

SENATE BILL 1

May 12, 2008 – Introduced by COMMITTEE ON SENATE ORGANIZATION. Referred to Committee on Senate Organization.

1 **AN ACT** *to repeal* 196.98, 281.35 (2) (a), 281.35 (3), 281.35 (8) and 281.35 (10) (a)
2 4.; *to renumber* 283.83; *to renumber and amend* 281.35 (2) (b) and 281.35
3 (11) (f); *to amend* 30.18 (title) and (2), 30.18 (3) (a) 1. to 3., 30.18 (3) (b), 30.18
4 (4) (a), 30.18 (5) (a) 1. and 2., 30.18 (6) (a), 30.18 (6m) (a) 1. and 2., 30.18 (6m)
5 (b), 30.18 (7), 196.49 (2), 281.34 (5) (e) 1., 281.35 (1) (a), 281.35 (1) (b) 2., 281.35
6 (4) (b) (intro.), 281.35 (5) (a) 13., 281.35 (5) (b), 281.35 (6) (a) (intro.), 281.35 (6)
7 (f), 281.35 (9) (a), 281.35 (11) (intro.), 281.35 (12) (c), 281.41 (1) (c), 281.94 (1),
8 281.95, 281.98 (1), 293.65 (title), (1), (2) (title), (a), and (b), 293.65 (2) (c) 1.,
9 293.65 (2) (d) 2., 293.65 (2) (e), 293.65 (2) (f) and 293.65 (2) (h); and *to create*
10 14.95, 30.208 (3m), 281.34 (5) (dm), 281.343, 281.344, 281.346, 281.348, 281.35
11 (1) (bm), 281.35 (1) (cm), 281.35 (4) (a) 4., 281.35 (6) (am), 281.35 (9) (d), 281.41
12 (4), 281.93, 283.41 (3) and 283.83 (2) of the statutes; **relating to:** the Great
13 Lakes–St. Lawrence River Basin Water Resources Compact, withdrawals of
14 water from the Great Lakes Basin, water withdrawal and use, water supply

1 planning, water conservation, granting rule-making authority, and providing
2 a penalty.

Analysis by the Legislative Reference Bureau

This bill ratifies the Great Lakes—St. Lawrence River Basin Water Resources Compact and creates provisions for implementing the compact in this state. The bill also includes provisions that apply statewide relating to the registration and reporting of water withdrawals, to water conservation, and to water supply planning for public water supply systems (water utilities).

CURRENT FEDERAL LAW

A current federal law, commonly known as the Water Resources Development Act (WRDA), provides that no water may be diverted or exported from the Great Lakes, or any tributary of any of the Great Lakes, for use outside the Great Lakes basin unless the diversion or exporting is approved by the governor of each of the Great Lakes states: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. WRDA does not contain standards that governors must use in deciding whether to approve a proposal to divert or export water.

**THE GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER
RESOURCES COMPACT**

IN GENERAL

The Great Lakes—St. Lawrence River Basin Water Resources Compact (the compact) was endorsed by the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin (the states) on December 13, 2005. The compact will take effect if and when it is ratified in substantively the same form by the legislature of each of the states and is consented to by the U.S. Congress. Any change in the compact would also have to be ratified by each state's legislature and consented to by Congress. The compact may be terminated by a majority vote of the states.

The compact relates to the withdrawal and use of water (both groundwater and surface water) from the watersheds of the Great Lakes and the St. Lawrence River (the Great Lakes basin). Part of northern Wisconsin is in the Lake Superior watershed and part of eastern Wisconsin is in the Lake Michigan watershed. The rest of the state is in the upper Mississippi River basin.

A compact is basically an agreement among states for dealing with a subject of common concern. Unlike some other compacts, a number of the provisions of this compact are not self-executing. The compact tells states what they must do. Additional state laws or administrative rules are necessary to do the things that the compact requires. The compact gives the states wide choices in how to implement some of its provisions. For example, the compact allows states to determine the threshold size for regulating water withdrawals from the Great Lakes basin. In other cases, the compact specifies regulatory requirements that a state may make more, but not less, restrictive.

The compact creates the Great Lakes—St. Lawrence River Basin Water Resources Council (the council) consisting of the governors of the states. The compact authorizes a governor to designate an alternate to act in the governor's absence. The council oversees the implementation of the compact and has responsibilities such as identifying and reviewing water conservation and efficiency objectives and approving certain proposals that involve diverting water from the watershed of one of the Great Lakes, as explained below. If any member of the council votes to disapprove a proposal for which council approval is required, the proposal is disapproved. The compact requires the members of the council to use the standards set forth in the compact, such as the exception standard described below, in deciding whether to approve or disapprove a proposal that is subject to council approval but also authorizes the council to revise these standards using procedures specified in the compact.

The compact also provides for review of some proposals by the regional body, which consists of the members of the council and the premiers of Ontario and Quebec, Canada. The regional body has no decision-making authority.

REGISTRATION AND REPORTING

The compact requires any person who makes a withdrawal of water from the Great Lakes basin that averages 100,000 gallons per day (GPD) or more in any 30-day period, or who diverts any amount of water, to register with the state and provide information about the withdrawal or diversion. Persons who are required to register must also annually report information about the monthly amounts of water withdrawn.

The compact requires the states to annually report to the council the information gathered through registration and reporting. The compact also requires each state to develop and maintain a water resources inventory for the collection, exchange, and dissemination of information about water resources.

REGULATION OF DIVERSIONS

A diversion is either the transfer of water out of the Great Lakes basin or the transfer of water out of the watershed of one of the Great Lakes into the watershed of another of the Great Lakes. The compact generally prohibits new diversions and prohibits increases in the amount of diversions that exist when the compact takes effect. There are three exceptions to the prohibition on new or increased diversions, described below.

The compact requires states to treat the removal of water from the Great Lakes basin in containers larger than 5.7 gallons as a diversion. The compact gives the states discretion to determine how to regulate proposals to remove water from the basin in containers of 5.7 gallons or less (proposals to bottle water).

Straddling communities

A straddling community is a community that is partly within the Great Lakes basin and partly outside of the basin when the compact takes effect, but that is wholly within a county that is partly within the basin. The first exception to the prohibition on diversions allows a new or increased transfer of water to the part of a straddling community that is outside of the Great Lakes basin.

The exception only applies if all of the diverted water is used to supply water to the public and if an amount of water equal to the amount diverted, less an allowance for consumptive use, will be returned to the Great Lakes basin (such as through a sewage system). A consumptive use is a use of water that results in less of the water being returned to surface water or groundwater than was withdrawn (due to evaporation, for example). The proposal for the new or increased diversion must maximize the amount of water that originated in the basin that is returned to the basin and minimize the amount of water that originated outside of the basin that is returned to the basin.

If the proposed new diversion or increase in an existing diversion would result from a new or increased withdrawal that averages 100,000 GPD or more in any 90-day period, the diversion must meet the exception standard, described below. A proposal for a diversion to a straddling community that results in a very large new or increased water loss to the Great Lakes basin (5,000,000 GPD or greater average over 90 days) must also be reviewed by the regional body before the state decides whether to approve the diversion.

Intrabasin transfers

An intrabasin transfer is the transfer of water from the watershed of one of the Great Lakes into the watershed of another of the Great Lakes. In Wisconsin, that would mean a transfer from the Lake Superior watershed to the Lake Michigan watershed or vice versa.

The compact allows a state to decide whether and how to regulate an intrabasin transfer that averages less than 100,000 GPD in any 90-day period.

For a larger intrabasin transfer it must be shown that there is no feasible, cost-effective, and environmentally sound alternative for obtaining water in the watershed to which the water will be transferred and the exception standard applies, except that the diverted water is not required to be returned to the watershed from which it was withdrawn, unless there is a very large new or increased water loss. In addition, the state must notify the other states before it decides whether to approve the intrabasin transfer. An intrabasin transfer that results in a very large new or increased water loss must also be reviewed by the regional body and must be approved by the council with no disapproving votes.

Communities in straddling counties

The third exception to the prohibition on new or increased diversions is to provide water to a community in a straddling county. A community in a straddling county is a community no part of which is in the Great Lakes basin, but that is wholly within a county that is partly in the Great Lakes basin.

A proposal for a diversion to a community in a straddling county is only allowed under the compact if all of the following apply:

1. All of the water is used to supply water to the public.
2. The community is otherwise without an adequate supply of water that is safe to drink.
3. The diversion satisfies the exception standard.

4. The proposal maximizes the amount of water that originated in the basin that is returned to the basin and minimizes the amount of water that originated outside of the basin that is returned to the basin.

5. There is no reasonable water supply alternative in the basin in which the community is located (in Wisconsin, that would be the upper Mississippi River basin).

6. The proposal is reviewed by the regional body.

7. The proposal is approved by the council with no disapproving votes.

Exception standard

As explained above, some diversions that are approvable under the compact are subject to what is called the exception standard. A proposal for a new or increased diversion meets the exception standard under the compact if it satisfies several criteria including the following:

1. The need for the diversion cannot be avoided through the efficient use and conservation of existing water supplies.

2. The amount of water diverted will be limited to quantities that are reasonable to meet the need.

3. An amount of water equal to the amount diverted, less an allowance for consumptive use, will be returned to the watershed from which it was withdrawn.

4. No water from outside of the source watershed will be returned to the source watershed unless it comes from a wastewater system that combines water from inside and outside of that watershed and is treated to satisfy water quality standards and to prevent the introduction of invasive species.

5. The diversion will not result in adverse impacts to the quantity or quality of the waters of the Great Lakes basin or related natural resources.

6. Environmentally sound and economically feasible water conservation measures will be used to minimize the amount of water withdrawn and the amount of water lost to the Great Lakes basin.

**MANAGEMENT AND REGULATION OF NEW AND INCREASED WITHDRAWALS;
DECISION-MAKING STANDARD**

The compact requires each state to regulate new and increased withdrawals of water from the Great Lakes basin. Each state is required to set thresholds for the regulation of withdrawals and consumptive uses. A withdrawal that exceeds the threshold set by a state is subject to what the compact calls the decision-making standard. The decision-making standard consists of several requirements, including that the withdrawal will not result in significant adverse impacts to the quantity or quality of the waters of the Great Lakes basin or to related natural resources, that environmentally sound and economically feasible water conservation measures will be used in implementing the withdrawal, and that the proposed use of the water is reasonable, based on a consideration of factors specified in the compact.

The compact requires states to establish baselines for existing withdrawals. A baseline basically grandfathers withdrawals that exist when the compact takes effect. The decision-making standard applies when the increase in an existing withdrawal over its baseline, during a ten-year period, exceeds the threshold set by

the state. If a withdrawal is never increased by the threshold amount, the decision-making standard need never be applied.

Under the compact, baselines may be set in only two ways, either on the basis of the actual capacity of the water withdrawal system when the compact takes effect or on the basis of existing withdrawal approvals (such as permits) issued by the state before the compact takes effect. This bill provides for the issuance of approvals for existing withdrawals before the compact's effective date in order to use the second method of setting baselines.

The compact requires a state to notify the other members of the regional body of a proposal that will result in a new or increased water loss to the Great Lakes basin of 5,000,000 GPD or greater average in any 90 day period. The compact also authorizes a majority of members of the regional body to request regional review of a regionally significant or potentially precedent setting proposal that is not otherwise subject to regional review.

WATER CONSERVATION AND EFFICIENCY

The compact includes water conservation and efficiency goals for the Great Lakes basin. The council will identify water conservation and efficiency objectives for the basin. The compact requires each state to develop water conservation and efficiency goals and objectives, consistent with the goals and objectives for the Great Lakes basin, and requires each state to develop and implement a water conservation and efficiency program, which may be voluntary or mandatory. The compact also requires states to promote environmentally sound and economically efficient water conservation measures, such as demand-side and supply-side incentives for water conservation.

PUBLIC PARTICIPATION

The compact requires the states to have procedures that facilitate public participation in the review of proposals for diversions and withdrawals that are regulated under the compact. The compact also requires states to consult with federally recognized American Indian tribes concerning proposals for which council approval or regional review is required.

OTHER PROVISIONS

The compact includes procedures for appealing decisions made by the council and by the states under the compact, including alternative dispute resolution for disputes among the states.

The compact specifies that, in general, withdrawals, consumptive uses, and diversions of Great Lakes water within Illinois are governed by the terms of the U.S. Supreme Court decree in *Wisconsin et al. v. Illinois et al.* and are not subject to regulation under the compact.

PROVISIONS THAT TAKE EFFECT BEFORE THE COMPACT TAKES EFFECT

Some provisions of the bill take effect before the compact is approved by the states and Congress. These provisions stay in effect if the compact never goes into effect.

REGULATION OF INTERBASIN TRANSFERS

The bill requires any person who transfers water out of the Great Lakes basin to register with the Department of Natural Resources (DNR). The bill calls such a transfer an interbasin transfer in the portions of the bill that apply before the compact takes effect and a diversion in the parts of the bill that apply once the compact takes effect. A person who makes an interbasin transfer must also annually report information about the transfer to DNR.

Approval required

The bill requires an approval from DNR for any new or increased interbasin transfer. The bill provides procedures for public participation in the review of proposals for new and increased interbasin transfers.

Each interbasin transfer must have an interbasin transfer amount in its approval. Any increase in the amount of an interbasin transfer over the interbasin transfer amount is subject to the restrictions described below on increases in interbasin transfers.

Automatic approval for existing interbasin transfers

The bill requires DNR to automatically issue an approval to a person who operates a public water supply system receiving water from an interbasin transfer that begins before the compact takes effect if the public water supply system delivers the water to customers in an area that is outside of the Great Lakes basin and that is in a sewer service area that provides for return of wastewater to the Great Lakes basin, as authorized in the sewer service area provisions of an areawide water quality management plan approved by DNR before December 31, 2007.

The bill requires DNR to determine the initial interbasin transfer amount for a public water supply system entitled to an automatic permit to be the amount of water necessary to provide water for public water supply services in the area described above.

The bill also requires DNR to automatically issue an approval to a person who makes an interbasin transfer when this bill is enacted if the transfer is not for public water supply purposes. DNR determines the interbasin transfer amount in the same way that it determines initial withdrawal amounts, described below.

New and increased interbasin transfers

Beginning on enactment, the bill generally prohibits new interbasin transfers, other than those for which DNR is required to issue automatic approvals, and also generally prohibits increases in existing interbasin transfers. There are three exceptions to the prohibition, which generally apply in the same situations as the exceptions to the prohibition on diversions in the compact, described above.

Some public water supply systems buy water from other entities, which actually withdraw the water. For an interbasin transfer made for the purpose of supplying water to the public, the person operating the public water supply system that receives the water from the transfer must obtain the approval from DNR.

If an applicant for approval of a new or increased interbasin transfer will not be the person who withdraws the water from the Great Lakes basin, the bill requires the applicant to identify any entities that may withdraw the water and provide

evidence of support from those entities in the form of a letter or resolution. Also, if an applicant for a new or increased interbasin transfer will not directly return the water to the Great Lakes basin, the applicant must identify any entities that may return the water and provide evidence of support from those entities in the form of a letter or resolution.

The interbasin transfer amount for a new or increased interbasin transfer is the quantity of water that DNR determines is reasonable for the purposes for which the interbasin transfer is made.

Straddling communities

A straddling community is a community that is partly within the Great Lakes basin and partly outside of the basin, but that is wholly within a county that is partly within the basin. The first exception to the prohibition on interbasin transfers allows a new or increased transfer of water to the part of a straddling community that is outside of the Great Lakes basin.

The exception only applies if all of the transferred water is used to supply water to the public and if an amount of water equal to the amount transferred, less an allowance for consumptive use, will be returned to the Great Lakes basin. The proposal must maximize the amount of water that originated in the basin that is returned to the basin and minimize the amount of water that originated outside of the basin that is returned to the basin. The proposal must also be consistent with an approved water supply plan under the planning provisions described below. If the proposed new or increased interbasin transfer would result from a new or increased withdrawal that averages 100,000 GPD or more in any 90-day period, the interbasin transfer must also meet the exception standard, in the manner described below.

Intrabasin transfers

The bill authorizes DNR to approve an intrabasin transfer (from the Lake Superior watershed to the Lake Michigan watershed or vice versa) that would average less than 100,000 GPD over 90 days if the proposal satisfies the requirements under laws related to high capacity wells, the withdrawal of water from streams, or the approval of plans for public water supply systems or, if none of those laws apply, if the proposal satisfies the requirements set by DNR by rule, and, if the water will be used for public water supply purposes, the proposal is consistent with an approved water supply plan.

For a larger intrabasin transfer, it must be shown that there is no feasible, cost-effective, and environmentally sound alternative for obtaining water in the watershed to which the water will be transferred and the exception standard applies, in the manner described below, except that it does not matter whether the transferred water is returned to the watershed from which it was withdrawn (unless there is a very large new or increased water loss). If the water will be used for public water supply purposes, the proposal must be consistent with an approved water supply plan.

Communities in straddling counties and other communities

The third exception to the prohibition on new or increased interbasin transfers is to provide water to a community in a straddling county. A community in a straddling county is a community no part of which is in the Great Lakes basin, but

that is wholly within a county that is partly in the Great Lakes basin (a straddling county). The bill also allows a new or increased interbasin transfer to a community that would be a community in a straddling county except that it extends beyond the straddling county into a county that lies entirely outside the Great Lakes basin, as long as the water is only used in the part of the community that is in the straddling county.

An interbasin transfer to one of the these types of communities is only allowed under the bill if all of the following apply:

1. All of the water is used to supply water to the public.
2. The community is without a water supply that is economically and environmentally sustainable in the long term to meet reasonable demands, that is available at a reasonable cost, and that has adverse environmental impacts that are less than those likely to result from the interbasin transfer.
3. The interbasin transfer satisfies the exception standard, in the manner described below.
4. The proposal maximizes the amount of water that originated in the basin that is returned to the basin and minimizes the amount of water that originated outside of the basin that is returned to the basin.
5. There is no reasonable water supply alternative in the basin in which the community is located.
6. The proposal is consistent with an approved water supply plan.

Exception standard

As mentioned above, some interbasin transfers that may be approved under the bill (when the compact is not in effect) are subject to the exception standard. The bill provides two different methods in which the exception standard is applied before the compact takes effect.

If, before the compact takes effect DNR receives an application for approval of an interbasin transfer for a straddling community or for a community in a straddling county or a community that would be a community in a straddling county except that it extends beyond the straddling county, then DNR determines whether to approve the application through the water supply planning process that is described below.

In that planning process, DNR must consider the criteria contained in the exception standard in the compact (described above) as factors in determining whether the proposal provides for a water supply system that will minimize monetary costs and environmental and other nonmonetary costs and maximize environmental benefits during the planning period while complying with all other applicable legal requirements. DNR must also consider, in making that determination, whether the place at which the water is returned to the Great Lakes basin is as close as practicable to the place at which the water is withdrawn, unless that would not be cost-effective, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, DNR must consider whether the physical, chemical, and biological integrity of the stream is protected and sustained.

If, before the compact takes effect, DNR receives an application for approval of an intrabasin transfer, the proposed intrabasin transfer only meets the exception

standard if it satisfies all of the criteria contained in the exception standard in the compact. In addition, the place at which the water is returned to the Great Lakes basin must be as close as practicable to the place at which the water is withdrawn, unless that would not be cost-effective, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, the physical, chemical, and biological integrity of the stream must be protected and sustained.

STATEWIDE WATER SUPPLY PLANNING FOR PUBLIC WATER SUPPLY SYSTEMS

The bill requires DNR to administer a water supply planning process for public water supply systems statewide. A plan may cover a period of not more than 20 years. The bill requires a public water supply system that serves a population of 10,000 or more and that withdraws water from the waters of the state to be covered by a plan approved by DNR no later than December 31, 2025, but public water supply systems may obtain approval of plans before that date. The bill authorizes regional planning commissions to prepare water supply plans for public water supply systems. A plan may cover more than one public water supply system.

