vehicle registered in the name of the seller? Verify the owner's address with the registration form and the location of the sale.

Does the vehicle identification number on the form match that stamped on the identification plate on the car dash? Check for evidence of tampering.

Beware if the price seems too good to be true, the seller insists on cash, needs payment right away, or if he or she says they are selling the car for a friend.

Don't let yourself be rushed.

If the seller claims to have owned the vehicle since it was new, or for any length of time, ask to see repair bills and maintenance records. Check with ICBC (1-800-663-1466) for the vehicle's accident history.

Check for liens against the vehicle—this can be done through the Personal Property Registry (250-387-6881), Government Agent's Offices, or ICBC.

Source: The Ministry of Attorney General publication "Buying a New or Used Vehicle"

In British Columbia, several unique circumstances make the practice of curbsiding more difficult than in other provinces. Because of the existence of a central automobile insurance and registration body, the Insurance Corporation of British Columbia (ICBC), curbsiders have a more difficult time obtaining salvage vehicles. ICBC requires all persons buying vehicles at their salvage auctions to be registered motor dealers. While this does require salvage yard owners to become registered dealers even if they are not engaged in the retail sale of vehicles, it does impede curbers' access to insurance write-offs.

Nonetheless, vehicles can be obtained privately, or be brought into the Province. Consequently we performed some testing of automotive advertising in the lower mainland and Vancouver Island for two days in the month of September 1997. We found instances of three and, in one case, four vehicles listed for sale with the same residential telephone number, and two instances of three vehicles for sale through a cellular number. Both of these circumstances, while not necessarily proof, strongly suggest the possibility of curbside selling. We found that the ministry does respond to complaints regarding curbside sellers, but does not actively seek evidence of unregistered sellers. We think this would be a worthwhile exercise and should be performed periodically.

We recommend that the Registrar of Motor Dealers periodically review automotive advertising for evidence of unregistered curbside sellers.

We became aware of situations encountered by some ministry investigators where registered motor dealers were supporting the activities of curbsiders. These cases typically involved circumstances where a dealer had a low-end vehicle on his lot which he did not wish to sell. Rather than display the undesirable vehicle, the dealer instead passed it on to a curbsider to sell. In one case that was brought to our attention, the motor dealer had gone so far as to provide the curbsider with one of the dealer's own demonstrator license plates. Clearly, it becomes significantly more difficult for ministry investigators to police curbsiding if it is tacitly supported by even a few legitimate motor dealers.

Leases

Leasing has become an increasingly important component of the new car market. According to Blackburn Polk Marketing Services, almost 50% of new cars and light trucks in Canada are now leased instead of purchased. The Motor Dealer Leasing Regulation stipulates the disclosures required in lease contracts, and describes requirements for overall readability. Given the significance of leasing transactions, we believe it has become just as important for ministry investigators to review documentation relating to lease transactions as it is for them to review documentation relating to the sale of new vehicles. However, we found that some investigators did not adequately review lease documents, or sometimes did not review them at all.

A detailed review of lease agreements has not been incorporated as part of the *Motor Dealer Act* Inspection Report.

Exhibit 3.4

Vehicle Lease Disclosure Requirements

Businesses that lease vehicles to consumers must provide consumers with:

- the retail selling price of the vehicle, the price on which the lease payments are based, and the interest rate applied to the lease contract;
- all costs to the consumer, such as the down payment, trade-in allowance, security deposit, administration fees and all taxes, levies, fees and advance payments;
- details of periodic payments, including the total number of payments, amount of each payment, payment dates, taxes on payments, and the total amount of all payments;
- all end-of-lease costs, including those for extra mileage, wear and tear, late payment penalties, and any requirement to pay the cost of returning the vehicle in as good condition as when the consumer first received it, apart from normal wear;
- total cost of the lease;
- whether there is an option to purchase;
- the conditions attached to buy-out options;
- a statement of all warranties and guarantees and any insurance provided for or required by the consumer;
- a statement of responsibility for maintaining and servicing the vehicle;
- the conditions and penalties for ending the lease early;
- a description of any restrictions of the consumer's use and enjoyment of the vehicle; and
- a complete description of the vehicle.

Source: The Ministry of Attorney General publication "Leasing a Vehicle . . . Know the Rules, Ask the Questions"

In fact, the inspection report makes no mention of leases. Some investigators commented that they were not familiar with the requirements for leases and therefore did not check for many significant disclosures. We believe an examination of compliance with the requirements for lease contracts should be a normal part of routine inspections.

We recommend that the Registrar of Motor Dealers require investigators to review documentation supporting lease transactions, and that this requirement be incorporated into the ministry inspection report.

Consignments

The Act and the Motor Dealer Consignment Sales Regulation require dealers to use a separate trust account for all proceeds received on the sale of consigned vehicles, and to enter into written contracts with vehicle owners. We

found that these requirements were not routinely verified. Starting this year, the Registrar has required dealers to report their trust account number and financial institution. We support this verification, but believe that it should be taken one step further. Investigators should ensure that consignment arrangements are in the form of written contracts when they examine buy-in documents for vehicles on dealer lots. When they examine sales documents, they should ensure that trust accounts are used for consignment transactions by tracing payments to trust account bank statements.

We recommend that the Registrar of Motor Dealers require ministry investigators to periodically confirm the existence and proper use of consignment trust accounts and agreements.

Enforcement

In order of increasing severity, a motor dealer's non-compliance with legal requirements may result in warnings, the issuance of tickets under the *Offense Act,* or the laying of charges as specified in the *Motor Dealer Act* or other legislation such as the *Trade Practices Act.* Not all instances of non-compliance automatically result in tickets or charges. Investigators have considerable discretion in determining whether a warning or a stronger remedy is appropriate, depending on the circumstances of each case.

The Registrar has not become directly involved in enforcement. The issuance of tickets and the laying of charges has been the sole responsibility of the ministry's investigators. While this seems a reasonable course of action, we found that there could be a greater degree of consistency between investigators in how compliance is enforced. All investigators indicated to us that direction as to the Registrar's expectations, in the form of written guidelines, would be helpful. We believe that the Manager of Compliance, who is responsible for the ministry's investigators, could provide useful input to ensure that any such guidelines are workable in practice, and should be included in this process.

We recommend that the Registrar of Motor Dealers, in conjunction with the Manager of Compliance, develop guidelines for the appropriateness of issuing tickets and the laying of charges.

We found that copies of tickets issued for *Motor Dealer Act* offenses were routinely forwarded to the Registrar and were appropriately included in dealer files. Ministry investigators also produce legal enforcement summaries for every proceeding that they take to court. Those summaries involving motor

dealers were not being forwarded to the Registrar. We believe that not only should these summaries be provided to the Registrar, but they should also be reviewed in conjunction with tickets and inspection reports, to determine: if it is in the public interest for the particular motor dealers involved to continue in operation or have their registration renewed; if charges under the *Trade Practices Act* or other statutes should also be pursued under the *Motor Dealer Act;* and, if the Registrar should develop or amend guidelines for the appropriate laying of charges for violations of the *Motor Dealer Act*.

We recommend that a copy of all enforcement summaries relating to motor dealers be provided by ministry investigators to the Registrar of Motor Dealers.

Compensation Fund

The Motor Dealer Customer Compensation Fund has been established to reimburse consumers for amounts up to $20,000 for specified losses that result from the actions of motor dealers. The fund is financed by annual payments made by all registered motor dealers, and claims against the fund are payable for the loss of down payments, deposits, consigned property, or the misappropriation of funds by registered motor dealers.

Overall, we found that the fund was being operated in compliance with the requirements of the *Motor Dealer Act* and the Motor Dealer Customer Compensation Fund Regulation.

Monies were paid only for eligible claims, and the claim amounts were reasonable and within the established limits as to dollar amount and time since losses were incurred. We also found no claims that had been denied which we feel should have been paid according to the Act and regulation. As well, fund revenues were being properly collected and recorded, and fund expenses were being properly paid from the balance of the fund. All required reports were prepared. As at December 31, 1997, the fund had a balance of approximately $1 million.

We did note some minor documentation deficiencies in the fund's claim records, but these were brought to the ministry's attention and have been rectified.

summary of recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled "*Motor Dealer Act*" are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

To improve compliance with registration procedures, the Office of the Auditor General recommends that:

- *the Ministry of Attorney General seek removal from the Motor Dealer Act Regulation, the requirement to use prescribed registration, renewal, amendment and cancellation forms, and substitute a requirement for information to be in writing and in a form acceptable to the Registrar of Motor Dealers; and*
- *all motor dealer applicants who are refused registration, and all dealers whose registrations have not been renewed, be informed of their right to a hearing, as prescribed in section 6 of the* Motor Dealer Act.

To improve monitoring activities, the Office of the Auditor General recommends that:

- *the Registrar of Motor Dealers review each dealer file when the dealer's registration comes up for renewal, and that this review be evidenced in writing;*
- *the Registrar of Motor Dealers provide ministry investigators with written instructions outlining the objectives of routine motor dealer inspections, minimum inspection procedures, and standard administrative practices;*
- *as a standard management control, the Manager of Compliance regularly review motor dealer inspection reports;*
- *the motor dealer inspection report be revised to include details of the amount and type of work performed, and a more accurate and comprehensive checklist for requirements of purchase and sale, lease, and consignment agreements;*
- *the Registrar institute a requirement to inspect new motor dealers soon after they have commenced operations.*
- *the Registrar develop a risk-based inspection system that incorporates dealer inspection and complaint histories as a significant factor in determining the timing of subsequent inspections;*
- *for every investigation involving a motor dealer performed by the Ministry of Attorney General's community justice investigators,*

an investigation summary should be forwarded to the Registrar of Motor Dealers;

- *during routine inspections, ministry investigators take copies of all contract forms used by motor dealers, and forward them to the Registrar for detailed review;*
- *the* Motor Dealer Act *Inspection Report be amended to include a question about whether the advertised price of vehicles is the total asking price, inclusive of accessories and items of optional equipment that are physically attached to it, transportation charges for its delivery to the dealer, and any pre-delivery and inspection service charged by the dealer;*
- *the Registrar of Motor Dealers periodically compare advertising from all regions of the Province, and direct investigators to take appropriate action where advertising does not meet the requirements of the* Motor Dealer Act. *We further recommend that the Manager of Compliance review advertising to ensure compliance with other relevant legislation;*
- *the Registrar of Motor Dealers require the examination of odometers and supporting documents as part of routine motor dealer inspections;*
- *the Registrar of Motor Dealers periodically review automotive advertising for evidence of unregistered curbside sellers;*
- *the Registrar of Motor Dealers require investigators to review documentation supporting lease transactions, and that this requirement be incorporated into the ministry inspection report;*
- *the Registrar of Motor Dealers require ministry investigators to periodically confirm the existence and proper use of consignment trust accounts and agreements;*
- *the Registrar of Motor Dealers, in conjunction with the Manager of Compliance, develop guidelines for the appropriateness of issuing tickets and the laying of charges; and*
- *a copy of all enforcement summaries relating to motor dealers be provided by ministry investigators to the Registrar of Motor Dealers.*

response of the ministry of attorney general

The Ministry of Attorney General is pleased with the in-depth review of the Motor Dealer Act *and the recognition that we have knowledgeable administrative staff handling the initial and ongoing registration of Motor Dealers. Our staff strives to maintain a well-organized and efficient system and as noted have developed a similar approach towards the administration of the Motor Dealer Customer Compensation Fund.*

The ministry is in the process of implementing the following to address the recommendations of the Auditor General. Many of the audit findings and recommendations regarding ongoing compliance of the motor dealers will be of assistance in developing procedures for our inspectors. Implementation will require only minor changes to our process and we expect this to be completed by September, 1998.

