

1 5. The uses made of the water.

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

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

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

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

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

7 (c) The department shall maintain a registry containing the information  
 8 provided under <sup>✓</sup> par. (b) <sup>and s. 281.344(3)(b)</sup>.

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

12 (e) 1. Each person who withdraws from the waters of the state <sup>✓</sup> <sup>an average of</sup> 100,000 gallons  
 13 per day or more in any 30-day period or diverts any amount and who has registered  
 14 the withdrawal or diversion under par. (a) <sup>✓</sup> <sup>or s. 281.344(3)(a) ✓</sup> shall annually report to the department  
 15 the monthly volumes of withdrawal, whether the person withdraws at least  
 16 1,000,000 gallons per day <sup>for 30 consecutive days</sup> in any ~~30-day period~~, and, if applicable, the volumes of  
 17 diversion and, subject to par. (em), water loss from consumptive use.

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

22 (em) 1. Except as provided in subd. 2., if a person to whom par. (e) 1. applies  
 23 provides any of the water that the person withdraws to a public water supply system,  
 24 the person who operates the public water supply system, rather than the person who  
 25 withdraws the water, shall annually report to the department the volume of water

1 loss from the consumptive use of the water provided to the public water supply  
2 system.

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

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

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

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

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

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

*Insert 56-9-B*

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

*MOVE*

*\*\*\* (3) \*\*\**  
*NOTE: Instruction 4 from the January 10 instructions indicated that this provision should be retained rather than deleted as the December 27 instructions provided indicated*

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

5 4m. If a person who applies under subd. 1. will not directly withdraw the water  
6 proposed to be diverted, the person shall identify the entity that will withdraw the  
7 water and provide evidence of any agreement necessary to obtain water from that  
8 entity.

Inset 86-9-A ✓  
Inset 86-90B ✓  
V  
V

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

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

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

18 b. Subject to subd. 1. c. if the proposal is to provide a public water supply within  
19 more than one city, village, or town, any portion of the proposal that provides a public  
20 water supply within a straddling community is subject to par. (c) and any portion of  
21 the proposal that provides a public water supply within a community within a  
22 straddling county is subject to par. (e). STET

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

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

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

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

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

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

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

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

✓ If there is a water supply plan approved under sub. (10) that applies to the straddling community,

2m. The proposal is consistent with <sup>that</sup> water supply plan approved under sub. (10).

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

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

a. The department conducts a technical review.

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

1.

c. The proposal undergoes regional review.

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

(d) *Intrabasin transfer*. 1. The department may approve a proposal for a new intrabasin transfer, or for an increase in an intrabasin transfer, to which par. (c) does not apply that would average less than 100,000 gallons per day in every 90-day period, if the proposal meets the applicable requirements in s. 30.18, 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the department by rule and, if the water will be used for public water supply purposes, the proposal is consistent with <sup>any</sup> water supply plan approved under sub. (10).

\*\*\*NOTE: Subsection (10) would not itself require a plan if the system serves a population under 10,000. Is the intent to require a plan to satisfy this provision, even for smaller systems?

22

23

2. The department may approve a proposal for a new intrabasin transfer or an increase in an intrabasin transfer to which par. (c) does not apply that would average

that applies to the area in which the water will be used ✓

1 more than 100,000 gallons per day in any 90-day period with a new water loss or an  
2 increase in water loss that would average less than 5,000,000 gallons per day in every  
3 90-day period, if all of the following apply:

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

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

11 c. If the water will be used for public water supply purposes, the proposal is  
12 consistent with a water supply plan approved under sub. (10).

13 d. 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 as  
22 determined under par. (g).

23 c. If the water will be used for public water supply purposes, the proposal is  
24 consistent with a water supply plan approved under sub. (10).

25 d. The department conducts a technical review.

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

2 1.

3 f. The proposal undergoes regional review.

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

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

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

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

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

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

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

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



1 em. The proposal is consistent with a water supply plan approved under sub.  
2 (10).

3 f. The department conducts a technical review.

4 g. The department notifies the regional body as required in s. 281.343 (4h) (b)  
5 1.

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 as determined under  
19 par. (g).

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

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

1           3m. The place at which the water is returned to the source watershed is as close  
2 as practicable to the place at which the water is withdrawn, unless the applicant  
3 demonstrates that returning the water at that place is one of the following:

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

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

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

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

14           c. The structure used to return the water is designed and will be operated to  
15 meet the applicable permit requirements under s. 30.12 and department has  
16 approved the permit under s. 30.12.

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

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

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

4           (g) *Conservation and efficient use of existing water supplies.* The department  
5 shall promulgate rules specifying the requirements for an applicant for a new or  
6 increased diversion subject to par. (f) to demonstrate the efficient use and  
7 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)

8           1. d., and (f) 1. *including requiring the applicant to quantify the amount*  
9           (h) *of water conserved through efficiency and conservation measures.*  
10           (h) *Review procedures.* The department shall promulgate rules specifying  
11 procedures for reviewing applications under par. (b) to determine compliance with  
12 the requirements in this subsection.

