



**STAFF REPORT
ACTION REQUIRED**

**Protecting Water Quality and Preventing Pollution –
Assessing the Effectiveness of the City’s Sewer Use By-
Law, Toronto Water**

Date:	October 10, 2008
To:	Audit Committee
From:	Jeff Griffiths, Auditor General
Wards:	All
Reference Number:	

SUMMARY

The objective of this audit was to determine if Toronto Water’s inspection and enforcement activities, including mandatory pollution prevention planning, are effective in ensuring businesses meet the requirements of the City’s Sewer Use By-law (Municipal Code Chapter 681 – Sewers).

Our review identified improvements to inspection and enforcement activities and pollution prevention planning. Due to limited staff resources, Toronto Water appropriately follows a risk management approach where the focus is on those businesses with a high risk to pollute. As part of our review, we also identified that some businesses that received the reduced water rate available for high volume water users that were not in compliance with the Sewer Use By-law are therefore, not eligible for the reduction.

The implementation of the recommendations will assist in improving the effectiveness of the Division.

RECOMMENDATIONS

The Auditor General recommends that:

1. The General Manager, Toronto Water, ensure that when new industries are identified, site visits be conducted as soon as possible in order to determine whether or not provisions of the Sewer Use By-law apply. In addition, any change in circumstance such as the closure of a business should be updated on the database.
2. The General Manager, Toronto Water, review the business location database to ensure that all important information such as potential to pollute, industry identification code and address are recorded for each business location.
3. The General Manager, Toronto Water, require that supervisory staff document their review of inspection reports. Non inspection activities such as telephone calls and meetings should not be reported as inspections.
4. The General Manager, Toronto Water review inspection and sampling targets to ensure that they are reasonable given risks to pollute and the staff resources available and report to City Council by September 2009 on recommended targets and resources required to meet those targets.
5. The General Manager, Toronto Water develop annual and quarterly inspection plans that meet the inspection and sampling frequency targets established by management. Further, actual inspection and sampling activities should be compared to targets by supervisory staff.
6. The General Manager, Toronto Water develop and implement tailored inspection checklists for certain industries to ensure that industry specific risks are addressed on a consistent basis.
7. The General Manager, Toronto Water, in consultation with the City Legal Division, reassess the City's authority to enforce the implementation of pollution prevention plans. Should it be determined that no such authority exists, the General Manager consider whether seeking such authority is necessary.
8. The General Manager, Toronto Water, ensure that officers determine whether a pollution prevention plan was completed and available on site during regular facility inspections.
9. The General Manager, Toronto Water, in consultation with the General Manager, Economic Development, Culture and Tourism, determine whether the on-line application currently being used by the Economic Development, Culture and Tourism Division to communicate various licensing requirements could be used

- to communicate to business owners the Sewer Use By-law requirements, including the submission of pollution prevention plans.
10. The General Manager, Toronto Water, develop criteria and procedures to guide the review and approval of pollution prevention plans including verification of the accuracy of the plan by:
 - comparing the plan to recent sampling results;
 - comparing the current plan to the previous plan to determine whether targets for reducing pollutants were being met; and
 - requesting companies to provide supporting documentation with their pollution prevention plans.
 11. The General Manager, Toronto Water, assign appropriate staff to the review and approval of pollution prevention plans to ensure as a minimum that plans are reviewed for high-risk industries and a sample of plans from low-risk industries.
 12. The General Manager, Toronto Water, ensure that timely enforcement action is taken where appropriate, for all identified violations of the Sewer Use By-law. Where enforcement action is not considered appropriate, reasons should be documented and reviewed by supervisory staff. Evidence of supervisory review should be documented.
 13. The General Manager, Toronto Water, monitor companies in the compliance program to ensure that they are meeting the terms of their agreement with the City. If a company fails to comply with their agreement, the compliance agreement should be terminated and appropriate and timely enforcement actions taken. Where management decides to amend, or not enforce the terms of an agreement, the reasons should be documented and approved by appropriate senior staff.
 14. The General Manager, Toronto Water, assess the feasibility of using infraction notices to enforce the Sewer Use By-law.
 15. The General Manager, Toronto Water review all participants in the reduced water rate program to ensure that they met, as at January 1, 2008, and continue to meet, conditions required to receive the reduced water rate. In circumstances where there is non-compliance immediate action be taken including the retroactive billing of previously reduced rates.
 16. The General Manager, Toronto Water, ensure that when sampling confirms that excess pollutants are being discharged into the sewer system the subject company be immediately advised that they may enter into a surcharge agreement. Immediate follow up be conducted in circumstances where companies do not respond within established time limits.

17. The General Manager, Toronto Water, evaluate all surcharge agreements particularly those that have been in existence for a significant period of time. This evaluation determines the appropriateness of the estimated values of wastewater discharges to the system. Further, all estimates be reviewed on a periodic basis in order to ensure that they are still appropriate.
18. The General Manager, Toronto Water, develop a fee policy for all surcharge agreements that reflects the cost of sampling and testing and that all companies subject to surcharge agreements be billed on a cost recovery basis.
19. The General Manager, Toronto Water, take steps to ensure that all financial terms of surcharge agreements are complied with. Interest on overdue payments owed to the City should be charged according to the terms of the surcharge agreement. Agreements should set interest rates in accordance with the rate prescribed by the Municipal Code.
20. The General Manager, Toronto Water ensure companies subject to sanitary discharge agreements provide, on a timely basis, the information required to calculate any amount payable, and that the City promptly bill and collect any amount due.
21. The General Manager, Toronto Water Division, in consultation with the Executive Director, Municipal Licensing and Standards Division, and the City Solicitor, review areas where reciprocal inspections between the two divisions would be possible and if appropriate, establish a written protocol governing such inspections.
22. The General Manager, Toronto Water, prior to the development or acquisition of any new work management system, re-evaluate in detail all reporting requirements relating to inspection, sampling and enforcement activities. Such an evaluation be conducted in concert with all users. Further, development of any new system be required to incorporate detailed performance measurement reporting as well as the reporting requirements outlined in this report.

FINANCIAL IMPACT

The implementation of recommendations in this report will improve the efficiency and effectiveness of inspection and enforcements activities. The extent of any resources required or potential cost savings resulting from implementing the recommendations in this report is not determinable at this time.

DECISION HISTORY

This report provides the results of Auditor General's review of Toronto Water's enforcement of the City's Sewer Use By-law. This review was conducted as part of the Auditor General's Annual Work Plan.

COMMENTS

The Auditor General's report entitled "Protecting Water Quality and Preventing Pollution – Assessing the Effectiveness of the City's Sewer Use By-Law", contains 22 recommendations and is attached as Appendix 1. Management's response to each of the recommendations contained in this report is attached as Appendix 2.

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SIGNATURE

Jeffrey Griffiths, Auditor General

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ATTACHMENTS

- Appendix 1: Protecting Water Quality and Preventing Pollution – Assessing the Effectiveness of the City's Sewer Use By-Law – Toronto Water
- Appendix 2: Management's Response to the Auditor General's Review of Protecting Water Quality and Preventing Pollution – Assessing the Effectiveness of the City's Sewer Use By-Law – Toronto Water