

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

16           **(13m) EXCEEDANCES.** It is not a violation of this section to inadvertently  
17 withdraw an amount of water that exceeds the withdrawal amount specified in a  
18 permit issued under sub. (5) or in the database under sub. (4s) (i).

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

23           (c) In addition to the penalties under par. (a), the court may order the defendant  
24 to abate any nuisance, restore a natural resource, or take, or refrain from taking, any

1 other action as necessary to eliminate or minimize any environmental damage  
2 caused by the violation. ✓

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

4 SECTION 11. 281.346 of the statutes is created to read:

5 **281.346 Water conservation, reporting, and supply regulation; after**  
6 **the compact takes effect. (1) DEFINITIONS.** In this section:

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

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

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

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

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

24 (h) "Diversion" means a transfer of water from the Great Lakes basin into a  
25 watershed outside the Great Lakes basin, or from the watershed of one of the Great

1 Lakes into that of another, by any means of transfer, including a pipeline, canal,  
2 tunnel, aqueduct, channel, modification of the direction of a water course, tanker  
3 ship, tanker truck, or rail tanker except that "diversion" does not include any of the  
4 following:

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

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

11 3. The transfer of bottled water from the Great Lakes basin in containers of  
12 5.7 gallons or less.

13 (hm) "Divert" means to transfer water from the Great Lakes basin into a  
14 watershed outside the Great Lakes basin, or from the watershed of one of the Great  
15 Lakes into that of another, by any means of transfer, including a pipeline, canal,  
16 tunnel, aqueduct, channel, modification of the direction of a water course, tanker  
17 ship, tanker truck, or rail tanker except that "divert" does not include any of the  
18 following:

19 1. To transfer a product produced in the Great Lakes basin or in the watershed  
20 of one of the Great Lakes, using waters of the Great Lakes basin, out of the Great  
21 Lakes basin or out of that watershed.

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

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

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

9           1. Environmentally sound.

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

11          3. Technically feasible and available.

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

14          (j) “Facility” means an operating plant or establishment providing electricity  
15 to the public or carrying on any manufacturing activity, trade, or business on one site,  
16 including similar plants or establishments under common ownership or control  
17 located on contiguous properties. ✓

18          (je) “Great Lakes basin” means the watershed of the Great Lakes and the St.  
19 Lawrence River upstream from Trois—Rivieres, Quebec, within the jurisdiction of  
20 the parties.

21          (ji) “Great Lakes basin ecosystem” means the interacting components of air,  
22 land, water, and living organisms, including humans, within the Great Lakes basin.

23          (jj) “Great Lakes council” means the Great Lakes—St. Lawrence River Basin  
24 Water Resources Council, created under s. 281.343 (2) (a).

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

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

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

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

12 1. Water used as part of the packaging of a product is part of the product.

13 2. Other than water used as part of the packaging of a product, water that is  
14 used primarily to transport materials in or out of the Great Lakes basin is not a  
15 product or part of a product.

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

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

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

24 (ps) "Reasonable supply alternative" means a supply alternative that is similar  
25 in cost to, and as environmentally sustainable and protective of public health as, the

1 proposed new or increased diversion and that does not have greater adverse  
2 environmental impacts than the proposed new or increased diversion.

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

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

9 (qm) "Regional review" means review by the regional body as described in s.  
10 281.343 (4h).

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

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

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

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

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

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

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

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

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

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

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

18 (z) "Withdrawal" means the taking of water from surface water or groundwater,  
19 including the taking of surface water or groundwater for the purpose of bottling the  
20 water.

21 (zm) "Without adequate supplies of potable water" means lacking a water  
22 supply that is economically and environmentally sustainable in the long term to  
23 meet reasonable demands for a water supply in the quantity and quality that  
24 complies with applicable drinking water standards, is protective of public health, is

1 available at a reasonable cost, and does not have adverse environmental impacts  
2 greater than those likely to result from the proposed new or increased diversion. ✓

3 (1m) APPLICABILITY. This section does not apply before the compact's effective  
4 date.

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

9 (b) *Diversions and withdrawals from more than one source*. For the purposes  
10 of this section, the diversion or withdrawal of water from more than one source  
11 within the Great Lakes basin to supply a single facility or public water supply system  
12 is considered one diversion or withdrawal. ✓

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

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

18 (e) *Baseline*. 1. The baseline for a withdrawal that is covered by a general  
19 permit issued under s. 281.344 (4s) on the compact's effective date is the withdrawal  
20 amount specified for the withdrawal in the database under s. 281.344 (4s) (i) on the  
21 compact's effective date. The baseline for a withdrawal for which the department has  
22 issued an individual permit under s. 281.344 (5) before the compact's effective date  
23 is the withdrawal amount specified in the permit on the compact's effective date.



1           2. The baseline water loss for a consumptive use for which the department has  
2 specified an authorized base level of water loss under s. 281.35 (6) (a) 2. is the amount  
3 of that authorized base level on the compact's effective date.

