

1 (4v) WATER MANAGEMENT AND REGULATION; EXEMPTIONS. Withdrawals from the
2 basin for the following purposes are exempt from the requirements of subs. (4) to (4z):

3 (a) To supply vehicles, including vessels and aircraft, whether for the needs of
4 the 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 on a short-term basis for fire fighting,
7 humanitarian, or emergency response purposes.

8 (4x) WATER MANAGEMENT AND REGULATION; U.S. SUPREME COURT DECREE IN
9 WISCONSIN ET AL. V. ILLINOIS ET AL. (a) Notwithstanding any terms of this compact to
10 the contrary, with the exception of par. (e), current, new, or increased withdrawals,
11 consumptive uses, and diversions of basin water by the state of Illinois shall be
12 governed by the terms of the United States Supreme Court decree in *Wisconsin et al.*
13 *v. Illinois et al.* and shall not be subject to the terms of this compact nor any rules or
14 regulations promulgated pursuant to this compact. This means that, with the
15 exception of par. (e), for purposes of this compact, current, new, or increased
16 withdrawals, consumptive uses, and diversions of basin water within the state of
17 Illinois shall be allowed unless prohibited by the terms of the United States Supreme
18 Court decree in *Wisconsin et al. v. Illinois et al.*

19 (b) The parties acknowledge that the United States Supreme Court decree in
20 *Wisconsin et al. v. Illinois et al.* shall continue in full force and effect, that this
21 compact shall not modify any terms thereof, and that this compact shall grant the
22 parties no additional rights, obligations, remedies, or defenses thereto. The parties
23 specifically acknowledge that this compact shall not prohibit or limit the state of
24 Illinois in any manner from seeking additional basin water as allowed under the
25 terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.*,

1 any other party from objecting to any request by the state of Illinois for additional
2 basin water under the terms of said decree, or any party from seeking any other type
3 of modification to said decree. If an application is made by any party to the Supreme
4 Court of the United States to modify said decree, the parties to this compact who are
5 also parties to the decree shall seek formal input from the Canadian Provinces of
6 Ontario and Quebec with respect to the proposed modification, shall use best efforts
7 to facilitate the appropriate participation of said provinces in the proceedings to
8 modify the decree, and shall not unreasonably impede or restrict such participation.

9 (c) With the exception of par. (e), because current, new, or increased
10 withdrawals, consumptive uses, and diversions of basin water by the state of Illinois
11 are not subject to the terms of this compact, the state of Illinois is prohibited from
12 using any term of this compact, including sub. (4n), to seek new or increased
13 withdrawals, consumptive uses, or diversions of basin water.

14 (d) With the exception of par. (e), because subs. (4d), (4f), (4h), (4j), (4L), (4m),
15 (4n), (4p), (4r), (4t) (a), (b), (c), (d), (f), and (j), and (4v) all relate to current, new, or
16 increased withdrawals, consumptive uses, and diversions of basin waters, said
17 provisions do not apply to the state of Illinois. All other provisions of this compact
18 not listed in the preceding sentence shall apply to the state of Illinois, including the
19 water conservation programs provision of sub. (4b).

20 (e) In the event of a proposal for a diversion of basin water for use outside the
21 territorial boundaries of the parties to this compact, decisions by the state of Illinois
22 regarding such a proposal would be subject to all terms of this compact, except pars.
23 (a), (c), and (d).

24 (f) For purposes of the state of Illinois' participation in this compact, the
25 entirety of this subsection is necessary for the continued implementation of this

1 compact and, if severed, this compact shall no longer be binding on or enforceable by
2 or against the state of Illinois.

3 (4z) WATER MANAGEMENT AND REGULATION; ASSESSMENT OF CUMULATIVE IMPACTS.

4 (a) The parties in cooperation with the provinces shall collectively conduct within
5 the basin, on a lake watershed and St. Lawrence River basin basis, a periodic
6 assessment of the cumulative impacts of withdrawals, diversions, and consumptive
7 uses from the waters of the basin, every 5 years or each time the incremental basin
8 water losses reach 50,000,000 gallons per day average in any 90-day period in excess
9 of the quantity at the time of the most recent assessment, whichever comes first, or
10 at the request of one or more of the parties. The assessment shall form the basis for
11 a review of the standard of review and decision, council and party regulations, and
12 their application. This assessment shall:

13 1. Utilize the most current and appropriate guidelines for such a review, which
14 may include but not be limited to council on environmental quality and environment
15 Canada guidelines;

16 2. Give substantive consideration to climate change or other significant threats
17 to basin waters and take into account the current state of scientific knowledge, or
18 uncertainty, and appropriate measures to exercise caution in cases of uncertainty if
19 serious damage may result; and

20 3. Consider adaptive management principles and approaches, recognizing,
21 considering, and providing adjustments for the uncertainties in, and evolution of,
22 science concerning the basin's water resources, watersheds, and ecosystems,
23 including potential changes to basin-wide processes, such as lake level cycles and
24 climate.

