

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13 to return some or all of the water to the basin from which the water is withdrawn due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 ^{and maximize environmental benefits} over a planning period. *environmental benefits*

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, or container of greater than 5.7 gallons, except that
 6 "diversion" does not include any of the 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 3. *The transfer of bottled water from the Great Lakes basin in containers*
 (hm) "Divert" means to transfer water from the Great Lakes basin into a ^{of}
 14 watershed outside the Great Lakes basin, or from the watershed of one of the Great ^{5.7}
 15 Lakes into that of another, by any means of transfer, including a pipeline, canal, ^{gallons}
 16 tunnel, aqueduct, channel, modification of the direction of a water course, tanker ^{or}
 17 ship, tanker truck, ^{or} rail tanker, or container of greater than 5.7 gallons, except that ^{less.}
 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.

→ 3. *To transfer bottled water from the Great Lakes basin in containers of*
^{5.7} *gallons or less.*

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.

****NOTE: The compact definition of "source watershed" has some additional language that is not definitional and that is not consistent with the language that precedes it. The substantive concern with which that language is intended to deal, as expressed by a staff person from the Council of Great Lakes Governors, is covered by the return flow provisions in this draft.

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 basin or
10 partly within the watersheds of 2 of the Great Lakes and that is wholly within any
11 county that, as of December 13, 2005, lies partly or completely within the Great
12 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). ✓ ^{direct and indirect}

16 (w) "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.

1 (wm) "Water loss" means the amount of water that is withheld from or not
 2 returned to the basin from which it is withdrawn ^{✓ as a result of} due to a diversion or consumptive
 3 use. ^{or both}

4 ~~use.~~ *****NOTE: should "withheld from" be deleted?*
 5 (wr) "Water utility" means a public utility, as defined in s. 196.01 (5), that
 6 furnishes water.

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

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

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

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

****NOTE: I used "transfer" rather than "diversion" in this provision because by definition a diversion is a transfer out of the basin (or out of one Great Lakes watershed into another). The surface water divide is used to tell whether one is dealing with a diversion or not. If one uses "diversion" in the text of this paragraph, it assumes that there is a transfer out of the basin, but in this paragraph one is trying to tell *whether* there is a transfer out of the basin.

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

19 (c) *Aggregation of increases.* In determining the applicability of a requirement
 20 in this section to a proposed increase in a diversion or withdrawal, the amount of the
 21 increase consists of the amount of the proposed increase and of all increases made
 22 after the latest of the following:

- 1 1. The compact's effective date.
- 2 2. The date that is 10 years before the date on which the proposed increase is
- 3 planned to begin.

****NOTE: The compact uses the date of application for the date from which one counts back 10 years, but the problem is that you need to know the date on which you begin counting back in order to decide whether you have to apply. If you do not apply, there is no date of application to count back from. Alternatives to the date specified here could be chosen.

Insert 53-4 ✓

- 4 (d) *Baseline.* 1. The department shall specify the baseline volume of a
- 5 withdrawal from the waters of the Great Lakes basin or a diversion for all of the
- 6 following:
- 7 a. Any of these withdrawals and diversions reported under sub. (3) (e) on the
- 8 compact's effective date.
- 9 b. Any of these withdrawals and diversions that exist on the compact's effective
- 10 date and become subject to the reporting requirements under sub. (3) (e) after the
- 11 compact's effective date.
- 12 3. a. The department shall estimate the baseline volume for a withdrawal
- 13 based on the maximum hydraulic capacity of the most restrictive component in the
- 14 water supply system supplied by the withdrawal as of the compact's effective date
- 15 using information available to the department.
- 16 c. The department shall provide the estimate under subd. 3. a. for a withdrawal
- 17 to the person making the withdrawal and provide an opportunity for the person to
- 18 provide other information relevant to the determinations under this paragraph.
- 19 Information is relevant if it relates to the state of the components in the water supply
- 20 system, including information on seasonal variations in the amount of water
- 21 supplied by the water supply system.

