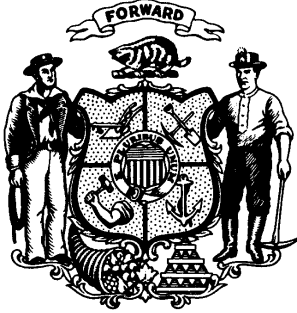


# State of Wisconsin



April 2008 Special Session  
Senate Bill 1

Date of enactment: **May 27, 2008**  
Date of publication\*: **June 10, 2008**

## 2007 WISCONSIN ACT 227

AN ACT *to repeal* 196.98, 281.35 (2) (a), 281.35 (3), 281.35 (8) and 281.35 (10) (a) 4.; *to renumber* 283.83; *to renumber and amend* 281.35 (2) (b) and 281.35 (11) (f); *to amend* 30.18 (title) and (2), 30.18 (3) (a) 1. to 3., 30.18 (3) (b), 30.18 (4) (a), 30.18 (5) (a) 1. and 2., 30.18 (6) (a), 30.18 (6m) (a) 1. and 2., 30.18 (6m) (b), 30.18 (7), 196.49 (2), 281.34 (5) (e) 1., 281.35 (1) (a), 281.35 (1) (b) 2., 281.35 (4) (b) (intro.), 281.35 (5) (a) 13., 281.35 (5) (b), 281.35 (6) (a) (intro.), 281.35 (6) (f), 281.35 (9) (a), 281.35 (11) (intro.), 281.35 (12) (c), 281.41 (1) (c), 281.94 (1), 281.95, 281.98 (1), 293.65 (title), (1), (2) (title), (a), and (b), 293.65 (2) (c) 1., 293.65 (2) (d) 2., 293.65 (2) (e), 293.65 (2) (f) and 293.65 (2) (h); and *to create* 14.95, 30.208 (3m), 281.34 (5) (dm), 281.343, 281.344, 281.346, 281.348, 281.35 (1) (bm), 281.35 (1) (cm), 281.35 (4) (a) 4., 281.35 (6) (am), 281.35 (9) (d), 281.41 (4), 281.93, 283.41 (3) and 283.83 (2) of the statutes; **relating to:** the Great Lakes—St. Lawrence River Basin Water Resources Compact, withdrawals of water from the Great Lakes Basin, water withdrawal and use, water supply planning, water conservation, granting rule-making authority, and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 14.95 of the statutes is created to read:

**14.95 Great Lakes—St. Lawrence River Basin Water Resources Council.** (1) There is created a Great Lakes—St. Lawrence River Basin Water Resources Council as specified in s. 281.343 (2) (a). The governor may take such actions as are necessary for the initial organization and operation of the Great Lakes—St. Lawrence River Basin Water Resources Council.

(2) The governor shall serve as this state's representative on the Great Lakes—St. Lawrence River Basin Water Resources Council. In discharging his or her responsibilities under s. 281.343 (2) and (3), the governor may designate the secretary of natural resources as the governor's alternate to attend all meetings of the Great Lakes—St. Lawrence River Basin Water Resources Council and to vote at all meetings of the Great Lakes—

St. Lawrence River Basin Water Resources Council in the absence of the governor. Any designee other than the secretary of natural resources shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor.

(3) In discharging his or her responsibilities under s. 281.343 (2) and (3), the governor may appoint an advisor to attend all meetings of the Great Lakes—St. Lawrence River Basin Water Resources Council and its committees. The governor's advisor may not vote at meetings of the council. If the governor appoints an advisor, the governor shall appoint an individual with knowledge of and experience with Great Lakes water management issues.

(3m) (a) In this subsection, "standard of review and decision" means the exception standard under s. 281.343 (4n) (d), the decision-making standard under s. 281.343 (4r), and reviews under s. 281.343 (4) to (4z) that do not deal solely with the internal management of the council.

\* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) Before voting on a rule or regulation under s. 281.343 (3) (c) 1., or on a regulation under s. 281.343 (3) (a) 2. that amends the standard of review and decision, other than a rule or regulation that deals solely with the internal management of the council or its property, the governor or his or her alternate shall submit a report describing the governor's or alternate's proposed vote on the proposed rule or regulation to the joint committee on legislative organization. The governor or his or her alternate may not vote on the rule or regulation before the 30th day after the date of submission. If the cochairpersons of the committee do not notify the governor or his or her alternate within 30 days after the date of the submission that the committee has scheduled a meeting for the purpose of reviewing the proposed rule or regulation, the governor or his or her alternate may vote on the proposed rule or regulation in accordance with the report. If, within 30 days after the date of the submission by the governor or his or her alternate, the cochairpersons of the committee notify the governor or his or her alternate that the committee has scheduled a meeting for the purpose of reviewing the proposed rule or regulation, the governor or his or her alternate may not vote on the proposed rule or regulation before the 60th day after the date of submission. If, within 60 days after the date of submission, the committee does not take action on the report, the governor or his or her alternate may vote on the proposed rule or regulation in accordance with the report. If, within 30 days after the date of submission, the cochairpersons notify the governor or his or her alternate that the committee has scheduled a meeting for the purpose of reviewing the proposed rule or regulation and, within 60 days after the date of submission, the committee takes action on the proposed rule or regulation, the governor or his or her alternate may only vote on the proposed rule or regulation in accordance with the position expressed by majority vote of the committee.

**SECTION 2.** 30.18 (title) and (2) of the statutes are amended to read:

**30.18** (title) **Diversion Withdrawal of water from lakes and streams.** (2) PERMIT REQUIRED. (a) *Streams.* No person may ~~divert~~ withdraw water from a stream in this state without an individual permit under this section if the ~~diversion~~ withdrawal meets either of the following conditions:

1. The ~~diversion~~ withdrawal is for the purpose of maintaining or restoring the normal level of a navigable lake or the normal flow of a navigable stream, regardless of whether the navigable lake or navigable stream is located within the watershed of the stream from which the water is ~~diverted~~ withdrawn.

2. The ~~diversion~~ withdrawal is for the purpose of agriculture or irrigation.

(b) *Streams or lakes.* No person, except a person required to obtain an approval under s. 281.41, may ~~divert~~ withdraw water from any lake or stream in this

state without an individual permit under this section if the ~~diversion~~ withdrawal will result in a water loss averaging 2,000,000 gallons per day in any 30-day period above the person's authorized base level of water loss.

**SECTION 3.** 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

30.18 (3) (a) 1. Except as provided in par. (b), an applicant for a permit required under sub. (2) (a) shall file the application with the department setting forth the name and post-office address of the applicant, the name of the stream from which the water will be ~~diverted~~ with-  
drawn, the point in the stream from which it is proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location and riparian status of the land to which the water is to be ~~diverted~~ transferred, the location and description of the canal, tunnel or pipes and other works through which the water is to be ~~diverted~~ with-  
drawn and transferred, the amount of water to be ~~diverted~~ withdrawn, the periods of time when it is proposed to ~~divert~~ withdraw such water, the time required for the completion of the canal and other structures necessary for the completed project and, if required by the department, 4 copies of plans showing cross sections and profiles for any canal, tunnel, pipes or other ~~diversion~~ works for  
withdrawing and transferring the water and any dam and control works at the point of ~~diversion~~ withdrawal and at the point of discharge.

2. For a ~~diversion~~ withdrawal under sub. (2) (a) 1., a map or maps shall accompany the application with a scale of not less than one inch per 2,000 feet, showing the land topography and the probable course of the proposed ~~diversion~~ canal and other works, and the ownership of all lands upon which will be located the canal, tunnel, pipes and all other works for the completed project.

3. For a ~~diversion~~ withdrawal under sub. (2) (a) 2., the application shall include written statements of consent to the ~~diversion~~ withdrawal from all riparian owners who are making beneficial use of the water proposed to be ~~diverted~~ withdrawn.

**SECTION 4.** 30.18 (3) (b) of the statutes is amended to read:

30.18 (3) (b) *Application; streams or lakes.* An application for a permit required under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the application shall also comply with par. (a).

**SECTION 5.** 30.18 (4) (a) of the statutes is amended to read:

30.18 (4) (a) Upon receipt of a complete application, the department shall follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to providing notice as required under s. 30.208 (3) to (5), the department shall mail a copy of the notice to every person upon whose land any part of the canal or any other structure will be located, to the clerk of the next town downstream,

to the clerk of any village or city in which the lake or stream is located and which is adjacent to any municipality in which the ~~diversion withdrawal~~ will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

**SECTION 6.** 30.18 (5) (a) 1. and 2. of the statutes are amended to read:

30.18 (5) (a) 1. That the proposed ~~diversion withdrawal~~ will not injure any public rights in navigable waters.

2. That the water to be ~~diverted withdrawn~~ is surplus water, or if it is not surplus water, that all riparians who may be adversely affected by the ~~diversion withdrawal~~ have consented to the proposed ~~diversion withdrawal~~.

**SECTION 7.** 30.18 (6) (a) of the statutes is amended to read:

30.18 (6) (a) *Contents of permit.* The department shall specify on each permit issued under this section the quantity of water that may be ~~diverted withdrawn~~ and the times during which water may be ~~diverted withdrawn~~. In addition, if the permit is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

**SECTION 8.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

30.18 (6m) (a) 1. That the water being ~~diverted withdrawn~~ is no longer surplus water, except that the department may allow the ~~diversion withdrawal~~ to continue if all riparians adversely affected by the ~~diversion withdrawal~~ continue to consent to it.

2. If the ~~diversion withdrawal~~ is from a stream designated by the department as a trout stream, that the revocation is desirable for conservation purposes.

**SECTION 9.** 30.18 (6m) (b) of the statutes is amended to read:

30.18 (6m) (b) The department may revoke any permit issued under sub. (5) (a), which is not subject to sub. (2) (b), if it finds that the ~~diversion withdrawal~~ is detrimental to the stream from which the water is ~~diverted withdrawn~~.

**SECTION 10.** 30.18 (7) of the statutes is amended to read:

30.18 (7) **PREREQUISITES TO PROJECT CONSTRUCTION.** After an application under this section has been filed with the department, the applicant may enter any land through which it is proposed to ~~divert withdraw or transfer~~ the water for the purposes of making any surveys required for drafting the plans for the project, but no work shall be commenced on the canal, headworks or other structures necessary for the project until the plans for the same have been approved by the department. Any person having received a permit required under sub. (2) (a) may construct upon the land of another the canal and other works authorized by the permit after the damage which will be sustained by the owner or owners of such land has been satisfied, or has been determined as provided for in ch. 32, and after the final sum so determined and all costs

have been paid to the persons entitled thereto or to the clerk of the circuit court on their account.

**SECTION 11.** 30.208 (3m) of the statutes is created to read:

30.208 (3m) **NOTICE TO DOWNSTREAM COMMUNITIES.** When the department receives an application for an individual permit under s. 30.12 for a structure through which water transferred from the Great Lakes basin would be returned to the source watershed through a stream tributary to one of the Great Lakes, the department shall provide notice of the application to the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.

**SECTION 12.** 196.49 (2) of the statutes is amended to read:

196.49 (2) No public utility may begin the construction, installation or operation of any new plant, equipment, property or facility, nor the construction or installation of any extension, improvement or addition to its existing plant, equipment, property, apparatus or facilities unless the public utility has complied with any applicable rule or order of the commission ~~and with s. 281.35, if applicable.~~ If a cooperative association has been incorporated under ch. 185 for the production, transmission, delivery or furnishing of light or power and has filed with the commission a map of the territory to be served by the association and a statement showing that a majority of the prospective consumers in the area are included in the project, no public utility may begin any such construction, installation or operation within the territory until after the expiration of 6 months from the date of filing the map and notice. If the cooperative association has entered into a loan agreement with any federal agency for the financing of its proposed system and has given written notice of the agreement to the commission, no public utility may begin any construction, installation or operation within the territory until 12 months after the date of the loan agreement.

**SECTION 13.** 196.98 of the statutes is repealed.

**SECTION 14.** 281.34 (5) (dm) of the statutes is created to read:

281.34 (5) (dm) *Water supply service area plan.* If a proposed high capacity well is covered by an approved water supply service area plan under s. 281.348, the department may not approve the high capacity well unless it is consistent with that plan.

**SECTION 15.** 281.34 (5) (e) 1. of the statutes is amended to read:

281.34 (5) (e) 1. If s. 281.35 (4) applies to a proposed high capacity well, the department shall include in the approval conditions that ensure that the high capacity well complies with s. 281.35 (4) to (6).

**SECTION 16.** 281.343 of the statutes is created to read:  
**281.343 Great Lakes—St. Lawrence River Basin Water Resources Compact.** (1) **LEGISLATIVE DETER-**

MINATION. The legislature determines that it is in the interests of this state to ratify the Great Lakes—St. Lawrence River Basin Water Resources Compact. Nothing in this section may be interpreted to change the application of the public trust doctrine under article IX, section 1, of the Wisconsin Constitution or to create any new public trust rights.

(1b) **RATIFICATION.** The Great Lakes—St. Lawrence River Basin Water Resources Compact, contained in subs. (1e) to (9), is ratified and approved, as implemented and interpreted in ss. 14.95, 281.346, and 281.348.

(1e) **DEFINITIONS.** In this section, except as otherwise required by the context:

(a) “Adaptive management” means a water resources management system that provides a systematic process for evaluation, monitoring, and learning from the outcomes of operational programs and adjustment of policies, plans, and programs based on experience and the evolution of scientific knowledge concerning water resources and water dependent natural resources.

(am) “Agreement” means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

(b) “Applicant” means a person who is required to submit a proposal that is subject to management and regulation under this compact. “Application” has a corresponding meaning.

(c) “Basin” or “Great Lakes—St. Lawrence River Basin” means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivieres, Quebec within the jurisdiction of the parties.

(cm) “Basin ecosystem” or “Great Lakes—St. Lawrence River Basin ecosystem” means the interacting components of air, land, water, and living organisms, including humankind, within the basin.

(d) “Community within a straddling county” means any incorporated city, town, or the equivalent thereof, that is located outside the basin but wholly within a county that lies partly within the basin and that is not a straddling community.

(dm) “Compact” means this compact.

(e) “Consumptive use” means that portion of the water withdrawn or withheld from the basin that is lost or otherwise not returned to the basin due to evaporation, incorporation into products, or other processes.

(em) “Council” means the Great Lakes—St. Lawrence River Basin Water Resources Council, created by this compact.

(f) “Council review” means the collective review by the council members as described in subs. (4) to (4z).

(fm) “County” means the largest territorial division for local government in a state. The county boundaries shall be defined as those boundaries that exist as of December 13, 2005.

(g) “Cumulative impacts” means the impact on the basin ecosystem that results from incremental effects of

all aspects of a withdrawal, diversion, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, diversions, and consumptive uses regardless of who undertakes the other withdrawals, diversions, and consumptive uses. Cumulative impacts can result from individually minor but collectively significant withdrawals, diversions, and consumptive uses taking place over a period of time.

(gm) “Decision-making standard” means the decision-making standard established by sub. (4r) for proposals subject to management and regulation in sub. (4p).

(h) “Diversion” means a transfer of water from the basin into another watershed, or from the watershed of one of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the basin or a Great Lake watershed to manufacture or produce a product that is then transferred out of the basin or watershed. “Divert” has a corresponding meaning.

(i) “Environmentally sound and economically feasible water conservation measures” mean those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that are environmentally sound, reflect best practices applicable to the water use sector, are technically feasible and available, are economically feasible and cost-effective based on an analysis that considers direct and avoided economic and environmental costs, and consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, the processes employed, energy impacts, and other appropriate factors.

(im) “Exception” means a transfer of water that is excepted under sub. (4n) from the prohibition against diversions in sub. (4m).

(j) “Exception standard” means the standard for exceptions established in sub. (4n) (d).

(jm) “Intrabasin transfer” means the transfer of water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

(k) “Measures” means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice, or other procedure.

(km) “New or increased diversion” means a new diversion, an increase in an existing diversion, or the alteration of an existing withdrawal so that it becomes a diversion.

(L) “New or increased withdrawal or consumptive use” means a new withdrawal or consumptive use or an increase in an existing withdrawal or consumptive use.

(Lm) “Originating party” means the party within whose jurisdiction an application or registration is made or required.

(n) “Party” means a state that is a party to this compact.

(nm) “Person” means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

(o) 1. “Product” means something produced in the basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or end use consumers.

2. Water used as part of the packaging of a product shall be considered to be part of the product.

3. Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the basin is not a product or part of a product.

4. Except as provided in subd. 2., water that is transferred as part of a public or private supply is not a product or part of a product.

5. Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a product.

(om) “Proposal” means a withdrawal, diversion, or consumptive use of water that is subject to this compact.

(p) “Province” means Ontario or Quebec.

(pm) “Public water supply purposes” means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water withdrawn directly from the basin and not through such a system shall not be considered to be used for public water supply purposes.

(q) “Regional body” means the members of the council and the premiers of Ontario and Quebec or their designee as established by the agreement.

(qm) “Regional review” means the collective review by the regional body as described in sub. (4h).

(r) “Source watershed” means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was withdrawn.

(rm) “Standard of review and decision” means the exception standard, decision-making standard, and reviews as outlined in subs. (4) to (4z).

(s) “State” means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, or Wisconsin or the Commonwealth of Pennsylvania.

(t) “Straddling community” means any incorporated city, town, or the equivalent thereof, wholly within any county that lies partly or completely within the basin, whose corporate boundary existing as of the effective date of this compact is partly within the basin or partly within 2 Great Lakes watersheds.

(u) “Technical review” means a detailed review conducted to determine whether or not a proposal that requires regional review under this compact meets the standard of review and decision following procedures and guidelines as set out in this compact.

(v) “Water” means groundwater or surface water contained within the basin.

(w) “Water dependent natural resources” means the interacting components of land, water, and living organisms affected by the waters of the basin.

(x) “Waters of the basin” or “basin water” means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the basin.

(y) “Withdrawal” means the taking of water from surface water or groundwater. “Withdraw” has a corresponding meaning.

**(1m) FINDINGS AND PURPOSES.** The legislative bodies of the respective parties hereby find and declare:

(a) Findings:

1. The waters of the basin are precious public natural resources shared and held in trust by the states;

2. The waters of the basin are interconnected and part of a single hydrologic system;

3. The waters of the basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic, and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

4. Future diversions and consumptive uses of basin water resources have the potential to significantly impact the environment, economy, and welfare of the Great Lakes—St. Lawrence River region;

5. Continued sustainable, accessible, and adequate water supplies for the people and economy of the basin are of vital importance; and

6. The parties have a shared duty to protect, conserve, restore, improve, and manage the renewable but finite waters of the basin for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the basin waters is through

the joint pursuit of unified and cooperative principles, policies, and programs mutually agreed upon, enacted, and adhered to by all parties.

(b) Purposes:

1. To act together to protect, conserve, restore, improve, and effectively manage the waters and water dependent natural resources of the basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the basin ecosystem;

2. To remove causes of present and future controversies;

3. To provide for cooperative planning and action by the parties with respect to such water resources;

4. To facilitate consistent approaches to water management across the basin while retaining state management authority over water management decisions within the basin;

5. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made, and engage in consultation on the potential effects of proposed withdrawals and losses on the waters and water dependent natural resources of the basin;

6. To prevent significant adverse impacts of withdrawals and losses on the basin's ecosystems and watersheds;

7. To promote interstate and state-provincial comity; and

8. To promote an adaptive management approach to the conservation and management of basin water resources that recognizes, considers, and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the basin's waters and water dependent natural resources.

(1s) SCIENCE. (a) The parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound water management decision making under this compact.

(b) The strategy shall guide the collection and application of scientific information to support:

1. An improved understanding of the individual and cumulative impacts of withdrawals from various locations and water sources on the basin ecosystem and to develop a mechanism by which impacts of withdrawals may be assessed;

2. The periodic assessment of cumulative impacts of withdrawals, diversions, and consumptive uses on a Great Lake and St. Lawrence River watershed basis;

3. Improved scientific understanding of the waters of the basin;

4. Improved understanding of the role of groundwater in basin water resources management; and

5. The development, transfer, and application of science and research related to water conservation and water use efficiency.

(2) ORGANIZATION. (a) *Council created.* The Great Lakes—St. Lawrence River Basin Water Resources Council is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective parties.

(b) *Council membership.* The council shall consist of the governors of the parties, ex officio.

(c) *Alternates.* Each member of the council shall appoint at least one alternate who may act in his or her place and stead, with authority to attend all meetings of the council and with power to vote in the absence of the member. Unless otherwise provided by law of the party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

(d) *Voting.* 1. Each member is entitled to one vote on all matters that may come before the council.

2. Unless otherwise stated, the rule of decision shall be by a simple majority.

3. The council shall annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the parties by unanimous vote of the council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective parties.

4. The participation of council members from a majority of the parties shall constitute a quorum for the transaction of business at any meeting of the council.

(e) *Organization and procedure.* The council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review, and consideration of proposals that come before the council for its review and action. The council shall organize, annually, by the election of a chairperson and vice chairperson from among its members. Each member may appoint an advisor, who may attend all meetings of the council and its committees, but shall not have voting power. The council may employ or appoint professional and administrative personnel, including an executive director, as it may deem advisable, to carry out the purposes of this compact.

(f) *Use of existing offices and agencies.* It is the policy of the parties to preserve and utilize the functions, powers, and duties of existing offices and agencies of government to the extent consistent with this compact.

Further, the council shall promote and aid the coordination of the activities and programs of the parties concerned with water resources management in the basin. To this end, but without limitation, the council may:

1. Advise, consult, contract, assist, or otherwise cooperate with any and all such agencies;
2. Employ any other agency or instrumentality of any of the parties for any purpose; and
3. Develop and adopt plans consistent with the water resources plans of the parties.

(g) *Jurisdiction.* The council shall have, exercise, and discharge its functions, powers, and duties within the limits of the basin. Outside the basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the basin and subject to the consent of the jurisdiction wherein it proposes to act.