Forms (recommendation 1)

An Order in Council (OIC) removing Form 4 from the Regulation has been completed and a request for an OIC has been submitted to include the amended forms. Removal of the application form will require a change to legislation as the form is prescribed. We will consider this for future legislative sessions.

Notification of Right to a Hearing (recommendation 2)

All letters to applicants or dealers who are refused registration or renewal have been revised to clearly inform dealers of their right to a hearing.

Review of Investigation and Enforcement Summaries (recommendations 3, 9, 18)

The investigators now submit the investigation and enforcement summaries to the Registrar. The dealer's file will be reviewed by the Registrar at renewal to determine if it is in the public's interest for them to continue to be registered as a motor dealer. The conclusion will be noted in the dealer's file.

Inspection Process (recommendations 4, 7, 17)

The instructions on the inspection process are being updated to include the objectives of the routine inspection process, the minimum inspection procedures, standard administrative practices, the requirement to inspect new motor dealers soon after they have commenced operations and will include guidelines for issuing tickets and laying of charges.

Inspection Report (recommendations 5, 6, 10, 11, 13, 15, 16)

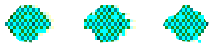
The inspection report is under revision and will include a checklist section requiring the inspector to review the sale, lease and consignment agreements and supporting documents, copy and submit to the Registrar all contract forms used, check advertising for compliance with the Trade Practices Act, *confirm actual odometer readings with supporting documents and review trust accounts. The inspectors are now forwarding a copy of completed inspection reports to the Manager of Compliance for management review.*

Risk-Based Inspections (recommendation 8)

The current computer system generates a risk-based next inspection date three months after an inspector issues a ticket but does not allow for inspector input based on other variables. The Branch has recently purchased a new computer system that will allow for a much more interactive approach and better reporting function for risk-based inspections.

Review of Advertising (recommendations 12, 14)

The Registrar will do periodic reviews of advertising from all regions of the province to ensure the dealer name and number is properly identified and will check for evidence of unregistered dealers. The Manager of Compliance will review advertising for compliance with the Trade Practice Act *and will check for consistency in enforcement action taken by ministry investigators.*



waste management permit fees

waste management permit fees

An audit to assess whether waste management permit fees are being levied and collected in accordance with relevant legislation and regulation

Audit Report

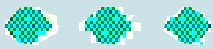
Audit Scope

We have made an examination to determine whether the Ministry of Environment, Lands and Parks had, in all significant respects, levied and collected the correct fees pursuant to section 52 of the *Waste Management Act* and the related Waste Management Permit Fees Regulation for duly authorized waste management permits and approvals issued during the twelve months of September 1996 to August 1997.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Audit Opinion

In our opinion, the Ministry of Environment, Lands and Parks had, in all significant respects, properly levied and collected the correct fees pursuant to section 52 of the *Waste Management Act* and the related Waste Management Permit Fees Regulation for duly authorized waste management permits and approvals during the twelve months of September 1996 to August 1997.



introduction

The *Waste Management Act*, enacted in 1982, is the primary legislation in British Columbia for the control of pollution. The Act establishes the requirements for maintaining a strict waste discharge control regime. Before they can discharge waste into the environment, individuals and corporations must obtain a waste management permit. The Act also provides for the collection of fees from permit holders.

The first permit fee system was introduced on September 1, 1987 by the Waste Management Permit Fees Regulation. Under that system, fees were based on the production capacity of firms or the volume of discharge of municipal waste, and did not take into consideration the type of waste discharged. In 1992, the Regulation was significantly amended to incorporate a polluter-pay principle and to recover government's regulatory cost. The fees were subsequently restructured to include two components: a base fee of $100 and a variable fee component calculated on the quantity and concentration of pollutants authorized by the ministry for discharge. This revised scheme thus introduced an economic incentive for permit holders to decrease pollution.

A separate permit is required for discharge into each environmental medium—air, land and water—and for storage of special waste. Therefore, a company may require up to four waste permits for a single site.

At the time of our audit, there were about 3,400 active permits, as follows:

- air 25%
- water or effluent 44%
- refuse 23%
- special waste storage 8%

The ministry assesses the processes of each business that applies for a permit to identify the types of discharges it produces and to determine the concentration. A permit is issued specifying the types of discharges and establishing maximum amounts that may be discharged for the year. In more complex situations, the permit also establishes the amount of testing that must be done by the permit holders and reported to the ministry.

The fee formula applies to all permit holders, including Crown corporations. However, fee exemptions are allowed for some permits. These include:

- permits held by the British Columbia government or federal government agencies;
- refuse discharge permits held by a municipality with an approved solid waste management plan that outlines the municipality's current initiatives and proposed commitment to achieve a 50% reduction in solid waste by year 2000, and a volume-based solid waste user-pay strategy;
- permits authorizing the discharge of domestic sewage or domestic refuse from a permanent residence located on an Indian Reserve; and
- air permits authorizing discharge within the boundaries of the Greater Vancouver Regional District (the district charges its own fees).

The ministry has collected $55 million from the permit holders since fiscal 1992/93. During the twelve months covered by our audit, we noted that 60% of the permit revenue was paid by only 2% of the permit holders. Conversely over 60% of the permit holders pay less than $500 annually.

Exhibit 2.1

Five Year Waste Management Permit Fee Revenue

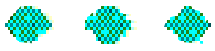
Fiscal year	Amount ($million)
1992/93	4
1993/94	11
1994/95	11
1995/96	13
1996/97	16
Total	55

Source: The Public Accounts

The waste management permit fees are recorded as revenue of the Sustainable Environment Fund, a special account within the general fund of the government's consolidated revenue fund. The Province established the fund to provide a dedicated source of funding for environmental initiatives. Currently, the fund receives revenue from the waste management permit fees and environmental levies on tires, batteries, diapers and other products.

The Pollution Prevention program of the Ministry of Environment, Lands and Parks issues permits and collects fees related to the discharge and storage of wastes under the *Waste Management Act*. The Pollution Prevention program staff of the ministry's Regional Operations department and staff of the Environment and Resources Management department in Victoria jointly administer the waste permit fees using three related computerized systems:

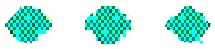
- the waste management permit fees system records permit additions, amendments, and other changes, and generates pre-billing invoices monthly which regional office staff check and approve before the invoices are sent to the permit holders;
- the permit fee verification system enables staff in the regions and Victoria to communicate the status of the pre-billing invoice verification procedures, and to provide approval for the invoices to be sent; and
- the Compushare accounts receivable system (which is maintained by Victoria staff) records fee billings and payments and provides accounts receivable information to management, including month-end listings and receivable agings.



scope and objective

We carried out this audit to determine if the Ministry of Environment, Lands and Parks had, pursuant with section 52 of the *Waste Management Act* and the related Waste Management Permit Fees Regulation, levied and collected the correct fees for duly authorized waste management permits and approvals, using the discharge quantity and characteristics as set out in the individual permits and the rates as set out in the regulation. In our audit testing, we included a sample of all active permits and approvals being administered by the ministry during the 12 months ended August 31, 1997. We did not challenge the standards used in determining the amount or appropriateness of the limits or types of discharges set out in the permits, or the completeness of the discharges allowed.

We visited four of the ministry's regional offices, in Nanaimo, Surrey, Kamloops and Prince George, and had the other three regional offices send us their pertinent information for the permit invoices we looked at. The audit was conducted during the fall of 1997.



description of the types of fees and processes

Levies of waste management permit fees involve calculating a fee for all the discharges allowed by the permit and sending an invoice to the permit holder.

Types of Permit Fees

The main type of fee is the annual permit fee. Other prescribed fees include the permit application fee, the amendment application fee, and the approval fee.

Annual Permit Fee

The annual permit fee includes a base fee of $100 and a variable fee component that is based on the quantity and concentration of discharged contaminants. The variable fee is calculated by multiplying the authorized amount of a contaminant by the fee per tonne per year for that contaminant as set out in regulation or policy. The total variable fee is the sum of the fees for each contaminant. In this way, annual permit fees are now based on the quantity and concentration of maximum discharge authorized by permit, not on actual discharge levels.

Determining the variable fee in this way ensures that larger and more hazardous discharges are subject to higher fees. For example, all effluent permit holders discharging suspended solids must pay $9.20 per tonne of suspended solids authorized in their permit. The fee per tonne for arsenic, which is many times more detrimental to the environment than suspended solids, is $184 per tonne.

Permit Application Fee

The application fee is $100 plus 10% of the annual variable fee, as determined by the quantity and quality of the discharge in the application. The application fee is capped at $50,000.

Amendment Application Fee

If a business expands or reduces its operation, or alters the processes it uses, any of these changes may result in the business having to amend its permit.

The minimum fee for amending a permit (including responding to requests for a name change or for a decrease in the quantity or unproved quality of discharge) is $100. In

Exhibit 2.2

Contaminant Fees for Permits or Approvals

	Fee Per Tonne Discharged
Air Emissions	
Ammonia	$11.30
Asbestos	11.30/Unit
Carbon Monoxide	0.30
Chlorine and Chlorine Oxides	7.60
Fluorides	453.60
Hydrocarbons	11.30
Hydrogen Chloride	7.60
Metals	453.60
Nitrogen Oxides	7.60
Phenols	11.30
Sulphur and Sulphur Oxides	8.80
Total Particulate	11.30
TRS	378.00
VOCs	11.30
Other contaminants not otherwise specified	11.30
Effluent Discharges	
Acute Toxicity	10.10/Unit
Ammonia	69.30
AOX	184.00
Arsenic	184.00
BOD	13.90
Chlorine	184.00
Cyanide	184.00
Fluoride	69.30
Metals	184.00
Nitrogen and Nitrates	27.70
Oil and Grease	46.20
Other Petroleum Products	46.20
Other Solids	9.20
Phenols	184.00
Phosphorous and Phosphates	69.30
Sulphates	2.70
Sulphides	184.00
Surfactants	46.20
Suspended Solids	9.20
Other contaminants not otherwise specified	9.20
Refuse Discharges	
Coarse Coal Refuse (Annual fee is based on one day's average daily discharge of coarse coal refuse)	4.00/m^3
Refuse	0.50/tonne

Source: Waste Management Permit Fees Regulation

addition, a variable fee equal to 10% of the requested increase in quantity or quality of a discharge is applicable.

Approval Fee

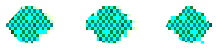
In some situations, a business requires approval for only a one-time discharge of contaminants or approval to discharge over a specific period rather than on an ongoing basis.

Under the *Waste Management Act*, an "approval" for the introduction of wastes into the environment for a specified period of up to 15 months can be issued upon the payment of an approval fee, calculated in the same manner as is done for the annual discharge permit fees. The approval fee is due at the time of application for the approval and is based on the quantity and quality of the pollutants authorized to be discharged over the period for which the approval is granted.

Calculation of Fees

Once fees have been calculated, an invoice is sent out to the permit holder. As noted above, permit fees are based on the quantity and concentration of contaminants authorized to be discharged by the permit. The concentration of contaminants is sometimes specified in the permit. Other times, the permit may describe the discharges as typical of a process employed by a business. In these cases, fees are calculated according to discharge factors derived from a number of sources, including the United States Environmental Protection Agency and various ministry sources. More complicated permits may contain tens of discharge factors.

The permitted discharge data are captured in the waste management permit fees system and form the basis for the calculation of the annual fee levies.



findings

Accuracy of Calculation

We found that, in the majority of cases, the quantity of discharges specified in the permits was correctly converted from volume (cubic meters per year) to an annual mass (tonnes per year), the appropriate rates from the regulation were used to calculate the fees, and the fees were being accurately calculated.