1 (b) The parties have the responsibility of conducting this cumulative impact
2 assessment. Applicants are not required to participate in this assessment.

3 (c) Unless required by other statutes, applicants are not required to conduct a
4 separate cumulative impact assessment in connection with an application but shall
5 submit information about the potential impacts of a proposal to the quantity or
6 quality of the waters and water dependent natural resources of the applicable source
7 watershed. An applicant may, however, provide an analysis of how the applicant's
8 proposal meets the no significant adverse cumulative impact provision of the
9 standard of review and decision.

10 (5) CONSULTATION WITH TRIBES. (a) In addition to all other opportunities to
11 comment pursuant to sub. (6) (b), appropriate consultations shall occur with
12 federally recognized tribes in the originating party for all proposals subject to council
13 or regional review pursuant to this compact. Such consultations shall be organized
14 in the manner suitable to the individual proposal and the laws and policies of the
15 originating party.

16 (b) All federally recognized tribes within the basin shall receive reasonable
17 notice indicating that they have an opportunity to comment in writing to the council
18 or the regional body, or both, and other relevant organizations on whether the
19 proposal meets the requirements of the standard of review and decision when a
20 proposal is subject to regional review or council approval. Any notice from the council
21 shall inform the tribes of any meeting or hearing that is to be held under sub. (6) (b)
22 and invite them to attend. The parties and the council shall consider the comments
23 received under this subsection before approving, approving with modifications, or
24 disapproving any proposal subject to council or regional review.

1 (c) In addition to the specific consultation mechanisms described above, the
2 council shall seek to establish mutually agreed upon mechanisms or processes to
3 facilitate dialogue with, and input from, federally recognized tribes on matters to be
4 dealt with by the council; and the council shall seek to establish mechanisms and
5 processes with federally recognized tribes designed to facilitate ongoing scientific
6 and technical interaction and data exchange regarding matters falling within the
7 scope of this compact. This may include participation of tribal representatives on
8 advisory committees established under this compact or such other processes that are
9 mutually agreed upon with federally recognized tribes individually or through duly
10 authorized intertribal agencies or bodies.

11 (6) PUBLIC PARTICIPATION. (a) *Meetings, public hearings, and records.* 1. The
12 parties recognize the importance and necessity of public participation in promoting
13 management of the water resources of the basin. Consequently, all meetings of the
14 council shall be open to the public, except with respect to issues of personnel.

15 2. The minutes of the council shall be a public record open to inspection at its
16 offices during regular business hours.

17 (b) *Public participation.* It is the intent of the council to conduct public
18 participation processes concurrently and jointly with processes undertaken by the
19 parties and through regional review. To ensure adequate public participation, each
20 party or the council shall ensure procedures for the review of proposals subject to the
21 standard of review and decision consistent with the following requirements:

22 1. Provide public notification of receipt of all applications and a reasonable
23 opportunity for the public to submit comments before applications are acted upon.

24 2. Assure public accessibility to all documents relevant to an application,
25 including public comment received.

1 3. Provide guidance on standards for determining whether to conduct a public
2 meeting or hearing for an application, time and place of such a meeting or hearing,
3 and procedures for conducting of the same.

4 4. Provide the record of decision for public inspection including comments,
5 objections, responses, and approvals, approvals with conditions, and disapprovals.

6 **(7)** DISPUTE RESOLUTION AND ENFORCEMENT; GOOD FAITH IMPLEMENTATION. Each
7 of the parties pledges to support implementation of all provisions of this compact,
8 and covenants that its officers and agencies shall not hinder, impair, or prevent any
9 other party carrying out any provision of this compact.

10 **(7g)** DISPUTE RESOLUTION AND ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.

11 (a) Desiring that this compact be carried out in full, the parties agree that disputes
12 between the parties regarding interpretation, application, and implementation of
13 this compact shall be settled by alternative dispute resolution.

14 (b) The council, in consultation with the provinces, shall provide by rule
15 procedures for the resolution of disputes pursuant to this subsection.

16 **(7r)** DISPUTE RESOLUTION AND ENFORCEMENT; ENFORCEMENT. (a) Any person
17 aggrieved by any action taken by the council pursuant to the authorities contained
18 in this compact shall be entitled to a hearing before the council. Any person
19 aggrieved by a party action shall be entitled to a hearing pursuant to the relevant
20 party's administrative procedures and laws. After exhaustion of such
21 administrative remedies, any aggrieved person shall have the right to judicial review
22 of a council action in the United States district court for the District of Columbia or
23 the district court in which the council maintains offices, provided such action is
24 commenced within 90 days; and any aggrieved person shall have the right to judicial
25 review of a party's action in the relevant party's court of competent jurisdiction,

1 provided that an action or proceeding for such review is commenced within the time
2 frames provided for by the party's law. For the purposes of this paragraph, a state
3 or province is deemed to be an aggrieved person with respect to any party action
4 pursuant to this compact.

