

**Proposed By-law for
Consideration by the
Board/Council of the
Grand Council of the
Crees/Cree Nation
Government**

**September 11-12, 2017
Board/Council Meeting**

CREE NATION GOVERNMENT

BY-LAW NO. ● CONCERNING THE QUALITY OF DRINKING WATER

Approved by resolution 2017- ● of the Council of the Cree Nation Government on December _ 2017.

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**CREE NATION GOVERNMENT BY-LAW CONCERNING
THE QUALITY OF DRINKING WATER**

WHEREAS water is indispensable to life and is a vulnerable resource;

WHEREAS ensuring clean, safe and reliable drinking water requires ongoing collaboration and information sharing;

WHEREAS it is appropriate to ensure an enhanced collaboration between the various stakeholders with a view of ensuring the quality of drinking water on Category IA lands;

WHEREAS it is of the utmost importance to ensure that drinking water is clean, safe and reliable at all times;

WHEREAS it is appropriate to adopt a By-law concerning the quality of drinking water applicable on Category IA lands;

WHEREAS pursuant to the *Cree-Naskapi (of Quebec) Act*, the Cree Nation Government may make by-laws respecting essential sanitation services, including water services, and health and hygiene in relation to those services;

WHEREAS the standards established under this By-law must be at least equivalent in their effect to any standards established by federal or provincial laws of general application in respect of the quality of drinking water;

WHEREAS it is appropriate to incorporate by reference certain provisions of Québec's *Regulation respecting the quality of drinking water* which consequently apply on Category IA lands;

WHEREAS it is appropriate not to incorporate certain provisions of Québec's *Regulation respecting the quality of drinking water* which consequently do not apply on Category IA lands;

WHEREAS it is appropriate to add requirements with a view of ensuring the quality of drinking water;

WHEREAS the Cree Nation Government may amend this By-law at any time to incorporate or exclude from its application on Category IA lands any standard of the Québec *Regulation respecting the quality of drinking water*, as such may be amended from time to time;

NOW THEREFORE the Cree Nation Government adopts this By-law, as follows:

I. SHORT TITLE

1. This By-law may be cited as the Cree Nation Government *Drinking Water Quality By-Law*.

II. INTERPRETATION

2. The Preamble forms an integral part of this By-law.
3. In this By-law, the masculine includes the feminine, the singular includes the plural and vice versa.
4. Unless otherwise indicated, words and expressions shall have the same meaning as in the *Cree-Naskapi (of Quebec) Act* and Québec's *Regulation respecting the quality of drinking water*.
5. For the purposes of this By-law:
 - a) “**CBHSSJB**” means the Cree Board of Health and Social Services of James Bay;
 - b) “**Certified Laboratories**” means laboratories accredited under section 118.6 of the *Environment Quality Act*, CQLR, c. Q-2;
 - c) “*Cree-Naskapi (of Quebec) Act*” or “**CNQA**” means the *Cree-Naskapi (of Quebec) Act*, S.C. 1984, c. 18, as amended from time to time;
 - d) “**Québec Entity**” means any Québec entity referred to in Québec's *Regulation respecting the quality of drinking water* and includes the Minister of Sustainable Development, Environment and the Fight against Climate Change, the Minister of Agriculture, Fisheries and Food and the Service d'Urgence-Environnement;
 - e) “**Person in Charge of Drinking Water**” means the person or persons in charge within the meaning of Québec's *Regulation respecting the quality of drinking water*, in a Cree community, and includes the operator or owner of a distribution system or facility, a tank truck or a withdrawal facility which distributes drinking water in Category IA lands, as applicable;
 - f) “**On-Site Testing Method**” means a commercially available and recognized method for testing the quality of drinking water and raw water to detect the presence of both total coliform and *Escherichia coli (E.coli)* and, where possible, the most probable number (MPN) of coliforms. The Colilert Test by IDEXX Laboratories is an example of such On-Site Testing Method;

- g) “*Québec’s Regulation respecting the quality of drinking water*” means the *Regulation respecting the quality of drinking water*, CQLR, c. Q-2, r. 40, as amended from time to time.

III. APPLICATION

6. This By-law shall apply on all Category IA lands.
7. The Cree Nation Government and each Cree band shall collaborate to ensure the implementation and enforcement of this By-law and shall designate appropriate person or persons to be responsible, at all times, for such implementation and enforcement.

