

1 **SECTION 7.** 281.344 of the statutes is created to read:

2 **281.344 Water conservation and reporting; Great Lakes basin water**
3 **resources regulation. (1) DEFINITIONS.** In this section:

4 (d) “Community within a straddling county” means any city, village, or town
5 that is not a straddling community and that is located outside the Great Lakes basin
6 but wholly within a county that, as of December 13, 2005, lies partly within the Great
7 Lakes basin.

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

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

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13 to return some or all of the water to the basin from which the water is withdrawn due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

15 (ed) “Cost-effectiveness analysis” means a systematic comparison of
16 alternative means of providing a water supply in order to identify the alternative
17 that will minimize the total resources costs over a planning period.

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

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

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

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

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

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

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

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or container of greater than 5.7 gallons,

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

- 7 1. Environmentally sound.
- 8 2. Reflective of best practices applicable to the water use sector.
- 9 3. Technically feasible and available.
- 10 4. Economically feasible and cost-effective based on an analysis that considers
11 direct and avoided economic and environmental costs.

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

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

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

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

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

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

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

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

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

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

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

→ 5. Bottled water in a container of 5.7[✓] gallons or less, is a product.

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

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

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

23 (qm) "Regional review" means review by the regional body as described in s.
24 281.343 (4h).

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

8 (t) “Straddling community” means any city, village, or town that, based on its
9 boundary existing as of the compact’s effective date, is partly within the Great Lakes
10 basin or partly within the watersheds of 2 of the Great Lakes and that is wholly
11 within any county that, as of December 13, 2005, lies partly or completely within the
12 Great Lakes basin.

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

16 (ud) “Total resources costs” includes monetary costs and environmental as well
17 as other nonmonetary costs.

18 (um) “Upper Mississippi River basin” means the watershed of the Mississippi
19 River upstream from Cairo, Illinois.

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

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

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

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

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

7 (z) "Withdrawal" means the taking of water from surface water or groundwater.

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

12 (b) *Diversions and withdrawals from more than one source*. For the purposes
13 of this section, the diversion or withdrawal of water from more than one source
14 within the Great Lakes basin to supply a common distribution system is considered
15 one diversion or withdrawal.

16 (c) *Aggregation of increases*. In determining the applicability of a requirement
17 in this section to a proposed increase in a diversion, ^{or} withdrawal, ^{or} consumptive use,
18 the amount of the increase consists of the amount of the proposed increase and of all
19 increases made after the latest of the following:

20 1. The compact's effective date.

21 2. The date that is 10 years before the date on which the proposed increase is
22 planned to begin.

23 (d) *Baseline*. 1. The department shall specify the baseline volume of a
24 withdrawal from the waters of the Great Lakes basin, any portion of such a

1 withdrawal that is a consumptive use of the waters of the Great Lakes basin, or a
2 diversion for all of the following:

3 a. Any of these withdrawals, consumptive uses, and diversions reported on the
4 compact's effective date under sub. (3) (e).

5 b. Any of these withdrawals, consumptive uses, and diversions not identified
6 in subd. 1. a. that exist on the compact's effective date and become subject to the
7 reporting requirements under sub. (3) (e) after the compact's effective date.

8 3. a. The department shall estimate the baseline volume for a withdrawal
9 based on the maximum hydraulic capacity of the most restrictive component in the
10 water supply system supplied by the withdrawal as of the compact's effective date
11 using information available to the department.

12 b. The department shall estimate the baseline volume for any consumptive use
13 based on the portion of the withdrawal that is a consumptive use of waters of the
14 Great Lakes basin as of the compact's effective date.

15 c. The department shall provide the estimates under subd. 3. a. and b. to the
16 person making the withdrawal or consumptive use and provide an opportunity for
17 the person to provide other information relevant to the determinations under this
18 paragraph. Information is relevant if it relates to the state of the components in the
19 water supply system, including information on seasonal variations in the amount of
20 water supplied by the water supply system.