We found that the data input was correct in the majority of the cases. However, some instances of error were observed when transferring permit information to the system files. These included data transcription errors, omissions, and misapplication of discharge factors or rates. It should be noted that most of the errors we observed resulted in only minor adjustments, and the total dollar amounts involved were not significant. Nevertheless, the frequency of occurrence warrants attention by the ministry to ensure the accuracy of the data captured for fee calculations.

We recommend that the Ministry of Environment, Lands and Parks review data input procedures to ensure that the waste management permit data captured for fee calculation purposes are recorded accurately.

Consistency in Applying Policy

For refuse discharge permits for industrial sites, fees are based on the amount of material authorized for discharge in a year. The ministry has specified a standard conversion factor of 0.3491 to convert refuse discharge from volume to mass. We observed that in one region a different conversion factor of 0.1333 was being used in calculating refuse discharged from some industrial sites. We were advised that this lower conversion rate should only apply to municipal solid waste discharges for municipal government sites. Although the amount of fees involved was not significant, the result was that refuse permit holders for industrial sites in the one region were paying lower fees than permit holders in the other regions.

We recommend that the ministry review instructions to regional staff to ensure that the policy on fee calculation is applied uniformly in all regions.

Collection of Fees

The requirement for the payment of fees is set out in section 8 of the Regulation. It states that the annual fee for a permit is payable on the anniversary date of the permit, or 30 days after the date an invoice issued for the amount owing, whichever is later.

We found that the annual fee invoices are normally issued by the accounts receivable staff in Victoria during the first half of each permit's anniversary month and collected within a time frame specified in policy. For the permits we tested, we found that there were a few instances where fees remained outstanding at the time of our audit, but adequate reasons were provided. We also observed that approximately $900,000 for waste management permit fees from Skeena Cellulose were not being collected at the time of our audit, and this was considered a special case. Application, amendment and approval fees were collected by the regions in advance of the permit period, as required.

Invoices on "Hold" Status

Annual fee invoices are sometimes put on hold at the request of regional offices for various reasons associated with the calculation of the fees. One common reason is that an application for a discharge reduction amendment is being processed. The ministry informed us that because of staff workloads, this amendment approval can sometimes be delayed. In the samples we examined, we found that six permit invoices, with a value of over $523,000, were on hold.

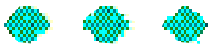
Ministry policy states that invoices for annual fees can only be held up with written approval from the Director of the Pollution, Prevention, and Remediation Branch. We found that this procedure was not complied with in most of the cases we observed. Furthermore, in two cases where the fees totalled $387,000, although regional staff had removed the hold status, the invoices were still not sent out because the change in status had been overlooked.

We recommend that the ministry review the invoice-on-hold procedures to ensure that ministry approval policy has been complied with and that follow-up procedures are taken to ensure invoices are subsequently issued on a timely basis.

Revenue Recording

Annual fee invoices issued are tracked and maintained by staff in Victoria with the aid of the Compushare accounts receivable system, a subsidiary ledger system. To ensure the accuracy of this separate subsidiary ledger, the Financial Management Policy Manual requires that summary information be posted into a control account in the government's general ledger. During the audit, we found that this was not happening promptly. No such posting was done for invoices issued during the period of April to November 1997.

We recommend that the ministry post invoice summary information to the government control account on a timely basis in order to comply with government financial management policy.

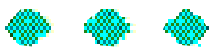


summary of recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled "Waste Management Permit Fees" are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

The Office of the Auditor General recommends that the Ministry of Environment, Lands and Parks:

- *review data input procedures to ensure that the waste management permit data captured for fee calculation purposes are recorded accurately;*
- *review instructions to regional staff to ensure that the policy on fee calculation is applied uniformly in all regions;*
- *review the invoice-on-hold procedures to ensure that ministry approval policy has been complied with and that follow-up procedures are taken to ensure invoices are subsequently issued on a timely basis; and*
- *post invoice summary information to the government control account on a timely basis in order to comply with government financial management policy.*



response of the ministry of environment, lands and parks

We are pleased to note the audit found that in all significant respects, the ministry properly levied and collected the fees during the audit period. We also note that the ministry exercised good management practises and conducted its own internal audit in the Spring of 1997.

Our comments on the audit report are:

Exhibit 2.1 – Five Year Waste Management Permit Fees Revenue

The amount of $16 million noted for 1996/97 may be somewhat misleading. The increase over the 1995/96 figure of $13 million is mainly attributable to the higher fees assessed under the Wood Residue Burner and Incinerator Regulation as an incentive to phase-out the burners. Those fees generated an additional $2 million.

Findings – Accuracy of Calculation

The ministry agrees that errors occur in the data input process. There are procedures in place to address this issue and the ministry will review those procedures to determine where improvements can be made. In addition, the ministry conducts internal audits in order to detect and correct input errors.

Findings – Consistency in Applying Policy

The ministry agrees that one region was using an incorrect conversion factor for some permits. This was corrected immediately when brought to our attention. The incorrect conversion factor was meant to be used specifically for regional government refuse permits whereas a higher factor was to be used for industrial permits. The ministry will review procedures to ensure fee calculations are applied uniformly.

Findings – Collection of Fees

At the time of the audit, the amount owing from Skeena Cellulose could not be collected as the company was under the protection of the Companies' Creditors Arrangement Act.

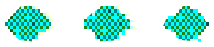
Findings – Invoices on "Hold" Status

The ministry agrees that invoice-on-hold procedures be reviewed. That review has taken place and revised procedures will be put in place to ensure consistency with policy and proper follow-up. The ministry questions that the status change was "overlooked" although it is agreed that the invoices might have been issued in a more timely manner.

Findings – Revenue Recording

The ministry agrees to post invoice summary information to the government control account on a timely basis and, to that end, will be posting the information on a quarterly basis.

We would like to thank the Office of the Auditor General for the audit report. These audits are very valuable in ensuring proper financial procedures are being followed.



motor dealer act

motor dealer act

An audit to assess compliance with the* Motor Dealer Act *and related regulations for the registration of motor dealers, operation of the Motor Dealer Customer Compensation Fund, and monitoring of motor dealer compliance with the Act and regulations

Audit Report

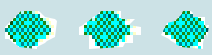
Audit Scope

We have made an examination to determine whether the *Motor Dealer Act* and related regulations were complied with, in all significant respects, by the Ministry of Attorney General during the months of September to December 1997, regarding the initial and ongoing registration of motor dealers and the operation of the Motor Dealer Customer Compensation Fund. We also examined the ministry's procedures for monitoring the ongoing compliance of motor dealers with the Act and regulations.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Audit Opinion

In our opinion, during the months of September to December 1997, the Ministry of Attorney General was ensuring that motor dealers were being appropriately registered and their registrations maintained in accordance with the requirements of the Act. We also found that the Motor Dealer Customer Compensation Fund was being operated by the ministry in accordance with the Act. However, the ministry's procedures for monitoring ongoing compliance with motor dealer operating requirements were not sufficient to allow us to determine if they ensured compliance by motor dealers with the Act and regulations.

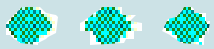


overall findings

Overall, we found that:

- the ministry was administering the initial and ongoing registration of motor dealers in accordance with the *Motor Dealer Act* and regulations;
- we were not able to conclude if motor dealers in the Province of British Columbia were complying with the requirements of the *Motor Dealer Act* and related regulations. We found that sufficient systematic work was not being conducted by the ministry to prove whether there was ongoing compliance by motor dealers with a variety of significant aspects of the legislation;
- the Motor Dealer Customer Compensation Fund was being operated in compliance with the requirements of the *Motor Dealer Act* and the Motor Dealer Customer Compensation Fund Regulation.

Our findings should not be interpreted as meaning motor dealers are, or are not, generally complying with the *Motor Dealer Act*. The work performed by the ministry's investigators was not sufficient to enable us to determine whether or not the industry was operating in compliance with various aspects of the Act.



introduction

Registrar

The Motor Dealer Act (the Act) and its related regulations (Motor Dealer Act Regulation, Motor Dealer Consignment Sales Regulation, Motor Dealer Customer Compensation Fund Regulation, Motor Dealer Leasing Regulation) regulate the approximately 1,600 motor dealers in British Columbia. The Act and regulations are the responsibility of the Ministry of Attorney General. It establishes the Registrar of Motor Dealers, who is charged with responsibility for administrating the Act and regulations. Motor dealers must be licensed with the Registrar and pay an annual registration fee. The Act empowers the Registrar to conduct inspections, hold hearings on matters relating to the registration of motor dealers, and establish criteria for registration. While there is no requirement in the Act to do so, the Registrar requires periodic inspections of motor dealers to be performed to monitor the industry's ongoing compliance with the Act.

The Registrar is also responsible for the administration of the Motor Dealer Customer Compensation Fund. The purpose of the fund is to insure consumers against specified losses resulting from the actions of motor dealers. The fund is financed by annual contributions from motor dealers.

Requirements of the Act

The *Motor Dealer Act* is an important piece of consumer legislation, originally introduced in 1977. The legislation has many purposes. Primarily, it is designed to protect consumers by setting requirements for the registration and ongoing operation of businesses selling motor vehicles to consumers.

In order to protect consumers, the Act requires that all persons engaged in the business of selling vehicles to the public be registered. The Act governs only persons in the business of selling vehicles to consumers; it does not prevent or regulate the private sale of vehicles by individuals.

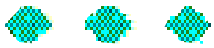
The Act and its regulations outline the minimum information that must be disclosed about vehicles in advertising, purchase and sales contracts, as well as in lease and consignment agreements. For instance, the Act requires dealers to disclose material facts such as use as a taxi, police, emergency, or lease vehicle, or has suffered significant damage, or has been registered in another province. They also prohibit

certain dishonest practices such as altering odometers (frequently referred to as "spinning" the odometer), and establish minimum standards for vehicle display and repair facilities.

Organization

The Registrar of Motor Dealers is part of the Community Justice Branch of the Ministry of Attorney General. This branch also administers other consumer legislation relating to cemeteries and funeral services, travel agents, direct sellers, debtor assistance, debt collection, and residential tenancy. In addition, the Registrar of Motor Dealers has also been appointed the Registrar of Cemetery and Funeral Services. The Registrar and her five staff in Victoria process new applications, administer ongoing registrants, manage the motor dealer customer compensation fund, and conduct hearings.

Inspections of new applicants and registered dealers, as well as consumer complaint investigations, are performed by 13 consumer operations investigators under the supervision of the Manager of Compliance. The investigators' main office is located in Burnaby, with field offices staffed by full time investigators in Victoria, Kelowna, Kamloops, Prince George and Cranbrook. In addition to the *Motor Dealer Act*, investigators are also responsible for conducting inspections and investigations relating to several other pieces of consumer legislation governing such areas as trade practices, direct sellers, debt collectors, and travel agents.



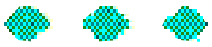
audit scope

Our audit work was conducted during the months of September to December 1997, and was focused in three areas. The first phase concentrated on how new applications were processed and whether this procedure, and that for the ongoing registration of motor dealers, were in compliance with the *Motor Dealer Act* and regulations. This work was conducted primarily in Victoria on information sent to the Registrar by Motor Dealers.

The second phase of our work involved an examination of the procedures for monitoring compliance with the Act by motor dealers. Our intent was not to audit the industry's compliance with the Act directly, but rather to determine if the work performed by the ministry was sufficient to conclude that the industry was complying with the Act. As part of assessing the Registrar's monitoring activities, we accompanied ministry investigators on dealer inspections and, as well, performed a number of limited, unaccompanied tests. We also conducted a review of print advertising to determine if dealer advertisements were in compliance. We interviewed staff and accompanied investigators on inspections of motor dealers in Burnaby, Kamloops, Kelowna and Victoria.