4           4. The baseline volume for a diversion for which the department has issued an  
5 approval under s. 281.344 (3m) or (4) before the compact's effective date is the  
6 interbasin transfer amount specified in the approval on the compact's effective date.

7           6. The department shall provide a list of the baseline volumes determined  
8 under this paragraph to the Great Lakes council and the regional body no later than  
9 12 months after the compact's effective date.

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

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

17           (g) *Public trust doctrine.* Nothing in this section or s. 281.343 may be  
18 interpreted to change the application of the public trust doctrine under article IX,  
19 section 1, of the Wisconsin Constitution. ✓

20           **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) Any person who proposes to  
21 begin a withdrawal from the waters of the state using a water supply system that will  
22 have the capacity to withdraw an average of 100,000 gallons per day or more in any  
23 30-day period, to increase the capacity of a water supply system so that it will have  
24 the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day

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

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

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

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

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

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

11 5. The uses made of the water.

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

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

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

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

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

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

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

22 (e) 1. Each person who makes a withdrawal from the waters of the state that  
23 averages 100,000 gallons per day or more in any 30-day period or diverts any amount  
24 and who has registered the withdrawal or diversion under par. (a) or s. 281.344 (3)

25 (a) shall annually report to the department the monthly volumes of withdrawal,

1 whether the person withdraws at least 1,000,000 gallons per day for 30 consecutive  
2 days, and, if applicable, the volumes of diversion and, subject to par. (em), water loss  
3 from consumptive use.

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

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

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

15 (4) DIVERSIONS. (a) *Prohibition.* Beginning on the compact's effective date, no  
16 person may begin a diversion, except as authorized under par. (c), (d), or (e) or an  
17 approval issued under s. 281.344 (4), and no person may increase the amount of a  
18 diversion over the diversion amount specified in an approval under this subsection  
19 or over the interbasin transfer amount specified in an approval issued under s.  
20 281.344 (3m) or (4), except as authorized under par. (c), (d), or (e).

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

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

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

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

10 4m. If a person who applies under subd. 1. will not directly withdraw the water  
11 proposed to be diverted, the person shall identify the entity that will withdraw the  
12 water and provide evidence of support from that entity in the form of a letter or  
13 resolution.

14 4p. If the person who applies under subd. 1. will not directly return the water  
15 to the Great Lakes basin, the person shall identify the entity that will return the  
16 water and provide evidence of support from that entity in the form of a letter or  
17 resolution.

18 4s. If the proposal for which a person applies under subd. 1. is subject to the  
19 exception standard under par. (f), the person shall provide documentation of how the  
20 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will  
21 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,  
22 considering the state of the receiving water before the proposal is implemented and  
23 considering potential adverse impacts due to changes in temperature and nutrient  
24 loadings. If the receiving water is a surface water body that is tributary to one of the

1 Great Lakes, the person shall include a description of the flow of the receiving water  
2 before the proposal is implemented, considering both low and high flow conditions.

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

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

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

12 b. If the proposal is to provide a public water supply within more than one city,  
13 village, or town, any portion of the proposal that provides a public water supply  
14 within a straddling community is subject to par. (c) and any portion of the proposal  
15 that provides a public water supply within a community within a straddling county  
16 is subject to par. (e).

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

23 (c) *Straddling communities.* The department may approve a proposal under  
24 par. (b) to begin a diversion, or to increase the amount of a diversion, to an area within  
25 a straddling community but outside the Great Lakes basin or outside the source

1 watershed if the water diverted will be used solely for public water supply purposes  
2 in the straddling community and all of the following apply:

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

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

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

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

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

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

22 4. If the proposal would result in a new water loss or an increase in a water loss  
23 from consumptive use that would average 5,000,000 gallons or more per day in any  
24 90-day period, all of the following apply:

25 a. The department conducts a technical review.

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

2 1.

3 c. The proposal undergoes regional review.

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

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 an intrabasin transfer to which par. (c) does not apply that  
16 would average more than 100,000 gallons per day in any 90-day period with a new  
17 water loss or an increase in water loss that would average less than 5,000,000 gallons  
18 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 d. The department provides notice of the proposal to the other parties.

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

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

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

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

17 d. The department conducts a technical review.

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

19 1.

20 f. The proposal undergoes regional review.

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

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

24 (e) *Straddling counties.* 1. The department may approve a proposal under par.  
25 (b) for a new diversion or an increase in a diversion if the water diverted will be used



1 solely for public water supply purposes in a community within a straddling county  
2 and all of the following apply:

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

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

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

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

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

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

17 f. The department conducts a technical review.

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

19 1.

20 h. The proposal undergoes regional review.

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

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

24 2. In determining whether to approve a proposal under this paragraph, the  
25 department shall give substantive consideration to whether the applicant provides

1 sufficient scientifically based evidence that the existing water supply is derived from  
2 groundwater that is hydrologically interconnected to waters of the Great Lakes  
3 basin. The department may not use a lack of hydrological connection to the waters  
4 of the Great Lakes basin as a reason to disapprove a proposal. ✓

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

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

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

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

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

18 a. Not economically feasible.