(h) *Status, immunities, and privileges.* 1. The council, its members and personnel in their official capacity and when engaged directly in the affairs of the council, its property, and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the parties, except to the extent that the council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

2. The property and assets of the council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by executive or legislative action.

3. The council, its property and its assets, income, and the operations it carries out pursuant to this compact shall be immune from all taxation by or under the authority of any of the parties or any political subdivision thereof; provided, however, that in lieu of property taxes the council may make reasonable payments to local taxing districts in annual amounts that shall approximate the taxes lawfully assessed upon similar property.

(i) *Advisory committees.* The council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, tribal, county, and local governments, water resources agencies, water-using industries and sectors, water-interest groups, and academic experts in related fields.

(3) GENERAL POWERS AND DUTIES. (a) *General.* 1. The waters and water dependent natural resources of the basin are subject to the sovereign right and responsibilities of the parties, and it is the purpose of this compact to provide for joint exercise of such powers of sovereignty by the council in the common interests of the people of the region, in the manner and to the extent provided in this compact. The council and the parties shall use the standard of review and decision and procedures contained in

or adopted pursuant to this compact as the means to exercise their authority under this compact.

2. The council may revise the standard of review and decision, after consultation with the provinces and upon unanimous vote of all council members, by regulation duly adopted in accordance with par. (c) and in accordance with each party's respective statutory authorities and applicable procedures.

3. The council shall identify priorities and develop plans and policies relating to basin water resources. It shall adopt and promote uniform and coordinated policies for water resources conservation and management in the basin.

(b) *Council powers.* The council may plan; conduct research and collect, compile, analyze, interpret, report, and disseminate data on water resources and uses; forecast water levels; conduct investigations; institute court actions; design, acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real and personal property and any interest therein as it may deem necessary, useful, or convenient to carry out the purposes of this compact; make contracts; receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by any party or by any other public or private agency, corporation, or individual; and exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or that may be reasonably implied therefrom.

(c) *Rules and regulations.* 1. The council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of this compact. The council may adopt by regulation, after public notice and public hearing, reasonable application fees with respect to those proposals for exceptions that are subject to council review under sub. (4n). Any rule or regulation of the council, other than one that deals solely with the internal management of the council or its property, shall be adopted only after public notice and hearing.

2. Each party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce this compact and the programs adopted by such party to carry out the management programs contemplated by this compact.

(d) *Program review and findings.* 1. Each party shall submit a report to the council and the regional body detailing its water management and conservation and efficiency programs that implement this compact. The report shall set out the manner in which water withdrawals are managed by sector, water source, quantity, or any other means, and how the provisions of the standard of

review and decision and conservation and efficiency programs are implemented. The first report shall be provided by each party one year from the effective date of this compact and thereafter every 5 years.

2. The council, in cooperation with the provinces, shall review its water management and conservation and efficiency programs and those of the parties that are established in this compact and make findings on whether the water management program provisions in this compact are being met, and if not, recommend options to assist the parties in meeting the provisions of this compact. Such review shall take place:

- a. Thirty days after the first report is submitted by all parties; and
- b. Every 5 years after the effective date of this compact; and
- c. At any other time at the request of one of the parties.

3. As one of its duties and responsibilities, the council may recommend a range of approaches to the parties with respect to the development, enhancement, and application of water management and conservation and efficiency programs to implement the standard of review and decision reflecting improved scientific understanding of the waters of the basin, including groundwater, and the impacts of withdrawals on the basin ecosystem.

**(4) WATER MANAGEMENT AND REGULATION; WATER RESOURCES INVENTORY, REGISTRATION, AND REPORTING.** (a) Within 5 years of the effective date of this compact, each party shall develop and maintain a water resources inventory for the collection, interpretation, storage, retrieval, exchange, and dissemination of information concerning the water resources of the party, including but not limited to information on the location, type, quantity, and use of those resources and the location, type, and quantity of withdrawals, diversions, and consumptive uses. To the extent feasible, the water resources inventory shall be developed in cooperation with local, state, federal, tribal, and other private agencies and entities, as well as the council. Each party's agencies shall cooperate with that party in the development and maintenance of the inventory.

(b) The council shall assist each party to develop a common base of data regarding the management of the water resources of the basin and to establish systematic arrangements for the exchange of those data with other states and provinces.

(c) To develop and maintain a compatible base of water use information, within 5 years of the effective date of this compact any person who withdraws water in an amount of 100,000 gallons per day or greater average in any 30-day period, including consumptive uses, from all sources, or diverts water of any amount, shall register the withdrawal or diversion by a date set by the council unless the person has previously registered in accordance with an existing state program. The person shall register

the withdrawal or diversion with the originating party using a form prescribed by the originating party that shall include, at a minimum and without limitation: the name and address of the registrant and date of registration; the locations and sources of the withdrawal or diversion; the capacity of the withdrawal or diversion per day and the amount withdrawn or diverted from each source; the uses made of the water; places of use and places of discharge; and such other information as the originating party may require. All registrations shall include an estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any 30-day period.

(d) All registrants shall annually report the monthly volumes of the withdrawal, consumptive use, and diversion in gallons to the originating party and any other information requested by the originating party.

(e) Each party shall annually report the information gathered pursuant to this subsection to a Great Lakes—St. Lawrence River water use data base repository and aggregated information shall be made publicly available, consistent with the confidentiality requirements in sub. (8) (c).

(f) Information gathered by the parties pursuant to this subsection shall be used to improve the sources and applications of scientific information regarding the waters of the basin and the impacts of the withdrawals and diversions from various locations and water sources on the basin ecosystem and to better understand the role of groundwater in the basin. The council and the parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and cumulative impacts of withdrawals, consumptive uses, and diversions shall be assessed.

**(4b) WATER MANAGEMENT AND REGULATION; WATER CONSERVATION AND EFFICIENCY PROGRAMS.** (a) The council commits to identify, in cooperation with the provinces, basin-wide water conservation and efficiency objectives to assist the parties in developing their water conservation and efficiency programs. These objectives are based on the goals of:

1. Ensuring improvement of the waters and water dependent natural resources;
2. Protecting and restoring the hydrologic and ecosystem integrity of the basin;
3. Retaining the quantity of surface water and groundwater in the basin;
4. Ensuring sustainable use of waters of the basin; and
5. Promoting the efficiency of use and reducing losses and waste of water.

(b) Within 2 years of the effective date of this compact, each party shall develop its own water conservation and efficiency goals and objectives consistent with the basin-wide goals and objectives and shall develop and implement a water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction



based on the party's goals and objectives. Each party shall annually assess its programs in meeting the party's goals and objectives, report to the council and the regional body, and make this annual assessment available to the public.

(c) Beginning 5 years after the effective date of this compact, and every 5 years thereafter, the council, in cooperation with the provinces, shall review and modify as appropriate the basin-wide objectives, and the parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of water use, new resource demands and threats, and cumulative impact assessment under sub. (4z).

(d) Within 2 years of the effective date of this compact, the parties commit to promote environmentally sound and economically feasible water conservation measures such as:

1. Measures that promote efficient use of water;
2. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;
3. Application of sound planning principles;
4. Demand-side and supply-side measures or incentives; and
5. Development, transfer, and application of science and research.

(e) Each party shall implement in accordance with par. (b) a voluntary or mandatory water conservation program for all, including existing, basin water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

**(4d) WATER MANAGEMENT AND REGULATION; PARTY POWERS AND DUTIES.** (a) Each party, within its jurisdiction, shall manage and regulate new or increased withdrawals, consumptive uses, and diversions, including exceptions, in accordance with this compact.

(b) Each party shall require an applicant to submit an application in such manner and with such accompanying information as the party shall prescribe.

(c) No party may approve a proposal if the party determines that the proposal is inconsistent with this compact or the standard of review and decision or any implementing rules or regulations promulgated thereunder. The party may approve, approve with modifications, or disapprove any proposal depending on the proposal's consistency with this compact and the standard of review and decision.

(d) Each party shall monitor the implementation of any approved proposal to ensure consistency with the approval and may take all necessary enforcement actions.

(e) No party shall approve a proposal subject to council or regional review, or both, pursuant to this compact unless it shall have been first submitted to and reviewed by either the council or regional body, or both, and

approved by the council, as applicable. Sufficient opportunity shall be provided for comment on the proposal's consistency with this compact and the standard of review and decision. All such comments shall become part of the party's formal record of decision, and the party shall take into consideration any such comments received.

**(4f) WATER MANAGEMENT AND REGULATION; REQUIREMENT FOR ORIGINATING PARTY APPROVAL.** No proposal subject to management and regulation under this compact shall hereafter be undertaken by any person unless it shall have been approved by the originating party.

**(4h) WATER MANAGEMENT AND REGULATION; REGIONAL REVIEW.** (a) *General.* 1. It is the intention of the parties to participate in regional review of proposals with the provinces, as described in this compact and the agreement.

2. Unless the applicant or the originating party otherwise requests, it shall be the goal of the regional body to conclude its review no later than 90 days after notice under par. (b) of such proposal is received from the originating party.

3. Proposals for exceptions subject to regional review shall be submitted by the originating party to the regional body for regional review and, where applicable, to the council for concurrent review.

4. The parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River Basin ecosystem shall be the overarching principle for reviewing proposals subject to regional review, recognizing uncertainties with respect to demands that may be placed on basin water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data, and the extent to which diversions may harm the integrity of the basin ecosystem.

5. The originating party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a proposal and shall consult with the applicant throughout the regional review process.

6. A majority of the members of the regional body may request regional review of a regionally significant or potentially precedent setting proposal. Such regional review must be conducted, to the extent possible, within the time frames set forth in this subsection. Any such regional review shall be undertaken only after consulting the applicant.

(b) *Notice from originating party to the regional body.* 1. The originating party shall determine if a proposal is subject to regional review. If so, the originating party shall provide timely notice to the regional body and the public.

2. Such notice shall not be given unless and until all information, documents, and the originating party's technical review needed to evaluate whether the proposal meets the standard of review and decision have been provided.

3. An originating party may:
  - a. Provide notice to the regional body of an application, even if notification is not required; or
  - b. Request regional review of an application, even if regional review is not required. Any such regional review shall be undertaken only after consulting the applicant.
4. An originating party may provide preliminary notice of a potential proposal.
  - (c) *Public participation.* 1. To ensure adequate public participation, the regional body shall adopt procedures for the review of proposals that are subject to regional review in accordance with subs. (4) to (4z).
  2. The regional body shall provide notice to the public of a proposal undergoing regional review. Such notice shall indicate that the public has an opportunity to comment in writing to the regional body on whether the proposal meets the standard of review and decision.
  3. The regional body shall hold a public meeting in the state or province of the originating party in order to receive public comment on the issue of whether the proposal under consideration meets the standard of review and decision.
  4. The regional body shall consider the comments received before issuing a declaration of finding.
  5. The regional body shall forward the comments it receives to the originating party.
- (d) *Technical review.* 1. The originating party shall provide the regional body with its technical review of the proposal under consideration.
  2. The originating party's technical review shall thoroughly analyze the proposal and provide an evaluation of the proposal sufficient for a determination of whether the proposal meets the standard of review and decision.
  3. Any member of the regional body may conduct the member's own technical review of any proposal subject to regional review.
  4. At the request of the majority of its members, the regional body shall make such arrangements as it considers appropriate for an independent technical review of a proposal.
  5. All parties shall exercise their best efforts to ensure that a technical review undertaken under subd. 3. or 4. does not unnecessarily delay the decision by the originating party on the application. Unless the applicant or the originating party otherwise requests, all technical reviews shall be completed no later than 60 days after the date the notice of the proposal was given to the regional body.
- (e) *Declaration of finding.* 1. The regional body shall meet to consider a proposal. The applicant shall be provided with an opportunity to present the proposal to the regional body at such time.
  2. The regional body, having considered the notice, the originating party's technical review, any other independent technical review that is made, any comments or

- objections including the analysis of comments made by the public and first nations and federally recognized tribes, and any other information that is provided under this compact shall issue a declaration of finding that the proposal under consideration:
    - a. Meets the standard of review and decision;
    - b. Does not meet the standard of review and decision; or
    - c. Would meet the standard of review and decision if certain conditions were met.
  3. An originating party may decline to participate in a declaration of finding made by the regional body.
  4. The parties recognize and affirm that it is preferable for all members of the regional body to agree whether the proposal meets the standard of review and decision.
  5. If the members of the regional body who participate in the declaration of finding all agree, they shall issue a written declaration of finding with consensus.
  6. In the event that the members cannot agree, the regional body shall make every reasonable effort to achieve consensus within 25 days.
  7. Should consensus not be achieved, the regional body may issue a declaration of finding that presents different points of view and indicates each party's conclusions.
  8. The regional body shall release the declarations of finding to the public.
  9. The originating party and the council shall consider the declaration of finding before making a decision on the proposal.
- (4j) WATER MANAGEMENT AND REGULATION; PROPOSALS SUBJECT TO PRIOR NOTICE.** (a) Beginning no later than 5 years after the effective date of this compact, the originating party shall provide all parties and the provinces with detailed and timely notice and an opportunity to comment within 90 days on any proposal for a new or increased consumptive use of 5,000,000 gallons per day or greater average in any 90-day period. Comments shall address whether or not the proposal is consistent with the standard of review and decision. The originating party shall provide a response to any such comment received from another party.
- (b) A party may provide notice, an opportunity to comment, and a response to comments even if this is not required under par. (a). Any provision of such notice and opportunity to comment shall be undertaken only after consulting the applicant.
- (4L) WATER MANAGEMENT AND REGULATION; COUNCIL ACTIONS.** (a) Proposals for exceptions subject to council review shall be submitted by the originating party to the council for council review, and where applicable, to the regional body for concurrent review.
- (b) The council shall review and take action on proposals in accordance with this compact and the standard of review and decision. The council shall not take action on a proposal subject to regional review pursuant to this

compact unless the proposal shall have been first submitted to and reviewed by the regional body. The council shall consider any findings resulting from such review.

**(4m) WATER MANAGEMENT AND REGULATION; PROHIBITION OF NEW OR INCREASED DIVERSIONS.** All new or increased diversions are prohibited, except as provided for in sub. (4n).

**(4n) WATER MANAGEMENT AND REGULATION; EXCEPTIONS TO THE PROHIBITION OF DIVERSIONS.** (a) *Straddling communities.* A proposal to transfer water to an area within a straddling community but outside the basin or outside the source Great Lake watershed shall be excepted from the prohibition against diversions and be managed and regulated by the originating party provided that, regardless of the volume of water transferred, all of the water so transferred shall be used solely for public water supply purposes within the straddling community, and:

1. All water withdrawn from the basin shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

a. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the basin;

b. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin;

c. Maximizes the portion of water returned to the source watershed as basin water and minimizes the surface water or groundwater from outside the basin;

2. If the proposal results from a new or increased withdrawal of 100,000 gallons per day or greater average over any 90-day period, the proposal shall also meet the exception standard; and

3. If the proposal results in a new or increased consumptive use of 5,000,000 gallons per day or greater average over any 90-day period, the proposal shall also undergo regional review.

(b) *Intrabasin transfer.* A proposal for an intrabasin transfer that would be considered a diversion under this compact, and not already excepted pursuant to par. (a), shall be excepted from the prohibition against diversions, provided that:

1. If the proposal results from a new or increased withdrawal of less than 100,000 gallons per day average over any 90-day period, the proposal shall be subject to management and regulation at the discretion of the originating party.

2. If the proposal results from a new or increased withdrawal of 100,000 gallons per day or greater average over any 90-day period and if the consumptive use resulting from the withdrawal is less than 5,000,000 gallons per day average over any 90-day period:

a. The proposal shall meet the exception standard and be subject to management and regulation by the originating party, except that the water may be returned to another Great Lake watershed rather than the source watershed;

b. The applicant shall demonstrate that there is no feasible, cost-effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies; and

c. The originating party shall provide notice to the other parties prior to making any decision with respect to the proposal.

3. If the proposal results in a new or increased consumptive use of 5,000,000 gallons per day or greater average over any 90-day period:

a. The proposal shall be subject to management and regulation by the originating party and shall meet the exception standard, ensuring that water withdrawn shall be returned to the source watershed;

b. The applicant shall demonstrate that there is no feasible, cost-effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies;

c. The proposal undergoes regional review; and

d. The proposal is approved by the council. Council approval shall be given unless one or more council members vote to disapprove.

(c) *Straddling counties.* 1. A proposal to transfer water to a community within a straddling county that would be considered a diversion under this compact shall be excepted from the prohibition against diversions, provided that it satisfies all of the following conditions:

a. The water shall be used solely for the public water supply purposes of the community within a straddling county that is without adequate supplies of potable water;

b. The proposal meets the exception standard, maximizing the portion of water returned to the source watershed as basin water and minimizing the surface water or groundwater from outside the basin;

c. The proposal shall be subject to management and regulation by the originating party, regardless of its size;

d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies;

e. Caution shall be used in determining whether or not the proposal meets the conditions for this exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the basin ecosystem;

f. The proposal undergoes regional review; and

g. The proposal is approved by the council. Council approval shall be given unless one or more council members vote to disapprove.

2. A proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the basin.

(d) *Exception standard.* Proposals subject to management and regulation in this subsection shall be declared to meet this exception standard and may be approved as appropriate only when the following criteria are met:

1. The need for all or part of the proposed exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies;

2. The exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed;

3. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

a. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the basin; and

b. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin;

4. The exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of the basin with consideration given to the potential cumulative impacts of any precedent-setting consequences associated with the proposal;

5. The exception will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures to minimize water withdrawals or consumptive use;

6. The exception will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909; and

7. All other applicable criteria in this subsection have also been met.

**(4p)** WATER MANAGEMENT AND REGULATION; MANAGEMENT AND REGULATION OF NEW OR INCREASED WITHDRAWALS AND CONSUMPTIVE USES. (a) Within 5 years of the effective date of this compact, each party shall create a program for the management and regulation of new or increased withdrawals and consumptive uses by adopting and implementing measures consistent with the decision-making standard. Each party, through a considered process, shall set and may modify threshold levels for the regulation of new or increased withdrawals in order to

assure an effective and efficient water management program that will ensure that uses overall are reasonable, that withdrawals overall will not result in significant impacts to the waters and water dependent natural resources of the basin, determined on the basis of significant impacts to the physical, chemical, and biological integrity of source watersheds, and that all other objectives of the compact are achieved. Each party may determine the scope and thresholds of its program, including which new or increased withdrawals and consumptive uses will be subject to the program.

(b) Any party that fails to set threshold levels that comply with par. (a) any time before 10 years after the effective date of this compact shall apply a threshold level for management and regulation of all new or increased withdrawals of 100,000 gallons per day or greater average in any 90-day period.

(c) The parties intend programs for new or increased withdrawals and consumptive uses to evolve as may be necessary to protect basin waters. Pursuant to sub. (3) (d), the council, in cooperation with the provinces, shall periodically assess the water management programs of the parties. Such assessments may produce recommendations for the strengthening of the programs, including, without limitation, establishing lower thresholds for management and regulation in accordance with the decision-making standard.

**(4r)** WATER MANAGEMENT AND REGULATION; DECISION-MAKING STANDARD. Proposals subject to management and regulation in sub. (4p) shall be declared to meet this decision-making standard and may be approved as appropriate only when the following criteria are met:

(a) All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use;

(b) The withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources and the applicable source watershed;

(c) The withdrawal or consumptive use will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures;

(d) The withdrawal or consumptive use will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909; and

(e) The proposed use is reasonable, based upon a consideration of the following factors:

1. Whether the proposed withdrawal or consumptive use is planned in a fashion that provides for efficient use of the water and will avoid or minimize the waste of water;

2. If the proposal is for an increased withdrawal or consumptive use, whether efficient use is made of existing water supplies;

3. The balance between economic development, social development, and environmental protection of the proposed withdrawal and use and other existing or planned withdrawals and water uses sharing the water source;

4. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources;

5. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed withdrawal and use, under foreseeable conditions, to other lawful consumptive or nonconsumptive uses of water or to the quantity or quality of the waters and water dependent natural resources of the basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts; and

6. If a proposal includes restoration of hydrologic conditions and functions of the source watershed, the party may consider that.

**(4t) WATER MANAGEMENT AND REGULATION; APPLICABILITY.** (a) *Minimum standard.* This standard of review and decision shall be used as a minimum standard. Parties may impose a more restrictive decision-making standard for withdrawals under their authority. It is also acknowledged that although a proposal meets the standard of review and decision it may not be approved under the laws of the originating party that has implemented more restrictive measures.

(b) *Baseline.* 1. To establish a baseline for determining a new or increased diversion, consumptive use, or withdrawal, each party shall develop either or both of the following lists for the party's jurisdiction:

a. A list of existing withdrawal approvals as of the effective date of the compact.

b. A list of the capacity of existing systems as of the effective date of this compact. The capacity of the existing systems should be presented in terms of withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

2. For all purposes of this compact, volumes of diversions, consumptive uses, or withdrawals of water set forth in the lists prepared by each party in accordance with this paragraph shall constitute the baseline volume.

3. The lists shall be furnished to the regional body and the council within one year of the effective date of this compact.

(c) *Timing of additional applications.* Applications for new or increased withdrawals, consumptive uses, or

exceptions shall be considered cumulatively within 10 years of any application.

(d) *Change of ownership.* Unless a new owner proposes a project that shall result in a proposal for a new or increased diversion or consumptive use subject to regional review or council approval, the change of ownership in and of itself shall not require regional review or council approval.

(e) *Groundwater.* The basin surface water divide shall be used for the purpose of managing and regulating new or increased diversions, consumptive uses, or withdrawals of surface water and groundwater.

(f) *Withdrawal systems.* The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a withdrawal, consumptive use, or diversion.

(g) *Connecting channels.* The watershed of each Great Lake shall include its upstream and downstream connecting channels.

(h) *Transmission in water lines.* Transmission of water within a line that extends outside the basin as it conveys water from one point to another within the basin shall not be considered a diversion if none of the water is used outside the basin.