1 d. The department shall specify the baseline volume of the withdrawal based
2 on the estimate under subd. 3. a. and any information provided under subd. 3. c.

***NOTE: The compact provides states with two ways of determining baselines for existing withdrawals and diversions. One is to use the capacity of existing systems, based on the most restrictive capacity information. The other is to use amounts authorized to be withdrawn in approvals issued by the state before the compact's effective date. As drafted, this version provides for a baseline based on capacity determination. It is consistent with the compact, unless subd. 3. c. is interpreted to allow too much variance from the most restrictive capacity of the system.

This state does not issue approvals for withdrawals that include a limit on the amount of water that may be withdrawn. The Legislative Council Special Committee had begun to incorporate the approval alternative for establishing baselines by requiring DNR to issue water supply permits that would include a limit on the amount that could be withdrawn, but the concept was not fully developed in the WLC draft. In order for an approval approach to work, DNR would have to get all of the water supply permits issued before the compact takes effect. Please let me know if you are interested in pursuing the approval alternative for determining baselines.

*Insert
3
54-2*

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

***NOTE: Not all diversions currently have approvals that authorize a specific amount to be diverted, so this provision will need to be modified.

still must

see

6 4m. The department shall specify a baseline water loss for a withdrawal or
7 diversion for which it specifies a baseline under subd. 3. or 4. if the department
8 determines that the water loss from the withdrawal or diversion exceeds or could
9 eventually exceed 5,000,000 gallons per day over any 90-day period. The
10 department shall determine the percentage of the withdrawal or diversion that is
11 consumptively used and shall specify the baseline water loss equal to that
12 percentage of the amount specified for the withdrawal or diversion under subd. 3. or
13 4.

***NOTE: It will be necessary to have a baseline water loss for some withdrawals and diversions that involve consumptive uses, because the compact provides different standards depending on whether the amount of water loss increases by more than 5,000,000 gallons per day. This is a first attempt at drafting a requirement.

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

5 6. The department shall provide a list of the baseline volumes determined
6 under this paragraph to the Great Lakes council and the regional body no later than
7 12 months after the compact's effective date.

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

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

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

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

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

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

the first day of the 36th month beginning after

by the deadline specified by the department by rule

the first day of the 36th month beginning after

Insert 55-24

Insert 55-19

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 ^{the first day of the 36th month beginning after} on the effective date of this subdivision ... [revisor inserts date], ^{✓ Insert 56-3} 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 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 after the effective date of this
 5 subdivision ... [revisor inserts date], or the first day of the 12th month beginning,
 6 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.

7 (e) 1. Each person who withdraws from the waters of the state 100,000 gallons
 8 per day or more in any 30-day period or diverts any amount and who has registered
 9 the withdrawal or diversion under par. (a) shall annually report to the department
 10 the monthly volumes of withdrawal ^{✓ Insert 57-10} and, if applicable, the volumes of diversion and,
 11 subject to par. (em), water loss from consumptive use.

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

16 (em) ^{2. Except as provided in subd. 2.)} if a person to whom par. (e) 1. applies ^{provides} sells any of the water that the person
 17 withdraws to a public water supply system, the person who operates the public water
 18 supply system, rather than the person who withdraws the water, shall annually
 19 report to the department the volume of water loss from the consumptive use of the
 20 water ^{provided} sold to the public water supply system. ^{provided}

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

✓
 Insert
 57-20

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

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

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

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

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

21 4m. If a person who applies under subd. 1. will not directly withdraw the water
22 proposed to be diverted, the person shall identify the entity that will withdraw the
23 water and provide evidence of any agreement necessary to obtain water from that
24 entity.

