Water Regulation Development

STATUS UPDATE

January 2016

How We Got Here

- Drinking water and wastewater treatment is a priority for First Nations communities and all levels of government, because it has a direct impact on human health and safety.

- While all provinces and territories have regulations governing drinking water and wastewater management, there are no regulations governing the same on-reserve.

- Calls for enforceable standards and protocols to better safeguard water quality on First Nation lands were made by the:

  - September Report of the Commissioner of the Environment and Sustainable Development (2005);

  - Report of the Expert Panel on Safe Drinking Water for First Nations (2006);

  - Safe Drinking Water for First Nations - Final report of The Standing Senate Committee on Aboriginal Peoples (2007);

  - National Assessment of First Nations Water and Wastewater Systems (2011); and

  - Standing Committee on Public Accounts – Chapter 4, Programs for First Nations on Reserves, of the 2011 Status Report of the Auditor General of Canada (2012).

Safe Drinking Water for First Nations Act

- The *Safe Drinking Water for First Nations Act* came into force on November 1, 2013.

- It is an **ENABLING Act** that allows the development of regulations to ensure protections for:

  – access to safe, clean, and reliable drinking water;

  – the effective treatment of wastewater; and

  – the protection of sources of drinking water on First Nation lands.

- The preamble to the *Act* commits the Minister of Indian Affairs and Northern Development and the Minister of Health to "work with First Nations to develop proposals for regulations to be made under this Act."

Strategy to Date – Region-by-Region Regulatory Development

- INAC and Health Canada have been working with First Nations, provincial government and other stakeholders to develop regulations based on incorporation by reference of provincial regulations into regional federal regulations.

- The process was underway to develop regional regulations three regions at a time, and phase the resulting regulations in over time to allow the Government and First Nation communities the opportunity to bring infrastructure and capacity to the levels required to meet regulations.

- **Phase 1 Regions:** Yukon, NWT and the Atlantic
- **Phase 2 Regions**: Saskatchewan, Manitoba and Ontario
- **Phase 3 Regions:** British Columbia, Alberta and Quebec

Where We Are Now

1. The Mandate letter provided to Minister Carolyn Bennet directed her to undertake a review of laws, policies and operational practices in partnership with First Nations. The scope and process for this review has yet to be defined.

2. December 2015 Assembly of First Nations Special Chiefs' Assembly passed a resolution calling for the repeal of the *Safe Drinking Water for First Nations Act.*

Taking Stock and Moving Forward

- **What we know:** First Nations leadership, technical experts and the federal government have agreed that all citizens should expect access to clean, safe and reliable drinking water, this includes citizens residing on First Nation lands.

- **Opportunity:** Work is on hold while it is determined what the review will cover and how it will be carried out. This provides an opportunity for First Nation stakeholders to share views, concerns and priorities before any further work is done.

- **Issues to consider:**

  - Should there be legal and enforceable standards for water and wastewater on-reserve? If so, what should be considered in developing them, and who should be involved?

  - Addressing Drinking Water Advisories (DWAs) is a joint priority, requiring investments in systems and people. Would legal and enforceable standards help safeguard communities in the future by defining what standards systems need to meet in order for them to be operated safely?

  - Alternative mechanisms to protect the health and safety of First Nation residents when it comes to water and wastewater?

  - Other?