



First Nations Safe Drinking Water Preliminary Concepts For Discussion Only

- 1. Goals of the First Nations Safe Drinking Water Legislation**
 - 1.1. Ensure Sustainable First Nations Water and Wastewater Systems
 - 1.2. Protect First Nations Rights, Interests, Aspirations and Laws Regarding Water
 - 1.3. Create a Transparent and Consent-Based Approach to Building, Improving, and Providing Drinking Water and Wastewater Services for First Nations
 - 1.4. Confirm Adequate, Predictable and Sustainable Funding for First Nations Safe Drinking Water and Wastewater Systems
 - 1.5. Support the Consensual Transition of Care and Control over First Nations Water Infrastructure to First Nations
- 2. Key Operative Elements of the First Nations Safe Drinking Water Legislation Draft Interest Framework**
 - 2.1. Recognition of First Nations Values, Culture, Knowledge and Relationships to Water
 - 2.2. Acknowledgement of the Roles First Nations have Upheld Regarding Waters in their Traditional Territories Since Time Immemorial
 - 2.3. Affirmation of First Nations Unique Values, Culture and Relationship to Water
 - 2.4. Acknowledgement of First Nations Role as Stewards of their Waters
 - 2.5. Respect for and Integration of Existing First Nations Laws and Legal Orders
 - 2.6. Respect for Traditional Ecological Knowledge/First Nations Ways of Knowing
 - 2.7. Nation-to-Nation Approach (Subsidiarity)
 - 2.8. Respect for and Implementation of First Nations Rights, Title, Treaties, Agreements, and other Constructive Arrangements
 - 2.9. Commitment to Achieving the Minimum Standards of the United Nations Declaration on the Rights of Indigenous Peoples
 - 2.10. Preference for Co-development and Co-drafting
 - 2.11. Consent-based Adoption of Joint Principles and Governance Structures
 - 2.12. Consent-based Adoption of this Legislation and all Regulations, Programs, Policies and Governance Structures Created by this Law, and Amendments Thereto
 - 2.13. Confirmation and Entrenchment of Federal Fiduciary Duty to Support Sustainable First Nations Operated Systems
 - 2.14. Recognition that First Nations are Entitled to the Same Basic Human Rights Enjoyed by all Canadians, Including the Human Right to Water
 - 2.14.1. Confirmation of Positive Duty to Implement this Right
 - 2.14.2. Confirmation of Equality and Non-Discriminatory Status
 - 2.14.3. Recognition of Special Needs of Vulnerable Populations (Elderly, Pregnant Women, Children)
 - 2.15. Multi-Barrier Approach to Drinking Water Safety
 - 2.16. Life-Cycle Asset Management Approach to Water Infrastructure
 - 2.17. Priority for Rectification at the Source



- 2.18. Integrated Watershed-Based Approach
- 2.19. Priority for Modern and Resilient Infrastructure
- 2.20. Pollution Prevention (Point, Non-point, On/Off Reserve)
- 2.21. Precautionary Principle
- 2.22. Intergenerational Equity
- 2.23. Public Trust Doctrine
- 2.24. Non-Ownership of Water
- 2.25. Priority for Best Available Technology/Techniques
- 2.26. All-Waters Approach
- 2.27. Climate Resiliency
- 3. Protection of First Nations Rights and Title**
 - 3.1. Aboriginal Rights
 - 3.1.1. Aboriginal Title
 - 3.2. Treaty Rights
 - 3.3. Fiduciary Obligations of the Crown
- 4. Definition of Safe Drinking Water**
 - 4.1. Confirmation of Minimum Standard for Individual and Communal Use and Right to Adequate Quantity and Quality of Water for Individual, Institutional and Economic Development Purposes
- 5. Scope of Safe Drinking Water**
 - 5.1. General Application To All Waters On-Reserve
 - 5.1.1. Surface Water
 - 5.1.2. Groundwater
 - 5.1.3. Groundwater under the Direct Influence of Surface Water
 - 5.1.4. Sacred Waters
 - 5.1.5. Trans-Boundary Waters
 - 5.1.6. Waters Possessing Personhood
 - 5.2. General Application To All Drinking Water and Wastewater Systems
 - 5.2.1. Small Systems (Private Household, Wells and Cisterns)
 - 5.2.2. Medium sized Systems (Schools, Community Centres)
 - 5.2.3. Community Systems (Water Treatment Plants)
 - 5.2.4. Delivered Water
- 6. Federal Jurisdiction**
 - 6.1. Fiduciary Obligations of the Federal Crown
 - 6.2. Federal Crown Liability
 - 6.3. Commitment to Transitioning Stop-Gap Measures (e.g. trucked water) into Sustainable Community Systems
 - 6.4. Affirmation of a Positive Duty to Act Regarding First Nations Safe Drinking Water and Wastewater Infrastructure
- 7. First Nations Jurisdiction**
 - 7.1. Acknowledgement of Existing First Nations Legal Orders, Laws and Rights
 - 7.2. Fiduciary Obligations of First Nations to their Members