5 (b) 1. Any party or the council may initiate actions to compel compliance with
6 the provisions of this compact, and the rules and regulations promulgated hereunder
7 by the council. Jurisdiction over such actions is granted to the court of the relevant
8 party, as well as the United States district court for the District of Columbia and the
9 district court in which the council maintains offices. The remedies available to any
10 such court shall include, but not be limited to, equitable relief and civil penalties.

11 2. Each party may issue orders within its respective jurisdiction and may
12 initiate actions to compel compliance with the provisions of its respective statutes
13 and regulations adopted to implement the authorities contemplated by this compact
14 in accordance with the provisions of the laws adopted in each party's jurisdiction.

15 (c) 1. Any aggrieved person, party, or the council may commence a civil action
16 in the relevant party's courts and administrative systems to compel any person to
17 comply with this compact should any such person, without approval having been
18 given, undertake a new or increased withdrawal, consumptive use, or diversion that
19 is prohibited or subject to approval pursuant to this compact.

20 2. No action under this paragraph may be commenced if:

21 a. The originating party or council approval for the new or increased
22 withdrawal, consumptive use, or diversion has been granted; or

23 b. The originating party or council has found that the new or increased
24 withdrawal, consumptive use, or diversion is not subject to approval pursuant to this
25 compact.

1 3. No action under this paragraph may be commenced unless:

2 a. A person commencing such action has first given 60 days prior notice to the
3 originating party, the council, and person alleged to be in noncompliance; and

4 b. Neither the originating party nor the council has commenced and is
5 diligently prosecuting appropriate enforcement actions to compel compliance with
6 this compact.

7 (d) The available remedies shall include equitable relief, and the prevailing or
8 substantially prevailing party may recover the costs of litigation, including
9 reasonable attorney and expert witness fees, whenever the court determines that
10 such an award is appropriate.

11 (e) Each of the parties may adopt provisions providing additional enforcement
12 mechanisms and remedies including equitable relief and civil penalties applicable
13 within its jurisdiction to assist in the implementation of this compact.

14 **(8) ADDITIONAL PROVISIONS.** (a) *Effect on existing rights.* 1. Nothing in this
15 compact shall be construed to affect, limit, diminish, or impair any rights validly
16 established and existing as of the effective date of this compact under state or federal
17 law governing the withdrawal of waters of the basin.

18 2. Nothing contained in this compact shall be construed as affecting or
19 intending to affect or in any way to interfere with the law of the respective parties
20 relating to common law water rights.

21 3. Nothing in this compact is intended to abrogate or derogate from treaty
22 rights or rights held by any tribe recognized by the federal government of the United
23 States based upon its status as a tribe recognized by the federal government of the
24 United States.

1 4. An approval by a party or the council under this compact does not give any
2 property rights, nor any exclusive privileges, nor shall it be construed to grant or
3 confer any right, title, easement, or interest in, to, or over any land belonging to or
4 held in trust by a party; neither does it authorize any injury to private property or
5 invasion of private rights, nor infringement of federal, state, or local laws or
6 regulations; nor does it obviate the necessity of obtaining federal assent when
7 necessary.

8 (b) *Relationship to agreements concluded by the United States of America.* 1.
9 Nothing in this compact is intended to provide nor shall be construed to provide,
10 directly or indirectly, to any person any right, claim, or remedy under any treaty or
11 international agreement nor is it intended to derogate any right, claim, or remedy
12 that already exists under any treaty or international agreement.

13 2. Nothing in this compact is intended to infringe nor shall be construed to
14 infringe upon the treaty power of the United States of America, nor shall any term
15 hereof be construed to alter or amend any treaty or term thereof that has been or may
16 hereafter be executed by the United States of America.

17 3. Nothing in this compact is intended to affect nor shall be construed to affect
18 the application of the Boundary Waters Treaty of 1909 whose requirements continue
19 to apply in addition to the requirements of this compact.

20 (c) *Confidentiality.* 1. Nothing in this compact requires a party to breach
21 confidentiality obligations or requirements prohibiting disclosure or to compromise
22 security of commercially sensitive or proprietary information.

23 2. A party may take measures, including but not limited to deletion and
24 redaction, deemed necessary to protect any confidential, proprietary, or
25 commercially sensitive information when distributing information to other parties.

1 The party shall summarize or paraphrase any such information in a manner
2 sufficient for the council to exercise its authorities contained in this compact.

3 (d) *Additional laws.* Nothing in this compact shall be construed to repeal,
4 modify, or qualify the authority of any party to enact any legislation or enforce any
5 additional conditions and restrictions regarding the management and regulation of
6 waters within its jurisdiction.

7 (e) *Amendments and supplements.* The provisions of this compact shall remain
8 in full force and effect until amended by action of the governing bodies of the parties
9 and consented to and approved by any other necessary authority in the same manner
10 as this compact is required to be ratified to become effective.