We examined the files of the Motor Dealer Customer Compensation Fund in the final phase of our audit. We tested a number of successful and unsuccessful claims against the fund to determine if payments were made or denied, in accordance with governing legislative provisions. All information relating to the administration of the fund was located in Victoria.

We did not examine the ministry's compliance with sections of the legislation that describe administrative procedures not directly related to regulating the motor dealer industry.



audit findings

Registrations

New Applicants

Overall, we found that the ministry was administering the registration of new motor dealers in accordance with the *Motor Dealer Act* and regulation.

The Registrar has established clear requirements for new dealers, and procedures for processing their applications. We found that the Registrar's staff were very knowledgeable about the requirements, and that procedures were being followed. All required information was obtained and verified with applicants if necessary. Registration with the Registrar of Companies was confirmed, and information regarding directors and other key personnel was compared for consistency with the corporate registry. Authorization for credit and police checks were properly obtained, and the resulting credit and criminal histories were fully reviewed. All required registration fees and compensation fund contributions were properly collected prior to approval of applications. In compliance with the Act, an adequate system for the recording of registrations and payments has been established and maintained.

The Registrar has made the issuance of a business license from the appropriate municipal authority a prerequisite for approval as a motor dealer. A copy of a business license was obtained before the approval of each application. This not only ensures that there is proper zoning for the business, which is a legislative requirement, but it also fosters good relations with municipal authorities by allowing them to approve the location of a dealership before it is licensed by the Province.

All applicants are inspected by ministry investigators prior to the approval of their applications. A motor dealer registration number is not issued until the dealer has passed this inspection. Investigators check to ensure that the proposed business premises are adequate for the selling of motor vehicles to the public, and they provide applicants with information about operating requirements. These inspections effectively ensured all applicants' business premises met Act and Registrar requirements before motor dealer licenses were issued.

Required Forms

The Motor Dealer Act Regulation requires the use of prescribed forms for new applications, registration renewals, changes of information, and voluntary cancellations of registration. An Order-in-Council, approved by the Lieutenant-Governor, is required to make any changes to these forms, and this process can take considerable time. Recent changes in ministerial responsibility and fee structures have rendered these forms out-of-date. Rather than give out incorrect information, the Registrar amended the forms. Strictly speaking, this action was not in compliance with the Act, but we concluded that it was reasonable in the circumstances.

While the Regulation prescribes specific forms, the *Motor Dealer Act* requires only change of address information and voluntary cancellations of registration to be in writing. We found that in some cases, the Registrar had, contrary to the Regulation but in keeping with the Act, accepted written change of address information and registration cancellations that were not on the prescribed forms. There appears to be little benefit in one form of written notification over another. These notifications were provided to the Registrar in a timely manner and in writing as required. Again, we believe that although this may be an issue of non-compliance, it seems justifiable.

To address these types of problems and make compliance with the Act more practicable for motor dealers, we believe the ministry should be able to revise forms as necessary.

We recommend that the Ministry of Attorney General seek removal from the Motor Dealer Act Regulation, the requirement to use prescribed registration, renewal, amendment and cancellation forms, and substitute a requirement for information to be in writing and in a form acceptable to the Registrar of Motor Dealers.

Notice of Right to Hearing

The Act requires the Registrar to inform applicants or dealers of their right to a hearing if she refuses to register or renew a registration, or if she cancels or suspends a registration. We found that some applicants who were refused registration were not notified of their right to be heard. Similarly, dealers whose registration was not renewed were not always apprised of this right.

***We recommend that all motor dealer applicants who are refused registration, and all dealers whose registrations have not been renewed, be informed of their right to a hearing, as prescribed in section 6 of the* Motor Dealer Act.**

Motor Dealer Operations

We were not able to conclude overall if motor dealers in British Columbia are satisfactorily complying with the requirements of the *Motor Dealer Act*. We found that the amount of systematic work being conducted by ministry staff was insufficient to prove whether there was ongoing compliance by motor dealers with a variety of significant aspects of the legislation.

Our findings should not be interpreted as meaning motor dealers are, or are not, generally complying with the *Motor Dealer Act*. The work performed by the ministry's investigators was not sufficient to enable us to determine whether the industry was operating substantially in compliance with the Act, or not. In order for us to make such a determination, we would have had to conduct extensive direct testing of individual motor dealers. Such examinations of private sector business operations were outside the scope of this audit.

Renewals

Motor dealers are required to renew their registrations annually with the Registrar. We found that annual renewals were actively sought and processed in a timely manner by the Registrar's staff. Application and renewal fees were being properly collected and recorded in accordance with the legislation.

However, we found that motor dealer files were not being reviewed on an annual basis to determine, under section 5 of the Act, if it was in the public's best interest for the registration of a dealer to be continued. Some of the recommendations contained in this report suggest that additional information should be sent to the Registrar to improve her ability to monitor the industry. In order for these recommendations to have any practical effect, this information should be reviewed at the time dealer registrations come up for renewal.

We recommend that the Registrar of Motor Dealers review each dealer file when the dealer's registration comes up for renewal, and that this review be evidenced in writing.

Motor Dealer Operations Monitoring

We found that while some requirements of the *Motor Dealer Act* were adequately monitored to ensure compliance, many were not monitored, or were not being monitored sufficiently to allow us to determine whether dealers were complying with the legislation. Furthermore, we found significant variation in the work performed by different investigators. Because investigators are required to work independently and exercise their own judgment, we recognize that each will inevitably bring his or her own style and approach to the job. Nonetheless, we expected that a minimum standard for routine inspections would be communicated to investigators and would be performed by them.

The Registrar, under the direction of the minister, has overall responsibility for ensuring motor dealers comply with the requirements of the *Motor Dealer Act* and regulations. Inspections of motor dealers are performed not because of a specific legislative requirement, but because the Registrar requires inspections be done to assist her overall monitoring of the industry. Consequently, the Registrar's requirements and expectations determine the type and extent of work that is performed during inspections.

We encountered neither clearly imparted expectations nor effective minimum inspection standards employed in practice. Although the Registrar has created draft guidelines entitled "Administrative Guidelines for Motor Dealer Licensing," the ministry's investigators we interviewed were not aware of their existence. Additionally these guidelines, while clearly outlining procedures for processing applications and renewals, do not address dealer inspections in adequate detail.

Our specific comments are not to be taken as general commentary on the performance of the ministry's investigators. Our examination looked at only one aspect of their responsibilities, and although it is an important function which does absorb a significant portion of their time, investigators have other areas of responsibility, some of which may have a higher priority than motor dealer inspections. Indeed, investigators have responsibilities relating to motor dealers that are broader than routine inspections under the *Motor Dealer Act*. For instance, we were made aware of several investigations under the *Trade Practices Act* relating to motor dealers. Such work performed by investigators was outside of the scope of this audit.

Inspection Objectives

The Registrar expects that an inspection should gather sufficient evidence to give her assurance that a motor dealer is or is not operating in compliance with all the requirements of the *Motor Dealer Act*. In some cases, we found that this expectation was being met. These inspections were conducted in detail, most significant aspects governed by the Act were examined, and evidence was gathered to enable an investigator to determine if there was compliance.

In other cases, inspections provided much less assurance. Rather than asserting that a dealer was operating in compliance with the Act, many inspections could only be interpreted as meaning that nothing came to an investigator's attention that lead him or her to believe there was significant non-compliance by a particular dealer. There may or may not even have been a detailed examination to support this conclusion.

Exhibit 3.1

Buying a Used Vehicle

Better Business Bureau statistics show the used car market is a major source of consumer complaints. There are many highly reputable used car dealers who offer good buys at competitive prices and stand behind their guarantees. There are also those who aren't reliable.

The keys to successfully buying a used car are to do your research, get expert help, and get every part of the deal in writing.

Study ads and used vehicle guides and visit car lots to get an idea of market values. This way you'll be better able to judge a good buy from a buy that's "too good to be true."

Ensure that any dealer you speak to is registered. Look for a current registration certificate from the Registrar of Motor Dealers.

Always have any vehicle you are interested in purchasing inspected by an independent mechanic before you buy it. Any reputable dealer will allow this – you should not do business with them if they refuse. The British Columbia Automobile Association can recommend a competent mechanic.

Ensure the dealer has performed an Insurance Corporation of B.C. crash check—a check of the vehicle's accident history, and ensure there are no outstanding liens on the vehicle. Ask to see these reports.

Ensure that any specific claims about a vehicle (e.g. a new transmission or rebuilt motor), conditions on sale (e.g. sale subject to any repairs) or warranties are in writing. Don't sign any contracts or offers to purchase until you are ready to buy.

Source: The Ministry of Attorney General publication "Buying a New or Used Vehicle"

We found considerable variation in investigators' stated expectations for inspections. At one extreme was the view that routine inspections almost always revealed some non-compliance; at the other extreme was the view that routine inspections rarely turned up any significant issues. These divergent views translated into markedly different inspections. Where there was an expectation of encountering non-compliance, inspections tended to be more thorough, documents were examined in detail, the continuity of odometer readings, previous damage and other material disclosures were checked, and discrepancies were resolved. Where there was an expectation that inspections were not productive, the results tended to be self-fulfilling. Documents, if examined at all, were given minimal attention. Instances of non-compliance were passed over.

The Registrar told us that she preferred thorough inspections over superficial reviews, even if this resulted in inspections being conducted less frequently. We believe cursory examinations do not provide sufficient evidence to conclude whether dealers are complying with the requirements of the *Motor Dealer Act*, and do not meet the Registrar's expectations of routine, periodic inspections. Intervals of once every three years would satisfy the Registrar's requirement for periodic inspections. Most investigators suggested they preferred to complete inspections annually, or at least every 18 months, and that it mattered more to have visited a dealer, albeit briefly, than to allow long periods of time to elapse.

The Registrar's very brief *Motor Dealer Act* Inspection Report (Exhibit 3.2) provides the only real guidance to investigators as to what is expected of inspections. All investigators we interviewed expressed uncertainty as to what was expected of motor dealer inspections, and all stated that they performed work which they felt was reasonable given the time available, the circumstances, and their work load. All investigators said that they had not been specifically trained to do their jobs, but had learned as they went along, in consultation with their peers.

We did not encounter any sort of uniform minimum standard being employed in inspections. There was considerable variation in the extent of examination, the types of items examined, and the standards imposed. For instance, on the simple matter of what constitutes a minimum acceptable number of spaces for the display of vehicles, some investigators were requiring 6, while others required 10. As another example, some investigators described a normal inspection as consisting

of examining two or three months' transaction records; others considered an examination of only three or four individual transactions to be normal.

Also of concern to us was that investigators were, in some cases, providing different, if not contradictory, information to dealers. For example, any vehicle damage requiring repairs costing over $2,000 must be disclosed in all future contracts. Some investigators have told dealers that they must perform an ICBC "crash check" on all used vehicles they sell, to search for a history of damage. Other investigators have told dealers they have no obligation, and it is the customers' responsibility to check with ICBC if they want to. We found no rational explanation for this disparity. There was also variation in basic administrative procedures. For instance, most investigators fill out the *Registrar's Motor Dealer Act* Inspection Report on site, have the dealer sign the report in the space provided, and leave a copy with them. However, one investigator was performing inspections, taking notes and then filling out the inspection reports back in his office, without ever providing copies to the dealers.

We believe inspection objectives would be much improved if a guide for motor dealer inspections was created. While no guide could provide an exhaustive discussion for every possible contingency, a good, basic reference would serve to establish minimum, common standards, including the Registrar's expectations in areas requiring discretion.

We recommend that the Registrar of Motor Dealers provide ministry investigators with written instructions outlining the objectives of routine motor dealer inspections, minimum inspection procedures, and standard administrative practices.