1 4s. ~~If the proposal for which a person applies under subd. 1. is subject to the~~
2 ~~exception standard under par. (f), the person shall provide documentation of how the~~
3 ~~physical, chemical, and biological integrity of the receiving water under par. (f) 3. will~~
4 ~~be protected and sustained, considering the state of the receiving water before the~~
5 ~~proposal is implemented. If the receiving water is a surface water body that is~~
6 ~~tributary to one of the Great Lakes, the person shall include a description of the flow~~
7 ~~of the receiving water before the proposal is implemented, considering both low flow~~
8 ~~conditions and the heaviest flow that would be caused by a precipitation event that~~
9 ~~statistically has a 1-percent chance of occurring in any year.~~

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

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

20 a. Subject to subd. 1. c., if the proposal is to provide a public water supply within
21 a single city, village, or town, the proposal is subject to par. (c) or (e) based on the
22 boundaries of that city, village, or town.

23 b. Subject to subd. 1. c., if the proposal is to provide a public water supply within
24 more than one city, village, or town, any portion of the proposal that provides a public
25 water supply within a straddling community is subject to par. (c) and any portion of

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

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

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

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

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

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

22 a. The returned water will be from a water supply or wastewater treatment
23 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 2m. The proposal is consistent with a water supply plan^{✓ approved} under sub. (10) that
9 was initially prepared or was updated within 5 years before the application for the
10 proposal is submitted to the department.^{plain period}

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

14 4. If the proposal would result in a new water loss or an increase in a water loss
15 from consumptive use that would average 5,000,000 gallons or more per day in any
16 90-day period, all of the following apply:

17 a. The department conducts a technical review.

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

19 1.

20 c. The proposal undergoes regional review.

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

23 (d) *Intrabasin transfer*. 1. The department may approve a proposal for a new
24 intrabasin transfer, or for an increase in an intrabasin transfer, to which par. (c) does
25 not apply that would average less than 100,000 gallons per day in every 90-day

or, if those sections do not apply, any requirements specified by the department by rule

1 period, if the proposal meets the applicable requirements in s. 30.18, 281.34, or
 2 281.41 and, if the water will be used for public water supply purposes, the proposal
 3 is consistent with a water supply plan ^{✓ approved} under sub. (10) that was initially prepared or
 4 was updated within 5 years before the application for the proposal is submitted to
 5 the department. *Subsection (10) would not itself require a plan if the system serves a population under 10,000. Is*

****NOTE: I don't think that those sections cover all transfers that might be proposed. If that is correct, this needs to be modified.*

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

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

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 ^{✓ as determined} under
 17 par. (g).

18 c. If the water will be used for public water supply purposes, the proposal is
 19 consistent with a water supply plan ^{✓ approved} under sub. (10) that was initially prepared or
 20 was updated within 5 years before the application for the proposal is submitted to
 21 the department.

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

the intent to require a plan to satisfy this provision, even for smaller systems?

1 3. 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 with a new water
3 loss or an increase in water loss that would average 5,000,000 gallons per day or more
4 in any 90-day period, if all of the following apply:

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

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

10 c. If the water will be used for public water supply purposes, the proposal is
11 consistent with a water supply plan^{✓ approved} under sub. (10) that was initially prepared or
12 was updated within 5 years before the application for the proposal is submitted to
13 the department.

14 d. The department conducts a technical review.

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

16 1.

17 f. The proposal undergoes regional review.

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

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

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

1 a. The community does not have a water supply that is economically and
2 environmentally sustainable in the long term to meet reasonable demands for a
3 water supply, based on considerations of public health, economic feasibility, and
4 direct and avoided environmental impacts.

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

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

10 d. There is no reasonable water supply alternative within the basin watershed
11 in which the community is located, including conservation of existing water supplies
12 ^{✓ as determined} under par. (g).

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

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

19 f. The department conducts a technical review.

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

21 1.

22 h. The proposal undergoes regional review.

