

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13 to return some or all of the water to the basin from which the water is withdrawn due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 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, rail tanker, or container of greater than 5.7 gallons, except that
18 "divert" does not include any of the 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.

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.

13 5. Bottled water in a container of 5.7 gallons or less is a product.

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

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

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

24 (qm) "Regional review" means review by the regional body as described in s.
25 281.343 (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 ^{on December 13, 2005} 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 or transfer of surface water or groundwater is
11 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, the amount of the
18 increase consists of the amount of the proposed increase and of all increases made
19 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 or a diversion for all of the
25 following:

MOVE

1 a. Any of these withdrawals and diversions reported on the compact's effective
2 date under sub. (3) (e).

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

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

10 c. The department shall provide the estimates under subd. 3. a. to the person
11 making the withdrawal and provide an opportunity for the person to provide other
12 information relevant to the determinations under this paragraph. Information is
13 relevant if it relates to the state of the components in the water supply system,
14 including information on seasonal variations in the amount of water supplied by the
15 water supply system.

16 d. The department shall specify the baseline volumes of the withdrawal based
17 on the estimates under subd. 3. a. and any information provided under subd. 3. c.

18 4. The department shall determine the baseline volume for a diversion based
19 on the amount of the diversion authorized in any permit or approval issued by the
20 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.

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

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

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

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

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

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

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

18 2. Any person who, after the effective date of this subdivision [revisor inserts
19 date], proposes to begin a withdrawal from the waters of the state using a water
20 supply system that will have the capacity to average 100,000 gallons per day or more
21 in any 30-day period, to increase the capacity of a water supply system that existed
22 on the effective date of this subdivision [revisor inserts date], so that it will have
23 the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day

1 period, or to begin a diversion shall register the withdrawal or diversion with the
2 department.

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

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

6 2. The locations and sources of the withdrawal or diversion.

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

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

11 5. The uses made of the water.

12 6. The places at which the water is used.

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

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

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

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

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

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

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

1 subdivision [revisor inserts date], or the first day of the 12th month beginning,
2 after the compact's effective date, whichever is sooner.

****NOTE: I modified this from the WLC draft because the compact requires
baselines to be set within a year after the compact's effective date.

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

subject to par. (em),

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

Insert
56-11

(f) The department may require additional information under par. (b) 10. or (e)

13 2. only if the information is related to the purposes of the compact.

14 (4) DIVERSIONS. (a) *Prohibition*. Beginning on the first day of the first month
15 beginning after the compact's effective date, no person may begin a diversion,
16 increase the amount of a diversion for which the person does not have an approval
17 under this subsection, or increase the amount of a diversion over the amount
18 specified in an approval under this subsection, except as authorized under par. (c),
19 (d), or (e).

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

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

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

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

12 4m. If a person who applies under subd. 1. will not directly withdraw the water
13 proposed to be diverted, the person shall identify the entity that will withdraw the
14 water and provide evidence of any agreement necessary to obtain water from that
15 entity.

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

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

22 a. ^{subject to subd. 1. c.,} ~~If~~ ^{a public water supply} the proposal is to provide ~~water~~ within a single city, village, or town, the
23 proposal is subject to par. (c) or (e) based on the boundaries of that city, village, or
24 town.

✓
Insert
57-19 →

22

Subject to subd. 1.c. ✓

a public water supply ✓

Insert
58-1 ✓

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

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

Insert ✓
58-6

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

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

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

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

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

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

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

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

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

14 a. The department conducts a technical review.

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

16 c. The proposal undergoes regional review.

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

19 (d) *Intrabasin transfer*. 1. The department may approve a proposal for a new
20 intrabasin transfer, or for an increase in an intrabasin transfer, to which par. (c) does
21 not apply that would average less than 100,000 gallons per day in every 90-day
22 period, if the proposal meets the applicable requirements in s. 30.18, 281.34, or
23 281.41.

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

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

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 under
12 par. (g).

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

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

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

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

23 c. The department conducts a technical review.

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

25 e. The proposal undergoes regional review.