This recommendation is not intended to remove the ability of investigators to exercise their judgment in determining if a more detailed examination is required in any given circumstance. Rather, it is to ensure that a minimum level of coverage and a consistency of application and documentation exists for all investigators.

It came to our attention during the audit that neither the Registrar nor any of her staff had ever conducted an inspection or accompanied the ministry's investigators on an inspection. We believe that such experience would prove invaluable in assisting the Registrar to formulate written inspection objectives and procedures. We suggest, therefore, that the Registrar of Motor Dealers and the Registrar's staff periodically accompany the ministry's investigators on routine motor dealer inspections

in order to enhance their knowledge and understanding of the work that is performed, and how they can rely upon it.

Quality of Inspections

The Registrar provided us with a summary of inspections performed by each investigator, spanning a period from late-1996 to mid-1997. The summary showed the name of the dealer, the date of the inspection, and the time of the inspection. The time the inspections took place proved to be revealing. While the dates showed that some investigators had performed up to 12 inspections in a regular working day, the time of the inspection revealed that in some instances, as little as 10 or 15 minutes elapsed during each inspection.

The time required to perform an inspection will vary with individual circumstances. Our experience and discussions with the ministry's investigators suggest that considerably more than 10 minutes is required to talk to dealership staff, walk about the lot looking at vehicle pricing, and inspect documents. Investigators themselves estimated the time required for a normal inspection to range from one half to two hours, depending on the size of the dealer and what problems, if any, were encountered. Consequently, we believe the very short time periods shown in this summary to be highly indicative of inadequate inspections.

We examined the reports produced from some of these brief inspections and determined that, in several cases, the work performed was not sufficient to enable us to conclude if the motor dealer was operating in compliance with the *Motor Dealer Act*. To illustrate this point, one of these reports made reference to business premises being shared by two dealers. It was not identified that one of these dealers had never been registered to operate as a motor dealer, and was thus operating in contravention of the Act. In addition, it was not clear which vehicles were being sold by which dealer. Only later, in response to a consumer complaint where there was confusion between the registered and the unregistered dealers, did the ministry become aware of these circumstances. A thorough inspection would have uncovered this situation before it became a problem for consumers.

We believe there should be closer scrutiny of the inspection reports, including the inspection times recorded by investigators. We believe this sort of management review should be performed on an ongoing basis by the Manager of Compliance, who has responsibility for the investigators. Issues of concern arising from this review should be forwarded to the Registrar.

We recommend that, as a standard management control, the Manager of Compliance regularly review motor dealer inspection reports.

Inspection Report

Ministry investigators are required to complete, in triplicate, a one-page *Motor Dealer Act* Inspection Report (Exhibit 3.2). The report consists of a series of checklists, with a small amount of space for comments. There is also space on the report for signatures of both the investigator and the dealer. The investigator keeps the original report, one copy is forwarded to the Registrar, and one copy is to be left with the dealer. We found that not all investigators were leaving a copy of the inspection report with dealers, nor even having them sign the report in the space provided. It is clear that dealers' signatures are required, and that it is intended that a copy be left with dealers for their future reference. Because a copy of the report establishes a written communication to dealers of any shortcomings and gives formal notice where remedial action is required, it is important that this procedure be clarified, in conjunction with our recommendation that administrative procedures be documented.

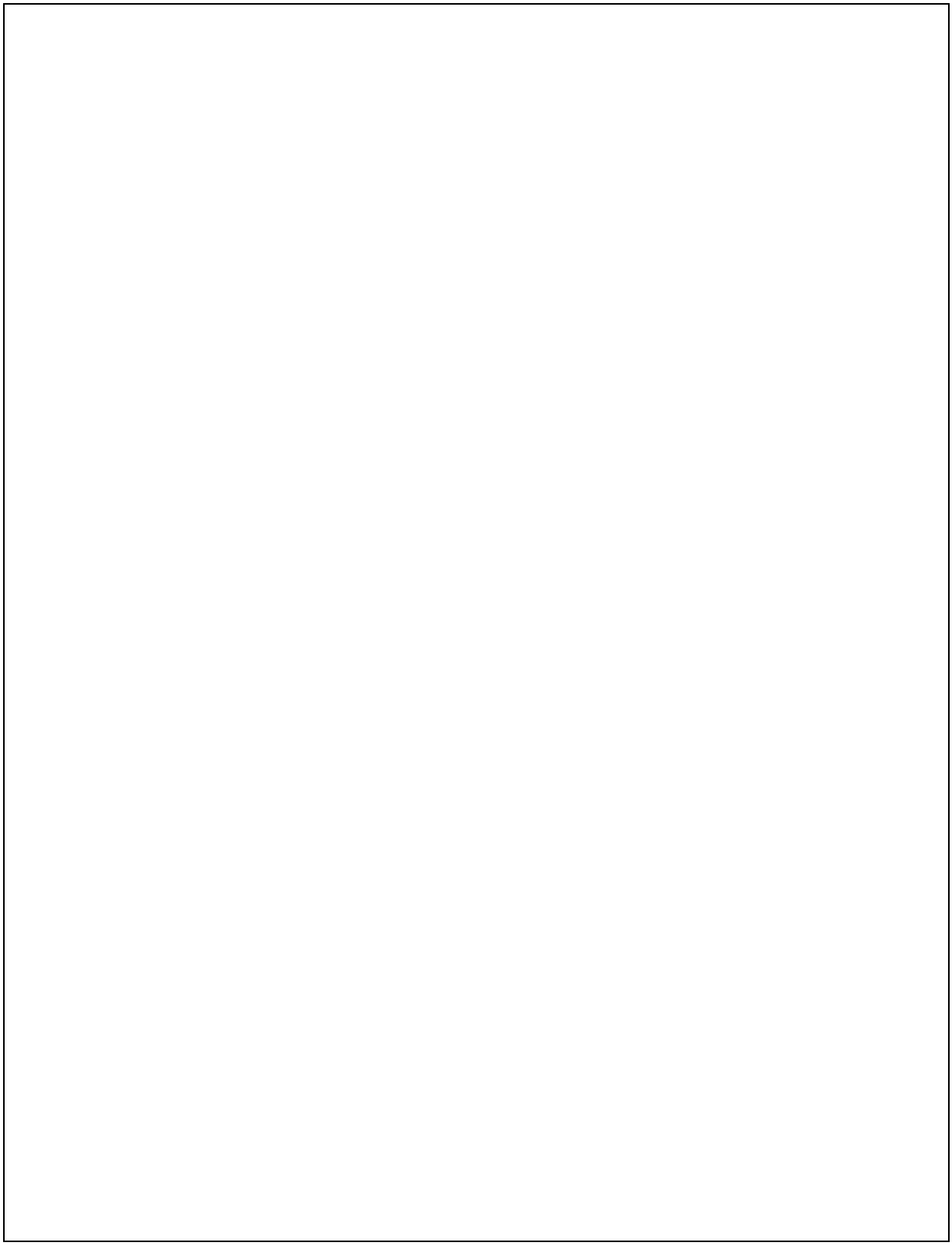
We also noted a number of deficiencies in the report. It does not ask for sufficient detail and, in some cases, asks the wrong questions. For example, investigators are not required to document the extent of tests performed to determine if a motor dealer is complying with the Act and regulations, such as the number of vehicles or agreements that were examined. If management is to monitor inspections properly, we feel this information is essential.

As well, the report asks if required material disclosures (odometer readings, previous damage, use as a lease or police vehicle) are being made, but does not inquire as to the substance of the issue, which is whether there is continuity in these disclosures from buy-in documents to sale agreements. In the material disclosures section of many reports, investigators simply wrote "is aware," but gave no indication if the disclosures were examined. Such a comment was written on the report for an inspection we accompanied, even though several significant disclosures were found to be missing and the dealer had had the same problem on two previous inspections. "Aware" was something the dealer definitely did not seem to be.

The report provides investigators with a checklist of items related to purchase and sale agreements. However, it does not provide any sort of checklist for lease or consignment

Exhibit 3.2

Motor Dealer Act Inspection Report



Source: The Ministry of Attorney General

agreements. We found, possibly because they were not mentioned on the inspection report, that these types of agreements were not receiving adequate scrutiny. The report asks if records are available on the premises, but does not stipulate that they should be for the last two years' transactions.

The report asks if vehicles are priced, when that is only a small part of the required information for new vehicles. There is no mention of other significant elements that are required to be disclosed, such as the total price, the cost of extra features, an itemized list of options and accessories, and the vehicle identification number. We found that many dealers were not listing these required items on new vehicles, and investigators were not checking for them.

The inspection report should provide investigators with a useful, practical checklist of items that must be examined so that investigators can obtain sufficient evidence to determine if the Act is being complied with. It should also facilitate documenting the extent of work done in the inspection.

We recommend that the motor dealer inspection report be revised to include details of the amount and type of work performed, and a more accurate and comprehensive checklist for requirements of purchase and sale, lease, and consignment agreements.

Risk-based approach

We were surprised to find that there had not been established a mechanism for determining the need for conducting more frequent or more detailed inspections, based on the potential for encountering problems. A risk-based approach could assist in rationalizing investigators' limited time and focusing their efforts on problem areas.

Investigators and the Registrar were in general agreement that new dealers have an inherently greater risk of running afoul of the legislation than experienced dealers with a history of good inspections. While we found that prospective dealers were adequately inspected prior to commencing operations, these inspections necessarily did not review actual transaction documents. Often, new dealers do not even have contracts printed at the time of the initial inspection. Consequently, there would seem to be a need to revisit new dealers soon after they have commenced business to ensure that their operations are being conducted in compliance with the Act and regulations.

We found several instances where new dealers' operations were not inspected for as long as three years after their

opening. While some investigators did make a point of visiting new dealers during their first year of business, this was not being done by others and was not required by the Registrar. We believe this risk of non-compliance with the *Motor Dealer Act* should be acknowledged by instituting a requirement to re-inspect new dealers shortly after they begin operations, perhaps at an interval of six months.

We recommend that the Registrar institute a requirement to inspect new motor dealers soon after they have commenced operations.

The Registrar requires that routine inspections be performed for all motor dealers at least every three years. When inspection reports are processed, a system-generated date, three years in the future, is given for the next inspection. Although we found that in some cases as much as six or seven years had passed between inspections, for the most part the three year requirement was met. We agree that periodic, routine inspections are a practical means of ensuring compliance, and we believe a three year interval to be a reasonable period where dealers have no history of problems.

However, when it came to dealers that did have a history of non-compliance, in several cases we found little consideration had been given to the increased risk such a history presented. Regardless of the outcome of the inspection, the system-generated date for the next required inspection was at the standard three year interval. We found many instances where investigators inspected problem dealers more frequently than the minimum required, but this was not always the case.

We believe that, based on their experience with inspections and investigations for any given dealer, investigators should suggest an appropriate date for the next inspection. The Registrar should issue guidelines for making these determinations.

We recommend that the Registrar develop a risk-based inspection system that incorporates dealer inspection and complaint histories as a significant factor in determining the timing of subsequent inspections.

Investigations

The activities of the ministry's investigators in relation to motor dealers have three primary goals. The first, of course, is to perform inspection to check for compliance with the *Motor Dealer Act* and regulations. The second is an educative role, providing dealers with information on legal and other

requirements. The third is to investigate possible non-compliance with the *Motor Dealer Act* and other legislation in response to complaints from consumers or other dealers, at the request of the Registrar, or as a result of findings from inspections. Investigators frequently collect significant amounts of information concerning motor dealers during these investigations.