13           (4) ~~DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR EXISTING WITHDRAWALS~~  
14           *Water use permits required in the Great Lakes basin*  
15           \*\*\*\*NOTE: This is a place holder.

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

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

Insert 63-12  
NOTE

\*\*\*\*NOTE: The language beginning with "including" was added in response to instruction 8 in the January 10 instructions.

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).

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

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

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

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

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

17 (6) <sup>(CS) Compact</sup> DECISION-MAKING STANDARD. A proposal meets the <sup>compact</sup> 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, to the source watershed, or, if the withdrawal  
24 is from a stream tributary to one of the Great Lakes, to the watershed of that stream.

↓ Inset  
65-16

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.

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.

23 6. Any provisions for restoration of hydrologic conditions and functions of the  
24 source watershed, *or, if the withdrawal is from a stream tributary to  
one of the Great Lakes of the watershed of that stream*

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

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

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

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

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

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

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

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

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

12 (d) *Water conservation and efficiency measures.* The department shall  
13 promulgate rules specifying water conservation and efficiency measures for the  
14 purposes of this section. The department shall specify measures based on all of the  
15 following:

- 16 1. The amount and type of diversion, withdrawal, or consumptive use and  
17 whether the diversion, withdrawal, or consumptive use exists on the effective date  
18 of this subdivision .... [revisor inserts date], <sup>the first day of the 8<sup>th</sup> month beginning after</sup> is expanded, or is new. <sup>compact's</sup> or the <sup>compact's</sup> effective date, whichever  
19 2. The results of any pilot water conservation program conducted by the  
20 department in cooperation with the regional body.  
21 3. The results of any assessments under sub. (11) (d).

\*\*\*\*NOTE: What should the date be for determining whether a diversion, withdrawals, and consumptive use is "existing" for the purposes of this paragraph? 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)?

In the rules, the department may not require retrofitting of existing fixtures, appliances, or equipment.



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

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

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

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

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

16           a. The name and address of each applicant.

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

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

22           (c) *Public comment.* The department shall receive public comments on a  
23           proposal for which it receives an application under sub. (4) or (5) for a 30-day period  
24           beginning when the department gives notice under par. (b) 1. The department shall

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

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

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

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

18 (e) *Public access to information.* Any record or other information provided to  
19 or obtained by the department regarding a proposal for which an application under  
20 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The  
21 department shall make available to and provide facilities for the public to inspect and  
22 copy any records or other information provided to or obtained by the department  
23 regarding a proposal for which an application for a new or increased diversion or  
24 withdrawal under sub. (4) or (5) is received, except that any record or other  
25 information provided to the department may be treated as confidential upon a

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

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

13 2. Except as provided in par. (g), within 120 days after receipt of a complete  
14 application, the department shall notify the applicant in writing of the approval,  
15 conditional approval, or denial of the application. If the application is denied, the  
16 department shall include the reason for denial in the notification.

17 (g) *Suspension of time limits.* The department may suspend the 120-day period  
18 specified in par. (f) 2. for any of the following periods:

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

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

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

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

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

10           (10) REGIONAL WATER SUPPLY SERVICE AREA PLANS FOR PUBLIC WATER SUPPLY  
11           <sup>CS</sup> statewide SYSTEMS. (a) The department shall establish and administer a continuing water  
12 supply planning process, that is consistent with applicable state requirements and  
13 the compact, for the preparation of water supply plans for persons owning or  
14 operating public water supply systems. The period covered by a plan under this  
15 subsection may not exceed 20 years. A person owning or operating a public water  
16 supply system that serves a population of 10,000 or more and that withdraws water  
17 from the waters of the state shall have an approved plan under this subsection no  
18 later than December 31, 2025.

      \*\*\*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?

19           (b) The department shall include in the process under par. (a) procedures and  
20 requirements for all of the following:

21           1. Public review and comment on a proposed plan.

1           2. Approval of a plan by the department and the governing body of each city,  
2 village, and town whose public water supply is addressed by the plan.

3           3. Ensuring that plans remain current.

4           4. Intergovernmental cooperation.

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

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

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

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

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

14          3m. Identification of the existing population and population density of the area  
15 for which the plan is prepared and forecasts of the expected population and  
16 population density of the area during the period covered by the plan.

17          4. Identification of the options for supplying water in the area for the period  
18 covered by the plan that comply with this section and other applicable requirements  
19 and that are cost-effective based upon a cost-effectiveness analysis of regional and  
20 individual water supply and water conservation alternatives.

*are approvable under*

*statutes and rules*

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

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

3 8. An analysis of how the plan supports and is consistent with any applicable  
4 comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved  
5 areawide water quality management plans under 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.

6 9. Other information specified by the department.