11 (f) *Severability.* Should a court of competent jurisdiction hold any part of this
12 compact to be void or unenforceable, it shall be considered severable from those
13 portions of the compact capable of continued implementation in the absence of the
14 voided provisions. All other provisions capable of continued implementation shall
15 continue in full force and effect.

16 (g) *Duration of compact and termination.* 1. Once effective, the compact shall
17 continue in force and remain binding upon each and every party unless terminated.

18 2. This compact may be terminated at any time by a majority vote of the parties.
19 In the event of such termination, all rights established under it shall continue
20 unimpaired.

21 (9) EFFECTUATION. (b) *Effectuation by chief executive.* The governor is
22 authorized to take such action as may be necessary and proper in his or her discretion
23 to effectuate the compact and the initial organization and operation thereunder,
24 consistent with s. 281.346.

1 (c) *Entire agreement.* The parties consider this compact to be complete and an
2 integral whole. Each provision of this compact is considered material to the entire
3 compact, and failure to implement or adhere to any provision may be considered a
4 material breach. Unless otherwise noted in this compact, any change or amendment
5 made to the compact by any party in its implementing legislation or by the U.S.
6 Congress when giving its consent to this compact is not considered effective unless
7 concurred in by all parties.

8 (d) *Effective date and execution.* This compact shall become binding and
9 effective when ratified through concurring legislation by the states of Illinois,
10 Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin and the
11 Commonwealth of Pennsylvania and consented to by the U.S. Congress.

12 **SECTION 10.** 281.344 of the statutes is created to read:

13 **281.344 Water conservation, reporting, and supply regulation; when**
14 **compact is not in effect. (1) DEFINITIONS.** In this section:

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

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

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

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

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

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

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

20 (j) "Facility" means an operating plant or establishment providing electricity
21 to the public or carrying on any manufacturing activity, trade, or business on one site,
22 including similar plants or establishments under common ownership or control
23 located on contiguous properties. ✓

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

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

3 (k) "Interbasin transfer" means a transfer of water from the Great Lakes basin
4 into a watershed outside of the Great Lakes basin or from the watershed of one of the
5 Great Lakes into that of another, except that "interbasin transfer" does not include
6 any of the following:

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

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

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

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.

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

21 1. Water used as part of the packaging of a product is part of the product.
22 2. Other than water used as part of the packaging of a product, water that is
23 used primarily to transport materials in or out of the Great Lakes basin is not a
24 product or part of a product.

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

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

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

9 (ps) "Reasonable supply alternative" means a supply alternative that is similar
10 in cost to, and as environmentally sustainable and protective of public health as, the
11 proposed new or increased interbasin transfer and that does not have greater
12 adverse environmental impacts than the proposed new or increased interbasin
13 transfer.

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

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

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 (wp) "Water supply system," when not preceded by "public," means one of the
11 following:

12 1. Except as provided in subd. 2., the equipment handling water from the point
13 of intake of the water to the first point at which the water is used.

14 2. For a system for providing a public water supply, the equipment from the
15 point of intake of the water to first point at which the water is distributed.

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

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

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

22 (z) "Withdrawal" means the taking of water from surface water or groundwater,
23 including the taking of surface water or groundwater for the purpose of bottling the
24 water.

1 (zm) "Without adequate supplies of potable water" means without a water
2 supply that is economically and environmentally sustainable in the long term to
3 meet reasonable demands for a water supply in the quantity and quality that
4 complies with applicable drinking water standards, is protective of public health, is
5 available at a reasonable cost, and does not have adverse environmental impacts
6 greater than those likely to result from the proposed new or increased interbasin
7 transfer. ✓

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

12 (b) *Transfers and withdrawals from more than one source*. For the purposes
13 of this section, the interbasin transfer or withdrawal of water from more than one
14 source within the Great Lakes basin to supply a single facility or public water supply
15 system is considered one interbasin transfer or withdrawal. ✓

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

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

21 (e) *Public trust doctrine*. Nothing in this section or s. 281.343 may be
22 interpreted to change the application of the public trust doctrine under article IX,
23 section 1, of the Wisconsin Constitution. ✓

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

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

7 2. Any person who, after the first day of the 36th month beginning after the
8 effective date of this subdivision [revisor inserts date], or, if the withdrawal is from
9 the Great Lakes basin, on the compact's effective date if that is sooner, proposes to
10 begin a withdrawal from the waters of the state using a water supply system that will
11 have the capacity to withdraw an average of 100,000 gallons per day or more in any
12 30-day period, to increase the capacity of a water supply system that existed on the
13 first day of the 36th month beginning after the effective date of this subdivision
14 [revisor inserts date], or, if the withdrawal is from the Great Lakes basin, on the
15 compact's effective date if that is sooner, so that it will have the capacity to withdraw
16 an average of 100,000 gallons per day or more in any 30-day period, or to begin an
17 interbasin transfer shall register the withdrawal or interbasin transfer with the
18 department.