The Registrar is responsible for monitoring the motor dealer industry. To do this, she must rely on the field work, be it inspections or investigations, performed by the ministry's investigators. For this arrangement to be effective, the information gathered by the investigators must be made available to the Registrar. It did not seem that this communication was functioning as well as it should, to allow the Register to fulfill her regulatory responsibilities under the *Motor Dealer Act*. Our examination of the Registrar's files in Victoria revealed a shortage of relevant information regarding complaints received and investigations conducted by the ministry's investigators.

We do not believe there has been a clear understanding of the role investigators play as agents of the Registrar of Motor Dealers. While it is reasonable to conclude that there is an agency relationship between the person responsible under the legislation, the Registrar, and the investigators acting on her behalf, unless there is effective communication between the investigators and the Registrar, we cannot say that this agency relationship is functioning properly.

A significant amount of assurance about motor dealer compliance can be obtained through the ministry's investigations. However, much of the information obtained in investigations is not being conveyed to the Registrar. Investigation files can be very thick, so one would not reasonably expect their entire contents to be forwarded to the Registrar. However, a summary for each investigation, indicating the key findings and the investigation's outcome, would provide the Registrar with useful information to consider when she is deciding whether to continue to register dealers who have been the subject of investigations. It could also be used by the Registrar to identify areas that should be the subject of additional scrutiny during routine inspections. We noted that most investigation files already result in the production of short summaries of the circumstances, actions, and results of investigative work.

We note that investigations involving motor dealers are often conducted for possible contraventions of the *Trade Practices Act* rather than the *Motor Dealer Act*. We believe that the results of any investigation involving motor dealers is relevant to the Registrar of Motor Dealers, and consequently should be sent to her office.

We recommend that for every investigation involving a motor dealer performed by the Ministry of Attorney General's community justice investigators, an investigation summary should be forwarded to the Registrar of Motor Dealers.

Division of responsibilities

The effectiveness of the ministry's review of contracts would be improved if some of the responsibilities currently allocated to ministry investigators were undertaken by the Registrar. A central review of documentation would also help ensure uniform standards across the Province.

We suggest that investigators should have primary responsibility for inspecting the content of contracts, ensuring that they are reasonable in the circumstances, and verifying information on a test basis. It is important that investigators review, on site, the continuity of material disclosures such as odometer readings, previous damage, out-of-province registration, or rental use.

However, issues relating to the form of contracts, or those contracts dealing with complex disclosures or calculations, would be better reviewed centrally. For instance, under the legislation, there are many detailed requirements for purchase and sale, lease, and consignment contracts. Section 4 of the Motor Dealer Leasing Regulation stipulates certain terms that can and cannot be used in contracts, as well as the requirement for using "plain language." Elements such as the size of print or the calculation of financing rates, may be difficult to examine on site with any degree of certainty or in a timely manner.

We recommend that, during routine inspections, ministry investigators take copies of all contract forms used by motor dealers, and forward them to the Registrar for detailed review.

This recommendation would be particularly applicable to new dealers. Blank copies of contracts for sales, leases, and consignments should be provided to the Registrar and reviewed as part of the approval process for new motor dealers.

Advertising

The *Motor Dealer Act* and regulation require dealers to include their dealer registration number in all advertisements, and prohibit the advertising of any price for a vehicle other than the total asking price inclusive of the cost of accessories and options physically attached to the vehicle, and of charges for transportation, pre-delivery and inspection. The inspection report asks about the inclusion of the dealer number, but does not inquire about the advertised price of vehicles. At no time did we see evidence that investigators had ensured that advertised prices were in fact the total asking prices.

We recommend that the* Motor Dealer Act *Inspection Report be amended to include a question about whether the advertised price of vehicles is the total asking price, inclusive of accessories and items of optional equipment that are physically attached to it, transportation charges for its delivery to the dealer, and any pre-delivery and inspection service charged by the dealer.

It was brought to our attention by both ministry investigators and individual motor dealers that disparities exist in the advertising standards enforced in the various regions of the Province. Many of these problems relate to the detailed disclosure requirements contained in the *Trade Practices Act,* which was not specifically examined in this audit.

We reviewed advertising in various cities and found that while most dealers were complying, there were still many instances of non-compliance with the vehicle pricing and dealer registration number requirements of the *Motor Dealer Act*. We also noted several instances of non-compliance with the disclosure requirements of the *Trade Practices Act*. There were noticeable differences in the degree of compliance between regions, and we conclude that these differences may be due to inequities in the standards of enforcement. Given that retailers in most locations in the Province compete for customers from other regions as well as from their own, motor dealer and consumers have the right to expect uniform advertising standards to be enforced across the Province.

We recommend that the Registrar of Motor Dealers periodically compare advertising from all regions of the Province, and direct investigators to take appropriate action where advertising does not meet the requirements of the* Motor Dealer Act. *We further recommend that the Manager of Compliance review advertising to ensure compliance with other relevant legislation.

Odometers

Section 34 of the Act prohibits persons from altering, disconnecting or replacing a motor vehicle's odometer with the intent to mislead a prospective purchaser as to the distance traveled by the vehicle. We believe that the ministry's inspections were insufficient to ensure that odometers were not tampered with.

We found that investigators did not always check the continuity of odometer readings between buy-in and sale documents. When they were checked, discrepancies or missing information was not always followed up. Buy-in documents were not compared to the actual odometer readings of vehicles in inventory. Documents relating to the repair or replacement of odometers were not examined, even though the Act requires that permanent written records of such work be kept. Several investigators stated plainly that they knew or suspected that significant odometer roll-backs were occurring, but this was not being actively investigated.

We recommend that the Registrar of Motor Dealers require the examination of odometers and supporting documents as part of routine motor dealer inspections.

We recognize that a number of factors complicate this issue. It is our understanding that vehicles with rolled-back odometers may have been brought into British Columbia. However, in order for charges to be laid, it is necessary to know where an offence occurred. Since there is no national registry of vehicles, it is often difficult to determine where a vehicle originated, let alone prove if and where any tampering may have taken place. Consequently these cases are difficult to pursue. So, while our recommendation is aimed at dealing with odometer tampering in British Columbia, the combined efforts of regulators and law enforcement agencies in other jurisdictions would be needed to address the issue on a national basis.

Curbsiders

For regulation of the motor dealer industry to be effective, it is essential that all persons engaged in the business of the retail sale of vehicles be registered as motor dealers. Curbsiders (or "curbers") are persons engaged in the business of selling vehicles to the public, but are not registered. Curbsiding is prohibited under the *Motor Dealer Act* and is subject to a $250 ticket under the *Offense Act*.

Exhibit 3.2

Be Aware and Beware of Curbers

The private sale of vehicles accounts for close to 70% of used car transactions in B.C. While no one wants to discourage private sales, consumers should be aware and beware of curbers. Unregistered dealers, also known as curbers, often offer cars at discounted prices, but there are risks.

Some curbers alter odometers, fail to disclose liens, or misrepresent a vehicle's history. If you buy from unlicensed dealers you may find it hard to get compensation when there are problems.

Beware of unregistered dealers posing as private sellers; if you see the same telephone number repeated for different vehicles in newspaper ads, the seller is probably a curber.

Don't meet a seller at a mall or other public place to view vehicle, nor should you let him or her bring the car to you. Go to the sellers' premises, otherwise you have no way of tracking the person down should you encounter problems after the sale.

Make sure you examine the vehicle registration form closely. Insist on seeing the original, not a photocopy. Is the vehicle registered in the name of the seller? Verify the owner's address with the registration form and the location of the sale.

Does the vehicle identification number on the form match that stamped on the identification plate on the car dash? Check for evidence of tampering.

Beware if the price seems too good to be true, the seller insists on cash, needs payment right away, or if he or she says they are selling the car for a friend.

Don't let yourself be rushed.

If the seller claims to have owned the vehicle since it was new, or for any length of time, ask to see repair bills and maintenance records. Check with ICBC (1-800-663-1466) for the vehicle's accident history.

Check for liens against the vehicle—this can be done through the Personal Property Registry (250-387-6881), Government Agent's Offices, or ICBC.

Source: The Ministry of Attorney General publication "Buying a New or Used Vehicle"

In British Columbia, several unique circumstances make the practice of curbsiding more difficult than in other provinces. Because of the existence of a central automobile insurance and registration body, the Insurance Corporation of British Columbia (ICBC), curbsiders have a more difficult time obtaining salvage vehicles. ICBC requires all persons buying vehicles at their salvage auctions to be registered motor dealers. While this does require salvage yard owners to become registered dealers even if they are not engaged in the retail sale of vehicles, it does impede curbers' access to insurance write-offs.

Nonetheless, vehicles can be obtained privately, or be brought into the Province. Consequently we performed some testing of automotive advertising in the lower mainland and Vancouver Island for two days in the month of September 1997. We found instances of three and, in one case, four vehicles listed for sale with the same residential telephone number, and two instances of three vehicles for sale through a cellular number. Both of these circumstances, while not necessarily proof, strongly suggest the possibility of curbside selling. We found that the ministry does respond to complaints regarding curbside sellers, but does not actively seek evidence of unregistered sellers. We think this would be a worthwhile exercise and should be performed periodically.

We recommend that the Registrar of Motor Dealers periodically review automotive advertising for evidence of unregistered curbside sellers.

We became aware of situations encountered by some ministry investigators where registered motor dealers were supporting the activities of curbsiders. These cases typically involved circumstances where a dealer had a low-end vehicle on his lot which he did not wish to sell. Rather than display the undesirable vehicle, the dealer instead passed it on to a curbsider to sell. In one case that was brought to our attention, the motor dealer had gone so far as to provide the curbsider with one of the dealer's own demonstrator license plates. Clearly, it becomes significantly more difficult for ministry investigators to police curbsiding if it is tacitly supported by even a few legitimate motor dealers.

Leases

Leasing has become an increasingly important component of the new car market. According to Blackburn Polk Marketing Services, almost 50% of new cars and light trucks in Canada are now leased instead of purchased. The Motor Dealer Leasing Regulation stipulates the disclosures required in lease contracts, and describes requirements for overall readability. Given the significance of leasing transactions, we believe it has become just as important for ministry investigators to review documentation relating to lease transactions as it is for them to review documentation relating to the sale of new vehicles. However, we found that some investigators did not adequately review lease documents, or sometimes did not review them at all.

A detailed review of lease agreements has not been incorporated as part of the *Motor Dealer Act* Inspection Report.

Exhibit 3.4

Vehicle Lease Disclosure Requirements

Businesses that lease vehicles to consumers must provide consumers with:

- the retail selling price of the vehicle, the price on which the lease payments are based, and the interest rate applied to the lease contract;
- all costs to the consumer, such as the down payment, trade-in allowance, security deposit, administration fees and all taxes, levies, fees and advance payments;
- details of periodic payments, including the total number of payments, amount of each payment, payment dates, taxes on payments, and the total amount of all payments;
- all end-of-lease costs, including those for extra mileage, wear and tear, late payment penalties, and any requirement to pay the cost of returning the vehicle in as good condition as when the consumer first received it, apart from normal wear;
- total cost of the lease;
- whether there is an option to purchase;
- the conditions attached to buy-out options;
- a statement of all warranties and guarantees and any insurance provided for or required by the consumer;
- a statement of responsibility for maintaining and servicing the vehicle;
- the conditions and penalties for ending the lease early;
- a description of any restrictions of the consumer's use and enjoyment of the vehicle; and
- a complete description of the vehicle.

Source: The Ministry of Attorney General publication "Leasing a Vehicle . . . Know the Rules, Ask the Questions"

In fact, the inspection report makes no mention of leases. Some investigators commented that they were not familiar with the requirements for leases and therefore did not check for many significant disclosures. We believe an examination of compliance with the requirements for lease contracts should be a normal part of routine inspections.

