

Standard of Care Training Course for Members of City Council

Date: January 16, 2023

To: Infrastructure and Environment Committee

From: General Manager, Toronto Water

Wards: All

SUMMARY

The purpose of this report is to provide information concerning the responsibilities of members of City Council under the Province of Ontario's Safe Drinking Water Act (hereinafter referred to as the "Safe Drinking Water Act"), in particular the statutory Standard of Care provision, which came into force on December 31, 2012. This report also provides additional information regarding the City of Toronto Drinking Water Licence, Permit and Accreditation requirements and their historical context.

To support members of City Council to meet their responsibilities under the Safe Drinking Water Act, this report recommends that the Walkerton Clean Water Centre (an agency of the Government of Ontario) be hired by the General Manager of Toronto Water to conduct the Standard of Care Training course titled 'Responsibilities Under the Statutory Standard of Care – Safe Drinking Water Act' for members of City Council in 2023 at City Hall.

A date will be confirmed following direction from City Council and co-ordination with the Walkerton Clean Water Centre and the City Clerk's Office. Funding will be provided by Toronto Water for the cost of the trainer from the Walkerton Clean Water Centre.

RECOMMENDATIONS

The General Manager of Toronto Water recommends that:

1. City Council authorize the General Manager of Toronto Water to hire the Walkerton Clean Water Centre to provide the Standard of Care training course for all members of Toronto City Council at a cost of approximately \$2,050.00 net of all taxes

and charges (\$2,316.50 including all taxes and charges; \$2,086.08 net of HST recoveries); and

2. Subject to adoption of Recommendation No. 1, that all members of Toronto City Council be offered the Standard of Care Training course provided by the Walkerton Clean Water Centre in order to become better informed of their responsibilities under the Safe Drinking Water Act.

FINANCIAL IMPACT

The cost of the Standard of Care training sessions, provided by the Walkerton Clean Water Agency, is approximately \$2,050.00 net of all taxes and charges (\$2,316.50 including all taxes and charges). The cost to the City is \$2,086.08 net of HST recoveries. Funding is available within Toronto Water's 2023 Tabled Operating Budget - (Cost Center TW5015, external training and development).

There are no additional financial impacts associated with the adoption of the recommendations in this report to hold a Standard of Care training course titled 'Responsibilities Under the Statutory Standard of Care – Safe Drinking Water Act' for members of City Council.

The Chief Financial Officer and Treasurer 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 Licence, 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>

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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 "Drinking Water Licensing Program Update" was approved by Council at its meeting on September 21 and 22, 2011. A copy of the Council Decision

Document can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.PW7.4>

COMMENTS

Drinking Water Licensing Program and Renewal

The Province of Ontario's Municipal Drinking Water Licensing Program is administered by the Ministry of the Environment, Conservation and Parks ("MECP"). A municipal drinking water licence is an approval issued by the MECP to a municipal owner (i. e. the General Manager of Toronto Water on behalf of the City of Toronto) under the Safe Drinking Water Act for the operation of a municipal residential drinking water system.

The five requirements for the issuance of a Municipal Drinking Water Licence (MDWL) are:

- a Drinking Water Works Permit (DWWP): describes drinking water system components, focussing on the physical and technical capabilities of the system
- a Permit to Take Water (in our case to take water from Lake Ontario)
- an approved operational plan based on the Drinking Water Quality Management Standard
- accreditation of the City of Toronto (the Operating Authority) by a third-party audit of the Quality Management System provision; and
- an approved financial plan as required by the Financial Plans Regulation.

Having fulfilled these five requirements, the original licence was issued to Toronto Water in 2010. The Safe Drinking Water Act requires that every licence be renewed within a five-year period.

Accreditation Process

The accreditation process is a three-year cycle for all Ontario drinking water systems and is based on the MECP's Drinking Water Quality Management Standard ("DWQMS"). The audit is conducted by a third party and looks at the functioning of the Quality Management System through the documented operational plan and record reviews, interviews of staff and on-site tours. The Quality Management System helps to ensure compliance with all standards and regulations.

The audit of our drinking water system for re-accreditation was conducted by SAI Global (an audit and accreditation body authorized by the MECP). See Appendix B. An initial audit was undertaken in 2011 with additional full-scale on-site audits every three years, resulting in complete conformance to the DWQMS Standard on each occasion. Successfully passing the audit is required in order to be accredited (or re-accredited) and to receive and maintain a licence to operate a municipal drinking water system.

Statutory Standard of Care

Section 19 of the Safe Drinking Water Act, which came into force on December 31, 2012, imposes a statutory standard of care on those who have decision-making authority and oversight of municipal drinking water systems. It 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 extends to individual elected officials.

Under Section 19 of the Safe Drinking Water Act, 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.

In 2011 and 2015 the Walkerton Clean Water Centre delivered Standard of Care training sessions to members of City Council's Public Works and Infrastructure Committee.

In February 2011, the MECP circulated to all Members of City 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. A copy of the Guide is included here at Appendix A.

Update on Drinking Water Licensing and Renewal

In anticipation of an expiry on February 10, 2020, of the City's Municipal Drinking Water Licence, and application for renewal was submitted by Toronto Water to the MECP in August 2019.

The renewal process was successfully completed by Toronto Water and an updated Licence and Permit was issued to the City of Toronto on January 30, 2020 by the MECP.

Many of the updates in the newly issued Licence and the Permit were administrative in nature. The impacts of changes to the Toronto Water operations are minor and reflect the maturation of this Provincial licensing program.

Re-Accreditation Audit

As noted above, a municipal body must successfully pass an accreditation audit in order to obtain a licence to operate a municipal drinking water system. If an accreditation audit has previously been conducted, the municipality undergoes a re-accreditation audit process.

