



State of Wisconsin  
2007 - 2008 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 523**

March 5, 2008 – Offered by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES.

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

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

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

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

7           (2) The governor shall serve as this state’s representative on the Great  
8 Lakes—St. Lawrence River Basin Water Resources Council. In discharging his or  
9 her responsibilities under s. 281.343 (2) and (3), the governor may designate the  
10 secretary of natural resources as the governor’s alternate to attend all meetings of  
11 the Great Lakes—St. Lawrence River Basin Water Resources Council and to vote at  
12 all meetings of the Great Lakes—St. Lawrence River Basin Water Resources Council  
13 in the absence of the governor. Any designee other than the secretary of natural  
14 resources shall be nominated by the governor, and with the advice and consent of the  
15 senate appointed, to serve at the pleasure of the governor.

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

22           (3m) (a) In this subsection, “standard of review and decision” means the  
23 exception standard under s. 281.343 (4n) (d), the decision-making standard under  
24 s. 281.343 (4r), and reviews under s. 281.343 (4) to (4z) that do not deal solely with  
25 the internal management of the council.

1 (b) Before voting on a rule or regulation under s. 281.343 (3) (c) 1. for the  
2 implementation or enforcement of regional review under s. 281.343 (4h), the  
3 exception standard under s. 281.343 (4n) (d), or the decision-making standard under  
4 s. 281.343 (4r), other than a rule or regulation that deals solely with the internal  
5 management of the council or its property, or on a regulation under s. 281.343 (3) (a)  
6 2. that amends the standard of review and decision, the governor or his or her  
7 alternate shall submit the proposed rule or regulation to the joint committee on  
8 legislative organization. The governor or his or her alternate may not vote on the rule  
9 or regulation before the 30th day after the date of submission. If the cochairpersons  
10 of the committee do not notify the governor or his or her alternate within 30 days  
11 after the date of the submission that the committee has scheduled a meeting for the  
12 purpose of reviewing the proposed rule or regulation, the governor or his or her  
13 alternate may vote on the proposed rule or regulation. If, within 30 days after the  
14 date of the submission by the governor or his or her alternate, the cochairpersons of  
15 the committee notify the governor or his or her alternate that the committee has  
16 scheduled a meeting for the purpose of reviewing the proposed rule or regulation, the  
17 governor or his or her alternate may not vote on the proposed rule or regulation  
18 before the 60th day after the date of submission. If, within 60 days after the date of  
19 submission, the committee does not object to the rule or regulation, the governor or  
20 his or her alternate may vote on the proposed rule or regulation. If, within 30 days  
21 after the date of submission, the cochairpersons notify the governor or his or her  
22 alternate that the committee has scheduled a meeting for the purpose of reviewing  
23 the proposed rule or regulation and, within 60 days after the date of submission, the  
24 committee objects to the proposed rule or regulation, the governor or his or her  
25 alternate may not vote on the proposed rule or regulation.

1           **SECTION 4.** 30.208 (3m) of the statutes is created to read:

2           **30.208 (3m) NOTICE TO DOWNSTREAM COMMUNITIES.** When the department  
3 receives an application for an individual permit under s. 30.12 for a structure  
4 through which water transferred from the Great Lakes basin would be returned to  
5 the source watershed through a stream tributary to one of the Great Lakes, the  
6 department shall provide notice of the application to the governing body of each city,  
7 village, and town through which the stream flows or that is adjacent to the stream  
8 downstream from the point at which the water would enter the stream.

9           **SECTION 5.** 196.49 (2) of the statutes is amended to read:

10           **196.49 (2)** No public utility may begin the construction, installation or  
11 operation of any new plant, equipment, property or facility, nor the construction or  
12 installation of any extension, improvement or addition to its existing plant,  
13 equipment, property, apparatus or facilities unless the public utility has complied  
14 with any applicable rule or order of the commission ~~and with s. 281.35, if applicable.~~  
15 If a cooperative association has been incorporated under ch. 185 for the production,  
16 transmission, delivery or furnishing of light or power and has filed with the  
17 commission a map of the territory to be served by the association and a statement  
18 showing that a majority of the prospective consumers in the area are included in the  
19 project, no public utility may begin any such construction, installation or operation  
20 within the territory until after the expiration of 6 months from the date of filing the  
21 map and notice. If the cooperative association has entered into a loan agreement  
22 with any federal agency for the financing of its proposed system and has given  
23 written notice of the agreement to the commission, no public utility may begin any  
24 construction, installation or operation within the territory until 12 months after the  
25 date of the loan agreement.

1           **SECTION 6.** 196.98 of the statutes is repealed.

2           **SECTION 7.** 281.34 (5) (dm) of the statutes is created to read:

3           281.34 **(5)** (dm) *Water supply service area plan.* If a proposed high capacity well  
4 is covered by an approved water supply service area plan under s. 281.348, the  
5 department may not approve the high capacity well unless it is consistent with that  
6 plan.

7           **SECTION 8.** 281.34 (5) (e) 1. of the statutes is amended to read:

8           281.34 **(5)** (e) 1. If s. 281.35 (4) applies to a proposed high capacity well, the  
9 department shall include in the approval conditions that ensure that the high  
10 capacity well complies with s. 281.35 (4) to (6).

11           **SECTION 9.** 281.343 of the statutes is created to read:

12           **281.343 Great Lakes—St. Lawrence River Basin Water Resources**  
13 **Compact. (1) RATIFICATION.** The Great Lakes—St. Lawrence River Basin Water  
14 Resources Compact, contained in subs. (1e) to (9), is ratified and approved, as  
15 implemented and interpreted in ss. 14.95, 281.346, and 281.348.

16           **(1e) DEFINITIONS.** In this section, except as otherwise required by the context:

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

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

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

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

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

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

13 (dm) “Compact” means this compact.

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

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

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

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

24 (g) “Cumulative impacts” means the impact on the basin ecosystem that results  
25 from incremental effects of all aspects of a withdrawal, diversion, or consumptive use

1 in addition to other past, present, and reasonably foreseeable future withdrawals,  
2 diversions, and consumptive uses regardless of who undertakes the other  
3 withdrawals, diversions, and consumptive uses. Cumulative impacts can result  
4 from individually minor but collectively significant withdrawals, diversions, and  
5 consumptive uses taking place over a period of time.

6 (gm) “Decision-making standard” means the decision-making standard  
7 established by sub. (4r) for proposals subject to management and regulation in sub.  
8 (4p).

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

12          (p) “Province” means Ontario or Quebec.

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

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

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

23          (r) “Source watershed” means the watershed from which a withdrawal  
24 originates. If water is withdrawn directly from a Great Lake or from the St.  
25 Lawrence River, then the source watershed shall be considered to be the watershed

1 of that Great Lake or the watershed of the St. Lawrence River, respectively. If water  
2 is withdrawn from the watershed of a stream that is a direct tributary to a Great  
3 Lake or a direct tributary to the St. Lawrence River, then the source watershed shall  
4 be considered to be the watershed of that Great Lake or the watershed of the St.  
5 Lawrence River, respectively, with a preference to the direct tributary stream  
6 watershed from which it was withdrawn.

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

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

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

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

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

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

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

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

3 **(1m)** FINDINGS AND PURPOSES. The legislative bodies of the respective parties  
4 hereby find and declare:

5 (a) Findings:

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

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

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

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

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

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

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

3 (b) Purposes:

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

9 2. To remove causes of present and future controversies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22           (c) *Alternates.* Each member of the council shall appoint at least one alternate  
23 who may act in his or her place and stead, with authority to attend all meetings of  
24 the council and with power to vote in the absence of the member. Unless otherwise  
25 provided by law of the party for which he or she is appointed, each alternate shall

1 serve during the term of the member appointing him or her, subject to removal at the  
2 pleasure of the member. In the event of a vacancy in the office of alternate, it shall  
3 be filled in the same manner as an original appointment for the unexpired term only.

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

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

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

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

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

24 (f) *Use of existing offices and agencies.* It is the policy of the parties to preserve  
25 and utilize the functions, powers, and duties of existing offices and agencies of

1 government to the extent consistent with this compact. Further, the council shall  
2 promote and aid the coordination of the activities and programs of the parties  
3 concerned with water resources management in the basin. To this end, but without  
4 limitation, the council may:

5 1. Advise, consult, contract, assist, or otherwise cooperate with any and all such  
6 agencies;

7 2. Employ any other agency or instrumentality of any of the parties for any  
8 purpose; and

9 3. Develop and adopt plans consistent with the water resources plans of the  
10 parties.

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

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

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

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

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

12           **(3) GENERAL POWERS AND DUTIES.** (a) *General.* 1. The waters and water  
13 dependent natural resources of the basin are subject to the sovereign right and  
14 responsibilities of the parties, and it is the purpose of this compact to provide for joint  
15 exercise of such powers of sovereignty by the council in the common interests of the  
16 people of the region, in the manner and to the extent provided in this compact. The  
17 council and the parties shall use the standard of review and decision and procedures  
18 contained in or adopted pursuant to this compact as the means to exercise their  
19 authority under this compact.

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



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

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

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

24           2. Each party, in accordance with its respective statutory authorities and  
25 applicable procedures, may adopt and enforce rules and regulations to implement

1 and enforce this compact and the programs adopted by such party to carry out the  
2 management programs contemplated by this compact.

3 (d) *Program review and findings.* 1. Each party shall submit a report to the  
4 council and the regional body detailing its water management and conservation and  
5 efficiency programs that implement this compact. The report shall set out the  
6 manner in which water withdrawals are managed by sector, water source, quantity,  
7 or any other means, and how the provisions of the standard of review and decision  
8 and conservation and efficiency programs are implemented. The first report shall  
9 be provided by each party one year from the effective date of this compact and  
10 thereafter every 5 years.

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

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

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

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

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

16           (c) To develop and maintain a compatible base of water use information, within  
17          5 years of the effective date of this compact any person who withdraws water in an  
18          amount of 100,000 gallons per day or greater average in any 30-day period, including  
19          consumptive uses, from all sources, or diverts water of any amount, shall register the  
20          withdrawal or diversion by a date set by the council unless the person has previously  
21          registered in accordance with an existing state program. The person shall register  
22          the withdrawal or diversion with the originating party using a form prescribed by  
23          the originating party that shall include, at a minimum and without limitation: the  
24          name and address of the registrant and date of registration; the locations and sources  
25          of the withdrawal or diversion; the capacity of the withdrawal or diversion per day

1 and the amount withdrawn or diverted from each source; the uses made of the water;  
2 places of use and places of discharge; and such other information as the originating  
3 party may require. All registrations shall include an estimate of the volume of the  
4 withdrawal or diversion in terms of gallons per day average in any 30-day period.

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

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

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

20 **(4b) WATER MANAGEMENT AND REGULATION; WATER CONSERVATION AND EFFICIENCY**  
21 **PROGRAMS.** (a) The council commits to identify, in cooperation with the provinces,  
22 basin-wide water conservation and efficiency objectives to assist the parties in  
23 developing their water conservation and efficiency programs. These objectives are  
24 based on the goals of:

1           1. Ensuring improvement of the waters and water dependent natural  
2 resources;

3           2. Protecting and restoring the hydrologic and ecosystem integrity of the basin;

4           3. Retaining the quantity of surface water and groundwater in the basin;

5           4. Ensuring sustainable use of waters of the basin; and

6           5. Promoting the efficiency of use and reducing losses and waste of water.

7           (b) Within 2 years of the effective date of this compact, each party shall develop  
8 its own water conservation and efficiency goals and objectives consistent with the  
9 basin-wide goals and objectives and shall develop and implement a water  
10 conservation and efficiency program, either voluntary or mandatory, within its  
11 jurisdiction based on the party's goals and objectives. Each party shall annually  
12 assess its programs in meeting the party's goals and objectives, report to the council  
13 and the regional body, and make this annual assessment available to the public.

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

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

23           1. Measures that promote efficient use of water;

24           2. Identification and sharing of best management practices and state of the art  
25 conservation and efficiency technologies;

1           3. Application of sound planning principles;

2           4. Demand–side and supply–side measures or incentives; and

3           5. Development, transfer, and application of science and research.

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

8           **(4d) WATER MANAGEMENT AND REGULATION; PARTY POWERS AND DUTIES.** (a) Each  
9 party, within its jurisdiction, shall manage and regulate new or increased  
10 withdrawals, consumptive uses, and diversions, including exceptions, in accordance  
11 with this compact.

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

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

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

22           (e) No party shall approve a proposal subject to council or regional review, or  
23 both, pursuant to this compact unless it shall have been first submitted to and  
24 reviewed by either the council or regional body, or both, and approved by the council,  
25 as applicable. Sufficient opportunity shall be provided for comment on the proposal’s

1 consistency with this compact and the standard of review and decision. All such  
2 comments shall become part of the party's formal record of decision, and the party  
3 shall take into consideration any such comments received.

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

8 **(4h) WATER MANAGEMENT AND REGULATION; REGIONAL REVIEW.** (a) *General.* 1. It  
9 is the intention of the parties to participate in regional review of proposals with the  
10 provinces, as described in this compact and the agreement.