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

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

4 (e) *Straddling counties*. 1. The department may approve a proposal for a new
5 diversion or an increase in a diversion if the water diverted will be used solely for
6 public water supply purposes in a community within a straddling county and all of
7 the following apply:

8 *based on considerations*
9 a. The community does not have a water supply that is economically and
10 environmentally sustainable in the long term to meet reasonable demands for a
11 water supply in the quantity and quality that complies with applicable drinking
12 water standards, is protective of public health, ~~has a reasonable cost, and has no~~
13 ~~adverse environmental impacts greater than those likely to result from the new or~~
~~increased diversion.~~

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

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

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

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

*economic
economic feasibility, and direct and avoided ✓*

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

✓
Insert
62-3
→

4 f. The department conducts a technical review.

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

6 h. The proposal undergoes regional review.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Insert ✓
63-5 →

Insert ✓
63-11 →

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

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

6 (5) WITHDRAWALS. (a) *Approval required.* 1. Beginning on the first day of the
7 first month beginning after the compact's effective date, no person ^{bottling} may begin a
8 withdrawal ^{including a withdrawal for the purpose of bottling water in containers} from the Great Lakes basin that will average more than 500,000 gallons
9 per day in any 90-day period without an approval from the department under this
10 subsection.

of
5.7 gallons
or less,

11 2. Beginning on the first day of the first month beginning after the compact's
12 effective date, no person may increase a withdrawal from the Great Lakes basin that
13 exists on the compact's effective date for which the person does not have an approval
14 under this subsection by an average of more than 500,000 gallons per day in any
15 90-day period without an approval from the department under this subsection.

Insert
64-15 ✓

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

19 (b) *Application.* A person who proposes a withdrawal or an increase in a
20 withdrawal for which approval is required under par. (a) shall apply to the
21 department for approval. The person shall provide information about the potential
22 impacts of the withdrawal on the waters of the Great Lakes basin and water
23 dependent natural resources. The person shall provide an assessment of the
24 individual impacts of the proposal for the purposes of sub. (6) (b). The person may
25 also include a cumulative impact assessment. The department may by rule require

1 additional information from a person who is required to submit an application under
2 this paragraph.

3 (c) *Standard for approval.* The department may not grant an approval under
4 this subsection unless ^{all of the following apply: #1} the proposal complies with the decision-making standard
5 under sub. (6). ~~The department may not grant an approval under this subsection for~~ ^{#2}
6 a proposal to withdraw water from a surface water body ^{that is} tributary to one of
7 the Great Lakes ^{that} if ~~the withdrawal~~ would result in a water loss of more than 95
8 percent of the amount of water withdrawn, ~~unless the proposal complies with the~~
9 ~~decision-making standard and the department is able to include and includes in the~~
10 approval conditions that ensure that the withdrawal does not cause significant
11 environmental impact.

✓ Insert
65-1/12

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

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

21 (e) *Regional review.* If a majority of the members of the regional body request
22 regional review of a proposal described in s. 281.343 (4h) (a) 6. for which approval is
23 required under this subsection, the department shall conduct a technical review of

1 the proposal and submit the proposal for regional review. The department may not
2 act on the proposal until the proposal has undergone regional review and the
3 department has considered the regional declaration of finding in determining
4 whether to approve the proposal.

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

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

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

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

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

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

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

22 2. If the proposal would result in an increased water loss, whether efficient use
23 is made of existing water supplies.

24 3. The balance between the effects of the proposed withdrawal and use on
25 economic development, social development, and environmental protection and the

1 effects of other existing or planned withdrawals and water uses from the water
2 source.

Insert
67-2 ✓

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

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

11 6. Any provisions for restoration of hydrologic conditions and functions of the
12 source watershed.

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

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

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

20 (8) STATEWIDE WATER CONSERVATION AND EFFICIENCY. (a) *Goals and objective.* The
21 department shall specify water conservation and efficiency goals and objectives for
22 the waters of the state and for the waters of the Great Lakes basin. The department
23 shall specify goals and objectives for the waters of the Great Lakes basin that are
24 consistent with the goals under s. 281.343 (4b) (a) and the objectives identified by the
25 Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying these goals and

1 objectives, the department shall consult with the department of commerce and the
2 public service commission and consider the water conservation and efficiency goals
3 and objectives developed in any pilot program conducted by the department in
4 cooperation with the regional body.