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

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

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

3 5. The uses made of the water.

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

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

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

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

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

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

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

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

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

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

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

8 **(3e) DETERMINING INITIAL INTERBASIN TRANSFER AMOUNTS.** (a) Before issuing an
9 automatic approval under sub. (3m) for an interbasin transfer to a person operating
10 a public water supply system, the department shall determine the initial interbasin
11 transfer amount for the interbasin transfer under this subsection.

12 (b) The department shall determine the initial interbasin transfer amount
13 under this subsection for a public water supply system to be the amount of water
14 necessary to provide water for public water supply purposes in the area in at least
15 part of which the public water supply system delivers water to customers before the
16 compact's effective date that is all of the following:

- 17 1. Outside of the Great Lakes basin.
18 2. Within a sewer service territory that provides for return of wastewater to the
19 Great Lakes basin and that is specified in the sewer service area provisions of an
20 areawide water quality management plan under s. 283.83 approved by the
21 department before December 31, 2007.

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

1 **(3m) AUTOMATIC APPROVAL FOR EXISTING INTERBASIN TRANSFERS.** Before the
2 compact's effective date, the department shall automatically issue an approval for
3 an interbasin transfer that begins before the compact's effective date, to a person who
4 operates a public water supply system that receives water from the interbasin
5 transfer and that delivers water to customers in an area that is outside of the Great
6 Lakes basin and that is within a sewer service territory that provides for return of
7 wastewater to the Great Lakes basin as specified in the sewer service area provisions
8 of an areawide water quality management plan under s. 283.83 approved by the
9 department before December 31, 2007. The department may not issue an automatic
10 approval under this subsection[✓] before the interbasin transfer begins. In the
11 automatic approval, the department shall specify an interbasin transfer amount
12 equal to the amount determined under sub. (3e) and an interbasin transfer area that
13 is the area described in sub. (3e) (b).

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

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

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

23 3. No person may increase an interbasin transfer over the interbasin transfer
24 amount in an approval issued under sub. (3m) or expand the interbasin transfer area
25 beyond the area specified in an approval under sub. (3m) unless the department

1 modifies the approval under par. (c), (d), or (e) to increase the interbasin transfer
2 amount or to expand the interbasin transfer area.

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

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

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

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

18 4m. If a person who applies under subd. 1. will not directly withdraw the water
19 proposed to be transferred, the person shall identify the entity that will withdraw the
20 water and provide evidence of support from that entity in the form of a letter or
21 resolution. ✓

22 4p. If the person who applies under subd. 1. will not directly return the water
23 to the Great Lakes basin, the person shall identify the entity that will return the
24 water and provide evidence of support from that entity in the form of a letter or
25 resolution. ✓

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 as required under ss. 30.12, 281.15, and 283.31,
5 considering the state of the receiving water before the proposal is implemented and
6 considering potential adverse impacts due to changes in temperature and nutrient
7 loadings. If the receiving water is a surface water body that is tributary to one of the
8 Great Lakes, the person shall include a description of the flow of the receiving water
9 before the proposal is implemented, considering both low and high flow conditions.

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

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

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

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

24 2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a
25 proposal under par. (b), the department shall use, as appropriate, the planned

1 service area of the public water supply system receiving water under the proposal.
2 The planned service area is the service area of the system at the end of any planning
3 period authorized by the department in the approved water supply service area plan
4 under s. 281.348 that covers the public water supply system.

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

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

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

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

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

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

1 2m. The proposal is consistent with an approved water supply service area plan
2 under s. 281.348 that covers the public water supply system.

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

6 (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.
7 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.
8 (c) does not apply that would average less than 100,000 gallons per day in every
9 90-day period, if the proposal meets the applicable requirements under s. 30.18,
10 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the
11 department by rule and, if the water will be used for public water supply purposes,
12 the proposal is consistent with an approved water supply service area plan under s.
13 281.348 that covers the public water supply system.

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

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

22 b. The applicant demonstrates that there is no feasible, cost-effective, and
23 environmentally sound water supply alternative within the watershed to which the
24 water will be transferred, including conservation of existing water supplies as
25 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 3. The department may approve a proposal under par. (b) for a new intrabasin
5 transfer or an increase in an intrabasin transfer to which par. (c) does not apply with
6 a new water loss or an increase in water loss that would average 5,000,000 gallons
7 per day or more in any 90-day period, if all of the following apply:

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

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

20 a. The community is without adequate supplies of potable water.

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

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

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

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

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

9 2. In determining whether to approve a proposal under this paragraph, the
10 department shall give substantive consideration to whether the applicant provides
11 sufficient scientifically based evidence that the existing water supply is derived from
12 groundwater that is hydrologically interconnected to waters of the Great Lakes
13 basin. The department may not use a lack of hydrological connection to the waters
14 of the Great Lakes basin as a reason to disapprove a proposal. ✓

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

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

20 2. The interbasin transfer is limited to quantities that are reasonable for the
21 purposes for which the interbasin transfer 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. If the water is returned through a structure on the bed of a navigable water,
15 the structure is designed and will be operated to meet the applicable permit
16 requirements under s. 30.12 and the department has approved the permit under s.
17 30.12.