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

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

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

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

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

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

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

15           3. An originating party may:

16           a. Provide notice to the regional body of an application, even if notification is  
17 not required; or

18           b. Request regional review of an application, even if regional review is not  
19 required. Any such regional review shall be undertaken only after consulting the  
20 applicant.

21           4. An originating party may provide preliminary notice of a potential proposal.

22           (c) *Public participation.* 1. To ensure adequate public participation, the  
23 regional body shall adopt procedures for the review of proposals that are subject to  
24 regional review in accordance with subs. (4) to (4z).



1           2. The regional body shall provide notice to the public of a proposal undergoing  
2 regional review. Such notice shall indicate that the public has an opportunity to  
3 comment in writing to the regional body on whether the proposal meets the standard  
4 of review and decision.

5           3. The regional body shall hold a public meeting in the state or province of the  
6 originating party in order to receive public comment on the issue of whether the  
7 proposal under consideration meets the standard of review and decision.

8           4. The regional body shall consider the comments received before issuing a  
9 declaration of finding.

10          5. The regional body shall forward the comments it receives to the originating  
11 party.

12          (d) *Technical review.* 1. The originating party shall provide the regional body  
13 with its technical review of the proposal under consideration.

14          2. The originating party's technical review shall thoroughly analyze the  
15 proposal and provide an evaluation of the proposal sufficient for a determination of  
16 whether the proposal meets the standard of review and decision.

17          3. Any member of the regional body may conduct the member's own technical  
18 review of any proposal subject to regional review.

19          4. At the request of the majority of its members, the regional body shall make  
20 such arrangements as it considers appropriate for an independent technical review  
21 of a proposal.

22          5. All parties shall exercise their best efforts to ensure that a technical review  
23 undertaken under subd. 3. or 4. does not unnecessarily delay the decision by the  
24 originating party on the application. Unless the applicant or the originating party

1 otherwise requests, all technical reviews shall be completed no later than 60 days  
2 after the date the notice of the proposal was given to the regional body.

3 (e) *Declaration of finding.* 1. The regional body shall meet to consider a  
4 proposal. The applicant shall be provided with an opportunity to present the  
5 proposal to the regional body at such time.

6 2. The regional body, having considered the notice, the originating party's  
7 technical review, any other independent technical review that is made, any  
8 comments or objections including the analysis of comments made by the public and  
9 first nations and federally recognized tribes, and any other information that is  
10 provided under this compact shall issue a declaration of finding that the proposal  
11 under consideration:

12 a. Meets the standard of review and decision;

13 b. Does not meet the standard of review and decision; or

14 c. Would meet the standard of review and decision if certain conditions were  
15 met.

16 3. An originating party may decline to participate in a declaration of finding  
17 made by the regional body.

18 4. The parties recognize and affirm that it is preferable for all members of the  
19 regional body to agree whether the proposal meets the standard of review and  
20 decision.

21 5. If the members of the regional body who participate in the declaration of  
22 finding all agree, they shall issue a written declaration of finding with consensus.

23 6. In the event that the members cannot agree, the regional body shall make  
24 every reasonable effort to achieve consensus within 25 days.

1           7. Should consensus not be achieved, the regional body may issue a declaration  
2 of finding that presents different points of view and indicates each party's  
3 conclusions.

4           8. The regional body shall release the declarations of finding to the public.

5           9. The originating party and the council shall consider the declaration of  
6 finding before making a decision on the proposal.

7           **(4j)** WATER MANAGEMENT AND REGULATION; PROPOSALS SUBJECT TO PRIOR NOTICE.

8           (a) Beginning no later than 5 years after the effective date of this compact, the  
9 originating party shall provide all parties and the provinces with detailed and timely  
10 notice and an opportunity to comment within 90 days on any proposal for a new or  
11 increased consumptive use of 5,000,000 gallons per day or greater average in any  
12 90-day period. Comments shall address whether or not the proposal is consistent  
13 with the standard of review and decision. The originating party shall provide a  
14 response to any such comment received from another party.

15           (b) A party may provide notice, an opportunity to comment, and a response to  
16 comments even if this is not required under par. (a). Any provision of such notice and  
17 opportunity to comment shall be undertaken only after consulting the applicant.

18           **(4L)** WATER MANAGEMENT AND REGULATION; COUNCIL ACTIONS. (a) Proposals for  
19 exceptions subject to council review shall be submitted by the originating party to  
20 the council for council review, and where applicable, to the regional body for  
21 concurrent review.

22           (b) The council shall review and take action on proposals in accordance with  
23 this compact and the standard of review and decision. The council shall not take  
24 action on a proposal subject to regional review pursuant to this compact unless the

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

3 **(4m)** WATER MANAGEMENT AND REGULATION; PROHIBITION OF NEW OR INCREASED  
4 DIVERSIONS. All new or increased diversions are prohibited, except as provided for in  
5 sub. (4n).

6 **(4n)** WATER MANAGEMENT AND REGULATION; EXCEPTIONS TO THE PROHIBITION OF  
7 DIVERSIONS. (a) *Straddling communities*. A proposal to transfer water to an area  
8 within a straddling community but outside the basin or outside the source Great  
9 Lake watershed shall be excepted from the prohibition against diversions and be  
10 managed and regulated by the originating party provided that, regardless of the  
11 volume of water transferred, all of the water so transferred shall be used solely for  
12 public water supply purposes within the straddling community, and:

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

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

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

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

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

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

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

7           1. If the proposal results from a new or increased withdrawal of less than  
8 100,000 gallons per day average over any 90-day period, the proposal shall be subject  
9 to management and regulation at the discretion of the originating party.

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

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

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

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

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

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

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

8           c. The proposal undergoes regional review; and

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

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

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

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

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

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

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

4 f. The proposal undergoes regional review; and

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

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

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

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

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

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

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

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

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

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

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

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

15           **(4p)** WATER MANAGEMENT AND REGULATION; MANAGEMENT AND REGULATION OF NEW  
16 OR INCREASED WITHDRAWALS AND CONSUMPTIVE USES. (a) Within 5 years of the effective  
17 date of this compact, each party shall create a program for the management and  
18 regulation of new or increased withdrawals and consumptive uses by adopting and  
19 implementing measures consistent with the decision-making standard. Each party,  
20 through a considered process, shall set and may modify threshold levels for the  
21 regulation of new or increased withdrawals in order to assure an effective and  
22 efficient water management program that will ensure that uses overall are  
23 reasonable, that withdrawals overall will not result in significant impacts to the  
24 waters and water dependent natural resources of the basin, determined on the basis  
25 of significant impacts to the physical, chemical, and biological integrity of source



1 watersheds, and that all other objectives of the compact are achieved. Each party  
2 may determine the scope and thresholds of its program, including which new or  
3 increased withdrawals and consumptive uses will be subject to the program.

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

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

15 **(4r)** WATER MANAGEMENT AND REGULATION; DECISION-MAKING STANDARD.  
16 Proposals subject to management and regulation in sub. (4p) shall be declared to  
17 meet this decision-making standard and may be approved as appropriate only when  
18 the following criteria are met:

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

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

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

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

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

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

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

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

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

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

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

1           **(4t)** WATER MANAGEMENT AND REGULATION; APPLICABILITY. (a) *Minimum*  
2 *standard.* This standard of review and decision shall be used as a minimum  
3 standard. Parties may impose a more restrictive decision-making standard for  
4 withdrawals under their authority. It is also acknowledged that although a proposal  
5 meets the standard of review and decision it may not be approved under the laws of  
6 the originating party that has implemented more restrictive measures.

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

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

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

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

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

22           (c) *Timing of additional applications.* Applications for new or increased  
23 withdrawals, consumptive uses, or exceptions shall be considered cumulatively  
24 within 10 years of any application.

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

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

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

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

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

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

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

23           **(4v) WATER MANAGEMENT AND REGULATION; EXEMPTIONS.** Withdrawals from the  
24 basin for the following purposes are exempt from the requirements of subs. (4) to (4z):

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

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

6 **(4x)** WATER MANAGEMENT AND REGULATION; U.S. SUPREME COURT DECREE IN  
7 WISCONSIN ET AL. V. ILLINOIS ET AL. (a) Notwithstanding any terms of this compact to  
8 the contrary, with the exception of par. (e), current, new, or increased withdrawals,  
9 consumptive uses, and diversions of basin water by the state of Illinois shall be  
10 governed by the terms of the United States Supreme Court decree in *Wisconsin et al.*  
11 *v. Illinois et al.* and shall not be subject to the terms of this compact nor any rules or  
12 regulations promulgated pursuant to this compact. This means that, with the  
13 exception of par. (e), for purposes of this compact, current, new, or increased  
14 withdrawals, consumptive uses, and diversions of basin water within the state of  
15 Illinois shall be allowed unless prohibited by the terms of the United States Supreme  
16 Court decree in *Wisconsin et al. v. Illinois et al.*

17 (b) The parties acknowledge that the United States Supreme Court decree in  
18 *Wisconsin et al. v. Illinois et al.* shall continue in full force and effect, that this  
19 compact shall not modify any terms thereof, and that this compact shall grant the  
20 parties no additional rights, obligations, remedies, or defenses thereto. The parties  
21 specifically acknowledge that this compact shall not prohibit or limit the state of  
22 Illinois in any manner from seeking additional basin water as allowed under the  
23 terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.*,  
24 any other party from objecting to any request by the state of Illinois for additional  
25 basin water under the terms of said decree, or any party from seeking any other type

1 of modification to said decree. If an application is made by any party to the Supreme  
2 Court of the United States to modify said decree, the parties to this compact who are  
3 also parties to the decree shall seek formal input from the Canadian Provinces of  
4 Ontario and Quebec with respect to the proposed modification, shall use best efforts  
5 to facilitate the appropriate participation of said provinces in the proceedings to  
6 modify the decree, and shall not unreasonably impede or restrict such participation.

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

12 (d) With the exception of par. (e), because subs. (4d), (4f), (4h), (4j), (4L), (4m),  
13 (4n), (4p), (4r), (4t) (a), (b), (c), (d), (f), and (j), and (4v) all relate to current, new, or  
14 increased withdrawals, consumptive uses, and diversions of basin waters, said  
15 provisions do not apply to the state of Illinois. All other provisions of this compact  
16 not listed in the preceding sentence shall apply to the state of Illinois, including the  
17 water conservation programs provision of sub. (4b).

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

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

1           **(4z) WATER MANAGEMENT AND REGULATION; ASSESSMENT OF CUMULATIVE IMPACTS.**

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

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

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

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

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

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

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

14 (b) All federally recognized tribes within the basin shall receive reasonable  
15 notice indicating that they have an opportunity to comment in writing to the council  
16 or the regional body, or both, and other relevant organizations on whether the  
17 proposal meets the requirements of the standard of review and decision when a  
18 proposal is subject to regional review or council approval. Any notice from the council  
19 shall inform the tribes of any meeting or hearing that is to be held under sub. (6) (b)  
20 and invite them to attend. The parties and the council shall consider the comments  
21 received under this subsection before approving, approving with modifications, or  
22 disapproving any proposal subject to council or regional review.

23 (c) In addition to the specific consultation mechanisms described above, the  
24 council shall seek to establish mutually agreed upon mechanisms or processes to  
25 facilitate dialogue with, and input from, federally recognized tribes on matters to be



1 dealt with by the council; and the council shall seek to establish mechanisms and  
2 processes with federally recognized tribes designed to facilitate ongoing scientific  
3 and technical interaction and data exchange regarding matters falling within the  
4 scope of this compact. This may include participation of tribal representatives on  
5 advisory committees established under this compact or such other processes that are  
6 mutually agreed upon with federally recognized tribes individually or through duly  
7 authorized intertribal agencies or bodies.

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

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

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

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

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

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

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

3           **(7)** DISPUTE RESOLUTION AND ENFORCEMENT; GOOD FAITH IMPLEMENTATION. Each  
4 of the parties pledges to support implementation of all provisions of this compact,  
5 and covenants that its officers and agencies shall not hinder, impair, or prevent any  
6 other party carrying out any provision of this compact.

7           **(7g)** DISPUTE RESOLUTION AND ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.

8           (a) Desiring that this compact be carried out in full, the parties agree that disputes  
9 between the parties regarding interpretation, application, and implementation of  
10 this compact shall be settled by alternative dispute resolution.

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

13           **(7r)** DISPUTE RESOLUTION AND ENFORCEMENT; ENFORCEMENT. (a) Any person  
14 aggrieved by any action taken by the council pursuant to the authorities contained  
15 in this compact shall be entitled to a hearing before the council. Any person  
16 aggrieved by a party action shall be entitled to a hearing pursuant to the relevant  
17 party's administrative procedures and laws. After exhaustion of such  
18 administrative remedies, any aggrieved person shall have the right to judicial review  
19 of a council action in the United States district court for the District of Columbia or  
20 the district court in which the council maintains offices, provided such action is  
21 commenced within 90 days; and any aggrieved person shall have the right to judicial  
22 review of a party's action in the relevant party's court of competent jurisdiction,  
23 provided that an action or proceeding for such review is commenced within the time  
24 frames provided for by the party's law. For the purposes of this paragraph, a state

1 or province is deemed to be an aggrieved person with respect to any party action  
2 pursuant to this compact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 4. An approval by a party or the council under this compact does not give any  
25 property rights, nor any exclusive privileges, nor shall it be construed to grant or

1 confer any right, title, easement, or interest in, to, or over any land belonging to or  
2 held in trust by a party; neither does it authorize any injury to private property or  
3 invasion of private rights, nor infringement of federal, state, or local laws or  
4 regulations; nor does it obviate the necessity of obtaining federal assent when  
5 necessary.