The bill requires a person preparing a water supply plan to identify the sources and quantities of water supplies in the area for which the plan is prepared and to forecast the expected population of the area during the planning period and the demand for water in the area during that period. The person must identify alternatives for supplying water in the area and compare the costs and benefits of the alternatives. A plan must delineate service areas for the public water supply systems in the area covered by the plan. In an area of the state for which an areawide water quality planning agency has been designated under the federal Clean Water Act, that agency delineates the service areas for the public water supply systems in its planning area.

DNR may not approve a water supply plan unless it determines that the water supply plan provides for a water supply system that is cost-effective, that is, one that will minimize monetary costs and environmental and other nonmonetary costs and maximize environmental benefits during the planning period while complying with all other applicable legal requirements. The bill also requires that a water supply plan be consistent with any applicable local development plans or master plans and with areawide water quality management plans (which, among other provisions, specify service areas for sewage systems).

STATEWIDE REGISTRATION AND REPORTING OF WITHDRAWALS

The bill requires any person in this state who, three years after this bill becomes law, has a water supply system with the capacity to make a withdrawal of water that averages 100,000 GPD or more in a 30-day period (such as a high capacity well) to register the withdrawal with DNR and provide information about the system and the withdrawal. Any person who proposes to start a withdrawal with that capacity more than three years after this bill becomes law must also register with DNR. If the withdrawal is from the Great Lakes basin and it equals an average of 100,000 GPD or more in any 30 day period, the person must include in the registration an estimate of the maximum capacity of the most restrictive part of the water supply system used to make the withdrawal.

If a person who is required to register a withdrawal withdraws an average of 100,000 GPD or more in any 30–day period, the person must annually report to DNR information about the withdrawal, including the monthly volume of water withdrawn.

PERMITTING OF WITHDRAWALS IN THE GREAT LAKES BASIN

Permit requirement

This bill generally prohibits a person from making a withdrawal of water from the Great Lakes basin that averages 100,000 GPD or more in any 30–day period unless the withdrawal is covered by a general or individual water withdrawal permit. This requirement takes effect seven years after the bill becomes law. The bill authorizes DNR to begin issuing permits before the date on which permits are required for existing withdrawals.

Initial withdrawal amounts

Each withdrawal that is covered by a permit must have a withdrawal amount. For a withdrawal that is covered by a permit before the compact's effective date, the withdrawal amount on the compact's effective date is the baseline and is used to determine when a withdrawal has increased by the threshold amount that triggers certain requirements after the compact takes effect, as described below. The bill requires DNR to determine initial withdrawal amounts for existing withdrawals.

Generally, DNR estimates an initial withdrawal amount based on the maximum capacity of the most restrictive part of an existing water supply system. If DNR has issued an approval for the water supply system under another statute and that approval contains a limit on the amount of water that may be withdrawn, DNR provides an estimate equal to that limit.

After a person making a withdrawal receives an estimate from DNR, the person may provide information to DNR relating to matters such as plans for expanding the capacity of the water supply system and successful water conservation efforts by persons using the water that is withdrawn. DNR determines an initial withdrawal amount for a withdrawal based on the estimate and its evaluation of any relevant information provided by the person making the withdrawal.

For a public water supply system that has approval under current law to transfer water from the Great Lakes basin to supply water to the public in an area outside of the basin and that has approval to return the wastewater that results from the use of that water to the Great Lakes basin through its sewage system, the initial withdrawal amount is the amount of water necessary to provide water for public water supply purposes in the sewer service area for that sewage system specified in the areawide water quality management plan approved by DNR before December 31, 2007.

General permits

This bill requires DNR to issue one or more general permits to cover withdrawals from the Great Lakes basin that average 100,000 GPD or more in any 30–day period but that do not equal 1,000,000 GPD for any 30 consecutive days. A general permit covers numerous withdrawals with similar characteristics, as specified by DNR. DNR is required to include requirements for reporting and for

water conservation in a general permit, in accordance with rules that DNR promulgates. A general permit has a 25-year term.

The bill requires DNR to automatically issue a notice of coverage under a general permit to persons who make withdrawals from the Great Lakes basin that average 100,000 GPD or more in any 30-day period but that do not equal 1,000,000 GPD for any 30 consecutive days and who comply with the registration and reporting requirements in the bill. In an automatic notice of coverage, DNR specifies a withdrawal amount equal to the initial withdrawal amount determined as described above.

A person who proposes to begin a withdrawal, after the date on which the permit requirement applies but before the compact takes effect, that averages 100,000 GPD or more in any 30-day period but that does not equal 1,000,000 GPD for any 30 consecutive days must apply to DNR for coverage under a general permit. Generally, if DNR determines that the withdrawal qualifies for coverage under a general permit and DNR has issued any approvals that are required under other laws for the withdrawal, such as high capacity well approvals or approvals for any structures on the bed of a navigable water that are needed for the withdrawal, DNR must issue a notice of coverage under the general permit. In the notice, DNR specifies a withdrawal amount equal to the lesser of the capacity of the most restrictive component that will be used in the water supply system or any limit on the amount of water that may be withdrawn specified in other approvals needed for the withdrawal.

If the withdrawal is for the purpose of providing water to a public water supply system that is covered by an approved water supply plan, the requirement for previous issuance of other approvals that are needed for the withdrawal does not apply, but DNR may not issue a notice of coverage unless the withdrawal is consistent with the water supply plan. For such a withdrawal, DNR specifies a withdrawal amount equal to the withdrawal amount in the water supply plan. The withdrawal amount in a water supply plan is generally the amount that DNR determines is needed to provide a public water supply in accordance with the plan during the period covered by the plan.

The bill authorizes DNR to require a person who would otherwise qualify for coverage under a general permit to obtain an individual permit if the withdrawal is located in a groundwater protection area or a groundwater management area.

If a person making a withdrawal that is covered by a general permit proposes to increase the amount of the withdrawal over the withdrawal amount specified by DNR, but does not propose to withdraw at least 1,000,000 GPD for any 30 consecutive days, the person must apply to DNR for modification of the withdrawal amount. The conditions for increasing the withdrawal amount are the same as the conditions for granting coverage under a general permit.

Coverage under a general permit ends on the date that the term of the general permit ends. A person who intends to continue a withdrawal covered by a general permit must apply for redetermination of coverage under a new general permit at least 180 days before the end of the term of the current general permit.

Individual permits

The bill requires a person who makes a withdrawal from the Great Lakes basin that equals at least 1,000,000 GPD for any 30 consecutive days to have an individual permit. DNR must include in an individual permit a withdrawal amount, and, in accordance with rules promulgated by DNR, requirements for reporting and for water conservation and limits on the locations, dates, and seasons of the withdrawal and on the allowable uses of the water.

The bill requires DNR to automatically issue individual permits to persons who make withdrawals from the Great Lakes basin that equal at least 1,000,000 GPD for any 30 consecutive days and who comply with the registration and reporting requirements in the bill before the date on which the permit requirement applies. In the permit, DNR specifies a withdrawal amount equal to the initial withdrawal amount determined as described above.

A person who proposes to begin a withdrawal, after the date on which the permit requirement applies, that equals at least 1,000,000 GPD for any 30 consecutive days must apply to DNR for an individual permit. Generally, if DNR has issued any approvals that are required under other laws for the withdrawal, such as high capacity well approvals or approvals for any structures on the bed of a navigable water that are needed for the withdrawal, DNR must issue an individual permit. In the permit, DNR specifies a withdrawal amount equal to the lesser of the capacity of the most restrictive component that will be used in the water supply system or any limit on the amount of water that may be withdrawn specified in other approvals needed for the withdrawal.

If the withdrawal is for the purpose of providing water to a public water supply system that is covered by an approved water supply plan, the requirement for previous issuance of other approvals that are needed for the withdrawal does not apply, but DNR may not issue a permit unless the withdrawal is consistent with the water supply plan. For such a withdrawal, DNR specifies a withdrawal amount equal to the withdrawal amount in the water supply plan.

If a person with an individual permit proposes to increase the amount of the withdrawal over the withdrawal amount in the permit, the person must apply to DNR for modification of the permit to increase the withdrawal amount. The conditions for increasing the withdrawal amount are the same as the conditions for issuing the individual permit.

An individual permit has a ten-year term. A person who intends to continue a withdrawal covered by an individual permit must apply for reissuance of the permit at least 180 days before the end of the current permit term.

Interim approval

The bill provides that if, before the compact takes effect, DNR has not automatically issued a notice of coverage by a general permit or automatically issued an individual permit to a person who qualified for automatic issuance, registration of the withdrawal constitutes an approval of the withdrawal and the estimate of the maximum capacity of the most restrictive part of the water supply system used to make the withdrawal included in the registration is, generally, the withdrawal amount for the withdrawal.

The bill requires DNR, after the compact takes effect, to automatically issue a notice of coverage by a general permit or an individual permit to a person who qualifies for an interim approval. It also requires DNR to use the process for setting initial withdrawal amounts, described above, to determine whether to modify the withdrawal amount for a withdrawal that is covered by an interim approval and, if DNR does modify the withdrawal amount, provides that the modified withdrawal amount is the baseline for the purposes of the compact.

STATEWIDE WATER CONSERVATION

The bill requires DNR to specify water conservation and efficiency goals for all of the waters of this state. The bill also requires DNR to develop and implement a voluntary statewide water conservation and efficiency program that includes the promotion of environmentally sound and economically feasible water conservation measures. DNR must consult with the Department of Commerce and the Public Service Commission in specifying the goals and objectives and in developing and implementing the program.

The bill also requires DNR to promulgate rules specifying water conservation and efficiency measures for withdrawals required to be covered by general or individual permits. In the rules, DNR may not require retrofitting of existing fixtures, appliances, or equipment.

PROVISIONS THAT TAKE EFFECT AFTER THE COMPACT TAKES EFFECT

REGULATION OF DIVERSIONS

Approval required

Under this bill, no person may begin or increase a diversion without an approval from DNR. An interbasin transfer approval issued by DNR before the compact takes effect continues to be valid after the compact takes effect, but if the amount of the interbasin transfer (called a diversion in this part of the bill) is proposed to be increased over the interbasin transfer amount in the approval, the postcompact provisions related to diversions, described below, apply.

This bill does not treat a proposal to remove water from the basin in containers of 5.7 gallons or less (a proposal to bottle water) as a diversion. The provisions relating to withdrawals, described below, apply to such a proposal.

New and increased diversions

The general prohibition on new diversions and on increases in existing diversions and the three exceptions to the prohibition continue to apply after the compact takes effect.

Straddling communities

In addition to the requirements that apply before the compact takes effect, a proposal for a diversion to a straddling community that results in a very large new or increased water loss to the Great Lakes basin must be reviewed by the regional body before DNR decides whether to approve the proposal.

Intrabasin transfers

In addition to the requirements that apply before the compact takes effect, a proposal for an intrabasin transfer that results in a very large new or increased water

loss to the Great Lakes basin must be reviewed by the regional body and DNR may not approve the proposal unless the council approves the proposal with no disapproving votes.

Communities in straddling counties and other communities

In addition to the requirements that apply before the compact takes effect, a proposal for a diversion to a community in a straddling county or a community that would be a community in a straddling county except that it extends beyond the straddling county into a county that lies entirely outside the Great Lakes basin must be reviewed by the regional body and DNR may not approve the proposal unless the council approves the proposal with no disapproving votes.

Exception standard

After the compact takes effect, a proposed diversion does not meet the exception standard unless it meets all of the criteria included in the exception standard in the compact. In addition, the place at which the water is returned to the Great Lakes basin must be as close as practicable to the place at which the water is withdrawn, unless that would not be cost-effective, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, the physical, chemical, and biological integrity of the stream must be protected and sustained.

WATER SUPPLY PLANNING

The statewide water supply planning provisions described above continue in effect after the compact takes effect, but, for some public water supply systems that withdraw water from the Great Lakes basin, new requirements are added.

Once the compact takes effect, DNR may not approve a water supply plan that covers a water supply system serving a population of more than 10,000 if the plan provides for a new withdrawal from the basin, or for the increase in an existing withdrawal from the basin, that exceeds the threshold for application of one of the decision-making standards, as described below, unless DNR determines that the new withdrawal or increase in the existing withdrawal meets the applicable decision-making standard. In other words, for withdrawals by a public water supply system serving a population of more than 10,000, the decision-making standards are applied through the water supply planning process instead of through the withdrawal permitting process.

STATEWIDE REGISTRATION AND REPORTING OF WITHDRAWALS

The statewide requirement for registration and reporting of withdrawals, described above, continues after the compact takes effect.

PERMITTING OF WITHDRAWALS IN THE GREAT LAKES BASIN

Permit requirement

The permitting requirement for a withdrawal of water from the Great Lakes basin that averages 100,000 GPD or more in any 30-day period continues after the compact takes effect. A notice of coverage under a general permit or an individual permit issued before the compact takes effect continues to be valid, but postcompact decision-making standards apply to withdrawals that are proposed to be increased by one of the threshold amounts, as described below.

General permits

The provisions relating to coverage under a general permit generally do not change after the compact takes effect. However, after the compact takes effect, DNR may not issue a notice of coverage under a general permit for a withdrawal for the purpose of providing water to a public water supply system that serves a population of more than 10,000 unless the withdrawal is covered by an approved water supply plan.

Individual permits

The process for issuing and modifying individual water supply permits does not generally change when the compact takes effect.

After the compact takes effect, the bill conditions the issuance of an individual permit for a new withdrawal that equals at least 1,000,000 GPD, but less than 10,000,000 GPD, for any 30 consecutive days on compliance with the state decision-making standard, described below. The bill conditions the issuance of an individual permit for a new withdrawal that equals at least 10,000,000 GPD for any 30 consecutive days on compliance with the compact decision-making standard, except that if the person applying for the permit demonstrates that the water loss resulting from the withdrawal averages less than 5,000,000 GPD in every 90-day period, the state decision-making standard applies.

If a person proposes to increase the amount of a withdrawal that is covered by a water supply permit so that it equals at least 1,000,000 GPD, but not 10,000,000 GPD, for any 30 consecutive days over the withdrawal amount for the withdrawal as of the beginning of the current permit term, the compact's effective date, or the last date on which the state or compact decision-making standard was applied to an increase in the withdrawal, whichever is latest, approval of the increase is conditioned on compliance with the state decision-making standard. If a person proposes to increase the amount of a withdrawal that is covered by a water supply permit so that it equals at least 10,000,000 GPD for any 30 consecutive days over the withdrawal amount for the withdrawal as of the beginning of the current permit term, the compact's effective date, or the last date on which the compact decision-making standard was applied to an increase in the withdrawal, whichever is latest, approval of the increase is conditioned on compliance with the compact decision-making standard, except that if the person applying for the permit demonstrates that the water loss resulting from the increase in the withdrawal averages less than 5,000,000 GPD in every 90-day period, the state decision-making standard applies.

If a proposal will result in a new water loss or an increase in water loss that averages 5,000,000 gallons or more in any 90-day period, DNR is required to provide notice of the proposal to the other states and to Ontario and Quebec. Also, if a majority of the members of the regional body request regional review of a regionally significant or potentially precedent setting proposal for a withdrawal and DNR determines that the withdrawal will result in a water loss that averages at least 5,000,000 GPD in any 90-day period, DNR must submit the proposal for regional review and may not act on the proposal until the regional review is complete, unless regional review takes more than 90 days.

State decision-making standard

A proposal meets the state decision-making standard if it satisfies several criteria, including the following:

1. The amount of the withdrawal is needed to meet the projected needs of the persons who will use the water.
2. Cost-effective conservation practices will be implemented to ensure efficient use of the water.
3. One of the following applies:
 - a. The withdrawal will cause no significant adverse environmental impacts to the waters of the state.
 - b. If the withdrawal is from a surface water body, the withdrawal will not result in the violation of water quality standards or impair fish populations.
 - c. DNR has issued an approval for the withdrawal under laws related to high capacity wells, the withdrawal of water from streams, or the placement of structures in navigable waters.

Compact decision-making standard

What the bill calls the compact decision-making standard is very similar to the decision-making standard in the compact itself. A proposal meets the compact decision-making standard if it satisfies several criteria, including the following:

1. The withdrawal will not result in significant adverse impacts to the quantity or quality of the waters of the Great Lakes basin, to related natural resources, or, if the withdrawal is from a stream tributary to one of the Great Lakes, to the watershed of that stream.
2. Environmentally sound and economically feasible water conservation measures will be used in implementing the withdrawal.
3. The proposed use of the water is reasonable, based on a consideration of factors specified in the bill.

STATEWIDE WATER CONSERVATION

The requirement for a statewide water conservation and efficiency program continues to apply after the compact takes effect. The bill requires DNR to specify water conservation and efficiency goals and objectives for the waters of the Great Lakes basin that are consistent with the goals in the compact and the objectives specified by the council. By two years after the compact's effective date, DNR must implement a water conservation and efficiency program, for all users of waters of the Great Lakes basin, that is designed to achieve those goals and objectives.

Legislative oversight

The bill authorizes the governor to designate the secretary of natural resources to be the governor's alternate on the council in the governor's absence. Any designee other than the secretary is subject to senate confirmation.

Under the bill, before voting on a regulation of the council for the implementation or enforcement of the compact, or on a regulation that amends the exception standard or the compact's decision-making standard, other than a regulation that deals solely with the internal management of the council, the governor must submit a report describing his or her proposed vote on the proposed

regulation to the joint committee on legislative organization. The bill provides for passive review of the report. If the committee meets and takes action on the report within the periods provided in the bill, the governor may only vote on the proposed regulation in accordance with the position taken by the committee by majority vote.

PUBLIC PARTICIPATION

The bill includes procedures that provide for public participation in the review of proposals for diversions, proposals for withdrawals for which individual permits are required, for proposed general permits, and for proposed water supply plans. The bill also requires consultation with a federally recognized American Indian tribe concerning a proposal for which council approval or regional review is required if the proposal may affect the tribe.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 14.95 of the statutes is created to read:

2 **14.95 Great Lakes—St. Lawrence River Basin Water Resources**

3 **Council. (1)** There is created a Great Lakes—St. Lawrence River Basin Water
4 Resources Council as specified in s. 281.343 (2) (a). The governor may take such
5 actions as are necessary for the initial organization and operation of the Great
6 Lakes—St. Lawrence River Basin Water Resources Council.

7 **(2)** The governor shall serve as this state’s representative on the Great
8 Lakes—St. Lawrence River Basin Water Resources Council. In discharging his or
9 her responsibilities under s. 281.343 (2) and (3), the governor may designate the
10 secretary of natural resources as the governor’s alternate to attend all meetings of
11 the Great Lakes—St. Lawrence River Basin Water Resources Council and to vote at
12 all meetings of the Great Lakes—St. Lawrence River Basin Water Resources Council
13 in the absence of the governor. Any designee other than the secretary of natural
14 resources shall be nominated by the governor, and with the advice and consent of the
15 senate appointed, to serve at the pleasure of the governor.

1 **(3)** In discharging his or her responsibilities under s. 281.343 (2) and (3), the
2 governor may appoint an advisor to attend all meetings of the Great Lakes—St.
3 Lawrence River Basin Water Resources Council and its committees. The governor’s
4 advisor may not vote at meetings of the council. If the governor appoints an advisor,
5 the governor shall appoint an individual with knowledge of and experience with
6 Great Lakes water management issues.

7 **(3m)** (a) In this subsection, “standard of review and decision” means the
8 exception standard under s. 281.343 (4n) (d), the decision-making standard under
9 s. 281.343 (4r), and reviews under s. 281.343 (4) to (4z) that do not deal solely with
10 the internal management of the council.