(i) *Hydrologic units.* The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

(j) *Bulk water transfer.* A proposal to withdraw water and to remove it from the basin in any container greater than 5.7 gallons shall be treated under this compact in the same manner as a proposal for a diversion. Each party shall have the discretion, within its jurisdiction, to determine the treatment of proposals to withdraw water and to remove it from the basin in any container of 5.7 gallons or less.

**(4v) WATER MANAGEMENT AND REGULATION; EXEMPTIONS.** Withdrawals from the basin for the following purposes are exempt from the requirements of subs. (4) to (4z):

(a) To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

(b) To use in a noncommercial project on a short-term basis for fire fighting, humanitarian, or emergency response purposes.

**(4x) WATER MANAGEMENT AND REGULATION; U.S. SUPREME COURT DECREE IN WISCONSIN ET AL. V. ILLINOIS ET AL.** (a) Notwithstanding any terms of this compact to the contrary, with the exception of par. (e), current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois shall be governed by the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.* and shall not be subject to the terms of this compact nor any rules or regu-

lations promulgated pursuant to this compact. This means that, with the exception of par. (e), for purposes of this compact, current, new, or increased withdrawals, consumptive uses, and diversions of basin water within the state of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.*

(b) The parties acknowledge that the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.* shall continue in full force and effect, that this compact shall not modify any terms thereof, and that this compact shall grant the parties no additional rights, obligations, remedies, or defenses thereto. The parties specifically acknowledge that this compact shall not prohibit or limit the state of Illinois in any manner from seeking additional basin water as allowed under the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.*, any other party from objecting to any request by the state of Illinois for additional basin water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the parties to this compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Quebec with respect to the proposed modification, shall use best efforts to facilitate the appropriate participation of said provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

(c) With the exception of par. (e), because current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois are not subject to the terms of this compact, the state of Illinois is prohibited from using any term of this compact, including sub. (4n), to seek new or increased withdrawals, consumptive uses, or diversions of basin water.

(d) With the exception of par. (e), because subs. (4d), (4f), (4h), (4j), (4L), (4m), (4n), (4p), (4r), (4t) (a), (b), (c), (d), (f), and (j), and (4v) all relate to current, new, or increased withdrawals, consumptive uses, and diversions of basin waters, said provisions do not apply to the state of Illinois. All other provisions of this compact not listed in the preceding sentence shall apply to the state of Illinois, including the water conservation programs provision of sub. (4b).

(e) In the event of a proposal for a diversion of basin water for use outside the territorial boundaries of the parties to this compact, decisions by the state of Illinois regarding such a proposal would be subject to all terms of this compact, except pars. (a), (c), and (d).

(f) For purposes of the state of Illinois' participation in this compact, the entirety of this subsection is necessary for the continued implementation of this compact and, if severed, this compact shall no longer be binding on or enforceable by or against the state of Illinois.

**(4z) WATER MANAGEMENT AND REGULATION; ASSESSMENT OF CUMULATIVE IMPACTS.** (a) The parties in cooperation with the provinces shall collectively conduct within the basin, on a lake watershed and St. Lawrence River basin basis, a periodic assessment of the cumulative impacts of withdrawals, diversions, and consumptive uses from the waters of the basin, every 5 years or each time the incremental basin water losses reach 50,000,000 gallons per day average in any 90-day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one or more of the parties. The assessment shall form the basis for a review of the standard of review and decision, council and party regulations, and their application. This assessment shall:

1. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to council on environmental quality and environment Canada guidelines;

2. Give substantive consideration to climate change or other significant threats to basin waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate measures to exercise caution in cases of uncertainty if serious damage may result; and

3. Consider adaptive management principles and approaches, recognizing, considering, and providing adjustments for the uncertainties in, and evolution of, science concerning the basin's water resources, watersheds, and ecosystems, including potential changes to basin-wide processes, such as lake level cycles and climate.

(b) The parties have the responsibility of conducting this cumulative impact assessment. Applicants are not required to participate in this assessment.

(c) Unless required by other statutes, applicants are not required to conduct a separate cumulative impact assessment in connection with an application but shall submit information about the potential impacts of a proposal to the quantity or quality of the waters and water dependent natural resources of the applicable source watershed. An applicant may, however, provide an analysis of how the applicant's proposal meets the no significant adverse cumulative impact provision of the standard of review and decision.

**(5) CONSULTATION WITH TRIBES.** (a) In addition to all other opportunities to comment pursuant to sub. (6) (b), appropriate consultations shall occur with federally recognized tribes in the originating party for all proposals subject to council or regional review pursuant to this compact. Such consultations shall be organized in the manner suitable to the individual proposal and the laws and policies of the originating party.

(b) All federally recognized tribes within the basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the council or the regional body, or both, and other relevant organizations

on whether the proposal meets the requirements of the standard of review and decision when a proposal is subject to regional review or council approval. Any notice from the council shall inform the tribes of any meeting or hearing that is to be held under sub. (6) (b) and invite them to attend. The parties and the council shall consider the comments received under this subsection before approving, approving with modifications, or disapproving any proposal subject to council or regional review.

(c) In addition to the specific consultation mechanisms described above, the council shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from, federally recognized tribes on matters to be dealt with by the council; and the council shall seek to establish mechanisms and processes with federally recognized tribes designed to facilitate ongoing scientific and technical interaction and data exchange regarding matters falling within the scope of this compact. This may include participation of tribal representatives on advisory committees established under this compact or such other processes that are mutually agreed upon with federally recognized tribes individually or through duly authorized intertribal agencies or bodies.

**(6) PUBLIC PARTICIPATION.** (a) *Meetings, public hearings, and records.* 1. The parties recognize the importance and necessity of public participation in promoting management of the water resources of the basin. Consequently, all meetings of the council shall be open to the public, except with respect to issues of personnel.

2. The minutes of the council shall be a public record open to inspection at its offices during regular business hours.

(b) *Public participation.* It is the intent of the council to conduct public participation processes concurrently and jointly with processes undertaken by the parties and through regional review. To ensure adequate public participation, each party or the council shall ensure procedures for the review of proposals subject to the standard of review and decision consistent with the following requirements:

1. Provide public notification of receipt of all applications and a reasonable opportunity for the public to submit comments before applications are acted upon.

2. Assure public accessibility to all documents relevant to an application, including public comment received.

3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an application, time and place of such a meeting or hearing, and procedures for conducting of the same.

4. Provide the record of decision for public inspection including comments, objections, responses, and approvals, approvals with conditions, and disapprovals.

**(7) DISPUTE RESOLUTION AND ENFORCEMENT; GOOD FAITH IMPLEMENTATION.** Each of the parties pledges to

support implementation of all provisions of this compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other party carrying out any provision of this compact.

**(7g) DISPUTE RESOLUTION AND ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.** (a) Desiring that this compact be carried out in full, the parties agree that disputes between the parties regarding interpretation, application, and implementation of this compact shall be settled by alternative dispute resolution.

(b) The council, in consultation with the provinces, shall provide by rule procedures for the resolution of disputes pursuant to this subsection.

**(7r) DISPUTE RESOLUTION AND ENFORCEMENT; ENFORCEMENT.** (a) Any person aggrieved by any action taken by the council pursuant to the authorities contained in this compact shall be entitled to a hearing before the council. Any person aggrieved by a party action shall be entitled to a hearing pursuant to the relevant party's administrative procedures and laws. After exhaustion of such administrative remedies, any aggrieved person shall have the right to judicial review of a council action in the United States district court for the District of Columbia or the district court in which the council maintains offices, provided such action is commenced within 90 days; and any aggrieved person shall have the right to judicial review of a party's action in the relevant party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the party's law. For the purposes of this paragraph, a state or province is deemed to be an aggrieved person with respect to any party action pursuant to this compact.

(b) 1. Any party or the council may initiate actions to compel compliance with the provisions of this compact, and the rules and regulations promulgated hereunder by the council. Jurisdiction over such actions is granted to the court of the relevant party, as well as the United States district court for the District of Columbia and the district court in which the council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.

2. Each party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by this compact in accordance with the provisions of the laws adopted in each party's jurisdiction.

(c) 1. Any aggrieved person, party, or the council may commence a civil action in the relevant party's courts and administrative systems to compel any person to comply with this compact should any such person, without approval having been given, undertake a new or increased withdrawal, consumptive use, or diversion that is prohibited or subject to approval pursuant to this compact.

2. No action under this paragraph may be commenced if:

a. The originating party or council approval for the new or increased withdrawal, consumptive use, or diversion has been granted; or

b. The originating party or council has found that the new or increased withdrawal, consumptive use, or diversion is not subject to approval pursuant to this compact.

3. No action under this paragraph may be commenced unless:

a. A person commencing such action has first given 60 days prior notice to the originating party, the council, and person alleged to be in noncompliance; and

b. Neither the originating party nor the council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with this compact.

(d) The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

(e) Each of the parties may adopt provisions providing additional enforcement mechanisms and remedies including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this compact.

**(8) ADDITIONAL PROVISIONS.** (a) *Effect on existing rights.* 1. Nothing in this compact shall be construed to affect, limit, diminish, or impair any rights validly established and existing as of the effective date of this compact under state or federal law governing the withdrawal of waters of the basin.

2. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective parties relating to common law water rights.

3. Nothing in this compact is intended to abrogate or derogate from treaty rights or rights held by any tribe recognized by the federal government of the United States based upon its status as a tribe recognized by the federal government of the United States.

4. An approval by a party or the council under this compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to or held in trust by a party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, state, or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

(b) *Relationship to agreements concluded by the United States of America.* 1. Nothing in this compact is intended to provide nor shall be construed to provide, directly or indirectly, to any person any right, claim, or remedy under any treaty or international agreement nor

is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in this compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

3. Nothing in this compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of this compact.

(c) *Confidentiality.* 1. Nothing in this compact requires a party to breach confidentiality obligations or requirements prohibiting disclosure or to compromise security of commercially sensitive or proprietary information.

2. A party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary, or commercially sensitive information when distributing information to other parties. The party shall summarize or paraphrase any such information in a manner sufficient for the council to exercise its authorities contained in this compact.

(d) *Additional laws.* Nothing in this compact shall be construed to repeal, modify, or qualify the authority of any party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of waters within its jurisdiction.

(e) *Amendments and supplements.* The provisions of this compact shall remain in full force and effect until amended by action of the governing bodies of the parties and consented to and approved by any other necessary authority in the same manner as this compact is required to be ratified to become effective.

(f) *Severability.* Should a court of competent jurisdiction hold any part of this compact to be void or unenforceable, it shall be considered severable from those portions of the compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

(g) *Duration of compact and termination.* 1. Once effective, the compact shall continue in force and remain binding upon each and every party unless terminated.

2. This compact may be terminated at any time by a majority vote of the parties. In the event of such termination, all rights established under it shall continue unimpaired.

**(9) EFFECTUATION.** (b) *Effectuation by chief executive.* The governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the compact and the initial organization and operation thereunder, consistent with s. 281.346.



(c) *Entire agreement.* The parties consider this compact to be complete and an integral whole. Each provision of this compact is considered material to the entire compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in this compact, any change or amendment made to the compact by any party in its implementing legislation or by the U.S. Congress when giving its consent to this compact is not considered effective unless concurred in by all parties.

(d) *Effective date and execution.* This compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin and the Commonwealth of Pennsylvania and consented to by the U.S. Congress.

**SECTION 17.** 281.344 of the statutes is created to read:

**281.344 Water conservation, reporting, and supply regulation; when compact is not in effect. (1) DEFINITIONS.** In this section:

(d) “Community within a straddling county” means any city, village, or town that is not a straddling community and that is located outside the Great Lakes basin but wholly within a county that lies partly within the Great Lakes basin.

(dm) “Compact” means the Great Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

(dr) “Compact’s effective date” means the effective date of the compact under s. 281.343 (9) (d).

(e) “Consumptive use” means a use of water that results in the loss of or failure to return some or all of the water to the basin from which the water is withdrawn due to evaporation, incorporation into products, or other processes.

(g) “Cumulative impacts” means the impacts on the Great Lakes basin ecosystem that result from incremental effects of all aspects of a withdrawal, interbasin transfer, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, interbasin transfers, and consumptive uses regardless of who undertakes the other withdrawals, interbasin transfers, and consumptive uses, including individually minor but collectively significant withdrawals, interbasin transfers, and consumptive uses taking place over a period of time.

(i) “Environmentally sound and economically feasible water conservation measures” means those measures, methods, or technologies for efficient water use and for reducing water loss and waste or for reducing the amount of a withdrawal, consumptive use, or interbasin transfer that are, taking into account environmental impact, the age and nature of equipment and facilities involved, the processes employed, the energy impacts, and other appropriate factors, all of the following:

1. Environmentally sound.

2. Reflective of best practices applicable to the water use sector.

3. Technically feasible and available.

4. Economically feasible and cost-effective based on an analysis that considers direct and avoided economic and environmental costs.

(j) “Facility” means an operating plant or establishment providing electricity to the public or carrying on any manufacturing activity, trade, or business on one site, including similar plants or establishments under common ownership or control located on contiguous properties.

(je) “Great Lakes basin” means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois—Rivieres, Quebec.

(ji) “Great Lakes basin ecosystem” means the interacting components of air, land, water, and living organisms, including humans, within the Great Lakes basin.

(k) “Interbasin transfer” means a transfer of water from the Great Lakes basin into a watershed outside of the Great Lakes basin or from the watershed of one of the Great Lakes into that of another, except that “interbasin transfer” does not include any of the following:

1. The transfer of a product produced in the Great Lakes basin or in the watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of the Great Lakes basin or out of that watershed.

2. The transmission of water within a line that extends outside the Great Lakes basin as it conveys water from one point to another within the Great Lakes basin if no water is used outside the Great Lakes basin.

3. The transfer of bottled water from the Great Lakes basin in containers of 5.7 gallons or less.

(km) “Intrabasin transfer” means the transfer of water from the watershed of one of the Great Lakes into the watershed of another of the Great Lakes.

(o) “Product” means something produced by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or ultimate consumers, subject to all of the following:

1. Water used as part of the packaging of a product is part of the product.

2. Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the Great Lakes basin is not a product or part of a product.

3. Except as provided in subd. 1., water that is transferred as part of a public or private supply is not a product or part of a product.

4. Water in its natural state, such as in lakes, rivers, reservoirs, aquifers, or water basins, is not a product.

(pm) “Public water supply” means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities that serve a

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group of largely residential customers and that may also serve industrial, commercial, and other institutional customers.

(ps) “Reasonable water supply alternative” means a water supply alternative that is similar in cost to, and as environmentally sustainable and protective of public health as, the proposed new or increased interbasin transfer and that does not have greater adverse environmental impacts than the proposed new or increased interbasin transfer.

(q) “Regional body” means the body consisting of the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and the premiers of Ontario and Quebec, Canada, or their designees, as established by the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

(r) “Source watershed” means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed is the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed is the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively.

(t) “Straddling community” means any city, village, or town that is partly within the Great Lakes basin or partly within the watersheds of 2 of the Great Lakes and that is wholly within any county that lies partly or completely within the Great Lakes basin.

(tm) “Straddling county” means a county that lies partly within the Great Lakes basin.

(w) “Water dependent natural resources” means the interacting components of land, water, and living organisms affected by the waters of the Great Lakes basin.

(wm) “Water loss” means the amount of water that is withheld from or not returned to the basin from which it is withdrawn as a result of an interbasin transfer or consumptive use or both.

(wp) “Water supply system,” when not preceded by “public,” means one of the following:

1. Except as provided in subd. 2., the equipment handling water from the point of intake of the water to the first point at which the water is used.

2. For a system for providing a public water supply, the equipment from the point of intake of the water to first point at which the water is distributed.

(wr) “Water utility” means a public utility, as defined in s. 196.01 (5), that furnishes water.

(x) “Waters of the Great Lakes basin” means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the Great Lakes basin.

(y) “Withdraw” means to take water from surface water or groundwater.

(z) “Withdrawal” means the taking of water from surface water or groundwater, including the taking of surface water or groundwater for the purpose of bottling the water.

(zm) “Without adequate supplies of potable water” means without a water supply that is economically and environmentally sustainable in the long term to meet reasonable demands for a water supply in the quantity and quality that complies with applicable drinking water standards, is protective of public health, is available at a reasonable cost, and does not have adverse environmental impacts greater than those likely to result from the proposed new or increased interbasin transfer.

(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS. (a) *Use of surface water divide*. For the purposes of this section, the surface water divide is used to determine whether a withdrawal or transfer of surface water or groundwater is from the Great Lakes basin.

(b) *Transfers and withdrawals from more than one source*. For the purposes of this section, the interbasin transfer or withdrawal of water from more than one source within the Great Lakes basin to supply a single facility or public water supply system is considered one interbasin transfer or withdrawal.

(c) *Water loss*. The department shall promulgate rules for determining the amount of water loss from consumptive uses.

(d) *County boundaries*. For the purposes of sub. (1) (d), (t), and (tm), a county’s boundaries as of December 13, 2005, shall be used to determine whether a county lies partly within the Great Lakes basin.

(e) *Public trust doctrine*. Nothing in this section may be interpreted to change the application of the public trust doctrine under article IX, section 1, of the Wisconsin Constitution or to create any new public trust rights.

(f) *Water resources protection act*. 1. In this paragraph, “historic” means made before the effective date of this subdivision .... [revisor inserts date].

2. The department may not change its historic interpretation or application of 42 USC 1962d–20 (d) to a public water supply for a community in this state until that provision is amended. The department shall evaluate all applications under sub. (4) (b) using the requirements in sub. (4) and shall apply those requirements uniformly.

(3) STATEWIDE REGISTRATION AND REPORTING. (a) 1. Any person who, on the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date], has a water supply system with the capacity to make a withdrawal from the waters of the state averaging 100,000 gallons per day or more in any 30–day period or is making any interbasin transfer shall register the withdrawal or interbasin transfer with the department by the deadline specified by the department by rule. A person may register a withdrawal or interbasin transfer before the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date].

2. Any person who, after the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date], proposes to begin a withdrawal from the waters of the state using a water supply system that will have the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day period, to increase the capacity of a water supply system that existed on the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date], so that it will have the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day period, or to begin an interbasin transfer shall register the withdrawal or interbasin transfer with the department.

(b) A person to whom par. (a) applies shall register on a form prescribed by the department and provide all of the following information:

1. The name and address of the registrant and the date of registration.

2. The locations and sources of the withdrawal or interbasin transfer.

3. The daily capacity of the withdrawal or interbasin transfer and the daily capacity to withdraw or transfer from each source.

4. An estimate of the volume of the withdrawal or interbasin transfer in terms of gallons per day average in any 30-day period.

4m. For a withdrawal from the Great Lakes basin that averages 100,000 gallons per day or more in any 30 day period, an estimate of the maximum hydraulic capacity of the most restrictive component in each water supply system used for the withdrawal.

5. The uses made of the water.

6. The places at which the water is used.

7. The places at which any of the water is discharged.

8. Whether the water use is continuous or intermittent.

9. Whether the person holds a permit under s. 283.31.

10. Other information required by the department by rule.

(c) The department shall maintain a registry containing the information provided under par. (b).

(cm) The department may consider domestic security concerns when determining whether information regarding locations of withdrawals and interbasin transfers contained in the registry under par. (c) may be released to the public.

(e) 1. Each person who makes a withdrawal from the waters of the state that averages 100,000 gallons per day or more in any 30-day period or transfers from the Great Lakes basin any amount and who has registered the withdrawal or interbasin transfer under par. (a) shall annually report to the department the monthly volumes of withdrawal, whether the person ever withdraws at least 1,000,000 gallons per day for 30 consecutive days, and,

if applicable, the volumes of interbasin transfer and, subject to par. (em), water loss from consumptive use.

2. In addition to the information required under subd. 1., the department may, by rule, create different reporting frequencies or require additional information from a person who registers a withdrawal, or interbasin transfer under par. (a) based upon the type or category of water use.

(em) If a person to whom par. (e) 1. applies provides any of the water that the person withdraws to a public water supply system, the person who operates the public water supply system, rather than the person who withdraws the water, shall annually report to the department the volume of water loss from the consumptive use of the water provided to the public water supply system.

(f) The department may require additional information under par. (b) 10. or (e) 2. only if the information is necessary to effectuate this section.

**(3e) DETERMINING INITIAL INTERBASIN TRANSFER AMOUNTS.** (a) Before issuing an automatic approval under sub. (3m) (a) for an interbasin transfer to a person operating a public water supply system, the department shall determine the initial interbasin transfer amount for the interbasin transfer under par. (b).

(b) The department shall determine the initial interbasin transfer amount for a public water supply system to be the amount of water necessary to provide water for public water supply purposes in the area in at least part of which the public water supply system delivers water to customers before the compact's effective date that is all of the following:

1. Outside of the Great Lakes basin.

2. Within a sewer service territory that provides for return of wastewater to the Great Lakes basin and that is specified in the sewer service area provisions of an area-wide water quality management plan under s. 283.83 approved by the department before December 31, 2007.

(c) The department shall use the population and related service projections in the sewer service area provisions described in par. (b) 2. in making the determination under par. (b).

(d) Before issuing an automatic approval under sub. (3m) (b) for an interbasin transfer to a person who does not operate a public water supply system, the department shall determine the initial interbasin transfer amount for the interbasin transfer. The department shall determine the interbasin transfer amount using the process and standards that it uses under sub. (4e) to determine an initial withdrawal amount.

**(3m) AUTOMATIC APPROVAL FOR EXISTING INTERBASIN TRANSFERS.** (a) Before the compact's effective date, the department shall automatically issue an approval for an interbasin transfer that begins before the compact's effective date, to a person who operates a public water supply system that receives water from the interbasin transfer

and that delivers water to customers in an area that is outside of the Great Lakes basin and that is within a sewer service territory that provides for return of wastewater to the Great Lakes basin as specified in the sewer service area provisions of an areawide water quality management plan under s. 283.83 approved by the department before December 31, 2007. The department may not issue an automatic approval under this subsection before the interbasin transfer begins. In the automatic approval, the department shall specify an interbasin transfer amount equal to the amount determined under sub. (3e) (b) and an interbasin transfer area that is the area described in sub. (3e) (b).