19 b. Not environmentally sound.

20 c. Not in the interest of public health.

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

23 a. The returned water is from a water supply or wastewater treatment system  
24 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. If the water is returned through a structure on the bed of a navigable water,  
5 the structure is designed and will be operated to meet the applicable permit  
6 requirements under s. 30.12 and the department has approved the permit under s.  
7 30.12.

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

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

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

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

4           (g) *Conservation and efficient use of existing water supplies.* The department  
5 shall promulgate rules specifying the requirements for an applicant for a new or  
6 increased diversion subject to par. (f) to demonstrate the efficient use and  
7 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)  
8 1. d., and (f) 1., including requiring the applicant to document the water conservation  
9 planning and analysis used to identify the water conservation and efficiency  
10 measures that the applicant determined were feasible, based on an analysis that  
11 considered direct and avoided economic and environmental costs, and that the  
12 applicant implemented and requiring the applicant to quantify the amount of water  
13 conserved through those efficiency and conservation measures.

14           (i) *Diversion amount.* In an approval issued under this subsection or a  
15 modification granted under this subsection to increase the amount of a diversion, the  
16 department shall specify a diversion amount equal to the quantity of water that is  
17 reasonable for the purposes for which the diversion is proposed.

18           **(4m) WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN.** (a) A person may  
19 not make a withdrawal from the Great Lakes basin that averages 100,000 gallons  
20 per day or more in any 30-day period unless the withdrawal is covered under a  
21 general permit issued under sub. (4s) or s. 281.344 (4s) or an individual permit issued  
22 under sub. (5), except as provided in sub. (4s) (bm) or s. 281.344 (5).

23           **(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Department to*  
24 *issue.* The department shall issue one or more general permits to cover withdrawals  
25 from the Great Lakes basin that average 100,000 gallons per day or more in any

1 30-day period but that do not equal at least 1,000,000 gallons per day for any 30  
2 consecutive days. The department shall include all of the following in a general  
3 permit:

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

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

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

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

12 (b) *General requirement.* A person who does not hold an individual permit  
13 under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or  
14 more in any 30-day period, but that does not equal at least 1,000,000 gallons per day  
15 for any 30 consecutive days, unless the withdrawal is covered under a general permit  
16 issued under this subsection or s. 281.344 (4s), except as provided in par. (bm). ✓ A  
17 person to whom the department has issued a notice of coverage under a general  
18 permit shall comply with the general permit.

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

22 (d) *Coverage under general permit for new or increased withdrawals.* 1. A  
23 person who proposes to begin a withdrawal from the Great Lakes basin that will  
24 average 100,000 gallons per day or more in any 30-day period, or to increase an  
25 existing withdrawal so that it will average 100,000 gallons per day or more in any

1 30-day period, but who does not propose to withdraw at least 1,000,000 gallons per  
2 day for any 30 consecutive days, shall apply to the department for coverage under  
3 a general permit, unless the person applies for an individual permit under sub. (5).  
4 In the application, the person shall provide the information required by the  
5 department by rule.

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

11 3. Except as provided in subd. 3m., if the department determines that a  
12 withdrawal qualifies for coverage under a general permit and the department has  
13 issued any approvals that are required for the withdrawal under s. 30.12, 30.18,  
14 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of  
15 coverage. In the notice, the department shall specify a withdrawal amount that is,  
16 except as provided in subd. 3e., equal to the smallest of the following amounts:

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

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

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

5           3m. a. The department may not approve an application under subd. 1. for a  
6 withdrawal for the purpose of providing water to a public water supply system that  
7 serves a population of more than 10,000 unless the withdrawal is covered by an  
8 approved water supply service area plan under s. 281.348.

9           b. 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           c. 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 issue a notice of coverage. In the notice of coverage the department shall specify a  
17 withdrawal amount that is equal to the withdrawal amount in the water supply  
18 service area plan.

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

22           (dm) *Requiring individual permit.* The department may require a person who  
23 is making or proposes to make a withdrawal that averages 100,000 gallons per day  
24 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per  
25 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the

1 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)  
2 (a), or a groundwater management area designated under s. 281.34 (9) or if coverage  
3 under an individual permit is necessary to protect public health or safety or to ensure  
4 the conservation and proper management of the waters of the state.

5 (e) *Increase in withdrawal amount.* 1. If a person making a withdrawal that  
6 is covered under a general permit issued under this subsection or s. 281.344 (4s)  
7 proposes to increase the amount of the withdrawal over the withdrawal amount  
8 specified in the database under par. (i) for the withdrawal, but does not propose to  
9 withdraw at least 1,000,000 gallons per day for any 30 consecutive days, the person  
10 shall apply to the department for a modification of the withdrawal amount.