21 d. The department shall specify the baseline volumes of the withdrawal and
22 any consumptive use based on the estimates under subd. 3. a. and b. and any
23 information provided under subd. 3. c.

1 4. The department shall determine the baseline volume for a diversion based
2 on the amount of the diversion authorized in any permit or approval issued by the
3 department as of the compact's effective date.

****NOTE: This will only work for diversions if all diversions currently have approvals and those approvals authorize a specific amount to be diverted.

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4 5. The department shall provide a list of the amount of ~~each withdrawal~~
5 ~~diversion, and water loss due to consumptive use~~ ^{baseline volumes} determined under this paragraph
6 to the Great Lakes council and the regional body no later than 12 months after the
7 compact's effective date.

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

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

14 (g) *Effect.* Nothing in this section implementing s. 281.343 may be interpreted
15 to make the public trust doctrine under article IX, section 1, of the Wisconsin
16 Constitution applicable to groundwater in this state.

17 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) 1. Subject to par. (d), any person
18 who, on the effective date of this subdivision [revisor inserts date], has ^{a water supply} the
19 capacity to make a withdrawal from the waters of the state ^{averaging} that ~~averages~~ ^{system} 100,000 ^{with}
20 gallons per day or more in any 30-day period or is making any diversion shall
21 register the withdrawal or diversion with the department.

****NOTE: This should say when they must register by.

22 2. Any person who, after the effective date of this subdivision [revisor inserts
23 date], proposes to begin a withdrawal from the waters of the state using a water

1 supply system that will have the capacity to average 100,000 gallons per day or more
2 in any 30-day period, to increase the capacity of a water supply system that existed
3 on the effective date of this subdivision [revisor inserts date], so that it will have
4 the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day
5 period, or to begin a diversion shall register the withdrawal or diversion with the
6 department.

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

- 9 1. The name and address of the registrant and the date of registration.
- 10 2. The locations and sources of the withdrawal or diversion.
- 11 3. The daily capacity of the withdrawal or diversion and the daily capacity to
12 withdraw or divert from each source.
- 13 4. An estimate of the volume of the withdrawal or diversion in terms of gallons
14 per day average in any 30-day period.
- 15 5. The uses made of the water.
- 16 6. The places at which the water is used.
- 17 7. The places at which any of the water is discharged.
- 18 8. Whether the water use is continuous or intermittent.
- 19 9. Whether the person holds a permit under s. 283.31.
- 20 10. Other information required by the department by rule.

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

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

1 (d) Paragraph (a) 1. does not apply to a person who registered a withdrawal
 2 under s. 281.35 (3) or who obtained an approval under s. 30.18, 281.34, or 281.41 or
 3 s. 281.17, 2001 stats., before the effective date of this subdivision ... [revisor inserts
 4 date], until ^{the first day of the 36th month beginning} 3 years after the date of this subdivision ... [revisor inserts date].

* ****NOTE: Because the compact requires baselines to be set within a year after the compact's effective date, this needs to be modified. Also, is "3 years after the effective date" sufficiently clear?

I modified this from the WLS draft
or the first day of the 12th month beginning after the compact's effective date, whichever is sooner

5 (e) 1. Each person who withdraws from the waters of the state 100,000 gallons
 6 per day or more in any 30-day period or diverts any amount and who has registered
 7 the withdrawal or diversion under par. (a) shall annually report to the department
 8 the monthly volumes of withdrawal and, if applicable, the volumes of diversion and
 9 water loss from consumptive use.

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

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

16 (4) DIVERSIONS. (a) *Prohibition*. Beginning on the first day of the first month
 17 beginning after the compact's effective date, no person may begin a diversion or
 18 increase the amount of a diversion, ^{Insert 56-18 ✓} except as authorized under par. (c), (d), or (e).

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

22 2. A person may apply under subd. 1. for approval of a new or increased
 23 diversion under par. (c) or (e) only if the person owns or operates a public water

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1 supply system that receives or would receive water from the new or increased
2 diversion.

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

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

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

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

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

19 b. If the proposal is to provide water within more than one city, village, or town,
20 and none of the cities, villages, or towns is a community within a straddling county,
21 the proposal is subject to par. (c).

