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UPDATE ON THE PROPOSED TRANSFER OF RESPONSIBILITY OF SMALL DRINKING WATER SYSTEMS FROM THE MINISTRY OF THE ENVIRONMENT TO THE MINISTRY OF HEALTH AND LONG-TERM CARE

The Health and Emergency Medical Services Committee recommends that:

- 1. This report be circulated to the area municipalities for information and comment;**
- 2. Health Services staff be directed to meet with area municipal staff to clarify roles and identify potential service duplications;**
- 3. The Regional Chair be requested to send a letter to the Minister of Health and Long Term Care, copied to the Association of Municipalities of Ontario to express concern regarding the future cost sharing formula for this program and to clarify the Region's position regarding its future role and level of responsibility for this program;**
- 4. Staff be directed to prepare a report for consideration in the first quarter of 2007 regarding the Region's current responsibilities for drinking water systems, including a breakdown of the small drinking water systems inventory;**
- 5. The recommendation contained in the following report, August 17, 2006, from the Commissioner of Community Services, Housing and Health Services be adopted.**

1. RECOMMENDATION

It is recommended that:

1. Council receive this report for information.

2. PURPOSE

The purpose of this report is:

- To provide an update on the proposed transfer of responsibility for small drinking water systems (SDWS) from the Ministry of the Environment (MOE) to the Ministry of Health and Long-Term Care (MOHLTC).
- To outline the potential impact on York Region Health Services (YRHS).

3. BACKGROUND

In June 2005 the Health and Emergency Medical Services Committee received a communication from the MOE regarding the provincial government's commitment to improve regulations of drinking water systems. Committee directed staff to provide an update when further information became available.

3.1 Walkerton Commission of Inquiry

As a result of the outbreak associated with *Escherichia coli* O157:H7 (E. coli) contamination of Walkerton's water drinking system in 2000, the Walkerton Commission of Inquiry was called, led by Justice Dennis O'Connor. In the Report of the Walkerton Inquiry (2002), Justice O'Connor concluded that SDWS should be regulated and inspected, and recommended the creation of an advisory council on drinking water standards.

3.2 Advisory Council on Drinking Water Quality and Testing Standards

The Advisory Council on Drinking Water Quality and Testing Standards (Advisory Council) was established on May 12, 2004. After extensive consultation with drinking water experts and system owners and operators across the province, including sessions in smaller communities, the Advisory Council recommended the transfer of responsibility from the MOE to the MOHLTC for SDWS serving non-residential systems and seasonal residential systems, including systems servicing the following:

- Churches
- Motels/hotels
- Gas stations
- Restaurants
- Large resorts
- Industrial facilities
- Community halls
- Ball parks
- Arenas
- Large sports complexes
- Trailer parks
- Campgrounds
- Communal cottage systems

At the request of the MOHLTC, an inventory of SDWS was compiled by YRHS. A total of 683 SDWS were identified in York Region. The MOE reduced this number to 548 based on their definitions of drinking water systems. YRHS sent a letter to the MOHLTC Food Safety and Safe Water Unit regarding concerns with the inventory. The MOHLTC's response is included as Attachment 1.

A key recommendation of the Advisory Council was to step away from the prescriptive standards-driven approach of the *Safe Drinking Water Act* (SDWA) and its regulations

and to adopt a site-specific risk assessment model to be conducted by public health inspectors. This new approach would reduce financial costs to owners of SDWS while maintaining a high level of public health protection.

3.3. O. Reg. 252/05

The MOE will continue to oversee SDWS until the proposed transfer to the MOHLTC is completed, which is expected to occur in 2007. For the interim, MOE created O. Reg. 252/05 to establish a basic regulatory framework focused on maintaining a level of microbiological testing, reporting and corrective action. Once the proposed transfer is complete, O. Reg. 252/05 will be rescinded. Drinking water systems serving small and large municipal systems, non-municipal year-round residential systems and all individual systems of other categories serving designated facilities will remain with the MOE under O. Reg. 170/03.

4. ANALYSIS AND OPTIONS

The MOHLTC and MOE Deputy Ministers met September 12, 2005 to formally approve expected outcomes and timelines for the implementation of the proposed transfer of responsibility for approximately 17,200 SDWS across the province. A Joint MOHLTC/MOE Project Management Committee (JPMC) was formed to develop the strategies and tools required for the transfer. Special attention is being proposed to manage financial, regulatory and implementation issues.