(b) Before the compact's effective date, the department shall automatically issue an approval for an interbasin transfer that begins before the effective date of this paragraph .... [revisor inserts date], and that is not for public water supply purposes to the person who makes the interbasin transfer. In the automatic approval, the department shall specify an interbasin transfer amount equal to the amount determined under sub. (3e) (d).

(4) NEW OR INCREASED INTERBASIN TRANSFERS. (a) *Prohibition.* Beginning on the effective date of this paragraph .... [revisor inserts date], all of the following apply:

1. No person may begin an interbasin transfer, other than an interbasin transfer for which the department is required to issue an automatic permit under sub. (3m) (a), unless the interbasin transfer is covered by an approval under par. (c), (d), or (e).

2. No person may increase an interbasin transfer over the interbasin transfer amount in an approval issued under this subsection unless the department modifies the approval under par. (c), (d), or (e) to increase the interbasin transfer amount.

3. No person may increase an interbasin transfer over the interbasin transfer amount in an approval issued under sub. (3m) (a) or expand the interbasin transfer area beyond the area specified in an approval under sub. (3m) (a) unless the department modifies the approval under par. (c), (d), or (e) to increase the interbasin transfer amount or to expand the interbasin transfer area.

4. No person may increase an interbasin transfer over the interbasin transfer amount in an approval issued under sub. (3m) (b).

(b) *Application.* 1. A person who proposes to begin an interbasin transfer, increase the amount of an interbasin transfer, or expand the interbasin transfer area of an interbasin transfer covered by an approval issued under sub. (3m) (a) shall apply to the department for approval.

2. A person may apply under subd. 1. for approval of a new, increased, or expanded interbasin transfer under par. (c) or (e) only if the person operates a public water supply system that receives or would receive water from the new, increased, or expanded interbasin transfer.

3. Operators of 2 or more public water supply systems may submit a joint application under subd. 1. for a

new, increased, or expanded interbasin transfer under par. (c) or (e).

4. A person who applies under subd. 1. shall provide information about the potential impacts of the interbasin transfer on the waters of the Great Lakes basin and water dependent natural resources and any other information required by the department by rule.

4m. If a person who applies under subd. 1. will not directly withdraw the water proposed to be transferred, the person shall identify any entities that may withdraw the water and provide evidence of support from each of those entities in the form of a letter or resolution.

4p. If the person who applies under subd. 1. will not directly return the water to the Great Lakes basin, the person shall identify any entities that may return the water and provide evidence of support from each of those entities in the form of a letter or resolution.

4s. If the proposal for which a person applies under subd. 1. is subject to the exception standard under par. (f), the person shall provide documentation of how the physical, chemical, and biological integrity of the receiving water under par. (f) 3. will be protected and sustained as required under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water before the proposal is implemented and considering potential adverse impacts due to changes in temperature and nutrient loadings. If the receiving water is a surface water body that is tributary to one of the Great Lakes, the person shall include a description of the flow of the receiving water before the proposal is implemented, considering both low and high flow conditions.

5. If the proposal for which a person applies under subd. 1. is subject to the exception standard under par. (f), the person shall provide an assessment of the individual impacts of the proposal for the purposes of par. (f) 5. The person may also include a cumulative impact assessment.

(bg) *Determinations.* 1. The department shall determine whether a proposal under par. (b) is subject to par. (c) or (e) as follows:

a. If the proposal is to provide a public water supply within a single city, village, or town, the proposal is subject to par. (c) or (e) based on the boundaries of that city, village, or town.

b. If the proposal is to provide a public water supply within more than one city, village, or town, any portion of the proposal that provides a public water supply within a straddling community is subject to par. (c) and any portion of the proposal that provides a public water supply within a community described in par. (e) 1. (intro.) is subject to par. (e).

2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a proposal under par. (b), the department shall use, as appropriate, the planned service area of the public water supply system receiving water under the proposal. The planned service area is the service area of the system at the end of any planning period

authorized by the department in the approved water supply service area plan under s. 281.348 that covers the public water supply system.

(c) *Straddling communities.* The department may approve a proposal under par. (b) to begin an interbasin transfer, increase an interbasin transfer, or expand an interbasin transfer area, to an area within a straddling community but outside the Great Lakes basin or outside the source watershed if the water transferred will be used solely for public water supply purposes in the straddling community and all of the following apply:

1. An amount of water equal to the amount of water withdrawn from the Great Lakes basin, less an allowance for consumptive use, will be returned to the source watershed.

2. No surface water or groundwater from outside the source watershed will be returned to the source watershed unless all of the following apply:

a. The returned water will be from a water supply or wastewater treatment system that combines water from inside and outside the Great Lakes basin.

b. The returned water will be treated to meet applicable permit requirements under s. 283.31 and to prevent the introduction of invasive species into the Great Lakes basin.

c. The proposal maximizes the amount of water withdrawn from the Great Lakes basin that will be returned to the source watershed and minimizes the amount of water from outside the Great Lakes basin that will be returned to the source watershed.

2m. The proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.

3. If the proposal would result from a new withdrawal or an increase in a withdrawal that would average 100,000 gallons or more per day in any 90-day period, the proposal meets the exception standard under par. (f).

(d) *Intrabasin transfer.* 1. The department may approve a proposal under par. (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par. (c) does not apply that would average less than 100,000 gallons per day in every 90-day period, if the proposal meets the applicable requirements under s. 30.18, 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the department by rule and, if the water will be used for public water supply purposes, the proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.

2. The department may approve a proposal under par. (b) for a new intrabasin transfer or an increase in or expansion of an intrabasin transfer to which par. (c) does not apply that would average more than 100,000 gallons per day in any 90-day period with a new water loss or an increase in water loss that would average less than

5,000,000 gallons per day in every 90-day period, if all of the following apply:

a. The proposal meets the exception standard under par. (f), except that the water may be returned to a watershed within the Great Lakes basin other than the source watershed and par. (f) 3m. does not apply.

b. The applicant demonstrates that there is no feasible, cost-effective, and environmentally sound water supply alternative within the watershed to which the water will be transferred, including conservation of existing water supplies as determined under par. (g).

c. If the water will be used for public water supply purposes, the proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.

3. The department may approve a proposal under par. (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par. (c) does not apply with a new water loss or an increase in water loss that would average 5,000,000 gallons per day or more in any 90-day period, if all of the following apply:

a. The proposal meets the exception standard under par. (f).

b. The applicant demonstrates that there is no feasible, cost-effective, and environmentally sound water supply alternative within the watershed to which the water will be transferred, including conservation of existing water supplies as determined under par. (g).

c. If the water will be used for public water supply purposes, the proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.

(e) *Straddling counties.* 1. The department may approve a proposal under par. (b) for a new interbasin transfer or an increase in an interbasin transfer if the water transferred will be used solely for public water supply purposes in a community within a straddling county or, if a community is partly within a straddling county and partly within a county that lies entirely outside the Great Lakes basin, the water transferred will be used solely for public water supply purposes in the portion of the community that is within the straddling county and all of the following apply:

a. The community is without adequate supplies of potable water.

b. The proposal meets the exception standard under par. (f).

c. The proposal maximizes the amount of water withdrawn from the Great Lakes basin that will be returned to the source watershed and minimizes the amount of water from outside the Great Lakes basin that will be returned to the source watershed.

d. There is no reasonable water supply alternative within the watershed in which the community is located,

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including conservation of existing water supplies as determined under par. (g).

e. The proposal will not endanger the integrity of the Great Lakes basin ecosystem based upon a determination that the proposal will have no significant adverse impact on the Great Lakes basin ecosystem.

em. The proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.

2. In determining whether to approve a proposal under this paragraph, the department shall give substantive consideration to whether the applicant provides sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the Great Lakes basin. The department may not use a lack of hydrological connection to the waters of the Great Lakes basin as a reason to disapprove a proposal.

(f) *Exception standard.* A proposal to which par. (fm) does not apply meets the exception standard if subsds. 1. to 7. apply to the proposal. A proposal to which par. (fm) applies meets the exception standard if the department considers, under par. (fm), whether:

1. The need for the proposed interbasin transfer cannot reasonably be avoided through the efficient use and conservation of existing water supplies as determined under par. (g).

2. The interbasin transfer is limited to quantities that are reasonable for the purposes for which the interbasin transfer is proposed.

3. An amount of water equal to the amount of water withdrawn from the Great Lakes basin will be returned to the source watershed, less an allowance for consumptive use.

3m. The place at which the water is returned to the source watershed is as close as practicable to the place at which the water is withdrawn, unless the applicant demonstrates that returning the water at that place is one of the following:

- a. Not cost-effective.
- b. Not environmentally sound.
- c. Not in the interest of public health.

4. No water from outside the Great Lakes basin will be returned to the source watershed unless all of the following apply:

a. The returned water is from a water supply or wastewater treatment system that combines water from inside and outside the Great Lakes basin.

b. The returned water will be treated to meet applicable permit requirements under s. 283.31 and to prevent the introduction of invasive species into the Great Lakes basin and the department has approved the permit under s. 283.31.

c. If the water is returned through a structure on the bed of a navigable water, the structure is designed and will be operated to meet the applicable permit require-

ments under s. 30.12 and the department has approved the permit under s. 30.12.

4m. If water will be returned to the source watershed through a stream tributary to one of the Great Lakes, the physical, chemical, and biological integrity of the receiving water under subd. 3. will be protected and sustained as required under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water before the proposal is implemented and considering both low and high flow conditions and potential adverse impacts due to changes in temperature and nutrient loadings.

5. The interbasin transfer will result in no significant adverse individual impacts or cumulative impacts to the quantity or quality of the waters of the Great Lakes basin or to water dependent natural resources, including cumulative impacts that might result due to the proposed interbasin transfer, based upon a determination that the proposed interbasin transfer will not have any significant adverse impacts on the sustainable management of the waters of the Great Lakes basin.

6. The applicant commits to implementing the applicable water conservation measures under sub. (8) (d) that are environmentally sound and economically feasible for the applicant.

7. The interbasin transfer will be in compliance with all applicable local, state, and federal laws and interstate and international agreements, including the Boundary Waters Treaty of 1909.

(fm) *Approval of certain applications.* The department shall determine whether to grant an approval under par. (c) or (e) of an application under par. (b) 1. through the water supply service area planning process under s. 281.348, considering the items in par. (f) 1. to 7. as factors in the cost-effectiveness analysis under s. 281.348 (3) (d) 1.

(g) *Conservation and efficient use of existing water supplies.* The department shall promulgate rules specifying the requirements for an applicant for a new, increased, or expanded interbasin transfer subject to par. (f) to demonstrate the efficient use and conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the water conservation planning and analysis used to identify the water conservation and efficiency measures that the applicant determined were feasible.

(i) *Interbasin transfer amount.* In an approval issued under this subsection or a modification granted under this subsection to increase the amount of an interbasin transfer, the department shall specify an interbasin transfer amount equal to the quantity of water that is reasonable for the purposes for which the interbasin transfer is proposed.

(4e) DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR WITHDRAWALS FROM THE GREAT LAKES BASIN. (a) Before issuing automatic notice of coverage under a gen-

eral permit under sub. (4s) or an automatic individual permit under sub. (5) (c) for a withdrawal from the Great Lakes basin for which the department is required to issue automatic notice of coverage under a general permit or an automatic individual permit, the department shall determine the initial withdrawal amount for the withdrawal under this subsection.

(b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall estimate the initial withdrawal amount for a withdrawal based on the maximum hydraulic capacity of the most restrictive component in the water supply system used for the withdrawal as of the date that the department makes the estimate, based on information available to the department.

2. Except as provided in subd. 3e., if the department has issued an approval under s. 30.12, 30.18, 281.34, or 281.41, or s. 281.17, 2001 stats., that is required for a withdrawal and the approval contains a limit on the amount of water that may be withdrawn, the department shall provide an estimate of the initial withdrawal amount equal to the limit in the approval.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the amount under subd. 1. for each of the water supply systems to which subd. 2. does not apply and shall determine the amount under subd. 2. for each of the water supply systems to which subd. 2. applies and shall provide an estimate of the initial withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

(c) The department shall provide the estimate under par. (b) for a withdrawal to the person making the withdrawal.

(d) After receiving an estimate under par. (c), a person making a withdrawal may provide the department with information relating to any of the following:

1. The components of the water supply system used for the withdrawal.

2. Seasonal variations in the amount of water supplied by the water supply system.

3. Plans for expanding the capacity of the water supply system submitted to the department no later than 2 years after the effective date of this subdivision .... [revisor inserts date].

4. Amounts withdrawn during the 5 years before the year in which the person submits the information.

5. Successful water conservation efforts by persons using the water that is withdrawn.

6. Water loss from consumptive uses of similar types of users compared to the water loss from consumptive use of persons using the water that is withdrawn.

7. Other relevant information.

(e) Except as provided in par. (f), the department shall determine the initial withdrawal amount for a withdrawal based on the estimate under par. (b) and the department's evaluation of any information provided under par. (d).

The department may not consider information provided by any other person.

(f) For a public water supply system that, on the effective date of this paragraph .... [revisor inserts date], has approval under s. 281.41 to provide water from the Great Lakes basin for public water supply purposes outside of the Great Lakes basin and approval under s. 283.31 to return the associated wastewater to the Great Lakes basin, the department shall determine the initial withdrawal amount to be the amount of water necessary to provide water for public water supply purposes in the service territory specified in the sewer service area provisions of the areawide water quality management plan under s. 283.83 approved by the department before December 31, 2007, based on the population and related service projections in those provisions.

(g) The department's determination of an initial withdrawal amount under par. (e) or (f) is not subject to administrative review under ch. 227 except at the request of the person making the withdrawal.

(h) If 2 or more public water supply systems merge after the department determines their initial withdrawal amounts under par. (e) and before the department issues the initial individual permits under sub. (5) (c) for the systems, the initial withdrawal amount for the new system is the sum of the amounts determined under par. (e) for the individual systems.

**(4m) WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN.** Beginning on the first day of the 84th month beginning after the effective date of this subsection .... [revisor inserts date], except as provided in sub. (4s) (bm), a person may not make a withdrawal from the Great Lakes basin that averages 100,000 gallons per day or more in any 30-day period unless the withdrawal is covered under a general permit under sub. (4s) or an individual permit under sub. (5).

**(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Department to issue.* The department shall issue one or more general permits to cover withdrawals from the Great Lakes basin that average 100,000 gallons per day or more in any 30-day period but that do not equal at least 1,000,000 gallons per day for any 30 consecutive days. The department shall include all of the following in a general permit:

1. Reference to the database of withdrawal amounts under par. (i).

2. Requirements for estimating the amount withdrawn, monitoring the withdrawal, if necessary, and reporting the results of the estimating and monitoring, as provided in rules promulgated by the department.

3. Requirements for water conservation, as provided in rules promulgated by the department under sub. (8) (d).

(am) *Term of general permit.* The term of a general permit issued under par. (a) is 25 years.

(b) *General requirement.* Beginning on the date under sub. (4m), a person who does not hold an individual permit under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or more in any 30-day period, but that does not equal at least 1,000,000 gallons per day for any 30 consecutive days, unless the withdrawal is covered under a general permit, except as provided in par. (bm). A person to whom the department has issued a notice of coverage under a general permit shall comply with the general permit.

(bm) *Waiver.* The department may waive the requirement to obtain coverage under a general permit for a person making a withdrawal that is covered by a permit under s. 30.18 (2) (a).

(c) *Automatic notice of coverage for existing withdrawals.* The department shall automatically issue a notice of coverage under a general permit to a person who makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before the date under sub. (4m), if the withdrawal averages 100,000 gallons per day or more in any 30-day period but does not equal at least 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department may request additional information before issuing a notice under this paragraph. The department shall issue a notice under this paragraph no later than the date under sub. (4m). The department may promulgate a rule under which the department issues automatic notices of coverage under a general permit on a staggered schedule before the date under sub. (4m). In the notice provided under this paragraph for a withdrawal, the department shall specify a withdrawal amount equal to the initial withdrawal amount determined under sub. (4e) for the withdrawal.

(d) *Coverage under general permit for new or increased withdrawals.* 1. A person who proposes to begin a withdrawal from the Great Lakes basin that will average 100,000 gallons per day or more in any 30-day period, or to increase an existing withdrawal so that it will average 100,000 gallons per day or more in any 30-day period, after the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date], and to whom the department is not required to issue automatic notice of coverage under a general permit under par. (c), but who does not propose to withdraw at least 1,000,000 gallons per day for any 30 consecutive days, shall apply to the department for coverage under a general permit. In the application, the person shall provide the information required by the department by rule.

2. After receiving an application under subd. 1., the department shall, within the time limit established by the department by rule, determine whether the withdrawal qualifies for coverage under a general permit or notify the applicant of any additional information needed to determine whether the withdrawal qualifies for coverage under a general permit.

3. Except as provided in subd. 3m., if the department determines that a withdrawal qualifies for coverage under a general permit and the department has issued any approvals that are required for the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of coverage. In the notice, the department shall specify a withdrawal amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the smallest amounts under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. a. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, unless the withdrawal is consistent with the water supply service area plan.

b. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall issue a notice of coverage. In the notice of coverage the department shall specify a withdrawal amount that is equal to the withdrawal amount in the water supply service area plan.

4. If the department determines that a withdrawal does not qualify for coverage under a general permit, the department shall notify the applicant in writing of the reason for that determination.

(dm) *Requiring individual permit.* The department may require a person who is making or proposes to make a withdrawal that averages 100,000 gallons per day or more in any 30-day period, but that does not equal at least 1,000,000 gallons per day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1) (a), or a groundwater management area designated under s. 281.34 (9).



(e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if a person making a withdrawal that is covered under a general permit proposes to increase the amount of the withdrawal over the withdrawal amount specified in the database under par. (i) for the withdrawal, but does not propose to withdraw at least 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the department for a modification of the withdrawal amount.

3. Except as provided in subd. 3m., if the department has issued any approvals that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount to an amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. a. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, unless the withdrawal is consistent with the water supply service area plan.

b. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall modify the withdrawal amount to an amount equal to the withdrawal amount in the water supply service area plan.

(f) *Term of coverage.* Coverage under a general permit ends on the date that the term of the general permit under par. (am) ends.

(g) *Redetermination.* A person to whom the department has issued a notice of coverage under a general permit shall apply to the department for redetermination of coverage under a new general permit at least 180 days before the end of the term of the current general permit

if the person intends to continue to withdraw from the Great Lakes basin an average of 100,000 gallons per day or more in any 30-day period but does not intend to withdraw at least 1,000,000 gallons per day for any 30 consecutive days. If the person is in substantial compliance with the current general permit and the withdrawal qualifies for coverage under the new general permit, the department shall issue a notice of coverage under the new general permit.

(h) *Suspension and revocation.* After an opportunity for a hearing, the department may suspend or revoke coverage under a general permit issued under this subsection for cause, including obtaining coverage under the permit by misrepresentation or failure to disclose material facts or substantially violating the terms of the permit.

(i) *Database.* The department shall maintain a database of the withdrawal amounts for all withdrawals that are covered under general permits under this subsection.

(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Requirement.* Beginning on the date under sub. (4m), a person may not make a withdrawal from the Great Lakes basin that equals at least 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is covered by an individual permit. A person to whom the department has issued an individual permit shall comply with the individual permit.

(b) *Content of individual permits.* The department shall include all of the following in an individual permit:

1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m. or (e) 3., 3e., or 3m. or sub. (4e).

3. Requirements for estimating the amount withdrawn, monitoring the withdrawal, if necessary, and reporting the results of the estimating and monitoring, as provided in rules promulgated by the department.

4. Requirements for water conservation, as provided in rules promulgated by the department under sub. (8) (d).

5. Limits on the location and dates or seasons of the withdrawal and on the allowable uses of the water, as provided in rules promulgated by the department.

6. Conditions on any interbasin transfer under sub. (4) made by the person making the withdrawal.

6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6) (a).

(c) *Automatic issuance of individual permits for existing withdrawals.* The department shall automatically issue an individual permit to a person who makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before the date under sub. (4m), if the withdrawal equals at least 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department may request additional information before issuing a permit under this paragraph. The department shall issue a permit under this paragraph no later than the date under sub. (4m). In the permit, the department shall specify a withdrawal amount equal to the initial withdrawal

amount determined under sub. (4e) for the withdrawal. The department may promulgate a rule under which the department issues automatic individual permits on a staggered schedule before the date under sub. (4m).

(d) *Individual permit for new or increased unpermitted withdrawals.* 1. A person who proposes to begin a withdrawal from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any 30 consecutive days or to modify an existing withdrawal so that it will equal at least 1,000,000 gallons per day for any 30 consecutive days, after the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date], and to whom the department is not required to issue an automatic individual permit under par. (c), shall apply to the department for an individual permit. In the application, the person shall provide the information required by the department by rule.

2. After receiving an application under subd. 1., the department shall, within the time limit established by the department by rule, determine whether to approve the application or notify the applicant of any additional information needed to determine whether to approve the application.

3. Except as provided in subd. 3m., if the department approves an application under subd. 1. and the department has issued any approvals that are required for the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue an individual permit. In the permit, the department shall specify a withdrawal amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the smaller of the amounts under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. a. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, unless the withdrawal is consistent with the water supply service area plan.

b. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall issue an individual permit. In the permit, the department shall specify a withdrawal amount that is equal to the withdrawal amount in the water supply service area plan.

4. If the department disapproves an application under subd. 1., the department shall notify the applicant in writing of the reason for the disapproval.

(e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if a person making a withdrawal that is covered under an individual permit proposes to increase the amount of the withdrawal over the withdrawal amount specified in the permit, the person shall apply to the department for a modification of the permit to increase the withdrawal amount.

3. Except as provided in subd. 3m., if the department has issued any approvals that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount to an amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. a. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, unless the withdrawal is consistent with the water supply service area plan.

b. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall modify the withdrawal

amount to an amount equal to the withdrawal amount in the water supply service area plan.