22 c. If the proposal is to provide water within more than one city, village, or town,
23 and at least one of the cities, villages, or towns is a community within a straddling
24 county, the proposal is subject to par. (e).

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1 2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a
2 proposal under par. (b), the department shall use, as appropriate, the current or
3 planned service area of the public water supply system or systems receiving water
4 under the proposal. The planned service area is the service area of the system or
5 systems at the end of any planning period authorized by the department in a facility
6 plan approved under s. 281.41 or a water supply plan approved under sub. (10).

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

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

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

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

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

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

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

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

7 a. The department conducts a technical review.

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

9 c. The proposal undergoes regional review.

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

12 (d) *Intrabasin transfer*. 1. The department may approve a proposal for a new
13 intrabasin transfer, or for an increase in an intrabasin transfer, to which par. (c) does
14 not apply that would average less than 100,000 gallons per day in every 90-day
15 period, if the proposal meets the applicable requirements in s. 30.18, 281.34, or
16 281.41.

 ***NOTE: Need to determine whether those sections cover all transfers that might
be proposed. If not, this doesn't really work.

17 2. The department may approve a proposal for a new intrabasin transfer or an
18 increase in an intrabasin transfer to which par. (c) does not apply that would average
19 more than 100,000 gallons per day in any 90-day period with a new water loss or an
20 increase in water loss that would average less than 5,000,000 gallons per day in every
21 90-day period, if all of the following apply:

1 a. The proposal meets the exception standard under par. (f), except that the
2 water may be returned to a watershed within the Great Lakes basin other than the
3 source watershed.

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

8 c. The department provides notice of the proposal to the other parties.

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

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

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

18 c. The department conducts a technical review.

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

20 e. The proposal undergoes regional review.

21 f. The department considers the regional declaration of finding in determining
22 whether to approve the proposal.

23 g. The proposal is approved by the Great Lakes council.

24 (e) *Straddling counties.* 1. The department may approve a proposal for a new
25 diversion or an increase in a diversion if the water diverted will be used solely for

1 public water supply purposes in a community within a straddling county and all of
2 the following apply:

3 a. The community does not have a water supply that is economically and
4 environmentally sustainable in the long term to meet reasonable demands for a
5 water supply in the quantity and quality that complies with applicable drinking
6 water standards, is protective of public health, has a reasonable cost, and has no
7 adverse environmental impacts greater than those likely to result from the new or
8 increased diversion.

****NOTE: This provision is difficult to interpret given the use of “quantity.” Could
“in the quantity and quality” be omitted?

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

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

14 d. There is no reasonable water supply alternative within the basin watershed
15 in which the community is located, including conservation of existing water supplies
16 under par. (g).

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

20 f. The department conducts a technical review.

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

22 h. The proposal undergoes regional review.

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

3 ~~k.~~ [✓] The proposal is approved by the Great Lakes council.

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

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

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

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

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

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

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

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

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

7 6. The applicant commits to implementing the water conservation measures
8 under sub. (8) (d) 3. that are environmentally sound and economically feasible for the
9 applicant to minimize the amount of water withdrawn and the water loss.

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

13 (g) *Conservation and efficient use of existing water supplies.* An applicant for
14 a new or increased diversion subject to par. (f) shall demonstrate the efficient use and
15 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)
16 1. d., and (f) 1. by doing all of the following before submitting the application:

17 1. Engaging in water conservation planning that includes all of the following:

18 a. Evaluation of the applicant's present and future water uses.

19 b. Making a representative estimate of the amount of the applicant's water use
20 before implementing the measures under subd. 2.

21 c. Determining which of the water conservation and efficiency measures in sub.
22 (8) (d) 2. and 3. b. and c. are environmentally sound and economically feasible for the
23 applicant.

24 2. Implementing the environmentally sound and economically feasible water
25 conservation measures identified under subd. 1. c.

