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**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

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**Who are the Players?**

- Federal Government—INAC, HC, Public Works
- Provincial Governments
- Municipal Governments
- First Nations

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### Location, Location, Locations?

- Provincial lands
- Reserve lands
- Provincial lands → aboriginal
  - Reserve
  - Treaty lands
  - TLE reserve
  - Metis settlements
- First Nations → Metis settlement
- First Nations → provincial

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### 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

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### 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.

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### 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

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### 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

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### 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

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### 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

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### 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

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### 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

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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

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