What Are We Regulating?

• 1. Source Water
• 2. Water Use
• 3. Construction of Works
• 4. Treatment
• 5. Distribution
• 6. Testing and Monitoring
• 7. Operator certification

Who are the Players?

• Federal Government—INAC, HC, Public Works
• Provincial Governments
• Municipal Governments
• First Nations
Location, Location, Locations?
- Provincial lands
- Reserve lands
- Provincial lands → aboriginal
  - Reserve
  - Treaty lands
  - TLE reserve
  - Metis settlements
- First Nations → Metis settlement
- First Nations → provincial

Contractual Options
- FNLM contract under the Framework Agmt OR
- Informal Agmts
  - Federal/Provincial/Band (FN)/Municipal
  - Construction, delivery, distribution, certification, treatment, monitoring, testing, operators
  - Financing
  - Liability

The Gaps
- No systematic Federal legislation to address DW issues using a multi-barrier approach
  - including legislated standards for DW quality
- No commitment to long term, funding to establish and operate systems
- Liability gap
- Confusion regarding role of the provinces and provincial legislation
- Inequities in contractual agreements
- Etc.
2003
• Commissioner of the Environment and Sustainable Development determined that:
  • Residents of First Nations Communities do not benefit from a level of protection comparable to that of people who live off reserves
  • 75% FN DW systems significant risk
  • 30% were high risk
  • FN Water Mgmt Strategy to establish a monitoring program and establish standards protocols and policies

2005
• Commissioner for En’t & Sus Dev’t Audit
  – No laws or regulations yet in place
  – Little technical assistance to FN
  – Kashechewan

• Federal Action Plan
  – Protocol for Safe Drinking Water for FN
  – Mandatory training
  – Remedial plans for high risk communities
  – Commitment to reporting on progress
  – Creation of the Expert Panel

2006
• Report of the Expert Panel
  – Significant gaps in regulation
  – Recommends a federal law as framework
  – Offer a number of alternative solutions

• INAC identifies 193 high risk DW systems
2007

- INAC Reports on the Action Plan
  - 97 communities high risk
  - only 37% operators certified
  - Many communities have no treatment facilities and rely on raw source or hauled water
- Standing Senate Committee on Aboriginal Communities reviews all reports
  - INAC must commit funds
  - Recommends comp. consultation w. FN to develop leg’n collaboratively

2008-2009

- INAC releases DW and WW in First Nations Communities as a discussion paper
- INAC & Health Canada meet with National FN organizations as well as provincial & territorial
  - Incorporation by reference option is included
  - No report or feedback followed
- No report or feedback followed

Scope of Legislation

- Legally binding, consistent stds, for DW quality
- Clarification of roles of feds & FN
- Legally binding source water protection
- Binding national standards for construction operation and maintenance of treatment & distribution (all system types & methods including wells, cisterns and hauling)
- Binding national standards for construction operation and maintenance of waste water systems (all system types & methods)
- Required operator certification and OH &S
PLUS

- Transparent monitoring, sampling, reporting & auditing requirements
- Enforcement
- Emergency Response
- Liability- for the systems & their operation
  - Right to commence civil action
- Corresponding financial support for FN to address all req'ts under the Act