

1           SECTION 4. 281.344 of the statutes is created to read:

2           **281.344 Water conservation, reporting, and supply regulation; when**  
3 **compact is not in effect. (1) DEFINITIONS.** In this section:

4           (d) "Community within a straddling county" means any city, village, or town  
5 that is not a straddling community and that is located outside the Great Lakes basin  
6 but wholly within a county that lies partly within the Great Lakes basin.

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

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

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12 to return some or all of the water to the basin from which the water is withdrawn due  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

14           (g) "Cumulative impacts" means the impacts on the Great Lakes basin  
15 ecosystem that result from incremental effects of all aspects of a withdrawal,  
16 interbasin transfer, or consumptive use in addition to other past, present, and  
17 reasonably foreseeable future withdrawals, interbasin transfers, and consumptive  
18 uses regardless of who undertakes the other withdrawals, interbasin transfers, and  
19 consumptive uses, including individually minor but collectively significant  
20 withdrawals, interbasin transfers, and consumptive uses taking place over a period  
21 of time.

22           (i) "Environmentally sound and economically feasible water conservation  
23 measures" means those measures, methods, or technologies for efficient water use  
24 and for reducing water loss and waste or for reducing the amount of a withdrawal,  
25 consumptive use, or interbasin transfer that are, taking into account environmental

1 impact, the age and nature of equipment and facilities involved, the processes  
2 employed, the energy impacts, and other appropriate factors, all of the following:

3 1. Environmentally sound.

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

5 3. Technically feasible and available.

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

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

10 (ji) "Great Lakes basin ecosystem" means the interacting components of air,  
11 land, water, and living organisms, including humans, within the Great Lakes basin.

12 (k) "Interbasin transfer" means a transfer of water from the Great Lakes basin  
13 into a watershed outside of the Great Lakes basin or from the watershed of one of the  
14 Great Lakes into that of another. *Insert 46-14*

15 (km) "Intrabasin transfer" means the transfer of water from the watershed of  
16 one of the Great Lakes into the watershed of another of the Great Lakes.

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*46-16*  
17 (pm) "Public water supply" means water distributed to the public through a  
18 physically connected system of treatment, storage, and distribution facilities that  
19 serve a group of largely residential customers and that may also serve industrial,  
20 commercial, and other institutional customers.

21 (q) "Regional body" means the body consisting of the governors of Illinois,  
22 Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and  
23 the premiers of Ontario and Quebec, Canada, or their designees, as established by  
24 the Great Lakes—St. Lawrence River Basin Sustainable Water Resources  
25 Agreement.

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1 (t) "Straddling community" means any city, village, or town that is partly  
2 within the Great Lakes basin or partly within the watersheds of 2 of the Great Lakes  
3 and that is wholly within any county that lies partly or completely within the Great  
4 Lakes basin.

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

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

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

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

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

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

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

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

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

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

6 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) 1. Any person who, on the first  
7 day of the 36th month beginning after the effective date of this subdivision ...  
8 [revisor inserts date], or, for a withdrawal from the Great Lakes basin, on the  
9 compact's effective date if that is sooner, has a water supply system with the capacity  
10 to make a withdrawal from the waters of the state averaging 100,000 gallons per day  
11 or more in any 30-day period or is making any interbasin transfer shall register the  
12 withdrawal or interbasin transfer with the department by the deadline specified by  
13 the department by rule.

14 2. Any person who, after the first day of the 36th month beginning after the  
15 effective date of this subdivision ... [revisor inserts date], or, if the withdrawal is from  
16 the Great Lakes basin, on the compact's effective date if that is sooner, proposes to  
17 begin a withdrawal from the waters of the state using a water supply system that will  
18 have the capacity to withdraw an average of 100,000 gallons per day or more in any  
19 30-day period, to increase the capacity of a water supply system that existed on the  
20 first day of the 36th month beginning after the effective date of this subdivision ...  
21 [revisor inserts date], or, if the withdrawal is from the Great Lakes basin, on the  
22 compact's effective date if that is sooner, so that it will have the capacity to withdraw  
23 an average of 100,000 gallons per day or more in any 30-day period, or to begin an  
24 interbasin transfer shall register the withdrawal or interbasin transfer with the  
25 department.