4.1 Next Steps to be completed by MOHLTC

4.1.1 New Regulation under the *Health Protection and Promotion Act* (HPPA)

The MOHLTC will propose amendments to the HPPA and draft a new regulation under the HPPA. This will allow for the legislative authority to be delegated to the Medical Officer of Health or designate under the HPPA to inspect SDWS which currently does not exist and subsequently allow for the creation of regulations that will operationalize the control of these systems.

4.1.2 Risk Assessment Tool and MOHLTC Database

The MOHLTC developed a computer-based risk assessment tool for field assessments of SDWS. YRHS staff participated in the field testing phase of the tool and has provided input into improvements for the tool.

The MOHLTC proposes to develop a provincial database for SDWS.

4.1.3 Training of Public Health Inspectors

Provincial training sessions for public health inspectors are scheduled for late fall 2006 and again in spring 2007. The training components are still in the development stage.

Training may also be incorporated into the curriculum at Ryerson Polytechnic University. Additional training may be provided at Sir Fleming College and the Walkerton Clean Water Centre.

4.1.4 Drinking Water Operator Training

Under MOE O. Reg. 252/05, operators of SDWS are not required to be trained. This poses a challenge for administration of the program in that higher non-compliance rates are expected due to lack of training and lack of operator knowledge. Ensuring that operators are trained would greatly assist health units in program administration, as this would likely result in less adverse water results from poor sampling technique.

The MOHLTC has proposed health units will be required to train operators, though the scope of training and how it is to be delivered has not yet been determined.

4.2 Impact on the Regional Municipality of York

YRHS does not have the current human resource capacity to oversee an expanded safe water program. The MOHLTC is proposing health units may be conducting risk assessments of all SDWS over a two-year period from 2007 to 2008. The proposed program has human resource requirements and implications. Additional staff positions will be required to conduct the risk assessment of the 548 SDWS in the Region during the risk assessment period 2007-2008. There will also be human resource requirements beyond 2008 once YRHS assumes the responsibility for delivering routine compliance inspections of these systems. The results of the risk assessment will provide information about the number of systems that will require inspections as well as the required frequency of these inspections. In the absence of these results, it is not possible at this time to estimate the number of additional inspections that YRHS will be required to deliver under this proposed program and the resulting human resource implications; however, the required level of service delivery will exceed YRHS's current human resource capacity to deliver.

In addition, the added responsibility for inspecting various operations, conducting and completing risk assessments and enforcing regulatory requirements in respect of SDWS will mean that the Region, YRHS and staff, including inspectors, will be exposed to increased liability. Measures will need to be developed and implemented as necessary to minimize the increased liability to the extent possible.

4.3 Relationship to Vision 2026

YRHS supports the Enhanced Environment, Heritage and Culture goal under York Region's Vision 2026 by ensuring that York Region residents and visitors are provided with safe drinking water from drinking water systems through the administration of the Safe Water Program.

5. FINANCIAL IMPLICATIONS

MOHLTC is proposing temporary 100% funding for the transfer of responsibility to York Region Public Health until the beginning of 2009, at which time it will be converted to a cost-shared formula (75% / 25%) between MOHLTC and York Region. The MOHLTC has indicated funding levels will be announced in late 2006 and will be provided to each health unit based on the number of systems in the inventory.

6. LOCAL MUNICIPAL IMPACT

SDWS owned/operated by local municipalities such as community halls, libraries, ball parks, arenas and large sport complexes may become subject to the proposed legislation. These systems may require additional sampling and the installation of drinking water treatment devices, and may incur higher costs of water system maintenance.

7. CONCLUSION

The transfer of SDWS has been approved in principle by Cabinet and the MOHLTC and MOE are in the planning stages of the transfer.

To date, the MOHLTC has the following next steps to complete:

- Draft a new regulation under HPPA and propose amendments to the HPPA,
- Finalize the risk assessment tool and provincial database,
- Training program for public health inspectors, and
- Training program for drinking water operators.

Staff will bring forward a further report once YRHS receives further communication and update from MOHLTC.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the September 7, 2006 Committee meeting.)