****NOTE: Check use of "applicant" here.

1 (5) WITHDRAWALS AND CONSUMPTIVE USES. (a) *Approval required.* 1. Beginning
2 on the first day of the first month beginning after the compact's effective date, no
3 person may begin a withdrawal from the Great Lakes basin that will average more
4 than XX gallons per day in any 90-day period without an approval from the
5 department under this subsection.

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6 2. Beginning on the first day of the first month beginning after the compact's
7 effective date, no person may increase an existing withdrawal from the Great Lakes
8 basin so that it will average more than XX gallons per day in any 90-day period
9 without an approval from the department under this subsection.

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10 (b) *Application.* A person who proposes a withdrawal or an increase in a
11 withdrawal for which approval is required under par. (a) shall apply to the
12 department for approval. The person shall provide information about the potential
13 impacts of the withdrawal on the waters of the Great Lakes basin and water
14 dependent natural resources. The person shall provide an assessment of the
15 individual impacts of the proposal for the purposes of sub. (6) (b). The person may
16 also include a cumulative impact assessment. The department may by rule require
17 additional information from a person who is required to submit an application under
18 this paragraph.

19 (c) *Standard for approval.* The department may not grant an approval under
20 this subsection unless the proposal complies with the decision-making standard
21 under sub. (6).

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22 (d) *Prior notice.* Beginning no later than 60 months after the compact's effective
23 date, if a proposal for which approval is required under this subsection will result in
24 a new water loss or an increase in a water loss that will average more than 5,000,000

1 gallons per day in any 90-day period, the department shall provide the other parties
2 and the provinces of Ontario and Quebec, Canada, with detailed notice of the
3 proposal and an opportunity to comment on the proposal. The department shall
4 provide a response to any comment received under this paragraph. The department
5 may not grant an approval under this subsection until at least 90 days after the day
6 on which it provided notice under this paragraph.

***NOTE: The first sentence gives DNR great discretion in when to implement this requirement.

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

14 (6) DECISION-MAKING STANDARD. A proposal meets the decision-making
15 standard if all of the following apply:

16 (a) All of the water withdrawn from the Great Lakes basin will be returned to
17 the source watershed, less an allowance for consumptive use.

18 (b) The withdrawal will result in no significant adverse individual impacts or
19 cumulative impacts to the quantity or quality of the waters of the Great Lakes basin,
20 to water dependent natural resources, or to the source watershed.

21 (c) The withdrawal will be implemented in a way that incorporates
22 environmentally sound and economically feasible water conservation measures to
23 minimize the amount of water withdrawn and the water loss.

1 (d) The withdrawal will be in compliance with all applicable local, state, and
2 federal laws and interstate and international agreements, including the Boundary
3 Waters Treaty of 1909.

4 (e) The proposed use of the water is reasonable, based on a consideration of all
5 of the following:

6 1. Whether the proposed withdrawal is planned in a way that provides for
7 efficient use of the water and will avoid or minimize the waste of water.

8 2. If the proposal is for an increased consumptive use, whether efficient use is
9 made of existing water supplies.

10 3. The balance between the effects of the proposed withdrawal and use on
11 economic development, social development, and environmental protection and the
12 effects of other existing or planned withdrawals and water uses from the water
13 source.

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

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

22 6. Any provisions for restoration of hydrologic conditions and functions of the
23 source watershed.

1 (7) EXEMPTIONS. Subsections (3) to (6) do not apply to withdrawals or
2 consumptive uses from the Great Lakes basin or diversions for any of the following
3 purposes:

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

that lasts no more than 3 months

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

9 (8) STATEWIDE WATER CONSERVATION AND EFFICIENCY. (a) *Goals and objective.* The
10 department shall specify water conservation and efficiency goals and objectives for
11 the waters of the state and for the waters of the Great Lakes basin. The department
12 shall specify goals and objectives for the waters of the Great Lakes basin that are
13 consistent with the goals under s. 281.343 (4b) (a) and the objectives identified by the
14 Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying these goals and
15 objectives, the department shall consult with the department of commerce and the
16 public service commission and consider the water conservation and efficiency goals
17 and objectives developed in any pilot program conducted by the department in
18 cooperation with the regional body.