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

9 1. Promotion of environmentally sound and economically feasible water
10 conservation measures.

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

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

15 (c) *Great Lakes basin program.* No later than the 24th month beginning after
16 the compact's effective date, the department shall implement a Great Lakes basin
17 water conservation and efficiency program as part of the statewide program under
18 par. (b), for all users of the waters of the Great Lakes basin, that is designed to
19 achieve the goals and objectives for the waters of the Great Lakes basin that are
20 specified under par. (a). The department shall include in the Great Lakes basin
21 program the activities in par. (b) 1. to 3. applicable in the Great Lakes basin and
22 application of the water conservation and efficiency tiers specified in par. (d) under
23 subs. (4) (f) 6. and (g) and (6) (c).

1 (d) *Water conservation and efficiency tiers.* 1. Tier 1 water conservation and
2 efficiency measures consist of all of the following, subject to amendment under subd.
3 4.:

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

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

8 c. Accounting and assessment of water flows and losses in a water supply
9 system.

10 d. Information and education on water consumption and conservation, and, as
11 appropriate, water utility bills.

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

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

16 a. All tier 1 measures.

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

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

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

21 e. Efficient use of water for landscaping, irrigation, and other outdoor water
22 uses.

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

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

3 a. All tier 1 and 2 measures.

4 b. Replacement of inefficient fixtures, appliances, and equipment and
5 promotion of new water conserving fixtures, appliances, and equipment.

6 c. Reuse and recycling of wastewater.

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

9 e. Water conservation and efficiency measures planned and implemented
10 jointly with the conservation or efficient use of other resources, considering the
11 interrelationships between the water and other resources.

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

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

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

24 (b) *Public Notice.* 1. The department shall, by rule, create procedures for
25 circulating to interested and potentially interested members of the public notices of

1 each complete application that the department receives under sub. (4) or (5). The
2 department shall include, in the rule, at least the following procedures:

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

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

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

9 a. The name and address of each applicant.

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

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

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

20 (d) *Public hearing.* 1. The department shall provide an opportunity for any
21 interested person or group of persons, any affected local governmental unit, or any
22 state agency to request a public hearing with respect to a proposal for which the
23 department receives an application under sub. (4) or (5). A request for a public
24 hearing shall be filed with the department within 30 days after the department gives
25 notice under par. (b). The party filing a request for a public hearing shall indicate

1 the interest of the party and the reasons why a hearing is warranted. The
2 department shall hold a public hearing on a proposal for which the department
3 receives an application under sub. (4) or (5) if the department determines that there
4 is a significant public interest in holding a hearing.

5 2. The department shall promulgate, by rule, procedures for the conduct of
6 public hearings held under this section. ^{paragraph ✓} A hearing held under this paragraph is not
7 a contested case hearing under ch. 227.

8 3. Public notice of any hearing held under this section ^{paragraph ✓} shall be circulated in the
9 manner provided under par. (b) 1.

10 (e) *Public access to information.* Any record or other information provided to
11 or obtained by the department regarding a proposal for which an application under
12 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The
13 department shall make available to and provide facilities for the public to inspect and
14 copy any records or other information provided to or obtained by the department
15 regarding a proposal for which an application for a new or increased diversion or
16 withdrawal under sub. (4) or (5) is received, except that any record or other
17 information provided to the department may be treated as confidential upon a
18 showing to the secretary that the record or information is entitled to protection as
19 a trade secret, as defined in s. 134.90 (1) (c), [✓] or upon a determination by the
20 department that domestic security concerns warrant confidential treatment.
21 Nothing in this subsection prevents the use of any confidential records or
22 information obtained by the department in the administration of this section in
23 compiling or publishing general analyses or summaries, if the analyses or
24 summaries do not identify a specific owner or operator.

