



STAFF REPORT ACTION REQUIRED

Drinking Water Licensing Program Update

Date:	August 9, 2011
To:	Public Works and Infrastructure Committee
From:	General Manager, Toronto Water
Wards:	All
Reference Number:	P:\2011\Cluster B\TW\pw11009

SUMMARY

The purpose of this report is to update City Council on the Licensing of the City's drinking water system by Toronto Water as now required by Ontario's *Safe Drinking Water Act*. The report provides specific information on the implementation of the Drinking Water Quality Management System (DWQMS) and the process to obtain Full Scope Accreditation from the Canadian General Standards Board.

In addition, the report informs City Council of their responsibility under the *Safe Drinking Water Act*, in particular, the statutory Standard of Care provision which will come into force on January 1, 2013. Staff are also recommending to retain the Walkerton Clean Water Centre to deliver a Standard of Care training session to the members of the Public Works and Infrastructure Committee and any other interested City Councillor.

RECOMMENDATIONS

The General Manager of Toronto Water recommends that:

1. City Council grant authority to retain the Walkerton Clean Water Centre to deliver the Standard of Care – Safe Drinking Water Act training session to members of the Public Works and Infrastructure Committee and any other interested City Councillor for a fee of \$1,356.00 including HST and charges.

Financial Impact

The total value of the assignment identified in this report is \$1,356.00 including HST and charges. The cost to the City is \$1,221.12 net of HST Recoveries. Funding for this

assignment is included in the approved 2011 Toronto Water Operating Budget in account PW4013, PW Facilities Technical Training.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In accordance with requirements of Ontario's *Safe Drinking Water Act*, and fulfilling the requirements of the City of Toronto's Drinking Water License, Council has previously provided authorizations, through reports submitted to the Public Works and Infrastructure Committee, summarized in the following:

The report entitled "Designating the General Manager of Toronto Water as the Owner Representative for Implementation of the Drinking Water Quality Management Standard" was approved by Council at its meeting of July 16 to 17, 2007. A copy of the Council Decision Document can be found at:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-07-16-cc11-dd.pdf>

The report entitled "Signing Authority for Municipal Drinking Water Licensing Program" was approved by Council at its meeting of November 30 to December 7, 2009. A copy of the Council Decision Document can be found at:

<http://www.toronto.ca/legdocs/mmis/2009/cc/decisions/2009-11-30-cc42-dd.htm>

The report entitled "Authority to Enter into Agreement for Municipal Drinking Water System Operating Authority Accreditation" was approved by Council at its meeting of February 22 to 23, 2010. A copy of the Council Decision Document can be found at:

<http://www.toronto.ca/legdocs/mmis/2010/cc/decisions/2010-02-22-cc46-dd.htm>

The report entitled "Financial Plan for the City of Toronto's Municipal Drinking Water License" was approved by Council at its meeting of July 6, 7 and 8, 2010. A copy of the Council Decision Document can be found at:

<http://www.toronto.ca/legdocs/mmis/2010/cc/decisions/2010-07-06-cc51-dd.htm>

ISSUE BACKGROUND

Drinking Water Licensing Program

The *Safe Drinking Water Act* has many requirements for both "Owners" and "Operating Authorities" of municipal residential drinking water systems. By definition, the Owner includes every person who is a legal or beneficial owner of all or part of the drinking water system. An Operating Authority means the person or entity that is given responsibility by the Owner for the operation, management, maintenance or alteration of the system. While the City of Toronto is both Owner and Operating Authority for its municipal drinking water system, it was necessary to identify a representative of the Owner to address the requirements of the Drinking Water Licensing Program.

In July 2007, City Council designated the General Manager of Toronto Water as Owner Representative including the responsibility for making all required submissions to the Ministry of the Environment (MOE) for the Drinking Water Licensing Program and communicating relevant information to the Public Works and Infrastructure Committee.

The proclamation of Section 33 of the *Safe Drinking Water Act* began the transition from the MOE's Certificate of Approval Program to the new "Municipal Drinking Water Licensing Program". The changes to the approvals process address recommendations from Justice O'Connor's *Report of the Walkerton Inquiry*.

A Municipal Drinking Water Licence will only be issued to an Owner of a municipal drinking water system if:

- (a) a drinking water works permit has been issued for the system;
- (b) operational plans for the system satisfy specific MOE requirements for the particular system or type of system;
- (c) the system is operated by an accredited operating authority;
- (d) financial plans for the system satisfy the requirements under the Act;
- (e) a permit to take water has been issued under section 34 of the *Ontario Water Resources Act*, if the licence relates to a part of a system that takes water from a raw water supply and a permit to take water is required under that Act.