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

23 1. Promotion of environmentally sound and economically feasible water
24 conservation measures.

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

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

5 (c) *Great Lakes basin program.* No later than the 24th month beginning after
6 the compact's effective date, the department shall implement a Great Lakes basin
7 water conservation and efficiency program as part of the statewide program under
8 par. (b), for all users of the waters of the Great Lakes basin, that is designed to
9 achieve the goals and objectives for the waters of the Great Lakes basin that are
10 specified under par. (a). The department shall include in the Great Lakes basin
11 program the activities in par. (b) 1. to 3. applicable in the Great Lakes basin and
12 application of the water conservation and efficiency tiers specified in par. (d) under
13 subs. (4) (f) 6. and (g) and (6) (c).

14 (d) *Water conservation and efficiency tiers.* 1. Tier 1 water conservation and
15 efficiency measures consist of all of the following, subject to amendment under subd.
16 4.:

17 a. Metering or comparable measuring of water use and related testing,
18 calibration, maintenance, and replacement of water meters.

19 b. For water utilities only, determining the cost and setting the price of water,
20 including related accounting and cost analysis.

21 c. Accounting and assessment of water flows and losses in a water supply
22 system.

23 d. Information and education on water consumption and conservation, and, as
24 appropriate, water utility bills.

1 e. Any other water conservation and efficiency measure specified by the
2 department under subd. 4.

3 2. Tier 2 water conservation and efficiency measures consist of all of the
4 following, subject to amendment under subd. 4.:

5 a. All tier 1 measures.

6 b. Audits of water use by large-volume and other classes of users.

7 c. Retrofitting existing fixtures, appliances, and equipment to increase the
8 efficiency of their water use.

9 d. Management of the pressure in a water supply distribution system.

10 e. Efficient use of water for landscaping, irrigation, and other outdoor water
11 uses.

12 f. Any other water conservation and efficiency measure specified by the
13 department under subd. 4.

14 3. Tier 3 water conservation and efficiency measures consist of all of the
15 following, subject to amendment under subd. 4.:

16 a. All tier 1 and 2 measures.

17 b. Replacement of inefficient fixtures, appliances, and equipment and
18 promotion of new water conserving fixtures, appliances, and equipment.

19 c. Reuse and recycling of wastewater.

20 d. Regulations and standards to manage water use during droughts or other
21 water-supply emergencies and at new developments.

22 e. Water conservation and efficiency measures planned and implemented
23 jointly with the conservation or efficient use of other resources, considering the
24 interrelationships between the water and other resources.

1 f. Any other water conservation and efficiency measure specified by the
2 department under subd. 4.

3 4. The department may, by rule, amend any of the water conservation and
4 efficiency measures in subds. 1. a. to d., 2. a. to e., and 3. a. to e. and may add one or
5 more water conservation and efficiency measures to the water conservation and
6 efficiency tiers in subds. 1. to 3. based on the recommendations of the water
7 conservation council or the results of any pilot water conservation program
8 conducted by the department in cooperation with the regional body.

9 (9) TRIBAL CONSULTATION; PUBLIC PARTICIPATION; TIME LIMITS. (a) *Tribal*
10 *consultation*. The department shall consult with each federally recognized American
11 Indian tribe or band in this state concerning each proposal that is subject to regional
12 review or Great Lakes council approval under sub. (4) or (5).

13 (b) *Public Notice*. 1. The department shall, by rule, create procedures for
14 circulating to interested and potentially interested members of the public notices of
15 each complete application that the department receives under sub. (4) or (5). The
16 department shall include, in the rule, at least the following procedures:

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

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

20 2. The department shall establish the form and content of a public notice by
21 rule. The department shall include in every public notice at least the following
22 information:

23 a. The name and address of each applicant.

24 b. A brief description of the proposal for which the application is made under
25 sub. (4) or (5), including the amount of the proposed withdrawal or diversion.