7 (d) The department may not approve a plan under this subsection unless all  
8 of the following apply: *that is approvable under this section and other applicable statutes and rules*

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

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

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

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

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

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

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, and type of diversions,  
 5 withdrawals, and consumptive uses and quantities of withdrawals and 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 ~~36~~<sup>72nd</sup> month beginning after the effective date of this  
 12 subdivision .... [revisor inserts date].

or the first day of the 60th month beginning after the compact's effective date, whichever is later

\*\*\*\*NOTE: Should this deadline be changed?

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).

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.

## SECTION 5

After the compact's effective date,

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) and  
16 providing any recommendations to change the threshold.

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

21 (b) In addition to the penalties provided under par. (a), the court may award  
22 the department of justice the reasonable and necessary expenses of the investigation  
23 and prosecution of a violation of this section, including attorney fees. The  
24 department of justice shall deposit in the state treasury for deposit into the general  
25 fund all moneys that the court awards to the department or the state under this



1 paragraph. The moneys received for the costs of investigation and the expenses of  
2 prosecution, including attorney fees, shall be credited to the appropriation account  
3 under s. 20.455 (1) (gh).

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

8 **SECTION 6.** 281.98 (1) of the statutes is amended to read:

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

15 **SECTION 7.** 283.41 (3) of the statutes is created to read:

16 283.41 (3) When the department receives an application for a permit for a  
17 discharge that would return water diverted from the Great Lakes basin to the source  
18 watershed through a stream tributary to one of the Great Lakes, the department  
19 shall provide notice of the application to the governing body of each city, village, and  
20 town through which the stream flows or that is adjacent to the stream downstream  
21 from the point at which the water would enter the stream.

22 **SECTION 8.** 283.83 of the statutes is renumbered 283.83 (1).

23 **SECTION 9.** 283.83 (2) of the statutes is created to read:

24 283.83 (2) When the department receives for review or prepares a new plan  
25 under sub. (1) or a revision to a plan under sub. (1) that includes a proposal to return

Insert  
77-7

281.346 (14) (a)

1 water diverted from the Great Lakes basin to the source watershed through a stream  
2 tributary to one of the Great Lakes, the department shall provide notice of the plan  
3 or revision to the governing body of each city, village, and town through which the  
4 stream flows or that is adjacent to the stream downstream from the point at which  
5 the water would enter the stream.

6 (END)

*Note*

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3207/P5ins  
RCT:.....

**Insert 45-8**

**SECTION 1.** 281.344<sup>X</sup> of the statutes is created to read:

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

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

(dr) "Compact's effective date" means the effective date of the compact under s. 281.343 (9) (d).

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

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

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

MOUE →

\* (j) "Interbasin transfer" means a transfer of water from the Great Lakes basin into a watershed outside of the Great Lakes basin or from the watershed of one of the Great Lakes into that of another.

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

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

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

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

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

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

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

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

(3) STATEWIDE REGISTRATION AND REPORTING. (a) 1. Any person who, on the first day of the 36th month beginning after the effective date of this subdivision ...



[revisor inserts date], or, for a withdrawal from the Great Lakes basin, on the compact's effective date if that is sooner, has a water supply system with the capacity to make a withdrawal from the waters of the state averaging 100,000 gallons per day or more in any 30-day period or is making any interbasin transfer shall register the withdrawal or interbasin transfer with the department by the deadline specified by the department by rule.

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

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

1. The name and address of the registrant and the date of registration.
2. The locations and sources of the withdrawal or interbasin transfer.
3. The daily capacity of the withdrawal or interbasin transfer and the daily capacity to withdraw or transfer from each source.



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

5. The uses made of the water.

6. The places at which the water is used.

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

8. Whether the water use is continuous or intermittent.

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

10. Other information required by the department by rule.

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

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

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

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



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

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.

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

**(4) INTERBASIN TRANSFERS.**

\*\*\*\*NOTE: Provisions relating to the determination of baselines for interbasin transfers and perhaps those that implement the provision at page 17, lines 3 to 6 of the 12/19/2007 concept paper will be added here. Guidance is needed as to any other provisions related to interbasin transfers that should be included in the precompact part of the draft.

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

\*

↓

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

2. If the department has issued a permit under s. ?? ✓ for a withdrawal and the permit contains a limit on the amount of water that may be withdrawn, the department shall provide an estimate of the initial withdrawal amount equal to the limit in the permit. ✓

\*\*\*\*NOTE: Under what statutes does DNR ✓ issue permits with withdrawal limits and, of those, which should be listed here?