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

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

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

****NOTE: The special committee's /P3 draft also authorizes DNR to consider
"information regarding restoration of hydrologic conditions and function of the source
watershed" (page 67, lines 2-4). I do not see anything like that in the compact. Please
let me know if you want to discuss adding a similar provision.

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

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

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

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

15 3m. The place at which the water is returned to the source watershed is as close
16 as practicable to the place at which the water is withdrawn, unless the applicant
17 demonstrates that returning the water at that place is one of the following:

18 a. Not economically feasible.

19 b. Not environmentally sound.

20 c. Not in the interest of public health.

21 4. No water from outside the Great Lakes basin will be returned to the source
22 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. *and the department has approved the permit under s. 283.31*

6 ~~4m. If water will be returned to the source watershed through a stream
7 tributary to one of the Great Lakes, the governing body of each city, village, and town
8 through which the stream flows or that is adjacent to the stream downstream from
9 the point at which the water would enter the stream approves the return of the water
10 through the stream.~~

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

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

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

23 (g) *Conservation and efficient use of existing water supplies.* An applicant for
24 a new or increased diversion subject to par. (f) *to* shall demonstrate the efficient use and

✓
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665

Insert 66-23 ✓

1 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)
2 1. d., and (f) 1. by doing all of the following before submitting the application.

- 3 ~~1. Engaging in water conservation planning that includes all of the following:~~
 - 4 ~~a. Evaluation of the applicant's present and future water uses.~~
 - 5 ~~b. Making a representative estimate of the amount of the applicant's water use~~
 - 6 ~~before implementing the measures under subd. 2.~~
 - 7 ~~c. Determining which of the water conservation and efficiency measures in sub.~~
 - 8 ~~(8) (d) 2. and 3. b. and c. are environmentally sound and economically feasible for the~~
 - 9 ~~applicant.~~
- 10 ~~2. Implementing the environmentally sound and economically feasible water~~
- 11 ~~conservation measures identified under subd. 1. c.~~

✓
Insert
67-11

12 (5) WITHDRAWALS. (a) *Approval required.* 1. Beginning on the first day of the
13 first month beginning after the compact's effective date, no person may begin a
14 withdrawal, including a withdrawal for the purpose of bottling water in containers
15 of 5.7 gallons or less, from the Great Lakes basin that will average more than 500,000
16 gallons per day in any 90-day period without an approval from the department
17 under this subsection.

18 2. Beginning on the first day of the first month beginning after the compact's
19 effective date, no person may increase a withdrawal, including a withdrawal for the
20 purpose of bottling water in containers of 5.7 gallons or less, from the Great Lakes
21 basin for which the person does not have an approval under this subsection by an
22 average of more than 500,000 gallons per day in any 90-day period without an
23 approval from the department under this subsection.

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

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

13 (c) *Standard for approval.* The department may not grant an approval under
14 this subsection unless all of the following apply:

15 1. The proposal complies with the decision-making standard under sub. (6).

16 2. For a proposal to withdraw water from a surface water body tributary to one
17 of the Great Lakes that would result in a water loss of more than 95 percent of the
18 amount of water withdrawn, the department includes in the approval conditions
19 that ensure that the withdrawal does not cause significant adverse environmental
20 impact.

21 3. If the applicant is a person operating a public water supply system, the
22 proposal is consistent with a water supply plan ^{✓ approved ✓} under sub. (10) that was initially
23 prepared or was updated within 5 years before the person submits the application
24 for the proposal to the department.

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

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

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

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

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

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

or, if the withdrawal
is from a stream tributary to one of the Great Lakes, to the watershed
of that stream

1 (c) The withdrawal will be implemented in a way that incorporates
2 environmentally sound and economically feasible water conservation measures.

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

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

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

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

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

****NOTE: The language in the compact (see s. 281.343 (4r) (e) 3.), is unclear as to
what is supposed to be balanced against what. I have tried to more closely reflect what
the compact is intended to mean.