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

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

4 2. The locations and sources of the withdrawal or interbasin transfer.

5 3. The daily capacity of the withdrawal or interbasin transfer and the daily  
6 capacity to withdraw or transfer from each source.

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

9 5. The uses made of the water.

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

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

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

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

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

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

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

20 (e) 1. Each person who makes a withdrawal from the waters of the state that  
21 averages 100,000 gallons per day or more in any 30-day period or transfers from the  
22 Great Lakes basin any amount and who has registered the withdrawal or interbasin  
23 transfer under par. (a) shall annually report to the department the monthly volumes  
24 of withdrawal, whether the person ever withdraws at least 1,000,000 gallons per day

1 for 30 consecutive days, and, if applicable, the volumes of interbasin transfer and,  
2 subject to par. (em), water loss from consumptive use.

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

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

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

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

20 **(3e) DETERMINING INITIAL INTERBASIN TRANSFER AMOUNTS.** (a) Before issuing an  
21 automatic approval under sub. (3m) for an interbasin transfer to a person operating  
22 a public water supply system, the department shall determine the initial interbasin  
23 transfer amount for the interbasin transfer under this subsection.

24 (b) The department shall determine the initial interbasin transfer amount  
25 under this subsection for a public water supply system to be the amount of water

1 necessary to provide water for public water supply purposes in the area in at least  
2 part of which the public water supply system delivers water to customers before the  
3 compact's effective date that is all of the following:

4 1. Outside of the Great Lakes basin.

5 2. Within a sewer service territory that provides for return of wastewater to the  
6 Great Lakes basin and that is specified in the sewer service area provisions of an  
7 areawide water quality management plan under s. 283.83 approved by the  
8 department before December 31, 2007.

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

12 **(3m)** AUTOMATIC APPROVAL FOR EXISTING INTERBASIN TRANSFERS. Before the  
13 compact's effective date, the department shall automatically issue an approval for  
14 an interbasin transfer that begins before the compact's effective date, to a person who  
15 operates a public water supply system that receives water from the interbasin  
16 transfer and that delivers water to customers in an area that is outside of the Great  
17 Lakes basin and that is within a sewer service territory that provides for return of  
18 wastewater to the Great Lakes basin as specified in the sewer service area provisions  
19 of an areawide water quality management plan under s. 283.83 approved by the  
20 department before December 31, 2007. The department may not issue an automatic  
21 approval before the interbasin transfer begins. In the automatic approval, the  
22 department shall specify an interbasin transfer amount equal to the amount  
23 determined under sub. (3e) and an interbasin transfer area that is the area described  
24 in sub. (3e) (b).

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

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

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

10          3. No person may increase an interbasin transfer over the interbasin transfer  
11 amount in an approval issued under sub. (3m) or expand the interbasin transfer area  
12 beyond the area specified in an approval under sub. (3m) unless the department  
13 modifies the approval under par. (c), (d), or (e) to increase the interbasin transfer  
14 amount or to expand the interbasin transfer area.

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

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

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



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

5           4m. If a person who applies under subd. 1. will not directly withdraw the water  
6 proposed to be transferred, 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.

9           4p. If the person who applies under subd. 1. will not directly return the water  
10 to the Great Lakes basin, the person shall identify the entity that will return the  
11 water and provide evidence of any agreement necessary to have that entity return  
12 the water.

13           4s. If the proposal for which a person applies under subd. 1. is subject to the  
14 exception standard under par. (f), the person shall provide documentation of how the  
15 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will  
16 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,  
17 considering the state of the receiving water before the proposal is implemented. If  
18 the receiving water is a surface water body that is tributary to one of the Great Lakes,  
19 the person shall include a description of the flow of the receiving water before the  
20 proposal is implemented, considering both low and high flow conditions.

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

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

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

6 b. If the proposal is to provide a public water supply within more than one city,  
7 village, or town, any portion of the proposal that provides a public water supply  
8 within a straddling community is subject to par. (c) and any portion of the proposal  
9 that provides a public water supply within a community within a straddling county  
10 is subject to par. (e).