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

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

1. The components of the water supply system used for the withdrawal.
2. Seasonal variations in the amount of water supplied by the water supply system. ✓
3. Plans for expanding the capacity of the water supply system submitted to the department no later than 2 ✓ years after the effective date of this ✓ subdivision .... [revisor inserts date].
4. Withdrawal amounts from the 5 ✓ years before the year in which the person submits the information.
5. Successful water conservation efforts by persons using the water that is withdrawn. ✓





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

7. Other information that the department considers to be relevant. ✓

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

\*\*\*\*NOTE: The proposal does not say what the standard for setting the initial withdrawal amount ultimately is. It does not provide guidance to DNR about how DNR should consider information about seasonal variations in withdrawals or any of the other matters in subds. 1. to 6. ✓ or what DNR may consider to be relevant under subd. 7. ✓ If a withdrawer wanted to challenge DNR's determination, on what grounds could the withdrawer base the challenge? Someone might also argue that this is an invalid delegation of legislative authority because of the lack of standards and, therefore, is unconstitutional.

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

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

\* (h) If <sup>two</sup> (two) or more public water supply systems merge after the department determines their initial withdrawal amounts under par. (e) ✓ and before the



department issues the initial individual permits under sub. (5) (c) for the systems, the initial withdrawal amount for the new system is the sum of the amounts determined under par. (e) for the individual systems.

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

\* # 1. (a) The first day of the 84th month beginning after the effective date of this subdivision.... [revisor inserts date].

\* # 2. (b) The compact's effective date.

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

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

2. Requirements for reporting, metering, and surveillance, as provided in rules promulgated by the department.

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

4. Other conditions, limitations, or restrictions, as provided in rules promulgated by the department, that the department determines are necessary to



protect the environment or public health and safety or to ensure the conservation and proper management of the waters of the Great Lakes basin.

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

(b) *General requirement.* Beginning on the earlier of the dates under sub. (4m) (a) 1 and 2, a person who does not hold an individual permit under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or more in any 30-day period, but that does not equal at least 1,000,000 gallons per day for any 30 consecutive days, unless the withdrawal is covered under a general permit. A person to whom the department has issued a notice of coverage under a general permit shall comply with the general permit.

\*\*\*\*NOTE: This is drafted to allow the possibility that a withdrawal of a size that would ordinarily qualify for coverage under a general permit might be required (or the withdrawer might choose) to get an individual permit. If that is not a possibility, this paragraph can be simplified a little.

(c) *Automatic notice of coverage for existing withdrawals.* The department shall automatically issue a notice of coverage under a general permit to a person who makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before the earlier of the dates under sub. (4m) (a) 1 or 2, if the withdrawal averages 100,000 gallons per day or more in any 30-day period but does not equal at least 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department may request additional information before issuing a notice under this paragraph. The department shall issue a notice under this paragraph no later than the earlier of the dates under sub. (4m) (a) 1 or 2. The department may promulgate a rule under which the department issues automatic notices of coverage under a general permit on a staggered schedule before the earlier of the dates under sub. (4m) (a) 1 or 2. In the notice provided under this paragraph for a withdrawal, the department shall



specify a withdrawal amount equal to the initial withdrawal amount determined under sub. (4e) for the withdrawal.

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

\*\*\*NOTE: I have tried to draft this so that it will pick up all of the withdrawers who do not get an automatic notice of coverage.

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

3. If the department determines that a withdrawal qualifies for coverage under a general permit and the department has issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for the withdrawal, the department shall issue a notice of coverage. In the notice, the department shall specify a withdrawal amount that is equal to the maximum hydraulic capacity of the



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

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

(e) *Increase in withdrawal amount.* Before the effective date of the compact, if a person making a withdrawal that is covered under a general permit proposes to increase the amount of the withdrawal over the withdrawal amount specified in the database under par. (i) for the withdrawal, but does not propose to withdraw at least 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the department for a modification of the withdrawal amount. If the department has issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for modifying the withdrawal, the department shall modify the withdrawal amount to an amount equal to the maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, a withdrawal amount that is equal to the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.



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

\*\*\*\*NOTE: Under this provision, the length of a withdrawal's coverage under a general permit is not necessarily 10 years, but varies depending on how far into the general permit's 10 year term the withdrawal becomes covered. This is based on DNR's proposal in the email from Todd Ambs dated January 18. Is this OK? It would mean that some withdrawers would have to apply for redetermination of coverage soon after they become covered for the first time. There might, however, be an advantage under the postcompact statute to beginning to withdraw near the end of the term of a general permit, depending on how increases in withdrawals will be counted in determining when a decision-making standard applies.

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

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

(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Requirement.* Beginning on the earlier of the dates under sub. (4m) (a) 1. or 2., a person may not make a withdrawal from the Great Lakes basin that equals at least 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is covered by an individual permit. A person to whom the department has issued an individual permit shall comply with the individual permit.



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

- 1. A withdrawal amount as determined under sub. (4e) ~~or~~ par. (d) 3. or (e)
- 2. An allowable water loss in gallons per day, if applicable.

\*\*\*\*NOTE: This will need to tie in with regulation of consumptive uses.

3. Requirements for reporting, metering, and surveillance, as provided in rules promulgated by the department.

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

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

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

7. Other conditions, limitations, or restrictions, as provided in rules promulgated by the department, that the department determines are necessary to protect the environment or public health and safety or to ensure the conservation and proper management of the waters of the Great Lakes basin.