11 3. Except as provided in subd. 3m., if the department has issued any approvals  
12 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or  
13 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount  
14 to an amount that is, except as provided in subd. 3e., equal to the smallest of the  
15 following amounts:

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

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

24 3e. If water is withdrawn through more than one water supply system to serve  
25 a facility, the department shall determine the smallest amount under subd. 3. a. or



1 b. for each of the water supply systems and shall specify a withdrawal amount that  
2 is equal to the sum of the amounts determined for each of the water supply systems.

3 3m. a. The department may not approve an application under subd. 1. for a  
4 withdrawal for the purpose of providing water to a public water supply system that  
5 serves a population of more than 10,000 unless the withdrawal is covered by an  
6 approved water supply service area plan under s. 281.348.

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

11 c. If the department approves an application under subd. 1. for a withdrawal  
12 for the purpose of providing water to a public water supply system that is covered by  
13 an approved water supply service area plan under s. 281.348, the department shall  
14 issue a notice of coverage. In the notice of coverage the department shall specify a  
15 withdrawal amount that is equal to the withdrawal amount in the water supply  
16 service area plan.

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

19 (g) *Redetermination.* A person to whom the department has issued a notice of  
20 coverage under a general permit issued under this subsection or s. 281.344 (4s) shall  
21 apply to the department for redetermination of coverage under a new general permit  
22 issued under this subsection at least 180 days before the end of the term of the  
23 current general permit if the person intends to continue to withdraw from the Great  
24 Lakes basin an average of 100,000 gallons per day or more in any 30-day period but  
25 does not intend to withdraw at least 1,000,000 gallons per day for any 30 consecutive

1 days. If the person is in substantial 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 or s. 281.344 (4s) for cause, including obtaining coverage under the  
7 permit by misrepresentation or failure to disclose material facts or substantially  
8 violating the terms of the permit.

9 (i) *Database.* The department shall maintain a database of the withdrawal  
10 amounts for all withdrawals that are covered under general permits issued under  
11 this subsection and s. 281.344 (4s).

12 (5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Requirement.* A  
13 person may not make a withdrawal from the Great Lakes basin that equals at least  
14 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is  
15 covered by an individual permit issued under this subsection or s. 281.344 (5). A  
16 person to whom the department has issued an individual permit shall comply with  
17 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., 3e., or 3m., (g) 3., 3e.,  
21 or 3m., or (j) 3., 3e., or 3m. or s. 281.344 (3m) or (4e).

22 2. Provisions that the department determines are necessary for tracking  
23 substantial increases in water loss resulting from increases in withdrawal amounts  
24 during the term of the permit.

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

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

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

8           6. Conditions on any diversion approved under sub. (4) made by the person  
9 making the withdrawal.

10          6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)  
11 (a). ✓

12          7. If the withdrawal is from a surface water body tributary to one of the Great  
13 Lakes and would result in a water loss of more than 95 percent of the amount of water  
14 withdrawn, conditions that ensure that the withdrawal does not cause significant  
15 adverse environmental impact.

16          (d) *Initial individual permit.* 1. A person who proposes to begin a withdrawal  
17 from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any  
18 30 consecutive days or to modify an existing withdrawal so that it will equal at least  
19 1,000,000 gallons per day for any 30 consecutive days shall apply to the department  
20 for an individual permit.

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

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

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

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

15           c. Any limit on the amount of the withdrawal necessary to ensure compliance  
16 with a decision-making standard applicable under par. (e) or (f).

17           3e. If water is withdrawn through more than one water supply system to serve  
18 a facility and subd. 3. c. does not apply, the department shall determine the smallest  
19 amount under subd. 3. a. or b. for each of the water supply systems and shall specify  
20 a withdrawal amount that is equal to the sum of the amounts determined for each  
21 of the water supply systems.

22           3m. 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  
25 issue an individual permit. In the permit, the department shall specify a withdrawal

1 amount that is equal to the withdrawal amount in the water supply service area  
2 plan.

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

5 (dm) *Consistency with water supply plans.* 1. The department may not approve  
6 an application under par. (d) 1. for a withdrawal for the purpose of providing water  
7 to a public water supply system that serves a population of more than 10,000 unless  
8 the public water supply system is covered by an approved water supply service area  
9 plan under s. 281.348.

10 2. The department may not approve an application under par. (d) 1. for the  
11 purpose of providing water to a public water supply system that is covered by an  
12 approved water supply service area plan under s. 281.348 unless the withdrawal is  
13 consistent with the water supply service area plan.

14 (e) *Standards for approval of certain unpermitted withdrawals.* 1. Except as  
15 provided in par. (dm), the department may not approve an application under par. (d)  
16 1. for a new withdrawal that will equal at least 1,000,000 gallons per day for any 30  
17 consecutive days, or for an existing withdrawal that is not covered by a general  
18 permit under sub. (4s) or s. 281.344 (4s) and that is proposed to be modified so that  
19 it will equal at least 1,000,000 gallons per day for any 30 consecutive days, but to  
20 which subd. 2. does not apply, unless the withdrawal meets the state  
21 decision-making standard under sub. (5m).