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

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

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

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

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

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

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

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

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

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

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

23           (c) *Entire agreement.* The parties consider this compact to be complete and an  
24 integral whole. Each provision of this compact is considered material to the entire  
25 compact, and failure to implement or adhere to any provision may be considered a

1 material breach. Unless otherwise noted in this compact, any change or amendment  
2 made to the compact by any party in its implementing legislation or by the U.S.  
3 Congress when giving its consent to this compact is not considered effective unless  
4 concurred in by all parties.

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

9 **SECTION 10.** 281.344 of the statutes is created to read:

10 **281.344 Water conservation, reporting, and supply regulation; when**  
11 **compact is not in effect. (1) DEFINITIONS.** In this section:

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

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

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

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

22 (g) “Cumulative impacts” means the impacts on the Great Lakes basin  
23 ecosystem that result from incremental effects of all aspects of a withdrawal,  
24 interbasin transfer, or consumptive use in addition to other past, present, and  
25 reasonably foreseeable future withdrawals, interbasin transfers, and consumptive

1 uses regardless of who undertakes the other withdrawals, interbasin transfers, and  
2 consumptive uses, including individually minor but collectively significant  
3 withdrawals, interbasin transfers, and consumptive uses taking place over a period  
4 of time.

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

11 1. Environmentally sound.

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

13 3. Technically feasible and available.

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

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

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

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

24 (k) “Interbasin transfer” means a transfer of water from the Great Lakes basin  
25 into a watershed outside of the Great Lakes basin or from the watershed of one of the



1 Great Lakes into that of another, except that “interbasin transfer” does not include  
2 any of the following:

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

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

9 3. The transfer of bottled water from the Great Lakes basin in containers of  
10 5.7 gallons or less.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (wp) "Water supply system," when not preceded by "public," means one of the  
7 following:

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

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

12 (wr) "Water utility" means a public utility, as defined in s. 196.01 (5), that  
13 furnishes water.

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

17 (y) "Withdraw" means to take water from surface water or groundwater.

18 (z) "Withdrawal" means the taking of water from surface water or groundwater,  
19 including the taking of surface water or groundwater for the purpose of bottling the  
20 water.

21 (zm) "Without adequate supplies of potable water" means without a water  
22 supply that is economically and environmentally sustainable in the long term to  
23 meet reasonable demands for a water supply in the quantity and quality that  
24 complies with applicable drinking water standards, is protective of public health, is  
25 available at a reasonable cost, and does not have adverse environmental impacts

1 greater than those likely to result from the proposed new or increased interbasin  
2 transfer.

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

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

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

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

16 (e) *Public trust doctrine.* Nothing in this section or s. 281.343 may be  
17 interpreted to change the application of the public trust doctrine under article IX,  
18 section 1, of the Wisconsin Constitution.

19 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) 1. Any person who, on the first  
20 day of the 36th month beginning after the effective date of this subdivision ....  
21 [revisor inserts date], or, for a withdrawal from the Great Lakes basin, on the  
22 compact's effective date if that is sooner, has a water supply system with the capacity  
23 to make a withdrawal from the waters of the state averaging 100,000 gallons per day  
24 or more in any 30-day period or is making any interbasin transfer shall register the

1 withdrawal or interbasin transfer with the department by the deadline specified by  
2 the department by rule.

3 2. Any person who, after the first day of the 36th month beginning after the  
4 effective date of this subdivision .... [revisor inserts date], or, if the withdrawal is from  
5 the Great Lakes basin, on the compact's effective date if that is sooner, proposes to  
6 begin a withdrawal from the waters of the state using a water supply system that will  
7 have the capacity to withdraw an average of 100,000 gallons per day or more in any  
8 30-day period, to increase the capacity of a water supply system that existed on the  
9 first day of the 36th month beginning after the effective date of this subdivision ....  
10 [revisor inserts date], or, if the withdrawal is from the Great Lakes basin, on the  
11 compact's effective date if that is sooner, so that it will have the capacity to withdraw  
12 an average of 100,000 gallons per day or more in any 30-day period, or to begin an  
13 interbasin transfer shall register the withdrawal or interbasin transfer with the  
14 department.

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

- 17 1. The name and address of the registrant and the date of registration.
- 18 2. The locations and sources of the withdrawal or interbasin transfer.
- 19 3. The daily capacity of the withdrawal or interbasin transfer and the daily  
20 capacity to withdraw or transfer from each source.
- 21 4. An estimate of the volume of the withdrawal or interbasin transfer in terms  
22 of gallons per day average in any 30-day period.
- 23 5. The uses made of the water.
- 24 6. The places at which the water is used.
- 25 7. The places at which any of the water is discharged.

1           8. Whether the water use is continuous or intermittent.

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

3           10. Other information required by the department by rule.

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

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

9           (e) 1. Each person who makes a withdrawal from the waters of the state that  
10 averages 100,000 gallons per day or more in any 30-day period or transfers from the  
11 Great Lakes basin any amount and who has registered the withdrawal or interbasin  
12 transfer under par. (a) shall annually report to the department the monthly volumes  
13 of withdrawal, whether the person ever withdraws at least 1,000,000 gallons per day  
14 for 30 consecutive days, and, if applicable, the volumes of interbasin transfer and,  
15 subject to par. (em), water loss from consumptive use.

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

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

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

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

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

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

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

20 **(3m)** AUTOMATIC APPROVAL FOR EXISTING INTERBASIN TRANSFERS. Before the  
21 compact's effective date, the department shall automatically issue an approval for  
22 an interbasin transfer that begins before the compact's effective date, to a person who  
23 operates a public water supply system that receives water from the interbasin  
24 transfer and that delivers water to customers in an area that is outside of the Great  
25 Lakes basin and that is within a sewer service territory that provides for return of

1 wastewater to the Great Lakes basin as specified in the sewer service area provisions  
2 of an areawide water quality management plan under s. 283.83 approved by the  
3 department before December 31, 2007. The department may not issue an automatic  
4 approval under this subsection before the interbasin transfer begins. In the  
5 automatic approval, the department shall specify an interbasin transfer amount  
6 equal to the amount determined under sub. (3e) and an interbasin transfer area that  
7 is the area described in sub. (3e) (b).

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

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

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

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

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



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

5           3. Operators of 2 or more public water supply systems may submit a joint  
6           application under subd. 1. for a new, increased, or expanded interbasin transfer  
7           under par. (c) or (e).

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

12          4m. If a person who applies under subd. 1. will not directly withdraw the water  
13          proposed to be transferred, the person shall identify the entity that will withdraw the  
14          water and provide evidence of support from that entity in the form of a letter or  
15          resolution.

16          4p. If the person who applies under subd. 1. will not directly return the water  
17          to the Great Lakes basin, the person shall identify the entity that will return the  
18          water and provide evidence of support from that entity in the form of a letter or  
19          resolution.

20          4s. If the proposal for which a person applies under subd. 1. is subject to the  
21          exception standard under par. (f), the person shall provide documentation of how the  
22          physical, chemical, and biological integrity of the receiving water under par. (f) 3. will  
23          be protected and sustained as required under ss. 30.12, 281.15, and 283.31,  
24          considering the state of the receiving water before the proposal is implemented and  
25          considering potential adverse impacts due to changes in temperature and nutrient

1 loadings. If the receiving water is a surface water body that is tributary to one of the  
2 Great Lakes, the person shall include a description of the flow of the receiving water  
3 before the proposal is implemented, considering both low and high flow conditions.

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

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

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

13 b. If the proposal is to provide a public water supply within more than one city,  
14 village, or town, any portion of the proposal that provides a public water supply  
15 within a straddling community is subject to par. (c) and any portion of the proposal  
16 that provides a public water supply within a community within a straddling county  
17 is subject to par. (e).

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

24 (c) *Straddling communities.* The department may approve a proposal under  
25 par. (b) to begin an interbasin transfer, increase an interbasin transfer, or expand an

1 interbasin transfer area, to an area within a straddling community but outside the  
2 Great Lakes basin or outside the source watershed if the water transferred will be  
3 used solely for public water supply purposes in the straddling community and all of  
4 the following apply:

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

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

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

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

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

19 2m. The proposal is consistent with an approved water supply service area plan  
20 under s. 281.348 that covers the public water supply system.

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

24 (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.  
25 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.

1 (c) does not apply that would average less than 100,000 gallons per day in every  
2 90–day period, if the proposal meets the applicable requirements under s. 30.18,  
3 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the  
4 department by rule and, if the water will be used for public water supply purposes,  
5 the proposal is consistent with an approved water supply service area plan under s.  
6 281.348 that covers the public water supply system.

7 2. The department may approve a proposal under par. (b) for a new intrabasin  
8 transfer or an increase in or expansion of an intrabasin transfer to which par. (c) does  
9 not apply that would average more than 100,000 gallons per day in any 90–day  
10 period with a new water loss or an increase in water loss that would average less than  
11 5,000,000 gallons per day in every 90–day period, if all of the following apply:

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

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

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

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

- 1           a. The proposal meets the exception standard under par. (f).
- 2           b. The applicant demonstrates that there is no feasible, cost-effective, and  
3 environmentally sound water supply alternative within the watershed to which the  
4 water will be transferred, including conservation of existing water supplies as  
5 determined under par. (g).
- 6           c. If the water will be used for public water supply purposes, the proposal is  
7 consistent with an approved water supply service area plan under s. 281.348 that  
8 covers the public water supply system.
- 9           (e) *Straddling counties.* 1. The department may approve a proposal under par.  
10 (b) for a new interbasin transfer or an increase in an interbasin transfer if the water  
11 transferred will be used solely for public water supply purposes in a community  
12 within a straddling county and all of the following apply:
- 13           a. The community is without adequate supplies of potable water.
- 14           b. The proposal meets the exception standard under par. (f).
- 15           c. The proposal maximizes the amount of water withdrawn from the Great  
16 Lakes basin that will be returned to the source watershed and minimizes the amount  
17 of water from outside the Great Lakes basin that will be returned to the source  
18 watershed.
- 19           d. There is no reasonable water supply alternative within the watershed in  
20 which the community is located, including conservation of existing water supplies  
21 as determined under par. (g).
- 22           e. The proposal will not endanger the integrity of the Great Lakes basin  
23 ecosystem based upon a determination that the proposal will have no significant  
24 adverse impact on the Great Lakes basin ecosystem.

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

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

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

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

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

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

19           3m. The place at which the water is returned to the source watershed is as close  
20 as practicable to the place at which the water is withdrawn, unless the applicant  
21 demonstrates that returning the water at that place is one of the following:

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

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

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

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

8           c. If the water is returned through a structure on the bed of a navigable water,  
9 the structure is designed and will be operated to meet the applicable permit  
10 requirements under s. 30.12 and the department has approved the permit under s.  
11 30.12.

12           4m. If water will be returned to the source watershed through a stream  
13 tributary to one of the Great Lakes, the physical, chemical, and biological integrity  
14 of the receiving water under subd. 3. will be protected and sustained as required  
15 under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water  
16 before the proposal is implemented and considering both low and high flow  
17 conditions and potential adverse impacts due to changes in temperature and  
18 nutrient loadings.

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

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

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

7           (g) *Conservation and efficient use of existing water supplies.* The department  
8 shall promulgate rules specifying the requirements for an applicant for a new,  
9 increased, or expanded interbasin transfer subject to par. (f) to demonstrate the  
10 efficient use and conservation of existing water supplies for the purposes of pars. (d)  
11 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the  
12 water conservation planning and analysis used to identify the water conservation  
13 and efficiency measures that the applicant determined were feasible, based on an  
14 analysis that considered direct and avoided economic and environmental costs, and  
15 that the applicant implemented and requiring the applicant to quantify the amount  
16 of water conserved through those efficiency and conservation measures.

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

22           **(4e) DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR WITHDRAWALS FROM THE**  
23 **GREAT LAKES BASIN.** (a) Before issuing automatic notice of coverage under a general  
24 permit under sub. (4s) or an automatic individual permit under sub. (5) (c) for a  
25 withdrawal from the Great Lakes basin for which the department is required to issue



1 automatic notice of coverage under a general permit or an automatic individual  
2 permit, the department shall determine the initial withdrawal amount for the  
3 withdrawal under this subsection.

