

Submission No 3

**FOLLOW UP OF THE AUDITOR-GENERAL'S
PERFORMANCE AUDITS SEPTEMBER 2010 - FEBRUARY
2011**

Organisation: Environment Protection Authority
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Telephone:
Date Received: 4/04/2012

Our reference: ED12/208

4 - APR 2012

Mr Jonathan O'Dea MP
Chair
Public Accounts Committee
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Dear Mr O'Dea

I refer to your letter dated 28 February 2012 to Ms Sally Barnes, Acting Chief Executive, Office of Environment and Heritage (OEH) requesting a submission on OEH's response to the recommendations of the *Auditor-General's Report on Protecting the Environment: Pollution Incidents*. I apologise for the delay in responding.

The NSW Government has introduced an extensive reform package to strengthen environmental regulation. The reforms include provisions contained in the *Protection of the Environment Legislation Amendment Act 2011* which include establishing the Environment Protection Authority (EPA) as an independent, accountable and modern regulator. The EPA commenced on 29 February 2012.

The EPA's regulatory activities include responding to pollution incidents. These activities are carried out with the assistance of OEH, who continue to manage the system for reporting pollution incidents via the Environment Line.

The *Protection of the Environment Legislation Amendment Act 2011* also contains strengthened requirements for industry to report and respond to pollution incidents, improve communication and information to the community about industry environmental performance, and ensure response agencies are well coordinated and have the necessary information to be able to effectively manage and respond to pollution incidents. These provisions include:

- Requiring industry to report pollution incidents immediately (rather than as soon as practicable) to all relevant response agencies and doubling penalties for failing to do so. These new provisions will ensure that industry and relevant agencies are able to respond promptly and without delay to pollution incidents.
- Requiring all holders of Environment Protection Licences to prepare, implement and test pollution incident response management plans. Plans will need to include actions taken to protect communities and the environment from a pollution incident and clearly specify procedures to inform local communities.
- Improving community access to information about industry performance. Licensees are now required to make publicly available monitoring data collected as a result of a licence condition. EPA and other regulatory authorities such as local government regulators will also need to expand regulatory information available on their public registers.

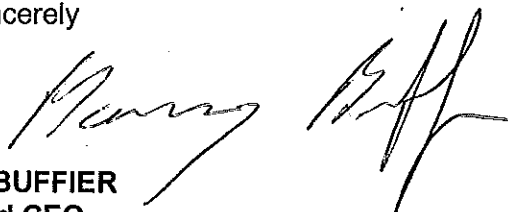
The EPA and OEH have also implemented the majority of recommendations contained in the *Auditor-General's Report on Protecting the Environment: Pollution Incidents*. The attached completed template summarises progress and actions taken.

The actions still in progress have required extensive enhancements to software systems to enable improved management and reporting capacity. It was initially proposed that short term enhancements could be made to OEH's Environment Line database so that some of these recommendations could be partially actioned. Unfortunately testing of these enhancements resulted in instability and major risks to the existing system. Therefore these changes were not able to be progressed. Enhancements to the overall system are on track to be completed by July 2012.

While enhancements to software systems have been delayed, the EPA has implemented a number of improvements to the collection, collation and analysis of data. The data is regularly reviewed by senior management to monitor performance and direct/target EPA activities.

If you require further information on the progress of the audit findings please contact Lynne Neville, EPA's Acting Director Reform and Compliance on (02) 9995 5464.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Buffier', written in a cursive style.

BARRY BUFFIER
Chair and CEO
Environment Protection Authority

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PERFORMANCE AUDIT – *Protecting the Environment: Pollution Incidents*

IMPLEMENTATION OF RECOMMENDATIONS

RECOMMENDATION	ACCEPTED OR REJECTED	ACTION TO BE TAKEN	DUE DATE	STATUS AND COMMENT	RESPONSIBILITY
<p>1 The department should implement centralised recording and analysis of key information to improve the quality of data used for decision making and measuring performance, including:</p> <p style="padding-left: 40px;">a. for each pollution incident report, accurately record in a central database:</p> <p style="padding-left: 80px;">i. the EP number of the</p>	<p>Accepted in part – not all pollution incidents relate to licensees.</p> <p>This field already</p>	<p>DECCW will make enhancements to its software systems to include the additional functionality required and enhance overall management and reporting capacity.</p>	<p>March 2011</p>	<p>Delayed - enhancements to software systems. As a short term measure, enhancements were proposed to the existing Environment Line database. Testing of these enhancements were conducted in December 2010, however this resulted in instability to the system. Accordingly a decision was made to not progress this short term measure.</p>	<p>Environment Protection Authority(EPA)/Office of Environment and Heritage(OEH)</p>