(c) *Automatic issuance of individual permits for existing withdrawals.* The department shall automatically issue an individual permit to a person who makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before the earlier of the dates under sub. (4m) (a) 1. or 2., if the withdrawal equals at least 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department may request additional information before issuing a permit under this paragraph. The department shall issue a permit under this paragraph no later than the earlier of the dates under sub. (4m) (a) 1. or 2. In the permit, the department shall specify

a withdrawal amount equal to the initial withdrawal amount determined under sub. (4e) for the withdrawal. The department may promulgate a rule under which the department issues automatic individual permits on a staggered schedule before the earlier of the dates under sub. (4m) (a) 1. or (b)

\*

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

... [revisor inserts date]

\*\*\*\*NOTE: I have tried to draft this so that it will pick up all of the withdrawers who do not get an automatic permit.

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

\*

3. If the department approves an application under subd. 1. and the department has issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for the withdrawal, the department shall issue an individual permit. In the permit, the department shall specify a withdrawal amount that is equal to the maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval

↓



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

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

(e) *Increase in withdrawal amount.* Before the effective date of the compact, if a person making a withdrawal that is covered under an individual permit proposes to increase the amount of the withdrawal over the withdrawal amount specified in the permit, the person shall apply to the department for a modification of the permit to increase the withdrawal amount. If the department has issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for modifying the withdrawal, the department shall modify the withdrawal amount to an amount equal to the maximum hydraulic capacity of the most restrictive component of the water supply system used for the withdrawal for which the person has approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval under one of those provisions is not required for the most restrictive component of the water supply system, a withdrawal amount that is equal to the maximum hydraulic capacity of the most restrictive component that the person proposes to use in the water supply system.

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

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

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

(i) *Permits not transferable.* An individual water use permit is not transferable.

\*\*\*\*NOTE: What happens when ownership of the water supply system is transferred during the term of a permit? Does the new owner have to apply for a permit? If so, what are the requirements for issuing it? Is there an effect on the withdrawal amount? Does a new 10-year term start?

\*

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

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

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

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

The department shall specify water conservation and efficiency goals and objectives for the waters of the state. In specifying these goals and objectives, the department shall consult with the department of commerce and the public service commission.

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

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



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

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

(d) *Water conservation and efficiency measures.* ✓ The department shall promulgate rules ✓ specifying water conservation and efficiency measures for the purposes of this section. ✓ In the rules, the department may not require retrofitting of existing fixtures, appliances, or equipment. ✓

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

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

\*\*\*\*NOTE: What, if anything, should be added to the precompact section ✓ concerning the process for issuing permits and public participation? What else should be added? ✓ Inventory? I think that the planning provisions will probably be moved from s. 281.346 ✓ to another new section of the statutes so that they will apply without respect to when or whether the compact takes effect.

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

**Insert 50-24**

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

**Insert 56-9-A**



INS 56-9-A

4p. If the person who applies under subd. 1. will not directly return the water to the Great Lakes basin, the person shall identify the entity that will return the water and provide evidence of any agreement necessary to have that entity return the water.

\*\*\*NOTE: This corresponds to instruction number 3 of the January 10 instructions.

**Insert 63-12**

(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.

\*\*\*NOTE: This is a place holder. Language similar to proposed s. 281.344 (4s) will be added here. Subsection (5) will be modified to relate only to individual water use permits. (I think more)

has not yet been changed to reflect the permitting scheme under DNR's concept paper. It

**Insert 65-16**

(5m) STATE DECISION-MAKING STANDARD. A proposal meets the state

decision-making standard if all of the following apply:

(a) The amount of the withdrawal or increase in the withdrawal is needed to meet the projected needs of the person applying for the permit.

\*\*\*NOTE: The water could be for someone other than the withdrawer. And note that after this standard is applied, the withdrawer will be able to increase the withdrawal by anything less than 1,000,000 gpd for 30 consecutive days (during each permit term) without the decision-making standard applying again. So they might be allowed to withdraw more than they are projected to need.

(b) Cost-effective conservation practices have been implemented for any existing uses of the water.

\*\*\*NOTE: Should it be clarified that this only applies to increases to existing withdrawals? This needs to be more specific about whose uses and what water this is meant to refer to.

(c) The applicant has assessed other potential water sources for cost-effectiveness and environmental effects.

\*\*\*NOTE: I am not yet sure how to clarify the rest of the language in the concept paper for this item. It appears to relate to the differing treatment, which still has to be added to the draft, for municipal water system with water supply plans.



(d) Cost-effective<sup>✓</sup> conservation practices will be implemented to ensure efficient use of the water, for a new withdrawal, or of the increased amount of an existing withdrawal.

\*\*\*NOTE: Should it say "environmentally sound and economically feasible water conservation measures"? If not, there may be questions about how this requirement differs from the one under the compact decision-making<sup>✓</sup> standard.