18 4m. If water will be returned to the source watershed through a stream
19 tributary to one of the Great Lakes, the physical, chemical, and biological integrity
20 of the receiving water under subd. 3. will be protected and sustained as required
21 under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water
22 before the proposal is implemented and considering both low and high flow
23 conditions and potential adverse impacts due to changes in temperature and
24 nutrient loadings. ✓

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

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

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

14 (g) *Conservation and efficient use of existing water supplies.* The department
15 shall promulgate rules specifying the requirements for an applicant for a new,
16 increased, or expanded interbasin transfer subject to par. (f) to demonstrate the
17 efficient use and conservation of existing water supplies for the purposes of pars. (d)
18 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the
19 water conservation planning and analysis used to identify the water conservation
20 and efficiency measures that the applicant determined were feasible, based on an
21 analysis that considered direct and avoided economic and environmental costs, and
22 that the applicant implemented and requiring the applicant to quantify the amount
23 of water conserved through those efficiency and conservation measures. ✓

24 (i) *Interbasin transfer amount.* In an approval issued under this subsection or
25 a modification granted under this subsection to increase the amount of an interbasin

1 transfer, the department shall specify an interbasin transfer amount equal to the
2 quantity of water that is reasonable for the purposes for which the interbasin
3 transfer is proposed.

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

11 (b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall
12 estimate the initial withdrawal amount for a withdrawal based on the maximum
13 hydraulic capacity of the most restrictive component in the water supply system used
14 for the withdrawal as of the date that the department makes the estimate, based on
15 information available to the department.

16 2. Except as provided in subd. 3e., if the department has issued an approval
17 under s. 30.12, 30.18, 281.34, or 281.41, or s. 281.17, 2001 stats., that is required for
18 a withdrawal and the approval contains a limit on the amount of water that may be
19 withdrawn, the department shall provide an estimate of the initial withdrawal
20 amount equal to the limit in the approval.

21 3e. If water is withdrawn through more than one water supply system to serve
22 a facility, the department shall determine the amount under subd. 1. for each of the
23 water supply systems to which subd. 2. does not apply and shall determine the
24 amount under subd. 2. for each of the water supply systems to which subd. 2. applies

1 and shall provide an estimate of the initial withdrawal amount that is equal to the
2 sum of the amounts determined for each of the water supply systems.

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

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

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

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

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

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

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

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

19 7. Other relevant information. ✓

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

24 (f) For a public water supply system that, on the effective date of this paragraph
25 [revisor inserts date], has approval under s. 281.41 to provide water from the

1 Great Lakes basin for public water supply purposes outside of the Great Lakes basin
2 and approval under s. 283.31 to return the associated wastewater to the Great Lakes
3 basin, the department shall determine the initial withdrawal amount to be the
4 amount of water necessary to provide water for public water supply purposes in the
5 service territory specified in the sewer service area provisions of the areawide water
6 quality management plan under s. 283.83 approved by the department before
7 December 31, 2007, based on the population and related service projections in those
8 provisions.

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

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

17 **(4m) WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN.** Beginning on the
18 earliest of the following dates, except as provided in sub. (4s) (bm), a person may not
19 make a withdrawal from the Great Lakes basin that averages 100,000 gallons per
20 day or more in any 30-day period unless the withdrawal is covered under a general
21 permit under sub. (4s) or an individual permit under sub. (5):

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

24 (b) The compact's effective date.

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

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

8 2. Requirements for estimating the amount withdrawn, monitoring the
9 withdrawal, if necessary, and reporting the results of the estimating and monitoring,
10 as provided in rules promulgated by the department. ✓

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

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

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

22 (bm) *Waiver.* The department may waive the requirement to obtain coverage
23 under a general permit for a person making a withdrawal that is covered by a permit
24 under s. 30.18 (2) (a).

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 that are required for the withdrawal under s. 30.12, 30.18,
9 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of
10 coverage. In the notice, the department shall specify a withdrawal amount that is,
11 except as provided in subd. 3e., equal to the 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 3e. If water is withdrawn through more than one water supply system to serve
21 a facility, the department shall determine the smallest amounts under subd. 3. a. or
22 b. for each of the water supply systems and shall specify a withdrawal amount that
23 is equal to the sum of the amounts determined for each of the water supply systems. ✓

24 3m. a. The department may not approve an application under subd. 1. for a
25 withdrawal for the purpose of providing water to a public water supply system that

1 is covered by an approved water supply service area plan under s. 281.348, unless
2 the withdrawal is consistent with the water supply service area plan.