We recommend that the Registrar of Motor Dealers require investigators to review documentation supporting lease transactions, and that this requirement be incorporated into the ministry inspection report.

Consignments

The Act and the Motor Dealer Consignment Sales Regulation require dealers to use a separate trust account for all proceeds received on the sale of consigned vehicles, and to enter into written contracts with vehicle owners. We

found that these requirements were not routinely verified. Starting this year, the Registrar has required dealers to report their trust account number and financial institution. We support this verification, but believe that it should be taken one step further. Investigators should ensure that consignment arrangements are in the form of written contracts when they examine buy-in documents for vehicles on dealer lots. When they examine sales documents, they should ensure that trust accounts are used for consignment transactions by tracing payments to trust account bank statements.

We recommend that the Registrar of Motor Dealers require ministry investigators to periodically confirm the existence and proper use of consignment trust accounts and agreements.

Enforcement

In order of increasing severity, a motor dealer's non-compliance with legal requirements may result in warnings, the issuance of tickets under the *Offense Act,* or the laying of charges as specified in the *Motor Dealer Act* or other legislation such as the *Trade Practices Act.* Not all instances of non-compliance automatically result in tickets or charges. Investigators have considerable discretion in determining whether a warning or a stronger remedy is appropriate, depending on the circumstances of each case.

The Registrar has not become directly involved in enforcement. The issuance of tickets and the laying of charges has been the sole responsibility of the ministry's investigators. While this seems a reasonable course of action, we found that there could be a greater degree of consistency between investigators in how compliance is enforced. All investigators indicated to us that direction as to the Registrar's expectations, in the form of written guidelines, would be helpful. We believe that the Manager of Compliance, who is responsible for the ministry's investigators, could provide useful input to ensure that any such guidelines are workable in practice, and should be included in this process.

We recommend that the Registrar of Motor Dealers, in conjunction with the Manager of Compliance, develop guidelines for the appropriateness of issuing tickets and the laying of charges.

We found that copies of tickets issued for *Motor Dealer Act* offenses were routinely forwarded to the Registrar and were appropriately included in dealer files. Ministry investigators also produce legal enforcement summaries for every proceeding that they take to court. Those summaries involving motor

dealers were not being forwarded to the Registrar. We believe that not only should these summaries be provided to the Registrar, but they should also be reviewed in conjunction with tickets and inspection reports, to determine: if it is in the public interest for the particular motor dealers involved to continue in operation or have their registration renewed; if charges under the *Trade Practices Act* or other statutes should also be pursued under the *Motor Dealer Act;* and, if the Registrar should develop or amend guidelines for the appropriate laying of charges for violations of the *Motor Dealer Act*.

We recommend that a copy of all enforcement summaries relating to motor dealers be provided by ministry investigators to the Registrar of Motor Dealers.

Compensation Fund

The Motor Dealer Customer Compensation Fund has been established to reimburse consumers for amounts up to $20,000 for specified losses that result from the actions of motor dealers. The fund is financed by annual payments made by all registered motor dealers, and claims against the fund are payable for the loss of down payments, deposits, consigned property, or the misappropriation of funds by registered motor dealers.

Overall, we found that the fund was being operated in compliance with the requirements of the *Motor Dealer Act* and the Motor Dealer Customer Compensation Fund Regulation.

Monies were paid only for eligible claims, and the claim amounts were reasonable and within the established limits as to dollar amount and time since losses were incurred. We also found no claims that had been denied which we feel should have been paid according to the Act and regulation. As well, fund revenues were being properly collected and recorded, and fund expenses were being properly paid from the balance of the fund. All required reports were prepared. As at December 31, 1997, the fund had a balance of approximately $1 million.

We did note some minor documentation deficiencies in the fund's claim records, but these were brought to the ministry's attention and have been rectified.

summary of recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled "*Motor Dealer Act*" are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

To improve compliance with registration procedures, the Office of the Auditor General recommends that:

- *the Ministry of Attorney General seek removal from the Motor Dealer Act Regulation, the requirement to use prescribed registration, renewal, amendment and cancellation forms, and substitute a requirement for information to be in writing and in a form acceptable to the Registrar of Motor Dealers; and*
- *all motor dealer applicants who are refused registration, and all dealers whose registrations have not been renewed, be informed of their right to a hearing, as prescribed in section 6 of the* Motor Dealer Act.

To improve monitoring activities, the Office of the Auditor General recommends that:

- *the Registrar of Motor Dealers review each dealer file when the dealer's registration comes up for renewal, and that this review be evidenced in writing;*
- *the Registrar of Motor Dealers provide ministry investigators with written instructions outlining the objectives of routine motor dealer inspections, minimum inspection procedures, and standard administrative practices;*
- *as a standard management control, the Manager of Compliance regularly review motor dealer inspection reports;*
- *the motor dealer inspection report be revised to include details of the amount and type of work performed, and a more accurate and comprehensive checklist for requirements of purchase and sale, lease, and consignment agreements;*
- *the Registrar institute a requirement to inspect new motor dealers soon after they have commenced operations.*
- *the Registrar develop a risk-based inspection system that incorporates dealer inspection and complaint histories as a significant factor in determining the timing of subsequent inspections;*
- *for every investigation involving a motor dealer performed by the Ministry of Attorney General's community justice investigators,*

an investigation summary should be forwarded to the Registrar of Motor Dealers;

- *during routine inspections, ministry investigators take copies of all contract forms used by motor dealers, and forward them to the Registrar for detailed review;*
- *the* Motor Dealer Act *Inspection Report be amended to include a question about whether the advertised price of vehicles is the total asking price, inclusive of accessories and items of optional equipment that are physically attached to it, transportation charges for its delivery to the dealer, and any pre-delivery and inspection service charged by the dealer;*
- *the Registrar of Motor Dealers periodically compare advertising from all regions of the Province, and direct investigators to take appropriate action where advertising does not meet the requirements of the* Motor Dealer Act. *We further recommend that the Manager of Compliance review advertising to ensure compliance with other relevant legislation;*
- *the Registrar of Motor Dealers require the examination of odometers and supporting documents as part of routine motor dealer inspections;*
- *the Registrar of Motor Dealers periodically review automotive advertising for evidence of unregistered curbside sellers;*
- *the Registrar of Motor Dealers require investigators to review documentation supporting lease transactions, and that this requirement be incorporated into the ministry inspection report;*
- *the Registrar of Motor Dealers require ministry investigators to periodically confirm the existence and proper use of consignment trust accounts and agreements;*
- *the Registrar of Motor Dealers, in conjunction with the Manager of Compliance, develop guidelines for the appropriateness of issuing tickets and the laying of charges; and*
- *a copy of all enforcement summaries relating to motor dealers be provided by ministry investigators to the Registrar of Motor Dealers.*

response of the ministry of attorney general

The Ministry of Attorney General is pleased with the in-depth review of the Motor Dealer Act *and the recognition that we have knowledgeable administrative staff handling the initial and ongoing registration of Motor Dealers. Our staff strives to maintain a well-organized and efficient system and as noted have developed a similar approach towards the administration of the Motor Dealer Customer Compensation Fund.*

The ministry is in the process of implementing the following to address the recommendations of the Auditor General. Many of the audit findings and recommendations regarding ongoing compliance of the motor dealers will be of assistance in developing procedures for our inspectors. Implementation will require only minor changes to our process and we expect this to be completed by September, 1998.

Forms (recommendation 1)

An Order in Council (OIC) removing Form 4 from the Regulation has been completed and a request for an OIC has been submitted to include the amended forms. Removal of the application form will require a change to legislation as the form is prescribed. We will consider this for future legislative sessions.

Notification of Right to a Hearing (recommendation 2)

All letters to applicants or dealers who are refused registration or renewal have been revised to clearly inform dealers of their right to a hearing.

Review of Investigation and Enforcement Summaries (recommendations 3, 9, 18)

The investigators now submit the investigation and enforcement summaries to the Registrar. The dealer's file will be reviewed by the Registrar at renewal to determine if it is in the public's interest for them to continue to be registered as a motor dealer. The conclusion will be noted in the dealer's file.

Inspection Process (recommendations 4, 7, 17)

The instructions on the inspection process are being updated to include the objectives of the routine inspection process, the minimum inspection procedures, standard administrative practices, the requirement to inspect new motor dealers soon after they have commenced operations and will include guidelines for issuing tickets and laying of charges.

Inspection Report (recommendations 5, 6, 10, 11, 13, 15, 16)

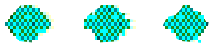
The inspection report is under revision and will include a checklist section requiring the inspector to review the sale, lease and consignment agreements and supporting documents, copy and submit to the Registrar all contract forms used, check advertising for compliance with the Trade Practices Act, *confirm actual odometer readings with supporting documents and review trust accounts. The inspectors are now forwarding a copy of completed inspection reports to the Manager of Compliance for management review.*

Risk-Based Inspections (recommendation 8)

The current computer system generates a risk-based next inspection date three months after an inspector issues a ticket but does not allow for inspector input based on other variables. The Branch has recently purchased a new computer system that will allow for a much more interactive approach and better reporting function for risk-based inspections.

Review of Advertising (recommendations 12, 14)

The Registrar will do periodic reviews of advertising from all regions of the province to ensure the dealer name and number is properly identified and will check for evidence of unregistered dealers. The Manager of Compliance will review advertising for compliance with the Trade Practice Act *and will check for consistency in enforcement action taken by ministry investigators.*



appendices

appendix a

Compliance-with-Authorities Audits Completed 1991 to Date

1997/98: Report 4

Loss Reporting in Government

Waste Management Permit Fees

Motor Dealer Act

1996/97: Report 10

Privacy: Collection of Personal Information by the Ministry of Health

Ethics Codes in the Public Sector

1995/96: Report 5: Issues of Public Interest

Special Warrants

Government Employee Numbers

Public Communications: Distinguishing Between Government Program and Partisan Political Communications

1995/96: Report 3

Home Support Services

Environmental Tire Levy

Safeguarding Moveable Physical Assets: Public Sector Survey

Consumer Protection Act—Income Tax Refund Discounts

Financial Administration Act, Part 4: Follow-up

1994/95: Report 5

Elevating Devices Safety Act

Travel Agents Act

Financial Administration Act: Guarantees and Indemnities

Land Tax Deferment Act

1993/94: Report 4

Statutory Tabling Requirements

Safeguarding Moveable Physical Assets

Treatment of Unclaimed Money

1993 Annual Report

Compliance with the Financial Disclosure Act

Order-in-Council Appointments

Compliance with Part 3 of the Financial Administration Act

Compliance with the Tobacco Tax Act

Financial Information Act: Follow-up

Small Acts

1992 Annual Report

Compliance with Part IV of the Financial Administration Act and its Related Regulations

1991 Annual Report

Compliance with the Financial Information Act, Regulation, and Directive

Compliance with Part IV of the Financial Administration Act and its Related Regulations

appendix b

Compliance Audit Objectives and Methodology

Audit work performed by the Office of the Auditor General falls into three categories:

- Financial auditing;
- Performance auditing; and
- Compliance-with-authorities auditing.

Each of these categories has certain purposes and objectives that are expected to be achieved, and each employs a particular form of audit practice to meet those objectives. The following is a brief outline of the objectives and methodology applied by the Office for compliance-with-authorities auditing.

Authorities

Under our Canadian system of government, laws approved by parliament and provincial legislative assemblies are of paramount importance to our society.

Acts passed by the Legislative Assembly of British Columbia, including the *Supply Acts*, the *Financial Administration Act*, the *Financial Information Act*, and many others, provide the government and government organizations with direction on managing resources entrusted to them by the public, and on being accountable to the Legislative Assembly for the execution of these responsibilities. These Acts, or statutes, provide the legal basis for funding, delivering and administering the Province's social, economic, environmental and other programs.