(e) One of the following applies:<sup>✓</sup>

1. If the withdrawal is from a surface water body, the applicant demonstrates that the withdrawal will not result in the violation of water quality standards under s. 281.15<sup>✓</sup> or impair fish populations.

2. The department has issued a permit under s. 30.18<sup>✓</sup> for the new or increased withdrawal or has issued a permit under s. 30.12<sup>✓</sup> for a structure that will be used for the new or increased withdrawal.

3. The department has issued an approval under s. 281.34<sup>✓</sup>, or s. 281.17, 2001 stats., for the new or increased withdrawal.

\*<sup>Subds.</sup> \*\*\*NOTE: Aren't 2. and 3. redundant of other requirements that apply to many withdrawers who would need water use permits? Thus rendering the whole paragraph meaningless for many withdrawers? Plus, an approval under s. 281.34<sup>✓</sup> does not necessarily involve a determination that the withdrawal won't harm the environment, does it? My understanding is that an approval under s. 281.17, 2001 stats., does not involve such a determination.

4. No significant adverse environmental impacts to the waters of the state will result from the new or increased withdrawal.

(f) The proposal satisfies any other standard that the department determines is necessary and promulgates by rule.<sup>✓</sup>

**Insert 77-7**

**SECTION 2.** 281.41 (4)<sup>✓</sup> of the statutes is created to read:

281.41 (4) When the department receives for review a plan under sub. (1)<sup>✓</sup> that would result in returning water diverted from the Great Lakes<sup>✓</sup> 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.

\*\*\*\*NOTE: This implements instruction 5 of the <sup>January</sup> ~~December~~ 10 instructions. I am not sure how to refer to what the plan would involve or when the requirement should take effect.

(end ins 77-7)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3207/P5dn

RCT: A...  
JLD

date

Representative Mason:

This is another preliminary version of the implementing legislation for the Great Lakes Water Resources Compact.

This draft responds to instructions dated December 27, 2007, and discussions with John Stolzenberg, of the Legislative Council, and Chuck Ledin and Shaili Pfeiffer, of the Department of Natural Resources (DNR). It does not yet implement all of the provisions included in the December 27 instructions. In particular, the draft does not fully implement the differing treatment of new and increased withdrawals by public water supply systems from other types of withdrawals (related to water supply planning), instruction 51 (related to public water supply systems and planning), or the permitting scheme based on the December 19 DNR concept paper. Consequently, the draft does not yet deal with the application of the decision-making standards as withdrawals increase over time (after the compact takes effect).

The draft implements some of the instructions dated January 10, 2008. It does not implement instruction 6 because I have not yet determined the intended meaning of the proposed language. In relation to instruction 7 from January 10, the draft deletes, rather than modifies, the language that appeared at page 60, lines 3 to 5 of the /P3, based on a later instruction conveyed by John Stolzenberg.

Instruction number 2 from the January 10 instructions required placing into separate sections of the statutes the provisions that apply before the compact takes effect (s. 281.344 in this draft) and those that apply once the compact takes effect (s. 281.346 in this draft). There was not complete guidance on what should be included in the precompact section. In reviewing proposed s. 281.344, please keep in mind that it is possible that the compact will never take effect. Therefore, that section must be drafted so that it can remain in effect indefinitely.

This version of the draft does not make any changes with respect to who would apply to DNR for approval of a withdrawal, diversion, or consumptive use.

There are a number of specific comments in notes in the draft itself.

The compact provides that the baseline for an existing withdrawal from the Great Lakes basin must be based on the capacity of the water supply system as of the effective

date of the compact or on a withdrawal approval issued by the state before the effective date of the compact. Under this draft, baselines would be based on water use permits that DNR would issue under s. 281.344 before the effective date of the compact. In this respect, the draft works logically, I think, but it may not work as a practical matter. If the compact takes effect within a few years after this bill passes, especially if it takes effect within three years after this bill passes, it will be difficult or impossible to get all of the permits issued before the compact takes effect. This draft does not provide for the eventuality of permits not being issued before the compact takes effect. Please let me know if you would like a more detailed discussion of this issue.

I am spending much time and effort on this important proposal, as is John Stolzenberg. As the late Rupert Theobald, Chief of the Legislative Reference Bureau, once put it, I am dancing as fast as I can. However, I feel obligated to communicate that there is still much work to be done, including continuing to analyze the instructions that have been provided, engaging in consultations to flesh out the instructions and to obtain answers to questions that arise from that analysis, determining how to structure and word the provisions that have not yet been drafted and how to change the provisions already in the draft to be consistent with the new provisions, and responding to new and modified drafting instructions. In addition, it remains to be determined how current law must be changed to mesh with this proposal.

Please feel free to contact me with any questions.

Rebecca C. Tradewell  
Managing Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3207/P5dn  
RCTjld:rs

January 23, 2008

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Please feel free to contact me with any questions.