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

17 (c) *Straddling communities.* The department may approve a proposal under  
18 par. (b) to begin an interbasin transfer, increase an interbasin transfer, or expand an  
19 interbasin transfer area, to an area within a straddling community but outside the  
20 Great Lakes basin or outside the source watershed if the water transferred will be  
21 used solely for public water supply purposes in the straddling community and all of  
22 the following apply:

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

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

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

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

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

12           2m. The proposal is consistent with an approved water supply service area plan  
13 under s. 281.348 that covers the public water supply system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           2. In determining whether to approve a proposal under this paragraph, the  
2 department shall give substantive consideration to whether the applicant provides  
3 sufficient scientifically based evidence that the existing water supply is derived from  
4 groundwater that is hydrologically interconnected to waters of the Great Lakes  
5 basin.

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

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

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

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

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

19           a. Not economically feasible.

20           b. Not environmentally sound.

21           c. Not in the interest of public health.

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

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

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

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

7           4m. If water will be returned to the source watershed through a stream  
8 tributary to one of the Great Lakes, the physical, chemical, and biological integrity  
9 of the receiving water under subd. 3. will be protected and sustained as required  
10 under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water  
11 before the proposal is implemented and considering both low and high flow  
12 conditions.

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

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

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

1 (g) *Conservation and efficient use of existing water supplies.* The department  
2 shall promulgate rules specifying the requirements for an applicant for a new,  
3 increased, or expanded interbasin transfer subject to par. (f) to demonstrate the  
4 efficient use and conservation of existing water supplies for the purposes of pars. (d)  
5 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to quantify the  
6 amount of water conserved through efficiency and conservation measures.

7 (i) *Interbasin transfer amount.* In an approval issued under this subsection or  
8 a modification granted under this subsection to increase the amount of an interbasin  
9 transfer, the department shall specify an interbasin transfer amount equal to the  
10 quantity of water that is reasonable for the purposes for which the interbasin  
11 transfer is proposed.

12 (4e) DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR WITHDRAWALS FROM THE  
13 GREAT LAKES BASIN. (a) Before issuing automatic notice of coverage under a general  
14 permit under sub. (4s) or an automatic individual permit under sub. (5) (c) for a  
15 withdrawal from the Great Lakes basin for which the department is required to issue  
16 automatic notice of coverage under a general permit or an automatic individual  
17 permit, the department shall determine the initial withdrawal amount for the  
18 withdrawal under this subsection.

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

24 2. If the department has issued an approval under s. 30.12, 30.18, 281.34, or  
25 281.41, or s. 281.17, 2001 stats., that is required for a withdrawal and the approval



1 contains a limit on the amount of water that may be withdrawn, the department  
2 shall provide an estimate of the initial withdrawal amount equal to the limit in the  
3 approval.

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

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

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

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

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

14 4. Amounts withdrawn during the 5 years before the year in which the person  
15 submits the information.

16 5. Successful water conservation efforts by persons using the water that is  
17 withdrawn.

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

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

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

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

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

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

19 **(4m) WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN.** Beginning on the  
20 earliest of the following dates, a person may not make a withdrawal from the Great  
21 Lakes basin that averages 100,000 gallons per day or more in any 30-day period  
22 unless the withdrawal is covered under a general permit under sub. (4s) or an  
23 individual permit under sub. (5):

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

1 (b) The compact's effective date.

2 (4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Department to*  
3 *issue.* The department shall issue one or more general permits to cover withdrawals  
4 from the Great Lakes basin that average 100,000 gallons per day or more in any  
5 30-day period but that do not equal at least 1,000,000 gallons per day for any 30  
6 consecutive days. The department shall include all of the following in a general  
7 permit:

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

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

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

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

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

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

1           (c) *Automatic notice of coverage for existing withdrawals.* The department shall  
2 automatically issue a notice of coverage under a general permit to a person who  
3 makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e)  
4 before the earlier of the dates under sub. (4m) (a) or (b), if the withdrawal averages  
5 100,000 gallons per day or more in any 30-day period but does not equal at least  
6 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department  
7 may request additional information before issuing a notice under this paragraph.  
8 The department shall issue a notice under this paragraph no later than the earlier  
9 of the dates under sub. (4m) (a) or (b). The department may promulgate a rule under  
10 which the department issues automatic notices of coverage under a general permit  
11 on a staggered schedule before the earlier of the dates under sub. (4m) (a) or (b). In  
12 the notice provided under this paragraph for a withdrawal, the department shall  
13 specify a withdrawal amount equal to the initial withdrawal amount determined  
14 under sub. (4e) for the withdrawal.