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

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

14 3e. If water is withdrawn through more than one water supply system to serve  
15 a facility, the department shall determine the amount under subd. 1. for each of the  
16 water supply systems to which subd. 2. does not apply and shall determine the  
17 amount under subd. 2. for each of the water supply systems to which subd. 2. applies  
18 and shall provide an estimate of the initial withdrawal amount that is equal to the  
19 sum of the amounts determined for each of the water supply systems.

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

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

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

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

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

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

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

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

12          7. Other relevant information.

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

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

1 December 31, 2007, based on the population and related service projections in those  
2 provisions.

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

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

11 **(4m)** WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN. Beginning on the  
12 earliest of the following dates, except as provided in sub. (4s) (bm), a person may not  
13 make a withdrawal from the Great Lakes basin that averages 100,000 gallons per  
14 day or more in any 30-day period unless the withdrawal is covered under a general  
15 permit under sub. (4s) or an individual permit under sub. (5):

16 (a) The first day of the 84th month beginning after the effective date of this  
17 paragraph .... [revisor inserts date].

18 (b) The compact's effective date.

19 **(4s)** GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Department to*  
20 *issue.* The department shall issue one or more general permits to cover withdrawals  
21 from the Great Lakes basin that average 100,000 gallons per day or more in any  
22 30-day period but that do not equal at least 1,000,000 gallons per day for any 30  
23 consecutive days. The department shall include all of the following in a general  
24 permit:

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

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

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

6           (am) *Term of general permit.* The term of a general permit issued under par.  
7 (a) is 10 years.

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

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

18           (c) *Automatic notice of coverage for existing withdrawals.* The department shall  
19 automatically issue a notice of coverage under a general permit to a person who  
20 makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e)  
21 before the earlier of the dates under sub. (4m) (a) or (b), if the withdrawal averages  
22 100,000 gallons per day or more in any 30-day period but does not equal at least  
23 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department  
24 may request additional information before issuing a notice under this paragraph.  
25 The department shall issue a notice under this paragraph no later than the earlier

1 of the dates under sub. (4m) (a) or (b). The department may promulgate a rule under  
2 which the department issues automatic notices of coverage under a general permit  
3 on a staggered schedule before the earlier of the dates under sub. (4m) (a) or (b). In  
4 the notice provided under this paragraph for a withdrawal, the department shall  
5 specify a withdrawal amount equal to the initial withdrawal amount determined  
6 under sub. (4e) for the withdrawal.

7 (d) *Coverage under general permit for new or increased withdrawals.* 1. A  
8 person who proposes to begin a withdrawal from the Great Lakes basin that will  
9 average 100,000 gallons per day or more in any 30-day period, or to increase an  
10 existing withdrawal so that it will average 100,000 gallons per day or more in any  
11 30-day period, after the first day of the 36th month beginning after the effective date  
12 of this subdivision ... [revisor inserts date], and to whom the department is not  
13 required to issue automatic notice of coverage under a general permit under par. (c),  
14 but who does not propose to withdraw at least 1,000,000 gallons per day for any 30  
15 consecutive days, shall apply to the department for coverage under a general permit.  
16 In the application, the person shall provide the information required by the  
17 department by rule.

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

23 3. Except as provided in subd. 3m., if the department determines that a  
24 withdrawal qualifies for coverage under a general permit and the department has  
25 issued any approvals that are required for the withdrawal under s. 30.12, 30.18,

1 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of  
2 coverage. In the notice, the department shall specify a withdrawal amount that is,  
3 except as provided in subd. 3e., equal to the smallest of the following amounts:

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

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

12 3e. If water is withdrawn through more than one water supply system to serve  
13 a facility, the department shall determine the smallest amounts under subd. 3. a. or  
14 b. for each of the water supply systems and shall specify a withdrawal amount that  
15 is equal to the sum of the amounts determined for each of the water supply systems.

16 3m. a. The department may not approve an application under subd. 1. for a  
17 withdrawal for the purpose of providing water to a public water supply system that  
18 is covered by an approved water supply service area plan under s. 281.348, unless  
19 the withdrawal is consistent with the water supply service area plan.

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

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

4           (dm) *Requiring individual permit.* The department may require a person who  
5 is making or proposes to make a withdrawal that averages 100,000 gallons per day  
6 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per  
7 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the  
8 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)  
9 (a), or a groundwater management area designated under s. 281.34 (9) or if coverage  
10 under an individual permit is necessary to protect public health or safety or to ensure  
11 the conservation and proper management of the waters of the state.

12           (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if  
13 a person making a withdrawal that is covered under a general permit proposes to  
14 increase the amount of the withdrawal over the withdrawal amount specified in the  
15 database under par. (i) for the withdrawal, but does not propose to withdraw at least  
16 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the  
17 department for a modification of the withdrawal amount.

18           3. Except as provided in subd. 3m., if the department has issued any approvals  
19 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or  
20 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount  
21 to an amount that is, except as provided in subd. 3e., equal to the smallest of the  
22 following amounts:

23           a. The maximum hydraulic capacity of the most restrictive component of the  
24 water supply system used for the withdrawal for which the person has approval  
25 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval

1 under one of those provisions is not required for the most restrictive component of  
2 the water supply system, the maximum hydraulic capacity of the most restrictive  
3 component that the person proposes to use in the water supply system.

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

6 3e. If water is withdrawn through more than one water supply system to serve  
7 a facility, the department shall determine the smallest amount under subd. 3. a. or  
8 b. for each of the water supply systems and shall specify a withdrawal amount that  
9 is equal to the sum of the amounts determined for each of the water supply systems.

10 3m. a. The department may not approve an application under subd. 1. for a  
11 withdrawal for the purpose of providing water to a public water supply system that  
12 is covered by an approved water supply service area plan under s. 281.348, unless  
13 the withdrawal is consistent with the water supply service area plan.

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

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

21 (g) *Redetermination.* A person to whom the department has issued a notice of  
22 coverage under a general permit shall apply to the department for redetermination  
23 of coverage under a new general permit at least 180 days before the end of the term  
24 of the current general permit if the person intends to continue to withdraw from the  
25 Great Lakes basin an average of 100,000 gallons per day or more in any 30-day



1 period but does not intend to withdraw at least 1,000,000 gallons per day for any 30  
2 consecutive days. If the person is in substantial compliance with the current general  
3 permit and the withdrawal qualifies for coverage under the new general permit, the  
4 department shall issue a notice of coverage under the new general permit.

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

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

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

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

21 1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m. or (e) 3.,  
22 3e., or 3m. or sub. (4e).

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

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

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

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

7           6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)  
8 (a).

9           (c) *Automatic issuance of individual permits for existing withdrawals.* The  
10 department shall automatically issue an individual permit to a person who makes  
11 a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before  
12 the earlier of the dates under sub. (4m) (a) or (b), if the withdrawal equals at least  
13 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department  
14 may request additional information before issuing a permit under this paragraph.  
15 The department shall issue a permit under this paragraph no later than the earlier  
16 of the dates under sub. (4m) (a) or (b). In the permit, the department shall specify  
17 a withdrawal amount equal to the initial withdrawal amount determined under sub.  
18 (4e) for the withdrawal. The department may promulgate a rule under which the  
19 department issues automatic individual permits on a staggered schedule before the  
20 earlier of the dates under sub. (4m) (a) or (b).

21           (d) *Individual permit for new or increased unpermitted withdrawals.* 1. A  
22 person who proposes to begin a withdrawal from the Great Lakes basin that will  
23 equal at least 1,000,000 gallons per day for any 30 consecutive days or to modify an  
24 existing withdrawal so that it will equal at least 1,000,000 gallons per day for any  
25 30 consecutive days, after the first day of the 36th month beginning after the effective

1 date of this subdivision .... [revisor inserts date], and to whom the department is not  
2 required to issue an automatic individual permit under par. (c), shall apply to the  
3 department for an individual permit. In the application, the person shall provide the  
4 information required by the department by rule.

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

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

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

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

23 3e. If water is withdrawn through more than one water supply system to serve  
24 a facility, the department shall determine the smaller of the amounts under subd. 3.

25 a. or b. for each of the water supply systems and shall specify a withdrawal amount

1 that is equal to the sum of the amounts determined for each of the water supply  
2 systems.

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

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

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

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

20 3. Except as provided in subd. 3m., if the department has issued any approvals  
21 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or  
22 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount  
23 to an amount that is, except as provided in subd. 3e., equal to the smallest of the  
24 following amounts:

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

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

9           3e. If water is withdrawn through more than one water supply system to serve  
10 a facility, the department shall determine the smallest amount under subd. 3. a. or  
11 b. for each of the water supply systems and shall specify a withdrawal amount that  
12 is equal to the sum of the amounts determined for each of the water supply systems.

13           3m. a. The department may not approve an application under subd. 1. for a  
14 withdrawal for the purpose of providing water to a public water supply system that  
15 is covered by an approved water supply service area plan under s. 281.348, unless  
16 the withdrawal is consistent with the water supply service area plan.

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

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

23           (g) *Reissuance.* A person to whom the department has issued an individual  
24 permit under this subsection shall apply to the department for reissuance of the  
25 individual permit at least 180 days before the end of the term of the permit if the

1 person intends to continue to withdraw from the Great Lakes basin at least 1,000,000  
2 gallons per day for any 30 consecutive days. If the department determines that the  
3 person is in substantial compliance with the individual permit and that the  
4 withdrawal continues to qualify for an individual permit, the department shall  
5 reissue the permit.

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

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

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

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

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

22 **(7m) EMERGENCY ORDER.** The department may, without a prior hearing, order  
23 a person to whom the department has issued an individual permit or notice of  
24 coverage under a general permit under this section to immediately stop a withdrawal  
25 if the department determines that there is a danger of imminent harm to the public

1 health, safety, or welfare, to the environment, or to the water resources or related  
2 land resources of this state. The order shall specify the date on which the withdrawal  
3 must be stopped and the date, if any, on which it may be resumed. The order shall  
4 notify the person that the person may request a contested case hearing under ch. 227.  
5 The hearing shall be held as soon as practicable after receipt of a request for a  
6 hearing. An emergency order remains in effect pending the result of the hearing.

7 **(8) STATEWIDE WATER CONSERVATION AND EFFICIENCY.** (a) *Goals and objectives.*

8 The department shall specify water conservation and efficiency goals and objectives  
9 for the waters of the state. The department shall specify goals and objectives for the  
10 waters of the Great Lakes basin that are consistent with the goals under s. 281.343  
11 (4b) (a) and the objectives identified by the regional body under Article 304 (1) of the  
12 Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.  
13 In specifying these goals and objectives, the department shall consult with the  
14 department of commerce and the public service commission.

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

19 1. Promotion of environmentally sound and economically feasible water  
20 conservation measures.

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

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

1 (d) *Water conservation and efficiency measures.* The department shall  
2 promulgate rules specifying water conservation and efficiency measures for the  
3 purposes of this section. In the rules, the department may not require retrofitting  
4 of existing fixtures, appliances, or equipment. In specifying the measures, the  
5 department shall consider the results of any pilot water conservation program  
6 conducted by the department in cooperation with the regional body.

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

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

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

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

17 a. The name and address of each applicant.

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

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

23 (c) *Public comment.* The department shall receive public comments on a  
24 proposal for which it receives an application under sub. (4) for a 30-day period  
25 beginning when the department gives notice under par. (b) 1. The department shall



1 retain all written comments submitted during the comment period and shall  
2 consider the comments in making its decisions on the application.

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

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

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

18 (e) *Public access to information.* Any record or other information provided to  
19 or obtained by the department regarding a proposal for which an application under  
20 sub. (4) is received is a public record as provided in subch. II of ch. 19. The  
21 department shall make available to and provide facilities for the public to inspect and  
22 copy any records or other information provided to or obtained by the department  
23 regarding a proposal for which an application for a new or increased interbasin  
24 transfer under sub. (4) is received, except that any record or other information  
25 provided to the department may be treated as confidential upon a showing to the

1 secretary that the record or information is entitled to protection as a trade secret, as  
2 defined in s. 134.90 (1) (c), or upon a determination by the department that domestic  
3 security concerns warrant confidential treatment. Nothing in this subsection  
4 prevents the use of any confidential records or information obtained by the  
5 department in the administration of this section in compiling or publishing general  
6 analyses or summaries, if the analyses or summaries do not identify a specific owner  
7 or operator.

8 **(13m) EXCEEDANCES.** It is not a violation of this section to inadvertently  
9 withdraw an amount of water that exceeds the withdrawal amount specified in a  
10 permit issued under sub. (5) or in the database under sub. (4s) (i).

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

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

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

20 **SECTION 11.** 281.346 of the statutes is created to read:

21 **281.346 Water conservation, reporting, and supply regulation; after**  
22 **the compact takes effect. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

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

4           3. The transfer of bottled water from the Great Lakes basin in containers of  
5 5.7 gallons or less.