The City had in place the necessary permits to take water and drinking water works permits. However, Toronto Water was required to prepare a new operational plan, a financial plan and become an accredited Operating Authority to fully comply with the requirements of Act.

One of the requirements for becoming an accredited Operating Authority is the need to develop and maintain a Quality Management System (QMS) that complies with the MOE's Drinking Water Quality Management Standard (DWQMS). The City's QMS must be fully documented in the Operational Plan that was submitted to the MOE for their review and acceptance.

Statutory Standard of Care

In February 2011, the MOE circulated to all Members of Council, through the City Clerk's office, a copy of "Taking Care of Your Drinking Water: A Guide for Members of Municipal Councils". The Guide provides basic information for members of a municipal council regarding their legal duties and responsibilities related to the *Safe Drinking Water Act* and, specifically, the statutory standard of care under Section 19 of the Act.

Section 19 of the *Safe Drinking Water Act* was proclaimed in May 2007 and will come into force on January 1, 2013. This section imposes a statutory standard of care on those who have decision-making authority and oversight over municipal drinking water systems. Section 19 applies to every person who oversees an accredited operating

authority for a municipally-owned system and every person who exercises decision-making authority over that system. Depending on specific circumstances and individual responsibilities, this duty of care may extend to individual Municipal Councillors.

COMMENTS

Owners and Operators Responsibilities

The MOE's Drinking Water Licensing Program ensures that the City of Toronto drinking water system will have:

- an accredited operating authority for the drinking water system;
- a developed and implemented quality management system;
- an operational plan with documented policies and procedures;
- a Council approved financial plan; and
- a commitment to continually review and improve quality management practices.

Owners and Operating Authorities are required to:

- provide drinking water that meets all prescribed drinking water quality standards;
- operate in accordance with the *Safe Drinking Water Act* and its regulations;
- ensure the system is kept in a state of good repair;
- ensure appropriate staffing levels and supervision by qualified persons;
- comply with all sampling, testing and monitoring requirements; and
- meet all reporting requirements.

City of Toronto employees are vested with the same responsibilities as Council members and are required to ensure a Drinking Water Quality Management System (DWQMS) is in place at all times in accordance with provincial regulations.

Update on Licensing and Accreditation

The City of Toronto is currently in the process of obtaining Full Scope Accreditation for its drinking water system. The key milestones and corresponding dates for the implementation of the Drinking Water Quality Management System (DWQMS) are as follows:

MILESTONE	DATE
Designation by City Council of the General Manager of Toronto Water as the Owner Representative for the Toronto Water Quality Management System.	July 2007
The General Manager and the Director Team of Toronto Water endorsed the Operational Plan for the City's drinking water system	November 3, 2008
Note: Toronto Water developed an Operational Plan to document a Quality Management System	

MILESTONE	DATE
Submission of the Operational Plan to the MOE	December 24, 2008
Limited Scope Accreditation received from the Canadian General Standards Board (auditing body subcontracted by the MOE to conduct DWQMS audits)	September 4, 2009
Confirmation of receipt of the Operational Plan by a letter received from the Ontario Ministry of the Environment	February 17, 2010
Council approved the Financial Plan prepared for the City of Toronto's Municipal Drinking Water System, in accordance with Ontario Regulation 453/07, for submission to the Ontario Ministry of Municipal Affairs and Housing.	July 6, 7 and 8, 2010
On-Site Audit by CGSB as a pre-requisite for obtaining Full Scope Accreditation status conducted at Metro Hall, Water Supply, R. L. Clark Water Treatment Plant and the R. C. Harris Water Treatment Plant.	May 16, 17, 18, 2011
Currently awaiting the audit report from CGSB	TBD

Third Party Audit

The On-Site Audit conducted in May 2011 of Toronto Water's Operational Plan addresses elements such as Education and Awareness, Continuous Improvement, Risk Management, State of Good Repair and Management Review. The audit was conducted by the Ministry of Environment's authorized audit and accreditation body, Canadian General Standards Board (CGSB) and is required every 3 years. Under the *Safe Drinking Water Act*, this Accreditation provides for municipal drinking water licensing which requires the renewal of Operational and Financial Plans every 5 years.

Overall the CGSB auditor was impressed by the Toronto DWQMS, staff dedication and professionalism. The auditor identified best practices in several areas including risk management, preventative maintenance, and operations manuals. In keeping with the continuous improvement cycle, opportunities for improvement were noted relating to equipment calibration, document control and use of log books by operators.