15           (d) *Coverage under general permit for new or increased withdrawals.* 1. A  
16 person who proposes to begin a withdrawal from the Great Lakes basin that will  
17 average 100,000 gallons per day or more in any 30-day period, or to increase an  
18 existing withdrawal so that it will average 100,000 gallons per day or more in any  
19 30-day period, after the first day of the 36th month beginning after the effective date  
20 of this subdivision .... [revisor inserts date], and to whom the department is not  
21 required to issue automatic notice of coverage under a general permit under par. (c),  
22 but who does not propose to withdraw at least 1,000,000 gallons per day for any 30  
23 consecutive days, shall apply to the department for coverage under a general permit.  
24 In the application, the person shall provide the information required by the  
25 department by rule.

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

6           3. Except as provided in subd. 3m., if the department determines that a  
7 withdrawal qualifies for coverage under a general permit and the department has  
8 issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats.,  
9 that are required for the withdrawal, the department shall issue a notice of coverage.  
10 In the notice, the department shall specify a withdrawal amount that is equal to the  
11 smallest of the following amounts:

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

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

20           3m. a. The department may not approve an application under subd. 1. for a  
21 withdrawal for the purpose of providing water to a public water supply system that  
22 is covered by an approved water supply service area plan under s. 281.348, unless  
23 the withdrawal is consistent with the water supply service area plan.

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

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

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

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

16 (e) *Increase in withdrawal amount.* 1. Before the <sup>compact's</sup> effective date of the compact,  
17 if a person making a withdrawal that is covered under a general permit proposes to  
18 increase the amount of the withdrawal over the withdrawal amount specified in the  
19 database under par. (i) for the withdrawal, but does not propose to withdraw at least  
20 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the  
21 department for a modification of the withdrawal amount.

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

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

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

9           3m. a. The department may not approve an application under subd. 1. for a  
10 withdrawal for the purpose of providing water to a public water supply system that  
11 is covered by an approved water supply service area plan under s. 281.348, unless  
12 the withdrawal is consistent with the water supply service area plan.

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

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

20           (g) *Redetermination.* A person to whom the department has issued a notice of  
21 coverage under a general permit shall apply to the department for redetermination  
22 of coverage under a new general permit at least 180 days before the end of the term  
23 of the current general permit if the person intends to continue to withdraw from the  
24 Great Lakes basin an average of 100,000 gallons per day or more in any 30-day  
25 period but does not intend to withdraw at least 1,000,000 gallons per day for any 30

1 consecutive days. If the person is in compliance with the current general permit and  
2 the withdrawal qualifies for coverage under the new general permit, the department  
3 shall issue a notice of coverage under the new general permit.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

22 3m. a. The department may not approve an application under subd. 1. for a  
23 withdrawal for the purpose of providing water to a public water supply system that  
24 is covered by an approved water supply service area plan under s. 281.348, unless  
25 the withdrawal is consistent with the water supply service area plan.

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

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

9           (e) *Increase in withdrawal amount.* 1. Before the effective date of the compact,  
10 if a person making a withdrawal that is covered under an individual permit proposes  
11 to increase the amount of the withdrawal over the withdrawal amount specified in  
12 the permit, the person shall apply to the department for a modification of the permit  
13 to increase the withdrawal amount.

14           3. Except as provided in subd. 3m., if the department has issued any approvals  
15 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for  
16 modifying the withdrawal, the department shall modify the withdrawal amount to  
17 an amount equal to the smallest of the following amounts:

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

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

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

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

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

11           (g) *Reissuance.* A person to whom the department has issued an individual  
12 permit under this subsection shall apply to the department for reissuance of the  
13 individual permit at least 180 days before the end of the term of the permit if the  
14 person intends to continue to withdraw from the Great Lakes basin at least 1,000,000  
15 gallons per day for any 30 consecutive days. If the department determines that the  
16 person is in compliance with the individual permit and that the withdrawal  
17 continues to qualify for an individual permit, the department shall reissue the  
18 permit.

