

**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**

Rec No.	Recommendation	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations when there is disagreement)	Action Plan / Time Frame
1.	<b>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.</b>	X		Toronto Water (TW) has focused on using a risk management approach with respect to the Sewer Use By-law. This approach involves ranking industries on the basis of substances utilized in their processes and their potential to pollute the wastewater system. This allows TW to prioritize compliance and enforcement work to focus on the greatest threat to the wastewater system while optimizing its limited resources and addressing other emerging issues. TW categorizes industry by risk groups. TW has used the following sources to determine if its industry listing is up to date, with a focus on finding any new high risk industries discharging to sewers. The review of business lists occurs on an annual basis and includes: the Scott's Business Directory, a well known and used directory of industry; the Federal Government's National Pollutant Release Inventory (NPRI) database list where major pollutant emitters across Canada need to report their pollutant emissions; and, the local Ministry of the Environment office industry listing. The research into these latter sources is in addition to the ground work conducted by By-law Officers who may come across new businesses in the course of their daily work. TW has been diligent in using the most comprehensive sources available to date to	Ongoing and assessed based on risk, with action taken quickly on high risk facilities. General database housekeeping by 4 <sup>th</sup> quarter 2009.

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				<p>identify new high risk industries using the sewer system. This risk based approach will continue to be used as it allows for the effective and efficient use of existing resources garnering the greatest benefit for the City. We recognize the relative importance of database housekeeping and it is given consideration in the context of other work that needs to be performed by the Division. The Auditor found a small percentage (1%) of the TW database had facilities listed as active when they were closed. The database will be updated as frequently as it can be, based on the risk of the discharger and available resources.</p>	
2.	<p><b>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.</b></p>	X		<p>TW will review its 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 in a timely manner. TW will re-train its staff to emphasize that data completeness is important.</p>	<p>Commence 4<sup>th</sup> quarter 2008 and target 4<sup>th</sup> quarter 2009 for completion.</p>

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3.	<b>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.</b>	X		TW Supervisors perform spot audit reviews of reports in hard copy form. TW will commit to searching for a method to document supervisory review of all inspection report. TW agrees that telephone calls should not be reported as inspections and instruct staff accordingly. TW has developed another method to report inspections. TW has removed the telephone call section from the Inspections module as of October 2008.	TW will research by the 4 <sup>th</sup> quarter of 2009 how best to document and record supervisory reviews of inspection reports which occur.  TW has removed the telephone call section from the Inspection module as of October 2008 and instructed staff how to report telephones on a go forward basis.
4.	<b>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.</b>	X		TW had initiated an internal program review that includes reviewing the inspection and sampling targets identified in its operational practice document known as "Practice 32". Following the review, if necessary, staff will address resource requirements during the 2010 Budget process.	December 2008 to July 2009 TW will review the inspection and sampling targets as well as resource levels and report to City Council, if required, as part of the 2010 Budget process.

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5.	<b>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.</b>	X		As part of the review and upgrades of the work management systems already underway, Toronto Water will determine if inspections schedules can be generated and reports provided to compare actual inspection and sampling against the targets.	It is anticipated following an assessment of the work management system to start in January 2009, quarterly tracking will begin with the current High Potential sampling frequency targets.
6.	<b>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.</b>	X		TW recognized in 2007 that tailored inspection checklists would assist to streamline inspections. Resource limitations have prevented their development, although in early 2008 a preliminary draft new streamlined inspection form was initiated to commence the process.	Starting in October 2008, efforts will commence to develop tailored and streamlined inspection forms. It is anticipated that by mid 2009, a draft will be available for pilot implementation, following incorporation into the work management system.

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7.	<b>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.</b>	X		TW agrees in light of the new City of Toronto Act, 2006 that the City's authority to enforce the implementation of pollution prevention plans should be re-evaluated by the City Legal Division.	TW has initiated a request with the City Legal Division to review the City's authority to enforce the implementation of pollution prevention plans in light of the new City of Toronto Act 2006.
8.	<b>The General Manager, Toronto Water, ensure that officers determine whether a pollution prevention plan was completed and available on site during regular facility inspections.</b>	X		Presently, one person is assigned to track the receipt of the plans with entry into the database for all staff to view. TW has advised By-law Officers of the requirement to ensure that pollution prevention plans are maintained on-site by affected businesses and to confirm this during their regular inspections.	In 2007 By-law Officers were informed to inspect if a pollution prevention plan was on site during a regular industry inspection. With the recent addition of new By-law Officer staff, in October 2008, all By-law Officers were advised of the requirement to determine during regular inspection that a pollution prevention plan is being maintained on-site by an affected business.