Rebecca C. Tradewell  
Managing Attorney  
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**Tradewell, Becky**

**From:** Ambs, Todd L - DNR [Todd.Ambs@Wisconsin.gov]  
**Sent:** Friday, January 18, 2008 4:24 PM  
**To:** Mason, Cory; Richards, Jon; Miller, Mark  
**Cc:** Kanninen, Dan; Bier, Beth; Henderson, Patrick W - DOA; Stolzenberg, John; Tradewell, Becky; Ledin, Charles R - DNR; Jonas, Jill D - DNR  
**Subject:** FW: Three issues for the compact legislation drafting

Here are three issues for your consideration as you address additional drafting instructions. To my knowledge, no legislator has taken any position on the following three questions. The issues were raised by John S. and Becky T. in conversations with Chuck Ledin. We would propose the following drafting instructions on these points but that is obviously up to you. Feel free to give Chuck or me a call if you have questions.

We had three discussions this week which resulted in the identification of three issues of uncertainty, different interpretations or ambiguity which have led to varied or different understandings between the drafters and DNR and where choices need to be made.

1. Issue: as a withdrawal increases over time, when will the state decision making standard be applied and when will the Compact based decision making standard be applied--particularly for small withdrawals which are initially covered by a general permit?

DNR position: The compact review process is to be triggered whenever the threshold volume established by the state would be exceeded by the new or increased(volume) withdrawal. However: there are two separate actions that can be triggered by a request to increase a withdrawal, a change in permit coverage and change in permit coverage coupled with the need to meet the decision making standards:

- Whenever the size of a withdrawal covered by a general permit increases **to** 1 million gallons per day for 30 consecutive days, the withdrawer must be covered by an individual permit but does not necessarily have to meet the state decision making standard for an approval
- Whenever the size of a withdrawal covered by a general permit increases **by** at least 1 million gallons per day for 30 consecutive days either by individual request or by cumulative request during a ten year period from date of coverage by the general permit, the applicant must meet the decision making standard in order to obtain an individual permit. If the request is to increase the withdrawal **by** at least 10 million gallons per day for 30 consecutive days, the applicant must meet the compact decision making standard in order to obtain a permit. In both instances, the 10 year window starts over when the individual permit is re-issued by the Department.

2. Who is the applicant for new or increased withdrawals, consumptive uses or diversions?

DNR position: The Compact is clear that new or increased diversions can only be approved for municipal water supply systems. However, neither withdrawals nor consumptive uses are so clearly restricted. And even for diversions, there are cases where one municipality manages the withdrawal while others manage the diversion. As a result, there are several combinations of new or increased withdrawals and consumptive uses which are possible: city to industry, city to city, city to city to industry, industry alone. All of these circumstances could have a different applicant but each would require different methods for complying with compact requirements. The methods could range from facility specific demonstrations to intermunicipal agreements or municipal ordinances to name just a few. While DNR favors the applicant be defined as the withdrawal owner, the preferred option at this time is to simply identify the "applicant" in statute with requirements that the applicant "must demonstrate" the means to comply with compact requirements and that the Department by rule would identify the application materials that are needed for the determination of a complete application for possible applicants for new or increased withdrawals, diversions or consumptive uses.

*note -  
this is  
issue  
that  
hasn't  
been  
resolved*

3. While the concept draft refers to general permits issued for a 10 year period, there is confusion regarding whether the permit is issued for 10 years or if the individual withdrawal permit coverage letter is issued for 10 years under a longer term general permit. There is also a concern from the drafters that new withdrawals may end up with less than 10 years of permit coverage if they begin a new withdrawal into the term of the general permit and this will lead to an unnecessary uncertainty factor for the applicant.

DNR position: While the concept was premised that the permit was issued for 10 years and coverage begins the day the withdrawal coverage letter is issued until the permit expires, we have no problem trying to minimize the possibilities for concerns about short term coverage by increasing the length of the general permit to 20 years but still having the individual withdrawal coverage based on start of withdrawal to expiration of the permit. Individually tracking each withdrawal to renew general permit coverage over ten years would be a great workload and as these are the small withdrawals, it would make more sense to renew all of them together and change the general permit term from 10 years to 20 years to minimize uncertainty concerns.