11 (b) Before voting on a rule or regulation under s. 281.343 (3) (c) 1., or on a
12 regulation under s. 281.343 (3) (a) 2. that amends the standard of review and
13 decision, other than a rule or regulation that deals solely with the internal
14 management of the council or its property, the governor or his or her alternate shall
15 submit a report describing the governor’s or alternate’s proposed vote on the
16 proposed rule or regulation to the joint committee on legislative organization. The
17 governor or his or her alternate may not vote on the rule or regulation before the 30th
18 day after the date of submission. If the cochairpersons of the committee do not notify
19 the governor or his or her alternate within 30 days after the date of the submission
20 that the committee has scheduled a meeting for the purpose of reviewing the
21 proposed rule or regulation, the governor or his or her alternate may vote on the
22 proposed rule or regulation in accordance with the report. If, within 30 days after
23 the date of the submission by the governor or his or her alternate, the cochairpersons
24 of the committee notify the governor or his or her alternate that the committee has
25 scheduled a meeting for the purpose of reviewing the proposed rule or regulation, the

1 governor or his or her alternate may not vote on the proposed rule or regulation
2 before the 60th day after the date of submission. If, within 60 days after the date of
3 submission, the committee does not take action on the report, the governor or his or
4 her alternate may vote on the proposed rule or regulation in accordance with the
5 report. If, within 30 days after the date of submission, the cochairpersons notify the
6 governor or his or her alternate that the committee has scheduled a meeting for the
7 purpose of reviewing the proposed rule or regulation and, within 60 days after the
8 date of submission, the committee takes action on the proposed rule or regulation,
9 the governor or his or her alternate may only vote on the proposed rule or regulation
10 in accordance with the position expressed by majority vote of the committee.

11 **SECTION 2.** 30.18 (title) and (2) of the statutes are amended to read:

12 **30.18 (title) Diversion Withdrawal of water from lakes and streams. (2)**

13 PERMIT REQUIRED. (a) *Streams.* No person may ~~divert~~ withdraw water from a stream
14 in this state without an individual permit under this section if the ~~diversion~~
15 withdrawal meets either of the following conditions:

16 1. The ~~diversion~~ withdrawal is for the purpose of maintaining or restoring the
17 normal level of a navigable lake or the normal flow of a navigable stream, regardless
18 of whether the navigable lake or navigable stream is located within the watershed
19 of the stream from which the water is ~~diverted~~ withdrawn.

20 2. The ~~diversion~~ withdrawal is for the purpose of agriculture or irrigation.

21 (b) *Streams or lakes.* No person, except a person required to obtain an approval
22 under s. 281.41, may ~~divert~~ withdraw water from any lake or stream in this state
23 without an individual permit under this section if the ~~diversion~~ withdrawal will
24 result in a water loss averaging 2,000,000 gallons per day in any 30-day period above
25 the person's authorized base level of water loss.

1 **SECTION 3.** 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

2 30.18 **(3)** (a) 1. Except as provided in par. (b), an applicant for a permit required
3 under sub. (2) (a) shall file the application with the department setting forth the
4 name and post-office address of the applicant, the name of the stream from which
5 the water will be ~~diverted~~ withdrawn, the point in the stream from which it is
6 proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location
7 and riparian status of the land to which the water is to be ~~diverted~~ transferred, the
8 location and description of the canal, tunnel or pipes and other works through which
9 the water is to be ~~diverted~~ withdrawn and transferred, the amount of water to be
10 ~~diverted~~ withdrawn, the periods of time when it is proposed to ~~divert~~ withdraw such
11 water, the time required for the completion of the canal and other structures
12 necessary for the completed project and, if required by the department, 4 copies of
13 plans showing cross sections and profiles for any canal, tunnel, pipes or other
14 ~~diversion~~ works for withdrawing and transferring the water and any dam and
15 control works at the point of ~~diversion~~ withdrawal and at the point of discharge.

16 2. For a ~~diversion~~ withdrawal under sub. (2) (a) 1., a map or maps shall
17 accompany the application with a scale of not less than one inch per 2,000 feet,
18 showing the land topography and the probable course of the proposed ~~diversion~~ canal
19 and other works, and the ownership of all lands upon which will be located the canal,
20 tunnel, pipes and all other works for the completed project.

21 3. For a ~~diversion~~ withdrawal under sub. (2) (a) 2., the application shall include
22 written statements of consent to the ~~diversion~~ withdrawal from all riparian owners
23 who are making beneficial use of the water proposed to be ~~diverted~~ withdrawn.

24 **SECTION 4.** 30.18 (3) (b) of the statutes is amended to read:

1 30.18 (3) (b) *Application; streams or lakes.* An application for a permit required
2 under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If
3 the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the
4 application shall also comply with par. (a).

5 **SECTION 5.** 30.18 (4) (a) of the statutes is amended to read:

6 30.18 (4) (a) Upon receipt of a complete application, the department shall
7 follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to
8 providing notice as required under s. 30.208 (3) to (5), the department shall mail a
9 copy of the notice to every person upon whose land any part of the canal or any other
10 structure will be located, to the clerk of the next town downstream, to the clerk of any
11 village or city in which the lake or stream is located and which is adjacent to any
12 municipality in which the ~~diversion~~ withdrawal will take place and to each person
13 specified in s. 281.35 (5) (b) or (6) (f), if applicable.

14 **SECTION 6.** 30.18 (5) (a) 1. and 2. of the statutes are amended to read:

15 30.18 (5) (a) 1. That the proposed ~~diversion~~ withdrawal will not injure any
16 public rights in navigable waters.

17 2. That the water to be ~~diverted~~ withdrawn is surplus water, or if it is not
18 surplus water, that all riparians who may be adversely affected by the ~~diversion~~
19 withdrawal have consented to the proposed ~~diversion~~ withdrawal.

20 **SECTION 7.** 30.18 (6) (a) of the statutes is amended to read:

21 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
22 issued under this section the quantity of water that may be ~~diverted~~ withdrawn and
23 the times during which water may be ~~diverted~~ withdrawn. In addition, if the permit
24 is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

25 **SECTION 8.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

1 30.18 (6m) (a) 1. That the water being ~~diverted~~ withdrawn is no longer surplus
2 water, except that the department may allow the ~~diversion~~ withdrawal to continue
3 if all riparians adversely affected by the ~~diversion~~ withdrawal continue to consent
4 to it.

5 2. If the ~~diversion~~ withdrawal is from a stream designated by the department
6 as a trout stream, that the revocation is desirable for conservation purposes.

7 **SECTION 9.** 30.18 (6m) (b) of the statutes is amended to read:

8 30.18 (6m) (b) The department may revoke any permit issued under sub. (5)
9 (a), which is not subject to sub. (2) (b), if it finds that the ~~diversion~~ withdrawal is
10 detrimental to the stream from which the water is ~~diverted~~ withdrawn.

11 **SECTION 10.** 30.18 (7) of the statutes is amended to read:

12 30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION. After an application under
13 this section has been filed with the department, the applicant may enter any land
14 through which it is proposed to ~~divert~~ withdraw or transfer the water for the
15 purposes of making any surveys required for drafting the plans for the project, but
16 no work shall be commenced on the canal, headworks or other structures necessary
17 for the project until the plans for the same have been approved by the department.
18 Any person having received a permit required under sub. (2) (a) may construct upon
19 the land of another the canal and other works authorized by the permit after the
20 damage which will be sustained by the owner or owners of such land has been
21 satisfied, or has been determined as provided for in ch. 32, and after the final sum
22 so determined and all costs have been paid to the persons entitled thereto or to the
23 clerk of the circuit court on their account.

24 **SECTION 11.** 30.208 (3m) of the statutes is created to read:

1 **30.208 (3m)** NOTICE TO DOWNSTREAM COMMUNITIES. When the department
2 receives an application for an individual permit under s. 30.12 for a structure
3 through which water transferred from the Great Lakes basin would be returned to
4 the source watershed through a stream tributary to one of the Great Lakes, the
5 department shall provide notice of the application to the governing body of each city,
6 village, and town through which the stream flows or that is adjacent to the stream
7 downstream from the point at which the water would enter the stream.

8 **SECTION 12.** 196.49 (2) of the statutes is amended to read:

9 **196.49 (2)** No public utility may begin the construction, installation or
10 operation of any new plant, equipment, property or facility, nor the construction or
11 installation of any extension, improvement or addition to its existing plant,
12 equipment, property, apparatus or facilities unless the public utility has complied
13 with any applicable rule or order of the commission ~~and with s. 281.35, if applicable.~~
14 If a cooperative association has been incorporated under ch. 185 for the production,
15 transmission, delivery or furnishing of light or power and has filed with the
16 commission a map of the territory to be served by the association and a statement
17 showing that a majority of the prospective consumers in the area are included in the
18 project, no public utility may begin any such construction, installation or operation
19 within the territory until after the expiration of 6 months from the date of filing the
20 map and notice. If the cooperative association has entered into a loan agreement
21 with any federal agency for the financing of its proposed system and has given
22 written notice of the agreement to the commission, no public utility may begin any
23 construction, installation or operation within the territory until 12 months after the
24 date of the loan agreement.

25 **SECTION 13.** 196.98 of the statutes is repealed.

1 **SECTION 14.** 281.34 (5) (dm) of the statutes is created to read:

2 281.34 (5) (dm) *Water supply service area plan.* If a proposed high capacity well
3 is covered by an approved water supply service area plan under s. 281.348, the
4 department may not approve the high capacity well unless it is consistent with that
5 plan.

6 **SECTION 15.** 281.34 (5) (e) 1. of the statutes is amended to read:

7 281.34 (5) (e) 1. If s. 281.35 (4) applies to a proposed high capacity well, the
8 department shall include in the approval conditions that ensure that the high
9 capacity well complies with s. 281.35 (4) to (6).

10 **SECTION 16.** 281.343 of the statutes is created to read:

11 **281.343 Great Lakes—St. Lawrence River Basin Water Resources**
12 **Compact. (1)** LEGISLATIVE DETERMINATION. The legislature determines that it is in
13 the interests of this state to ratify the Great Lakes—St. Lawrence River Basin Water
14 Resources Compact. Nothing in this section may be interpreted to change the
15 application of the public trust doctrine under article IX, section 1, of the Wisconsin
16 Constitution or to create any new public trust rights.

17 **(1b)** RATIFICATION. The Great Lakes—St. Lawrence River Basin Water
18 Resources Compact, contained in subs. (1e) to (9), is ratified and approved, as
19 implemented and interpreted in ss. 14.95, 281.346, and 281.348.

20 **(1e)** DEFINITIONS. In this section, except as otherwise required by the context:

21 (a) “Adaptive management” means a water resources management system that
22 provides a systematic process for evaluation, monitoring, and learning from the
23 outcomes of operational programs and adjustment of policies, plans, and programs
24 based on experience and the evolution of scientific knowledge concerning water
25 resources and water dependent natural resources.

1 (am) “Agreement” means the Great Lakes—St. Lawrence River Basin
2 Sustainable Water Resources Agreement.

3 (b) “Applicant” means a person who is required to submit a proposal that is
4 subject to management and regulation under this compact. “Application” has a
5 corresponding meaning.

6 (c) “Basin” or “Great Lakes—St. Lawrence River Basin” means the watershed
7 of the Great Lakes and the St. Lawrence River upstream from Trois-Rivieres,
8 Quebec within the jurisdiction of the parties.

9 (cm) “Basin ecosystem” or “Great Lakes—St. Lawrence River Basin ecosystem”
10 means the interacting components of air, land, water, and living organisms,
11 including humankind, within the basin.

12 (d) “Community within a straddling county” means any incorporated city,
13 town, or the equivalent thereof, that is located outside the basin but wholly within
14 a county that lies partly within the basin and that is not a straddling community.

15 (dm) “Compact” means this compact.

16 (e) “Consumptive use” means that portion of the water withdrawn or withheld
17 from the basin that is lost or otherwise not returned to the basin due to evaporation,
18 incorporation into products, or other processes.

19 (em) “Council” means the Great Lakes—St. Lawrence River Basin Water
20 Resources Council, created by this compact.

21 (f) “Council review” means the collective review by the council members as
22 described in subs. (4) to (4z).

23 (fm) “County” means the largest territorial division for local government in a
24 state. The county boundaries shall be defined as those boundaries that exist as of
25 December 13, 2005.

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

8 (gm) “Decision-making standard” means the decision-making standard
9 established by sub. (4r) for proposals subject to management and regulation in sub.
10 (4p).

11 (h) “Diversion” means a transfer of water from the basin into another
12 watershed, or from the watershed of one of the Great Lakes into that of another by
13 any means of transfer, including but not limited to a pipeline, canal, tunnel,
14 aqueduct, channel, modification of the direction of a water course, a tanker ship,
15 tanker truck, or rail tanker but does not apply to water that is used in the basin or
16 a Great Lake watershed to manufacture or produce a product that is then transferred
17 out of the basin or watershed. “Divert” has a corresponding meaning.

18 (i) “Environmentally sound and economically feasible water conservation
19 measures” mean those measures, methods, technologies, or practices for efficient
20 water use and for reduction of water loss and waste or for reducing a withdrawal,
21 consumptive use, or diversion that are environmentally sound, reflect best practices
22 applicable to the water use sector, are technically feasible and available, are
23 economically feasible and cost-effective based on an analysis that considers direct
24 and avoided economic and environmental costs, and consider the particular facilities
25 and processes involved, taking into account the environmental impact, age of

1 equipment and facilities involved, the processes employed, energy impacts, and
2 other appropriate factors.

3 (im) “Exception” means a transfer of water that is excepted under sub. (4n)
4 from the prohibition against diversions in sub. (4m).

5 (j) “Exception standard” means the standard for exceptions established in sub.
6 (4n) (d).

7 (jm) “Intrabasin transfer” means the transfer of water from the watershed of
8 one of the Great Lakes into the watershed of another Great Lake.

9 (k) “Measures” means any legislation, law, regulation, directive, requirement,
10 guideline, program, policy, administrative practice, or other procedure.

11 (km) “New or increased diversion” means a new diversion, an increase in an
12 existing diversion, or the alteration of an existing withdrawal so that it becomes a
13 diversion.

14 (L) “New or increased withdrawal or consumptive use” means a new
15 withdrawal or consumptive use or an increase in an existing withdrawal or
16 consumptive use.

17 (Lm) “Originating party” means the party within whose jurisdiction an
18 application or registration is made or required.

19 (n) “Party” means a state that is a party to this compact.

20 (nm) “Person” means a human being or a legal person, including a government
21 or a nongovernmental organization, including any scientific, professional, business,
22 nonprofit, or public interest organization or association that is neither affiliated
23 with, nor under the direction of a government.

1 (o) 1. “Product” means something produced in the basin by human or
2 mechanical effort or through agricultural processes and used in manufacturing,
3 commercial, or other processes or intended for intermediate or end use consumers.

4 2. Water used as part of the packaging of a product shall be considered to be
5 part of the product.

6 3. Other than water used as part of the packaging of a product, water that is
7 used primarily to transport materials in or out of the basin is not a product or part
8 of a product.

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

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

13 (om) “Proposal” means a withdrawal, diversion, or consumptive use of water
14 that is subject to this compact.

15 (p) “Province” means Ontario or Quebec.

16 (pm) “Public water supply purposes” means water distributed to the public
17 through a physically connected system of treatment, storage, and distribution
18 facilities serving a group of largely residential customers that may also serve
19 industrial, commercial, and other institutional operators. Water withdrawn directly
20 from the basin and not through such a system shall not be considered to be used for
21 public water supply purposes.

22 (q) “Regional body” means the members of the council and the premiers of
23 Ontario and Quebec or their designee as established by the agreement.

24 (qm) “Regional review” means the collective review by the regional body as
25 described in sub. (4h).

1 (r) “Source watershed” means the watershed from which a withdrawal
2 originates. If water is withdrawn directly from a Great Lake or from the St.
3 Lawrence River, then the source watershed shall be considered to be the watershed
4 of that Great Lake or the watershed of the St. Lawrence River, respectively. If water
5 is withdrawn from the watershed of a stream that is a direct tributary to a Great
6 Lake or a direct tributary to the St. Lawrence River, then the source watershed shall
7 be considered to be the watershed of that Great Lake or the watershed of the St.
8 Lawrence River, respectively, with a preference to the direct tributary stream
9 watershed from which it was withdrawn.

10 (rm) “Standard of review and decision” means the exception standard,
11 decision-making standard, and reviews as outlined in subs. (4) to (4z).

12 (s) “State” means one of the states of Illinois, Indiana, Michigan, Minnesota,
13 New York, Ohio, or Wisconsin or the Commonwealth of Pennsylvania.

14 (t) “Straddling community” means any incorporated city, town, or the
15 equivalent thereof, wholly within any county that lies partly or completely within the
16 basin, whose corporate boundary existing as of the effective date of this compact is
17 partly within the basin or partly within 2 Great Lakes watersheds.

18 (u) “Technical review” means a detailed review conducted to determine
19 whether or not a proposal that requires regional review under this compact meets
20 the standard of review and decision following procedures and guidelines as set out
21 in this compact.

22 (v) “Water” means groundwater or surface water contained within the basin.

23 (w) “Water dependent natural resources” means the interacting components of
24 land, water, and living organisms affected by the waters of the basin.

1 (x) “Waters of the basin” or “basin water” means the Great Lakes and all
2 streams, rivers, lakes, connecting channels, and other bodies of water, including
3 tributary groundwater, within the basin.

4 (y) “Withdrawal” means the taking of water from surface water or
5 groundwater. “Withdraw” has a corresponding meaning.

6 **(1m)** FINDINGS AND PURPOSES. The legislative bodies of the respective parties
7 hereby find and declare:

8 (a) Findings:

9 1. The waters of the basin are precious public natural resources shared and
10 held in trust by the states;

11 2. The waters of the basin are interconnected and part of a single hydrologic
12 system;

13 3. The waters of the basin can concurrently serve multiple uses. Such multiple
14 uses include municipal, public, industrial, commercial, agriculture, mining,
15 navigation, energy development and production, recreation, the subsistence,
16 economic, and cultural activities of native peoples, water quality maintenance, and
17 the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other
18 purposes are encouraged, recognizing that such uses are interdependent and must
19 be balanced;

20 4. Future diversions and consumptive uses of basin water resources have the
21 potential to significantly impact the environment, economy, and welfare of the Great
22 Lakes—St. Lawrence River region;

23 5. Continued sustainable, accessible, and adequate water supplies for the
24 people and economy of the basin are of vital importance; and

1 6. The parties have a shared duty to protect, conserve, restore, improve, and
2 manage the renewable but finite waters of the basin for the use, benefit, and
3 enjoyment of all their citizens, including generations yet to come. The most effective
4 means of protecting, conserving, restoring, improving, and managing the basin
5 waters is through the joint pursuit of unified and cooperative principles, policies, and
6 programs mutually agreed upon, enacted, and adhered to by all parties.

7 (b) Purposes:

8 1. To act together to protect, conserve, restore, improve, and effectively manage
9 the waters and water dependent natural resources of the basin under appropriate
10 arrangements for intergovernmental cooperation and consultation because current
11 lack of full scientific certainty should not be used as a reason for postponing
12 measures to protect the basin ecosystem;

13 2. To remove causes of present and future controversies;

14 3. To provide for cooperative planning and action by the parties with respect
15 to such water resources;

16 4. To facilitate consistent approaches to water management across the basin
17 while retaining state management authority over water management decisions
18 within the basin;

19 5. To facilitate the exchange of data, strengthen the scientific information base
20 upon which decisions are made, and engage in consultation on the potential effects
21 of proposed withdrawals and losses on the waters and water dependent natural
22 resources of the basin;

23 6. To prevent significant adverse impacts of withdrawals and losses on the
24 basin's ecosystems and watersheds;

25 7. To promote interstate and state–provincial comity; and

1 8. To promote an adaptive management approach to the conservation and
2 management of basin water resources that recognizes, considers, and provides
3 adjustments for the uncertainties in, and evolution of, scientific knowledge
4 concerning the basin's waters and water dependent natural resources.

5 **(1s) SCIENCE.** (a) The parties commit to provide leadership for the development
6 of a collaborative strategy with other regional partners to strengthen the scientific
7 basis for sound water management decision making under this compact.

