

Recommendations for the NB Clean Water Act

Prepared for the Department of Environment and Local Government

The Conservation Council of New Brunswick (CCNB) commends the Government of New Brunswick for initiating a review of the *Clean Water Act* (CWA), a critical opportunity to modernize legislation first enacted in 1989 to ensure it reflects current science, community needs, and the province's commitments. Premier Holt pledged to update both the *Clean Air Act* and the *Clean Water Act* to guarantee that every New Brunswicker has the right to clean air and water, fundamental rights that must also be recognized in provincial law. This review is vital to close long-standing gaps, strengthen protections for people and the environment, and ensure the Act delivers on its purpose.

When New Brunswick's Clean Water Act was first written, the province faced a different set of environmental and social realities. Today, the pressures on water are more complex and interconnected than ever before. Climate change is driving more frequent floods, prolonged droughts, and warming rivers and lakes, while new and emerging contaminants, such as microplastics, pharmaceuticals, and PFAS ("forever chemicals"), are entering waterways faster than our systems can monitor or manage them. At the same time, communities are grappling with aging infrastructure, rural and Indigenous households still face barriers to clean drinking water, and growing commercial and industrial demand is increasing pressure to commodify water as a product for sale or export. These combined challenges underscore the need to modernize the Clean Water Act so it not only responds to the realities of today but also equips the province to navigate an uncertain future. A forward-looking Act must recognize water as a shared and finite public good, essential to the health, security, and resilience of people, communities, and the natural world.

Below are CCNB's recommendations for the *Clean Water Act*.

Recommendation #1: Develop a process to consolidate New Brunswick's *Clean Environment Act*, *Clean Water Act*, and *Clean Air Act* into a single, comprehensive *Environment Act*.

New Brunswick's *Clean Air*, *Clean Water*, and *Clean Environment Acts* separately regulate pollution, despite the interconnected nature of air, water, and land. This separation creates duplication, with repeated provisions and facilities often requiring multiple permits. Unlike every other province, New Brunswick still maintains [three distinct "clean" Acts](#). Integrating them into a single *Environment Act* would streamline administration, reduce redundancy, and strengthen protections for people and ecosystems. While immediate reforms to the *Clean Water Act* should proceed, we recommend the Standing Committee signal a longer-term commitment to unifying the three Acts under one Act.

Recommendation #2: Amend the Clean Water Act to recognize New Brunswick residents' right to clean water:

- Include a provision stating: "Every resident of New Brunswick has a right to clean water".
- Include a provision stating: "the Government of New Brunswick has an obligation, within its jurisdiction, to protect the right to clean water recognized in the Act".
- Add a principle to the purpose of the Act in section 2 stating: "in making decisions under this Act and the regulations, the Government of New Brunswick must consider the potential impacts on the right to clean water recognized in the Act".

Across Canada and internationally, governments are increasingly enshrining environmental rights in law, recognizing that clean water is fundamental to health and well-being. Aligning with commitments already made in [ministerial mandate letters](#) and with environmental rights frameworks emerging across Canada, the revised Act should recognize clean water as a fundamental right and require the government to take reasonable steps to safeguard that right for all New Brunswickers.

Recommendation #3: Strengthen and clarify the purpose of the Clean Water Act. The purpose section of the Act should be updated to explicitly recognize the need to protect both water quality and water quantity, reflecting their equal importance to the health of people, communities, and ecosystems. The Act should also affirm the interconnectedness among people, the natural world, and the physical environment, recognizing that human well-being, economic stability, and ecological health depend on clean, sufficient, and resilient water systems. Embedding this understanding within the Act's purpose would provide clear direction for all future regulations, approvals, and watershed planning, ensuring decisions support the long-term sustainability of New Brunswick's shared water resources in a changing climate. An example of the explicit elaboration of the purpose and objectives of such an Act can be found in the Clean Air Act, Articles 2 and 8.