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

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

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

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

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

- 1           1. Environmentally sound.
- 2           2. Reflective of best practices applicable to the water use sector.
- 3           3. Technically feasible and available.
- 4           4. Economically feasible and cost-effective based on an analysis that considers
- 5 direct and avoided economic and environmental costs.
- 6           (j) “Facility” means an operating plant or establishment providing electricity
- 7 to the public or carrying on any manufacturing activity, trade, or business on one site,
- 8 including similar plants or establishments under common ownership or control
- 9 located on contiguous properties.
- 10          (je) “Great Lakes basin” means the watershed of the Great Lakes and the St.
- 11 Lawrence River upstream from Trois—Rivieres, Quebec, within the jurisdiction of
- 12 the parties.
- 13          (ji) “Great Lakes basin ecosystem” means the interacting components of air,
- 14 land, water, and living organisms, including humans, within the Great Lakes basin.
- 15          (jj) “Great Lakes council” means the Great Lakes—St. Lawrence River Basin
- 16 Water Resources Council, created under s. 281.343 (2) (a).
- 17          (jm) “Intrabasin transfer” means the transfer of water from the watershed of
- 18 one of the Great Lakes into the watershed of another of the Great Lakes.
- 19          (n) “Party” means a state that is a party to the compact.
- 20          (nm) Notwithstanding s. 281.01 (9), “person” means an individual or other
- 21 entity, including a government or a nongovernmental organization, including any
- 22 scientific, professional, business, nonprofit, or public interest organization or
- 23 association that is neither affiliated with nor under the direction of a government.
- 24          (o) “Product” means something produced by human or mechanical effort or
- 25 through agricultural processes and used in manufacturing, commercial, or other

1 processes or intended for intermediate or ultimate consumers, subject to all of the  
2 following:

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

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

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

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

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

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

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

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

1 (qm) “Regional review” means review by the regional body as described in s.  
2 281.343 (4h).

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

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

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

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

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

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

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

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

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

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

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

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

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

18           **(1m) APPLICABILITY.** This section does not apply before the compact’s effective  
19 date.

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

24           (b) *Diversions and withdrawals from more than one source.* For the purposes  
25 of this section, the diversion or withdrawal of water from more than one source



1 within the Great Lakes basin to supply a single facility or public water supply system  
2 is considered one diversion or withdrawal.

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

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

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

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

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

20 6. The department shall provide a list of the baseline volumes determined  
21 under this paragraph to the Great Lakes council and the regional body no later than  
22 12 months after the compact's effective date.

23 (em) *Change of ownership.* Regional review or Great Lakes council approval  
24 is not required when there is a change of ownership of a water supply system that  
25 withdraws, diverts, or consumptively uses waters of the Great Lakes basin unless

1 the new owner proposes a change that is otherwise subject to regional review or  
2 Great Lakes council approval.

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

5 (g) *Public trust doctrine.* Nothing in this section or s. 281.343 may be  
6 interpreted to change the application of the public trust doctrine under article IX,  
7 section 1, of the Wisconsin Constitution.

8 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) Any person who proposes to  
9 begin a withdrawal from the waters of the state using a water supply system that will  
10 have the capacity to withdraw an average of 100,000 gallons per day or more in any  
11 30-day period, to increase the capacity of a water supply system so that it will have  
12 the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day  
13 period, or to begin a diversion shall register the withdrawal or diversion with the  
14 department.

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

- 17 1. The name and address of the registrant and the date of registration.
- 18 2. The locations and sources of the withdrawal or diversion.
- 19 3. The daily capacity of the withdrawal or diversion and the daily capacity to  
20 withdraw or divert from each source.
- 21 4. An estimate of the volume of the withdrawal or diversion in terms of gallons  
22 per day average in any 30-day period.
- 23 5. The uses made of the water.
- 24 6. The places at which the water is used.
- 25 7. The places at which any of the water is discharged.

1           8. Whether the water use is continuous or intermittent.

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

3           10. Other information required by the department by rule.

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

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

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

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

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

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

3 (4) DIVERSIONS. (a) *Prohibition.* Beginning on the compact's effective date, no  
4 person may begin a diversion, except as authorized under par. (c), (d), or (e) or an  
5 approval issued under s. 281.344 (4), and no person may increase the amount of a  
6 diversion over the diversion amount specified in an approval under this subsection  
7 or over the interbasin transfer amount specified in an approval issued under s.  
8 281.344 (3m) or (4), except as authorized under par. (c), (d), or (e).

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

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

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

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

21 4m. If a person who applies under subd. 1. will not directly withdraw the water  
22 proposed to be diverted, the person shall identify the entity that will withdraw the  
23 water and provide evidence of support from that entity in the form of a letter or  
24 resolution.

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

5           4s. If the proposal for which a person applies under subd. 1. is subject to the  
6 exception standard under par. (f), the person shall provide documentation of how the  
7 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will  
8 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,  
9 considering the state of the receiving water before the proposal is implemented and  
10 considering potential adverse impacts due to changes in temperature and nutrient  
11 loadings. If the receiving water is a surface water body that is tributary to one of the  
12 Great Lakes, the person shall include a description of the flow of the receiving water  
13 before the proposal is implemented, considering both low and high flow conditions.

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

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

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

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

1 that provides a public water supply within a community within a straddling county  
2 is subject to par. (e).

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

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

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

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

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

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

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

1 of water from outside the Great Lakes basin that will be returned to the source  
2 watershed.

3 2m. The proposal is consistent with an approved water supply service area plan  
4 under s. 281.348 that covers the public water supply system.

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

8 4. If the proposal would result in a new water loss or an increase in a water loss  
9 from consumptive use that would average 5,000,000 gallons or more per day in any  
10 90-day period, all of the following apply:

11 a. The department conducts a technical review.

12 b. The department notifies the regional body as required in s. 281.343 (4h) (b)  
13 1.

14 c. The proposal undergoes regional review.

15 d. The department considers the regional declaration of finding in determining  
16 whether to approve the proposal.

17 (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.  
18 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.  
19 (c) does not apply that would average less than 100,000 gallons per day in every  
20 90-day period, if the proposal meets the applicable requirements under s. 30.18,  
21 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the  
22 department by rule and, if the water will be used for public water supply purposes,  
23 the proposal is consistent with an approved water supply service area plan under s.  
24 281.348 that covers the public water supply system.

1           2. The department may approve a proposal under par. (b) for a new intrabasin  
2 transfer or an increase in an intrabasin transfer to which par. (c) does not apply that  
3 would average more than 100,000 gallons per day in any 90–day period with a new  
4 water loss or an increase in water loss that would average less than 5,000,000 gallons  
5 per day in every 90–day period, if all of the following apply:

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

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

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

16           d. The department provides notice of the proposal to the other parties.

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

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

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



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

4 d. The department conducts a technical review.

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

6 1.

7 f. The proposal undergoes regional review.

8 g. The department considers the regional declaration of finding in determining  
9 whether to approve the proposal.

10 h. The proposal is approved by the Great Lakes council.

11 (e) *Straddling counties.* 1. The department may approve a proposal under par.  
12 (b) for a new diversion or an increase in a diversion if the water diverted will be used  
13 solely for public water supply purposes in a community within a straddling county  
14 and all of the following apply:

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

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

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

21 d. There is no reasonable water supply alternative within the watershed in  
22 which the community is located, including conservation of existing water supplies  
23 as determined under par. (g).

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

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

6 f. The department conducts a technical review.

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

8 1.

9 h. The proposal undergoes regional review.

10 i. The department considers the regional declaration of finding in determining  
11 whether to approve the proposal.

12 j. The proposal is approved by the Great Lakes council.

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

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

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

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

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

4           3m. The place at which the water is returned to the source watershed is as close  
5 as practicable to the place at which the water is withdrawn, unless the applicant  
6 demonstrates that returning the water at that place is one of the following:

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

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

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

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

17           c. If the water is returned through a structure on the bed of a navigable water,  
18 the structure is designed and will be operated to meet the applicable permit  
19 requirements under s. 30.12 and the department has approved the permit under s.  
20 30.12.

21          4m. If water will be returned to the source watershed through a stream  
22 tributary to one of the Great Lakes, the physical, chemical, and biological integrity  
23 of the receiving water under subd. 3. will be protected and sustained as required  
24 under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water  
25 before the proposal is implemented and considering both low and high flow

1 conditions and potential adverse impacts due to changes in temperature and  
2 nutrient loadings.

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

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

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

15 (g) *Conservation and efficient use of existing water supplies.* The department  
16 shall promulgate rules specifying the requirements for an applicant for a new or  
17 increased diversion subject to par. (f) to demonstrate the efficient use and  
18 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)  
19 1. d., and (f) 1., including requiring the applicant to document the water conservation  
20 planning and analysis used to identify the water conservation and efficiency  
21 measures that the applicant determined were feasible, based on an analysis that  
22 considered direct and avoided economic and environmental costs, and that the  
23 applicant implemented and requiring the applicant to quantify the amount of water  
24 conserved through those efficiency and conservation measures.

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

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

10 **(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Department to*  
11 *issue.* The department shall issue one or more general permits to cover withdrawals  
12 from the Great Lakes basin that average 100,000 gallons per day or more in any  
13 30-day period but that do not equal at least 1,000,000 gallons per day for any 30  
14 consecutive days. The department shall include all of the following in a general  
15 permit:

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

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

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

22 (am) *Term of general permit.* The term of a general permit issued under par.  
23 (a) is 10 years.

24 (b) *General requirement.* A person who does not hold an individual permit  
25 under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or

1 more in any 30-day period, but that does not equal at least 1,000,000 gallons per day  
2 for any 30 consecutive days, unless the withdrawal is covered under a general permit  
3 issued under this subsection or s. 281.344 (4s), except as provided in par. (bm). A  
4 person to whom the department has issued a notice of coverage under a general  
5 permit shall comply with the general permit.

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

9 (d) *Coverage under general permit for new or increased withdrawals.* 1. A  
10 person who proposes to begin a withdrawal from the Great Lakes basin that will  
11 average 100,000 gallons per day or more in any 30-day period, or to increase an  
12 existing withdrawal so that it will average 100,000 gallons per day or more in any  
13 30-day period, but who does not propose to withdraw at least 1,000,000 gallons per  
14 day for any 30 consecutive days, shall apply to the department for coverage under  
15 a general permit, unless the person applies for an individual permit under sub. (5).  
16 In the application, the person shall provide the information required by the  
17 department by rule.

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

23 3. Except as provided in subd. 3m., if the department determines that a  
24 withdrawal qualifies for coverage under a general permit and the department has  
25 issued any approvals that are required for the withdrawal under s. 30.12, 30.18,

1 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of  
2 coverage. In the notice, the department shall specify a withdrawal amount that is,  
3 except as provided in subd. 3e., equal to the smallest of the following amounts:

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

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

12 3e. If water is withdrawn through more than one water supply system to serve  
13 a facility, the department shall determine the smallest amount under subd. 3. a. or  
14 b. for each of the water supply systems and shall specify a withdrawal amount that  
15 is equal to the sum of the amounts determined for each of the water supply systems.

16 3m. a. The department may not approve an application under subd. 1. for a  
17 withdrawal for the purpose of providing water to a public water supply system that  
18 serves a population of more than 10,000 unless the withdrawal is covered by an  
19 approved water supply service area plan under s. 281.348.

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

24 c. If the department approves an application under subd. 1. for a withdrawal  
25 for the purpose of providing water to a public water supply system that is covered by

1 an approved water supply service area plan under s. 281.348, the department shall  
2 issue a notice of coverage. In the notice of coverage the department shall specify a  
3 withdrawal amount that is equal to the withdrawal amount in the water supply  
4 service area plan.

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

8 (dm) *Requiring individual permit.* The department may require a person who  
9 is making or proposes to make a withdrawal that averages 100,000 gallons per day  
10 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per  
11 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the  
12 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)  
13 (a), or a groundwater management area designated under s. 281.34 (9) or if coverage  
14 under an individual permit is necessary to protect public health or safety or to ensure  
15 the conservation and proper management of the waters of the state.

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

22 3. Except as provided in subd. 3m., if the department has issued any approvals  
23 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or  
24 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount



1 to an amount that is, except as provided in subd. 3e., equal to the smallest of the  
2 following amounts:

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

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

11 3e. If water is withdrawn through more than one water supply system to serve  
12 a facility, the department shall determine the smallest amount under subd. 3. a. or  
13 b. for each of the water supply systems and shall specify a withdrawal amount that  
14 is equal to the sum of the amounts determined for each of the water supply systems.

15 3m. a. The department may not approve an application under subd. 1. for a  
16 withdrawal for the purpose of providing water to a public water supply system that  
17 serves a population of more than 10,000 unless the withdrawal is covered by an  
18 approved water supply service area plan under s. 281.348.

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

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

1 issue a notice of coverage. In the notice of coverage the department shall specify a  
2 withdrawal amount that is equal to the withdrawal amount in the water supply  
3 service area plan.

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

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

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

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

24 **(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Requirement.* A  
25 person may not make a withdrawal from the Great Lakes basin that equals at least

1 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is  
2 covered by an individual permit issued under this subsection or s. 281.344 (5). A  
3 person to whom the department has issued an individual permit shall comply with  
4 the individual permit.

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

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

9 2. Provisions that the department determines are necessary for tracking  
10 substantial increases in water loss resulting from increases in withdrawal amounts  
11 during the term of the permit.