(f) *Term of coverage.* The term of an individual permit is 10 years.

(g) *Reissuance.* A person to whom the department has issued an individual permit under this subsection shall apply to the department for reissuance of the individual permit at least 180 days before the end of the term of the permit if the person intends to continue to withdraw from the Great Lakes basin at least 1,000,000 gallons per day for any 30 consecutive days. If the department determines that the person is in substantial compliance with the individual permit and that the withdrawal continues to qualify for an individual permit, the department shall reissue the permit.

(h) *Suspension and revocation.* After an opportunity for a hearing, the department may suspend or revoke a permit issued under this subsection for cause, including obtaining the permit by misrepresentation or failure to disclose material facts or substantially violating the terms of the permit.

(i) *Transfer of control.* A permit is not transferable to any person except after notice to the department. A person who proposes to assume control over a permitted withdrawal shall file with the department a permit application and a statement of acceptance of the permit. The department may require modification or revocation and reissuance of the permit to change the name of the permittee.

(5m) **INTERIM APPROVAL.** If a person making a withdrawal that averages 100,000 gallons per day or more in any 30-day period registers the withdrawal under sub. (3) (a) 1. and reports as required under sub. (3) (e) and the department does not automatically issue a notice of coverage under sub. (4s) (c) or an individual permit under sub. (5) (c) for the withdrawal before the compact's effective date, the registration of the withdrawal constitutes an approval for the purposes of s. 281.343 (4t) (b) 1. The withdrawal amount is the total amount reported under sub. (3) (b) 4m., except that if there is a limit in an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., on the amount of water that may be withdrawn by any water supply system used for the withdrawal and that limit is less than the amount reported under sub. (3) (b) 4m. for that water supply system, the withdrawal amount is the total amount reported under sub. (3) (b) 4m. reduced by the difference between the reported amount for that water supply system and the limit in the approval.

(7) **EXEMPTIONS.** Subsections (3) to (5) do not apply to withdrawals or interbasin transfers for any of the following purposes:

(a) To supply vehicles, including vessels and aircraft, for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

(b) To use in a noncommercial project that lasts no more than 3 months for fire fighting, humanitarian, or emergency response purposes.

(7m) **EMERGENCY ORDER.** The department may, without a prior hearing, order a person to whom the department has issued an individual permit or notice of coverage under a general permit under this section to immediately stop a withdrawal if the department determines that there is a danger of imminent harm to the public health, safety, or welfare, to the environment, or to the water resources or related land resources of this state. The order shall specify the date on which the withdrawal must be stopped and the date, if any, on which it may be resumed. The order shall notify the person that the person may request a contested case hearing under ch. 227. The hearing shall be held as soon as practicable after receipt of a request for a hearing. An emergency order remains in effect pending the result of the hearing.

(8) **STATEWIDE WATER CONSERVATION AND EFFICIENCY.**

(a) *Goals and objectives.* The department shall specify water conservation and efficiency goals and objectives for the waters of the state. The department shall specify goals and objectives for the waters of the Great Lakes basin that are consistent with the goals under s. 281.343 (4b) (a) and the objectives identified by the regional body under Article 304 (1) of the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement. In specifying these goals and objectives, the department shall consult with the department of commerce and the public service commission.

(b) *Statewide program.* In cooperation with the department of commerce and the public service commission, the department shall develop and implement a statewide water conservation and efficiency program that includes all of the following:

1. Promotion of environmentally sound and economically feasible water conservation measures through a voluntary statewide program.

1m. Mandatory and voluntary conservation and efficiency measures for the waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), and (5) and s. 281.348.

2. Water conservation and efficiency measures that the public service commission requires or authorizes a water utility to implement under ch. 196.

3. Water conservation and efficiency measures that the department of commerce requires or authorizes to be implemented under chs. 101 and 145.

(d) *Water conservation and efficiency measures.* The department shall promulgate rules specifying water conservation and efficiency measures for the purposes of implementing par. (b). In the rules, the department may not require retrofitting of existing fixtures, appliances, or equipment. In specifying the measures, the department shall consider the results of any pilot water conservation

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program conducted by the department in cooperation with the regional body.

(9) PUBLIC PARTICIPATION. (b) *Public Notice*. 1. The department shall, by rule, create procedures for circulating to interested and potentially interested members of the public notices of each complete application that the department receives under sub. (4). The department shall include, in the rule, at least the following procedures:

a. Publication of the notice as a class 1 notice under ch. 985.

b. Mailing of the notice to any person, group, local governmental unit, or state agency upon request.

2. The department shall establish the form and content of a public notice by rule. The department shall include in every public notice concerning an application under sub. (4) at least the following information:

a. The name and address of each applicant.

b. A brief description of the proposal for which the application is made under sub. (4), including the amount of the proposed interbasin transfer.

c. A brief description of the procedures for the formulation of final determinations on applications, including the 30-day comment period required under par. (c).

(c) *Public comment*. The department shall receive public comments on a proposal for which it receives an application under sub. (4) for a 30-day period beginning when the department gives notice under par. (b) 1. The department shall retain all written comments submitted during the comment period and shall consider the comments in making its decisions on the application.

(d) *Public hearing*. 1. The department shall provide an opportunity for any interested person or group of persons, any affected local governmental unit, or any state agency to request a public hearing with respect to a proposal for which the department receives an application under sub. (4). A request for a public hearing shall be filed with the department within 30 days after the department gives notice under par. (b). The party filing a request for a public hearing shall indicate the interest of the party and the reasons why a hearing is warranted. The department shall hold a public hearing on a proposal for which the department receives an application under sub. (4) if the department determines that there is a significant public interest in holding a hearing.

2. The department shall promulgate, by rule, procedures for the conduct of public hearings held under this paragraph. A hearing held under this paragraph is not a contested case hearing under ch. 227.

3. The department shall circulate public notice of any hearing held under this paragraph in the manner provided under par. (b) 1.

(e) *Public access to information*. Any record or other information provided to or obtained by the department regarding a proposal for which an application under sub. (4) is received is a public record as provided in subch. II of ch. 19. The department shall make available to and

provide facilities for the public to inspect and copy any records or other information provided to or obtained by the department regarding a proposal for which an application for a new or increased interbasin transfer under sub. (4) is received, except that any record or other information provided to the department may be treated as confidential upon a showing to the secretary that the record or information is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), or upon a determination by the department that domestic security concerns warrant confidential treatment. Nothing in this subsection prevents the use of any confidential records or information obtained by the department in the administration of this section in compiling or publishing general analyses or summaries, if the analyses or summaries do not identify a specific owner or operator.

(11) WATER USE REPORT. Beginning no later than 8 years after the effective date of this subsection .... [revisor inserts date], and every 5 years thereafter, the department, using water use data reported under this section, shall publish a water use report to summarize water usage, identify related trends, identify areas of future water usage concerns, and recommend future actions to promote sustainable water use. The department shall also include in the report water resource information derived from reporting and data accumulation requirements under other water regulatory laws.

(13m) EXCEEDANCES. It is not a violation of this section to withdraw an amount of water that exceeds the withdrawal amount specified in a permit issued under sub. (5) or in the database under sub. (4s) (i).

(14) PENALTIES. (a) Any person who violates this section or any rule promulgated or approval issued under this section shall forfeit not less than \$10 nor more than \$10,000 for each violation. Each day of continued violation is a separate offense.

(c) In addition to the penalties under par. (a), the court may order the defendant to abate any nuisance, restore a natural resource, or take, or refrain from taking, any other action as necessary to eliminate or minimize any environmental damage caused by the violation.

(15) SUNSET. This section does not apply after the compact's effective date.

**SECTION 18.** 281.346 of the statutes is created to read:  
**281.346 Water conservation, reporting, and supply regulation; after the compact takes effect. (1)**  
DEFINITIONS. In this section:

(d) "Community within a straddling county" means any city, village, or town that is not a straddling community and that is located outside the Great Lakes basin but wholly within a county that lies partly within the Great Lakes basin.

(dm) "Compact" means the Great Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

(dr) “Compact’s effective date” means the effective date of the compact under s. 281.343 (9) (d).

(e) “Consumptive use” means a use of water that results in the loss of or failure to return some or all of the water to the basin from which the water is withdrawn due to evaporation, incorporation into products, or other processes.

(g) “Cumulative impacts” means the impacts on the Great Lakes basin ecosystem that result from incremental effects of all aspects of a withdrawal, diversion, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, diversions, and consumptive uses regardless of who undertakes the other withdrawals, diversions, and consumptive uses, including individually minor but collectively significant withdrawals, diversions, and consumptive uses taking place over a period of time.

(h) “Diversion” means a transfer of water from the Great Lakes basin into a watershed outside the Great Lakes basin, or from the watershed of one of the Great Lakes into that of another, by any means of transfer, including a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, tanker ship, tanker truck, or rail tanker except that “diversion” does not include any of the following:

1. The transfer of a product produced in the Great Lakes basin or in the watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of the Great Lakes basin or out of that watershed.

2. The transmission of water within a line that extends outside the Great Lakes basin as it conveys water from one point to another within the Great Lakes basin if no water is used outside the Great Lakes basin.

3. The transfer of bottled water from the Great Lakes basin in containers of 5.7 gallons or less.

(hm) “Divert” means to transfer water from the Great Lakes basin into a watershed outside the Great Lakes basin, or from the watershed of one of the Great Lakes into that of another, by any means of transfer, including a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, tanker ship, tanker truck, or rail tanker except that “divert” does not include any of the following:

1. To transfer a product produced in the Great Lakes basin or in the watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of the Great Lakes basin or out of that watershed.

2. To transmit water within a line that extends outside the Great Lakes basin as it conveys water from one point to another within the Great Lakes basin if no water is used outside the Great Lakes basin.

3. To transfer bottled water from the Great Lakes basin in containers of 5.7 gallons or less.

(i) “Environmentally sound and economically feasible water conservation measures” means those measures, methods, or technologies for efficient water use and for

reducing water loss and waste or for reducing the amount of a withdrawal, consumptive use, or diversion that are, taking into account environmental impact, the age and nature of equipment and facilities involved, the processes employed, the energy impacts, and other appropriate factors, all of the following:

1. Environmentally sound.

2. Reflective of best practices applicable to the water use sector.

3. Technically feasible and available.

4. Economically feasible and cost-effective based on an analysis that considers direct and avoided economic and environmental costs.

(j) “Facility” means an operating plant or establishment providing electricity to the public or carrying on any manufacturing activity, trade, or business on one site, including similar plants or establishments under common ownership or control located on contiguous properties.

(je) “Great Lakes basin” means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois—Rivieres, Quebec, within the jurisdiction of the parties.

(ji) “Great Lakes basin ecosystem” means the interacting components of air, land, water, and living organisms, including humans, within the Great Lakes basin.

(jj) “Great Lakes council” means the Great Lakes—St. Lawrence River Basin Water Resources Council, created under s. 281.343 (2) (a).

(jm) “Intrabasin transfer” means the transfer of water from the watershed of one of the Great Lakes into the watershed of another of the Great Lakes.

(n) “Party” means a state that is a party to the compact.

(nm) Notwithstanding s. 281.01 (9), “person” means an individual or other entity, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with nor under the direction of a government.

(o) “Product” means something produced by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or ultimate consumers, subject to all of the following:

1. Water used as part of the packaging of a product is part of the product.

2. Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the Great Lakes basin is not a product or part of a product.

3. Except as provided in subd. 1., water that is transferred as part of a public or private supply is not a product or part of a product.

4. Water in its natural state, such as in lakes, rivers, reservoirs, aquifers, or water basins, is not a product.

(pm) “Public water supply” means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities that serve a group of largely residential customers and that may also serve industrial, commercial, and other institutional customers.

(ps) “Reasonable water supply alternative” means a water supply alternative that is similar in cost to, and as environmentally sustainable and protective of public health as, the proposed new or increased diversion and that does not have greater adverse environmental impacts than the proposed new or increased diversion.

(q) “Regional body” means the body consisting of the governors of the parties and the premiers of Ontario and Quebec, Canada, or their designees as established by the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

(qd) “Regional declaration of finding” means a declaration of finding issued by the regional body under s. 281.343 (4h) (e).

(qm) “Regional review” means review by the regional body as described in s. 281.343 (4h).

(r) “Source watershed” means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed is the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed is the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively.

(t) “Straddling community” means any city, village, or town that, based on its boundary existing as of the compact’s effective date, is partly within the Great Lakes basin or partly within the watersheds of 2 of the Great Lakes and that is wholly within any county that lies partly or completely within the Great Lakes basin.

(tm) “Straddling county” means a county that lies partly within the Great Lakes basin.

(u) “Technical review” means a thorough analysis and evaluation conducted to determine whether a proposal that is subject to regional review under this section meets the criteria for approval under sub. (4), (5), or (6).

(w) “Water dependent natural resources” means the interacting components of land, water, and living organisms affected by the waters of the Great Lakes basin.

(wm) “Water loss” means the amount of water that is withheld from or not returned to the basin from which it is withdrawn as a result of a diversion or consumptive use or both.

(wp) “Water supply system,” when not preceded by “public,” means one of the following:

1. Except as provided in subd. 2., the equipment handling water from the point of intake of the water to the first point at which the water is used.

2. For a system for providing a public water supply, the equipment from the point of intake of the water to first point at which the water is distributed.

(wr) “Water utility” means a public utility, as defined in s. 196.01 (5), that furnishes water.

(x) “Waters of the Great Lakes basin” means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the Great Lakes basin.

(y) “Withdraw” means to take water from surface water or groundwater.

(z) “Withdrawal” means the taking of water from surface water or groundwater, including the taking of surface water or groundwater for the purpose of bottling the water.

(zm) “Without adequate supplies of potable water” means lacking a water supply that is economically and environmentally sustainable in the long term to meet reasonable demands for a water supply in the quantity and quality that complies with applicable drinking water standards, is protective of public health, is available at a reasonable cost, and does not have adverse environmental impacts greater than those likely to result from the proposed new or increased diversion.

**(1m) APPLICABILITY.** This section does not apply before the compact’s effective date.

**(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS.** (a) *Use of surface water divide.* For the purposes of this section, the surface water divide is used to determine whether a withdrawal or transfer of surface water or groundwater is from the Great Lakes basin.

(b) *Diversions and withdrawals from more than one source.* For the purposes of this section, the diversion or withdrawal of water from more than one source within the Great Lakes basin to supply a single facility or public water supply system is considered one diversion or withdrawal.

(c) *Water loss.* The department shall promulgate rules for determining the amount of water loss from consumptive uses.

(d) *County boundaries.* For the purposes of sub. (1) (d), (t), and (tm), a county’s boundaries as of December 13, 2005, shall be used to determine whether a county lies partly within the Great Lakes basin.

(e) *Baseline.* 1. The baseline for a withdrawal that is covered by a general permit issued under s. 281.344 (4s) on the compact’s effective date is the withdrawal amount specified for the withdrawal in the database under s. 281.344 (4s) (i) on the compact’s effective date. The baseline for a withdrawal for which the department has issued an individual permit under s. 281.344 (5) before the compact’s effective date is the withdrawal amount specified in the permit on the compact’s effective date.

1m. If a person making a withdrawal that averages 100,000 gallons per day or more in any 30-day period

registered the withdrawal under s. 281.344 (3) (a) 1. and reported as required under s. 281.344 (3) (e) and the department did not automatically issue a notice of coverage under s. 281.344 (4s) (c) or an individual permit under s. 281.344 (5) (c) for the withdrawal, the baseline for the withdrawal is the amount determined under s. 281.344 (5m) for the withdrawal or, if the department determines a different amount under sub. (4e), the amount determined under sub. (4e).

2. The baseline water loss for a consumptive use for which the department has specified an authorized base level of water loss under s. 281.35 (6) (a) 2. is the amount of that authorized base level on the compact's effective date.

4. The baseline volume for a diversion for which the department has issued an approval under s. 281.344 (3m) or (4) before the compact's effective date is the interbasin transfer amount specified in the approval on the compact's effective date.

6. The department shall provide a list of the baseline volumes determined under this paragraph to the Great Lakes council and the regional body no later than 12 months after the compact's effective date.

(em) *Change of ownership.* Regional review or Great Lakes council approval is not required when there is a change of ownership of a water supply system that withdraws, diverts, or consumptively uses waters of the Great Lakes basin unless the new owner proposes a change that is otherwise subject to regional review or Great Lakes council approval.

(f) *Hydrologic units.* The Lake Michigan and Lake Huron watershed shall be considered to be a single hydrologic unit and watershed.

(g) *Public trust doctrine.* Nothing in this section may be interpreted to change the application of the public trust doctrine under article IX, section 1, of the Wisconsin Constitution or to create any new public trust rights.

(3) STATEWIDE REGISTRATION AND REPORTING. (a) Any person who proposes to begin a withdrawal from the waters of the state using a water supply system that will have the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day period, to increase the capacity of a water supply system so that it will have the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day period, or to begin a diversion shall register the withdrawal or diversion with the department.

(b) A person to whom par. (a) applies shall register on a form prescribed by the department and provide all of the following information:

1. The name and address of the registrant and the date of registration.
2. The locations and sources of the withdrawal or diversion.

3. The daily capacity of the withdrawal or diversion and the daily capacity to withdraw or divert from each source.

4. An estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any 30-day period.

5. The uses made of the water.

6. The places at which the water is used.

7. The places at which any of the water is discharged.

8. Whether the water use is continuous or intermittent.

9. Whether the person holds a permit under s. 283.31.

10. Other information required by the department by rule.

(c) The department shall maintain a registry containing the information provided under par. (b) and s. 281.344 (3) (b).

(cm) The department may consider domestic security concerns when determining whether information regarding locations of withdrawals and diversions contained in the registry under par. (c) may be released to the public.

(e) 1. Each person who makes a withdrawal from the waters of the state that averages 100,000 gallons per day or more in any 30-day period or diverts any amount and who has registered the withdrawal or diversion under par. (a) or s. 281.344 (3) (a) shall annually report to the department the monthly volumes of withdrawal, whether the person withdraws at least 1,000,000 gallons per day for 30 consecutive days, and, if applicable, the volumes of diversion and, subject to par. (em), water loss from consumptive use.

2. In addition to the information required under subd. 1., the department may, by rule, create different reporting frequencies or require additional information from a person who registers a withdrawal, or diversion under par. (a) or s. 281.344 (3) (a) based upon the type or category of water use.

(em) If a person to whom par. (e) 1. applies provides any of the water that the person withdraws to a public water supply system, the person who operates the public water supply system, rather than the person who withdraws the water, shall annually report to the department the volume of water loss from the consumptive use of the water provided to the public water supply system.

(f) The department may require additional information under par. (b) 10. or (e) 2. only if the information is related to the purposes of the compact.

(4) DIVERSIONS. (a) *Prohibition.* Beginning on the compact's effective date, no person may begin a diversion, except as authorized under par. (c), (d), or (e) or an approval issued under s. 281.344 (4), and no person may increase the amount of a diversion over the diversion amount specified in an approval under this subsection or

over the interbasin transfer amount specified in an approval issued under s. 281.344 (3m) or (4), except as authorized under par. (c), (d), or (e).

(b) *Application.* 1. A person who proposes to begin a diversion or to increase the amount of a diversion under par. (c), (d), or (e) shall apply to the department for approval.

2. A person may apply under subd. 1. for approval of a new or increased diversion under par. (c) or (e) only if the person operates a public water supply system that receives or would receive water from the new or increased diversion.

3. Operators of 2 or more public water supply systems may submit a joint application under subd. 1. for a new or increased diversion under par. (c) or (e).

4. A person who applies under subd. 1. shall provide information about the potential impacts of the diversion on the waters of the Great Lakes basin and water dependent natural resources and any other information required by the department by rule.

4m. If a person who applies under subd. 1. will not directly withdraw the water proposed to be diverted, the person shall identify any entities that may withdraw the water and provide evidence of support from each of those entities in the form of a letter or resolution.

4p. If the person who applies under subd. 1. will not directly return the water to the Great Lakes basin, the person shall identify any entities that may return the water and provide evidence of support from each of those entities in the form of a letter or resolution.

4s. If the proposal for which a person applies under subd. 1. is subject to the exception standard under par. (f), the person shall provide documentation of how the physical, chemical, and biological integrity of the receiving water under par. (f) 3. will be protected and sustained as required under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water before the proposal is implemented and considering potential adverse impacts due to changes in temperature and nutrient loadings. If the receiving water is a surface water body that is tributary to one of the Great Lakes, the person shall include a description of the flow of the receiving water before the proposal is implemented, considering both low and high flow conditions.

5. If the proposal for which a person applies under subd. 1. is subject to the exception standard under par. (f), the person shall provide an assessment of the individual impacts of the proposal for the purposes of par. (f) 5. The person may also include a cumulative impact assessment.

(bg) *Determinations.* 1. The department shall determine whether a proposal under par. (b) is subject to par. (c) or (e) as follows:

a. If the proposal is to provide a public water supply within a single city, village, or town, the proposal is subject to par. (c) or (e) based on the boundaries of that city, village, or town.

b. If the proposal is to provide a public water supply within more than one city, village, or town, any portion of the proposal that provides a public water supply within a straddling community is subject to par. (c) and any portion of the proposal that provides a public water supply within a community described in par. (e) 1. (intro.) is subject to par. (e).

2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a proposal under par. (b), the department shall use, as appropriate, the current or planned service area of the public water supply system receiving water under the proposal. The planned service area is the service area of the system at the end of any planning period authorized by the department in the approved water supply service area plan under s. 281.348 that covers the public water supply system.

(c) *Straddling communities.* The department may approve a proposal under par. (b) to begin a diversion, or to increase the amount of a diversion, to an area within a straddling community but outside the Great Lakes basin or outside the source watershed if the water diverted will be used solely for public water supply purposes in the straddling community and all of the following apply:

1. An amount of water equal to the amount of water withdrawn from the Great Lakes basin, less an allowance for consumptive use, will be returned to the source watershed.