Toronto Water has already taken action on standardizing equipment calibration practices at all drinking water facilities and tracking regular maintenance schedules through use of a computerized work management system. In the near future, the City will receive a full report from the auditor and the City will be given 30 days to address in an action plan

how it will implement the required improvements. Upon the successful closure of the audit, the City will receive Full Scope Accreditation of the DWQMS.

Statutory Standard of Care

One of the many important recommendations that came out of the Walkerton Inquiry was that as "the safety of drinking water is essential for public health, those who discharge the oversight responsibilities of the municipality should be held to a statutory standard of care" (Justice Dennis O'Conner). Members of a Municipal Council have an important role to play in ensuring that their community has access to safe, high quality drinking water and they are legally obliged to do so.

Section 19 of the *Safe Drinking Water Act* expressly extends legal responsibility to people with decision-making authority over municipal drinking water systems. Anyone to whom the duty of care applies is required to exercise the level of care, diligence and skill that a reasonably prudent person would be expected to exercise in a similar situation. They must also act honestly, competently and with integrity, with a view to ensuring the protection and safety of users of the municipal drinking water system.

The *Safe Drinking Water Act* does recognize that those persons exercising decision-making and oversight roles may need to rely on experts and, accordingly, allows any person subject to the duty of care to rely in good faith on a report of an engineer, lawyer, accountant or other person whose professional qualifications lend credibility to the report.

Key Messages for Councillors

The three key messages for Municipal Councillors in the Guide are as follows:

- **It's Your Duty.** The statutory standard of care for individuals who have oversight responsibilities for municipal drinking water systems can extend to Municipal Councillors as of January 1, 2013. There are legal consequences for negligence, including possible fines or imprisonment.
- **Be Informed.** Ask questions. Get answers. Councillors don't have to be an expert in drinking water operations, but they do need to be informed about them. Council decisions can have an impact on public health. Councillors should seek advice from those with expertise and act prudently on that advice.
- **Be Vigilant.** Complacency can pose one of the greatest risks to drinking water systems. It is critical that Councillors never take drinking water safety for granted or assume all is well with the drinking water systems under their care and direction. The health of the community depends on diligent and prudent oversight of its drinking water system.

Training Course for Councillors

A training course has been developed by the MOE and the Walkerton Clean Water Centre with significant guidance and input from an Advisory Group of Municipal Councillors and Mayors. This three-hour training course is designed to inform Municipal Councillors and officials of their oversight responsibilities under Section 19 of the *Safe Drinking Water Act*. Several examples of waterborne disease outbreaks are examined which highlight the importance of competent oversight.

The course also describes some general information about drinking water systems, the multi-barrier approach to drinking water treatment and some of the risks associated with drinking water production and distribution. In order to address the keys messages of the Guide, it is recommended that the Walkerton Clean Water Centre be retained to deliver the Standard of Care – Safe Drinking Water Act training session to members of the Public Works and Infrastructure Committee and any other interested City Councillor.

CONTACT

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SIGNATURE

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General Manager, Toronto Water

ATTACHMENT

Walkerton Clean Water Centre, Standard of Care – Safe Drinking Water Act, Course Description



Course Title: Standard of Care – Safe Drinking Water Act

Contact Hours: 3.0

CEU Value: 0.3

Course Description:

This course was developed by the Ontario Ministry of the Environment and the Walkerton Clean Water Centre with significant guidance and input from an Advisory Group of municipal councillors and mayors. This course is designed to inform municipal councillors and officials of their oversight responsibilities under Section 19 of the Safe Drinking Water Act, which comes into effect on January 1, 2013. Severe penalties are possible for municipal officials who fail to act in good faith and do not exercise honesty, competence and integrity to ensure the protection and safety of the users of municipal drinking water systems. Several examples of waterborne disease outbreaks are examined which highlight the importance of competent oversight. The course describes some general information about drinking water systems, the multi-barrier approach to drinking water treatment and some of the risks associated with drinking water production and distribution. The participant will also learn about additional specialized training that is available.

Areas of study include:

- Understanding your oversight responsibilities as a councillor
- Section 19 of the Safe Drinking Water Act – legal responsibilities and due diligence
- The multi-barrier approach to drinking water safety
- Risk management & risk assessment
- Challenges to providing safe water
- Pathogenic organisms: the greatest tangible risk
- Case studies of waterborne disease outbreaks
- Achieving a culture of prevention & eliminating complacency
- Additional resources & specialized training will also be discussed

Target Audience:

This course is designed for mayors, councillors and municipal officials with oversight responsibility for drinking water treatment and/or distribution systems.