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

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

1 6. Any provisions for restoration of hydrologic conditions and functions of the
2 source watershed.

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

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

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

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

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

24 1. Promotion of environmentally sound and economically feasible water
25 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). ^{measures} ^{under} ⁱⁿ
Insert 72-19

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 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.

****NOTE: The bases for amending or adding measures are time limited. A note in
the special committee /P3 draft raises what seems like a good question: whether an
assessment of the water conservation and efficiency program (see sub. (11) (d)) should be
an additional basis for amending or adding measures.

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

****NOTE: I modified this some from the special committee version after discussing
the provision with John Stolzenberg. The compact requires "appropriate consultations."

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

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

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

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

4 a. The name and address of each applicant.

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

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

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

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

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

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

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

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

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

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

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

10 1m. From the day that the department provides notice under sub. (4) (c) 4. b.,
11 (d) 3. e., or (e) 1. g. that an application is subject to regional review to the day that
12 the department receives either the regional declaration of finding on the application
13 or, if applicable, notice of the action taken by the Great Lakes council on the
14 application, whichever is later.

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

17 3. From the day that the department receives a request under sub. (5) (e) to the
18 day that the department receives the regional declaration of finding.

✓ Insert
77-18 →

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.

(10) ~~WATER SUPPLY PLANNING~~

(a) The department shall establish and

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

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

plans for persons owning or operating public water supply systems. 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.

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

requirements for all of the following:

1. Public review and comment on a proposed plan.

2. Approval of a plan by the department and the governing body of each city,

village, and town whose public water supply is addressed by the plan.

3. Updating a plan at least every 5 years.

4. Intergovernmental cooperation.

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

in the plan:

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

2. An inventory of the sources and quantities of the current water supplies in

the area.

3. A forecast of the demand for water in the area over the period covered by the

plan.

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

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

regional and individual water supply and water conservation alternatives.

(CS) Regional

service area

for public water supply systems

Insert 78-4 ✓

Insert 78-5 ✓

owning or

have an approved plan

no later than December 31, 2025 ✓

✓ Insert 78-8

Insert 78-14 ✓

✓ Insert 78-21

that comply with this section and other applicable requirements and that are effective cost-effective

1 5. An assessment of the environmental, social, and economic impacts of
2 carrying out specific significant recommendations of the plan, including an
3 assessment of relevant factors and requirements in subs. (4), (6), and (8).

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

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

8 8. An analysis of how the plan supports and is consistent with any applicable
9 comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved

10 areawide water quality waste treatment management plans under 33 USC 1288 *s. 283.83 ✓*

****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. There is not a separate sewer service area plan or nonindustrial wastewater treatment and collection system plan. See NR 121.05 (1) (intro.) and (g) (title) and 2.

11 9. Other information specified by the department.

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

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

****Note: Should this provision be modified, given the changes in par. (c) 4.?*

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

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

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

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

****NOTE: 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 set by the time the plan would be made? How would this be enforced?

6 (e) A person applying for approval of a diversion under sub. (4) or a withdrawal
7 under sub. (5) may use elements of an approved plan under this subsection to show
8 compliance with requirements under subs. (4) to (6) to which the plan is relevant.

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

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

→ *****NOTE! Should this deadline be changed? ✓
21 = (b) *Annual report on water resources*. Beginning within 60 months after the

22 compact's effective date, the department shall annually report to the Great Lakes

1 council the information from par. (a) regarding withdrawals that average 100,000
2 gallons per day or more over a 30-day period, including consumptive uses, in the
3 basin and any diversions, as well as the amounts of the withdrawals, water losses
4 from consumptive uses, and diversions in the basin reported under sub. (3) (e).

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

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

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

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

23 (f) *Report on threshold.* No later than the 60th month beginning after the
24 compact's effective date, the department shall submit to the legislature under s.

1 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and
2 providing any recommendations to change the threshold.