2. No surface water or groundwater from outside the source watershed will be returned to the source watershed unless all of the following apply:

a. The returned water will be from a water supply or wastewater treatment system that combines water from inside and outside the Great Lakes basin.

b. The returned water will be treated to meet applicable permit requirements under s. 283.31 and to prevent the introduction of invasive species into the Great Lakes basin.

c. The proposal maximizes the amount of water withdrawn from the Great Lakes basin that will be returned to the source watershed and minimizes the amount of water from outside the Great Lakes basin that will be returned to the source watershed.

2m. The proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.

3. If the proposal would result from a new withdrawal or an increase in a withdrawal that would average 100,000 gallons or more per day in any 90-day period, the proposal meets the exception standard under par. (f).

4. If the proposal would result in a new water loss or an increase in a water loss from consumptive use that would average 5,000,000 gallons or more per day in any 90-day period, all of the following apply:

a. The department conducts a technical review.

b. The department notifies the regional body as required in s. 281.343 (4h) (b) 1.



- c. The proposal undergoes regional review.
- d. The department considers the regional declaration of finding in determining whether to approve the proposal.
- (d) *Intrabasin transfer.* 1. The department may approve a proposal under par. (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par. (c) does not apply that would average less than 100,000 gallons per day in every 90–day period, if the proposal meets the applicable requirements under s. 30.18, 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the department by rule and, if the water will be used for public water supply purposes, the proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.
2. The department may approve a proposal under par. (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par. (c) does not apply that would average more than 100,000 gallons per day in any 90–day period with a new water loss or an increase in water loss that would average less than 5,000,000 gallons per day in every 90–day period, if all of the following apply:
- The proposal meets the exception standard under par. (f), except that the water may be returned to a watershed within the Great Lakes basin other than the source watershed and par. (f) 3m. does not apply.
  - The applicant demonstrates that there is no feasible, cost–effective, and environmentally sound water supply alternative within the watershed to which the water will be transferred, including conservation of existing water supplies as determined under par. (g).
  - If the water will be used for public water supply purposes, the proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.
  - The department provides notice of the proposal to the other parties.
3. The department may approve a proposal under par. (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par. (c) does not apply with a new water loss or an increase in water loss that would average 5,000,000 gallons per day or more in any 90–day period, if all of the following apply:
- The proposal meets the exception standard under par. (f).
  - The applicant demonstrates that there is no feasible, cost–effective, and environmentally sound water supply alternative within the watershed to which the water will be transferred, including conservation of existing water supplies as determined under par. (g).
  - If the water will be used for public water supply purposes, the proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.
  - The department conducts a technical review.

- e. The department notifies the regional body as required in s. 281.343 (4h) (b) 1.
- f. The proposal undergoes regional review.
- g. The department considers the regional declaration of finding in determining whether to approve the proposal.
- h. The proposal is approved by the Great Lakes council.
- (e) *Straddling counties.* 1. The department may approve a proposal under par. (b) for a new diversion or an increase in a diversion if the water diverted will be used solely for public water supply purposes in a community within a straddling county or, if a community is partly within a straddling county and partly within a county that lies entirely outside the Great Lakes basin, the water diverted will be used solely for public water supply purposes in the portion of the community that is within the straddling county and all of the following apply:
- The community is without adequate supplies of potable water.
  - The proposal meets the exception standard under par. (f).
  - The proposal maximizes the amount of water withdrawn from the Great Lakes basin that will be returned to the source watershed and minimizes the amount of water from outside the Great Lakes basin that will be returned to the source watershed.
  - There is no reasonable water supply alternative within the watershed in which the community is located, including conservation of existing water supplies as determined under par. (g).
  - The proposal will not endanger the integrity of the Great Lakes basin ecosystem based upon a determination that the proposal will have no significant adverse impact on the Great Lakes basin ecosystem.
  - em. The proposal is consistent with an approved water supply service area plan under s. 281.348 that covers the public water supply system.
  - The department conducts a technical review.
  - The department notifies the regional body as required in s. 281.343 (4h) (b) 1.
  - The proposal undergoes regional review.
  - The department considers the regional declaration of finding in determining whether to approve the proposal.
  - The proposal is approved by the Great Lakes council.
2. In determining whether to approve a proposal under this paragraph, the department shall give substantive consideration to whether the applicant provides sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the Great Lakes basin. The department may not use a lack of hydrological connection to the waters of the Great Lakes basin as a reason to disapprove a proposal.

(f) *Exception standard.* A proposal meets the exception standard if all of the following apply:

1. The need for the proposed diversion cannot reasonably be avoided through the efficient use and conservation of existing water supplies as determined under par. (g).

2. The diversion is limited to quantities that are reasonable for the purposes for which the diversion is proposed.

3. An amount of water equal to the amount of water withdrawn from the Great Lakes basin will be returned to the source watershed, less an allowance for consumptive use.

3m. The place at which the water is returned to the source watershed is as close as practicable to the place at which the water is withdrawn, unless the applicant demonstrates that returning the water at that place is one of the following:

- a. Not economically feasible.
- b. Not environmentally sound.
- c. Not in the interest of public health.

4. No water from outside the Great Lakes basin will be returned to the source watershed unless all of the following apply:

a. The returned water is from a water supply or wastewater treatment system that combines water from inside and outside the Great Lakes basin.

b. The returned water will be treated to meet applicable permit requirements under s. 283.31 and to prevent the introduction of invasive species into the Great Lakes basin and the department has approved the permit under s. 283.31.

c. If the water is returned through a structure on the bed of a navigable water, the structure is designed and will be operated to meet the applicable permit requirements under s. 30.12 and the department has approved the permit under s. 30.12.

4m. If water will be returned to the source watershed through a stream tributary to one of the Great Lakes, the physical, chemical, and biological integrity of the receiving water under subd. 3. will be protected and sustained as required under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water before the proposal is implemented and considering both low and high flow conditions and potential adverse impacts due to changes in temperature and nutrient loadings.

5. The diversion will result in no significant adverse individual impacts or cumulative impacts to the quantity or quality of the waters of the Great Lakes basin or to water dependent natural resources, including cumulative impacts that might result due to any precedent-setting aspects of the proposed diversion, based upon a determination that the proposed diversion will not have any significant adverse impacts on the sustainable management of the waters of the Great Lakes basin.

6. The applicant commits to implementing the applicable water conservation measures under sub. (8) (d) that are environmentally sound and economically feasible for the applicant.

7. The diversion will be in compliance with all applicable local, state, and federal laws and interstate and international agreements, including the Boundary Waters Treaty of 1909.

(g) *Conservation and efficient use of existing water supplies.* The department shall promulgate rules specifying the requirements for an applicant for a new or increased diversion subject to par. (f) to demonstrate the efficient use and conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the water conservation planning and analysis used to identify the water conservation and efficiency measures that the applicant determined were feasible.

(i) *Diversion amount.* In an approval issued under this subsection or a modification granted under this subsection to increase the amount of a diversion, the department shall specify a diversion amount equal to the quantity of water that is reasonable for the purposes for which the diversion is proposed.

**(4e) DETERMINING WITHDRAWAL AMOUNTS FOR WITHDRAWALS WITH INTERIM APPROVALS.** (a) Before issuing automatic notice of coverage under a general permit under sub. (4s) or an automatic individual permit under sub. (5) (c) for a withdrawal from the Great Lakes basin that is covered by an interim approval under s. 281.344 (5m), the department shall determine a withdrawal amount for the withdrawal under this subsection.

(b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall estimate the withdrawal amount for a withdrawal based on the maximum hydraulic capacity of the most restrictive component in the water supply system used for the withdrawal as of the compact's effective date, based on information available to the department.

2. Except as provided in subd. 3e., if the department has issued an approval under s. 30.12, 30.18, 281.34, or 281.41, or s. 281.17, 2001 stats., that is required for a withdrawal and the approval contains a limit on the amount of water that may be withdrawn, the department shall provide an estimate of the withdrawal amount equal to the limit in the approval.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the amount under subd. 1. for each of the water supply systems to which subd. 2. does not apply and shall determine the amount under subd. 2. for each of the water supply systems to which subd. 2. applies and shall provide an estimate of the withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

(c) The department shall provide the estimate under par. (b) for a withdrawal to the person making the withdrawal.

(d) After receiving an estimate under par. (c), a person making a withdrawal may provide the department with information relating to any of the following:

1. The components of the water supply system used for the withdrawal.
2. Seasonal variations in the amount of water supplied by the water supply system.
3. Plans for expanding the capacity of the water supply system submitted to the department no later than 2 years after the effective date of this subdivision .... [revisor inserts date].
4. Amounts withdrawn during the 5 years before the year in which the person submits the information.
5. Successful water conservation efforts by persons using the water that is withdrawn.
6. Water loss from consumptive uses of similar types of users compared to the water loss from consumptive use of persons using the water that is withdrawn.
7. Other relevant information.

(e) Except as provided in par. (f), the department shall determine the withdrawal amount for a withdrawal based on the estimate under par. (b) and the department's evaluation of any information provided under par. (d). The department may not consider information provided by any other person.

(f) For a public water supply system that, on the effective date of this paragraph .... [revisor inserts date], has approval under s. 281.41 to provide water from the Great Lakes basin for public water supply purposes outside of the Great Lakes basin and approval under s. 283.31 to return the associated wastewater to the Great Lakes basin, the department shall determine the withdrawal amount to be the amount of water necessary to provide water for public water supply purposes in the service territory specified in the sewer service area provisions of the areawide water quality management plan under s. 283.83 approved by the department before December 31, 2007, based on the population and related service projections in those provisions.

(g) The department's determination of a withdrawal amount under par. (e) or (f) is not subject to administrative review under ch. 227 except at the request of the person making the withdrawal.

(h) If 2 or more public water supply systems merge after the department determines their withdrawal amounts under par. (e) and before the department issues the initial individual permits under sub. (5) (c) for the systems, the withdrawal amount for the new system is the sum of the amounts determined under par. (e) for the individual systems.

(i) For the purposes of sub. (5) (f) 1. and 2., (h) 1. and 2., and (k) 1. and 2., and (5e) (b) 1. and 2., and (c) 1., and 2., a withdrawal amount determined under this subsection

for a withdrawal is considered to be the withdrawal amount for the withdrawal as of the compact's effective date.

**(4m) WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN.** A person may not make a withdrawal from the Great Lakes basin that averages 100,000 gallons per day or more in any 30-day period unless the withdrawal is covered under a general permit issued under sub. (4s) or s. 281.344 (4s), an individual permit issued under sub. (5) or s. 281.344 (5), or an interim approval under s. 281.344 (5m), except as provided in sub. (4s) (bm).

**(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Department to issue.* The department shall issue one or more general permits to cover withdrawals from the Great Lakes basin that average 100,000 gallons per day or more in any 30-day period but that do not equal at least 1,000,000 gallons per day for any 30 consecutive days. The department shall include all of the following in a general permit:

1. Reference to the database of withdrawal amounts under par. (i).
2. Requirements for estimating the amount withdrawn, monitoring the withdrawal, if necessary, and reporting the results of the estimating and monitoring, as provided in rules promulgated by the department.
3. Requirements for water conservation, as provided in rules promulgated by the department under sub. (8) (d).

(am) *Term of general permit.* The term of a general permit issued under par. (a) is 25 years.

(b) *General requirement.* A person who does not hold an individual permit under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or more in any 30-day period, but that does not equal at least 1,000,000 gallons per day for any 30 consecutive days, unless the withdrawal is covered under a general permit issued under this subsection or s. 281.344 (4s), except as provided in par. (bm). A person to whom the department has issued a notice of coverage under a general permit shall comply with the general permit.

(bm) *Waiver.* The department may waive the requirement to obtain coverage under a general permit for a person making a withdrawal that is covered by a permit under s. 30.18 (2) (a).

(c) *Automatic notice of coverage for withdrawals with interim approvals.* The department shall automatically issue a notice of coverage under a general permit to a person who makes a withdrawal that is covered by an interim approval under s. 281.344 (5m), if the withdrawal averages 100,000 gallons per day or more in any 30-day period but does not equal at least 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department may request additional information before issuing a notice under this paragraph. The department shall issue a notice under this paragraph no later than one year after the compact's effective date. In the notice provided

under this paragraph for a withdrawal, the department shall specify a withdrawal amount equal to the withdrawal amount determined under sub. (4e) for the withdrawal.

(d) *Coverage under general permit for new or increased withdrawals.* 1. A person who proposes to begin a withdrawal from the Great Lakes basin that will average 100,000 gallons per day or more in any 30-day period, or to increase an existing withdrawal so that it will average 100,000 gallons per day or more in any 30-day period, but who does not propose to withdraw at least 1,000,000 gallons per day for any 30 consecutive days, shall apply to the department for coverage under a general permit, unless the person applies for an individual permit under sub. (5). In the application, the person shall provide the information required by the department by rule.

2. After receiving an application under subd. 1., the department shall, within the time limit established by the department by rule, determine whether the withdrawal qualifies for coverage under a general permit or notify the applicant of any additional information needed to determine whether the withdrawal qualifies for coverage under a general permit.

3. Except as provided in subd. 3m., if the department determines that a withdrawal qualifies for coverage under a general permit and the department has issued any approvals that are required for the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of coverage. In the notice, the department shall specify a withdrawal amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. a. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that

serves a population of more than 10,000 unless the withdrawal is covered by an approved water supply service area plan under s. 281.348.

b. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, unless the withdrawal is consistent with the water supply service area plan.

c. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall issue a notice of coverage. In the notice of coverage the department shall specify a withdrawal amount that is equal to the withdrawal amount in the water supply service area plan.

4. If the department determines that a withdrawal does not qualify for coverage under a general permit, the department shall notify the applicant in writing of the reason for that determination.

(dm) *Requiring individual permit.* The department may require a person who is making or proposes to make a withdrawal that averages 100,000 gallons per day or more in any 30-day period, but that does not equal at least 1,000,000 gallons per day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1) (a), or a groundwater management area designated under s. 281.34 (9).

(e) *Increase in withdrawal amount.* 1. If a person making a withdrawal that is covered under a general permit issued under this subsection or s. 281.344 (4s) proposes to increase the amount of the withdrawal over the withdrawal amount specified in the database under par. (i) for the withdrawal, but does not propose to withdraw at least 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the department for a modification of the withdrawal amount.

3. Except as provided in subd. 3m., if the department has issued any approvals that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount to an amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

3e. If water is withdrawn through more than one water supply system to serve a facility, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. a. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that serves a population of more than 10,000 unless the withdrawal is covered by an approved water supply service area plan under s. 281.348.

b. The department may not approve an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, unless the withdrawal is consistent with the water supply service area plan.

c. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall issue a notice of coverage. In the notice of coverage the department shall specify a withdrawal amount that is equal to the withdrawal amount in the water supply service area plan.

(f) *Term of coverage.* Coverage under a general permit ends on the date that the term of the general permit under par. (am) ends.

(g) *Redetermination.* A person to whom the department has issued a notice of coverage under a general permit issued under this subsection or s. 281.344 (4s) shall apply to the department for redetermination of coverage under a new general permit issued under this subsection at least 180 days before the end of the term of the current general permit if the person intends to continue to withdraw from the Great Lakes basin an average of 100,000 gallons per day or more in any 30-day period but does not intend to withdraw at least 1,000,000 gallons per day for any 30 consecutive days. If the person is in substantial compliance with the current general permit and the withdrawal qualifies for coverage under the new general permit, the department shall issue a notice of coverage under the new general permit.

(h) *Suspension and revocation.* After an opportunity for a hearing, the department may suspend or revoke coverage under a general permit issued under this subsection or s. 281.344 (4s) for cause, including obtaining coverage under the permit by misrepresentation or failure to disclose material facts or substantially violating the terms of the permit.

(i) *Database.* The department shall maintain a database of the withdrawal amounts for all withdrawals that are covered under general permits issued under this subsection and s. 281.344 (4s).

(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Requirement.* A person may not make a withdrawal from the Great Lakes basin that equals at least 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is covered by an individual permit issued under this subsection or s. 281.344 (5). A person to whom the department has issued an individual permit shall comply with the individual permit.

(b) *Content of individual permits.* The department shall include all of the following in an individual permit:

1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m., (g) 3., 3e., or 3m., or (j) 3., 3e., or 3m., sub. (4e), or s. 281.344 (4e) or (5) (d) 3., 3e., or 3m. or (e) 3., 3e., or 3m.

2. Provisions for estimating and, if necessary, monitoring substantial increases in water loss resulting from increases in withdrawal amounts during the term of a permit and reporting the results of the estimating and monitoring, as provided in rules promulgated by the department.

3. Requirements for estimating the amount withdrawn, monitoring the withdrawal, if necessary, and reporting the results of the estimating and monitoring, as provided in rules promulgated by the department.

4. Requirements for water conservation, as provided in rules promulgated by the department under sub. (8) (d).

5. Limits on the location and dates or seasons of the withdrawal and on the allowable uses of the water, as provided in rules promulgated by the department.

5m. If a decision-making standard under sub. (5m) or (6) applies to the withdrawal, any limit on the amount of the withdrawal necessary to ensure compliance with the decision-making standard.

6. Conditions on any diversion approved under sub. (4) made by the person making the withdrawal.

6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6) (a).

7. If the withdrawal is from a surface water body tributary to one of the Great Lakes and would result in a water loss of more than 95 percent of the amount of water withdrawn, conditions that ensure that the withdrawal does not cause significant adverse environmental impact.

(c) *Automatic issuance of individual permits for withdrawals with interim approvals.* The department shall automatically issue an individual permit to a person who makes a withdrawal from the Great Lakes basin that is covered by an interim approval under s. 281.344 (5m), if the withdrawal equals at least 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department may request additional information before issuing

a permit under this paragraph. The department shall issue a permit under this paragraph no later than one year after the compact's effective date. In the permit, the department shall specify a withdrawal amount equal to the withdrawal amount determined under sub. (4e) for the withdrawal.

(d) *Initial individual permit.* 1. A person who proposes to begin a withdrawal from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any 30 consecutive days or to modify an existing withdrawal so that it will equal at least 1,000,000 gallons per day for any 30 consecutive days shall apply to the department for an individual permit.

2. After receiving an application under subd. 1., the department shall, within the time limit established by the department by rule, determine whether to approve the application or notify the applicant of any additional information needed to determine whether to approve the application.

3. Except as provided in subd. 3m., if the department approves an application under subd. 1. and the department has issued any approvals that are required for the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue an individual permit. In the permit, the department shall specify a withdrawal amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

c. Any limit on the amount of the withdrawal necessary to ensure compliance with a decision-making standard applicable under par. (e) or (f).

3e. If water is withdrawn through more than one water supply system to serve a facility and subd. 3. c. does not apply, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall issue an individual permit. In the permit, the department shall specify a withdrawal

amount that is equal to the withdrawal amount in the water supply service area plan.

4. If the department disapproves an application under subd. 1., the department shall notify the applicant in writing of the reason for the disapproval.

(dm) *Consistency with water supply plans.* 1. The department may not approve an application under par. (d) 1. for a withdrawal for the purpose of providing water to a public water supply system that serves a population of more than 10,000 unless the public water supply system is covered by an approved water supply service area plan under s. 281.348.

2. The department may not approve an application under par. (d) 1. for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348 unless the withdrawal is consistent with the water supply service area plan.

(e) *Standards for approval of certain unpermitted withdrawals.* 1. Except as provided in par. (dm), the department may not approve an application under par. (d) 1. for a new withdrawal that will equal at least 1,000,000 gallons per day for any 30 consecutive days, or for an existing withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is proposed to be modified so that it will equal at least 1,000,000 gallons per day for any 30 consecutive days, but to which subd. 2. does not apply, unless the withdrawal meets the state decision-making standard under sub. (5m).

2. Except as provided in subd. 3. or par. (dm), the department may not approve an application under par. (d) 1. for a new withdrawal that will equal at least 10,000,000 gallons per day for any 30 consecutive days, or for an existing withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is proposed to be modified so that it will equal at least 10,000,000 gallons per day for any 30 consecutive days, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits an application under par. (d) 1., to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the withdrawal. If the person demonstrates that the water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the withdrawal.

(f) *Standards for approval of withdrawals covered by general permits.* 1. Except as provided in par. (dm), the department may not approve an application under par. (d) 1. for a withdrawal that is covered under a general permit under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal so that it equals 1,000,000 or

more gallons per day for any 30 consecutive days over the withdrawal amount as of the date that the department issued the current notice of coverage under the general permit or as of the compact's effective date, whichever is later, and if subd. 2. does not apply, unless the withdrawal meets the state decision-making standard under sub. (5m).

2. Except as provided in subd. 3. or par. (dm), the department may not approve an application under par. (d) 1. for a withdrawal that is covered under a general permit under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal so that it equals 10,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the date that the department issued the current notice of coverage under the general permit or as of the compact's effective date, whichever is later, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits an application under par. (d) 1., to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the increase in the withdrawal over the withdrawal amount as of the later of the dates under subd. 2. If the person demonstrates that the resulting increase in water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the increase in the withdrawal.

(g) *Modification of individual permit for increased withdrawal.* 1. If a person making a withdrawal that is covered under an individual permit issued under this subsection or s. 281.344 (5) proposes to increase, during the term of the permit, the amount of the withdrawal over the withdrawal amount specified in the permit, the person shall apply to the department for a modification of the permit to increase the withdrawal amount.

2. After receiving an application under subd. 1., the department shall, within the time limit established by the department by rule, determine whether to approve the application for modification of the permit or notify the applicant of any additional information needed to determine whether to approve the application.

3. Except as provided in subd. 3m., if the department approves an application under subd. 1. and the department has issued any approvals that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall modify the individual permit. In the modified permit, the department shall specify a withdrawal amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval

under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

c. Any limit on the amount of the withdrawal necessary to ensure compliance with a decision-making standard applicable under par. (e) or (f).

3e. If water is withdrawn through more than one water supply system to serve a facility and subd. 3. c. does not apply, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348, the department shall modify the individual permit. In the modified permit, the department shall specify a withdrawal amount that is equal to the withdrawal amount in the water supply service area plan.