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

4 (c) *Public comment.* The department shall receive public comments on a
5 proposal for which it receives an application under sub. (4) or (5) for a 30-day period
6 beginning when the department gives notice under par. (b) 1. The department shall
7 retain all written comments submitted during the comment period and shall
8 consider the comments in making its decisions on the application.

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

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

22 3. Public notice of any hearing held under this section shall be circulated in the
23 manner provided under par. (b) 1.

24 (e) *Public access to information.* Any record or other information provided to
25 or obtained by the department regarding a proposal for which an application under

1 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The
2 department shall make available to and provide facilities for the public to inspect and
3 copy any records or other information provided to or obtained by the department
4 regarding a proposal for which an application for a new or increased diversion or
5 consumptive use ^{of withdrawal} under sub. (4) or (5) is received, except that any record or other
6 information provided to the department may be treated as confidential upon a
7 showing to the secretary that the record or information is entitled to protection as
8 a trade secret as defined in s. 134.90 (1) (c) or upon a determination by the
9 department that domestic security concerns warrant confidential treatment.
10 Nothing in this subsection prevents the use of any confidential records or
11 information obtained by the department in the administration of this section in
12 compiling or publishing general analyses or summaries, if the analyses or
13 summaries do not identify a specific owner or operator.

14 (f) *Time limits.* 1. Within 60 days after receipt of an application for a new or
15 increased diversion or consumptive use ^{of withdrawal} under sub. (4) or (5), the department shall
16 either determine that the application is complete or shall notify the applicant in
17 writing that the application is not complete and shall specify the information that
18 is required to make the application complete.

19 2. Except as provided in par. (g), within 90 days after receipt of a complete
20 application, the department shall notify the applicant in writing of the approval,
21 conditional approval, or denial of the application. If the application is denied, the
22 department shall include the reason for denial in the notification.

23 (g) *Suspension of time limits.* The department may suspend the 90-day period
24 specified in par. (f) 2. for any of the following periods:

1 1. From the day that the department provides notice under sub. (4) (c) 4. b., (d)
2 3. d., or (e) 1. g. that an application is subject to regional review to the day that the
3 department receives either the regional declaration of finding on the application or,
4 if applicable, notice of the action taken by the Great Lakes council on the application,
5 whichever is later.

6 2. From the day that the department provides notice under sub. (5) (d) to the
7 last day of the 90-day comment period under sub. (5) (d).

8 (h) *Expediting review.* The department shall take appropriate measures to
9 expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes
10 council, parties, and the provinces of Ontario and Quebec of applications submitted
11 under sub. (4) (b) or (5) (b).

 ****NOTE: I am not certain that the time limits are practical, especially if DNR must
 conduct a technical review, which must be completed before DNR notifies the regional
 body.

12 **(10) Water supply planning.** (a) The department shall establish and
13 administer a continuing water supply planning process, that is consistent with
14 applicable state requirements and the compact, for the preparation of water supply
15 plans for one or more persons owning or operating public water supply systems who
16 elect to participate in the process.

17 (b) The department shall include in the process under par. (a) procedures for
18 all of the following:

- 19 1. Approval of a plan.
20 2. Revision of a plan.
21 3. Intergovernmental cooperation.

22 (c) A person preparing a plan under par. (a) shall include all of the following
23 in the plan:

- 1 1. Delineation of the area for which the plan is being prepared.
- 2 2. An inventory of the sources and quantities of the current water supplies in
- 3 the area.
- 4 3. A forecast of the demand for water in the area over the period covered by the
- 5 plan.
- 6 4. Identification of the most cost-effective options for supplying water in the
- 7 area for the period covered by the plan based upon a cost-effectiveness analysis of
- 8 regional and individual water supply and water conservation alternatives.
- 9 5. An assessment of the environmental, social, and economic impacts of
- 10 carrying out specific significant recommendations of the plan, including an
- 11 assessment of relevant factors and requirements in subs. (4), (6), and (8).
- 12 6. Other information specified by the department.