22 2. Except as provided in subd. 3. or par. (dm), the department may not approve  
23 an application under par. (d) 1. for a new withdrawal that will equal at least  
24 10,000,000 gallons per day for any 30 consecutive days, or for an existing withdrawal  
25 that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is

1 proposed to be modified so that it will equal at least 10,000,000 gallons per day for  
2 any 30 consecutive days, unless the withdrawal meets the compact decision-making  
3 standard under sub. (6).

4 3. A person who submits an application under par. (d) 1., to which subd. 2.  
5 would otherwise apply, may choose to demonstrate, using procedures specified in  
6 rules promulgated by the department, the water loss that will result from the  
7 withdrawal. If the person demonstrates that the water loss would average less than  
8 5,000,000 gallons per day in every 90-day period, the state decision-making  
9 standard under sub. (5m), rather than the compact decision-making standard under  
10 sub. (6), applies to the withdrawal.

11 (f) *Standards for approval of withdrawals covered by general permits.* 1.  
12 Except as provided in par. (dm), the department may not approve an application  
13 under par. (d) 1. for a withdrawal that is covered under a general permit under sub.  
14 (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal so that it  
15 equals 1,000,000 or more gallons per day for any 30 consecutive days over the  
16 withdrawal amount as of the date that the department issued the current notice of  
17 coverage under the general permit or as of the compact's effective date, whichever  
18 is later, and if subd. 2. does not apply, unless the withdrawal meets the state  
19 decision-making standard under sub. (5m).

20 2. Except as provided in subd. 3. or par. (dm), the department may not approve  
21 an application under par. (d) 1. for a withdrawal that is covered under a general  
22 permit under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the  
23 withdrawal so that it equals 10,000,000 or more gallons per day for any 30  
24 consecutive days over the withdrawal amount as of the date that the department  
25 issued the current notice of coverage under the general permit or as of the compact's

1 effective date, whichever is later, unless the withdrawal meets the compact  
2 decision-making standard under sub. (6).

3 3. A person who submits an application under par. (d) 1., to which subd. 2.  
4 would otherwise apply, may choose to demonstrate, using procedures specified in  
5 rules promulgated by the department, the water loss that will result from the  
6 increase in the withdrawal over the withdrawal amount as of the later of the dates  
7 under subd. 2. If the person demonstrates that the resulting increase in water loss  
8 would average less than 5,000,000 gallons per day in every 90-day period, the state  
9 decision-making standard under sub. (5m), rather than the compact  
10 decision-making standard under sub. (6), applies to the increase in the withdrawal.

11 (g) *Modification of individual permit for increased withdrawal.* 1. If a person  
12 making a withdrawal that is covered under an individual permit issued under this  
13 subsection or s. 281.344 (5) proposes to increase, during the term of the permit, the  
14 amount of the withdrawal over the withdrawal amount specified in the permit, the  
15 person shall apply to the department for a modification of the permit to increase the  
16 withdrawal amount.

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

21 3. Except as provided in subd. 3m., if the department approves an application  
22 under subd. 1. and the department has issued any approvals that are required for  
23 modifying the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001  
24 stats., the department shall modify the individual permit. In the modified permit,

1 the department shall specify a withdrawal amount that is, except as provided in  
2 subd. 3e., equal to the smallest of the following amounts:

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

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

11 c. Any limit on the amount of the withdrawal necessary to ensure compliance  
12 with a decision-making standard applicable under par. (e) or (f).

13 3e. If water is withdrawn through more than one water supply system to serve  
14 a facility and subd. 3. c. does not apply, the department shall determine the smallest  
15 amount under subd. 3. a. or b. for each of the water supply systems and shall specify  
16 a withdrawal amount that is equal to the sum of the amounts determined for each  
17 of the water supply systems. ✓

18 3m. If the department approves an application under subd. 1. for a withdrawal  
19 for the purpose of providing water to a public water supply system that is covered by  
20 an approved water supply service area plan under s. 281.348, the department shall  
21 modify the individual permit. In the modified permit, the department shall specify  
22 a withdrawal amount that is equal to the withdrawal amount in the water supply  
23 service area plan.

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



1 (gm) *Consistency with water supply plans.* 1. The department may not approve  
2 an application under par. (g) 1. for a withdrawal for the purpose of providing water  
3 to a public water supply system that serves a population of more than 10,000 unless  
4 the public water supply system is covered by an approved water supply service area  
5 plan under s. 281.348.

6 2. The department may not approve an application under par. (g) 1. for a  
7 withdrawal for the purpose of providing water to a public water supply system that  
8 is covered by an approved water supply service area plan under s. 281.348 unless the  
9 withdrawal is consistent with the water supply service area plan.