1 (f) *Time limits.* 1. Within 60 days after receipt of an application for a new or
2 increased diversion or withdrawal under sub. (4) or (5), the department shall either
3 determine that the application is complete or shall notify the applicant in writing
4 that the application is not complete and shall specify the information that is required
5 to make the application complete.

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

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

✓ Inset
73-11
12 1. From the day that the department provides notice under sub. (4) (c) 4. b., (d)
13 3. d., or (e) 1. g. that an application is subject to regional review to the day that the
14 department receives either the regional declaration of finding on the application or,
15 if applicable, notice of the action taken by the Great Lakes council on the application,
16 whichever is later.

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

19 (h) *Expediting review.* The department shall take appropriate measures to
20 expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes
21 council, parties, and the provinces of Ontario and Quebec of applications submitted
22 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.



1

(10) Water supply planning. (a) The department shall establish and

2

administer a continuing water supply planning process, that is consistent with

3

applicable state requirements and the compact, for the preparation of water supply

4

plans for one or more persons owning or operating public water supply systems who

5

elect to participate in the process. *Insert 74-5 ✓*

6

(b) The department shall include in the process under par. (a) procedures *and requirement* for

7

all of the following:

8

1. Approval of a plan.

9

2. ~~Revision of~~ a plan. *Updating at least every 5 years ✓*

10

3. Intergovernmental cooperation.

11

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

12

in the plan:

13

1. Delineation of the area for which the plan is being prepared.

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

4. Identification of the most cost-effective options for supplying water in the

19

area for the period covered by the plan based upon a cost-effectiveness analysis of

20

regional and individual water supply and water conservation alternatives.

21

5. An assessment of the environmental, social, and economic impacts of

22

carrying out specific significant recommendations of the plan, including an

23

assessment of relevant factors and requirements in subs. (4), (6), and (8).

24

Other information specified by the department. *Insert 74-23 ✓*

Insert 74-23 ✓

Insert 74-24 ✓

1 (11) INFORMATION, REPORTS, AND ASSESSMENTS. (a) *Statewide inventory*. 1. The
2 department shall develop and maintain a water resources inventory consisting of
3 information about the waters of the state including information about the location,
4 type, quantity, and uses of water resources and the location, type, and quantity of
5 diversions, withdrawals, and consumptive uses, including quantities of water losses.
6 The department shall develop the inventory in cooperation with federal and local
7 governmental entities, agencies of this state and of the other parties, tribal agencies,
8 and private entities. The department shall use information in the registry under
9 sub. (3) (c) in creating the inventory.

10 2. The department shall create the water resources inventory under subd. 1.
11 no later than the first day of the 36th month beginning after the effective date of this
12 subdivision [revisor inserts date].

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

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

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

1 (d) *Assessment of water conservation and efficiency program.* The department
2 shall annually assess the effectiveness of the water conservation and efficiency
3 program under sub. (8) (c) in meeting the Great Lakes basin water conservation and
4 efficiency goals under sub. (8) (a). In each assessment, the department shall consider
5 whether there is a need to adjust the Great Lakes basin water conservation and
6 efficiency program in response to new demands for water from the basin and the
7 potential impacts of the cumulative effects of diversions, withdrawals, and
8 consumptive uses and of climate. The department shall provide the assessment to
9 the Great Lakes council and the regional body and make it available to the public.

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

13 (f) *Report on threshold.* No later than the 60th month beginning after the
14 compact's effective date, the department shall submit to the legislature under s.
15 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) 1. and 2.
16 and providing any recommendations to change the threshold.

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

19 **(13) WATER CONSERVATION COUNCIL.** (a) In this subsection, "council" means the
20 water conservation council.

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

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

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

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

5 4. Whether any of the water conservation and efficiency measures in sub. (8)
6 (d) should be modified or additional water conservation and efficiency measures
7 should be added to any of the water conservation and efficiency tiers in sub. (8) (d).