8 (b) The strategy shall guide the collection and application of scientific
9 information to support:

10 1. An improved understanding of the individual and cumulative impacts of
11 withdrawals from various locations and water sources on the basin ecosystem and
12 to develop a mechanism by which impacts of withdrawals may be assessed;

13 2. The periodic assessment of cumulative impacts of withdrawals, diversions,
14 and consumptive uses on a Great Lake and St. Lawrence River watershed basis;

15 3. Improved scientific understanding of the waters of the basin;

16 4. Improved understanding of the role of groundwater in basin water resources
17 management; and

18 5. The development, transfer, and application of science and research related
19 to water conservation and water use efficiency.

20 **(2) ORGANIZATION.** (a) *Council created.* The Great Lakes—St. Lawrence River
21 Basin Water Resources Council is hereby created as a body politic and corporate,
22 with succession for the duration of this compact, as an agency and instrumentality
23 of the governments of the respective parties.

24 (b) *Council membership.* The council shall consist of the governors of the
25 parties, ex officio.

1 (c) *Alternates.* Each member of the council shall appoint at least one alternate
2 who may act in his or her place and stead, with authority to attend all meetings of
3 the council and with power to vote in the absence of the member. Unless otherwise
4 provided by law of the party for which he or she is appointed, each alternate shall
5 serve during the term of the member appointing him or her, subject to removal at the
6 pleasure of the member. In the event of a vacancy in the office of alternate, it shall
7 be filled in the same manner as an original appointment for the unexpired term only.

8 (d) *Voting.* 1. Each member is entitled to one vote on all matters that may come
9 before the council.

10 2. Unless otherwise stated, the rule of decision shall be by a simple majority.

11 3. The council shall annually adopt a budget for each fiscal year and the amount
12 required to balance the budget shall be apportioned equitably among the parties by
13 unanimous vote of the council. The appropriation of such amounts shall be subject
14 to such review and approval as may be required by the budgetary processes of the
15 respective parties.

16 4. The participation of council members from a majority of the parties shall
17 constitute a quorum for the transaction of business at any meeting of the council.

18 (e) *Organization and procedure.* The council shall provide for its own
19 organization and procedure, and may adopt rules and regulations governing its
20 meetings and transactions, as well as the procedures and timeline for submission,
21 review, and consideration of proposals that come before the council for its review and
22 action. The council shall organize, annually, by the election of a chairperson and vice
23 chairperson from among its members. Each member may appoint an advisor, who
24 may attend all meetings of the council and its committees, but shall not have voting
25 power. The council may employ or appoint professional and administrative

1 personnel, including an executive director, as it may deem advisable, to carry out the
2 purposes of this compact.

3 (f) *Use of existing offices and agencies.* It is the policy of the parties to preserve
4 and utilize the functions, powers, and duties of existing offices and agencies of
5 government to the extent consistent with this compact. Further, the council shall
6 promote and aid the coordination of the activities and programs of the parties
7 concerned with water resources management in the basin. To this end, but without
8 limitation, the council may:

9 1. Advise, consult, contract, assist, or otherwise cooperate with any and all such
10 agencies;

11 2. Employ any other agency or instrumentality of any of the parties for any
12 purpose; and

13 3. Develop and adopt plans consistent with the water resources plans of the
14 parties.

15 (g) *Jurisdiction.* The council shall have, exercise, and discharge its functions,
16 powers, and duties within the limits of the basin. Outside the basin, it may act in
17 its discretion, but only to the extent such action may be necessary or convenient to
18 effectuate or implement its powers or responsibilities within the basin and subject
19 to the consent of the jurisdiction wherein it proposes to act.

20 (h) *Status, immunities, and privileges.* 1. The council, its members and
21 personnel in their official capacity and when engaged directly in the affairs of the
22 council, its property, and its assets, wherever located and by whomsoever held, shall
23 enjoy the same immunity from suit and every form of judicial process as is enjoyed
24 by the parties, except to the extent that the council may expressly waive its immunity
25 for the purposes of any proceedings or by the terms of any contract.

1 2. The property and assets of the council, wherever located and by whomsoever
2 held, shall be considered public property and shall be immune from search,
3 requisition, confiscation, expropriation, or any other form of taking or foreclosure by
4 executive or legislative action.

5 3. The council, its property and its assets, income, and the operations it carries
6 out pursuant to this compact shall be immune from all taxation by or under the
7 authority of any of the parties or any political subdivision thereof; provided, however,
8 that in lieu of property taxes the council may make reasonable payments to local
9 taxing districts in annual amounts that shall approximate the taxes lawfully
10 assessed upon similar property.

11 (i) *Advisory committees.* The council may constitute and empower advisory
12 committees, which may be comprised of representatives of the public and of federal,
13 state, tribal, county, and local governments, water resources agencies, water-using
14 industries and sectors, water-interest groups, and academic experts in related
15 fields.

16 **(3) GENERAL POWERS AND DUTIES.** (a) *General.* 1. The waters and water
17 dependent natural resources of the basin are subject to the sovereign right and
18 responsibilities of the parties, and it is the purpose of this compact to provide for joint
19 exercise of such powers of sovereignty by the council in the common interests of the
20 people of the region, in the manner and to the extent provided in this compact. The
21 council and the parties shall use the standard of review and decision and procedures
22 contained in or adopted pursuant to this compact as the means to exercise their
23 authority under this compact.

24 2. The council may revise the standard of review and decision, after
25 consultation with the provinces and upon unanimous vote of all council members, by

1 regulation duly adopted in accordance with par. (c) and in accordance with each
2 party's respective statutory authorities and applicable procedures.

3 3. The council shall identify priorities and develop plans and policies relating
4 to basin water resources. It shall adopt and promote uniform and coordinated
5 policies for water resources conservation and management in the basin.

6 (b) *Council powers.* The council may plan; conduct research and collect,
7 compile, analyze, interpret, report, and disseminate data on water resources and
8 uses; forecast water levels; conduct investigations; institute court actions; design,
9 acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real
10 and personal property and any interest therein as it may deem necessary, useful, or
11 convenient to carry out the purposes of this compact; make contracts; receive and
12 accept such payments, appropriations, grants, gifts, loans, advances, and other
13 funds, properties, and services as may be transferred or made available to it by any
14 party or by any other public or private agency, corporation, or individual; and
15 exercise such other and different powers as may be delegated to it by this compact
16 or otherwise pursuant to law, and have and exercise all powers necessary or
17 convenient to carry out its express powers or that may be reasonably implied
18 therefrom.

19 (c) *Rules and regulations.* 1. The council may promulgate and enforce such
20 rules and regulations as may be necessary for the implementation and enforcement
21 of this compact. The council may adopt by regulation, after public notice and public
22 hearing, reasonable application fees with respect to those proposals for exceptions
23 that are subject to council review under sub. (4n). Any rule or regulation of the
24 council, other than one that deals solely with the internal management of the council
25 or its property, shall be adopted only after public notice and hearing.

1 2. Each party, in accordance with its respective statutory authorities and
2 applicable procedures, may adopt and enforce rules and regulations to implement
3 and enforce this compact and the programs adopted by such party to carry out the
4 management programs contemplated by this compact.

5 (d) *Program review and findings.* 1. Each party shall submit a report to the
6 council and the regional body detailing its water management and conservation and
7 efficiency programs that implement this compact. The report shall set out the
8 manner in which water withdrawals are managed by sector, water source, quantity,
9 or any other means, and how the provisions of the standard of review and decision
10 and conservation and efficiency programs are implemented. The first report shall
11 be provided by each party one year from the effective date of this compact and
12 thereafter every 5 years.

13 2. The council, in cooperation with the provinces, shall review its water
14 management and conservation and efficiency programs and those of the parties that
15 are established in this compact and make findings on whether the water
16 management program provisions in this compact are being met, and if not,
17 recommend options to assist the parties in meeting the provisions of this compact.
18 Such review shall take place:

- 19 a. Thirty days after the first report is submitted by all parties; and
20 b. Every 5 years after the effective date of this compact; and
21 c. At any other time at the request of one of the parties.

22 3. As one of its duties and responsibilities, the council may recommend a range
23 of approaches to the parties with respect to the development, enhancement, and
24 application of water management and conservation and efficiency programs to
25 implement the standard of review and decision reflecting improved scientific

1 understanding of the waters of the basin, including groundwater, and the impacts
2 of withdrawals on the basin ecosystem.

3 **(4)** WATER MANAGEMENT AND REGULATION; WATER RESOURCES INVENTORY,
4 REGISTRATION, AND REPORTING. (a) Within 5 years of the effective date of this compact,
5 each party shall develop and maintain a water resources inventory for the collection,
6 interpretation, storage, retrieval, exchange, and dissemination of information
7 concerning the water resources of the party, including but not limited to information
8 on the location, type, quantity, and use of those resources and the location, type, and
9 quantity of withdrawals, diversions, and consumptive uses. To the extent feasible,
10 the water resources inventory shall be developed in cooperation with local, state,
11 federal, tribal, and other private agencies and entities, as well as the council. Each
12 party's agencies shall cooperate with that party in the development and maintenance
13 of the inventory.

14 (b) The council shall assist each party to develop a common base of data
15 regarding the management of the water resources of the basin and to establish
16 systematic arrangements for the exchange of those data with other states and
17 provinces.

18 (c) To develop and maintain a compatible base of water use information, within
19 5 years of the effective date of this compact any person who withdraws water in an
20 amount of 100,000 gallons per day or greater average in any 30-day period, including
21 consumptive uses, from all sources, or diverts water of any amount, shall register the
22 withdrawal or diversion by a date set by the council unless the person has previously
23 registered in accordance with an existing state program. The person shall register
24 the withdrawal or diversion with the originating party using a form prescribed by
25 the originating party that shall include, at a minimum and without limitation: the

1 name and address of the registrant and date of registration; the locations and sources
2 of the withdrawal or diversion; the capacity of the withdrawal or diversion per day
3 and the amount withdrawn or diverted from each source; the uses made of the water;
4 places of use and places of discharge; and such other information as the originating
5 party may require. All registrations shall include an estimate of the volume of the
6 withdrawal or diversion in terms of gallons per day average in any 30-day period.

7 (d) All registrants shall annually report the monthly volumes of the
8 withdrawal, consumptive use, and diversion in gallons to the originating party and
9 any other information requested by the originating party.

10 (e) Each party shall annually report the information gathered pursuant to this
11 subsection to a Great Lakes—St. Lawrence River water use data base repository and
12 aggregated information shall be made publicly available, consistent with the
13 confidentiality requirements in sub. (8) (c).

14 (f) Information gathered by the parties pursuant to this subsection shall be
15 used to improve the sources and applications of scientific information regarding the
16 waters of the basin and the impacts of the withdrawals and diversions from various
17 locations and water sources on the basin ecosystem and to better understand the role
18 of groundwater in the basin. The council and the parties shall coordinate the
19 collection and application of scientific information to further develop a mechanism
20 by which individual and cumulative impacts of withdrawals, consumptive uses, and
21 diversions shall be assessed.

22 **(4b) WATER MANAGEMENT AND REGULATION; WATER CONSERVATION AND EFFICIENCY**
23 **PROGRAMS.** (a) The council commits to identify, in cooperation with the provinces,
24 basin-wide water conservation and efficiency objectives to assist the parties in

1 developing their water conservation and efficiency programs. These objectives are
2 based on the goals of:

3 1. Ensuring improvement of the waters and water dependent natural
4 resources;

5 2. Protecting and restoring the hydrologic and ecosystem integrity of the basin;

6 3. Retaining the quantity of surface water and groundwater in the basin;

7 4. Ensuring sustainable use of waters of the basin; and

8 5. Promoting the efficiency of use and reducing losses and waste of water.

9 (b) Within 2 years of the effective date of this compact, each party shall develop
10 its own water conservation and efficiency goals and objectives consistent with the
11 basin-wide goals and objectives and shall develop and implement a water
12 conservation and efficiency program, either voluntary or mandatory, within its
13 jurisdiction based on the party's goals and objectives. Each party shall annually
14 assess its programs in meeting the party's goals and objectives, report to the council
15 and the regional body, and make this annual assessment available to the public.

16 (c) Beginning 5 years after the effective date of this compact, and every 5 years
17 thereafter, the council, in cooperation with the provinces, shall review and modify as
18 appropriate the basin-wide objectives, and the parties shall have regard for any such
19 modifications in implementing their programs. This assessment will be based on
20 examining new technologies, new patterns of water use, new resource demands and
21 threats, and cumulative impact assessment under sub. (4z).

22 (d) Within 2 years of the effective date of this compact, the parties commit to
23 promote environmentally sound and economically feasible water conservation
24 measures such as:

25 1. Measures that promote efficient use of water;

1 2. Identification and sharing of best management practices and state of the art
2 conservation and efficiency technologies;

3 3. Application of sound planning principles;

4 4. Demand–side and supply–side measures or incentives; and

5 5. Development, transfer, and application of science and research.

6 (e) Each party shall implement in accordance with par. (b) a voluntary or
7 mandatory water conservation program for all, including existing, basin water
8 users. Conservation programs need to adjust to new demands and the potential
9 impacts of cumulative effects and climate.

10 **(4d)** WATER MANAGEMENT AND REGULATION; PARTY POWERS AND DUTIES. (a) Each
11 party, within its jurisdiction, shall manage and regulate new or increased
12 withdrawals, consumptive uses, and diversions, including exceptions, in accordance
13 with this compact.

14 (b) Each party shall require an applicant to submit an application in such
15 manner and with such accompanying information as the party shall prescribe.

16 (c) No party may approve a proposal if the party determines that the proposal
17 is inconsistent with this compact or the standard of review and decision or any
18 implementing rules or regulations promulgated thereunder. The party may
19 approve, approve with modifications, or disapprove any proposal depending on the
20 proposal's consistency with this compact and the standard of review and decision.

21 (d) Each party shall monitor the implementation of any approved proposal to
22 ensure consistency with the approval and may take all necessary enforcement
23 actions.

24 (e) No party shall approve a proposal subject to council or regional review, or
25 both, pursuant to this compact unless it shall have been first submitted to and

1 reviewed by either the council or regional body, or both, and approved by the council,
2 as applicable. Sufficient opportunity shall be provided for comment on the proposal's
3 consistency with this compact and the standard of review and decision. All such
4 comments shall become part of the party's formal record of decision, and the party
5 shall take into consideration any such comments received.

6 **(4f)** WATER MANAGEMENT AND REGULATION; REQUIREMENT FOR ORIGINATING PARTY
7 APPROVAL. No proposal subject to management and regulation under this compact
8 shall hereafter be undertaken by any person unless it shall have been approved by
9 the originating party.

10 **(4h)** WATER MANAGEMENT AND REGULATION; REGIONAL REVIEW. (a) *General*. 1. It
11 is the intention of the parties to participate in regional review of proposals with the
12 provinces, as described in this compact and the agreement.

13 2. Unless the applicant or the originating party otherwise requests, it shall be
14 the goal of the regional body to conclude its review no later than 90 days after notice
15 under par. (b) of such proposal is received from the originating party.

16 3. Proposals for exceptions subject to regional review shall be submitted by the
17 originating party to the regional body for regional review and, where applicable, to
18 the council for concurrent review.

19 4. The parties agree that the protection of the integrity of the Great Lakes—St.
20 Lawrence River Basin ecosystem shall be the overarching principle for reviewing
21 proposals subject to regional review, recognizing uncertainties with respect to
22 demands that may be placed on basin water, including groundwater, levels and flows
23 of the Great Lakes and the St. Lawrence River, future changes in environmental
24 conditions, the reliability of existing data, and the extent to which diversions may
25 harm the integrity of the basin ecosystem.

1 5. The originating party shall have lead responsibility for coordinating
2 information for resolution of issues related to evaluation of a proposal and shall
3 consult with the applicant throughout the regional review process.

4 6. A majority of the members of the regional body may request regional review
5 of a regionally significant or potentially precedent setting proposal. Such regional
6 review must be conducted, to the extent possible, within the time frames set forth in
7 this subsection. Any such regional review shall be undertaken only after consulting
8 the applicant.

9 (b) *Notice from originating party to the regional body.* 1. The originating party
10 shall determine if a proposal is subject to regional review. If so, the originating party
11 shall provide timely notice to the regional body and the public.

12 2. Such notice shall not be given unless and until all information, documents,
13 and the originating party's technical review needed to evaluate whether the proposal
14 meets the standard of review and decision have been provided.

15 3. An originating party may:

16 a. Provide notice to the regional body of an application, even if notification is
17 not required; or

18 b. Request regional review of an application, even if regional review is not
19 required. Any such regional review shall be undertaken only after consulting the
20 applicant.

21 4. An originating party may provide preliminary notice of a potential proposal.

22 (c) *Public participation.* 1. To ensure adequate public participation, the
23 regional body shall adopt procedures for the review of proposals that are subject to
24 regional review in accordance with subs. (4) to (4z).

1 2. The regional body shall provide notice to the public of a proposal undergoing
2 regional review. Such notice shall indicate that the public has an opportunity to
3 comment in writing to the regional body on whether the proposal meets the standard
4 of review and decision.

5 3. The regional body shall hold a public meeting in the state or province of the
6 originating party in order to receive public comment on the issue of whether the
7 proposal under consideration meets the standard of review and decision.

8 4. The regional body shall consider the comments received before issuing a
9 declaration of finding.

10 5. The regional body shall forward the comments it receives to the originating
11 party.

12 (d) *Technical review.* 1. The originating party shall provide the regional body
13 with its technical review of the proposal under consideration.

14 2. The originating party's technical review shall thoroughly analyze the
15 proposal and provide an evaluation of the proposal sufficient for a determination of
16 whether the proposal meets the standard of review and decision.

17 3. Any member of the regional body may conduct the member's own technical
18 review of any proposal subject to regional review.

19 4. At the request of the majority of its members, the regional body shall make
20 such arrangements as it considers appropriate for an independent technical review
21 of a proposal.

22 5. All parties shall exercise their best efforts to ensure that a technical review
23 undertaken under subd. 3. or 4. does not unnecessarily delay the decision by the
24 originating party on the application. Unless the applicant or the originating party

1 otherwise requests, all technical reviews shall be completed no later than 60 days
2 after the date the notice of the proposal was given to the regional body.

3 (e) *Declaration of finding.* 1. The regional body shall meet to consider a
4 proposal. The applicant shall be provided with an opportunity to present the
5 proposal to the regional body at such time.

6 2. The regional body, having considered the notice, the originating party's
7 technical review, any other independent technical review that is made, any
8 comments or objections including the analysis of comments made by the public and
9 first nations and federally recognized tribes, and any other information that is
10 provided under this compact shall issue a declaration of finding that the proposal
11 under consideration:

12 a. Meets the standard of review and decision;

13 b. Does not meet the standard of review and decision; or

14 c. Would meet the standard of review and decision if certain conditions were
15 met.

16 3. An originating party may decline to participate in a declaration of finding
17 made by the regional body.

18 4. The parties recognize and affirm that it is preferable for all members of the
19 regional body to agree whether the proposal meets the standard of review and
20 decision.

21 5. If the members of the regional body who participate in the declaration of
22 finding all agree, they shall issue a written declaration of finding with consensus.

23 6. In the event that the members cannot agree, the regional body shall make
24 every reasonable effort to achieve consensus within 25 days.

1 7. Should consensus not be achieved, the regional body may issue a declaration
2 of finding that presents different points of view and indicates each party's
3 conclusions.

4 8. The regional body shall release the declarations of finding to the public.

5 9. The originating party and the council shall consider the declaration of
6 finding before making a decision on the proposal.

7 **(4J)** WATER MANAGEMENT AND REGULATION; PROPOSALS SUBJECT TO PRIOR NOTICE.

8 (a) Beginning no later than 5 years after the effective date of this compact, the
9 originating party shall provide all parties and the provinces with detailed and timely
10 notice and an opportunity to comment within 90 days on any proposal for a new or
11 increased consumptive use of 5,000,000 gallons per day or greater average in any
12 90-day period. Comments shall address whether or not the proposal is consistent
13 with the standard of review and decision. The originating party shall provide a
14 response to any such comment received from another party.