10 (h) *Standards for approval of certain modifications.* 1. Except as provided in  
11 par. (gm), the department may not approve an application under par. (g) 1., if the  
12 person proposes to increase the amount of the withdrawal so that it equals 1,000,000  
13 or more gallons per day for any 30 consecutive days over the withdrawal amount as  
14 of the beginning of the current permit term, the compact's effective date, or the date  
15 that the department issued a modified permit for the withdrawal if the modification  
16 was subject to the state decision-making standard under sub. (5m) or the compact  
17 decision-making standard under sub. (6), whichever is latest, and if subd. 2. does not  
18 apply, unless the increased withdrawal meets the state decision-making standard  
19 under sub. (5m).

20 2. Except as provided in subd. 3. or par. (gm), the department may not approve  
21 an application under par. (g) 1., if the person proposes to increase the amount of the  
22 withdrawal so that it equals at least 10,000,000 gallons per day for any 30  
23 consecutive days over the withdrawal amount as of the beginning of the current  
24 permit term, the compact's effective date, or the date that the department issued a  
25 modified permit for the withdrawal if the modification was subject to the compact

1 decision-making standard under sub. (6), whichever is latest, unless the withdrawal  
2 meets the compact decision-making standard under sub. (6).

3 3. A person who submits an application under par. (g) 1., to which subd. 2.  
4 would otherwise apply, may choose to demonstrate, using procedures specified in  
5 rules promulgated by the department, the water loss that will result from the  
6 increase in the withdrawal over the withdrawal amount as of the latest of the dates  
7 under subd. 2. If the person demonstrates that the resulting increase in water loss  
8 would average less than 5,000,000 gallons per day in every 90-day period, the state  
9 decision-making standard under sub. (5m), rather than the compact  
10 decision-making standard under sub. (6), applies to the increase in the withdrawal.

11 (i) *Term of permit.* The term of an individual permit is 10 years.

12 (j) *Reissuance.* 1. A person to whom the department has issued an individual  
13 permit under this subsection or s. 281.344 (5) shall apply to the department for  
14 reissuance of the individual permit at least 180 days before the end of the term of the  
15 permit if the person intends to continue to withdraw from the Great Lakes basin at  
16 least 1,000,000 gallons per day for any 30 consecutive days.

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

21 3. Except as provided in subd. 3m., if the department approves an application  
22 under subd. 1., determines that the person is in substantial compliance with the  
23 current individual permit, and has issued any approvals that are required for the  
24 withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the  
25 department shall reissue the individual permit. In the permit, the department shall

1 specify a withdrawal amount that is equal to the amount in the current permit,  
2 except that, if the person proposes in the application to increase the amount of the  
3 withdrawal, the department shall specify a withdrawal amount that is, except as  
4 provided in subd. 3e.,<sup>✓</sup> equal to the smallest of the following amounts:

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

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

13 c. Any limit on the amount of the withdrawal necessary to ensure compliance  
14 with a decision-making standard applicable under par. (e) or (f).

15 3e. If water is withdrawn through more than one water supply system to serve  
16 a facility and subd. 3. c. does not apply, the department shall determine the smallest  
17 amount under subd. 3. a. or b. for each of the water supply systems and shall specify  
18 a withdrawal amount that is equal to the sum of the amounts determined for each  
19 of the water supply systems.

20 3m. If the department approves an application under subd. 1. for a withdrawal  
21 for the purpose of providing water to a public water supply system that is covered by  
22 an approved water supply service area plan under s. 281.348 and determines that  
23 the person is in substantial<sup>✓</sup> compliance with the current individual permit, the  
24 department shall reissue the individual permit. In the permit, the department shall

1 specify a withdrawal amount that is equal to the withdrawal amount in the water  
2 supply service area plan.

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

5 (jm) *Consistency with water supply plans; reissuance.* 1. The department may  
6 not approve an application under par. (j) 1. for a withdrawal for the purpose of  
7 providing water to a public water supply system that serves a population of more  
8 than 10,000 if the person proposes to increase the amount of the withdrawal over the  
9 amount in the current permit, unless the public water supply system is covered by  
10 an approved water supply service area plan under s. 281.348.

11 2. The department may not approve an application under par. (j) 1. for a  
12 withdrawal for the purpose of providing water to a public water supply system that  
13 is covered by an approved water supply service area plan under s. 281.348 unless the  
14 withdrawal is consistent with the water supply service area plan.

15 (k) *Standards for reissuance in certain cases.* 1. Except as provided in par. (jm),  
16 the department may not approve an application under par. (j) 1., if the person  
17 proposes in the application to increase the amount of the withdrawal so that it equals  
18 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal  
19 amount as of the beginning of the current permit term, the compact's effective date,  
20 or the date that the department issued a modified permit for the withdrawal if the  
21 modification was subject to the state decision-making standard under sub. (5m) or  
22 the compact decision-making standard under sub. (6), whichever is latest, and if  
23 subd. 2. does not apply, unless the increased withdrawal meets the state  
24 decision-making standard under sub. (5m)

2. Except as provided in subd. 3. or par. (jm), the department may not approve an application under par. (j) 1., if the person proposes in the application to increase the amount of the withdrawal so that it equals at least 10,000,000 gallons per day for any 30 consecutive days over the withdrawal amount as of the beginning of the current permit term, the compact's effective date, or the date that the department issued a modified permit for the withdrawal if the modification was subject to the compact decision-making standard under sub. (6), whichever is latest, unless the withdrawal meets the compact decision-making standard under sub. (6).