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

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

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

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

18 (b) In addition to the penalties provided under par. (a), the court may award
19 the department of justice the reasonable and necessary expenses of the investigation
20 and prosecution of a violation of this section, including attorney fees. The
21 department of justice shall deposit in the state treasury for deposit into the general
22 fund all moneys that the court awards to the department or the state under this
23 paragraph. The moneys received for the costs of investigation and the expenses of
24 prosecution, including attorney fees, shall be credited to the appropriation account
25 under s. 20.455 (1) (gh).

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

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

6 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.47 (1) (d), 281.75 (19),
7 and 281.99 (2), any person who violates this chapter or any rule promulgated or any
8 plan approval, license, special order, or water quality certification issued under this
9 chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
10 day of continued violation is a separate offense. While an order is suspended, stayed,
11 or enjoined, this penalty does not accrue.

12 **SECTION 9. Nonstatutory provisions.**

13 (1) INITIAL MEMBERSHIP ON WATER CONSERVATION COUNCIL.

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

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

21 1. Three of the members appointed under section 15.347 (14) (a) 1. of the
22 statutes, 2 of the members appointed under section 15.347 (14) (a) 2. of the statutes,
23 2 of the members appointed under section 15.347 (14) (a) 3. of the statutes, and the
24 members appointed under section 15.347 (14) (a) 4. and 5. of the statutes for terms
25 ending on July 1, 2010.

Insert 56-11

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

Insert 57-19

(bd) *Notification.* When the department receives an application under subd. 1. for a proposal to which par. (f) 4m. applies, the department shall notify each city, village, and town described in par. (f) 4m. of the application and of the provisions of par. (f) 4m.

par. (b)

Insert 58-1

~~NO~~ any portion of the proposal that provides a public water supply within a straddling community is subject to par. (c) and any portion of the proposal that provides a public water supply within a community within a straddling county is subject to par. (e).

Insert 58-6

c. Any portion of a proposal that provides a public water supply to an area that is within a straddling community but outside of the Great Lakes basin and that was not within the straddling community on December 13, 2005, is subject to par. (e).

Insert 59-7



INSERT 59-7

2m. The proposal is consistent with a water supply plan under sub. (10) that was initially prepared or was updated within 5 years before the application for the proposal is submitted to the department.

***NOTE: Does language like this need to be added to the provisions related to intrabasin transfers?

Insert 62-3

em. The proposal is consistent with a water supply plan under sub. (10) that was initially prepared or was updated within 5 years before the application for the proposal is submitted to the department.

Insert 63-5

4m. If water will be returned to the source watershed through a stream that is tributary to one of the Great Lakes, the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream and that is downstream from the point at which the water would enter the stream approves the return of the water through the stream.

Insert 63-11

***NOTE: I have made the requested change in this language, although it would seem to be more consistent to have "adverse" follow "significant" in both places. See proposed sub. (4) (e) 1. e.

Insert 64-15

***NOTE: Is the intent that this requirement apply to increases of more than 500,000 gallons per day (note that the look back provision in sub. (2) (c) would require adding all increases back 10 years or to the effective date of the compact) or to any increase after which the withdrawal averages more than 500,000 gallons per day? Another approach might be to use the first alternative for a withdrawal that began before the effective date and the second for a withdrawal that begins after the effective date.

Insert 65-11

3. If the applicant is a person operating a public water supply system, the proposal is consistent with a water supply plan under sub. (10) that was initially



prepared or was updated within 5 years before the person submits the application for the proposal to the department.

Insert 67-2

****NOTE: I find this language, and the language in the compact (see s. 281.343 (4r) (e) 3.), to be unclear as to what is supposed to be balanced against what. I wonder whether the compact language is intended to get at is that the overall effects of withdrawals on economic and social development and the environment should be balanced, so that what DNR should consider is the balance of the effects of the proposed use and other uses on economic and social development and environmental protection. Please let me know if you would like this language modified.

Insert 73-11

1. From the day that the department provides notice under sub. (4) (bd) to the day that the last city, village, or town described in sub. (4) (f) 4m. provides its approval.

Insert 74-5

A person operating a public water supply system who applies for approval of a diversion under sub. (4) or a withdrawal under sub. (5) shall participate in the planning process under this subsection.