15 (b) A party may provide notice, an opportunity to comment, and a response to
16 comments even if this is not required under par. (a). Any provision of such notice and
17 opportunity to comment shall be undertaken only after consulting the applicant.

18 **(4L)** WATER MANAGEMENT AND REGULATION; COUNCIL ACTIONS. (a) Proposals for
19 exceptions subject to council review shall be submitted by the originating party to
20 the council for council review, and where applicable, to the regional body for
21 concurrent review.

22 (b) The council shall review and take action on proposals in accordance with
23 this compact and the standard of review and decision. The council shall not take
24 action on a proposal subject to regional review pursuant to this compact unless the

1 proposal shall have been first submitted to and reviewed by the regional body. The
2 council shall consider any findings resulting from such review.

3 **(4m)** WATER MANAGEMENT AND REGULATION; PROHIBITION OF NEW OR INCREASED
4 DIVERSIONS. All new or increased diversions are prohibited, except as provided for in
5 sub. (4n).

6 **(4n)** WATER MANAGEMENT AND REGULATION; EXCEPTIONS TO THE PROHIBITION OF
7 DIVERSIONS. (a) *Straddling communities*. A proposal to transfer water to an area
8 within a straddling community but outside the basin or outside the source Great
9 Lake watershed shall be excepted from the prohibition against diversions and be
10 managed and regulated by the originating party provided that, regardless of the
11 volume of water transferred, all of the water so transferred shall be used solely for
12 public water supply purposes within the straddling community, and:

13 1. All water withdrawn from the basin shall be returned, either naturally or
14 after use, to the source watershed less an allowance for consumptive use. No surface
15 water or groundwater from outside the basin may be used to satisfy any portion of
16 this criterion except if it:

17 a. Is part of a water supply or wastewater treatment system that combines
18 water from inside and outside of the basin;

19 b. Is treated to meet applicable water quality discharge standards and to
20 prevent the introduction of invasive species into the basin;

21 c. Maximizes the portion of water returned to the source watershed as basin
22 water and minimizes the surface water or groundwater from outside the basin;

23 2. If the proposal results from a new or increased withdrawal of 100,000 gallons
24 per day or greater average over any 90-day period, the proposal shall also meet the
25 exception standard; and

1 3. If the proposal results in a new or increased consumptive use of 5,000,000
2 gallons per day or greater average over any 90–day period, the proposal shall also
3 undergo regional review.

4 (b) *Intrabasin transfer*. A proposal for an intrabasin transfer that would be
5 considered a diversion under this compact, and not already excepted pursuant to par.
6 (a), shall be excepted from the prohibition against diversions, provided that:

7 1. If the proposal results from a new or increased withdrawal of less than
8 100,000 gallons per day average over any 90–day period, the proposal shall be subject
9 to management and regulation at the discretion of the originating party.

10 2. If the proposal results from a new or increased withdrawal of 100,000 gallons
11 per day or greater average over any 90–day period and if the consumptive use
12 resulting from the withdrawal is less than 5,000,000 gallons per day average over
13 any 90–day period:

14 a. The proposal shall meet the exception standard and be subject to
15 management and regulation by the originating party, except that the water may be
16 returned to another Great Lake watershed rather than the source watershed;

17 b. The applicant shall demonstrate that there is no feasible, cost–effective, and
18 environmentally sound water supply alternative within the Great Lake watershed
19 to which the water will be transferred, including conservation of existing water
20 supplies; and

21 c. The originating party shall provide notice to the other parties prior to making
22 any decision with respect to the proposal.

23 3. If the proposal results in a new or increased consumptive use of 5,000,000
24 gallons per day or greater average over any 90–day period:

1 a. The proposal shall be subject to management and regulation by the
2 originating party and shall meet the exception standard, ensuring that water
3 withdrawn shall be returned to the source watershed;

4 b. The applicant shall demonstrate that there is no feasible, cost-effective, and
5 environmentally sound water supply alternative within the Great Lake watershed
6 to which the water will be transferred, including conservation of existing water
7 supplies;

8 c. The proposal undergoes regional review; and

9 d. The proposal is approved by the council. Council approval shall be given
10 unless one or more council members vote to disapprove.

11 (c) *Straddling counties.* 1. A proposal to transfer water to a community within
12 a straddling county that would be considered a diversion under this compact shall
13 be excepted from the prohibition against diversions, provided that it satisfies all of
14 the following conditions:

15 a. The water shall be used solely for the public water supply purposes of the
16 community within a straddling county that is without adequate supplies of potable
17 water;

18 b. The proposal meets the exception standard, maximizing the portion of water
19 returned to the source watershed as basin water and minimizing the surface water
20 or groundwater from outside the basin;

21 c. The proposal shall be subject to management and regulation by the
22 originating party, regardless of its size;

23 d. There is no reasonable water supply alternative within the basin in which
24 the community is located, including conservation of existing water supplies;

1 e. Caution shall be used in determining whether or not the proposal meets the
2 conditions for this exception. This exception should not be authorized unless it can
3 be shown that it will not endanger the integrity of the basin ecosystem;

4 f. The proposal undergoes regional review; and

5 g. The proposal is approved by the council. Council approval shall be given
6 unless one or more council members vote to disapprove.

7 2. A proposal must satisfy all of the conditions listed above. Further,
8 substantive consideration will also be given to whether or not the proposal can
9 provide sufficient scientifically based evidence that the existing water supply is
10 derived from groundwater that is hydrologically interconnected to waters of the
11 basin.

12 (d) *Exception standard.* Proposals subject to management and regulation in
13 this subsection shall be declared to meet this exception standard and may be
14 approved as appropriate only when the following criteria are met:

15 1. The need for all or part of the proposed exception cannot be reasonably
16 avoided through the efficient use and conservation of existing water supplies;

17 2. The exception will be limited to quantities that are considered reasonable
18 for the purposes for which it is proposed;

19 3. All water withdrawn shall be returned, either naturally or after use, to the
20 source watershed less an allowance for consumptive use. No surface water or
21 groundwater from outside the basin may be used to satisfy any portion of this
22 criterion except if it:

23 a. Is part of a water supply or wastewater treatment system that combines
24 water from inside and outside of the basin; and

1 b. Is treated to meet applicable water quality discharge standards and to
2 prevent the introduction of invasive species into the basin;

3 4. The exception will be implemented so as to ensure that it will result in no
4 significant individual or cumulative adverse impacts to the quantity or quality of the
5 waters and water dependent natural resources of the basin with consideration given
6 to the potential cumulative impacts of any precedent-setting consequences
7 associated with the proposal;

8 5. The exception will be implemented so as to incorporate environmentally
9 sound and economically feasible water conservation measures to minimize water
10 withdrawals or consumptive use;

11 6. The exception will be implemented so as to ensure that it is in compliance
12 with all applicable municipal, state, and federal laws as well as regional interstate
13 and international agreements, including the Boundary Waters Treaty of 1909; and

14 7. All other applicable criteria in this subsection have also been met.

15 **(4p)** WATER MANAGEMENT AND REGULATION; MANAGEMENT AND REGULATION OF NEW
16 OR INCREASED WITHDRAWALS AND CONSUMPTIVE USES. (a) Within 5 years of the effective
17 date of this compact, each party shall create a program for the management and
18 regulation of new or increased withdrawals and consumptive uses by adopting and
19 implementing measures consistent with the decision-making standard. Each party,
20 through a considered process, shall set and may modify threshold levels for the
21 regulation of new or increased withdrawals in order to assure an effective and
22 efficient water management program that will ensure that uses overall are
23 reasonable, that withdrawals overall will not result in significant impacts to the
24 waters and water dependent natural resources of the basin, determined on the basis
25 of significant impacts to the physical, chemical, and biological integrity of source

1 watersheds, and that all other objectives of the compact are achieved. Each party
2 may determine the scope and thresholds of its program, including which new or
3 increased withdrawals and consumptive uses will be subject to the program.

4 (b) Any party that fails to set threshold levels that comply with par. (a) any time
5 before 10 years after the effective date of this compact shall apply a threshold level
6 for management and regulation of all new or increased withdrawals of 100,000
7 gallons per day or greater average in any 90-day period.

8 (c) The parties intend programs for new or increased withdrawals and
9 consumptive uses to evolve as may be necessary to protect basin waters. Pursuant
10 to sub. (3) (d), the council, in cooperation with the provinces, shall periodically assess
11 the water management programs of the parties. Such assessments may produce
12 recommendations for the strengthening of the programs, including, without
13 limitation, establishing lower thresholds for management and regulation in
14 accordance with the decision-making standard.

15 **(4r)** WATER MANAGEMENT AND REGULATION; DECISION-MAKING STANDARD.
16 Proposals subject to management and regulation in sub. (4p) shall be declared to
17 meet this decision-making standard and may be approved as appropriate only when
18 the following criteria are met:

19 (a) All water withdrawn shall be returned, either naturally or after use, to the
20 source watershed less an allowance for consumptive use;

21 (b) The withdrawal or consumptive use will be implemented so as to ensure
22 that the proposal will result in no significant individual or cumulative adverse
23 impacts to the quantity or quality of the waters and water dependent natural
24 resources and the applicable source watershed;

1 (c) The withdrawal or consumptive use will be implemented so as to incorporate
2 environmentally sound and economically feasible water conservation measures;

3 (d) The withdrawal or consumptive use will be implemented so as to ensure
4 that it is in compliance with all applicable municipal, state, and federal laws as well
5 as regional interstate and international agreements, including the Boundary Waters
6 Treaty of 1909; and

7 (e) The proposed use is reasonable, based upon a consideration of the following
8 factors:

9 1. Whether the proposed withdrawal or consumptive use is planned in a fashion
10 that provides for efficient use of the water and will avoid or minimize the waste of
11 water;

12 2. If the proposal is for an increased withdrawal or consumptive use, whether
13 efficient use is made of existing water supplies;

14 3. The balance between economic development, social development, and
15 environmental protection of the proposed withdrawal and use and other existing or
16 planned withdrawals and water uses sharing the water source;

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

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

24 6. If a proposal includes restoration of hydrologic conditions and functions of
25 the source watershed, the party may consider that.

1 **(4t)** WATER MANAGEMENT AND REGULATION; APPLICABILITY. (a) *Minimum*
2 *standard.* This standard of review and decision shall be used as a minimum
3 standard. Parties may impose a more restrictive decision-making standard for
4 withdrawals under their authority. It is also acknowledged that although a proposal
5 meets the standard of review and decision it may not be approved under the laws of
6 the originating party that has implemented more restrictive measures.

7 (b) *Baseline.* 1. To establish a baseline for determining a new or increased
8 diversion, consumptive use, or withdrawal, each party shall develop either or both
9 of the following lists for the party's jurisdiction:

10 a. A list of existing withdrawal approvals as of the effective date of the compact.

11 b. A list of the capacity of existing systems as of the effective date of this
12 compact. The capacity of the existing systems should be presented in terms of
13 withdrawal capacity, treatment capacity, distribution capacity, or other capacity
14 limiting factors. The capacity of the existing systems must represent the state of the
15 systems. Existing capacity determinations shall be based upon approval limits or
16 the most restrictive capacity information.

17 2. For all purposes of this compact, volumes of diversions, consumptive uses,
18 or withdrawals of water set forth in the lists prepared by each party in accordance
19 with this paragraph shall constitute the baseline volume.

20 3. The lists shall be furnished to the regional body and the council within one
21 year of the effective date of this compact.

22 (c) *Timing of additional applications.* Applications for new or increased
23 withdrawals, consumptive uses, or exceptions shall be considered cumulatively
24 within 10 years of any application.

1 (d) *Change of ownership.* Unless a new owner proposes a project that shall
2 result in a proposal for a new or increased diversion or consumptive use subject to
3 regional review or council approval, the change of ownership in and of itself shall not
4 require regional review or council approval.

5 (e) *Groundwater.* The basin surface water divide shall be used for the purpose
6 of managing and regulating new or increased diversions, consumptive uses, or
7 withdrawals of surface water and groundwater.

8 (f) *Withdrawal systems.* The total volume of surface water and groundwater
9 resources that supply a common distribution system shall determine the volume of
10 a withdrawal, consumptive use, or diversion.

11 (g) *Connecting channels.* The watershed of each Great Lake shall include its
12 upstream and downstream connecting channels.

13 (h) *Transmission in water lines.* Transmission of water within a line that
14 extends outside the basin as it conveys water from one point to another within the
15 basin shall not be considered a diversion if none of the water is used outside the basin.

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

18 (j) *Bulk water transfer.* A proposal to withdraw water and to remove it from the
19 basin in any container greater than 5.7 gallons shall be treated under this compact
20 in the same manner as a proposal for a diversion. Each party shall have the
21 discretion, within its jurisdiction, to determine the treatment of proposals to
22 withdraw water and to remove it from the basin in any container of 5.7 gallons or less.

23 **(4v) WATER MANAGEMENT AND REGULATION; EXEMPTIONS.** Withdrawals from the
24 basin for the following purposes are exempt from the requirements of subs. (4) to (4z):

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

6 **(4x)** WATER MANAGEMENT AND REGULATION; U.S. SUPREME COURT DECREE IN
7 WISCONSIN ET AL. V. ILLINOIS ET AL. (a) Notwithstanding any terms of this compact to
8 the contrary, with the exception of par. (e), current, new, or increased withdrawals,
9 consumptive uses, and diversions of basin water by the state of Illinois shall be
10 governed by the terms of the United States Supreme Court decree in *Wisconsin et al.*
11 *v. Illinois et al.* and shall not be subject to the terms of this compact nor any rules or
12 regulations promulgated pursuant to this compact. This means that, with the
13 exception of par. (e), for purposes of this compact, current, new, or increased
14 withdrawals, consumptive uses, and diversions of basin water within the state of
15 Illinois shall be allowed unless prohibited by the terms of the United States Supreme
16 Court decree in *Wisconsin et al. v. Illinois et al.*

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

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

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

12 (d) With the exception of par. (e), because subs. (4d), (4f), (4h), (4j), (4L), (4m),
13 (4n), (4p), (4r), (4t) (a), (b), (c), (d), (f), and (j), and (4v) all relate to current, new, or
14 increased withdrawals, consumptive uses, and diversions of basin waters, said
15 provisions do not apply to the state of Illinois. All other provisions of this compact
16 not listed in the preceding sentence shall apply to the state of Illinois, including the
17 water conservation programs provision of sub. (4b).

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

22 (f) For purposes of the state of Illinois' participation in this compact, the
23 entirety of this subsection is necessary for the continued implementation of this
24 compact and, if severed, this compact shall no longer be binding on or enforceable by
25 or against the state of Illinois.

1 **(4z) WATER MANAGEMENT AND REGULATION; ASSESSMENT OF CUMULATIVE IMPACTS.**

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

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

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

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

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

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

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

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

23 (c) In addition to the specific consultation mechanisms described above, the
24 council shall seek to establish mutually agreed upon mechanisms or processes to
25 facilitate dialogue with, and input from, federally recognized tribes on matters to be

1 dealt with by the council; and the council shall seek to establish mechanisms and
2 processes with federally recognized tribes designed to facilitate ongoing scientific
3 and technical interaction and data exchange regarding matters falling within the
4 scope of this compact. This may include participation of tribal representatives on
5 advisory committees established under this compact or such other processes that are
6 mutually agreed upon with federally recognized tribes individually or through duly
7 authorized intertribal agencies or bodies.

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

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

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

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

21 2. Assure public accessibility to all documents relevant to an application,
22 including public comment received.

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

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

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

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

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

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

13 **(7r)** DISPUTE RESOLUTION AND ENFORCEMENT; ENFORCEMENT. (a) Any person
14 aggrieved by any action taken by the council pursuant to the authorities contained
15 in this compact shall be entitled to a hearing before the council. Any person
16 aggrieved by a party action shall be entitled to a hearing pursuant to the relevant
17 party's administrative procedures and laws. After exhaustion of such
18 administrative remedies, any aggrieved person shall have the right to judicial review
19 of a council action in the United States district court for the District of Columbia or
20 the district court in which the council maintains offices, provided such action is
21 commenced within 90 days; and any aggrieved person shall have the right to judicial
22 review of a party's action in the relevant party's court of competent jurisdiction,
23 provided that an action or proceeding for such review is commenced within the time
24 frames provided for by the party's law. For the purposes of this paragraph, a state

1 or province is deemed to be an aggrieved person with respect to any party action
2 pursuant to this compact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 4. An approval by a party or the council under this compact does not give any
25 property rights, nor any exclusive privileges, nor shall it be construed to grant or

1 confer any right, title, easement, or interest in, to, or over any land belonging to or
2 held in trust by a party; neither does it authorize any injury to private property or
3 invasion of private rights, nor infringement of federal, state, or local laws or
4 regulations; nor does it obviate the necessity of obtaining federal assent when
5 necessary.

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

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

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

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

21 2. A party may take measures, including but not limited to deletion and
22 redaction, deemed necessary to protect any confidential, proprietary, or
23 commercially sensitive information when distributing information to other parties.
24 The party shall summarize or paraphrase any such information in a manner
25 sufficient for the council to exercise its authorities contained in this compact.

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

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

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

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

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

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

23 (c) *Entire agreement.* The parties consider this compact to be complete and an
24 integral whole. Each provision of this compact is considered material to the entire
25 compact, and failure to implement or adhere to any provision may be considered a

1 material breach. Unless otherwise noted in this compact, any change or amendment
2 made to the compact by any party in its implementing legislation or by the U.S.
3 Congress when giving its consent to this compact is not considered effective unless
4 concurred in by all parties.

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

9 **SECTION 17.** 281.344 of the statutes is created to read:

10 **281.344 Water conservation, reporting, and supply regulation; when**
11 **compact is not in effect. (1) DEFINITIONS.** In this section:

12 (d) “Community within a straddling county” means any city, village, or town
13 that is not a straddling community and that is located outside the Great Lakes basin
14 but wholly within a county that lies partly within the Great Lakes basin.

15 (dm) “Compact” means the Great Lakes—St. Lawrence River Basin Water
16 Resources Compact under s. 281.343.

17 (dr) “Compact’s effective date” means the effective date of the compact under
18 s. 281.343 (9) (d).

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

22 (g) “Cumulative impacts” means the impacts on the Great Lakes basin
23 ecosystem that result from incremental effects of all aspects of a withdrawal,
24 interbasin transfer, or consumptive use in addition to other past, present, and
25 reasonably foreseeable future withdrawals, interbasin transfers, and consumptive

1 uses regardless of who undertakes the other withdrawals, interbasin transfers, and
2 consumptive uses, including individually minor but collectively significant
3 withdrawals, interbasin transfers, and consumptive uses taking place over a period
4 of time.

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

11 1. Environmentally sound.

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

13 3. Technically feasible and available.

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

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

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

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

24 (k) “Interbasin transfer” means a transfer of water from the Great Lakes basin
25 into a watershed outside of the Great Lakes basin or from the watershed of one of the

1 Great Lakes into that of another, except that “interbasin transfer” does not include
2 any of the following:

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

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

9 3. The transfer of bottled water from the Great Lakes basin in containers of
10 5.7 gallons or less.

11 (km) “Intrabasin transfer” means the transfer of water from the watershed of
12 one of the Great Lakes into the watershed of another of the Great Lakes.

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

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

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

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

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

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

5 (ps) “Reasonable water supply alternative” means a water supply alternative
6 that is similar in cost to, and as environmentally sustainable and protective of public
7 health as, the proposed new or increased interbasin transfer and that does not have
8 greater adverse environmental impacts than the proposed new or increased
9 interbasin transfer.

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

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

22 (t) “Straddling community” means any city, village, or town that is partly
23 within the Great Lakes basin or partly within the watersheds of 2 of the Great Lakes
24 and that is wholly within any county that lies partly or completely within the Great
25 Lakes basin.

