

For Information Only

Drinking Water Quality Management System Update and Standard of Care Responsibilities

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Recommendation

Staff recommend that the WCWC be retained to deliver the 'Standard of Care – Safe Drinking Water Act' training course to Council members of the Operations Committee and any other members of Council or Senior Management Staff such as the Chief Administrative Officer, General Manager of Infrastructure, Chief Financial Officer, City Solicitor and others with oversight responsibilities for drinking water systems.

Finance Implications

The costs for WCWC to locally deliver the training session will amount to approximately \$1500 which will be covered from existing approved budgeted water training budgets so there would not be an expected financial impact to 2012 budgets.

Signed By

Report Prepared By

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Introduction:

The Safe Drinking Act of Ontario, 2002 (SDWA) is a comprehensive piece of legislation detailing many requirements associated with the supply of municipal water in Ontario. The SDWA contains provisions related to the statutory Standard of Care which are scheduled to come into force on December 31st, 2012 that will extend new responsibilities and liabilities to Senior Management Staff with oversight responsibilities and members of Greater Sudbury Council.

The purpose of this report is to inform members of Council of their standard of care responsibilities as owners of regulated municipal water systems owned by CGS.

The report also recommends that the Walkerton Clean Water Centre be retained to deliver their Standard of Care – Safe Drinking Water Act training session to members of Council this year.

Background:

There have been a large number of regulatory initiatives for Ontario municipal water supply providers in recent years. These initiatives are in support of the province's efforts to develop a robust and

comprehensive safety net to safeguard Ontario's drinking water from source to tap. The Safe Drinking Water Act (SDWA) and associated regulations are the cornerstones of the renewed legislative framework designed to reduce risk and help ensure that public water supplies are consistently delivering safe, high quality water.

CGS Senior Management Staff and Council Responsibilities

Although many of the regulatory requirements in the SDWA relate to the day to day operations and management of water systems, Sections of the SDWA are intended to address the specific issue of oversight. This initiative was derived from one of Justice Dennis O'Connor's important recommendations in his 2002 Report of the Walkerton Inquiry which states:

“Given 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.”

These specific responsibilities are outlined in Section 11 and Section 19 of the SDWA. The Ontario Ministry of the Environment has developed a guidance manual entitled “Taking Care of Your Water” (attached) to assist Councilors and Senior Management Staff to understand their responsibilities under the SDWA. The guide was developed with the assistance of an advisory committee comprised of subject matter experts and water sector stakeholders including several mayors and councilors, the Ontario Municipal Water Association (OMWA), Association of Municipalities (AMO), and the Walkerton Clean Water Centre (WCWC). The guidance manual highlights Section 11: Duties of Owners and Operating Authorities; and Section 19: Your Duty and Liability – Statutory Standard of Care as two key Sections of the SDWA of particular note to municipal Councilors.

Key Sections of the SDWA for Councilors and Senior Management Staff: Section 11 and Section 19

Section 11 of the SDWA describes the legal responsibilities of owners and operating authorities of regulated drinking water systems. Council and Senior Management Staff with oversight responsibilities share responsibility for having policies, management tools, and processes in place so that the municipality meets all of its legislative and regulatory requirements under the SDWA.

As it applies to CGS systems which are owned by the municipality, Councilors and Senior Management Staff should also be aware of Section 19 of the SDWA which describes the specific legal responsibilities of people with decision-making authority over municipal drinking water systems. Once in effect it will require that they exercise the level of care, diligence, and skill with regard to a municipal drinking water system that a reasonably prudent person would be expected to exercise in a similar situation and that they exercise this due diligence honestly, competently, and with integrity.

The SDWA does not expect Councilors to become experts in water supply and Section 19 allows for a person to rely in good faith on the report of an engineer, lawyer, accountant or other person whose professional accreditations lend credibility to the report.

Drinking Water System Licensing Program

The Ministry of the Environment has introduced this requirement which is intended to assist owners and operators of municipal residential water systems in meeting the statutory standard of care.

The Municipal Drinking Water Licensing Program includes a number of requirements to help demonstrate that the expected level of knowledge and expertise and the appropriate management and controls over drinking water systems suitable to comply with the SDWA have been implemented.

To obtain a municipal drinking water license, system owners (ie CGS) are required to:

- Have an accredited operating authority (CGS)

- Develop and maintain a quality management system (QMS)
- Implement the QMS through a Ministry accepted operational plan, and
- Prepare and endorse a financial plan for the water system.

CGS drinking water systems have all recently received final Accreditation following a Ministry review of the required elements. This demonstrates that CGS systems meet the expected due diligence standards on key topics such as education and awareness, continuous improvement, risk management, state of good repair, and emergency response capability.

Final accreditation required developing and obtaining provincial approval of both operational and financial plans as well as successfully passing an external audit conducted by the Canadian General Standards Board which is the Ministry's authorized audit and accreditation body.

CGS Staff Responsibility

Staff of the CGS is held to the same standard of care as Senior Management Staff and Council. CGS Staff is demonstrating appropriate oversight by complying with the licensing program provisions and following through with the ongoing system licensing obligations to help ensure our water remains safe.

Enforcement Provisions

Although our primary focus is on the consistent delivery of safe, high quality water to our citizens, Councilors and staff must be aware that not meeting the statutory standard of care may have serious legal consequences as anyone failing to carry out their standard of care duty is guilty of an offence and may be prosecuted.

The SDWA empowers provincial officers with the authority to lay a provincial offence charge against a person to whom the standard applies. The range of penalties for individuals includes maximum fines of up to \$4 million per offence for a first offence and provision for imprisonment for up to five years. Actual penalties would be determined by the courts in relation to the severity of the offence. Fines for municipalities and corporations are significantly greater.

Walkerton Clean Water Centre (WCWC) Training Course for Councilors

The WCWC offers a training course entitled 'Standard of Care – Safe Drinking Water Act' which has been specifically designed to inform municipal councilors and officials of their oversight responsibilities under Section 19 of the SDWA.

The three hour course was developed by the Ministry of Environment and the Walkerton Clean Water Centre with significant guidance and input from an advisory group of municipal mayors and councilors. The course describes several examples of waterborne disease outbreaks to 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.

Staff recommend that the WCWC be retained to deliver the 'Standard of Care – Safe Drinking Water Act' training course to Council members of the Operations Committee and any other members of Council or Senior Management Staff such as the Chief Administrative Officer, General Manager of Infrastructure, Chief Financial Officer, City Solicitor and others with oversight responsibilities for drinking water systems.

Walkerton Clean Water Centre

Standard of Care - Safe Drinking Water Act

Course Overview

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 December 31, 2012. 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.

Target Audience

Mayors, councillors and municipal officials with oversight responsibility for drinking water treatment and/or distribution systems.