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

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

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

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

21 6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)  
22 (a).

23 7. If the withdrawal is from a surface water body tributary to one of the Great  
24 Lakes and would result in a water loss of more than 95 percent of the amount of water

1 withdrawn, conditions that ensure that the withdrawal does not cause significant  
2 adverse environmental impact.

3 (d) *Initial individual permit.* 1. A person who proposes to begin a withdrawal  
4 from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any  
5 30 consecutive days or to modify an existing withdrawal so that it will equal at least  
6 1,000,000 gallons per day for any 30 consecutive days shall apply to the department  
7 for an individual permit.

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

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

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

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

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

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

8           3m. If the department approves an application under subd. 1. for a withdrawal  
9 for the purpose of providing water to a public water supply system that is covered by  
10 an approved water supply service area plan under s. 281.348, the department shall  
11 issue an individual permit. In the permit, the department shall specify a withdrawal  
12 amount that is equal to the withdrawal amount in the water supply service area  
13 plan.

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

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

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

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

9           2. Except as provided in subd. 3. or par. (dm), the department may not approve  
10 an application under par. (d) 1. for a new withdrawal that will equal at least  
11 10,000,000 gallons per day for any 30 consecutive days, or for an existing withdrawal  
12 that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is  
13 proposed to be modified so that it will equal at least 10,000,000 gallons per day for  
14 any 30 consecutive days, unless the withdrawal meets the compact decision-making  
15 standard under sub. (6).

16           3. A person who submits an application under par. (d) 1., to which subd. 2.  
17 would otherwise apply, may choose to demonstrate, using procedures specified in  
18 rules promulgated by the department, the water loss that will result from the  
19 withdrawal. If the person demonstrates that the water loss would average less than  
20 5,000,000 gallons per day in every 90-day period, the state decision-making  
21 standard under sub. (5m), rather than the compact decision-making standard under  
22 sub. (6), applies to the withdrawal.

23           (f) *Standards for approval of withdrawals covered by general permits.* 1.  
24 Except as provided in par. (dm), the department may not approve an application  
25 under par. (d) 1. for a withdrawal that is covered under a general permit under sub.

1 (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal so that it  
2 equals 1,000,000 or more gallons per day for any 30 consecutive days over the  
3 withdrawal amount as of the date that the department issued the current notice of  
4 coverage under the general permit or as of the compact's effective date, whichever  
5 is later, and if subd. 2. does not apply, unless the withdrawal meets the state  
6 decision-making standard under sub. (5m).

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

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

23 (g) *Modification of individual permit for increased withdrawal.* 1. If a person  
24 making a withdrawal that is covered under an individual permit issued under this  
25 subsection or s. 281.344 (5) proposes to increase, during the term of the permit, the

1 amount of the withdrawal over the withdrawal amount specified in the permit, the  
2 person shall apply to the department for a modification of the permit to increase the  
3 withdrawal amount.

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

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

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

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

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

24 3e. If water is withdrawn through more than one water supply system to serve  
25 a facility and subd. 3. c. does not apply, the department shall determine the smallest



1 amount under subd. 3. a. or b. for each of the water supply systems and shall specify  
2 a withdrawal amount that is equal to the sum of the amounts determined for each  
3 of the water supply systems.

4 3m. If the department approves an application under subd. 1. for a withdrawal  
5 for the purpose of providing water to a public water supply system that is covered by  
6 an approved water supply service area plan under s. 281.348, the department shall  
7 modify the individual permit. In the modified permit, the department shall specify  
8 a withdrawal amount that is equal to the withdrawal amount in the water supply  
9 service area plan.

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

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

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

21 (h) *Standards for approval of certain modifications.* 1. Except as provided in  
22 par. (gm), the department may not approve an application under par. (g) 1., if the  
23 person proposes to increase the amount of the withdrawal so that it equals 1,000,000  
24 or more gallons per day for any 30 consecutive days over the withdrawal amount as  
25 of the beginning of the current permit term, the compact's effective date, or the date

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

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

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

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

23 (j) *Reissuance.* 1. A person to whom the department has issued an individual  
24 permit under this subsection or s. 281.344 (5) shall apply to the department for  
25 reissuance of the individual permit at least 180 days before the end of the term of the

1 permit if the person intends to continue to withdraw from the Great Lakes basin at  
2 least 1,000,000 gallons per day for any 30 consecutive days.

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

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

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

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

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

1           3e. If water is withdrawn through more than one water supply system to serve  
2 a facility and subd. 3. c. does not apply, the department shall determine the smallest  
3 amount under subd. 3. a. or b. for each of the water supply systems and shall specify  
4 a withdrawal amount that is equal to the sum of the amounts determined for each  
5 of the water supply systems.

6           3m. If the department approves an application under subd. 1. for a withdrawal  
7 for the purpose of providing water to a public water supply system that is covered by  
8 an approved water supply service area plan under s. 281.348 and determines that  
9 the person is in substantial compliance with the current individual permit, the  
10 department shall reissue the individual permit. In the permit, the department shall  
11 specify a withdrawal amount that is equal to the withdrawal amount in the water  
12 supply service area plan.

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

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

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

1           (k) *Standards for reissuance in certain cases.* 1. Except as provided in par. (jm),  
2           the department may not approve an application under par. (j) 1., if the person  
3           proposes in the application to increase the amount of the withdrawal so that it equals  
4           1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal  
5           amount as of the beginning of the current permit term, the compact’s effective date,  
6           or the date that the department issued a modified permit for the withdrawal if the  
7           modification was subject to the state decision-making standard under sub. (5m) or  
8           the compact decision-making standard under sub. (6), whichever is latest, and if  
9           subd. 2. does not apply, unless the increased withdrawal meets the state  
10          decision-making standard under sub. (5m).

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

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

1 decision-making standard under sub. (5m), rather than the compact  
2 decision-making standard under sub. (6), applies to the increase in the withdrawal.

3 (L) *Prior notice.* Beginning no later than 60 months after the compact's  
4 effective date, if a proposal for which approval is required under this subsection will  
5 result in a new water loss or an increase in a water loss that will average more than  
6 5,000,000 gallons per day in any 90-day period, the department shall provide the  
7 other parties and the provinces of Ontario and Quebec, Canada, with detailed notice  
8 of the proposal and an opportunity to comment on the proposal. The department  
9 shall provide a response to any comment received under this paragraph. The  
10 department may not grant an approval under this subsection until at least 90 days  
11 after the day on which it provided notice under this paragraph.

12 (m) *Regional review.* If a majority of the members of the regional body request  
13 regional review of a proposal described in s. 281.343 (4h) (a) 6. for which approval is  
14 required under this subsection, the department shall conduct a technical review of  
15 the proposal and submit the proposal for regional review. The department may not  
16 act on the proposal until the proposal has undergone regional review and the  
17 department has considered the regional declaration of finding in determining  
18 whether to approve the proposal.

19 (n) *Information to be provided.* A person who submits an application under par.  
20 (d) 1., (g) 1., or (j) 1. shall provide the information required by the department by rule.  
21 If a decision-making standard under sub. (5m) or (6) applies, the person shall  
22 provide information about the potential impacts of the withdrawal on the waters of  
23 the Great Lakes basin and water dependent natural resources. If the compact  
24 decision-making standard under sub. (6) applies, the person shall provide an

1 assessment of the individual impacts of the proposal for the purposes of sub. (6) (b).

2 The person may also include a cumulative impact assessment.

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

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

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

15 **(5e) REQUIREMENTS FOR WATER SUPPLY SERVICE AREA PLANS FOR PUBLIC WATER**  
16 **SUPPLY SYSTEMS IN THE GREAT LAKES BASIN.** (a) *Unpermitted withdrawals.* 1.  
17 Beginning on the compact's effective date, the department may not approve a water  
18 supply service area plan under s. 281.348 that provides for a new withdrawal from  
19 the Great Lakes basin of at least 1,000,000 gallons per day for any 30 consecutive  
20 days, or for modification of an existing withdrawal that is not covered by a general  
21 permit under sub. (4s) or s. 281.344 (4s) so that it will equal at least 1,000,000 gallons  
22 per day for any 30 consecutive days, but to which subd. 2. does not apply, unless the  
23 withdrawal meets the state decision-making standard under sub. (5m).

24 2. Beginning on the compact's effective date, except as provided in subd. 3., the  
25 department may not approve a water supply service area plan under s. 281.348 that

1 provides for a new withdrawal from the Great Lakes basin of at least 10,000,000  
2 gallons per day for any 30 consecutive days, or for modification of an existing  
3 withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s)  
4 so that it will equal at least 10,000,000 gallons per day for any 30 consecutive days,  
5 unless the withdrawal meets the compact decision-making standard under sub. (6).

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

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

22 2. Beginning on the compact's effective date, except as provided in subd. 3., the  
23 department may not approve a water supply service area plan under s. 281.348 that  
24 provides for modifying a withdrawal that is covered under a general permit under  
25 sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 10,000,000 or more gallons



1 per day for any 30 consecutive days over the withdrawal amount as of the date that  
2 the department issued the current notice of coverage under the general permit or as  
3 of the compact's effective date, whichever is later, unless the withdrawal meets the  
4 compact decision-making standard under sub. (6).

5 3. A person who submits a water supply service area plan under s. 281.348, that  
6 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,  
7 may choose to demonstrate, using procedures specified in rules promulgated by the  
8 department, the water loss that will result from the increase in the withdrawal over  
9 the withdrawal amount as of the later of the dates under subd. 2. If the person  
10 demonstrates that the resulting increase in water loss would average less than  
11 5,000,000 gallons per day in every 90-day period, the state decision-making  
12 standard under sub. (5m), rather than the compact decision-making standard under  
13 sub. (6), applies to the increase in the withdrawal.

14 (c) *Increased withdrawals covered by individual permits.* 1. Beginning on the  
15 compact's effective date, the department may not approve a water supply service  
16 area plan under s. 281.348 that provides for increasing the amount of a withdrawal  
17 that is covered under an individual permit issued under sub. (5) or s. 281.344 (5) so  
18 that it equals 1,000,000 or more gallons per day for any 30 consecutive days over the  
19 withdrawal amount as of the beginning of the current permit term, the compact's  
20 effective date, or the date that the department issued a modified permit for the  
21 withdrawal if the modification was subject to the state decision-making standard  
22 under sub. (5m) or the compact decision-making standard under sub. (6), whichever  
23 is latest, and if subd. 2. does not apply, unless the increased withdrawal meets the  
24 state decision-making standard under sub. (5m).

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

11           3. A person who submits a water supply service area plan under s. 281.348, that  
12 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,  
13 may choose to demonstrate, using procedures specified in rules promulgated by the  
14 department, the water loss that will result from the increase in the withdrawal over  
15 the withdrawal amount as of the latest of the dates under subd. 2. If the person  
16 demonstrates that the resulting increase in water loss would average less than  
17 5,000,000 gallons per day in every 90-day period, the state decision-making  
18 standard under sub. (5m), rather than the compact decision-making standard under  
19 sub. (6), applies to the increase in the withdrawal.

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

1           (e) *Regional review.* The department may not approve a water supply service  
2 area plan under s. 281.348 if a majority of the members of the regional body request  
3 regional review of a withdrawal described in s. 281.343 (4h) (a) 6. provided for in the  
4 plan unless the department complies with sub. (5) (m).

5           **(5m)** STATE DECISION-MAKING STANDARD. A proposal meets the state  
6 decision-making standard if all of the following apply:

7           (a) The amount of the withdrawal or increase in the withdrawal is needed to  
8 meet the projected needs of the person who will use the water.

9           (b) For an increase in a withdrawal, cost-effective conservation practices have  
10 been implemented for existing uses of the water, as required under rules  
11 promulgated by the department.

12           (c) The applicant has assessed other potential water sources for  
13 cost-effectiveness and environmental effects.

14           (d) Cost-effective conservation practices will be implemented to ensure  
15 efficient use of the water, for a new withdrawal, or of the increased amount of an  
16 existing withdrawal.

17           (e) One of the following applies:

18           1. No significant adverse environmental impacts to the waters of the state will  
19 result from the new or increased withdrawal.

20           2. If the withdrawal is from a surface water body, the applicant demonstrates  
21 that the withdrawal will not result in the violation of water quality standards under  
22 s. 281.15 or impair fish populations.

23           3. The department has issued a permit under s. 30.18 for the new or increased  
24 withdrawal or has issued a permit under s. 30.12 for a structure that will be used for  
25 the new or increased withdrawal.

1           4. The department has issued an approval under s. 281.34, or s. 281.17, 2001  
2 stats., for the new or increased withdrawal.

3           **(6) COMPACT DECISION-MAKING STANDARD.** A proposal meets the compact  
4 decision-making standard if all of the following apply:

5           (a) All of the water withdrawn from the Great Lakes basin will be returned to  
6 the source watershed, less an allowance for consumptive use.

7           (b) The withdrawal will result in no significant adverse individual impacts or  
8 cumulative impacts to the quantity or quality of the waters of the Great Lakes basin,  
9 to water dependent natural resources, to the source watershed, or, if the withdrawal  
10 is from a stream tributary to one of the Great Lakes, to the watershed of that stream.