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

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

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

20 (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if
21 a person making a withdrawal that is covered under a general permit proposes to
22 increase the amount of the withdrawal over the withdrawal amount specified in the
23 database under par. (i) for the withdrawal, but does not propose to withdraw at least
24 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the
25 department for a modification of the withdrawal amount.

1 3. Except as provided in subd. 3m., if the department has issued any approvals
2 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or
3 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount
4 to an amount that is, except as provided in subd. 3e., equal to the smallest of the
5 following amounts:

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

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

14 3e. If water is withdrawn through more than one water supply system to serve
15 a facility, the department shall determine the smallest amount under subd. 3. a. or
16 b. for each of the water supply systems and shall specify a withdrawal amount that
17 is equal to the sum of the amounts determined for each of the water supply systems.

18 3m. a. The department may not approve an application under subd. 1. for a
19 withdrawal for the purpose of providing water to a public water supply system that
20 is covered by an approved water supply service area plan under s. 281.348, unless
21 the withdrawal is consistent with the water supply service area plan.

22 b. If the department approves an application under subd. 1. for a withdrawal
23 for the purpose of providing water to a public water supply system that is covered by
24 an approved water supply service area plan under s. 281.348, the department shall

1 modify the withdrawal amount to an amount equal to the withdrawal amount in the
2 water supply service area plan.

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

5 (g) *Redetermination.* A person to whom the department has issued a notice of
6 coverage under a general permit shall apply to the department for redetermination
7 of coverage under a new general permit at least 180 days before the end of the term
8 of the current general permit if the person intends to continue to withdraw from the
9 Great Lakes basin an average of 100,000 gallons per day or more in any 30-day
10 period but does not intend to withdraw at least 1,000,000 gallons per day for any 30
11 consecutive days. If the person is in substantial compliance with the current general
12 permit and the withdrawal qualifies for coverage under the new general permit, the
13 department shall issue a notice of coverage under the new general permit.

14 (h) *Suspension and revocation.* After an opportunity for a hearing, the
15 department may suspend or revoke coverage under a general permit issued under
16 this subsection for cause, including obtaining coverage under the permit by
17 misrepresentation or failure to disclose material facts or substantially violating the
18 terms of the permit.

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

22 (5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Requirement.*
23 Beginning on the earlier of the dates under sub. (4m) (a) or (b), a person may not
24 make a withdrawal from the Great Lakes basin that equals at least 1,000,000 gallons
25 per day for any 30 consecutive days unless the withdrawal is covered by an individual

1 permit. A person to whom the department has issued an individual permit shall
2 comply with the individual permit.

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

5 1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m. or (e) 3.,
6 3e., or 3m. or sub. (4e).

7 3. Requirements for estimating the amount withdrawn, monitoring the
8 withdrawal, if necessary, and reporting the results of the estimating and monitoring,
9 as provided in rules promulgated by the department.

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

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

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

16 6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
17 (a).

18 (c) *Automatic issuance of individual permits for existing withdrawals.* The
19 department shall automatically issue an individual permit to a person who makes
20 a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before
21 the earlier of the dates under sub. (4m) (a) or (b), if the withdrawal equals at least
22 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department
23 may request additional information before issuing a permit under this paragraph.
24 The department shall issue a permit under this paragraph no later than the earlier
25 of the dates under sub. (4m) (a) or (b). In the permit, the department shall specify

1 a withdrawal amount equal to the initial withdrawal amount determined under sub.
2 (4e) for the withdrawal. The department may promulgate a rule under which the
3 department issues automatic individual permits on a staggered schedule before the
4 earlier of the dates under sub. (4m) (a) or (b).

5 (d) *Individual permit for new or increased unpermitted withdrawals.* 1. A
6 person who proposes to begin a withdrawal from the Great Lakes basin that will
7 equal at least 1,000,000 gallons per day for any 30 consecutive days or to modify an
8 existing withdrawal so that it will equal at least 1,000,000 gallons per day for any
9 30 consecutive days, after the first day of the 36th month beginning after the effective
10 date of this subdivision ... [revisor inserts date], and to whom the department is not
11 required to issue an automatic individual permit under par. (c), shall apply to the
12 department for an individual permit. In the application, the person shall provide the
13 information required by the department by rule.

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

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

24 a. The maximum hydraulic capacity of the most restrictive component of the
25 water supply system used for the withdrawal for which the person has approval

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

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

7 3e. If water is withdrawn through more than one water supply system to serve
8 a facility, the department shall determine the smaller of the amounts under subd. 3.
9 a. or b. for each of the water supply systems and shall specify a withdrawal amount
10 that is equal to the sum of the amounts determined for each of the water supply
11 systems. ✓

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

16 b. If the department approves an application under subd. 1. for a withdrawal
17 for the purpose of providing water to a public water supply system that is covered by
18 an approved water supply service area plan under s. 281.348, the department shall
19 issue an individual permit. In the permit, the department shall specify a withdrawal
20 amount that is equal to the withdrawal amount in the water supply service area
21 plan.