Recommendation #4: Including clear guiding principles in the Clean Water Act is essential to ensure that all future decisions, policies, and interpretations of the law are grounded in shared values and long-term objectives. These principles provide a unifying framework that guides how the Act is applied across changing governments, emerging science, and evolving climate realities. By articulating principles such as precaution, intergenerational equity, climate resilience, transparency, and respect for Indigenous rights and knowledge, the Act would move beyond technical regulation to express a clear public commitment: that New Brunswick's water is a common, life-sustaining resource whose protection must balance the needs of people, nature, and the physical environment, now and for generations to come. These principles could include:

- a) **Interconnectedness of People, Nature, and the Physical Environment**
Water sustains all life. The Act shall be guided by the understanding that people, communities, ecosystems, and the physical world are interconnected and mutually dependent.
- b) **Water as a Public Good and Human Right.** Water is a **public trust and a fundamental human right**. Every person in New Brunswick has the right to safe, sufficient, and affordable water for personal and community needs. Water shall not be treated as a private commodity for sale or export.
- c) **Protection of Water Quality and Quantity**
The Act shall ensure that both the quality and quantity of New Brunswick's surface and groundwater are safeguarded for present and future generations.
- d) **Public Trust and Shared Responsibility**
Water is a public resource held in trust for the people of New Brunswick. Its protection and sustainable use are shared responsibilities among governments, Indigenous Nations, communities, and individuals.
- e) **Precautionary Principle**
Where there is scientific uncertainty, lack of full evidence shall not be used as a reason to delay or avoid actions necessary to prevent harm to water, people, or ecosystems.
- f) **Climate Resilience and Adaptation**
Water management must anticipate and respond to the effects of climate change—including floods, droughts, warming waters, and shifting precipitation patterns—to protect both human and ecological health.
- g) **Ecosystem Integrity and Environmental Flows**
Water allocation and use shall maintain sufficient quantity and quality to sustain the ecological processes, species, and habitats that depend on them.
- h) **Intergenerational Equity**
The management of water resources shall recognize the right of future generations to inherit a province with healthy, functioning, and abundant water systems.
- i) **Transparency and Accountability**
Decisions, data, and enforcement under the Act shall be open, accessible, and transparent, fostering public confidence and informed participation.
- j) **Collaboration and Watershed Stewardship**
The province shall encourage collaboration across jurisdictions, sectors, and communities, using watershed boundaries as the foundation for planning and decision-making.
- k) **Continuous Improvement and Adaptive Management**
Water policies, permits, and practices shall be periodically reviewed and adapted based on new scientific knowledge, monitoring data, and observed environmental change.

Recommendation #5: Amend the Clean Water Act to adopt a “polluter pays” model, similar to the federal Environmental Damages Fund. In this model, revenues from fines, penalties, or court settlements would be directed to the New Brunswick Environmental Trust Fund to finance restoration, monitoring, and public education initiatives. This approach ensures that those responsible for environmental harm contribute directly to remediation and community benefit.

Recommendation #6: Amend the Clean Water Act to strengthen wetland protection policies. The Watercourse and Wetland Alteration Regulation (90-80) - Clean Water Act is outdated and insufficiently protective. We recommend modernized definitions that include peatlands, ephemeral wetlands, and headwater systems, implementing variable, science-based riparian buffers. Source Water Protection Areas must be updated to reflect current hydrology, vulnerability, and climate risk.

- **Recommendation #6.1:** Implement and enforce strict regulations to prevent encroachment and destruction of wetlands, including peatlands.
- **Recommendation #6.2:** Increase the number of protected wetlands, including peatlands, through conservation easements and land purchases.
- **Recommendation #6.3:** Invest in wetland restoration projects to recover degraded ecosystems and enhance ecosystem resilience.
- **Recommendation #6.4:** Increase wetland protection and buffer zones along sensitive sites based on water flow models. Climate change, development and industrial activities (e.g. industrial forestry) have made this more relevant since the original legislation.