1 (tm) “Straddling county” means a county that lies partly within the Great
2 Lakes basin.

3 (w) “Water dependent natural resources” means the interacting components of
4 land, water, and living organisms affected by the waters of the Great Lakes basin.

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

8 (wp) “Water supply system,” when not preceded by “public,” means one of the
9 following:

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

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

14 (wr) “Water utility” means a public utility, as defined in s. 196.01 (5), that
15 furnishes water.

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

19 (y) “Withdraw” means to take water from surface water or groundwater.

20 (z) “Withdrawal” means the taking of water from surface water or groundwater,
21 including the taking of surface water or groundwater for the purpose of bottling the
22 water.

23 (zm) “Without adequate supplies of potable water” means without a water
24 supply that is economically and environmentally sustainable in the long term to
25 meet reasonable demands for a water supply in the quantity and quality that

1 complies with applicable drinking water standards, is protective of public health, is
2 available at a reasonable cost, and does not have adverse environmental impacts
3 greater than those likely to result from the proposed new or increased interbasin
4 transfer.

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) *Transfers and withdrawals from more than one source.* For the purposes
10 of this section, the interbasin transfer or withdrawal of water from more than one
11 source within the Great Lakes basin to supply a single facility or public water supply
12 system is considered one interbasin transfer 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), (t), and (tm), 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) *Public trust doctrine.* Nothing in this section may be interpreted to change
19 the application of the public trust doctrine under article IX, section 1, of the
20 Wisconsin Constitution or to create any new public trust rights.

21 (f) *Water resources protection act.* 1. In this paragraph, "historic" means made
22 before the effective date of this subdivision [revisor inserts date].

23 2. The department may not change its historic interpretation or application of
24 42 USC 1962d-20 (d) to a public water supply for a community in this state until that

1 provision is amended. The department shall evaluate all applications under sub. (4)

2 (b) using the requirements in sub. (4) and shall apply those requirements uniformly.

3 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) 1. Any person who, on the first
4 day of the 36th month beginning after the effective date of this subdivision
5 [revisor inserts date], has a water supply system with the capacity to make a
6 withdrawal from the waters of the state averaging 100,000 gallons per day or more
7 in any 30–day period or is making any interbasin transfer shall register the
8 withdrawal or interbasin transfer with the department by the deadline specified by
9 the department by rule. A person may register a withdrawal or interbasin transfer
10 before the first day of the 36th month beginning after the effective date of this
11 subdivision [revisor inserts date].

12 2. Any person who, after the first day of the 36th month beginning after the
13 effective date of this subdivision [revisor inserts date], proposes to begin a
14 withdrawal from the waters of the state using a water supply system that will have
15 the capacity to withdraw an average of 100,000 gallons per day or more in any 30–day
16 period, to increase the capacity of a water supply system that existed on the first day
17 of the 36th month beginning after the effective date of this subdivision [revisor
18 inserts date], so that it will have the capacity to withdraw an average of 100,000
19 gallons per day or more in any 30–day period, or to begin an interbasin transfer shall
20 register the withdrawal or interbasin transfer with the department.

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

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

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

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

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

5 4m. For a withdrawal from the Great Lakes basin that averages 100,000
6 gallons per day or more in any 30 day period, an estimate of the maximum hydraulic
7 capacity of the most restrictive component in each water supply system used for the
8 withdrawal.

9 5. The uses made of the water.

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

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

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

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

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

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

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

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

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

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

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

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

14 **(3e) DETERMINING INITIAL INTERBASIN TRANSFER AMOUNTS.** (a) Before issuing an
15 automatic approval under sub. (3m) (a) for an interbasin transfer to a person
16 operating a public water supply system, the department shall determine the initial
17 interbasin transfer amount for the interbasin transfer under par. (b).

18 (b) The department shall determine the initial interbasin transfer amount for
19 a public water supply system to be the amount of water necessary to provide water
20 for public water supply purposes in the area in at least part of which the public water
21 supply system delivers water to customers before the compact's effective date that
22 is all of the following:

23 1. Outside of the Great Lakes basin.

24 2. Within a sewer service territory that provides for return of wastewater to the
25 Great Lakes basin and that is specified in the sewer service area provisions of an

1 areawide water quality management plan under s. 283.83 approved by the
2 department before December 31, 2007.

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

6 (d) Before issuing an automatic approval under sub. (3m) (b) for an interbasin
7 transfer to a person who does not operate a public water supply system, the
8 department shall determine the initial interbasin transfer amount for the interbasin
9 transfer. The department shall determine the interbasin transfer amount using the
10 process and standards that it uses under sub. (4e) to determine an initial withdrawal
11 amount.

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

1 (b) Before the compact's effective date, the department shall automatically
2 issue an approval for an interbasin transfer that begins before the effective date of
3 this paragraph [revisor inserts date], and that is not for public water supply
4 purposes to the person who makes the interbasin transfer. In the automatic
5 approval, the department shall specify an interbasin transfer amount equal to the
6 amount determined under sub. (3e) (d).

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

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

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

16 3. No person may increase an interbasin transfer over the interbasin transfer
17 amount in an approval issued under sub. (3m) (a) or expand the interbasin transfer
18 area beyond the area specified in an approval under sub. (3m) (a) unless the
19 department modifies the approval under par. (c), (d), or (e) to increase the interbasin
20 transfer amount or to expand the interbasin transfer area.

21 4. No person may increase an interbasin transfer over the interbasin transfer
22 amount in an approval issued under sub. (3m) (b).

23 (b) *Application.* 1. A person who proposes to begin an interbasin transfer,
24 increase the amount of an interbasin transfer, or expand the interbasin transfer area

1 of an interbasin transfer covered by an approval issued under sub. (3m) (a) shall
2 apply to the department for approval.

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

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

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

14 4m. If a person who applies under subd. 1. will not directly withdraw the water
15 proposed to be transferred, the person shall identify any entities that may withdraw
16 the water and provide evidence of support from each of those entities in the form of
17 a letter or resolution.

18 4p. If the person who applies under subd. 1. will not directly return the water
19 to the Great Lakes basin, the person shall identify any entities that may return the
20 water and provide evidence of support from each of those entities in the form of a
21 letter or resolution.

22 4s. If the proposal for which a person applies under subd. 1. is subject to the
23 exception standard under par. (f), the person shall provide documentation of how the
24 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will
25 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,

1 considering the state of the receiving water before the proposal is implemented and
2 considering potential adverse impacts due to changes in temperature and nutrient
3 loadings. If the receiving water is a surface water body that is tributary to one of the
4 Great Lakes, the person shall include a description of the flow of the receiving water
5 before the proposal is implemented, considering both low and high flow conditions.

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

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

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

15 b. If the proposal is to provide a public water supply within more than one city,
16 village, or town, any portion of the proposal that provides a public water supply
17 within a straddling community is subject to par. (c) and any portion of the proposal
18 that provides a public water supply within a community described in par. (e) 1.
19 (intro.) is subject to par. (e).

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

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

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

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

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

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

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

21 2m. The proposal is consistent with an approved water supply service area plan
22 under s. 281.348 that covers the public water supply system.

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

1 (d) *Intrabasin transfer*: 1. The department may approve a proposal under par.
2 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.
3 (c) does not apply that would average less than 100,000 gallons per day in every
4 90–day period, if the proposal meets the applicable requirements under s. 30.18,
5 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the
6 department by rule and, if the water will be used for public water supply purposes,
7 the proposal is consistent with an approved water supply service area plan under s.
8 281.348 that covers the public water supply system.

9 2. The department may approve a proposal under par. (b) for a new intrabasin
10 transfer or an increase in or expansion of an intrabasin transfer to which par. (c) does
11 not apply that would average more than 100,000 gallons per day in any 90–day
12 period with a new water loss or an increase in water loss that would average less than
13 5,000,000 gallons per day in every 90–day period, if all of the following apply:

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

17 b. The applicant demonstrates that there is no feasible, cost–effective, and
18 environmentally sound water supply alternative within the watershed to which the
19 water will be transferred, including conservation of existing water supplies as
20 determined under par. (g).

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

24 3. The department may approve a proposal under par. (b) for a new intrabasin
25 transfer or an increase in an intrabasin transfer to which par. (c) does not apply with

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

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

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

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

11 (e) *Straddling counties.* 1. The department may approve a proposal under par.
12 (b) for a new interbasin transfer or an increase in an interbasin transfer if the water
13 transferred will be used solely for public water supply purposes in a community
14 within a straddling county or, if a community is partly within a straddling county and
15 partly within a county that lies entirely outside the Great Lakes basin, the water
16 transferred will be used solely for public water supply purposes in the portion of the
17 community that is within the straddling county and all of the following apply:

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

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

20 c. The proposal maximizes the amount of water withdrawn from the Great
21 Lakes basin that will be returned to the source watershed and minimizes the amount
22 of water from outside the Great Lakes basin that will be returned to the source
23 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 to which par. (fm) does not apply meets the
16 exception standard if subds. 1. to 7. apply to the proposal. A proposal to which par.
17 (fm) applies meets the exception standard if the department considers, under par.
18 (fm), whether:

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

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

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

4 3m. The place at which the water is returned to the source watershed is as close
5 as practicable to the place at which the water is withdrawn, unless the applicant
6 demonstrates that returning the water at that place is one of the following:

- 7 a. Not cost-effective.
- 8 b. Not environmentally sound.
- 9 c. Not in the interest of public health.

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

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

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

17 c. If the water is returned through a structure on the bed of a navigable water,
18 the structure is designed and will be operated to meet the applicable permit
19 requirements under s. 30.12 and the department has approved the permit under s.
20 30.12.

21 4m. If water will be returned to the source watershed through a stream
22 tributary to one of the Great Lakes, the physical, chemical, and biological integrity
23 of the receiving water under subd. 3. will be protected and sustained as required
24 under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water
25 before the proposal is implemented and considering both low and high flow

1 conditions and potential adverse impacts due to changes in temperature and
2 nutrient loadings.

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

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

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

16 (fm) *Approval of certain applications.* The department shall determine
17 whether to grant an approval under par. (c) or (e) of an application under par. (b) 1.
18 through the water supply service area planning process under s. 281.348,
19 considering the items in par. (f) 1. to 7. as factors in the cost-effectiveness analysis
20 under s. 281.348 (3) (d) 1.

21 (g) *Conservation and efficient use of existing water supplies.* The department
22 shall promulgate rules specifying the requirements for an applicant for a new,
23 increased, or expanded interbasin transfer subject to par. (f) to demonstrate the
24 efficient use and conservation of existing water supplies for the purposes of pars. (d)
25 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the

1 water conservation planning and analysis used to identify the water conservation
2 and efficiency measures that the applicant determined were feasible.

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

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

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

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

1 3e. If water is withdrawn through more than one water supply system to serve
2 a facility, the department shall determine the amount under subd. 1. for each of the
3 water supply systems to which subd. 2. does not apply and shall determine the
4 amount under subd. 2. for each of the water supply systems to which subd. 2. applies
5 and shall provide an estimate of the initial withdrawal amount that is equal to the
6 sum of the amounts determined for each of the water supply systems.

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

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

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

12 2. Seasonal variations in the amount of water supplied by the water supply
13 system.

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

17 4. Amounts withdrawn during the 5 years before the year in which the person
18 submits the information.

19 5. Successful water conservation efforts by persons using the water that is
20 withdrawn.

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

23 7. Other relevant information.

24 (e) Except as provided in par. (f), the department shall determine the initial
25 withdrawal amount for a withdrawal based on the estimate under par. (b) and the

1 department's evaluation of any information provided under par. (d). The department
2 may not consider information provided by any other person.

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

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

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

21 **(4m)** WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN. Beginning on the
22 first day of the 84th month beginning after the effective date of this subsection
23 [revisor inserts date], except as provided in sub. (4s) (bm), a person may not make
24 a withdrawal from the Great Lakes basin that averages 100,000 gallons per day or

1 more in any 30–day period unless the withdrawal is covered under a general permit
2 under sub. (4s) or an individual permit under sub. (5).

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

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

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

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

15 (am) *Term of general permit.* The term of a general permit issued under par.
16 (a) is 25 years.

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

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

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

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

1 In the application, the person shall provide the information required by the
2 department by rule.

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

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

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

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

22 3e. If water is withdrawn through more than one water supply system to serve
23 a facility, the department shall determine the smallest amounts under subd. 3. a. or
24 b. for each of the water supply systems and shall specify a withdrawal amount that
25 is equal to the sum of the amounts determined for each of the water supply systems.

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

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

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

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

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 date under sub. (4m), a person may not make a withdrawal from
24 the Great Lakes basin that equals at least 1,000,000 gallons per day for any 30
25 consecutive days unless the withdrawal is covered by an individual permit. A person

1 to whom the department has issued an individual permit shall comply with the
2 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 date under sub. (4m), if the withdrawal equals at least 1,000,000 gallons per day
22 for any 30 consecutive days. If necessary, the department may request additional
23 information before issuing a permit under this paragraph. The department shall
24 issue a permit under this paragraph no later than the date under sub. (4m). In the
25 permit, the department shall specify a withdrawal amount equal to the initial

1 withdrawal amount determined under sub. (4e) for the withdrawal. The department
2 may promulgate a rule under which the department issues automatic individual
3 permits on a staggered schedule before the date under sub. (4m).

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

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

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

23 a. The maximum hydraulic capacity of the most restrictive component of the
24 water supply system used for the withdrawal for which the person has approval
25 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval

1 under one of those provisions is not required for the most restrictive component of
2 the water supply system, the maximum hydraulic capacity of the most restrictive
3 component that the person proposes to use in the water supply system.

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

6 3e. If water is withdrawn through more than one water supply system to serve
7 a facility, the department shall determine the smaller of the amounts under subd. 3.

8 a. or b. for each of the water supply systems and shall specify a withdrawal amount
9 that is equal to the sum of the amounts determined for each of the water supply
10 systems.

11 3m. a. The department may not approve an application under subd. 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
14 the withdrawal is consistent with the water supply service area plan.

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

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

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

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

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

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

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

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

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

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

1 an approved water supply service area plan under s. 281.348, the department shall
2 modify the withdrawal amount to an amount equal to the withdrawal amount in the
3 water supply service area plan.

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

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

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

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

22 **(5m)** INTERIM APPROVAL. If a person making a withdrawal that averages
23 100,000 gallons per day or more in any 30-day period registers the withdrawal under
24 sub. (3) (a) 1. and reports as required under sub. (3) (e) and the department does not
25 automatically issue a notice of coverage under sub. (4s) (c) or an individual permit

1 under sub. (5) (c) for the withdrawal before the compact's effective date, the
2 registration of the withdrawal constitutes an approval for the purposes of s. 281.343
3 (4t) (b) 1. The withdrawal amount is the total amount reported under sub. (3) (b) 4m.,
4 except that if there is a limit in an approval under s. 30.12, 30.18, 281.34, or 281.41
5 or s. 281.17, 2001 stats., on the amount of water that may be withdrawn by any water
6 supply system used for the withdrawal and that limit is less than the amount
7 reported under sub. (3) (b) 4m. for that water supply system, the withdrawal amount
8 is the total amount reported under sub. (3) (b) 4m. reduced by the difference between
9 the reported amount for that water supply system and the limit in the approval.

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

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

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

17 **(7m) EMERGENCY ORDER.** The department may, without a prior hearing, order
18 a person to whom the department has issued an individual permit or notice of
19 coverage under a general permit under this section to immediately stop a withdrawal
20 if the department determines that there is a danger of imminent harm to the public
21 health, safety, or welfare, to the environment, or to the water resources or related
22 land resources of this state. The order shall specify the date on which the withdrawal
23 must be stopped and the date, if any, on which it may be resumed. The order shall
24 notify the person that the person may request a contested case hearing under ch. 227.

1 The hearing shall be held as soon as practicable after receipt of a request for a
2 hearing. An emergency order remains in effect pending the result of the hearing.

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

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

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

15 1. Promotion of environmentally sound and economically feasible water
16 conservation measures through a voluntary statewide program.

17 1m. Mandatory and voluntary conservation and efficiency measures for the
18 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), and
19 (5) and s. 281.348.

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

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

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

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

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

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

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

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

15 a. The name and address of each applicant.

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

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

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

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

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

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

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

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

6 **(11) WATER USE REPORT.** Beginning no later than 8 years after the effective date
7 of this subsection ... [revisor inserts date], and every 5 years thereafter, the
8 department, using water use data reported under this section, shall publish a water
9 use report to summarize water usage, identify related trends, identify areas of future
10 water usage concerns, and recommend future actions to promote sustainable water
11 use. The department shall also include in the report water resource information
12 derived from reporting and data accumulation requirements under other water
13 regulatory laws.

14 **(13m) EXCEEDANCES.** It is not a violation of this section to withdraw an amount
15 of water that exceeds the withdrawal amount specified in a permit issued under sub.
16 (5) or in the database under sub. (4s) (i).

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

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

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

1 **SECTION 18.** 281.346 of the statutes is created to read:

2 **281.346 Water conservation, reporting, and supply regulation; after**
3 **the compact takes effect. (1) DEFINITIONS.** In this section:

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

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

9 (dr) “Compact’s effective date” means the effective date of the compact under
10 s. 281.343 (9) (d).

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

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

21 (h) “Diversion” means a transfer of water from the Great Lakes basin into a
22 watershed outside the Great Lakes basin, or from the watershed of one of the Great
23 Lakes into that of another, by any means of transfer, including a pipeline, canal,
24 tunnel, aqueduct, channel, modification of the direction of a water course, tanker

1 ship, tanker truck, or rail tanker except that “diversion” does not include any of the
2 following:

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

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

9 3. The transfer of bottled water from the Great Lakes basin in containers of
10 5.7 gallons or less.

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

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

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

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

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

7 1. Environmentally sound.

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

9 3. Technically feasible and available.

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

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

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

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

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

23 (jm) “Intrabasin transfer” means the transfer of water from the watershed of
24 one of the Great Lakes into the watershed of another of the Great Lakes.

25 (n) “Party” means a state that is a party to the compact.

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

5 (o) “Product” means something produced by human or mechanical effort or
6 through agricultural processes and used in manufacturing, commercial, or other
7 processes or intended for intermediate or ultimate consumers, subject to all of the
8 following:

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

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

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

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

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

21 (ps) “Reasonable water supply alternative” means a water supply alternative
22 that is similar in cost to, and as environmentally sustainable and protective of public
23 health as, the proposed new or increased diversion and that does not have greater
24 adverse environmental impacts than the proposed new or increased diversion.

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

5 (qd) “Regional declaration of finding” means a declaration of finding issued by
6 the regional body under s. 281.343 (4h) (e).

7 (qm) “Regional review” means review by the regional body as described in s.
8 281.343 (4h).

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

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

20 (tm) “Straddling county” means a county that lies partly within the Great
21 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), (t), and (tm), 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.

24 1m. If a person making a withdrawal that averages 100,000 gallons per day or
25 more in any 30-day period registered the withdrawal under s. 281.344 (3) (a) 1. and

1 reported as required under s. 281.344 (3) (e) and the department did not
2 automatically issue a notice of coverage under s. 281.344 (4s) (c) or an individual
3 permit under s. 281.344 (5) (c) for the withdrawal, the baseline for the withdrawal
4 is the amount determined under s. 281.344 (5m) for the withdrawal or, if the
5 department determines a different amount under sub. (4e), the amount determined
6 under sub. (4e).

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

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

13 6. The department shall provide a list of the baseline volumes determined
14 under this paragraph to the Great Lakes council and the regional body no later than
15 12 months after the compact's effective date.

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

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

23 (g) *Public trust doctrine.* Nothing in this section may be interpreted to change
24 the application of the public trust doctrine under article IX, section 1, of the
25 Wisconsin Constitution or to create any new public trust rights.