11           (c) The withdrawal will be implemented in a way that incorporates  
12 environmentally sound and economically feasible water conservation measures.

13           (d) The withdrawal will be in compliance with all applicable local, state, and  
14 federal laws and interstate and international agreements, including the Boundary  
15 Waters Treaty of 1909.

16           (e) The proposed use of the water is reasonable, based on a consideration of all  
17 of the following:

18           1. Whether the proposed withdrawal is planned in a way that provides for  
19 efficient use of the water and will avoid or minimize the waste of water.

20           2. If the proposal would result in an increased water loss, whether efficient use  
21 is made of existing water supplies.

22           3. The balance of the effects of the proposed withdrawal and use, and other  
23 existing or planned withdrawals and water uses from the water source, on economic  
24 development, social development, and environmental protection.

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

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

9           6. Any provisions for restoration of hydrologic conditions and functions of the  
10 source watershed or, if the withdrawal is from the stream tributary to one of the  
11 Great Lakes, of the watershed of that stream.

12           **(7)** EXEMPTIONS. Subsections (3) to (6) do not apply to withdrawals from the  
13 Great Lakes basin or diversions for any of the following purposes:

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

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

19           **(7m)** EMERGENCY ORDER. The department may, without a prior hearing, order  
20 a person to whom the department has issued an individual permit or notice of  
21 coverage under a general permit under this section or s. 281.344 to immediately stop  
22 a withdrawal if the department determines that there is a danger of imminent harm  
23 to the public health, safety, or welfare, to the environment, or to the water resources  
24 or related land resources of this state. The order shall specify the date on which the  
25 withdrawal must be stopped and the date, if any, on which it may be resumed. The

1 order shall notify the person that the person may request a contested case hearing  
2 under ch. 227. The hearing shall be held as soon as practicable after receipt of a  
3 request for a hearing. An emergency order remains in effect pending the result of  
4 the hearing.

5 (8) STATEWIDE WATER CONSERVATION AND EFFICIENCY. (a) *Goals and objectives.*

6 The department shall specify water conservation and efficiency goals and objectives  
7 for the waters of the state and for the waters of the Great Lakes basin. The  
8 department shall specify goals and objectives for the waters of the Great Lakes basin  
9 that are consistent with the goals under s. 281.343 (4b) (a) and the objectives  
10 identified by the Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying  
11 these goals and objectives, the department shall consult with the department of  
12 commerce and the public service commission and consider the water conservation  
13 and efficiency goals and objectives developed in any pilot program conducted by the  
14 department in cooperation with the regional body.

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

19 1. Promotion of environmentally sound and economically feasible water  
20 conservation measures.

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

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

1           (c) *Great Lakes basin program.* No later than the 24th month beginning after  
2 the compact's effective date, the department shall implement a Great Lakes basin  
3 water conservation and efficiency program as part of the statewide program under  
4 par. (b), for all users of the waters of the Great Lakes basin, that is designed to  
5 achieve the goals and objectives for the waters of the Great Lakes basin that are  
6 specified under par. (a). The department shall include in the Great Lakes basin  
7 program the activities in par. (b) 1. to 3. applicable in the Great Lakes basin and  
8 application of the water conservation and efficiency measures specified under par.  
9 (d) in subs. (4) (f) 6. and (g) and (6) (c).

10           (d) *Water conservation and efficiency measures.* The department shall  
11 promulgate rules specifying water conservation and efficiency measures for the  
12 purposes of this section. In the rules, the department may not require retrofitting  
13 of existing fixtures, appliances, or equipment. The department shall specify  
14 measures based on all of the following:

15           1. The amount and type of diversion, withdrawal, or consumptive use and  
16 whether the diversion, withdrawal, or consumptive use exists on the first day of the  
17 84th month beginning after the effective date of this subdivision .... [revisor inserts  
18 date], or the compact's effective date, whichever is earlier, is expanded, or is new.

19           2. The results of any pilot water conservation program conducted by the  
20 department in cooperation with the regional body.

21           3. The results of any assessments under sub. (11) (d).

22           **(9) TRIBAL CONSULTATION; PUBLIC PARTICIPATION.** (a) *Tribal consultation.* The  
23 department shall consult with a federally recognized American Indian tribe or band  
24 in this state concerning a proposal that may affect the tribe or band and that is  
25 subject to regional review or Great Lakes council approval under sub. (4) or (5).

1           (b) *Public Notice.* 1. The department shall, by rule, create procedures for  
2 circulating to interested and potentially interested members of the public notices of  
3 each complete application that the department receives under sub. (5) to which the  
4 state decision-making standard under sub. (5m) or the compact decision-making  
5 standard under sub. (6) applies, other than an application from a person operating  
6 a public water supply system that is covered by an approved water supply service  
7 area plan under s. 281.348, and each complete application that the department  
8 receives under sub. (4) and of each general permit that the department proposes to  
9 issue under sub. (4s) (a). The department shall include, in the rule, at least the  
10 following procedures:

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

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

14           2. The department shall establish the form and content of a public notice by  
15 rule. The department shall include in every public notice concerning an application  
16 to which subd. 1. applies at least the following information:

17           a. The name and address of each applicant.

18           b. A brief description of the proposal for which the application is made,  
19 including the amount of the proposed withdrawal or diversion.

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

23           (c) *Public comment.* The department shall receive public comments on a  
24 proposal for which it receives an application to which par. (b) 1. applies or on a  
25 proposed general permit under sub. (4s) (a) for a 30-day period beginning when the



1 department gives notice under par. (b) 1. The department shall retain all written  
2 comments submitted during the comment period and shall consider the comments  
3 in making its decisions on the application.

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

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

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

20 (e) *Public access to information.* Any record or other information provided to  
21 or obtained by the department regarding a proposal for which an application under  
22 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The  
23 department shall make available to and provide facilities for the public to inspect and  
24 copy any records or other information provided to or obtained by the department  
25 regarding a proposal for which an application for a new or increased diversion or

1 withdrawal under sub. (4) or (5) is received, except that any record or other  
2 information provided to the department may be treated as confidential upon a  
3 showing to the secretary that the record or information is entitled to protection as  
4 a trade secret, as defined in s. 134.90 (1) (c), or upon a determination by the  
5 department that domestic security concerns warrant confidential treatment.  
6 Nothing in this subsection prevents the use of any confidential records or  
7 information obtained by the department in the administration of this section in  
8 compiling or publishing general analyses or summaries, if the analyses or  
9 summaries do not identify a specific owner or operator.

10 (h) *Expediting review.* The department shall take appropriate measures to  
11 expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes  
12 council, parties, and the provinces of Ontario and Quebec of applications under this  
13 section that are subject to regional review.

14 **(10m)** AMENDMENT OF COASTAL MANAGEMENT PROGRAM. (a) The Wisconsin  
15 coastal management council, created under s. 14.019, shall amend this state's  
16 coastal management program submitted to the U.S. secretary of commerce under 16  
17 USC 1455, to incorporate the requirements of this section, as they apply to the water  
18 resources of the Great Lakes basin, and shall formally submit the proposed  
19 amendments to the U.S. secretary of commerce.

20 (b) After approval of the amendments submitted to the U.S. secretary of  
21 commerce under par. (a), the Wisconsin coastal management council shall, when  
22 conducting federal consistency reviews under 16 USC 1456 (c), consider the  
23 requirements specified under par. (a), if applicable.

24 (c) If the department issues a permit for a withdrawal to which this section  
25 applies, and the withdrawal is subject to a federal consistency review under 16 USC

1 1456 (c), the Wisconsin coastal management council shall certify that the withdrawal  
2 is consistent with this state's coastal management program.

3 **(11) INFORMATION, REPORTS, AND ASSESSMENTS.** (a) *Statewide inventory.* 1. The  
4 department shall develop and maintain a water resources inventory consisting of  
5 information about the waters of the state including information about the location,  
6 type, quantity, and uses of water resources and the location, and type of diversions,  
7 withdrawals, and consumptive uses and quantities of withdrawals and water losses.  
8 The department shall develop the inventory in cooperation with federal and local  
9 governmental entities, agencies of this state and of the other parties, tribal agencies,  
10 and private entities. The department shall use information in the registry under  
11 sub. (3) (c) in creating the inventory.

12 2. The department shall create the water resources inventory under subd. 1.  
13 no later than the first day of the 72nd month beginning after the effective date of this  
14 subdivision .... [revisor inserts date], or the first day of the 60th month beginning  
15 after the compact's effective date whichever is later.

16 (b) *Annual report on water resources.* Beginning within 60 months after the  
17 compact's effective date, the department shall annually report to the Great Lakes  
18 council the information from par. (a) regarding withdrawals that average 100,000  
19 gallons per day or more over a 30-day period, including consumptive uses, in the  
20 basin and any diversions, as well as the amounts of the withdrawals, water losses  
21 from consumptive uses, and diversions in the basin reported under sub. (3) (e).

22 (c) *Program report.* No later than 12 months after the compact's effective date,  
23 and every 5 years thereafter, the department shall submit a report to the Great Lakes  
24 council and the regional body describing the implementation of the program under  
25 this section, including the manner in which withdrawals from the Great Lakes basin

1 are managed, how the criteria for approval under subs. (4), (5), and (6) are applied,  
2 and how conservation and efficiency measures are implemented.

3 (d) *Assessment of water conservation and efficiency program.* After the  
4 compact's effective date, the department shall annually assess the effectiveness of  
5 the water conservation and efficiency program under sub. (8) (c) in meeting the Great  
6 Lakes basin water conservation and efficiency goals under sub. (8) (a). In each  
7 assessment, the department shall consider whether there is a need to adjust the  
8 Great Lakes basin water conservation and efficiency program in response to new  
9 demands for water from the basin and the potential impacts of the cumulative effects  
10 of diversions, withdrawals, and consumptive uses and of climate. The department  
11 shall provide the assessment to the Great Lakes council and the regional body and  
12 make it available to the public.

13 (e) *Assessment of cumulative impacts.* The department shall participate in the  
14 periodic assessment of the impacts of withdrawals, diversions, and consumptive uses  
15 under s. 281.343 (4z) (a).

16 (f) *Report on threshold.* No later than the 60th month beginning after the  
17 compact's effective date, the department shall submit to the legislature under s.  
18 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and  
19 providing any recommendations to change the threshold.

20 **(13m) EXCEEDANCES.** It is not a violation of this section to inadvertently  
21 withdraw an amount of water that exceeds the withdrawal amount specified in a  
22 permit issued under sub. (5) or in the database under sub. (4s) (i).

23 **(14) PENALTIES.** (a) Any person who violates this section or any rule  
24 promulgated or approval issued under this section shall forfeit not less than \$10 nor

1 more than \$10,000 for each violation. Each day of continued violation is a separate  
2 offense.

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

7 **SECTION 12.** 281.348 of the statutes is created to read:

8 **281.348 Water supply service area plans for public water supply**  
9 **systems. (1) DEFINITIONS.** In this section:

10 (a) “Compact’s effective date” means the effective date of the Great Lakes—St.  
11 Lawrence River Basin Water Resources Compact under s. 281.343 (9) (d).

12 (b) “Cost-effectiveness analysis” means a systematic comparison of alternative  
13 means of providing a water supply in order to identify alternatives that will minimize  
14 total resources costs and maximize environmental benefits over a planning period.

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

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

21 (e) “Total resources costs” includes monetary costs and direct and indirect  
22 environmental as well as other nonmonetary costs.

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

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

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

7           (b) For the purposes of this section, the withdrawal of water from more than  
8 one source within the Great Lakes basin to supply a common distribution system is  
9 considered one withdrawal.

10           **(3) REQUIREMENTS.** (a) 1. The department shall establish and administer a  
11 continuing water supply planning process for the preparation of water supply plans  
12 for persons operating public water supply systems. The period covered by a plan  
13 under this subsection may not exceed 20 years. A regional planning commission may  
14 prepare plans for persons operating public water supply systems.

15           2. A person operating a public water supply system that serves a population  
16 of 10,000 or more and that withdraws water from the waters of the state shall have  
17 an approved plan under this section no later than December 31, 2025.

18           (b) The department shall include in the process under par. (a) procedures and  
19 requirements for all of the following:

20           1. Public review and comment on a proposed plan. For a plan submitted after  
21 the compact’s effective date covering a public water supply system that withdraws  
22 water from the Great Lakes basin, the procedures and requirements under this  
23 subdivision shall be consistent with s. 281.343 (6) (b).

1           2. Approval of a plan by the governing body of each city, village, and town whose  
2 public water supply is addressed by the plan before the plan is submitted to the  
3 department.

4           2m. Approval of a plan by the department.

5           3. Ensuring that plans remain current.

6           4. Intergovernmental cooperation.

7           5. Reopening or reconsideration by the department of a previously approved  
8 plan.

9           (c) A person preparing a plan under par. (a) shall include all of the following  
10 in the plan:

11           1. Delineation of the area for which the plan is being prepared and proposed  
12 water service areas for each public water supply system making a withdrawal  
13 covered by the plan.