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<p>licensee implicated (page 14).</p> <p>ii. whether the report is made by the licensee (page 14).</p> <p>iii. the assessed risk of the pollution incident (pages 14 and 16).</p>	<p>exists.</p> <p>Accepted in part – records will include all relevant caller types.</p> <p>Accepted.</p>			<p>Enhancements to software systems to include overall management and reporting capacity is in progress and due for completion by July 2012.</p> <p>While enhancements to software systems have been delayed, the EPA has implemented a number of improvements to the collection, collation and analysis of data. This data is regularly reviewed by senior management to monitor performance and direct/target EPA activities.</p>	
<p>b. centrally check that compliance audit action plans are completed within required timeframes</p>	<p>Accepted - as advised in DECCW's formal response to the audit, regional officers</p>	<p>DECCW will amend its procedures to also ensure that where audits have been conducted by the central Environmental Audit Unit, regional officers report the</p>	<p>December 2010</p>	<p>Completed. Revised procedures have been implemented.</p>	<p>EPA</p>

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(page 15).	ensure that audit action plans are completed.	status of action plans centrally. The proposed software upgrades will improve performance management.			
c. regularly analyse the risk profile of pollution incident reports (page 16).	Accepted in part – DECCW already uses a risk based approach to determine the significance of each reported pollution incident. This informs the type of response to address the report.	In conjunction with making the above enhancements to software systems to record the assessed risk of pollution incidents reported, DECCW will investigate feasible options for centrally analysing and reporting risk profiles, subject to limitations of existing databases.	March 2011	Delayed. (See comments in 1 a. above.)	EPA/OEH
d. report on how many separate pollution incidents have	Accepted in principle – however it is not possible with current	As part of planned software system enhancements, DECCW will examine the feasibility of	March 2011	Delayed. (See comments in 1 a. and 1 c. above).	EPA/OEH

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occurred (page 17).	data base functionality to report on separate incidents. It should be noted that DECCW already reports the number of pollution incidents in its Annual Report.	including functionality that would enable reporting on how many separate pollution incidents have occurred.			
e. develop and regularly analyse results-based performance measures, including compliance rates. (page 20)	Accepted in part. As advised in DECCW's formal response to the audit, the Department already has a suite of performance	DECCW is currently reviewing its key performance indicators. The review includes considering whether additional indicators are required including those related to measuring compliance rates.	December 2010	Completed. A number of additional indicators have been developed and are regularly analysed by the EPA Executive. Further improvements to key performance indicators will be considered by the new EPA Chairperson and Board as part of preparing the EPA's first	EPA

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	indicators in place to monitor environmental performance and improvements These are reported in DECCW's Annual Reports.			Regulatory Assurance Statement, which is required to be tabled in Parliament.	
2	The department should regularly analyse the reasons that Environment Protection Licences are varied. (page 22)	Each variation notice will continue to contain the reasons why a licence is being varied. Notices will continue to be publicly available via DECCW's internet based public register.	Each time licence variation notices are issued.	Ongoing.	EPA
3	The department should better distinguish the Environment Line number for reporting	The website will be updated. The wording used on publications and brochures for promoting the	December 2010	Completed. The website has been updated so that information on reporting pollution incidents is more prominent. All relevant publications	OEH

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pollution incidents on its brochures, publications and website to make it easy for the public to report pollution incidents.(page 10)		Environment Line for reporting pollution incidents is being reviewed for use on all relevant new publications.		now clearly promote the Environment Line number for reporting pollution incidents.	
4 The department should make recommendations to the government on how to resolve the inconsistencies between the Protection of the Environment Administration Act 1991 and the Protection of the Environment Operations Act 1997 regarding environmental responsibilities in NSW. (page 23)	Accepted.	A report will be provided to the Minister for Climate Change and the Environment.	June 2011	Completed. A review conducted by OEH found that there were no inconsistencies between the two Acts. Therefore a recommendation was made to the Minister for the Environment that no action was needed in relation to this Audit recommendation. This Minister has confirmed that no action is required.	EPA