IV. INCORPORATION BY REFERENCE

8. Subject to the provisions of this By-law as well as Part XVII of the *Cree-Naskapi (of Quebec) Act*, Section 9 of the *James Bay and Northern Québec Agreement* and section 35 of the *Constitution Act, 1982*, Québec’s *Regulation respecting the quality of drinking water* shall apply on Category IA lands.
9. For certainty, any person who makes water intended for human consumption available to users must ensure that the water meets the standards of quality of drinking water defined in Québec’s *Regulation respecting the quality of drinking water*. In particular, the Person in Charge of Drinking Water must ensure that the water meets the quality standards in Québec’s *Regulation respecting the quality of drinking water*.
10. For certainty, the monetary administrative penalties and the penal sanctions of Québec’s *Regulation respecting the quality of drinking water* shall not apply when an offence is committed on Category IA lands.
11. The Cree Nation Government shall have the same rights and powers as those of any Québec Entity under Québec’s *Regulation respecting the quality of drinking water*, subject to this By-law.
12. The rights and obligations of municipalities under Québec’s *Regulation respecting the quality of drinking water* shall be rights and obligations of the Person in Charge of Drinking Water.

V. CREE NATION WATER QUALITY OFFICER

13. The Cree Nation Water Quality Officer shall be appointed in accordance with the General By-Law of the Cree Nation Government. His main function shall be to ensure the implementation of this By-law.

14. The Cree Nation Water Quality Officer shall report to the person identified in his appointment.
15. The various departments of the Cree Nation Government, including Capital Works and Services and Environment and Remedial Works, shall provide the necessary support to the Cree Nation Water Quality Officer. The Executive Director and the Deputy Executive Director shall ensure that the various departments provide the necessary support to the Cree Nation Water Quality Officer.
16. In the absence of the Cree Nation Water Quality Officer or during any period during which no Cree Nation Government Water Quality Officer is appointed, the Coordinator of Engineering Services at Capital Works and Services will act as the Cree Nation Government Water Quality Officer without any further act of the Cree Nation Government; while acting as the Cree Nation Water Quality Officer, the Coordinator of Engineering Services will benefit from the support of the various departments and services of the Cree Nation Government as provided for under this By-law.
17. The Cree Nation Government may appoint another replacement, if required.
18. The Cree Nation Water Quality Officer shall:
 - a) within one year of his nomination, coordinate the development and thereafter take the necessary measures to maintain and update a Cree Nation public registry of information on the quality of drinking water and supporting software, including sampling and analysis results received from the Person in Charge of Drinking Water;
 - b) prepare and present an annual action plan and report to the Council of the Cree Nation Government on the activities and initiatives he contemplates for the upcoming year and on the results of his activities and initiatives contemplated by the annual action plan of the previous year; all recommendations and reports prepared by the Cree Nation Water Quality Officer shall be made public and shall be available online;
 - c) prepare and present reports at the request of the Council of the Cree Nation Government, its Executive and Management Committees and its Executive Director;
 - d) monitor and review federal and provincial legislative and regulatory developments; and in light of such developments, report and make recommendations to the Council of the Cree Nation Government on proposed amendments to this By-law or to any program of the Cree Nation Government in respect of drinking water quality;
 - e) develop budget proposals for his activities and initiatives;