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

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

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

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

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

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

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

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

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

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

24 **(14) PENALTIES.** (a) Any person who violates this section or any rule
25 promulgated or approval issued under this section shall forfeit not less than \$10 nor

1 more than \$10,000 for each violation. Each day of continued violation is a separate
2 offense.

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

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

****NOTE: I still need to consider how to deal with proposed sub. (14) (a) 2. from the
special committee's /P3 draft (page 89, lines 4 to 5). I think that proposed sub. (14) (a) 1.
is not necessary because of current s. 227.01 (9).

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

16 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.47 (1) (d), 281.75 (19),
17 and 281.99 (2), any person who violates this chapter or any rule promulgated or any
18 plan approval, license, special order, or water quality certification issued under this
19 chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each
20 day of continued violation is a separate offense. While an order is suspended, stayed,
21 or enjoined, this penalty does not accrue.

22 **SECTION 9. Nonstatutory provisions.**

23 (1) INITIAL MEMBERSHIP ON WATER CONSERVATION COUNCIL.

✓
Insert
83-14

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

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

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

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

17 (2) PROJECT POSITIONS. The authorized FTE positions for the department of
18 natural resources are increased by 2.0 GPR project positions for a 2-year period
19 beginning on the effective date of this subsection, to be funded from the
20 appropriation under section 20.370 (4) (ma) of the statutes, for the purpose of
21 promulgating rules required under this act.

22 **SECTION 10. Fiscal changes.**

23 (1) PROJECT POSITIONS. In the schedule under section 20.005 (3) of the statutes
24 for the appropriation to the department of natural resources under section 20.370 (4)
25 (ma) of the statutes, as affected by the acts of 2007, the dollar amount is increased

1 by \$33,600 for fiscal year 2007-08 and the dollar amount is decreased by \$134,400
2 for fiscal year 2008-09 to provide funding for the project positions authorized under
3 this act.

4

(END)

2007-2008 DRAFTING INSERT
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LRB-3207/P4ins
RCT:.....

Insert 4-21

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

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

Insert 53-4

not The baseline for a withdrawal that is covered by a general permit under sub. (5) () on the compact's effective date is the withdrawal amount specified for the withdrawal in the database under sub. () on the compact's effective date. The baseline for a withdrawal for which the department has issued an individual permit under sub. (5) () on or before the compact's effective date is the withdrawal amount specified in the permit on the compact's effective date. There is no baseline for any other withdrawal.

****NOTE: The cross-references will be completed later. Will consider changing term "withdrawal amount."

Insert 54-2

2. The baseline water loss for a consumptive use for which the department has specified an authorized base level of water loss under s. 281.35 (6) (a) 2. is the amount of that authorized base level on the compact's effective date. There is no baseline water loss for any other consumptive use.



* ^{this} ****NOTE: Not sure ~~that~~ works. Would there still be such a permit on the effective date or would it have been replaced by a new permit under this section? [✓] Might there be increases approved before the compact takes effect? Does this need to be handled like the withdrawals, that is, mainly in a later part of the draft? [✓]

Insert 55-19

^{noFF} or, for a withdrawal from the Great Lakes basin, [✓] on the compact's effective date [✓] if that is sooner, ^{NO} ~~FF~~

Insert 55-24

^{noFF} or, if the withdrawal is from the [✓] Great Lakes basin, on the [✓] compact's effective date if that is sooner, ^{NO} ~~FF~~

Insert 56-3

^{noFF} or, if the withdrawal is from the [✓] Great Lakes basin, on the compact's effective date if that is sooner, ^{NO} ~~FF~~

Insert 57-10

^{FF} [↓], whether the person withdraws at least 1,000,000 [✓] gallons per day in any 30 [↓] day period,

Insert 57-20

2. A person who operates a wastewater treatment system, [✓] rather than the person who withdraws the water or who operates a public water supply system, shall annually report to the [✓] department the volume of water loss from a consumptive use of water that occurs after the treatment of the wastewater by the person who operates the wastewater treatment system. [✓]