3. A person who submits an application under par. (j) 1., to which subd. 2. would otherwise apply, may choose to demonstrate, using procedures specified in rules promulgated by the department, the water loss that will result from the increase in the withdrawal over the withdrawal amount as of the latest of the dates under subd. 2. If the person demonstrates that the resulting increase in water loss would average less than 5,000,000 gallons per day in every 90-day period, the state decision-making standard under sub. (5m), rather than the compact decision-making standard under sub. (6), applies to the increase in the withdrawal.

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

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

8 (n) *Information to be provided.* A person who submits an application under par.  
9 (d) 1., (g) 1., or (j) 1. shall provide the information required by the department by rule.  
10 If a decision-making standard under sub. (5m) or (6) applies, the person shall  
11 provide information about the potential impacts of the withdrawal on the waters of  
12 the Great Lakes basin and water dependent natural resources. If the compact  
13 decision-making standard under sub. (6) applies, the person shall provide an  
14 assessment of the individual impacts of the proposal for the purposes of sub. (6) (b).  
15 The person may also include a cumulative impact assessment.

16 (o) *Departmental modifications.* After an opportunity for a hearing, the  
17 department may modify a permit issued under this subsection as necessary to ensure  
18 that a withdrawal complies with any applicable requirement under sub. (5m) or (6)

19 *Y.D.*  
20 (p) *Suspension and revocation.* The department may suspend or revoke a  
21 permit issued under this subsection or s. 281.344 (5) for cause, including obtaining  
22 the permit by misrepresentation or failure to disclose material facts or substantially  
23 violating the terms of the permit. ✓

24 (q) *Transfer of control.* A permit is not transferable to any person except after  
25 notice to the department. A person who proposes to assume control over a permitted

1 withdrawal shall file with the department a permit application and a statement of  
2 acceptance of the permit. The department may require modification or revocation  
3 and reissuance of the permit to change the name of the permittee. ✓

4 (5e) REQUIREMENTS FOR WATER SUPPLY SERVICE AREA PLANS FOR PUBLIC WATER  
5 SUPPLY SYSTEMS IN THE GREAT LAKES BASIN. (a) *Unpermitted withdrawals.* 1.  
6 Beginning on the compact's effective date, the department may not approve a water  
7 supply service area plan under s. 281.348 that provides for a new withdrawal from  
8 the Great Lakes basin of at least 1,000,000 gallons per day for any 30 consecutive  
9 days, or for modification of an existing withdrawal that is not covered by a general  
10 permit under sub. (4s) or s. 281.344 (4s) so that it will equal at least 1,000,000 gallons  
11 per day for any 30 consecutive days, but to which subd. 2. does not apply, unless the  
12 withdrawal meets the state decision-making standard under sub. (5m) ✓

13 2. Beginning on the compact's effective date, except as provided in subd. 3., the  
14 department may not approve a water supply service area plan under s. 281.348 that  
15 provides for a new withdrawal from the Great Lakes basin of at least 10,000,000  
16 gallons per day for any 30 consecutive days, or for modification of an existing  
17 withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s)  
18 so that it will equal at least 10,000,000 gallons per day for any 30 consecutive days,  
19 unless the withdrawal meets the compact decision-making standard under sub. (6)

20 3. A person who submits a water supply service area plan under s. 281.348, that  
21 provides for a new withdrawal to which subd. 2. would otherwise apply, may choose  
22 to demonstrate, using procedures specified in rules promulgated by the department,  
23 the water loss that will result from the withdrawal. If the person demonstrates that  
24 the water loss would average less than 5,000,000 gallons per day in every 90-day  
25

1 period, the state decision-making standard under sub. (5m), rather than the  
2 compact decision-making standard under sub. (6), applies to the withdrawal. ✓

3 (b) *Increased withdrawals covered by general permits.* 1. Beginning on the  
4 compact's effective date, the department may not approve a water supply service  
5 area plan under s. 281.348 that provides for modifying a withdrawal that is covered  
6 under a general permit under sub. (4s) or s. 281.344 (4s) so that the withdrawal  
7 equals 1,000,000 or more gallons per day for any 30 consecutive days over the  
8 withdrawal amount as of the date that the department issued the current notice of  
9 coverage under the general permit or as of the compact's effective date, whichever  
10 is later, and if subd. 2. does not apply, unless the withdrawal meets the state  
11 decision-making standard under sub. (5m). ✓

12 2. Beginning on the compact's effective date, except as provided in subd. 3., the  
13 department may not approve a water supply service area plan under s. 281.348 that  
14 provides for modifying a withdrawal that is covered under a general permit under  
15 sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 10,000,000 or more gallons  
16 per day for any 30 consecutive days over the withdrawal amount as of the date that  
17 the department issued the current notice of coverage under the general permit or as  
18 of the compact's effective date, whichever is later, unless the withdrawal meets the  
19 compact decision-making standard under sub. (6). ✓