- f) collaborate with the Person in Charge of Drinking Water to promote the implementation of this By-law; and
 - g) provide technical support and guidance to the Person in Charge of Drinking Water in order to enhance the quality of drinking water including assistance with respect to the On-Site Testing Method and its use.
19. In coordination with the Cree bands, the Persons in Charge of Drinking Water, the Departments of the Cree Nation Government, the CBHSSJB and the Cree School Board, as the case may be, the Cree Nation Water Quality Officer shall develop, implement, evaluate, publicize and amend programs, administrative codes and related guidelines as well as procedures and forms, to ensure and enhance the implementation of this By-law.
20. The Cree Nation Water Quality Officer shall also:
- a) collaborate with the Person in Charge of Drinking Water to evaluate the risks of drinking water related incidents, the prevention of such incidents, drinking water emergency response procedures and related matters;
 - b) coordinate with the Person in Charge of Drinking Water for the inspection, maintenance and testing of drinking water equipment as well as for the procurement of additional drinking water equipment;
 - c) review and interpret drinking water quality sampling results and communicate with relevant stakeholders with a view of facilitating the implementation of appropriate corrective measures, as the case may be;
 - d) coordinate with other entities, including the federal and provincial governments, regarding the quality of drinking water;
 - e) support the carrying out of drinking water quality and water supply facilities audits in collaboration with the Cree bands, the Departments of the Cree Nation Government and the CBHSSJB;
 - f) develop, recommend and implement action plans to improve the quality of drinking water on Category IA lands, including following the drinking water quality audits, in collaboration with the Cree bands, the Departments of the Cree Nation Government and the CBHSSJB;
 - g) identify the training needs to ensure the implementation of this By-law, develop training programs and plan and organize training sessions, in collaboration with the Cree bands, the Departments of the Cree Nation Government, the CBHSSJB and the Cree School Board;
 - h) identify technical support needs and coordinate with Cree bands, the Departments of the Cree Nation Government, and the Cree School Board with respect thereto

and to develop and implement solutions including with respect to aesthetic criteria for drinking water;

- i) report to the Council of the Cree Nation Government regarding the quality of drinking water on Category IA lands and recommend action plans and corrective measures;
 - j) collaborate in the preparation and the delivery of training and educational material to the Cree communities, in collaboration with the Cree bands, the Departments of the Cree Nation Government, the CBHSSJB and the Cree School Board;
 - k) collaborate with the Person in Charge of Drinking Water in relation to other matters of mutual responsibility;
 - l) collaborate in the development, implementation, evaluation and publicity of public education programs regarding drinking water; and
 - m) organize activities or initiatives with the various stakeholders in order to enhance the implementation of this By-law.
21. Every person shall collaborate with the Cree Nation Water Quality Officer to ensure the implementation of this By-law.
22. The Cree Nation Water Quality Officer and the Person in Charge of Drinking Water shall identify any issue or risk related to the protection of water sources and shall issue recommendations on appropriate measures to remedy or mitigate, as the case may be, such issue or risk.
23. The Cree Nation Water Quality Officer may suggest the development of other by-laws respecting the quality of drinking water including the protection of water sources to appropriate authorities.
24. The Council of the Cree Nation Government, its Executive and Management Committees, and its Executive Director and the Deputy Executive Director, may direct the Cree Nation Water Quality Officer to report on any issue related to its functions and mandate, including with respect to his annual action plan, and may give instructions to the Cree Nation Water Quality Officer.

VI. COMMUNICATION OF INFORMATION TO THE CREE NATION GOVERNMENT AND THE CBHSSJB

25. Every document, declaration, information, result or notice, the communication, making available or sending of which to a Québec Entity, a system user, a public health director or a Person in Charge of Drinking Water is required under Québec's *Regulation*

respecting the quality of drinking water, shall also be sent, in the same manner, to the Cree Nation Water Quality Officer.

26. For certainty, every document, declaration, information, result or notice, the communication, making available or sending of which to a public health director is required under Québec's *Regulation respecting the quality of drinking water*, shall be sent, in the same manner, to the public health director of the CBHSSJB.
27. For certainty, the laboratories shall also send to the Cree Nation Water Quality Officer, in the same manner, all document, declaration, information, result or notice the communication, making available or sending of which by a laboratory to a Québec Entity or to the public health director of the CBHSSJB is required under Québec's *Regulation respecting the quality of drinking water*.