*Todd L. Ambs*

Administrator

Water Division

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**"The significant problems we face cannot be solved at the same level of thinking we were at when we created them." Albert Einstein**

1/24/08 Meeting at Capitol with: Sen. Miller, Sen. Cowles, Rep. Mason, Rep. Richards, Pat Henderson, Todd Ambo, Chuck Hedlin, Shailei Pfeiffer, + Judy Mills (on call DNR), John Stolzenberg and others including legislative aides

On the requirements for notice to downstream communities (s. 30.208 (Dm), etc.) - have them take effect immediately

All of the decision-making standards will apply in the interim - but only to intrabasin transfers and the associated withdrawals

p. 51 note - no changes

p. 55 note - no changes

pp. 59-60 Not transferable. New owner wld apply and get new 10 year permit.

p. 60. To conservation and efficiency - add regional body's goals (recently adopted DNR is to get + Kern<sup>form</sup>). Also reference to current compact goals, pilot program

p. 61 - No concern about anti-retrofitting language

Will need public participation for amending areawide plans (in order to do interbasin transfer before compact takes effect.)

p. 70 → re diversions - keep as is on who is applicant.

p. 71 - 4s - Add cross-references to current stat. <sup>order</sup> for which this is already done

p. 72 - change to "both low and high flow conditions" and

delete rest of sentences

p. 80, lines 18-22 - no change at this time.

p. 81 → State decision-making standard - change to reflect that person withdrawing the water might not be the person applying for the permit

p. 86 - (b) The public notice provisions would apply to DNR's issuance of general permits, not to issuance of notices of coverage

p. 88 - Delete the time limits (that might change)

Todd Ambs email of 1/18/08

1. OK (I think) with DNR's approach
2. Recipient of water for diversion (as in P3)
3. OK with DNR's approach

Item 6 of the January 10 instructions. At least part of this will go in. Whether it will require water quality to be improved is not clear - to be decided.

- 3207/R5

1/30/08 Per John Stolzenberg (after meeting with people from DWR)

Page 50, line 22 to p. 51, line 2 - Make clear that DWR does not have to just accept whatever withdrawer submits.

Page 58, lines 14-21 and several other places - must allow for a lower withdrawal amount if DWR places a limit in one of the approvals. <sup>For withdrawal amount</sup>

Page 60 - Note following line 19 - no

this seems to be changing } Page 67 - Maybe have DWR do rules on setting ~~even~~ water loss baselines for consumptive uses. DWR could do them for those with permits under s. 281.35(6)(b) 2. Require others to request a baseline. They want situations involving wholesale transactions to be able to be dealt with by contract between withdrawer & distributing (retail) water supply system. Will be water loss amount in some permits.

p. 69, line 17 - Concern about people with a bunch of small withdrawals - change to person who makes a withdrawal from the waters of the state that averages 100,000 etc.

p. 82 - lines 1+2 - leave to rule-making re: uses & what water

lines 3+4 are OK for now -

Note after line 7 = No

p. 90 - Add that regional planning commission may do this

for persons owning or operating public water supply systems

p90

Re>Note - There is such an entity (North Shore Water Utility)

lines 10+11 - want to make it clear that local approval must happen before plan is submitted to DNR

Make sure that if person who is covered by general permit reappplies in a timely way, they aren't in trouble just because DNR didn't get a new general permit that covers person done in time.

Add DNR ability to modify and revoke permit - see concept paper pages

For public water supply systems - John thinks when DNR approves plan or modification of plan, DNR should modify the water use permit



2/1/2008 Meeting with John Stenzenberg, Cheryl Kedin,  
and Judy Ohlin

1. Only Kenosha needs to have its withdrawal baseline set in the special way - based on sewer service area.

2. Baselines for interbasin transfers will be set for public water supply systems (that distribute water to retail customers) that serve areas outside of the basin, but that are within sewer service areas that allow water to be returned to the basin.

3. Precompact-water supply plan would be required for a new or expanded interbasin transfer.  
And maybe for an expanded withdrawal needed to make an interbasin transfer.

4. DNR proposal for dealing with requirement on p. 78, line 7-12 that permits be issued before division is approved = say that sewer service area plan <sup>(or update)</sup> must have been updated to be consistent with this.

5. DNR will work on proposed language for p. 71, line 20 to p. 72, line 4 and for instruction 6 of the January 10 instructions.

6. Draft should provide that if you apply in time you are OK continuing under old permit if DNR hasn't issued a new one in time.

7. Need more consideration of standards for requiring individual permit for person who qualifies for general one. DNR will consider.

8. Consumptive use decision-making standard should be changed - at least add consumptive use to par. (f). DNR will consider other changes.

9. Set consumptive use baselines for persons who now have permits under s. 281.35(5). For others, applicability of consumptive use decision-making standard will depend on how much of the increased withdrawal is being lost (not on how much water loss from preexisting withdrawal)

2/5/08 From John S. after meeting with DNR

✓1. Call the diversion approval an approval (not a permit)

✓2. Where consumptive use decision-making standard says "withdraw" add "consumptive use".

✓3. On page 97, line 15 - delete reference to s. 281.12(1).

✓4. Add to grounds for requiring an individual permit (when withdrawer would otherwise qualify for a general permit) that withdrawal is within a groundwater management area or a groundwater protection area (under s. 281.34)

5. Consumptive use will be done cumulatively (during permit term) need water loss amounts.

✓6. No iterative process for determining <sup>initial</sup> transfer amounts for inter-basin transfers.

✓7. DNR is OK with par. (e) of state decision-making standard