4. If the department disapproves an application under subd. 1., the department shall notify the applicant in writing of the reason for the disapproval.

(gm) *Consistency with water supply plans.* 1. The department may not approve an application under par. (g) 1. for a withdrawal for the purpose of providing water to a public water supply system that serves a population of more than 10,000 unless the public water supply system is covered by an approved water supply service area plan under s. 281.348.

2. The department may not approve an application under par. (g) 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348 unless the withdrawal is consistent with the water supply service area plan.

(h) *Standards for approval of certain modifications.*

1. Except as provided in par. (gm), the department may not approve an application under par. (g) 1., if the person proposes to increase the amount of the withdrawal so that it equals 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department issued a modified permit for the withdrawal if the modification was subject to the state decision-making standard under sub. (5m) or the compact decision-making standard under sub. (6), whichever is latest, and if subd. 2. does not

apply, unless the increased withdrawal meets the state decision-making standard under sub. (5m).

2. Except as provided in subd. 3. or par. (gm), the department may not approve an application under par. (g) 1., if the person proposes to increase the amount of the withdrawal so that it equals at least 10,000,000 gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department issued a modified permit for the withdrawal if the modification was subject to the compact decision-making standard under sub. (6), whichever is latest, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits an application under par. (g) 1., to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the increase in the withdrawal over the withdrawal amount as of the latest of the dates under subd. 2. If the person demonstrates that the resulting increase in water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the increase in the withdrawal.

(i) *Term of permit.* The term of an individual permit is 10 years.

(j) *Reissuance.* 1. A person to whom the department has issued an individual permit under this subsection or s. 281.344 (5) shall apply to the department for reissuance of the individual permit at least 180 days before the end of the term of the permit if the person intends to continue to withdraw from the Great Lakes basin at least 1,000,000 gallons per day for any 30 consecutive days.

2. After receiving an application under subd. 1., the department shall, within the time limit established by the department by rule, determine whether to approve the application or notify the applicant of any additional information needed to determine whether to approve the application.

3. Except as provided in subd. 3m., if the department approves an application under subd. 1., determines that the person is in substantial compliance with the current individual permit, and has issued any approvals that are required for the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall reissue the individual permit. In the permit, the department shall specify a withdrawal amount that is equal to the amount in the current permit, except that, if the person proposes in the application to increase the amount of the withdrawal, the department shall specify a withdrawal amount that is, except as provided in subd. 3e., equal to the smallest of the following amounts:

a. The maximum hydraulic capacity of the most restrictive component of the water supply system used

for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., specifies a maximum amount of water that may be withdrawn, that amount.

c. Any limit on the amount of the withdrawal necessary to ensure compliance with a decision-making standard applicable under par. (e) or (f).

3e. If water is withdrawn through more than one water supply system to serve a facility and subd. 3. c. does not apply, the department shall determine the smallest amount under subd. 3. a. or b. for each of the water supply systems and shall specify a withdrawal amount that is equal to the sum of the amounts determined for each of the water supply systems.

3m. If the department approves an application under subd. 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348 and determines that the person is in substantial compliance with the current individual permit, the department shall reissue the individual permit. In the permit, the department shall specify a withdrawal amount that is equal to the withdrawal amount in the water supply service area plan.

4. If the department disapproves an application under subd. 1., the department shall notify the applicant in writing of the reason for the disapproval.

(jm) *Consistency with water supply plans; reissuance.* 1. The department may not approve an application under par. (j) 1. for a withdrawal for the purpose of providing water to a public water supply system that serves a population of more than 10,000 if the person proposes to increase the amount of the withdrawal over the amount in the current permit, unless the public water supply system is covered by an approved water supply service area plan under s. 281.348.

2. The department may not approve an application under par. (j) 1. for a withdrawal for the purpose of providing water to a public water supply system that is covered by an approved water supply service area plan under s. 281.348 unless the withdrawal is consistent with the water supply service area plan.

(k) *Standards for reissuance in certain cases.* 1. Except as provided in par. (jm), the department may not approve an application under par. (j) 1., if the person proposes in the application to increase the amount of the withdrawal so that it equals 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department



issued a modified permit for the withdrawal if the modification was subject to the state decision-making standard under sub. (5m) or the compact decision-making standard under sub. (6), whichever is latest, and if subd. 2. does not apply, unless the increased withdrawal meets the state decision-making standard under sub. (5m).

2. Except as provided in subd. 3. or par. (jm), the department may not approve an application under par. (j) 1., if the person proposes in the application to increase the amount of the withdrawal so that it equals at least 10,000,000 gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department issued a modified permit for the withdrawal if the modification was subject to the compact decision-making standard under sub. (6), whichever is latest, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits an application under par. (j) 1., to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the increase in the withdrawal over the withdrawal amount as of the latest of the dates under subd. 2. If the person demonstrates that the resulting increase in water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the increase in the withdrawal.

(L) *Prior notice.* Beginning no later than 60 months after the compact's effective date, if a proposal for which approval is required under this subsection will result in a new water loss or an increase in a water loss that will average more than 5,000,000 gallons per day in any 90-day period, the department shall provide the other parties and the provinces of Ontario and Quebec, Canada, with detailed notice of the proposal and an opportunity to comment on the proposal. The department shall provide a response to any comment received under this paragraph. The department may not grant an approval under this subsection until at least 90 days after the day on which it provided notice under this paragraph.

(m) *Regional review.* If a majority of the members of the regional body request regional review of a proposal described in s. 281.343 (4h) (a) 6. for a withdrawal and the department determines under s. 281.343 (4h) (b) 1. that the proposal is subject to regional review, the department shall conduct a technical review of the proposal and submit the proposal for regional review. The department may not determine under s. 281.343 (4h) (b) 1. that the proposal is subject to regional review unless the proposal will result in a water loss that will average more than 5,000,000 gallons per day in any 90-day period. If the department submits the proposal for regional review, the department may not act on the proposal until the proposal

has undergone regional review and the department has considered the regional declaration of finding in determining whether to approve the proposal or until 90 days after the department submits the proposal for regional review, whichever is sooner.

(n) *Information to be provided.* A person who submits an application under par. (d) 1., (g) 1., or (j) 1. shall provide the information required by the department by rule. If a decision-making standard under sub. (5m) or (6) applies, the person shall provide information about the potential impacts of the withdrawal on the waters of the Great Lakes basin and water dependent natural resources. If the compact decision-making standard under sub. (6) applies, the person shall provide an assessment of the individual impacts of the proposal for the purposes of sub. (6) (b). The person may also include a cumulative impact assessment.

(o) *Departmental modifications.* After an opportunity for a hearing, the department may modify a permit issued under this subsection as necessary to ensure that a withdrawal complies with any applicable requirement under sub. (5m) or (6).

(p) *Suspension and revocation.* The department may suspend or revoke a permit issued under this subsection or s. 281.344 (5) for cause, including obtaining the permit by misrepresentation or failure to disclose material facts or substantially violating the terms of the permit.

(q) *Transfer of control.* A permit is not transferable to any person except after notice to the department. A person who proposes to assume control over a permitted withdrawal shall file with the department a permit application and a statement of acceptance of the permit. The department may require modification or revocation and reissuance of the permit to change the name of the permittee.

(5e) REQUIREMENTS FOR WATER SUPPLY SERVICE AREA PLANS FOR PUBLIC WATER SUPPLY SYSTEMS IN THE GREAT LAKES BASIN. (a) *Unpermitted withdrawals.* 1. Beginning on the compact's effective date, the department may not approve a water supply service area plan under s. 281.348 that provides for a new withdrawal from the Great Lakes basin of at least 1,000,000 gallons per day for any 30 consecutive days, or for modification of an existing withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) so that it will equal at least 1,000,000 gallons per day for any 30 consecutive days, but to which subd. 2. does not apply, unless the withdrawal meets the state decision-making standard under sub. (5m).

2. Beginning on the compact's effective date, except as provided in subd. 3., the department may not approve a water supply service area plan under s. 281.348 that provides for a new withdrawal from the Great Lakes basin of at least 10,000,000 gallons per day for any 30 consecutive days, or for modification of an existing withdrawal that is not covered by a general permit under sub.

(4s) or s. 281.344 (4s) so that it will equal at least 10,000,000 gallons per day for any 30 consecutive days, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits a water supply service area plan under s. 281.348, that provides for a new withdrawal to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the withdrawal. If the person demonstrates that the water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the withdrawal.

(b) *Increased withdrawals covered by general permits.* 1. Beginning on the compact's effective date, the department may not approve a water supply service area plan under s. 281.348 that provides for modifying a withdrawal that is covered under a general permit under sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the date that the department issued the current notice of coverage under the general permit or as of the compact's effective date, whichever is later, and if subd. 2. does not apply, unless the withdrawal meets the state decision-making standard under sub. (5m).

2. Beginning on the compact's effective date, except as provided in subd. 3., the department may not approve a water supply service area plan under s. 281.348 that provides for modifying a withdrawal that is covered under a general permit under sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 10,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the date that the department issued the current notice of coverage under the general permit or as of the compact's effective date, whichever is later, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits a water supply service area plan under s. 281.348, that provides for an increase in a withdrawal to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the increase in the withdrawal over the withdrawal amount as of the later of the dates under subd. 2. If the person demonstrates that the resulting increase in water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the increase in the withdrawal.

(c) *Increased withdrawals covered by individual permits.* 1. Beginning on the compact's effective date, the department may not approve a water supply service area

plan under s. 281.348 that provides for increasing the amount of a withdrawal that is covered under an individual permit issued under sub. (5) or s. 281.344 (5) so that it equals 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department issued a modified permit for the withdrawal if the modification was subject to the state decision-making standard under sub. (5m) or the compact decision-making standard under sub. (6), whichever is latest, and if subd. 2. does not apply, unless the increased withdrawal meets the state decision-making standard under sub. (5m).

2. Beginning on the compact's effective date, except as provided in subd. 3., the department may not approve a water supply service area plan under s. 281.348 that provides for increasing the amount of a withdrawal that is covered under an individual permit issued under s. sub. (5) or s. 281.344 (5) so that it equals 10,000,000 or more gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department issued a modified permit for the withdrawal if the modification was subject to the compact decision-making standard under sub. (6), whichever is latest, unless the increased withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits a water supply service area plan under s. 281.348, that provides for an increase in a withdrawal to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the increase in the withdrawal over the withdrawal amount as of the latest of the dates under subd. 2. If the person demonstrates that the resulting increase in water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the increase in the withdrawal.

(d) *Providing prior notice.* The department may not approve a water supply service area plan under s. 281.348 that provides for a withdrawal described in sub. (5) (L) unless the department has provided notice as required under sub. (5) (L) at least 90 days before approving the water supply service area plan and has provided a response to any comment received.

(e) *Regional review.* The department may not approve a water supply service area plan under s. 281.348 if a majority of the members of the regional body request regional review of a withdrawal described in s. 281.343 (4h) (a) 6. provided for in the plan unless the department complies with sub. (5) (m).

(5m) STATE DECISION-MAKING STANDARD. A proposal meets the state decision-making standard if all of the following apply:

(a) The amount of the withdrawal or increase in the withdrawal is needed to meet the projected needs of the person who will use the water.

(b) For an increase in a withdrawal, cost-effective conservation practices have been implemented for existing uses of the water, as required under rules promulgated by the department under sub. (8) (d).

(c) The applicant has assessed other potential water sources for cost-effectiveness and environmental effects.

(d) Cost-effective conservation practices will be implemented to ensure efficient use of the water, for a new withdrawal, or of the increased amount of an existing withdrawal.

(e) One of the following applies:

1. No significant adverse environmental impacts to the waters of the state will result from the new or increased withdrawal.

2. If the withdrawal is from a surface water body, the applicant demonstrates that the withdrawal will not result in the violation of water quality standards under s. 281.15 or impair fish populations.

3. The department has issued a permit under s. 30.18 for the new or increased withdrawal or has issued a permit under s. 30.12 for a structure that will be used for the new or increased withdrawal.

4. The department has issued an approval under s. 281.34, or s. 281.17, 2001 stats., for the new or increased withdrawal.

**(6) COMPACT DECISION-MAKING STANDARD.** A proposal meets the compact decision-making standard if all of the following apply:

(a) All of the water withdrawn from the Great Lakes basin will be returned to the source watershed, less an allowance for consumptive use.

(b) The withdrawal will result in no significant adverse individual impacts or cumulative impacts to the quantity or quality of the waters of the Great Lakes basin, to water dependent natural resources, to the source watershed, or, if the withdrawal is from a stream tributary to one of the Great Lakes, to the watershed of that stream.

(c) The withdrawal will be implemented in a way that incorporates environmentally sound and economically feasible water conservation measures.

(d) The withdrawal will be in compliance with all applicable local, state, and federal laws and interstate and international agreements, including the Boundary Waters Treaty of 1909.

(e) The proposed use of the water is reasonable, based on a consideration of all of the following:

1. Whether the proposed withdrawal is planned in a way that provides for efficient use of the water and will avoid or minimize the waste of water.

2. If the proposal would result in an increased water loss, whether efficient use is made of existing water supplies.

3. The balance of the effects of the proposed withdrawal and use, and other existing or planned withdrawals and water uses from the water source, on economic development, social development, and environmental protection.

4. The supply potential of the water source, considering quantity, quality, reliability, and safe yield of hydrologically interconnected water sources.

5. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed withdrawal and use, under foreseeable conditions, to other lawful consumptive uses or nonconsumptive uses of water or to the quantity or quality of the waters of the Great Lakes basin and water dependent natural resources, and the proposed plans and arrangements for avoidance or mitigation of those impacts.

6. Any provisions for restoration of hydrologic conditions and functions of the source watershed or, if the withdrawal is from the stream tributary to one of the Great Lakes, of the watershed of that stream.

**(7) EXEMPTIONS.** Subsections (3) to (6) do not apply to withdrawals from the Great Lakes basin or diversions for any of the following purposes:

(a) To supply vehicles, including vessels and aircraft, for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

(b) To use in a noncommercial project that lasts no more than 3 months for fire fighting, humanitarian, or emergency response purposes.

**(7m) EMERGENCY ORDER.** The department may, without a prior hearing, order a person to whom the department has issued an individual permit or notice of coverage under a general permit under this section or s. 281.344 to immediately stop a withdrawal if the department determines that there is a danger of imminent harm to the public health, safety, or welfare, to the environment, or to the water resources or related land resources of this state. The order shall specify the date on which the withdrawal must be stopped and the date, if any, on which it may be resumed. The order shall notify the person that the person may request a contested case hearing under ch. 227. The hearing shall be held as soon as practicable after receipt of a request for a hearing. An emergency order remains in effect pending the result of the hearing.

**(8) STATEWIDE WATER CONSERVATION AND EFFICIENCY.**

(a) *Goals and objectives.* The department shall specify water conservation and efficiency goals and objectives for the waters of the state and for the waters of the Great Lakes basin. The department shall specify goals and objectives for the waters of the Great Lakes basin that are consistent with the goals under s. 281.343 (4b) (a) and the objectives identified by the Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying these goals and objectives, the department shall consult with the department of commerce and the public service commission

and consider the water conservation and efficiency goals and objectives developed in any pilot program conducted by the department in cooperation with the regional body.

(b) *Statewide program.* In cooperation with the department of commerce and the public service commission, the department shall develop and implement a statewide water conservation and efficiency program that includes all of the following:

1. Promotion of environmentally sound and economically feasible water conservation measures through a voluntary statewide program.

1m. Mandatory and voluntary conservation and efficiency measures for the waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), (5), (5m), and (6) and s. 281.348.

2. Water conservation and efficiency measures that the public service commission requires or authorizes a water utility to implement under ch. 196.

3. Water conservation and efficiency measures that the department of commerce requires or authorizes to be implemented under chs. 101 and 145.

(c) *Great Lakes basin program.* No later than the 24th month beginning after the compact's effective date, the department shall implement a Great Lakes basin water conservation and efficiency program as part of the statewide program under par. (b), for all users of the waters of the Great Lakes basin, that is designed to achieve the goals and objectives for the waters of the Great Lakes basin that are specified under par. (a). The department shall include in the Great Lakes basin program the activities in par. (b) 1. to 3. applicable in the Great Lakes basin and application of the water conservation and efficiency measures specified under par. (d) in subs. (4) (f) 6. and (g) and (6) (c).

(d) *Water conservation and efficiency measures.* The department shall promulgate rules specifying water conservation and efficiency measures for the purposes of implementing par. (b). In the rules, the department may not require retrofitting of existing fixtures, appliances, or equipment. The department shall specify measures based on all of the following:

1. The amount and type of diversion, withdrawal, or consumptive use and whether the diversion, withdrawal, or consumptive use exists on the first day of the 84th month beginning after the effective date of this subdivision .... [revisor inserts date], or the compact's effective date, whichever is earlier, is expanded, or is new.

2. The results of any pilot water conservation program conducted by the department in cooperation with the regional body.

3. The results of any assessments under sub. (11) (d).

(9) **TRIBAL CONSULTATION; PUBLIC PARTICIPATION.** (a) *Tribal consultation.* The department shall consult with a federally recognized American Indian tribe or band in this state concerning a proposal that may affect the tribe

or band and that is subject to regional review or Great Lakes council approval under sub. (4) or (5).

(b) *Public Notice.* 1. The department shall, by rule, create procedures for circulating to interested and potentially interested members of the public notices of each complete application that the department receives under sub. (5) to which the state decision-making standard under sub. (5m) or the compact decision-making standard under sub. (6) applies, other than an application from a person operating a public water supply system that is covered by an approved water supply service area plan under s. 281.348, and each complete application that the department receives under sub. (4) and of each general permit that the department proposes to issue under sub. (4s) (a). The department shall include, in the rule, at least the following procedures:

a. Publication of the notice as a class 1 notice under ch. 985.

b. Mailing of the notice to any person, group, local governmental unit, or state agency upon request.

2. The department shall establish the form and content of a public notice by rule. The department shall include in every public notice concerning an application to which subd. 1. applies at least the following information:

a. The name and address of each applicant.

b. A brief description of the proposal for which the application is made, including the amount of the proposed withdrawal or diversion.

c. A brief description of the procedures for the formulation of final determinations on applications, including the 30-day comment period required under par. (c).

(c) *Public comment.* The department shall receive public comments on a proposal for which it receives an application to which par. (b) 1. applies or on a proposed general permit under sub. (4s) (a) for a 30-day period beginning when the department gives notice under par. (b) 1. The department shall retain all written comments submitted during the comment period and shall consider the comments in making its decisions on the application.

(d) *Public hearing.* 1. The department shall provide an opportunity for any interested person or group of persons, any affected local governmental unit, or any state agency to request a public hearing with respect to a proposal for which the department receives an application under to which par. (b) 1. applies or on a proposed general permit under sub. (4s) (a). A request for a public hearing shall be filed with the department within 30 days after the department gives notice under par. (b). The party filing a request for a public hearing shall indicate the interest of the party and the reasons why a hearing is warranted. The department shall hold a public hearing on a proposal for which the department receives an application to which par. (b) 1. applies or on a proposed general permit under

sub. (4s) (a) if the department determines that there is a significant public interest in holding a hearing.

2. The department shall promulgate, by rule, procedures for the conduct of public hearings held under this paragraph. A hearing held under this paragraph is not a contested case hearing under ch. 227.

3. The department shall circulate public notice of any hearing held under this paragraph in the manner provided under par. (b) 1.

(e) *Public access to information.* Any record or other information provided to or obtained by the department regarding a proposal for which an application under sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The department shall make available to and provide facilities for the public to inspect and copy any records or other information provided to or obtained by the department regarding a proposal for which an application for a new or increased diversion or withdrawal under sub. (4) or (5) is received, except that any record or other information provided to the department may be treated as confidential upon a showing to the secretary that the record or information is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), or upon a determination by the department that domestic security concerns warrant confidential treatment. Nothing in this subsection prevents the use of any confidential records or information obtained by the department in the administration of this section in compiling or publishing general analyses or summaries, if the analyses or summaries do not identify a specific owner or operator.

(h) *Expediting review.* The department shall take appropriate measures to expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes council, parties, and the provinces of Ontario and Quebec of applications under this section that are subject to regional review.

**(10m) AMENDMENT OF COASTAL MANAGEMENT PROGRAM.** (a) The Wisconsin coastal management council, created under s. 14.019, shall amend this state's coastal management program submitted to the U.S. secretary of commerce under [16 USC 1455](#), to incorporate the requirements of this section, as they apply to the water resources of the Great Lakes basin, and shall formally submit the proposed amendments to the U.S. secretary of commerce.

(b) After approval of the amendments submitted to the U.S. secretary of commerce under par. (a), the Wisconsin coastal management council shall, when conducting federal consistency reviews under [16 USC 1456](#) (c), consider the requirements specified under par. (a), if applicable.

(c) If the department issues a permit for a withdrawal to which this section applies, and the withdrawal is subject to a federal consistency review under [16 USC 1456](#) (c), the Wisconsin coastal management council shall cer-

tify that the withdrawal is consistent with this state's coastal management program.

**(11) INFORMATION, REPORTS, AND ASSESSMENTS.** (a) *Statewide inventory.* 1. The department shall develop and maintain a water resources inventory consisting of information about the waters of the state including information about the location, type, quantity, and uses of water resources and the location, and type of diversions, withdrawals, and consumptive uses and quantities of withdrawals and water losses. The department shall develop the inventory in cooperation with federal and local governmental entities, agencies of this state and of the other parties, tribal agencies, and private entities. The department shall use information in the registry under sub. (3) (c) in creating the inventory.

2. The department shall create the water resources inventory under subd. 1. no later than the first day of the 72nd month beginning after the effective date of this subdivision ... [revisor inserts date], or the first day of the 60th month beginning after the compact's effective date whichever is later.

(b) *Annual report on water resources.* Beginning within 60 months after the compact's effective date, the department shall annually report to the Great Lakes council the information from par. (a) regarding withdrawals that average 100,000 gallons per day or more over a 30-day period, including consumptive uses, in the basin and any diversions, as well as the amounts of the withdrawals, water losses from consumptive uses, and diversions in the basin reported under sub. (3) (e).