1 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) Any person who proposes to
2 begin a withdrawal from the waters of the state using a water supply system that will
3 have the capacity to withdraw an average of 100,000 gallons per day or more in any
4 30–day period, to increase the capacity of a water supply system so that it will have
5 the capacity to withdraw an average of 100,000 gallons per day or more in any 30–day
6 period, or to begin a diversion shall register the withdrawal or diversion with the
7 department.

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

- 10 1. The name and address of the registrant and the date of registration.
- 11 2. The locations and sources of the withdrawal or diversion.
- 12 3. The daily capacity of the withdrawal or diversion and the daily capacity to
13 withdraw or divert from each source.
- 14 4. An estimate of the volume of the withdrawal or diversion in terms of gallons
15 per day average in any 30–day period.
- 16 5. The uses made of the water.
- 17 6. The places at which the water is used.
- 18 7. The places at which any of the water is discharged.
- 19 8. Whether the water use is continuous or intermittent.
- 20 9. Whether the person holds a permit under s. 283.31.
- 21 10. Other information required by the department by rule.

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

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

4 (e) 1. Each person who makes a withdrawal from the waters of the state that
5 averages 100,000 gallons per day or more in any 30-day period or diverts any amount
6 and who has registered the withdrawal or diversion under par. (a) or s. 281.344 (3)
7 (a) shall annually report to the department the monthly volumes of withdrawal,
8 whether the person withdraws at least 1,000,000 gallons per day for 30 consecutive
9 days, and, if applicable, the volumes of diversion and, subject to par. (em), water loss
10 from consumptive use.

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

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

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

22 **(4) DIVERSIONS.** (a) *Prohibition.* Beginning on the compact's effective date, no
23 person may begin a diversion, except as authorized under par. (c), (d), or (e) or an
24 approval issued under s. 281.344 (4), and no person may increase the amount of a
25 diversion over the diversion amount specified in an approval under this subsection

1 or over the interbasin transfer amount specified in an approval issued under s.
2 281.344 (3m) or (4), except as authorized under par. (c), (d), or (e).

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

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

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

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

15 4m. If a person who applies under subd. 1. will not directly withdraw the water
16 proposed to be diverted, the person shall identify any entities that may withdraw the
17 water and provide evidence of support from each of those entities in the form of a
18 letter or resolution.

19 4p. If the person who applies under subd. 1. will not directly return the water
20 to the Great Lakes basin, the person shall identify any entities that may return the
21 water and provide evidence of support from each of those entities in the form of a
22 letter or resolution.

23 4s. If the proposal for which a person applies under subd. 1. is subject to the
24 exception standard under par. (f), the person shall provide documentation of how the
25 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will

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

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

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

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

16 b. If the proposal is to provide a public water supply within more than one city,
17 village, or town, any portion of the proposal that provides a public water supply
18 within a straddling community is subject to par. (c) and any portion of the proposal
19 that provides a public water supply within a community described in par. (e) 1.
20 (intro.) is subject to par. (e).

21 2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a
22 proposal under par. (b), the department shall use, as appropriate, the current or
23 planned service area of the public water supply system receiving water under the
24 proposal. The planned service area is the service area of the system at the end of any

1 planning period authorized by the department in the approved water supply service
2 area plan under s. 281.348 that covers the public water supply system.

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

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

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

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

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

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

22 2m. The proposal is consistent with an approved water supply service area plan
23 under s. 281.348 that covers the public water supply system.

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

4 4. If the proposal would result in a new water loss or an increase in a water loss
5 from consumptive use that would average 5,000,000 gallons or more per day in any
6 90–day period, all of the following apply:

7 a. The department conducts a technical review.

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

9 1.

10 c. The proposal undergoes regional review.

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

13 (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.
14 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.
15 (c) does not apply that would average less than 100,000 gallons per day in every
16 90–day period, if the proposal meets the applicable requirements under s. 30.18,
17 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the
18 department by rule and, if the water will be used for public water supply purposes,
19 the proposal is consistent with an approved water supply service area plan under s.
20 281.348 that covers the public water supply system.

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

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

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

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

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

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

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

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

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

24 d. The department conducts a technical review.

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

2 1.

3 f. The proposal undergoes regional review.

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

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

7 (e) *Straddling counties.* 1. The department may approve a proposal under par.
8 (b) for a new diversion or an increase in a diversion if the water diverted will be used
9 solely for public water supply purposes in a community within a straddling county
10 or, if a community is partly within a straddling county and partly within a county
11 that lies entirely outside the Great Lakes basin, the water diverted will be used solely
12 for public water supply purposes in the portion of the community that is within the
13 straddling county and all of the following apply:

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

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

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

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

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

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

3 f. The department conducts a technical review.

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

6 h. The proposal undergoes regional review.

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

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

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

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

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

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

23 3. An amount of water equal to the amount of water withdrawn from the Great
24 Lakes basin will be returned to the source watershed, less an allowance for
25 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 diversion will result in no significant adverse individual impacts or
2 cumulative impacts to the quantity or quality of the waters of the Great Lakes basin
3 or to water dependent natural resources, including cumulative impacts that might
4 result due to any precedent–setting aspects of the proposed diversion, based upon a
5 determination that the proposed diversion will not have any significant adverse
6 impacts on the sustainable management of the waters of the Great Lakes basin.

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

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

13 (g) *Conservation and efficient use of existing water supplies.* The department
14 shall promulgate rules specifying the requirements for an applicant for a new or
15 increased diversion subject to par. (f) to demonstrate the efficient use and
16 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)
17 1. d., and (f) 1., including requiring the applicant to document the water conservation
18 planning and analysis used to identify the water conservation and efficiency
19 measures that the applicant determined were feasible.

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

24 **(4e)** DETERMINING WITHDRAWAL AMOUNTS FOR WITHDRAWALS WITH INTERIM
25 APPROVALS. (a) Before issuing automatic notice of coverage under a general permit

1 under sub. (4s) or an automatic individual permit under sub. (5) (c) for a withdrawal
2 from the Great Lakes basin that is covered by an interim approval under s. 281.344
3 (5m), the department shall determine a withdrawal amount for the withdrawal
4 under this subsection.

5 (b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall
6 estimate the withdrawal amount for a withdrawal based on the maximum hydraulic
7 capacity of the most restrictive component in the water supply system used for the
8 withdrawal as of the compact's effective date, based on information available to the
9 department.

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

15 3e. If water is withdrawn through more than one water supply system to serve
16 a facility, the department shall determine the amount under subd. 1. for each of the
17 water supply systems to which subd. 2. does not apply and shall determine the
18 amount under subd. 2. for each of the water supply systems to which subd. 2. applies
19 and shall provide an estimate of the withdrawal amount that is equal to the sum of
20 the amounts determined for each of the water supply systems.

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

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

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

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

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

6 4. Amounts withdrawn during the 5 years before the year in which the person
7 submits the information.

8 5. Successful water conservation efforts by persons using the water that is
9 withdrawn.

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

12 7. Other relevant information.

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

17 (f) For a public water supply system that, on the effective date of this paragraph
18 [revisor inserts date], has approval under s. 281.41 to provide water from the
19 Great Lakes basin for public water supply purposes outside of the Great Lakes basin
20 and approval under s. 283.31 to return the associated wastewater to the Great Lakes
21 basin, the department shall determine the withdrawal amount to be the amount of
22 water necessary to provide water for public water supply purposes in the service
23 territory specified in the sewer service area provisions of the areawide water quality
24 management plan under s. 283.83 approved by the department before December 31,
25 2007, based on the population and related service projections in those provisions.

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

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

9 (i) For the purposes of sub. (5) (f) 1. and 2., (h) 1. and 2., and (k) 1. and 2., and
10 (5e) (b) 1. and 2., and (c) 1., and 2., a withdrawal amount determined under this
11 subsection for a withdrawal is considered to be the withdrawal amount for the
12 withdrawal as of the compact's effective date.

13 **(4m)** WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN. A person may not
14 make a withdrawal from the Great Lakes basin that averages 100,000 gallons per
15 day or more in any 30-day period unless the withdrawal is covered under a general
16 permit issued under sub. (4s) or s. 281.344 (4s), an individual permit issued under
17 sub. (5) or s. 281.344 (5), or an interim approval under s. 281.344 (5m), except as
18 provided in sub. (4s) (bm).

19 **(4s)** GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Department to*
20 *issue.* The department shall issue one or more general permits to cover withdrawals
21 from the Great Lakes basin that average 100,000 gallons per day or more in any
22 30-day period but that do not equal at least 1,000,000 gallons per day for any 30
23 consecutive days. The department shall include all of the following in a general
24 permit:

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

1 2. 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 3. Requirements for water conservation, as provided in rules promulgated by
5 the department under sub. (8) (d).

6 (am) *Term of general permit.* The term of a general permit issued under par.
7 (a) is 25 years.

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

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

18 (c) *Automatic notice of coverage for withdrawals with interim approvals.* The
19 department shall automatically issue a notice of coverage under a general permit to
20 a person who makes a withdrawal that is covered by an interim approval under s.
21 281.344 (5m), if the withdrawal averages 100,000 gallons per day or more in any
22 30–day period but does not equal at least 1,000,000 gallons per day for any 30
23 consecutive days. If necessary, the department may request additional information
24 before issuing a notice under this paragraph. The department shall issue a notice
25 under this paragraph no later than one year after the compact’s effective date. In the

1 notice provided under this paragraph for a withdrawal, the department shall specify
2 a withdrawal amount equal to the withdrawal amount determined under sub. (4e)
3 for the withdrawal.

4 (d) *Coverage under general permit for new or increased withdrawals.* 1. A
5 person who proposes to begin a withdrawal from the Great Lakes basin that will
6 average 100,000 gallons per day or more in any 30-day period, or to increase an
7 existing withdrawal so that it will average 100,000 gallons per day or more in any
8 30-day period, but who does not propose to withdraw at least 1,000,000 gallons per
9 day for any 30 consecutive days, shall apply to the department for coverage under
10 a general permit, unless the person applies for an individual permit under sub. (5).
11 In the application, the person shall provide the information required by the
12 department by rule.

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

18 3. Except as provided in subd. 3m., if the department determines that a
19 withdrawal qualifies for coverage under a general permit and the department has
20 issued any approvals that are required for the withdrawal under s. 30.12, 30.18,
21 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of
22 coverage. In the notice, the department shall specify a withdrawal amount that is,
23 except as provided in subd. 3e., equal to the 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 smallest amount under subd. 3. a. or
9 b. for each of the water supply systems and shall specify a withdrawal amount that
10 is equal to the sum of the amounts determined for each of the water supply systems.

11 3m. a. The department may not approve an application under subd. 1. for a
12 withdrawal for the purpose of providing water to a public water supply system that
13 serves a population of more than 10,000 unless the withdrawal is covered by an
14 approved water supply service area plan under s. 281.348.

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

19 c. If the department approves an application under subd. 1. for a withdrawal
20 for the purpose of providing water to a public water supply system that is covered by
21 an approved water supply service area plan under s. 281.348, the department shall
22 issue a notice of coverage. In the notice of coverage the department shall specify a
23 withdrawal amount that is equal to the withdrawal amount in the water supply
24 service area plan.

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

4 (dm) *Requiring individual permit.* The department may require a person who
5 is making or proposes to make a withdrawal that averages 100,000 gallons per day
6 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per
7 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the
8 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)
9 (a), or a groundwater management area designated under s. 281.34 (9).

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

16 3. Except as provided in subd. 3m., if the department has issued any approvals
17 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or
18 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount
19 to an amount that is, except as provided in subd. 3e., equal to the smallest of the
20 following amounts:

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

1 the water supply system, the maximum hydraulic capacity of the most restrictive
2 component that the person proposes to use in the water supply system.

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

5 3e. If water is withdrawn through more than one water supply system to serve
6 a facility, the department shall determine the smallest amount under subd. 3. a. or
7 b. for each of the water supply systems and shall specify a withdrawal amount that
8 is equal to the sum of the amounts determined for each of the water supply systems.

9 3m. a. The department may not approve an application under subd. 1. for a
10 withdrawal for the purpose of providing water to a public water supply system that
11 serves a population of more than 10,000 unless the withdrawal is covered by an
12 approved water supply service area plan under s. 281.348.

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

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

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

1 (g) *Redetermination.* A person to whom the department has issued a notice of
2 coverage under a general permit issued under this subsection or s. 281.344 (4s) shall
3 apply to the department for redetermination of coverage under a new general permit
4 issued under this subsection at least 180 days before the end of the term of the
5 current general permit if the person intends to continue to withdraw from the Great
6 Lakes basin an average of 100,000 gallons per day or more in any 30-day period but
7 does not intend to withdraw at least 1,000,000 gallons per day for any 30 consecutive
8 days. If the person is in substantial compliance with the current general permit and
9 the withdrawal qualifies for coverage under the new general permit, the department
10 shall issue a notice of coverage under the new general permit.

11 (h) *Suspension and revocation.* After an opportunity for a hearing, the
12 department may suspend or revoke coverage under a general permit issued under
13 this subsection or s. 281.344 (4s) for cause, including obtaining coverage under the
14 permit by misrepresentation or failure to disclose material facts or substantially
15 violating the terms of the permit.

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

19 **(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Requirement.* A
20 person may not make a withdrawal from the Great Lakes basin that equals at least
21 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is
22 covered by an individual permit issued under this subsection or s. 281.344 (5). A
23 person to whom the department has issued an individual permit shall comply with
24 the individual permit.

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

3 1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m., (g) 3., 3e.,
4 or 3m., or (j) 3., 3e., or 3m., sub. (4e), or s. 281.344 (4e) or (5) (d) 3., 3e., or 3m. or (e)
5 3., 3e., or 3m.

6 2. Provisions for estimating and, if necessary, monitoring substantial increases
7 in water loss resulting from increases in withdrawal amounts during the term of a
8 permit and reporting the results of the estimating and monitoring, as provided in
9 rules promulgated by the department.

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

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

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

17 5m. If a decision-making standard under sub. (5m) or (6) applies to the
18 withdrawal, any limit on the amount of the withdrawal necessary to ensure
19 compliance with the decision-making standard.

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

22 6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
23 (a).

24 7. If the withdrawal is from a surface water body tributary to one of the Great
25 Lakes and would result in a water loss of more than 95 percent of the amount of water

1 withdrawn, conditions that ensure that the withdrawal does not cause significant
2 adverse environmental impact.

3 (c) *Automatic issuance of individual permits for withdrawals with interim*
4 *approvals.* The department shall automatically issue an individual permit to a
5 person who makes a withdrawal from the Great Lakes basin that is covered by an
6 interim approval under s. 281.344 (5m), if the withdrawal equals at least 1,000,000
7 gallons per day for any 30 consecutive days. If necessary, the department may
8 request additional information before issuing a permit under this paragraph. The
9 department shall issue a permit under this paragraph no later than one year after
10 the compact's effective date. In the permit, the department shall specify a
11 withdrawal amount equal to the withdrawal amount determined under sub. (4e) for
12 the withdrawal.

13 (d) *Initial individual permit.* 1. A person who proposes to begin a withdrawal
14 from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any
15 30 consecutive days or to modify an existing withdrawal so that it will equal at least
16 1,000,000 gallons per day for any 30 consecutive days shall apply to the department
17 for an individual permit.

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

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

1 specify a withdrawal amount that is, except as provided in subd. 3e., equal to the
2 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 issue an individual permit. In the permit, the department shall specify a withdrawal
22 amount that is equal to the withdrawal amount in the water supply service area
23 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 (dm) *Consistency with water supply plans.* 1. The department may not approve
2 an application under par. (d) 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. (d) 1. for the
7 purpose of providing water to a public water supply system that is covered by an
8 approved water supply service area plan under s. 281.348 unless the withdrawal is
9 consistent with the water supply service area plan.

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

18 2. Except as provided in subd. 3. or par. (dm), the department may not approve
19 an application under par. (d) 1. for a new withdrawal that will equal at least
20 10,000,000 gallons per day for any 30 consecutive days, or for an existing withdrawal
21 that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is
22 proposed to be modified so that it will equal at least 10,000,000 gallons per day for
23 any 30 consecutive days, unless the withdrawal meets the compact decision-making
24 standard under sub. (6).

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

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

17 2. Except as provided in subd. 3. or par. (dm), the department may not approve
18 an application under par. (d) 1. for a withdrawal that is covered under a general
19 permit under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the
20 withdrawal so that it equals 10,000,000 or more gallons per day for any 30
21 consecutive days over the withdrawal amount as of the date that the department
22 issued the current notice of coverage under the general permit or as of the compact's
23 effective date, whichever is later, unless the withdrawal meets the compact
24 decision-making standard under sub. (6).

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

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

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

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

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

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

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

11 3e. If water is withdrawn through more than one water supply system to serve
12 a facility and subd. 3. c. does not apply, the department shall determine the smallest
13 amount under subd. 3. a. or b. for each of the water supply systems and shall specify
14 a withdrawal amount that is equal to the sum of the amounts determined for each
15 of the water supply systems.

16 3m. 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 modify the individual permit. In the modified permit, the department shall specify
20 a withdrawal amount that is equal to the withdrawal amount in the water supply
21 service area 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 (gm) *Consistency with water supply plans.* 1. The department may not approve
25 an application under par. (g) 1. for a withdrawal for the purpose of providing water

1 to a public water supply system that serves a population of more than 10,000 unless
2 the public water supply system is covered by an approved water supply service area
3 plan under s. 281.348.

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

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

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

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

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

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

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

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

1 withdrawal, the department shall specify a withdrawal amount that is, except as
2 provided in 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 and determines that
21 the person is in substantial compliance with the current individual permit, the
22 department shall reissue the individual permit. In the permit, the department shall
23 specify a withdrawal amount that is equal to the withdrawal amount in the water
24 supply service area plan.

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

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

9 2. The department may not approve an application under par. (j) 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 the
12 withdrawal is consistent with the water supply service area plan.

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

23 2. Except as provided in subd. 3. or par. (jm), the department may not approve
24 an application under par. (j) 1., if the person proposes in the application to increase
25 the amount of the withdrawal so that it equals at least 10,000,000 gallons per day

1 for any 30 consecutive days over the withdrawal amount as of the beginning of the
2 current permit term, the compact's effective date, or the date that the department
3 issued a modified permit for the withdrawal if the modification was subject to the
4 compact decision-making standard under sub. (6), whichever is latest, unless the
5 withdrawal meets the compact decision-making standard under sub. (6).

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

14 (L) *Prior notice.* Beginning no later than 60 months after the compact's
15 effective date, if a proposal for which approval is required under this subsection will
16 result in a new water loss or an increase in a water loss that will average more than
17 5,000,000 gallons per day in any 90-day period, the department shall provide the
18 other parties and the provinces of Ontario and Quebec, Canada, with detailed notice
19 of the proposal and an opportunity to comment on the proposal. The department
20 shall provide a response to any comment received under this paragraph. The
21 department may not grant an approval under this subsection until at least 90 days
22 after the day on which it provided notice under this paragraph.

23 (m) *Regional review.* If a majority of the members of the regional body request
24 regional review of a proposal described in s. 281.343 (4h) (a) 6. for a withdrawal and
25 the department determines under s. 281.343 (4h) (b) 1. that the proposal is subject

1 to regional review, the department shall conduct a technical review of the proposal
2 and submit the proposal for regional review. The department may not determine
3 under s. 281.343 (4h) (b) 1. that the proposal is subject to regional review unless the
4 proposal will result in a water loss that will average more than 5,000,000 gallons per
5 day in any 90–day period. If the department submits the proposal for regional
6 review, the department may not act on the proposal until the proposal has undergone
7 regional review and the department has considered the regional declaration of
8 finding in determining whether to approve the proposal or until 90 days after the
9 department submits the proposal for regional review, whichever is sooner.

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

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

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

1 (q) *Transfer of control.* A permit is not transferable to any person except after
2 notice to the department. A person who proposes to assume control over a permitted
3 withdrawal shall file with the department a permit application and a statement of
4 acceptance of the permit. The department may require modification or revocation
5 and reissuance of the permit to change the name of the permittee.