13 (11) INFORMATION, REPORTS, AND ASSESSMENTS. (a) *Statewide inventory*. 1. The

14 department shall develop and maintain a water resources inventory consisting of

15 information about the waters of the state including information about the location,

16 type, quantity, and uses of water resources and the location, type, and quantity of

17 diversions, withdrawals, and consumptive uses, including quantities of water losses.

18 The department shall develop the inventory in cooperation with federal and local

19 governmental entities, agencies of this state and of the other parties, tribal agencies,

20 and private entities. The department shall use information in the registry under

21 sub. (3) (c) in creating the inventory.

22 2. The department shall create the water resources inventory under subd. 1.

23 no later than the first day of the 36th month beginning after the effective date of this

24 subdivision [revisor inserts date].

1 (b) *Annual report on water resources.* Beginning within 60 months after the
2 compact's effective date, the department shall annually report to the Great Lakes
3 council the information from par. (a) regarding withdrawals that average 100,000
4 gallons per day or more over a 30-day period, including consumptive uses, in the
5 basin and any diversions, as well as the amounts of the withdrawals, water losses
6 from consumptive uses, and diversions in the basin reported under sub. (3) (e).

****NOTE: This gives DNR broad discretion on when to begin reporting.

7 (c) *Program report.* No later than 12 months after the compact's effective date,
8 and every 5 years thereafter, the department shall submit a report to the Great Lakes
9 council and the regional body describing the implementation of the program under
10 this section, including the manner in which withdrawals from the Great Lakes basin
11 are managed, how the criteria for approval under subs. (4), (5), and (6) are applied,
12 and how conservation and efficiency measures are implemented.

13 (d) *Assessment of water conservation and efficiency program.* The department
14 shall annually assess the effectiveness of the water conservation and efficiency
15 program under sub. (8) (c) in meeting the Great Lakes basin water conservation and
16 efficiency goals under sub. (8) (a). In each assessment, the department shall consider
17 whether there is a need to adjust the Great Lakes basin water conservation and
18 efficiency program in response to new demands for water from the basin and the
19 potential impacts of the cumulative effects of diversions, withdrawals, and
20 consumptive uses and climate. The department shall provide the assessment to the
21 Great Lakes council and the regional body and make it available to the public.

22 (e) *Assessment of cumulative impacts.* The department shall participate in the
23 periodic assessment of the impacts of withdrawals, diversions, and consumptive uses
24 under s. 281.343 (4z) (a).

1 (f) *Report on threshold.* No later than the 60th month beginning after the
2 compact's effective date, the department shall submit to the legislature under s.
3 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) 1. and 2.
4 and providing any recommendations to change the threshold.

5 (12) FEES. The department shall promulgate rules specifying graduated fees
6 for the administration of this section and a schedule for collecting the fees.

7 (13) WATER CONSERVATION COUNCIL. (a) In this subsection, "council" means the
8 water conservation council.

9 (b) The council shall advise the department on all of the following:

10 1. The development of the initial water conservation and efficiency goals and
11 objectives for the waters of the state and the waters of the Great Lakes basin under
12 sub. (8) (a).

13 2. The initial development and implementation of the statewide water
14 conservation and efficiency program under sub. (8) (b).

15 3. The initial development and implementation of the Great Lakes basin water
16 conservation and efficiency program under sub. (8) (c).

17 4. Whether any of the water conservation and efficiency measures in sub. (8)
18 (d) should be modified or additional water conservation [✓] conservation and efficiency
19 measures should be added to any of the water conservation and efficiency tiers in sub.
20 (8) (d).

21 (c) The council shall consider relevant recommendations of the groundwater
22 advisory committee created under 2003 Wisconsin Act 310 in providing advice under
23 par. (b).

24 (d) The department shall provide staff and funding for the council.

1 (e) This subsection does not apply after the end of the 36th month beginning
2 after the compact's effective date.

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

7 (b) In addition to the penalties provided under par. (a), the court may award
8 the department of justice the reasonable and necessary expenses of the investigation
9 and prosecution of a violation of this section, including attorney fees. The
10 department of justice shall deposit in the state treasury for deposit into the general
11 fund all moneys that the court awards to the department or the state under this
12 paragraph. The moneys received for the costs of investigation and the expenses of
13 prosecution, including attorney fees, shall be credited to the appropriation account
14 under s. 20.455 (1) (gh).