Insert 74-23

6. A demonstration that the plan will effectively maximize the use of existing water supply and wastewater infrastructure.

7. Identification of the procedures for implementing and enforcing the plan and a commitment to using those procedures.

8. An analysis of how the plan supports and is consistent with any applicable comprehensive plans, as defined in s. 66.1001 (1) (a), and approved areawide waste treatment management plans under 33 USC 1288.

****NOTE: The DNR rules on wastewater planning are difficult to sort through. I think that areawide water quality management plans are the same as areawide waste treatment management plans. See NR 121.03 (1), Wis. Adm. Code. I used the second term because that is the term used in 33 USC 1288. I do not think that there is a separate sewer service area plan or nonindustrial wastewater treatment and collection system



plan. NR 121.05 (1) (intro.) and (g) (title) indicate that a nonindustrial wastewater treatment and collection plan is part of an areawide water quality management plan. A sewer service area is delineated in nonindustrial wastewater treatment and collection plan, which is part of the areawide water quality management plan. NR 121.05 (1) (intro.) and (g) 2. It is also true, though, that NR 113.03 (48) indicates that a sewer service area can be designated in an approved facility plan under ch. NR 110 if there is no approved areawide plan under ch. 121. Note that NR 121.01 indicates that specified sections of ch. 281 plus s. 283.83 provide the authority for ch. NR 121.

Insert 74-24

(d) The department may not approve a plan under this subsection unless all of the following apply:

1. The plan provides for the most cost-effective water supply system based on a cost-effectiveness analysis of regional and individual water supply and water conservation alternatives.

2. The plan will effectively maximize the use of existing water supply and wastewater infrastructure.

3. The plan is consistent with any applicable comprehensive plans, as defined in s. 66.1001 (1) (a).

4. The plan is consistent with the applicable approved areawide waste treatment management plans under 33 USC 1288 and those plans were updated within 5 years before the proposed plan is submitted to the department.

5. The area of new residential development that would be served by the water supply system under the plan has a density of at least 10 housing units per acre.

****NOTE: Need to think about whether it should it always say "public" water supply system in this subsection. Also, par. (d) 5. is not as clear as it could be. Is the intent that the density requirement be applied by considering all of the area of new residential development and determining the average density of the entire area? If not, it may be difficult to describe how to apply the test. Also, would the density necessarily be determined at the time the plan would be made?

Tradewell, Becky

From: Stolzenberg, John
Sent: Thursday, November 15, 2007 2:14 PM
To: Tradewell, Becky
Subject: FW: Mason Great Lakes Compact draft - additional instructions -- Addendum

Becky,

Please add to the instructions on funding and positions below the following item:

c. Delete the nonstat position authorization for 5.0 PR positions on page 81, lines 21 to 24. [DNR will have to request these positions in a future biennium.]

Thanks.

John

From: Stolzenberg, John
Sent: Thursday, November 15, 2007 12:33 PM
To: Tradewell, Becky
Subject: Mason Great Lakes Compact draft - additional instructions

Becky,

Here are the additional drafting instructions for Rep. Mason's bill modifying and implementing the Great Lakes-St. Lawrence River Basin Water Resources Compact.

All of these items were on my November 13 list of remaining items. Other items on that list that we do not need to address now are items I. A. 1, 3, 4, and 5 and II. D. In addition, I'd suggest we hold on addressing effective date(s) and the changing definition of "diversion," items II A. and E. on the list, pending further input from Rep. Mason after he has reviewed a P draft. As we discussed, I'm addressing items on the list under IV. as I review the P2 draft, and we agreed to hold on items under V. for a future version of the draft.

Let me know if you have any questions on these instructions.

Also, after you have had a chance to review these instructions, could you provide an estimate of when you feel you may be able to complete your drafting of them? I'm continuing to get ETA questions.

John

ADDITIONAL INSTRUCTIONS

(Page and line references are to LRB-3207/P2.)