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9.	<b>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.</b>	X		TW agrees to initiate discussions with the General Manager of Economic Development, Culture and Tourism.	Discussions with Economic Development, Culture and Tourism will commence in November 2008.

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10.	<p><b>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:</b></p> <ul style="list-style-type: none"> <li>- comparing the plan to recent sampling results;</li> <li>- comparing the current plan to the previous plan to determine whether targets for reducing pollutants were being met; and</li> <li>- requesting companies to provide supporting documentation with their pollution prevention plans.</li> </ul>	X			<p>Action, if any to be taken with respect to this recommendation will be dependent upon the results of Legal Services review of the City's authority to enforce the implementation of the pollution prevention plans.</p>

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11.	<b>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.</b>	X		TW has assigned one individual to review a pollution prevention plan for completeness as defined in the By-law authority. TW uses a risk based management approach and high potential industries submitting pollution prevention plans are reviewed first. Review of completeness of information occurs for other risk industries when and if, time permits.	TW has protocols in place to satisfy this recommendation.
12.	<b>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.</b>	X		TW achieves a balance of compliance and enforcement action. Enforcement action is very much dependent on a set of particular facts for a particular situation. TW also employs a risk bases approach towards enforcement with serious By-law infractions having the greatest impact to the sewers or wastewater plant taken first versus an administrative reporting violation. TW typically sends a notice to companies in non-compliance to allow them the opportunity to correct the situation and/or respond to it within 30 days, without going to court. While TW would like all businesses to respond within 30 days to the notice, if a company sends in a response a little late but corrects the problem then the notice achieved its desired effect. If a company does not respond or does not initiate discussions with TW or does not appear to be taking any	Protocols currently exist.



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				corrective measures, then TW will commence enforcement action. It is at the discretion of the General Manager, Toronto Water to determine if a concerted effort is being made by the company to correct the problem and whether or not further enforcement is required.	
13.	<b>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.</b>	X		Similar to comment No. 12, appropriate action will be taken at the discretion of the General Manager, Toronto Water. Protocols will be established to ensure proper documentation exists when there is a deviation from the terms and conditions of the agreement.	Immediate implementation of protocols for any deviation from the agreement and that senior staff has approved the action.

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14.	<b>The General Manager, Toronto Water, assess the feasibility of using infraction notices to enforce the Sewer Use By-law.</b>	X		TW has already initiated a review with Legal Services to assess the effectiveness and benefit of this approach in the enforcement of the Sewer Use By-law considering the significant amendments to the Sewer Use By-law in the past two years.	To complete review by March 2009.
15.	<b>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.</b>	X		All program participants will be continually reviewed to determine if the eligibility requirements to receive the lower water rate of: a) Submitting a water conservation plan, and: b) Complying with the Sewer Use By-law are being met.  Program information will continue to be provided to Revenue Services who will implement the appropriate retroactive billing.	TW and Revenue Services have set in place protocols to regularly review the eligibility of industries to receive the lower rate.

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16.	<p><b>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.</b></p>	X		<p>There has been a review of all facets of the industrial waste surcharge agreement which commenced in 2007 with completion expected in December 2008. In the course of this review action was taken to remove delays from the process. TW will continue to evaluate how it can streamline the process further. Also, Legal Division advised a new notice letter should be used and commenced the process of revision.</p>	<p>Legal Division commenced a review of the existing notice letter with a revision having been provided to TW in October 2008 for review. Upon finalization of this notice letter, a process to streamline industrial waste surcharge notices will commence immediately.</p>
17.	<p><b>The General Manager, Toronto Water, evaluate all surcharge agreements particularly those that have been in existence for a significant period of time. This evaluation determine 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</b></p>	X			<p>Commence December 2008 with targeted completion in December 2009.</p>

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	appropriate.				
18.	<b>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.</b>	X		Agreed. TW had commenced a review of the fees charged and is awaiting the final recommendation.	Completion December 2008 and fee policy implementation by December 2009.
19.	<b>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.</b>	X		TW is restricted to the current terms and conditions of the Agreement until a revised Agreement is established. TW will continue working with Legal Services to revise Agreements which address the financial terms.	Completion by December 2009.

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20.	<b>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.</b>	X		TW will continue to follow-up with companies subject to sanitary discharge agreements in this regard.	Starting December 2008, TW will advise companies who do not submit sanitary discharge agreement reports on a timely basis to submit reports. TW will contact these companies on a quarterly basis.
21.	<b>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.</b>	X		Agreed	To set up meeting to discuss in November 2008.

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22.	<p><b>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.</b></p>	X		<p>In addition to the internal review of the changes required to the work management system, this component is included in the review to address the need for a Corporate work management system.</p>	<p>TW initiated the internal review in late 2007 and is participating in the Corporate review.</p>