20 3. A person who submits a water supply service area plan under s. 281.348, that  
21 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,  
22 may choose to demonstrate, using procedures specified in rules promulgated by the  
23 department, the water loss that will result from the increase in the withdrawal over  
24 the withdrawal amount as of the later of the dates under subd. 2. If the person  
25 demonstrates that the resulting increase in water loss would average less than



1 5,000,000 gallons per day in every 90-day period, the state decision-making  
 2 standard under sub. (5m), rather than the compact decision-making standard under  
 3 sub. (6), applies to the increase in the withdrawal. ✓

4 (c) *Increased withdrawals covered by individual permits.* 1. Beginning on the  
 5 compact's effective date, the department may not approve a water supply service  
 6 area plan under s. 281.348 that provides for increasing the amount of a withdrawal  
 7 that is covered under an individual permit issued under sub. (5) or s. 281.344 (5) so  
 8 that it equals 1,000,000 or more gallons per day for any 30 consecutive days over the  
 9 withdrawal amount as of the beginning of the current permit term, the compact's  
 10 effective date, or the date that the department issued a modified permit for the  
 11 withdrawal if the modification was subject to the state decision-making standard  
 12 under sub. (5m) or the compact decision-making standard under sub. (6), whichever  
 13 is latest, and if subd. 2. does not apply, unless the increased withdrawal meets the  
 14 state decision-making standard under sub. (5m). ✓

15 2. Beginning on the compact's effective date, except as provided in subd. 3., the  
 16 department may not approve a water supply service area plan under s. 281.348 that  
 17 provides for increasing the amount of a withdrawal that is covered under an  
 18 individual permit issued under s. sub. (5) or s. 281.344 (5) so that it equals 10,000,000  
 19 or more gallons per day for any 30 consecutive days over the withdrawal amount as  
 20 of the beginning of the current permit term, the compact's effective date, or the date  
 21 that the department issued a modified permit for the withdrawal if the modification  
 22 was subject to the compact decision-making standard under sub. (6), ✓ whichever is  
 23 latest, unless the increased withdrawal meets the compact decision-making  
 24 standard under sub. (6). ✓

1           3. A person who submits a water supply service area plan under s. 281.348, that  
2 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,  
3 may choose to demonstrate, using procedures specified in rules promulgated by the  
4 department, the water loss that will result from the increase in the withdrawal over  
5 the withdrawal amount as of the latest of the dates under subd. 2. If the person  
6 demonstrates that the resulting increase in water loss would average less than  
7 5,000,000 gallons per day in every 90-day period, the state decision-making  
8 standard under sub. (5m), rather than the compact decision-making standard under  
9 sub. (6), applies to the increase in the withdrawal. ✓

10           (d) *Providing prior notice.* The department may not approve a water supply  
11 service area plan under s. 281.348 that provides for a withdrawal described in sub.  
12 (5) (L) unless the department has provided notice as required under sub. (5) (L) at  
13 least 90 days before approving the water supply service area plan and has provided  
14 a response to any comment received.

15           (e) *Regional review.* The department may not approve a water supply service  
16 area plan under s. 281.348 if a majority of the members of the regional body request  
17 regional review of a withdrawal described in s. 281.343 (4h) (a) 6. provided for in the  
18 plan unless the department complies with sub. (5) (m).

19           **(5m)** STATE DECISION-MAKING STANDARD. A proposal meets the state  
20 decision-making standard if all of the following apply:

21           (a) The amount of the withdrawal or increase in the withdrawal is needed to  
22 meet the projected needs of the person who will use the water.

23           (b) For an increase in a withdrawal, cost-effective conservation practices have  
24 been implemented for existing uses of the water, as required under rules  
25 promulgated by the department.

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

3 (d) Cost-effective conservation practices will be implemented to ensure  
4 efficient use of the water, for a new withdrawal, or of the increased amount of an  
5 existing withdrawal.

6 (e) One of the following applies:

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

9 2. If the withdrawal is from a surface water body, the applicant demonstrates  
10 that the withdrawal will not result in the violation of water quality standards under  
11 s. 281.15 or impair fish populations.

12 3. The department has issued a permit under s. 30.18 for the new or increased  
13 withdrawal or has issued a permit under s. 30.12 for a structure that will be used for  
14 the new or increased withdrawal.

15 4. The department has issued an approval under s. 281.34, or s. 281.17, 2001  
16 stats., for the new or increased withdrawal.

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

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

21 (b) The withdrawal will result in no significant adverse individual impacts or  
22 cumulative impacts to the quantity or quality of the waters of the Great Lakes basin,  
23 to water dependent natural resources, to the source watershed, or, if the withdrawal  
24 is from a stream tributary to one of the Great Lakes, to the watershed of that stream.

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

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

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

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

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

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

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

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

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