(c) *Program report.* No later than 12 months after the compact's effective date, and every 5 years thereafter, the department shall submit a report to the Great Lakes council and the regional body describing the implementation of the program under this section, including the manner in which withdrawals from the Great Lakes basin are managed, how the criteria for approval under subs. (4), (5), and (6) are applied, and how conservation and efficiency measures are implemented.

(d) *Assessment of water conservation and efficiency program.* After the compact's effective date, the department shall annually assess the effectiveness of the water conservation and efficiency program under sub. (8) (c) in meeting the Great Lakes basin water conservation and efficiency goals under sub. (8) (a). In each assessment, the department shall consider whether there is a need to adjust the Great Lakes basin water conservation and efficiency program in response to new demands for water from the basin and the potential impacts of the cumulative effects of diversions, withdrawals, and consumptive uses and of climate. The department shall provide the assessment to the Great Lakes council and the regional body and make it available to the public.

(e) *Assessment of cumulative impacts.* The department shall participate in the periodic assessment of the

impacts of withdrawals, diversions, and consumptive uses under s. 281.343 (4z) (a).

(f) *Report on threshold.* No later than the 60th month beginning after the compact's effective date, the department shall submit to the legislature under s. 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and providing any recommendations to change the threshold.

(g) *Water use report.* Beginning no later than 8 years after the effective date of this paragraph ... [revisor inserts date], or 5 years after the last report published under s. 281.344 (11), whichever is earlier, and every 5 years thereafter, the department, using water use data reported under this section, shall publish a water use report to summarize water usage, identify related trends, identify areas of future water usage concerns, and recommend future actions to promote sustainable water use. The department shall also include in the report water resource information derived from reporting and data accumulation requirements under other water regulatory laws.

**(13m) EXCEEDANCES.** It is not a violation of this section to withdraw an amount of water that exceeds the withdrawal amount specified in a permit issued under sub. (5) or in the database under sub. (4s) (i), unless the amount by which the withdrawal exceeds the withdrawal amount would result in the application of the state decision-making standard under sub. (5m) or the compact decision-making standard under sub. (6).

**(14) PENALTIES.** (a) Any person who violates this section or any rule promulgated or approval issued under this section shall forfeit not less than \$10 nor more than \$10,000 for each violation. Each day of continued violation is a separate offense.

(c) In addition to the penalties under par. (a), the court may order the defendant to abate any nuisance, restore a natural resource, or take, or refrain from taking, any other action as necessary to eliminate or minimize any environmental damage caused by the violation.

**SECTION 19.** 281.348 of the statutes is created to read:  
**281.348 Water supply service area plans for public water supply systems.** (1) **DEFINITIONS.** In this section:

(a) "Compact's effective date" means the effective date of the Great Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343 (9) (d).

(b) "Cost-effectiveness analysis" means a systematic comparison of alternative means of providing a water supply in order to identify alternatives that will minimize total resources costs and maximize environmental benefits over a planning period.

(c) "Great Lakes basin" means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois—Rivieres, Quebec.

(d) "Public water supply" means water distributed to the public through a physically connected system of

treatment, storage, and distribution facilities that serve a group of largely residential customers and that may also serve industrial, commercial, and other institutional customers.

(e) "Total resources costs" includes monetary costs and direct and indirect environmental as well as other nonmonetary costs.

(f) "Withdraw" means to take water from surface water or groundwater.

(g) "Withdrawal" means the taking of water from surface water or groundwater, including the taking of surface water or groundwater for the purpose of bottling the water.

**(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS.** (a) For the purposes of this section, the surface water divide is used to determine whether a withdrawal of surface water or groundwater is from the Great Lakes basin.

(b) For the purposes of this section, the withdrawal of water from more than one source within the Great Lakes basin to supply a common distribution system is considered one withdrawal.

**(3) REQUIREMENTS.** (a) 1. The department shall establish, by rule, and administer a continuing water supply planning process for the preparation of water supply plans for persons operating public water supply systems. The period covered by a plan under this subsection may not exceed 20 years. A regional planning commission may prepare plans for persons operating public water supply systems.

2. A person operating a public water supply system that serves a population of 10,000 or more and that withdraws water from the waters of the state shall have an approved plan under this section no later than December 31, 2025.

(b) The department shall include in the process under par. (a) procedures and requirements for all of the following:

1. Public review and comment on a proposed plan. For a plan submitted after the compact's effective date covering a public water supply system that withdraws water from the Great Lakes basin, the procedures and requirements under this subdivision shall be consistent with s. 281.343 (6) (b).

2. Approval of a plan by the governing body of each city, village, and town whose public water supply is addressed by the plan before the plan is submitted to the department.

2m. Approval of a plan by the department.

3. Ensuring that plans remain current.

4. Intergovernmental cooperation.

5. Reopening or reconsideration by the department of a previously approved plan.

(bm) A person preparing a plan under par. (a) shall consider existing regional water needs assessments and other regional water supply planning information.

(c) A person preparing a plan under par. (a) shall include all of the following in the plan:

1. Delineation of the area for which the plan is being prepared and proposed water supply service areas for each public water supply system making a withdrawal covered by the plan, except as provided in par. (cm).

2. An inventory of the sources and quantities of the current water supplies in the area.

3. A forecast of the demand for water in the area over the period covered by the plan.

3m. Identification of the existing population and population density of the area for which the plan is prepared and forecasts of the expected population of the area during the period covered by the plan based on growth projections for the area and municipally planned population densities.

4. Identification of the options for supplying water in the area for the period covered by the plan that are approvable under other applicable statutes and rules and that are cost-effective based upon a cost-effectiveness analysis of regional and individual water supply and water conservation alternatives.

5. An assessment of the environmental and economic impacts of carrying out specific significant recommendations of the plan.

6. A demonstration that the plan will effectively utilize existing water supply storage and distribution facilities and wastewater infrastructure to the extent practicable.

7. Identification of the procedures for implementing and enforcing the plan and a commitment to using those procedures.

8. An analysis of how the plan supports and is consistent with any applicable comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved areawide water quality management plans under s. 283.83.

9. Other information specified by the department.

(cm) For the purposes of plans under par. (a), an areawide water quality planning agency designated by the governor under ch. NR 121, Wis. Adm. Code, shall delineate the proposed water supply service areas for all of the public water supply systems in the planning area for which the agency is designated. An areawide water quality planning agency shall delineate proposed water supply service areas that are consistent with the approved areawide water quality management plan under s. 283.83 for the planning area and that permit the development of plans that are approvable under par. (d). An areawide water quality planning agency may also provide regional water needs assessments and other regional water supply planning information. The process for conducting regional activities under this subsection may be the same as the process for regional water supply planning for a groundwater management area designated under s. 281.34 (9).

(d) The department may not approve a plan under this subsection unless all of the following apply:

1. The plan provides for a water supply system that is approvable under this section and other applicable statutes and rules based on a cost-effectiveness analysis of regional and individual water supply and water conservation alternatives.

2. The plan will effectively utilize existing water supply storage and distribution facilities and wastewater infrastructure to the extent practicable.

3. The plan is consistent with any applicable comprehensive plans, as defined in s. 66.1001 (1) (a).

4. The plan is consistent with any applicable approved areawide water quality management plans under s. 283.83.

5. Beginning on the compact's effective date, if the plan covers a public water supply system that withdraws water from the Great Lakes basin, the plan complies with any applicable requirements in s. 281.346 (5e).

(e) The department shall specify in a plan under this section a water supply service area for each public water supply system making a withdrawal covered by the plan. The department may not limit water supply service areas based on jurisdictional boundaries, except as necessary to prevent waters of the Great Lakes basin from being transferred from a county that lies completely or partly within the Great Lakes basin into a county that lies entirely outside the Great Lakes basin.

(f) A person applying for an approval under s. 281.344 (4) or 281.346 (4) may use elements of an approved plan under this subsection to show compliance with requirements under s. 281.344 (4) or 281.346 (4) to which the plan is relevant.

**(4) WITHDRAWAL AMOUNT IN CERTAIN PLANS.** In a plan under this section that covers a public water supply system making a withdrawal from the Great Lakes basin, the department shall specify a withdrawal amount for the public water supply system equal to the greatest of the following:

(a) The amount needed for the public water supply system to provide a public water supply in the water supply service area in the plan during the period covered by the plan, as determined using the population and related service projections in the plan.

(b) If the withdrawal is covered by an individual permit issued under s. 281.344 (5) or 281.346 (5) when the department approves the plan, the withdrawal amount in that permit when the department approves the plan or, if the withdrawal is covered by a general permit issued under s. 281.344 (4s) or 281.346 (4s) when the department approves the plan, the withdrawal amount for the public water supply system in the database under s. 281.346 (4s) (i) when the department approves the plan.

**SECTION 20.** 281.35 (1) (a) of the statutes is amended to read:

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281.35 (1) (a) “Approval” means a permit issued under s. 30.18, 281.344 (5), or 281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.

**SECTION 21.** 281.35 (1) (b) 2. of the statutes, as affected by 2007 Wisconsin Act 96, is amended to read:

281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss over any 30–day period that is reported to the department ~~or the public service commission under sub. (3)(e) or s. 281.17, 2001 stats., or s. 30.18 (6) (c), 196.98, 281.34, 281.344 (5), 281.346 (5), or 281.41.~~

**SECTION 22.** 281.35 (1) (bm) of the statutes is created to read:

281.35 (1) (bm) “Compact’s effective date” means the effective date of the Great Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

**SECTION 23.** 281.35 (1) (cm) of the statutes is created to read:

281.35 (1) (cm) “Facility” means an operating plant or establishment providing electricity to the public or carrying on any manufacturing activity, trade, or business on one site, including similar plants or establishments under common ownership or control located on contiguous properties.

**SECTION 24.** 281.35 (2) (a) of the statutes is repealed.

**SECTION 25.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2) and amended to read:

281.35 (2) In calculating the total amount of an existing or proposed water loss for purposes of determining the applicability of sub. (4), a person shall include all separate interbasin diversions and consumptive uses, or combinations thereof, which the person makes or proposes to make ~~for a single use or for related uses to supply a single facility or public water supply system.~~

**SECTION 26.** 281.35 (3) of the statutes is repealed.

**SECTION 27.** 281.35 (4) (a) 4. of the statutes is created to read:

281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5) has been issued or who is required to obtain a permit under one of those provisions before beginning or increasing a withdrawal.

**SECTION 28.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new withdrawal or increase the amount of an existing withdrawal, the person shall apply to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new approval or a modification of its existing approval if either of the following conditions applies:

**SECTION 29.** 281.35 (5) (a) 13. of the statutes is amended to read:

281.35 (5) (a) 13. A statement as to whether the proposed withdrawal complies with all applicable plans for the use, management and protection of the waters of the state and related land resources, including plans devel-

~~oped under ss. 281.12 (1) and s. 283.83 and the requirements specified in any water quantity resources plan under sub. (8).~~

**SECTION 30.** 281.35 (5) (b) of the statutes is amended to read:

281.35 (5) (b) *Great Lakes basin; consultation required.* If the department receives an application before the compact’s effective date that, if approved, will result in a new water loss to the Great Lakes basin averaging more than 5,000,000 gallons per day in any 30–day period, or an increase in an existing withdrawal that will result in a water loss averaging 5,000,000 gallons per day in any 30–day period above the applicant’s authorized base level of water loss, the department shall notify the office of the governor or premier and the agency responsible for management of water resources in each state and province of the Great Lakes region and, if required under the boundary water agreement of 1909, the international joint commission. The department shall also request each state and province that has cooperated in establishing the regional consultation procedure under sub. (4) ~~(f)~~ (11m) to comment on the application. In making its determination on an application, the department shall consider any comments that are received within the time limit established under par. (c).

**SECTION 31.** 281.35 (6) (a) (intro.) of the statutes is amended to read:

281.35 (6) (a) *Issuance; contents.* (intro.) If Subject to par. (am), if an application is approved under sub. (5), the department shall modify the applicant’s existing approval or shall issue a new approval that specifies all of the following:

**SECTION 32.** 281.35 (6) (am) of the statutes is created to read:

281.35 (6) (am) *Water loss permit.* If the department approves an application under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s. 281.346 (5) and another approval, the department shall modify the permit under s. 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters under par. (a).

**SECTION 33.** 281.35 (6) (f) of the statutes is amended to read:

281.35 (6) (f) *Notice; right to hearing.* The department shall notify the person to whom the approval has been issued and any other person who has in writing requested notice of the receipt of a request to modify an approval or of the department’s intent to modify or revoke an approval. The person to whom the approval is issued is entitled to a contested case hearing under ch. 227 before a revocation or modification takes effect. Any other person who may be adversely affected by a proposed modification is entitled to a contested case hearing under ch. 227 ~~before a modification takes effect.~~

**SECTION 34.** 281.35 (8) of the statutes is repealed.



**SECTION 35.** 281.35 (9) (a) of the statutes is amended to read:

281.35 (9) (a) The Wisconsin coastal management council, established under executive order number 62, dated August 2, 1984, shall amend this state's coastal management program submitted to the U.S. secretary of commerce under 16 USC 1455, to incorporate the requirements of this section and, before the compact's effective date, s. 281.344 and the findings and purposes specified in 1985 Wisconsin Act 60, section 1, as they apply to the water resources of the Great Lakes basin, and shall formally submit the proposed amendments to the U.S. secretary of commerce.

**SECTION 36.** 281.35 (9) (d) of the statutes is created to read:

281.35 (9) (d) This subsection does not apply after the compact's effective date.

**SECTION 37.** 281.35 (10) (a) 4. of the statutes is repealed.

**SECTION 38.** 281.35 (11) (intro.) of the statutes is amended to read:

281.35 (11) COOPERATION WITH OTHER STATES AND PROVINCES. (intro.) The Before the compact's effective date, the department shall do all of the following:

**SECTION 39.** 281.35 (11) (f) of the statutes is renumbered 281.35 (11m) and amended to read:

281.35 (11m) UPPER MISSISSIPPI RIVER BASIN CONSULTATION. Participate The department shall participate in the development of an upper Mississippi River basin regional consultation procedure for use in exchanging information on the effects of proposed water losses from that basin.

**SECTION 40.** 281.35 (12) (c) of the statutes is amended to read:

281.35 (12) (c) This state reserves the right to seek, in any state, federal or provincial forum, an adjudication of the equitable apportionment of the water resources of the Great Lakes basin or upper Mississippi River basin and, before the compact's effective date, of the Great Lakes basin, and the protection and determination of its rights and interests in those water resources, in any manner provided by law.

**SECTION 41.** 281.41 (1) (c) of the statutes is amended to read:

281.41 (1) (c) Construction or material change shall be according to approved plans only. The department may disapprove plans that are not in conformance with any existing approved areawide waste treatment management plan prepared pursuant to the federal water pollution control act, P.L. 92-500, as amended, and shall disapprove plans that do not meet the grounds for approval specified under s. 281.35 (5) (d), if applicable. ~~The department shall require each person whose plans are approved under this section to report that person's volume and rate of water withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of~~

~~water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times specified by the department. The department shall disapprove plans that are not in conformance with any applicable approved water supply service area plan under s. 281.348.~~

**SECTION 42.** 281.41 (4) of the statutes is created to read:

281.41 (4) When the department receives for review a plan under sub. (1) that would result in returning water transferred from the Great Lakes basin to the source watershed through a stream tributary to one of the Great Lakes, the department shall provide notice of the plan or revision to the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.

**SECTION 43.** 281.93 of the statutes is created to read:

**281.93 Hearings on certain water use actions. (1) PERMIT OR APPROVAL HOLDER OR APPLICANT; ORDER RECIPIENT.** Any permit or approval, part of a permit or approval, condition or requirement in a permit or approval, order, decision or determination by the department under s. 281.344, 281.346, or 281.35 shall become effective unless the permit or approval holder or applicant or the order recipient seeks a hearing challenging the action in the following manner:

(a) *Petition.* The person seeking a hearing shall file a petition with the department within 30 days after the date of the action sought to be reviewed. The petition shall set forth specifically the issue sought to be reviewed, the interest of the petitioner, the reasons why a hearing is warranted, and the relief desired. Upon receipt of the petition, the department shall hold a hearing after at least 10 days' notice.

(b) *Hearing.* The hearing shall be a contested case under ch. 227. At the beginning of the hearing the petitioner shall present evidence in support of the allegations made in the petition. Following the hearing the department's action may be affirmed, modified, or withdrawn.

**(1m) EFFECT OF A CHALLENGE.** If a permit or approval holder or applicant seeks a hearing challenging part of a permit or approval or a condition or requirement in a permit or approval under sub. (1), the remainder of the permit or approval shall become effective and the permit or approval holder or applicant may, at its discretion, begin the activity for which the application was submitted or for which the permit or approval was issued.

**(2) OTHER PERSONS.** Except as provided in ss. 281.344 (4e) (g) and 281.346 (4e) (g), any person who is not entitled to seek a hearing under sub. (1) (intro.) and who meets the requirements of s. 227.42 (1) or who submitted comments in the public comment process under s. 281.344, 281.346, or 281.35 may seek review under sub. (1) of any permit or approval, part of a permit or approval, order, decision, or determination by the department under s. 281.344, 281.346, or 281.35.

(3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing on the matter is conducted as a part of a hearing under s. 293.43.

**SECTION 44.** 281.94 (1) of the statutes is amended to read:

281.94 (1) Any 6 or more residents of this state may petition for an investigation of a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ alleged to be in violation of s. 281.35 (3) (a), 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 (3) (a) or (4) to (6), 281.344 (3) (a), or 281.346 (3) (a) by submitting to the department a petition identifying the alleged violator and setting forth in detail the reasons for believing a violation occurred. The petition shall state the name and address of a person in this state authorized to receive service of answer and other papers on behalf of the petitioners and the name and address of a person authorized to appear at a hearing on behalf of the petitioners.

**SECTION 45.** 281.95 of the statutes is amended to read:

**281.95 Remedies; water withdrawal violations.** Any person who makes a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ in violation of s. 281.35 (3) (a), 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 (3) (a) or (4) to (6), 281.344 (3) (a), or 281.346 (3) (a) is liable to any person who is adversely affected by the withdrawal for damages or other appropriate relief. Any person who is or may be adversely affected by an existing or proposed withdrawal, ~~as defined under s. 281.35 (1) (m),~~ which is in violation of a condition, limitation or restriction of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 (4) to (6) may bring an action in the circuit court to restrain or enjoin the withdrawal.

**SECTION 46.** 281.98 (1) of the statutes is amended to read:

281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.346 (14) (a), 281.47 (1) (d), 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule promulgated or any plan approval, license, special order, or water quality certification issued under this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order is suspended, stayed, or enjoined, this penalty does not accrue.

**SECTION 47.** 283.41 (3) of the statutes is created to read:

283.41 (3) When the department receives an application for a permit for a discharge that would return water transferred from the Great Lakes basin to the source

watershed through a stream tributary to one of the Great Lakes, the department shall provide notice of the application to the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.

**SECTION 48.** 283.83 of the statutes is renumbered 283.83 (1).

**SECTION 49.** 283.83 (2) of the statutes is created to read:

283.83 (2) When the department receives for review or prepares a new plan under sub. (1) or a revision to a plan under sub. (1) that includes a proposal to return water transferred from the Great Lakes basin to the source watershed through a stream tributary to one of the Great Lakes, the department shall provide notice of the plan or revision to the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.

**SECTION 50.** 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are amended to read:

**293.65 (title) Diversion Withdrawal of surface waters; withdrawal of groundwater; damage claims.**

(1) SCOPE. This section governs the withdrawal ~~or diversion~~ of groundwaters or surface waters by persons engaged in prospecting or mining. Discharges of waters are subject to ch. 283, construction of necessary dams or other structures is subject to chs. 30 and 31 and construction of wells is subject to ch. 280, to the extent applicable.

(2) (title) DIVERSION WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED. (a) Any person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall apply to the department for a permit. The forms and procedures used under s. 30.18 apply to the extent practicable.

(b) The department, upon receipt of an application for a permit, shall determine the minimum stream flow or lake level necessary to protect public rights, the minimum flow or level necessary to protect the rights of affected riparians, the point downstream beyond which riparian rights are not likely to be injured by the proposed diversion withdrawal and the amount of surplus water, as defined in s. 30.01 (6d), if any, at the point of the proposed diversion withdrawal.

**SECTION 51.** 293.65 (2) (c) 1. of the statutes is amended to read:

293.65 (2) (c) 1. The public rights in the lake or stream and the related environment which may be injured by the proposed diversion withdrawal;

**SECTION 52.** 293.65 (2) (d) 2. of the statutes is amended to read:

293.65 (2) (d) 2. If the proposed diversion withdrawal will consume nonsurplus waters, and will unreasonably injure rights of riparians identified by par. (b) who are beneficially using such waters, the permit shall

be denied unless a permit is granted under par. (e) or all such riparians consent to the proposed ~~diversion~~ withdrawal.

**SECTION 53.** 293.65 (2) (e) of the statutes is amended to read:

293.65 (2) (e) The department may require modification of a proposed ~~diversion~~ withdrawal so as to avoid injury to public or riparian rights, and as modified, may grant the permit.

**SECTION 54.** 293.65 (2) (f) of the statutes is amended to read:

293.65 (2) (f) Water ~~diverted~~ withdrawn in accordance with a permit issued under this subsection may be used on nonriparian property.

**SECTION 55.** 293.65 (2) (h) of the statutes is amended to read:

293.65 (2) (h) Hearings on applications for ~~diversion~~ withdrawal permits under this subsection shall be preceded by mailed notice to all parties or affected persons and by publication in the affected area of a class 2 notice, under ch. 985. Hearings may be conducted as part of a hearing on an application for a mining permit under s. 293.37.

**SECTION 56. Nonstatutory provisions.**

(1) SUBMISSION OF PROPOSED RULES. The department of natural resources shall submit in proposed form the rules required under section 281.344 (4) (g) and 281.348 (3) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 18th month beginning after the effective date of this subsection.

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