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

24 (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if
25 a person making a withdrawal that is covered under an individual permit proposes

1 to increase the amount of the withdrawal over the withdrawal amount specified in
2 the permit, the person shall apply to the department for a modification of the permit
3 to increase the withdrawal amount.

4 3. Except as provided in subd. 3m., if the department has issued any approvals
5 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or
6 281.41 or s. 281.17, 2001 stats.,[✓] the department shall modify the withdrawal amount
7 to an amount that is, except as provided in subd. 3e., equal to the smallest of the
8 following amounts: ✓

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

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

17 3e. If water is withdrawn through more than one water supply system to serve
18 a facility, the department shall determine the smallest amount under subd. 3. a. or
19 b. for each of the water supply systems and shall specify a withdrawal amount that
20 is equal to the sum of the amounts determined for each of the water supply systems.

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

1 “3e. If water is withdrawn through more than one water supply system to serve
2 a facility, the department shall determine the smaller of the amounts under subd. 3.
3 a. or b. for each of the water supply systems and shall specify a withdrawal amount
4 that is equal to the sum of the amounts determined for each of the water supply
5 systems.”. ✓

6 **34.** Page 89, line 8: after “approvals” insert “that are required for modifying
7 the withdrawal”. ✓

8 **35.** Page 89, line 9: delete the material beginning with “that” and ending with
9 “withdrawal,” on line 10. ✓

10 **36.** Page 89, line 11: after “amount” insert “ that is, except as provided in subd.
11 3e.”. ✓

12 **37.** Page 89, line 19: after that line insert:

13 “3e. If water is withdrawn through more than one water supply system to serve
14 a facility, the department shall determine the smallest amount under subd. 3. a. or
15 b. for each of the water supply systems and shall specify a withdrawal amount that
16 is equal to the sum of the amounts determined for each of the water supply systems.”. ✓

17 **38.** Page 90, line 10: before “compliance” insert “substantial”. ✓

18 **39.** Page 90, line 15: delete “relevant”. ✓

19 **40.** Page 90, line 16: delete “facts or” and substitute “material facts or
20 substantially”. ✓

21 **41.** Page 90, line 17: delete that line and substitute: ✓

22 “(i) *Transfer of control.* A permit is not transferable to any person except after
23 notice to the department. A person who proposes to assume control over a permitted

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 modify the withdrawal amount to an amount equal to the withdrawal amount in the
5 water supply service area plan.

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

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

15 (h) *Suspension and revocation.* After an opportunity for a hearing, the
16 department may suspend or revoke a permit issued under this subsection for cause,
17 including obtaining the permit by misrepresentation or failure to disclose material
18 facts or substantially violating the terms of the permit.

19 (i) *Transfer of control.* A permit is not transferable to any person except after
20 notice to the department. A person who proposes to assume control over a permitted
21 withdrawal shall file with the department a permit application and a statement of
22 acceptance of the permit. The department may require modification or revocation
23 and reissuance of the permit to change the name of the permittee.

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 **(7m) EMERGENCY ORDER.** The department may, without a prior hearing, order
7 a person to whom the department has issued an individual permit or notice of
8 coverage under a general permit under this section to immediately stop a withdrawal
9 if the department determines that there is a danger of imminent harm to the public
10 health, safety, or welfare, to the environment, or to the water resources or related
11 land resources of this state. The order shall specify the date on which the withdrawal
12 must be stopped and the date, if any, on which it may be resumed. The order shall
13 notify the person that the person may request a contested case hearing under ch. 227.
14 The hearing shall be held as soon as practicable after receipt of a request for a
15 hearing. An emergency order remains in effect pending the result of the hearing. ✓

16 **(8) STATEWIDE WATER CONSERVATION AND EFFICIENCY.** (a) *Goals and objectives.*
17 The department shall specify water conservation and efficiency goals and objectives
18 for the waters of the state. The department shall specify goals and objectives for the
19 waters of the Great Lakes basin that are consistent with the goals under s. 281.343
20 (4b) (a) and the objectives identified by the regional body under Article 304 (1) of the
21 Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.
22 In specifying these goals and objectives, the department shall consult with the
23 department of commerce and the public service commission.

24 (b) *Statewide program.* In cooperation with the department of commerce and
25 the public service commission, the department shall develop and implement a

1 statewide water conservation and efficiency program that includes all of the
2 following:

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

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

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

9 (d) *Water conservation and efficiency measures.* The department shall
10 promulgate rules specifying water conservation and efficiency measures for the
11 purposes of this section. In the rules, the department may not require retrofitting
12 of existing fixtures, appliances, or equipment. In specifying the measures, the
13 department shall consider the results of any pilot water conservation program
14 conducted by the department in cooperation with the regional body.

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

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

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

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

25 a. The name and address of each applicant.

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

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

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

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

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

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