Recommendation #7: Pursue a legislated requirement, similar to that contained in Article 9 of the Clean Air Act, for mandatory annual reporting by government on the state of New Brunswick’s surface water and groundwater. Article 9 reads “The Minister shall, in each year, table a written report in the Legislative Assembly respecting the success in achieving the objectives and respecting such other matters as the Minister considers appropriate.” This recommendation is also listed as Action 3 in the 2024 document titled A Water Strategy for New Brunswick. The report states that the Department is exploring options for mandatory annual reporting by government on the state of New Brunswick’s surface water and groundwater. The report and presentation of data needs to be accessible in a format that people can understand. Raw data isn’t helpful to most people.

Recommendation #8: Strengthen enforcement, compliance and deterrence. This review is a critical opportunity to modernize the *Clean Water Act*, close gaps in protection, and align it with today's science and best practices. New Brunswick can better safeguard public health and the environment by recognizing the right to clean water, strengthening enforcement, addressing cumulative impacts, and streamlining legislation.

- **Recommendation #8.1:** Retain and expand administrative monetary penalty powers (updated in 2024) to ensure consistent and transparent enforcement.
- **Recommendation #8.2:** Provide for graduated penalties and restoration orders proportionate to the severity of violations or harm to water resources.
- **Recommendation #8.3:** Enable the Minister to issue stop-work orders where unapproved alterations or discharges threaten water quality or flow.

Recommendation #9: Amend the Clean Water Act to recognize the role of Indigenous peoples and traditional knowledge in watershed management. This is an opportunity to strengthen the capacity of Indigenous peoples to participate in watershed management. The Act shall respect Aboriginal and treaty rights and be informed by Indigenous knowledge, values, and governance systems.

Recommendation #10: Amend the Clean Water Act to incorporate the findings from the Working Group on Watershed Management. The working group was given a mandate to make recommendations to the Minister about a preferred approach for the management and protection of surface water quality in the Province of New Brunswick. In December 2017 the group delivered a report titled "Recommendations for Enhanced Watershed Management in New Brunswick".

Recommendation #11: Amend the Clean Water Act to include **all** action items from A Water Strategy for New Brunswick (2018-2028). The Strategy is a valuable resource that provides clear direction for implementation and should be incorporated in the Act. Some of the actions are:

Action 10

Introduce a legislated requirement for public reporting of local government drinking water quality monitoring results.

Action 11

Complete the designation of the 56 local government drinking water wellfields, identified in 2011, under the Wellfield Protected Area Designation Order – Clean Water Act.

Action 12

Develop a coordinated plan to enhance protection and testing of private water wells through a combination of public education and strengthening of the Water Well Regulation (e.g. water well and geothermal well construction standards, set-backs etc.) and the Potable Water Regulation under the Clean Water Act

Action 13B

Evaluate options for introducing regulatory requirements for drinking water supplies that use less than 50m³/day of water so that they are monitored, and public health is protected.

Action 19

Establish a drought index and public advisory reporting system to better inform local governments and the public when water conservation strategies should be implemented.

Recommendation #12: Regulate and Restrict the Commercial Sale and Export of New Brunswick Water. The Clean Water Act should be amended to clearly prohibit or tightly regulate the extraction of water for bulk sale or export, whether to other provinces, countries, or private corporations. Water is a shared public resource essential for human health, ecosystems, and community resilience, not a commodity for speculative trade. The Act should establish that New Brunswick's water is held in public trust for the people of the province and may only be used in ways that serve the public interest and maintain ecological integrity.

This recommendation responds to growing public concern about large-scale water withdrawals for commercial bottling or interjurisdictional export, which can threaten local water availability and undermine climate resilience. Other provinces, including British Columbia, Québec, and Ontario, have introduced restrictions or moratoria on bulk water exports in recognition of these risks. New Brunswick's Act should include clear statutory authority allowing the Minister to deny, suspend, or refuse approvals for any withdrawal primarily intended for sale or transport outside the province, and to require full public disclosure and environmental assessment of all high-volume commercial water uses.