Insert 66-5

c. [✓] The structure used to return the water is designed and will be operated to meet the applicable permit requirements under s. [✓] 30.12 and department has approved the permit. [✓] ^{under} ^{under} s. 30.12 [✓]

Insert 66-23



INS 66-23

noff

NO
FF

The department shall promulgate rules specifying the requirements for an

Insert 67-11

(h) *Review procedures.* The department shall promulgate rules specifying procedures for reviewing applications under par. (b) to determine compliance with the requirements in this subsection.

(4e) DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR EXISTING WITHDRAWALS.

→ *****NOTE: This is a placeholder.*

Insert 69-16

(f) *Review procedures.* The department shall promulgate rules specifying procedures for reviewing applications under par. (b) to determine compliance with the requirements in this subsection.

****NOTE: This may need to cross-reference other subsections.

Insert 72-14

noff

The department shall promulgate rules specifying water conservation and efficiency measures for the purposes of this section. The department shall specify measures based on all of the following:

1. The amount and type of diversion, withdrawal, or consumptive use and whether the diversion, withdrawal, or consumptive use exists on the effective date of this subdivision [revisor inserts date], is expanded, or is new.
2. The results of any pilot water conservation program conducted by the department in cooperation with the regional body.
3. The results of any assessments under sub. (11) (d).

for the purposes of this paragraph

*

****NOTE: What should the date be for determining whether a diversion, withdrawals, and consumptive use is "existing"? Or should the draft say "when the diversion, withdrawal, or consumptive use began" or something like that? I have not yet included any language about retrofitting. In relation to that issue, might the Department of Commerce or the PSC require retrofitting (in which case, par. (b) would require DNR to include those requirements)?

Insert 77-18



INS 77-18

(gm) *Extensions of time limits.* Upon agreement between the department and an applicant, the department may extend any time limit applicable to the department under this subsection.

Insert 78-4

~~NO~~ The period covered by a plan under this subsection may not exceed 20 years.

Insert 78-5

~~NO~~ that serves a population of 10,000 or more and that withdraws water from the waters of the state

Insert 78-8

***NOTE: In accordance with the instructions, the requirement to have a plan is limited to systems that withdraw from the waters of the state. That seems to mean that a system that provides water to another system has to include the area of the system to which it provides water in its plan. Is there any entity that does not own or operate a public water supply system but that withdraws water and provides it to a public water supply system? If so, who would do the planning?

Insert 78-13

~~NO~~ Ensuring that plans remain current.

Insert 78-14

5. Reopening or reconsideration by the department of a previously approved plan.

Insert 78-21

3m. Identification of the existing population and population density of the area for which the plan is prepared and forecasts of the expected population and population density of the area during the period covered by the plan.

Insert 83-14

SECTION 2. 283.41 (3) of the statutes is created to read:

283.41 (3) When the department receives an application for a permit for a discharge that would return water diverted from the Great Lakes basin to the source



watershed through a stream tributary[✓] to one of the Great Lakes, the department shall provide notice of the application[✓] to the governing body of each city, village, and town[✓] through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.[✓]

SECTION 3. 283.83[✓] of the statutes is renumbered 283.83 (1).[✓]

SECTION 4. 283.83 (2)[✓] of the statutes is created to read:

283.83 (2) When the department receives for review or prepares a new plan under sub. (1)[✓] or a revision to a plan under sub. (1)[✓] that includes a proposal to return water diverted from the Great Lakes[✓] basin to the source watershed through a stream tributary to one of the Great Lakes[✓], the department shall provide notice of the[✓] plan or revision to the governing body of each city, village, and town through which the stream flows or that is adjacent to the stream downstream from the point at which the water would enter the stream.[✓]

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11/18/2008 Per John - Deleto p. 56, nos 23-25 from the

194.

Ret