19           (h) *Suspension and revocation.* After an opportunity for a hearing, the  
20 department may suspend or revoke a permit issued under this subsection for cause,  
21 including obtaining the permit by misrepresentation or failure to disclose relevant  
22 facts or violating the terms of the permit.

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

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

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

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

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

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

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

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

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

24 (d) *Water conservation and efficiency measures.* The department shall  
25 promulgate rules specifying water conservation and efficiency measures for the

1 purposes of this section. In the rules, the department may not require retrofitting  
2 of existing fixtures, appliances, or equipment. In specifying the measures, the  
3 department shall consider the results of any pilot water conservation program  
4 conducted by the department in cooperation with the regional body.

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

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

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

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

15 a. The name and address of each applicant.

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

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

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

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

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

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

16           (e) *Public access to information.* Any record or other information provided to  
17 or obtained by the department regarding a proposal for which an application under  
18 sub. (4) is received is a public record as provided in subch. II of ch. 19. The  
19 department shall make available to and provide facilities for the public to inspect and  
20 copy any records or other information provided to or obtained by the department  
21 regarding a proposal for which an application for a new or increased interbasin  
22 transfer under sub. (4) is received, except that any record or other information  
23 provided to the department may be treated as confidential upon a showing to the  
24 secretary that the record or information is entitled to protection as a trade secret, as  
25 defined in s. 134.90 (1) (c), or upon a determination by the department that domestic

1 security concerns warrant confidential treatment. Nothing in this subsection  
2 prevents the use of any confidential records or information obtained by the  
3 department in the administration of this section in compiling or publishing general  
4 analyses or summaries, if the analyses or summaries do not identify a specific owner  
5 or operator.

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

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

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

15 SECTION 5. 281.346 of the statutes is created to read:

16 **281.346 Water conservations<sup>3</sup> reporting, and supply regulation; after**  
17 **the compact takes effect. (1) DEFINITIONS. In this section:**

18 (d) "Community within a straddling county" means any city, village, or town  
19 that is not a straddling community and that is located outside the Great Lakes basin  
20 but wholly within a county that lies partly within the Great Lakes basin.

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

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



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

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

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

17           1. The transfer of a product produced in the Great Lakes basin or in the  
18           watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of  
19           the Great Lakes basin or out of that watershed.

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

23           3. The transfer of bottled water from the Great Lakes basin in containers of  
24           5.7 gallons or less.

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

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

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

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

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

21 1. Environmentally sound.

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

23 3. Technically feasible and available.

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

1 (je) "Great Lakes basin" means the watershed of the Great Lakes and the St.  
2 Lawrence River upstream from Trois—Rivieres, Quebec, within the jurisdiction of  
3 the parties.

4 (ji) "Great Lakes basin ecosystem" means the interacting components of air,  
5 land, water, and living organisms, including humans, within the Great Lakes basin.

6 (jj) "Great Lakes council" means the Great Lakes—St. Lawrence River Basin  
7 Water Resources Council, created under s. 281.343 (2) (a).

8 (jm) "Intrabasin transfer" means the transfer of water from the watershed of  
9 one of the Great Lakes into the watershed of another of the Great Lakes.

10 (n) "Party" means a state that is a party to the compact.

11 (nm) Notwithstanding s. 281.01 (9), "person" means an individual or other  
12 entity, including a government or a nongovernmental organization, including any  
13 scientific, professional, business, nonprofit, or public interest organization or  
14 association that is neither affiliated with nor under the direction of a government.

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

- 19 1. Water used as part of the packaging of a product is part of the product.
- 20 2. Other than water used as part of the packaging of a product, water that is  
21 used primarily to transport materials in or out of the Great Lakes basin is not a  
22 product or part of a product.
- 23 3. Except as provided in subd. 1., water that is transferred as part of a public  
24 or private supply is not a product or part of a product.

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

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

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

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

13           (qm) "Regional review" means review by the regional body as described in s.  
14 281.343 (4h).

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

22           (t) "Straddling community" means any city, village, or town that, based on its  
23 boundary existing as of the compact's effective date, is partly within the Great Lakes  
24 basin or partly within the watersheds of 2 of the Great Lakes and that is wholly  
25 within any county that lies partly or completely within the Great Lakes basin.