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 defendant.

19 **SECTION 8.** 281.98 (1) of the statutes is amended to read:

20 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.47 (1) (d), 281.75 (19),
21 and 281.99 (2), any person who violates this chapter or any rule promulgated or any
22 plan approval, license, special order, or water quality certification issued under this
23 chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
24 day of continued violation is a separate offense. While an order is suspended, stayed,
25 or enjoined, this penalty does not accrue.

1 **SECTION 9. Nonstatutory provisions.**

2 (1) INITIAL MEMBERSHIP ON WATER CONSERVATION COUNCIL.

3 (a) The appointing authorities under section 15.347 (14) (a) 1. to 5. of the
4 statutes, as created by this act, shall appoint the initial members of the water
5 conservation council no later than the first day of the 4th month beginning after the
6 effective date of this paragraph.

7 (b) Notwithstanding the length of terms specified in section 15.347 (14) (d) of
8 the statutes, as created by this act, the initial members of the water conservation
9 council shall be appointed as follows:

10 1. Three of the members appointed under section 15.347 (14) (a) 1. of the
11 statutes, 2 of the members appointed under section 15.347 (14) (a) 2. of the statutes,
12 2 of the members appointed under section 15.347 (14) (a) 3. of the statutes, and the
13 members appointed under section 15.347 (14) (a) 4. and 5. of the statutes for terms
14 ending on July 1, 2010.

15 2. Two of the members appointed under section 15.347 (14) (a) 1. of the statutes,
16 2 of the members appointed under section 15.347 (14) (a) 2. of the statutes, and 2 of
17 the members appointed under section 15.347 (14) (a) 3. of the statutes for terms
18 ending on July 1, 2011.

(END)

19
Insert 78-18 ✓

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3207/P1ins
RCT:.....

LPS - inserts
out of order

Insert 54-3

5. The department shall use baseline volumes to determine the amount of a proposed increase in a withdrawal or diversion that exists on the compact's effective date for which the department has not issued an approval under this section.

Insert 56-18

~~NO #~~ for which the person does not have an approval under this subsection, or increase the amount of a diversion over the amount specified in an approval under this subsection ~~NO #~~

Insert 57-9

4m. If a person who applies under subd. 1. will not directly withdraw the water proposed to be diverted, the person shall identify the entity that will withdraw the water and provide evidence of any agreement necessary to obtain water from that entity.

Insert 64-8

~~NO #~~ that exists on the compact's effective date for which the person does not have an approval under this subsection by an ~~NO #~~

Insert 64-9

3. No person who has an approval under this subsection may increase the withdrawal over the amount specified in the approval without obtaining a new approval under this subsection.

Insert 78-18

~~NO #~~ POSITION AUTHORIZATION. The authorized FTE positions for the department of natural resources are increased by 5.0 PR positions to be funded from the

nonstat
sub →

appropriation under section 20.370 (4) (ai) ✓ of the statutes, as created by this act, to administer water conservation, reporting, and management provisions of this act.

Section #. 281.34 (5) (c) of the statutes

the proposal complies with the decision making standard and the department

MOVE

281.34 (5) (c) High water loss. If the department determines, under the environmental review process in sub. (4), that an environmental impact report under s. 23.11 (5) must be prepared for a proposed high capacity well with a water loss of more than 95 percent of the amount of water withdrawn, the department may not approve the high capacity well unless it is able to include and includes in the approval conditions, which may include conditions as to location, depth, pumping capacity, rate of flow, and ultimate use, that ensure that the high capacity well does not cause significant environmental impact.

History: 2003 a. 310.

LPS START HERE *Insert 64-21

~~NO~~ The department may not grant an approval under this subsection for a proposal to withdraw water from a surface water body that is tributary to one of the Great Lakes if the withdrawal ^{would} result in

(end ins 64-21)