Funding and Positions

1. Temporary funding and positions for initial DNR rulemaking [these items address items I A. 2. and III. C. in the November 13 list of remaining items]:
 - a. Create a GPR appropriation to DNR from the s. 20.370 (4) (ma) drinking water and groundwater sub account of \$33,600 in FY 2007-08 and \$134,400 in FY 2008-09 to fund 2 project positions in DNR. Terminate these positions 2 years after the bill's effective date. These positions are to be used to write the rules required under the bill, including rules establishing the fees authorized under s. 281.344 (12).
 - b. Zero out the PR appropriations on page 4, line 11.

Definitions

1. Definition of "total resources costs" (page 51, lines 16): Insert "direct and avoided" before "environmental". [This item addresses item II B. in the November 13 list of remaining items.]

Diversions [including exception standard]

1. Return flow [These items address item III A. in the November 13 list of remaining items.]:
 - a. Add to the required contents of an application for a diversion subject to the exception standard (add to sub. (4) (b) on page 57):
 - i. The application shall document how the physical, chemical, and biological integrity of the water receiving the return flow (where the return flow is water returned under sub. (4) (f) 3.), based on the state of the receiving water prior to the introduction of the return flow, will be protected and sustained. [The phrase "physical, chemical, and biological integrity" of water is referenced in a number of DNR rules, including s. NR 110.05 (1).]
 - b. Add to the exception standard requirement on return flow, sub. (4) (f) 3. on page 63, lines 9 to 11:
 - i. The water shall be returned to as close to the point of the initial withdrawal from the source watershed as practicable, unless the applicant demonstrates that it is not economically feasible, environmentally sound, or in the interest of public health to do so.
 - c. Add to the DNR's review and approval of a return flow discharge to a stream (including a lake) that is a tributary to one of the Great Lakes [should these provisions be added to s. 281.344 (4) or ch. 283? Chapter 283 appears more appropriate to me, especially because the holder of the discharge permit may be a different person than the holder of the diversion approval; hypothetical example - Waukesha pumps its return flow to a POTW that is on a tributary stream in the Lake Michigan basin and is operated by another municipality or MMSD]:
 - i. The DNR shall treat the discharge as a new discharge for purposes of permitting or approving the discharge, irrespective of whether the return flow will be combined with another discharge previously authorized under s. 283.31.
 - ii. Notwithstanding the DNR's classification of the receiving water immediately prior to the discharge of the return flow, the DNR shall establish effluent limits for the discharge:
 - (a.) Based on the highest attainable biological use of the receiving water [see s. NR 210.05 for a list of water classifications for setting effluent limits for sewage treatment systems]; and
 - (b.) To address the levels and seasonal variations in temperature and nutrient and other pollutant loadings in the receiving water in order to minimize the adverse impacts of the return flow on the physical, chemical, and biological integrity of the receiving water. [This point is intended to elaborate on item 1. a. i. for the affected discharges.]
 - iii. As part of the application addressing item 1. a. i., the applicant must establish the baseline amount of flow of the receiving water at the point of discharge immediately prior to the discharge, considering both low flow conditions and the 100 year storm event.

- iv. In addition to any other required monitoring, the DNR shall include as a permit or approval condition that the permit or approval holder monitor the receiving water for potential impacts of the return flow and a schedule for this monitoring.
2. Cost-effectiveness requirement (add to exception standard on page 63, line 3, to page 64, line 10): The diversion provides the most cost-effective water supply, based on the supply resulting in the minimum total resources costs over the planning period specified by the DNR, as determined in a cost-effective analysis and an environmental assessment. [This item addresses item III B. in the November 13 list of remaining items.]

Water supply plans

1. Procedures and requirements (page 75, lines 14 to 18): Add that the procedures must provide for public review and comment on a plan. [This item and the next item address item II C. in the November 13 list of remaining items.]
2. Plan approval (either in conditions on DNR approval, page 76, line 17, to page 77, line 12, or the procedures and requirements, page 75, lines 14 to 18): Add that the governing bodies of all of the municipalities affected by the plan (i.e., municipalities whose public water supplies are addressed in the plan) must have approved the plan as a condition of DNR approving the plan.