1 (u) "Technical review" means a thorough analysis and evaluation conducted to  
2 determine whether a proposal that is subject to regional review under this section  
3 meets the criteria for approval under sub. (4), (5), or (6).

4 (um) "Upper Mississippi River basin" means the watershed of the Mississippi  
5 River upstream from Cairo, Illinois.

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

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

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

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

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

17 (z) "Withdrawal" means the taking of water from surface water or groundwater. *81-17*

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

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

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

1 within the Great Lakes basin to supply a common distribution system is considered  
2 one diversion or withdrawal.

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

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

8 (e) *Baseline.* 1. The baseline for a withdrawal that is covered by a general  
9 permit issued under s. 281.344 (4s) on the compact's effective date is the withdrawal  
10 amount specified for the withdrawal in the database under s. 281.344 (4s) (i) on the  
11 compact's effective date. The baseline for a withdrawal for which the department has  
12 issued an individual permit under s. 281.344 (5) before the compact's effective date  
13 is the withdrawal amount specified in the permit on the compact's effective date.  
14 There is no baseline for any other withdrawal.

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

19 4. The baseline volume for a diversion for which the department has issued an  
20 approval under s. 281.344 (3m) or (4) before the compact's effective date is the  
21 interbasin transfer amount specified in the approval on the compact's effective date.  
22 There is no baseline for any other diversion.

23 6. The department shall provide a list of the baseline volumes determined  
24 under this paragraph to the Great Lakes council and the regional body no later than  
25 12 months after the compact's effective date.

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

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

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

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

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

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

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

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

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

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

9 (e) 1. Each person who makes a withdrawal from the waters of the state that  
10 averages 100,000 gallons per day or more in any 30-day period or diverts any amount  
11 and who has registered the withdrawal or diversion under par. (a) or s. 287.344 (3)  
12 (a) shall annually report to the department the monthly volumes of withdrawal,  
13 whether the person withdraws at least 1,000,000 gallons per day for 30 consecutive  
14 days, and, if applicable, the volumes of diversion and, subject to par. (em), water loss  
15 from consumptive use.

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

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



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

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

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

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

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

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

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

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

5           4p. If the person who applies under subd. 1. will not directly return the water  
6 to the Great Lakes basin, the person shall identify the entity that will return the  
7 water and provide evidence of any agreement necessary to have that entity return  
8 the water.

9           4s. 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 documentation of how the  
11 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will  
12 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,  
13 considering the state of the receiving water before the proposal is implemented. If  
14 the receiving water is a surface water body that is tributary to one of the Great Lakes,  
15 the person shall include a description of the flow of the receiving water before the  
16 proposal is implemented, considering both low and high flow conditions.

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

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

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

1           b. If the proposal is to provide a public water supply within more than one city,  
2 village, or town, any portion of the proposal that provides a public water supply  
3 within a straddling community is subject to par. (c) and any portion of the proposal  
4 that provides a public water supply within a community within a straddling county  
5 is subject to par. (e).

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

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

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

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

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

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

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

8           2m. The proposal is consistent with an approved water supply service area plan  
9 under s. 281.348 that covers the public water supply system.

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

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

16           a. The department conducts a technical review.

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

18           1.

19           c. The proposal undergoes regional review.

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

22           (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.  
23 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.  
24 (c) does not apply that would average less than 100,000 gallons per day in every  
25 90-day period, if the proposal meets the applicable requirements in s. 30.18, 281.34,

1 or 281.41 or, if those sections do not apply, any requirements specified by the  
2 department by rule and, if the water will be used for public water supply purposes,  
3 the proposal is consistent with an approved water supply service area plan under s.  
4 281.348 that covers the public water supply system.

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

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

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

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

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

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

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

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

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

8           d. The department conducts a technical review.

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

10          1.

11           f. The proposal undergoes regional review.

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

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

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

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

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

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

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

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

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

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

11 f. The department conducts a technical review.

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

13 1.

14 h. The proposal undergoes regional review.

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

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

18 2. In determining whether to approve a proposal under this paragraph, the  
19 department shall give substantive consideration to whether the applicant provides  
20 sufficient scientifically based evidence that the existing water supply is derived from  
21 groundwater that is hydrologically interconnected to waters of the Great Lakes  
22 basin.

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