Toronto Water's most recent re-accreditation audit within the current review cycle was conducted by SAI Global, which took place from December 14 to 17, 2020 and included virtual site visits to R.L Clark, R.C. Harris, Island and F.J. Horgan Water Treatment Plants. Toronto Water achieved a perfect result from this re-accreditation audit with neither NC (non-conformity) nor OFI (opportunity for improvement). This is the third consecutive re-accreditation cycle that Toronto Water has achieved perfect audit results.

Since 2021, a new three-year cycle has started. 2021 was the first year of surveillance audit, during which Toronto Water received a perfect audit result. 2022 is the second year of surveillance audit conducted from December 12 to 13, 2022. Toronto has again attained a perfect audit result. The re-accreditation audit is scheduled for 2023.

It can be concluded from the trend of perfect results from Toronto Water's external audits that the Toronto Water DWQMS is both mature and effective. The auditor's findings confirmed that Toronto Water has effectively established and maintained a Quality Management System in accordance with the requirements of the DWQMS and the policies and procedures documented in the Operational Plan.

Additionally, Toronto Water was able to demonstrate continuous improvement of its Quality Management System using preventive and corrective actions. The auditor recommended that the City of Toronto maintain standing of the existing accreditation and a notice of acceptance was issued by the MECP (formerly the Ministry of the Environment and Climate Change) on February 11, 2015.

Update on Statutory Standard of Care

The MECP guide "Taking Care of Your Drinking Water: A Guide for Members of Municipal Councils" was published on May 30, 2016 and updated on June 24, 2021. It can be accessed through the MECP website at the following location: [Taking Care of Your Drinking Water: A Guide for Members of Municipal Councils | ontario.ca](https://www.ontario.ca/government/taking-care-of-your-drinking-water-a-guide-for-members-of-municipal-councils)

The three key messages for Councillors in the Guide are:

- **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. There are legal consequences for negligence, including possible personal 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.

It should be noted that under the Safe Drinking Water Act, a Councillor will not be considered to have failed to carry out a duty if he/she relies in good faith on a report of an engineer, lawyer, accountant or other person whose professional qualifications lend credibility to the report.

Training Course for Councillors

A training course has been developed by the MECP 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 elected municipal officials of their oversight responsibilities under Section 19 of the Safe Drinking Water Act. Several examples of waterborne disease outbreaks are examined that 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. (Please see Appendix C: Walkerton Clean Water Centre, Standard of Care – Safe Drinking Water Act, Course Description for further details).

With the adoption of the recommendations in this report, the General Manager of Toronto Water will facilitate, in conjunction with the City Clerk, a Standard of Care training course provided by the Walkerton Clean Water Centre for all members of City Council in 2023.

CONTACT

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SIGNATURE

Lou Di Gironimo,
General Manager, Toronto Water

ATTACHMENTS

Appendix A- Taking Care of Your Drinking Water: A Guide for Members of Municipal Councils

Appendix B- Certificate of Accreditation from SAI Global

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

Appendix A

Taking Care of Your Drinking Water: A Guide for Members of Municipal Councils

Much of the material in this guide has been adapted from the Ontario Municipal Water Association's 2004 handbook "Ontario Drinking Water Stewardship Responsibilities" with their permission. Information was also obtained from the following sources:

- American Water Works Association, 2009, *Water Basics for Decision Makers*
- Environmental Commissioner of Ontario, 2017, *Every Drop Counts: Reducing the Energy and Climate Footprint of Ontario's Water Use*
- Ontario Ministry of the Attorney General, 2002, *Part Two Report of the Walkerton Inquiry*
- Ontario Ministry of the Environment, 2006, *The Clean Water Act: Promoting Municipal Awareness and Understanding*
- Ontario Ministry of the Environment, 2007, "Drinking Water 101" course materials
- Ontario Ministry of the Environment, 2007, *Implementing Quality Management: A Guide for Ontario's Drinking Water Systems*
- Ontario Ministry of the Environment, Conservation and Parks, 2018, *2017-18 Chief Drinking Water Inspector Annual Report*
- Ontario Sewer & Watermain Construction Association, 2016, *Bringing Sustainability to Ontario's Water Systems*
- Pollution Probe, 2006, *The Source Water Protection Primer*
- Statistics Canada, 2015, *Survey of Drinking Water Plants*

Updated: June 24, 2021
Published: May 30, 2016

Appendix B



CERTIFICATE OF ACCREDITATION

This is to certify that the following operating authority:

City of Toronto

55 John St 18th Floor Metro Hall, Toronto, Ontario M5V 3C6 Canada

Refer to Attachment to Certificate of Accreditation dated January 5, 2021 for additional drinking water systems

operates a

Quality Management System

which conforms with the requirements of

DRINKING WATER QUALITY MANAGEMENT STANDARD VERSION 2 - 2017

for the following scope of accreditation

Full Scope - Entire DWQMS

Certificate No.:	CERT-0135482	Original Certification Date:	August 29, 2013
File No.:	016940	Certification Effective Date:	February 27, 2021
Issue Date:	January 5, 2021	Certification Expiry Date:	February 26, 2024



Frank Camasta
Global Head of Technical Services
SAI Global Assurance



DWQMS 2017

Accredited by:
QMS-SAI Canada Limited (SAI Global), 20 Carlton Court, Suite 200, Toronto, Ontario M6W 7Y5 Canada. This registration is subject to the SAI Global Terms and Conditions for Certification. While all due care and skill was exercised in carrying out this assessment, SAI Global accepts responsibility only for proven negligence. This certificate remains the property of SAI Global and must be returned to them upon request. To verify that this certificate is current, please refer to the SAI Global On-Line Certification Register: <https://www.sai-global.com/en-us/assurance/dwqms-certification/certification-register>



Appendix C



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 came 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.