14           2. An inventory of the sources and quantities of the current water supplies in  
15 the area.

16           3. A forecast of the demand for water in the area over the period covered by the  
17 plan.

18           3m. Identification of the existing population and population density of the area  
19 for which the plan is prepared and forecasts of the expected population and  
20 population density of the area during the period covered by the plan.

21           4. Identification of the options for supplying water in the area for the period  
22 covered by the plan that are approvable under other applicable statutes and rules  
23 and that are cost-effective based upon a cost-effectiveness analysis of regional and  
24 individual water supply and water conservation alternatives.

1           5. An assessment of the environmental, social, and economic impacts of  
2 carrying out specific significant recommendations of the plan.

3           6. A demonstration that the plan will effectively maximize the use of existing  
4 water supply storage and distribution facilities and wastewater infrastructure to the  
5 extent practicable.

6           7. Identification of the procedures for implementing and enforcing the plan and  
7 a commitment to using those procedures.

8           8. An analysis of how the plan supports and is consistent with any applicable  
9 comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved  
10 areawide water quality management plans under s. 283.83.

11           9. Other information specified by the department.

12           (d) The department may not approve a plan under this subsection unless all  
13 of the following apply:

14           1. The plan provides for a water supply system that is approvable under this  
15 section and other applicable statutes and rules based on a cost-effectiveness  
16 analysis of regional and individual water supply and water conservation  
17 alternatives.

18           2. The plan will effectively maximize the use of existing water supply storage  
19 and distribution facilities and wastewater infrastructure to the extent practicable.

20           3. The plan is consistent with any applicable comprehensive plans, as defined  
21 in s. 66.1001 (1) (a).

22           4. The plan is consistent with any applicable approved areawide water quality  
23 management plans under s. 283.83.



1           5. Beginning on the compact's effective date, if the plan covers a public water  
2 supply system that withdraws water from the Great Lakes basin, the plan complies  
3 with any applicable requirements in s. 281.346 (5e).

4           (e) The department shall specify in a plan under this section a water supply  
5 service area for each public water supply system making a withdrawal covered by  
6 the plan.

7           (f) A person applying for an approval under s. 281.344 (4) or 281.346 (4) may  
8 use elements of an approved plan under this subsection to show compliance with  
9 requirements under s. 281.344 (4) or 281.346 (4) to which the plan is relevant.

10           **(4) WITHDRAWAL AMOUNT IN CERTAIN PLANS.** In a plan under this section that  
11 covers a public water supply system making a withdrawal from the Great Lakes  
12 basin, the department shall specify a withdrawal amount for the public water supply  
13 system equal to the greatest of the following:

14           (a) The amount needed for the public water supply system to provide a public  
15 water supply in the water supply service area in the plan during the period covered  
16 by the plan, as determined using the population and related service projections in  
17 the plan.

18           (b) If the withdrawal is covered by an individual permit issued under s. 281.344  
19 (5) or 281.346 (5) when the department approves the plan, the withdrawal amount  
20 in that permit when the department approves the plan or, if the withdrawal is  
21 covered by a general permit issued under s. 281.344 (4s) or 281.346 (4s) when the  
22 department approves the plan, the withdrawal amount for the public water supply  
23 system in the database under s. 281.346 (4s) (i) when the department approves the  
24 plan.

25           **SECTION 12m.** 281.35 (1) (a) of the statutes is amended to read:

1           281.35 (1) (a) “Approval” means a permit issued under s. 30.18, 281.344 (5), or  
2           281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.

3           **SECTION 13.** 281.35 (1) (b) 2. of the statutes is amended to read:

4           281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss  
5           over any 30-day period that is reported to the department ~~or the public service~~  
6           ~~commission~~ under sub. ~~(3) (c)~~ or s. 30.18 (6) (c), ~~196.98~~, 281.34, 281.344 (5), 281.346  
7           (5), or 281.41 or s. 281.17 (1), 2001 stats.

8           **SECTION 14.** 281.35 (1) (bm) of the statutes is created to read:

9           281.35 (1) (bm) “Compact’s effective date” means the effective date of the Great  
10          Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

11          **SECTION 15.** 281.35 (2) (a) of the statutes is repealed.

12          **SECTION 16.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2).

13          **SECTION 17.** 281.35 (3) of the statutes is repealed.

14          **SECTION 18g.** 281.35 (4) (a) 4. of the statutes is created to read:

15          281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)  
16          has been issued or who is required to obtain a permit under one of those provisions  
17          before beginning or increasing a withdrawal.

18          **SECTION 18r.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

19          281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new  
20          withdrawal or increase the amount of an existing withdrawal, the person shall apply  
21          to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new  
22          approval or a modification of its existing approval if either of the following conditions  
23          applies:

24          **SECTION 20.** 281.35 (5) (a) 13. of the statutes is amended to read:

1           281.35 (5) (a) 13. A statement as to whether the proposed withdrawal complies  
2 with all applicable plans for the use, management and protection of the waters of the  
3 state and related land resources, including plans developed under ss. ~~281.12 (1) and~~  
4 s. 283.83 and the requirements specified in any water quantity resources plan under  
5 ~~sub. (8)~~.

6           **SECTION 21.** 281.35 (5) (b) of the statutes is amended to read:

7           281.35 (5) (b) *Great Lakes basin; consultation required.* If the department  
8 receives an application before the compact's effective date that, if approved, will  
9 result in a new water loss to the Great Lakes basin averaging more than 5,000,000  
10 gallons per day in any 30-day period, or an increase in an existing withdrawal that  
11 will result in a water loss averaging 5,000,000 gallons per day in any 30-day period  
12 above the applicant's authorized base level of water loss, the department shall notify  
13 the office of the governor or premier and the agency responsible for management of  
14 water resources in each state and province of the Great Lakes region and, if required  
15 under the boundary water agreement of 1909, the international joint commission.  
16 The department shall also request each state and province that has cooperated in  
17 establishing the regional consultation procedure under sub. ~~(11) (f)~~ (11m) to  
18 comment on the application. In making its determination on an application, the  
19 department shall consider any comments that are received within the time limit  
20 established under par. (c).

21           **SECTION 23g.** 281.35 (6) (a) (intro.) of the statutes is amended to read:

22           281.35 (6) (a) *Issuance; contents.* (intro.) If Subject to par. (am), if an  
23 application is approved under sub. (5), the department shall modify the applicant's  
24 existing approval or shall issue a new approval that specifies all of the following:

25           **SECTION 23j.** 281.35 (6) (am) of the statutes is created to read:

1           281.35 (6) (am) *Water loss permit*. If the department approves an application  
2 under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s.  
3 281.346 (5) and another approval, the department shall modify the permit under s.  
4 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters  
5 under par. (a).

6           **SECTION 24.** 281.35 (8) of the statutes is repealed.

7           **SECTION 25.** 281.35 (9) (a) of the statutes is amended to read:

8           281.35 (9) (a) The Wisconsin coastal management council, established under  
9 executive order number 62, dated August 2, 1984, shall amend this state's coastal  
10 management program submitted to the U.S. secretary of commerce under 16 USC  
11 1455, to incorporate the requirements of this section and, before the compact's  
12 effective date, s. 281.344 and the findings and purposes specified in 1985 Wisconsin  
13 Act 60, section 1, as they apply to the water resources of the Great Lakes basin, and  
14 shall formally submit the proposed amendments to the U.S. secretary of commerce.

15           **SECTION 26.** 281.35 (9) (d) of the statutes is created to read:

16           281.35 (9) (d) This subsection does not apply after the compact's effective date.

17           **SECTION 27.** 281.35 (10) (a) 4. of the statutes is repealed.

18           **SECTION 28.** 281.35 (11) (intro.) of the statutes is amended to read:

19           281.35 (11) COOPERATION WITH OTHER STATES AND PROVINCES. (intro.) The Before  
20 the compact's effective date, the department shall do all of the following:

21           **SECTION 29.** 281.35 (11) (f) of the statutes is renumbered 281.35 (11m) and  
22 amended to read:

23           281.35 (11m) UPPER MISSISSIPPI RIVER BASIN CONSULTATION. Participate The  
24 department shall participate in the development of an upper Mississippi River basin

1 regional consultation procedure for use in exchanging information on the effects of  
2 proposed water losses from that basin.

3 **SECTION 30.** 281.35 (12) (c) of the statutes is amended to read:

4 281.35 (12) (c) This state reserves the right to seek, in any state, federal or  
5 provincial forum, an adjudication of the equitable apportionment of the water  
6 resources of the ~~Great Lakes basin or upper Mississippi River basin~~ and, before the  
7 compact's effective date, of the Great Lakes basin, and the protection and  
8 determination of its rights and interests in those water resources, in any manner  
9 provided by law.

10 **SECTION 31.** 281.41 (1) (c) of the statutes is amended to read:

11 281.41 (1) (c) Construction or material change shall be according to approved  
12 plans only. The department may disapprove plans that are not in conformance with  
13 any existing approved areawide waste treatment management plan prepared  
14 pursuant to the federal water pollution control act, P.L. 92-500, as amended, and  
15 shall disapprove plans that do not meet the grounds for approval specified under s.  
16 281.35 (5) (d), if applicable. ~~The department shall require each person whose plans~~  
17 ~~are approved under this section to report that person's volume and rate of water~~  
18 ~~withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of~~  
19 ~~water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times~~  
20 ~~specified by the department.~~ The department shall disapprove plans that are not in  
21 conformance with any applicable approved water supply service area plan under s.  
22 281.348.

23 **SECTION 32.** 281.41 (4) of the statutes is created to read:

24 281.41 (4) When the department receives for review a plan under sub. (1) that  
25 would result in returning water transferred from the Great Lakes basin to the source

1 watershed through a stream tributary to one of the Great Lakes, the department  
2 shall provide notice of the plan or revision to the governing body of each city, village,  
3 and town through which the stream flows or that is adjacent to the stream  
4 downstream from the point at which the water would enter the stream.

5 **SECTION 33.** 281.94 (1) of the statutes is amended to read:

6 281.94 (1) Any 6 or more residents of this state may petition for an  
7 investigation of a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ alleged to be in  
8 violation of s. 281.35 ~~(3) (a),~~ 281.344 (3) (a), or 281.346 (3) (a), in violation of a  
9 condition, limitation or restriction of a permit or approval issued in conformance  
10 with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 ~~(3) (a)~~  
11 ~~or (4) to (6),~~ 281.344 (3) (a), or 281.346 (3) (a) by submitting to the department a  
12 petition identifying the alleged violator and setting forth in detail the reasons for  
13 believing a violation occurred. The petition shall state the name and address of a  
14 person in this state authorized to receive service of answer and other papers on  
15 behalf of the petitioners and the name and address of a person authorized to appear  
16 at a hearing on behalf of the petitioners.

17 **SECTION 34.** 281.95 of the statutes is amended to read:

18 **281.95 Remedies; water withdrawal violations.** Any person who makes  
19 a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ in violation of s. 281.35 ~~(3) (a),~~  
20 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction  
21 of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of  
22 any rule promulgated under s. 281.35 ~~(3) (a) or (4) to (6),~~ 281.344 (3) (a), or 281.346  
23 (3) (a) is liable to any person who is adversely affected by the withdrawal for damages  
24 or other appropriate relief. Any person who is or may be adversely affected by an  
25 existing or proposed withdrawal, ~~as defined under s. 281.35 (1) (m),~~ which is in

1 violation of a condition, limitation or restriction of a permit or approval issued in  
2 conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s.  
3 281.35 (4) to (6) may bring an action in the circuit court to restrain or enjoin the  
4 withdrawal.

5 **SECTION 35.** 281.98 (1) of the statutes is amended to read:

6 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.346 (14) (a), 281.47  
7 (1) (d), 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule  
8 promulgated or any plan approval, license, special order, or water quality  
9 certification issued under this chapter shall forfeit not less than \$10 nor more than  
10 \$5,000 for each violation. Each day of continued violation is a separate offense.  
11 While an order is suspended, stayed, or enjoined, this penalty does not accrue.

12 **SECTION 36.** 283.41 (3) of the statutes is created to read:

13 283.41 (3) When the department receives an application for a permit for a  
14 discharge that would return water transferred from the Great Lakes basin to the  
15 source watershed through a stream tributary to one of the Great Lakes, the  
16 department shall provide notice of the application to the governing body of each city,  
17 village, and town through which the stream flows or that is adjacent to the stream  
18 downstream from the point at which the water would enter the stream.

19 **SECTION 37.** 283.83 of the statutes is renumbered 283.83 (1).

20 **SECTION 38.** 283.83 (2) of the statutes is created to read:

21 283.83 (2) When the department receives for review or prepares a new plan  
22 under sub. (1) or a revision to a plan under sub. (1) that includes a proposal to return  
23 water transferred from the Great Lakes basin to the source watershed through a  
24 stream tributary to one of the Great Lakes, the department shall provide notice of  
25 the plan or revision to the governing body of each city, village, and town through