- 7.3. First Nations Liability
- 7.4. Rights and Powers of First Nations to Address Offsite Contamination
- 7.5. Interface with Provinces and Federal Commitments to Support First Nations in Affirming and Securing Rights to Supply and Quality of Source Waters
- 8. Inter-Jurisdictional Governance**
 - 8.1. Federal-Provincial-Territorial-First Nations Committee on Safe Drinking Water Standards
 - 8.2. Source Water Protection Planning
 - 8.3. Jordan's Principle
 - 8.4. Subsidiarity and Harmonization (Interface Between Federal, Provincial and First Nations Laws)
- 9. Adherence to International Commitments**
 - 9.1. United Nations Sustainable Development Goals
 - 9.2. United Nations Declaration on the Rights of Indigenous Peoples
 - 9.3. International Boundary Waters Treaty
 - 9.4. Transboundary Waters
- 10. Source to Tap to Source Approach**
 - 10.1. Multi-Barrier Approach to Drinking Water Safety
 - 10.2. Life-Cycle Asset Management Approach
 - 10.3. Modern and Resilient Infrastructure
- 11. First Nations Safe Drinking Water Standards**
 - 11.1. Mechanisms to Review and Update Standards Regularly
 - 11.2. Mechanisms to Implement Region-Specific Standards where Warranted by Specific Water Concerns
- 12. Funding Arrangements**
 - 12.1. Confirmation of Funding Commitment to fully Fund Implementation of this Law
 - 12.2. Options
 - 12.2.1. Utilize Existing Funding Models
 - 12.2.2. Create Innovative/Hybrid Funding Models
 - 12.3. Elements
 - 12.3.1. Capital
 - 12.3.2. Operations and Maintenance
 - 12.3.3. Standard Development
 - 12.3.4. Certification and Inspection
 - 12.3.5. Training
 - 12.3.6. Emergency Response
 - 12.3.7. Watershed-Based Source Protection Planning
 - 12.3.8. Decommissioning/Waste Disposal
 - 12.3.9. Innovation
- 13. Source Water Protection**
 - 13.1. Rights and Powers of First Nations to Address Offsite Contamination
 - 13.2. Interfaces with Existing Water Management Regimes

**14. Watershed-Based Approach**

- 14.1. Interface with Provincial/Territorial Watershed Protection Legislation
- 14.2. Rights and Powers of First Nations to Address Offsite Contamination
- 14.3. Prevention Principle

15. Technical Standards

- 15.1. Location, Design, Construction, Modification, Maintenance, Operation, and Decommissioning of Water Systems.
- 15.2. Distribution Systems
- 15.3. Training and Certification of Operators
- 15.4. Monitoring, Sampling, Testing
- 15.5. Collection, Recording and Reporting of Information
- 15.6. Handling, Use and Disposal of Water and Wastewater Treatment Products
- 15.7. Mechanisms and Verification of Compliance with Regulations

16. Emergency Measures in Response to Contamination of Drinking Water**17. First Nations Water Commission**

- 17.1. Responsibility for Developing First Nations Drinking Water and Wastewater Standards
- 17.2. Responsible for Developing Regulations under this Act
- 17.3. Creation of Mechanisms to Review and Update Standards
- 17.4. Commitment to Co-Development and Co-Drafting

18. Mechanism to Review Federal Commitment**19. Transparency of Water Information Commitment (First Nations Public Registry)****20. Alternative Dispute Resolution Mechanisms****21. Enforcement**

- 21.1. Offences
- 21.2. Penalties
- 21.3. Appeal Mechanisms

22. Legislative Review Every 5 Years

- 22.1. Protocol for Joint Review Process
- 22.2. Minister's Annual Report on Implementation and Compliance

23. Timeframe for Initial Implementation**24. Procedure for Drafting of Regional Regulations**

- 24.1. National/Regional
- 24.2. Role of First Nations Water Commission
- 24.3. Recognition and Affirmation of First Nations Local Laws

25. Consequential Amendments

- 25.1. Review Interface with Existing Federal, Provincial, Territorial and First Nations Laws to Avoid Negative Unintended Consequences

26. Coming Into Force