VII. ADDITIONAL TESTING REQUIREMENTS AND RELATED QUALITY CONTROL

28. In addition to sending the required number of samples to Certified Laboratories, the Person in Charge of Drinking Water shall complement sampling and laboratory testing by using an On-Site Testing Method at least twice a week, each time by taking a minimum of three samples taken at different locations, and shall inform the Cree Nation Water Quality Officer accordingly.
29. The Cree Nation Water Quality Officer may order a Person in Charge of Drinking Water to use an On-Site Testing Method. Such order shall include the reasons thereof and shall be referred to in the Cree Nation Water Quality Officer annual report.
30. The Cree Nation Water Quality Officer shall develop and implement a quality control and assessment procedure regarding sampling and testing frequencies and methods including with respect to On-Site Testing Method. He may also conduct sampling at any location of a distribution facility or distribution system and carry out testing either through a Certified Laboratory or with an On-Site Testing Method.
31. The Person in Charge of Drinking Water shall inform the Cree Nation Water Quality Officer of the frequency of the sampling and testing carried out with the On-Site Testing Method. The Cree Nation Water Quality Officer may order a Person in Charge of Drinking Water to increase the frequency of such sampling and testing. Such order shall include the reasons thereof and shall be referred to in the Cree Nation Water Quality Officer annual report.
32. The Person in Charge of Drinking Water using an On-Site Testing Method shall:
 - a) ensure that the sampling points, where samples are collected, enable to obtain data representative of the quality of water for the whole distribution system;

- b) make available to the Cree Nation Water Quality Officer a copy of a plan showing the location of sampling points and indicating, where applicable, the civic numbers of the buildings concerned, accompanied by a document explaining how the sampling points were determined, including a description of the characteristics of each sampling point and identifying the sectors whose hydraulic features allow to have any water contamination of the distribution system or facility confined to it.
33. The Person in Charge of Drinking Water shall ensure that the samples stemming from an On-Site Testing Method are collected in accordance with this By-law and shall keep a copy of the analysis results for a minimum of 2 years. Copies of each analysis result stemming from the On-Site Testing Method shall be sent to the Cree Nation Water Quality Officer.
34. For certainty, the additional requirements contemplated by this Title VII shall be in addition to the requirements regarding bacterial control for the quality control of drinking water and related methods, laboratory analyses and results set forth in Québec's *Regulation respecting the quality of drinking water*.

VIII. ADDITIONAL DATA ENTRY AND TRANSMISSION REQUIREMENTS

35. The Person in Charge of Drinking Water shall enter the analysis results obtained from the On-Site Testing Method, including all parameters tested, in the software identified by the Cree Nation Water Quality Officer or immediately send said analyses results to the Cree Nation Water Quality Officer through the method of transmission identified by the Cree Nation Water Quality Officer. Timely downloading or transmission of analysis results is essential to ensure the keeping up-to-date of a Cree Nation public registry of information on the quality of drinking water.
36. The analysis results obtained from the quality control of drinking water and related methods, laboratory analyses and results set forth in Québec's *Regulation respecting the quality of drinking water*, including all parameters tested, shall also be entered, by the Person in Charge of Drinking Water, in the software identified by the Cree Nation Water Quality Officer or communicated through the method of transmission identified by the Cree Nation Water Quality Office. Timely downloading or transmission of analysis results is essential to ensure the keeping up-to-date of a Cree Nation public registry of information on the quality of drinking water. The Person in Charge of Drinking Water may delegate this data entry to the Certified Laboratories where applicable.

IX. ENFORCEMENT

37. Shall be guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000):

- a) every person who contravenes section 8, 9, 12, 21, 25, 26, 27, 28, 32, 33, 35 and 36 of this By-law;
- b) every person who fails to comply with an order made under this By-law;
- c) every person who obstructs or otherwise interferes with drinking water equipment and infrastructure; and
- d) every person who hinders a Person in Charge of Drinking Water or the Cree Nation Water Quality Officer in the exercise of their duties.

38. Nothing herein shall restrict the possibility to take other enforcement measures.

X. MANDATORY FIVE-YEAR REVIEW

39. At the latest every five years further to the coming into force of this By-law, the Cree Nation Government Water Quality Officer shall present to the Council his recommendations for amendments, if any, to this By-law, together with a report on the implementation of this By-law.

XI. ADOPTION AND PUBLICATION

40. This By-law is made by means of the adoption of a resolution of the Council of the Cree Nation Government.

41. Within one week after this By-law has been adopted, a copy of this By-law shall be posted on the website of the Cree Nation Government and at a public place designated by the Cree Nation Government on the Category IA land of each Cree band.

XII. COMING INTO FORCE

42. This By-law shall come into force on the day on which it is posted on the website of the Cree Nation Government, whether or not it is posted within one week after this By-law has been adopted.

Signed this ● day of December 2017, in Montréal

Chairman

Secretary