By embedding this protection in the Act itself, New Brunswick would ensure that water remains a **public good**, managed sustainably for the benefit of people, communities, and nature — not as a private commodity subject to market pressures or export demand.

Recommendation #13: Safeguarding Water: Address Agricultural Impacts in the Act. Amend the legislation so that agricultural operations, including grazing, tilling, seeding and other land-use changes, are explicitly defined as potential “alterations” under the Act, wherever they occur within watershed source-protection zones (e.g., wellfields, drinking-water catchments, riparian buffers). Available monitoring data from New Brunswick show that agricultural practices are a measurable source of water-quality risk: for example, the Nashwaak Watershed Association's 2023-24 Water Quality Index Report documents elevated nutrient and turbidity readings in tributaries draining agricultural lands. By failing to treat such activities as “alterations,” the current Act leaves a regulatory gap in protecting vulnerable drinking-water supplies and ecosystem integrity. Revisions should require that land-use changes for agriculture in designated protection zones trigger review, permit or mitigation requirements, thereby aligning legislative authority with on-the-ground water-quality realities and ensuring effective control of agricultural runoff and disturbance.

Recommendation #14: Update the Act for climate resilience and adaptation. When New Brunswick's Clean Water Act was first drafted, the province had not yet experienced the scale of climate impacts we face today. In recent years, New Brunswick has seen record floods along the Wolastoq/Saint John River (2018–2019), severe summer droughts across southern and central regions (including D2–D3 drought conditions in 2025), and rising water temperatures that have increased the risk of harmful algal blooms and stressed cold-water fish populations. Warmer, wetter winters and more intense rain events are washing nutrients and sediments into rivers, while longer dry periods reduce streamflow and concentrate pollutants. These combined changes threaten drinking-water quality, damage homes and infrastructure, and disrupt ecosystems that sustain local economies and communities. The Clean Water Act must therefore be updated to give the province the modern tools needed to mitigate and adapt to the current and future realities of a changing climate.

Recommendation #15: The Act, enacted in 1989, established a foundation for water protection at a time when hydrologic conditions, development pressures, and public expectations were far less complex than they are today. We suggest the Act be amended to define and expand key terms:

- **Recommendation #15.1:** Broaden the definition of “alteration” to include agricultural and other land-use activities, such as grazing, tilling, seeding, land clearing, and drainage modification, within source-water protection zones, riparian buffers, and wetlands.
- **Recommendation #15.3:** Define critical terms for modern water management, including *environmental flow*, *watershed*, *aquifer*, *cumulative effect*, *climate resilience*, and *thermal pollution*.
- **Recommendation #15.4:** Clarify the scope of “watercourse” to ensure consistent protection for small streams, ephemeral channels, and connected wetlands that are ecologically significant.

Recommendation #16: Amend the Act to recognize watershed-based management. Watershed management plans shall be developed in consultation with Indigenous governing bodies, municipalities, watershed organizations, and the public.

- **Recommendation #16.1:** Require that water management, planning, and approvals under the Act be guided by watershed boundaries, not solely by municipal or administrative borders.
- **Recommendation #16.2:** Mandate that the Minister conduct periodic watershed assessments to evaluate water availability, quality, and climate risks.
- **Recommendation #16.3:** Enable the designation of priority or stressed watersheds where stricter management or additional protections apply.

Recommendation #17: Amend the Act to strengthen environmental flow and quantity protection.