Accordingly, it is important that the government ensures compliance with these statutes and related authorities. It is also important that this compliance be independently reviewed to ascertain whether public sector activities are carried out *intra vires* (within the scope of their authority). This is where compliance-with-authorities auditing plays an important role.

Compliance-with-Authorities Auditing

Purpose of Compliance-with-Authorities Audits

The purpose of compliance-with-authorities audits is to provide an independent assessment as to whether or not legislative and related authorities are being complied with, in all significant respects.

In addition to separate compliance-with-authorities audits, the Office of the Auditor General also performs financial audits and performance audits. While auditing for compliance with legislative and related authorities is the primary objective of compliance-with-authorities audits, auditing for compliance with authorities may also be included as part of financial audits or performance audits where there are authorities that are relevant to the objectives of those audits.

Nature of Legislative and Related Authorities

Legislative and related authorities include legislation, regulations, orders in council, ministerial orders, directives, by-laws, policies, guidelines, rules and other instruments, including codes of ethics or conduct. Through these authorities, powers are established and delegated.

Legislation may delegate broad powers to governments, ministers and officials who, in turn, may establish other related authorities, such as policies, to provide more detailed requirements that must be complied with by the organizations concerned. Such authorities are subordinate to enabling legislation and must not contradict or go beyond the directions and limitations set out in that legislation.

These authorities represent a basis for legislative control over the source and use of public resources, the operation and administration of programs, and the manner in which organizations are held accountable for choices made in the exercise of their functions. The structure thus has pervasive effect on the activities of governments and other publicly accountable organizations. Authorities also form the basis for communication between elected officials and the bureaucracy.

Audit Standards

Auditors are expected to comply with established professional standards, referred to as generally accepted auditing standards. Our compliance-with- authorities audits are conducted in accordance with generally accepted auditing standards established by the Canadian Institute of Chartered Accountants (CICA). These consist of the general and examination standards in the CICA Handbook, and the reporting standards issued by the Public Sector Accounting and Auditing Board of the CICA.

Audit Selection

We generally select specific sections in an Act, or in several Acts, having common objectives. In most instances, we do not audit all aspects of an Act in the course of one audit.

The primary legislative instrument which provides for administration of the financial affairs of the Province is the *Financial Administration Act*. Therefore, compliance with this Act is of regular and ongoing significance to our Office. Other legislation and related authorities are considered for audit purposes on a more cyclical basis, depending on such factors as: the extent of impact on government, non-profit or private organizations and the public; the significance of financial accountability reporting requirements; the degree of interest by legislators and the public; and the likelihood and impact of non-compliance with legislated requirements.

Audit Process

The audit process adheres to the professional standards mentioned above. Of particular note is that compliance-with-authorities audits differ from other audits in their degree of dependence on the identification of relevant authorities and the interpretation of the meaning of the specific authorities being audited.

In order to identify the relevant authorities, the auditor must obtain an in-depth understanding as to how the authorities are themselves approved and how relevant authorities can be identified. The audit process includes determining that related authorities are within the limits prescribed by legislation, and that there are no obvious inconsistencies, contradictions or omissions in the authorities.

In addition, whether or not an authority is being complied with will often depend on its clarity, and the consistency in which its meaning is interpreted. Because of the importance of such interpretations, we seek professional legal advice where necessary.

In an examination designed to report on compliance with authorities, we seek reasonable assurance that the authorities specified in the audit report have been complied with, in all significant respects. Absolute assurance in auditing is not attainable because of such factors as the need for judgment, the use of testing, and the inherent limitations caused by differing interpretations in the meaning of authorities.

Reporting the Results of Audits

Our public report on each audit is in two parts: a formal audit report, showing the scope of the audit and our overall opinion on compliance, and a more detailed, explanatory report.

The formal report includes the auditor's professional opinion on whether or not the authorities that are the subject of the audit have been complied with, in all significant respects.

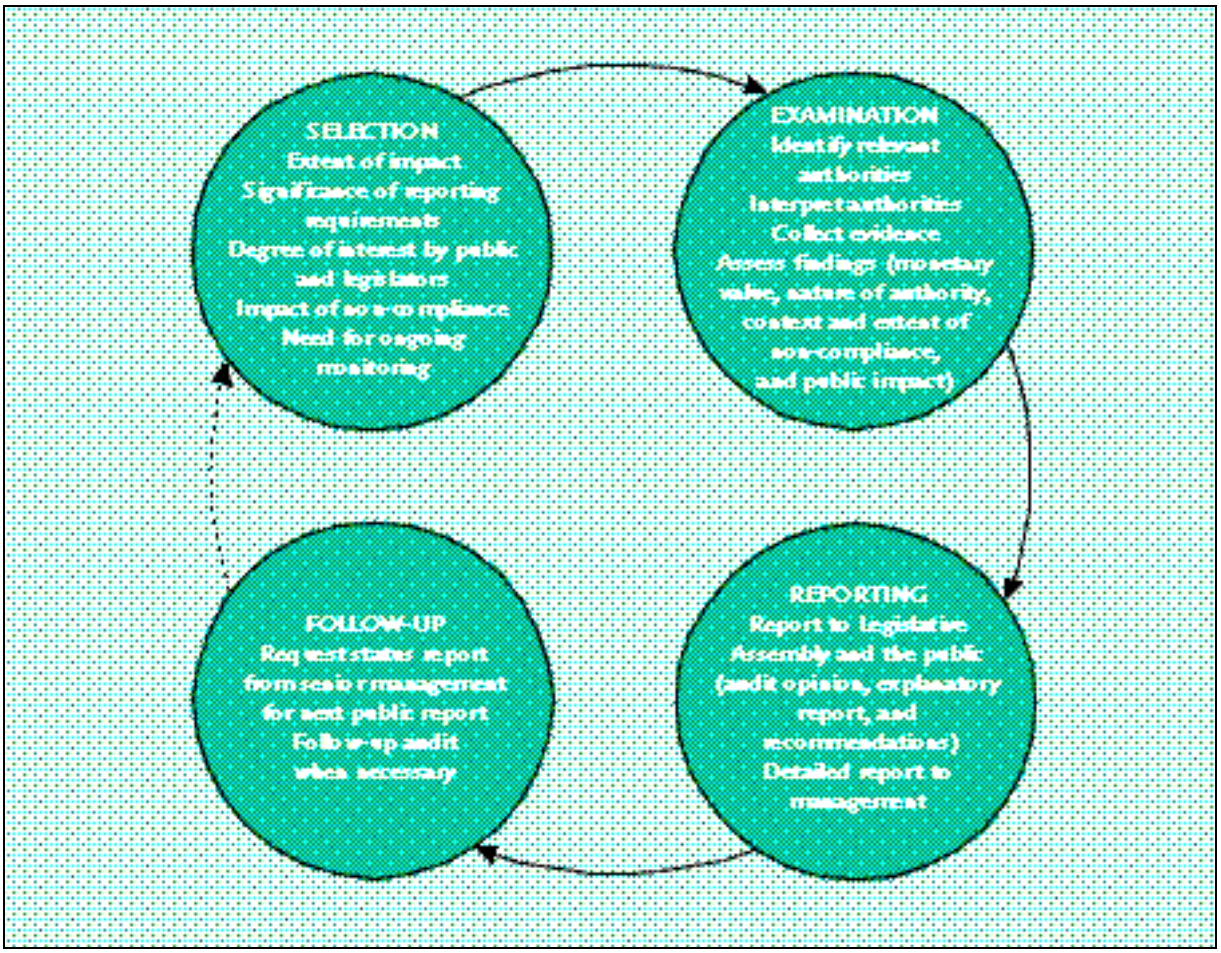
Our main considerations in assessing significance of non-compliance include monetary value, the nature of the authority or finding, the context within which compliance is to occur, and public interest.

In addition to the formal audit report, we provide a more detailed report that includes an explanation of what is required by the legislative and related authorities, the scope of our audit work, our overall observations, our detailed audit findings, and any other related observations.

Exhibit 4.1

Compliance-with-Authorities Audit Stages

An outline of the activities performed at each stage



When considered appropriate, we also make recommendations. The recommendations fall generally into three categories: to improve compliance with the legislative and related authorities; to improve operational effectiveness of the entity responsible for ensuring compliance; and, on occasion, to provide useful suggestions for improvements to existing authorities where they may have become administratively impractical or out of date.

There may be minor instances of non-compliance that either may not be detected by the audit or may not be worthy of inclusion in the report. We exercise professional judgement when assessing the significance of any non-compliance. For example, the needs of users of the report, the nature of the relevant authorities, and the extent of non-compliance must, among other things, be considered. As well, the significance of any non- compliance often cannot be measured in monetary terms alone.

We sometimes also issue a detailed management report of our findings to the ministry responsible for the legislation or the organizations affected by it. The relevant ministries or organizations are thus given an opportunity to respond to our findings, and we take this into account in the preparation of our public report.

When our public report on compliance-with-authorities audits completed in the past year is published, it is reviewed by the Select Standing Committee on Public Accounts of the Legislative Assembly of British Columbia. Recommendations made by the Committee in relation to our reports are followed up bi-annually by our Office with the ministries responsible to obtain from them a status report on their progress in implementing the Committee's recommendations. These status reports will be included in our next public report on compliance-with-authorities audits.

appendix c

Responding to Enquiries and Comments from the Public

During the year, a number of telephone calls, facsimiles and letters were received from the public and referred to the Compliance Auditing Unit for consideration. While all such communications are considered, we are not able to act on each one. Some matters are outside the scope of our Office, and for others, it is a question as to whether the information provided is specific enough, or important enough, to warrant diverting staff resources from our regular audit work. Sometimes, it is possible to include such matters as part of a larger audit, perhaps at a later date.

In some cases, although it may be a matter that we consider important, we decide that a ministry or other government organization is better suited to investigate. We do, however, request a report on the investigation, which we review to determine whether any further action by our Office is required.

The Office is responsible to, and reports to, the Legislative Assembly. The Office cannot undertake to report the results of any specific investigation back to the person who first raised the issue. However, because the information may be incorporated into our ongoing regular audit activity, the lack of any public report referring to an investigation does not mean that action is not being taken. If the Office investigates and considers the matter appropriate for reporting, it will be done in a public report.

During 1997/98, issues raised in 45 letters, facsimiles and telephone calls were considered. In addition, 2 issues raised in prior years were also considered. Except where the caller or writer was anonymous, we responded to each item received. The 47 issues and their disposition are as follows:

- We determined that seven issues were outside the jurisdiction of the Office. We made suggestions to the complainant about where they might turn.
- We referred one issue to the relevant ministry for investigation. This investigation found that the facts of the matter, as reported to us, were correct, but it was not in contravention of policy, as had been suggested.

- We investigated four issues ourselves. In one case, it was alleged that a particular government organization had spent money without the proper authority to do so, but we found that it did have the necessary authority. In the other three cases, we found that the facts as presented to us were not completely correct, and that as a result there was no issue that needed to be investigated.
- Twenty eight issues were either not specific enough for us to act on, or were dropped after initial enquiries had been made. Of these, nine were referred to audit teams who had already scheduled audits of the organizations concerned, in case the issue came up during the audit. As well, one has been brought forward for possible inclusion in a larger audit at a later date.
- We resolved four issues by simply providing information to the callers.
- We are still considering three issues.

appendix d

1997/98 Reports Issued by the Office to Date

Report 1

Performance Audit

Earthquake Preparedness

Earthquake Preparedness: Summary

Report 2

Report on the 1996/97 Public Accounts

Report 3

A Review of Governance and Accountability in the Regionalization of Health Services

Report 4

Loss Reporting in Government

Waste Management Permit Fees

Motor Dealer Act

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