- **Recommendation #17.1:** Enshrine the concept of environmental flows in the Act to ensure sufficient water remains in rivers, lakes, and aquifers to sustain ecosystem health.
- **Recommendation #17.2:** Authorize the Minister to limit or suspend withdrawals during droughts or low-flow conditions to protect both essential human use and ecological function. Enable the Minister to issue stop-work orders where unapproved alterations or discharges threaten water quality or flow.
- **Recommendation #17.3:** Require that all approvals consider cumulative water withdrawals within a basin to prevent over-allocation.

Recommendation #18: Amend the Act to integrate surface water and groundwater management. Water shall be managed as a single, connected system in which surface and groundwater are independent components of the hydrological cycle.

- **Recommendation #18.1:** Recognize in law that surface water and groundwater are part of a single, connected resource and must be managed together.
- **Recommendation #18.2:** Require approvals and decisions to consider combined and cumulative effects across both systems, particularly in regions dependent on groundwater recharge.

Recommendation #19: Amend the Act to enhance transparency and accountability. We appreciate that the modernization initiative be structured around improving clarity, transparency, and public confidence in water governance.

- **Recommendation #19.1:** Require the public disclosure of all approvals, alterations, and enforcement actions under the Act through an accessible online registry.
- **Recommendation #19.2:** Mandate that the Minister table an annual State of Water Report in the Legislative Assembly summarizing water quality, quantity, temperature trends, and climate-related risks.
- **Recommendation #19.3:** Establish a 10-year statutory review cycle to ensure the Act remains current with evolving science and environmental realities.

Recommendation #20: Amend the Act to introduce emergency powers to respond to accelerating challenges such as climate-driven floods and droughts, cumulative watershed impacts, and emerging contaminants.

- **Recommendation #20.1:** Add a new section granting the Minister authority to issue Emergency Water Protection Orders during extreme events such as droughts, floods, spills, wildfires, or heat waves.
- **Recommendation #20.2:** Emergency powers should allow the Minister to:
 - Temporarily suspend or modify water-taking or discharge approvals;
 - Prioritize essential human and ecological needs;
 - Require emergency measures to protect drinking-water intakes or ecosystems;
 - Coordinate with municipalities, watershed groups, and Indigenous governments for rapid response.
- **Recommendation #20.3:** Require post-emergency reporting to ensure transparency and lessons learned.

Recommendation #21: Amend the Act to Strengthen Legislative Authority for Source-Water Protection.

- **Recommendation #21.1:** Maintain and reinforce provisions for Wellfield and Watershed Protected Areas, ensuring they are backed by clear statutory authority.
- **Recommendation #21.2:** Require every public drinking-water system in the province to have a legally recognized Source-Water Protection Plan, developed in coordination with local and watershed partners.

Recommendation #22: Define and implement a timely and scientifically-grounded process for updating the New Brunswick Drinking Water Quality Guidelines to ensure they are in accordance with the Health Canada Guidelines for Canadian Drinking Water Quality following any changes to these federal guidelines.

Recommendation #23: Amend the Act to require persons responsible for an unauthorized release of contaminants to report the incident to the Department, with the information made public as soon as possible, including immediate notification to public health authorities so that communities can take necessary precautionary measures.

Recommendation #24: Improve accessibility and dissemination of the province-wide notification system for water quality advisories. Notifications should be designed for layperson legibility at various reading levels, and include which Drinking Water Quality Guidelines cutoffs were exceeded, what the Government is doing to rectify the exceedance and the timeline for rectification, and what action individuals should take to protect themselves.

Recommendation #25: Establish, and regularly monitor and enforce, rigorous scientific standards and accreditation of all relevant laboratories involved in water quality monitoring. This must include screening for and exclusion of conflicts of interest for any private labs involved in monitoring and reporting.

The Conservation Council of New Brunswick (CCNB) works to protect the province's land, air, and water by advocating for sustainable solutions, educating the public, and driving action on pressing environmental challenges.

Prepared by: Staff at the Conservation Council.

For more information, please contact:
Conservation Council of New Brunswick
info@conservationcouncil.ca ; 506-458-8747