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

22 3. A person who submits a water supply service area plan under s. 281.348, that
23 provides for a new withdrawal to which subd. 2. would otherwise apply, may choose
24 to demonstrate, using procedures specified in rules promulgated by the department,
25 the water loss that will result from the withdrawal. If the person demonstrates that

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

4 (b) *Increased withdrawals covered by general 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 modifying a withdrawal that is covered
7 under a general permit under sub. (4s) or s. 281.344 (4s) so that the withdrawal
8 equals 1,000,000 or more gallons per day for any 30 consecutive days over the
9 withdrawal amount as of the date that the department issued the current notice of
10 coverage under the general permit or as of the compact's effective date, whichever
11 is later, and if subd. 2. does not apply, unless the withdrawal meets the state
12 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 modifying a withdrawal that is covered under a general permit under
16 sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 10,000,000 or more gallons
17 per day for any 30 consecutive days over the withdrawal amount as of the date that
18 the department issued the current notice of coverage under the general permit or as
19 of the compact's effective date, whichever is later, unless the withdrawal meets the
20 compact decision-making standard under sub. (6).

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

1 demonstrates that the resulting increase in water loss would average less than
2 5,000,000 gallons per day in every 90-day period, the state decision-making
3 standard under sub. (5m), rather than the compact decision-making standard under
4 sub. (6), applies to the increase in the withdrawal.

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

16 2. Beginning on the compact's effective date, except as provided in subd. 3., the
17 department may not approve a water supply service area plan under s. 281.348 that
18 provides for increasing the amount of a withdrawal that is covered under an
19 individual permit issued under s. sub. (5) or s. 281.344 (5) so that it equals 10,000,000
20 or more gallons per day for any 30 consecutive days over the withdrawal amount as
21 of the beginning of the current permit term, the compact's effective date, or the date
22 that the department issued a modified permit for the withdrawal if the modification
23 was subject to the compact decision-making standard under sub. (6), whichever is
24 latest, unless the increased withdrawal meets the compact decision-making
25 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 under sub. (8) (d).

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.

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

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

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

8 **(7m)** EMERGENCY ORDER. The department may, without a prior hearing, order
9 a person to whom the department has issued an individual permit or notice of
10 coverage under a general permit under this section or s. 281.344 to immediately stop
11 a withdrawal if the department determines that there is a danger of imminent harm
12 to the public health, safety, or welfare, to the environment, or to the water resources
13 or related land resources of this state. The order shall specify the date on which the
14 withdrawal must be stopped and the date, if any, on which it may be resumed. The
15 order shall notify the person that the person may request a contested case hearing
16 under ch. 227. The hearing shall be held as soon as practicable after receipt of a
17 request for a hearing. An emergency order remains in effect pending the result of
18 the hearing.

19 **(8)** STATEWIDE WATER CONSERVATION AND EFFICIENCY. (a) *Goals and objectives.*
20 The department shall specify water conservation and efficiency goals and objectives
21 for the waters of the state and for the waters of the Great Lakes basin. The
22 department shall specify goals and objectives for the waters of the Great Lakes basin
23 that are consistent with the goals under s. 281.343 (4b) (a) and the objectives
24 identified by the Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying
25 these goals and objectives, the department shall consult with the department of

1 commerce and the public service commission and consider the water conservation
2 and efficiency goals and objectives developed in any pilot program conducted by the
3 department in cooperation with the regional body.

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

8 1. Promotion of environmentally sound and economically feasible water
9 conservation measures through a voluntary statewide program.

10 1m. Mandatory and voluntary conservation and efficiency measures for the
11 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), (5),
12 (5m), and (6) and s. 281.348.

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

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

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

1 (d) *Water conservation and efficiency measures.* The department shall
2 promulgate rules specifying water conservation and efficiency measures for the
3 purposes of implementing par. (b). In the rules, the department may not require
4 retrofitting of existing fixtures, appliances, or equipment. The department shall
5 specify measures based on all of the following:

6 1. The amount and type of diversion, withdrawal, or consumptive use and
7 whether the diversion, withdrawal, or consumptive use exists on the first day of the
8 84th month beginning after the effective date of this subdivision [revisor inserts
9 date], or the compact's effective date, whichever is earlier, is expanded, or is new.

10 2. The results of any pilot water conservation program conducted by the
11 department in cooperation with the regional body.

12 3. The results of any assessments under sub. (11) (d).

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

17 (b) *Public Notice.* 1. The department shall, by rule, create procedures for
18 circulating to interested and potentially interested members of the public notices of
19 each complete application that the department receives under sub. (5) to which the
20 state decision-making standard under sub. (5m) or the compact decision-making
21 standard under sub. (6) applies, other than an application from a person operating
22 a public water supply system that is covered by an approved water supply service
23 area plan under s. 281.348, and each complete application that the department
24 receives under sub. (4) and of each general permit that the department proposes to

1 issue under sub. (4s) (a). The department shall include, in the rule, at least the
2 following procedures:

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

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

6 2. The department shall establish the form and content of a public notice by
7 rule. The department shall include in every public notice concerning an application
8 to which subd. 1. applies at least the following information:

9 a. The name and address of each applicant.

10 b. A brief description of the proposal for which the application is made,
11 including the amount of the proposed withdrawal or diversion.

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

15 (c) *Public comment.* The department shall receive public comments on a
16 proposal for which it receives an application to which par. (b) 1. applies or on a
17 proposed general permit under sub. (4s) (a) for a 30-day period beginning when the
18 department gives notice under par. (b) 1. The department shall retain all written
19 comments submitted during the comment period and shall consider the comments
20 in making its decisions on the application.

21 (d) *Public hearing.* 1. The department shall provide an opportunity for any
22 interested person or group of persons, any affected local governmental unit, or any
23 state agency to request a public hearing with respect to a proposal for which the
24 department receives an application under to which par. (b) 1. applies or on a proposed
25 general permit under sub. (4s) (a). A request for a public hearing shall be filed with

1 the department within 30 days after the department gives notice under par. (b). The
2 party filing a request for a public hearing shall indicate the interest of the party and
3 the reasons why a hearing is warranted. The department shall hold a public hearing
4 on a proposal for which the department receives an application to which par. (b) 1.
5 applies or on a proposed general permit under sub. (4s) (a) if the department
6 determines that there is a significant public interest in holding a hearing.

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

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

12 (e) *Public access to information.* Any record or other information provided to
13 or obtained by the department regarding a proposal for which an application under
14 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The
15 department shall make available to and provide facilities for the public to inspect and
16 copy any records or other information provided to or obtained by the department
17 regarding a proposal for which an application for a new or increased diversion or
18 withdrawal under sub. (4) or (5) is received, except that any record or other
19 information provided to the department may be treated as confidential upon a
20 showing to the secretary that the record or information is entitled to protection as
21 a trade secret, as defined in s. 134.90 (1) (c), or upon a determination by the
22 department that domestic security concerns warrant confidential treatment.
23 Nothing in this subsection prevents the use of any confidential records or
24 information obtained by the department in the administration of this section in

1 compiling or publishing general analyses or summaries, if the analyses or
2 summaries do not identify a specific owner or operator.

3 (h) *Expediting review.* The department shall take appropriate measures to
4 expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes
5 council, parties, and the provinces of Ontario and Quebec of applications under this
6 section that are subject to regional review.

7 **(10m)** AMENDMENT OF COASTAL MANAGEMENT PROGRAM. (a) The Wisconsin
8 coastal management council, created under s. 14.019, shall amend this state's
9 coastal management program submitted to the U.S. secretary of commerce under 16
10 USC 1455, to incorporate the requirements of this section, as they apply to the water
11 resources of the Great Lakes basin, and shall formally submit the proposed
12 amendments to the U.S. secretary of commerce.

13 (b) After approval of the amendments submitted to the U.S. secretary of
14 commerce under par. (a), the Wisconsin coastal management council shall, when
15 conducting federal consistency reviews under 16 USC 1456 (c), consider the
16 requirements specified under par. (a), if applicable.

17 (c) If the department issues a permit for a withdrawal to which this section
18 applies, and the withdrawal is subject to a federal consistency review under 16 USC
19 1456 (c), the Wisconsin coastal management council shall certify that the withdrawal
20 is consistent with this state's coastal management program.

21 **(11)** INFORMATION, REPORTS, AND ASSESSMENTS. (a) *Statewide inventory.* 1. The
22 department shall develop and maintain a water resources inventory consisting of
23 information about the waters of the state including information about the location,
24 type, quantity, and uses of water resources and the location, and type of diversions,
25 withdrawals, and consumptive uses and quantities of withdrawals and water losses.

1 The department shall develop the inventory in cooperation with federal and local
2 governmental entities, agencies of this state and of the other parties, tribal agencies,
3 and private entities. The department shall use information in the registry under
4 sub. (3) (c) in creating the inventory.

5 2. The department shall create the water resources inventory under subd. 1.
6 no later than the first day of the 72nd month beginning after the effective date of this
7 subdivision [revisor inserts date], or the first day of the 60th month beginning
8 after the compact's effective date whichever is later.

9 (b) *Annual report on water resources.* Beginning within 60 months after the
10 compact's effective date, the department shall annually report to the Great Lakes
11 council the information from par. (a) regarding withdrawals that average 100,000
12 gallons per day or more over a 30-day period, including consumptive uses, in the
13 basin and any diversions, as well as the amounts of the withdrawals, water losses
14 from consumptive uses, and diversions in the basin reported under sub. (3) (e).

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

21 (d) *Assessment of water conservation and efficiency program.* After the
22 compact's effective date, the department shall annually assess the effectiveness of
23 the water conservation and efficiency program under sub. (8) (c) in meeting the Great
24 Lakes basin water conservation and efficiency goals under sub. (8) (a). In each
25 assessment, the department shall consider whether there is a need to adjust the

1 Great Lakes basin water conservation and efficiency program in response to new
2 demands for water from the basin and the potential impacts of the cumulative effects
3 of diversions, withdrawals, and consumptive uses and of climate. The department
4 shall provide the assessment to the Great Lakes council and the regional body and
5 make it available to the public.

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

9 (f) *Report on threshold.* No later than the 60th month beginning after the
10 compact's effective date, the department shall submit to the legislature under s.
11 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and
12 providing any recommendations to change the threshold.

13 (g) *Water use report.* Beginning no later than 8 years after the effective date
14 of this paragraph [revisor inserts date], or 5 years after the last report published
15 under s. 281.344 (11), whichever is earlier, and every 5 years thereafter, the
16 department, using water use data reported under this section, shall publish a water
17 use report to summarize water usage, identify related trends, identify areas of future
18 water usage concerns, and recommend future actions to promote sustainable water
19 use. The department shall also include in the report water resource information
20 derived from reporting and data accumulation requirements under other water
21 regulatory laws.

22 **(13m)** EXCEEDANCES. It is not a violation of this section to withdraw an amount
23 of water that exceeds the withdrawal amount specified in a permit issued under sub.
24 (5) or in the database under sub. (4s) (i), unless the amount by which the withdrawal
25 exceeds the withdrawal amount would result in the application of the state

1 decision-making standard under sub. (5m) or the compact decision-making
2 standard under sub. (6).

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

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

11 **SECTION 19.** 281.348 of the statutes is created to read:

12 **281.348 Water supply service area plans for public water supply**
13 **systems. (1) DEFINITIONS.** In this section:

14 (a) “Compact’s effective date” means the effective date of the Great Lakes—St.
15 Lawrence River Basin Water Resources Compact under s. 281.343 (9) (d).

16 (b) “Cost-effectiveness analysis” means a systematic comparison of alternative
17 means of providing a water supply in order to identify alternatives that will minimize
18 total resources costs and maximize environmental benefits over a planning period.

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

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

1 (e) “Total resources costs” includes monetary costs and direct and indirect
2 environmental as well as other nonmonetary costs.

3 (f) “Withdraw” means to take water from surface water or groundwater.

4 (g) “Withdrawal” means the taking of water from surface water or
5 groundwater, including the taking of surface water or groundwater for the purpose
6 of bottling the water.

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

10 (b) For the purposes of this section, the withdrawal of water from more than
11 one source within the Great Lakes basin to supply a common distribution system is
12 considered one withdrawal.

13 **(3) REQUIREMENTS.** (a) 1. The department shall establish, by rule, and
14 administer a continuing water supply planning process for the preparation of water
15 supply plans for persons operating public water supply systems. The period covered
16 by a plan under this subsection may not exceed 20 years. A regional planning
17 commission may prepare plans for persons operating public water supply systems.

18 2. A person operating a public water supply system that serves a population
19 of 10,000 or more and that withdraws water from the waters of the state shall have
20 an approved plan under this section no later than December 31, 2025.

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

23 1. Public review and comment on a proposed plan. For a plan submitted after
24 the compact’s effective date covering a public water supply system that withdraws

1 water from the Great Lakes basin, the procedures and requirements under this
2 subdivision shall be consistent with s. 281.343 (6) (b).

3 2. Approval of a plan by the governing body of each city, village, and town whose
4 public water supply is addressed by the plan before the plan is submitted to the
5 department.

6 2m. Approval of a plan by the department.

7 3. Ensuring that plans remain current.

8 4. Intergovernmental cooperation.

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

11 (bm) A person preparing a plan under par. (a) shall consider existing regional
12 water needs assessments and other regional water supply planning information.

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

15 1. Delineation of the area for which the plan is being prepared and proposed
16 water supply service areas for each public water supply system making a withdrawal
17 covered by the plan, except as provided in par. (cm).

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

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

22 3m. Identification of the existing population and population density of the area
23 for which the plan is prepared and forecasts of the expected population of the area
24 during the period covered by the plan based on growth projections for the area and
25 municipally planned population densities.

1 4. Identification of the options for supplying water in the area for the period
2 covered by the plan that are approvable under other applicable statutes and rules
3 and that are cost-effective based upon a cost-effectiveness analysis of regional and
4 individual water supply and water conservation alternatives.

5 5. An assessment of the environmental and economic impacts of carrying out
6 specific significant recommendations of the plan.

7 6. A demonstration that the plan will effectively utilize existing water supply
8 storage and distribution facilities and wastewater infrastructure to the extent
9 practicable.

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

12 8. An analysis of how the plan supports and is consistent with any applicable
13 comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved
14 areawide water quality management plans under s. 283.83.

15 9. Other information specified by the department.

16 (cm) For the purposes of plans under par. (a), an areawide water quality
17 planning agency designated by the governor under ch. NR 121, Wis. Adm. Code, shall
18 delineate the proposed water supply service areas for all of the public water supply
19 systems in the planning area for which the agency is designated. An areawide water
20 quality planning agency shall delineate proposed water supply service areas that are
21 consistent with the approved areawide water quality management plan under s.
22 283.83 for the planning area and that permit the development of plans that are
23 approvable under par. (d). An areawide water quality planning agency may also
24 provide regional water needs assessments and other regional water supply planning
25 information. The process for conducting regional activities under this subsection

1 may be the same as the process for regional water supply planning for a groundwater
2 management area designated under s. 281.34 (9).

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

5 1. The plan provides for a water supply system that is approvable under this
6 section and other applicable statutes and rules based on a cost-effectiveness
7 analysis of regional and individual water supply and water conservation
8 alternatives.

9 2. The plan will effectively utilize existing water supply storage and
10 distribution facilities and wastewater infrastructure to the extent practicable.

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

13 4. The plan is consistent with any applicable approved areawide water quality
14 management plans under s. 283.83.

15 5. Beginning on the compact's effective date, if the plan covers a public water
16 supply system that withdraws water from the Great Lakes basin, the plan complies
17 with any applicable requirements in s. 281.346 (5e).

18 (e) The department shall specify in a plan under this section a water supply
19 service area for each public water supply system making a withdrawal covered by
20 the plan. The department may not limit water supply service areas based on
21 jurisdictional boundaries, except as necessary to prevent waters of the Great Lakes
22 basin from being transferred from a county that lies completely or partly within the
23 Great Lakes basin into a county that lies entirely outside the Great Lakes basin.

1 (f) A person applying for an approval under s. 281.344 (4) or 281.346 (4) may
2 use elements of an approved plan under this subsection to show compliance with
3 requirements under s. 281.344 (4) or 281.346 (4) to which the plan is relevant.

4 **(4) WITHDRAWAL AMOUNT IN CERTAIN PLANS.** In a plan under this section that
5 covers a public water supply system making a withdrawal from the Great Lakes
6 basin, the department shall specify a withdrawal amount for the public water supply
7 system equal to the greatest of the following:

8 (a) The amount needed for the public water supply system to provide a public
9 water supply in the water supply service area in the plan during the period covered
10 by the plan, as determined using the population and related service projections in
11 the plan.

12 (b) If the withdrawal is covered by an individual permit issued under s. 281.344
13 (5) or 281.346 (5) when the department approves the plan, the withdrawal amount
14 in that permit when the department approves the plan or, if the withdrawal is
15 covered by a general permit issued under s. 281.344 (4s) or 281.346 (4s) when the
16 department approves the plan, the withdrawal amount for the public water supply
17 system in the database under s. 281.346 (4s) (i) when the department approves the
18 plan.

19 **SECTION 20.** 281.35 (1) (a) of the statutes is amended to read:

20 281.35 (1) (a) “Approval” means a permit issued under s. 30.18, 281.344 (5), or
21 281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.

22 **SECTION 21.** 281.35 (1) (b) 2. of the statutes, as affected by 2007 Wisconsin Act
23 96, is amended to read:

24 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss
25 over any 30-day period that is reported to the department ~~or the public service~~

1 ~~commission under sub. (3) (c) or s. 281.17, 2001 stats., or s. 30.18 (6) (c), 196.98,~~
2 ~~281.34, 281.344 (5), 281.346 (5), or 281.41.~~

3 **SECTION 22.** 281.35 (1) (bm) of the statutes is created to read:

4 281.35 (1) (bm) “Compact’s effective date” means the effective date of the Great
5 Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

6 **SECTION 23.** 281.35 (1) (cm) of the statutes is created to read:

7 281.35 (1) (cm) “Facility” means an operating plant or establishment providing
8 electricity to the public or carrying on any manufacturing activity, trade, or business
9 on one site, including similar plants or establishments under common ownership or
10 control located on contiguous properties.

11 **SECTION 24.** 281.35 (2) (a) of the statutes is repealed.

12 **SECTION 25.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2) and
13 amended to read:

14 281.35 (2) In calculating the total amount of an existing or proposed water loss
15 for purposes of determining the applicability of sub. (4), a person shall include all
16 separate interbasin diversions and consumptive uses, or combinations thereof,
17 which the person makes or proposes to make ~~for a single use or for related uses to~~
18 supply a single facility or public water supply system.

19 **SECTION 26.** 281.35 (3) of the statutes is repealed.

20 **SECTION 27.** 281.35 (4) (a) 4. of the statutes is created to read:

21 281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)
22 has been issued or who is required to obtain a permit under one of those provisions
23 before beginning or increasing a withdrawal.

24 **SECTION 28.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

1 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
2 withdrawal or increase the amount of an existing withdrawal, the person shall apply
3 to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new
4 approval or a modification of its existing approval if either of the following conditions
5 applies:

6 **SECTION 29.** 281.35 (5) (a) 13. of the statutes is amended to read:

7 281.35 (5) (a) 13. A statement as to whether the proposed withdrawal complies
8 with all applicable plans for the use, management and protection of the waters of the
9 state and related land resources, including plans developed under ~~ss. 281.12 (1) and~~
10 ~~s. 283.83 and the requirements specified in any water quantity resources plan under~~
11 ~~sub. (8).~~

12 **SECTION 30.** 281.35 (5) (b) of the statutes is amended to read:

13 281.35 (5) (b) *Great Lakes basin; consultation required.* If the department
14 receives an application before the compact's effective date that, if approved, will
15 result in a new water loss to the Great Lakes basin averaging more than 5,000,000
16 gallons per day in any 30-day period, or an increase in an existing withdrawal that
17 will result in a water loss averaging 5,000,000 gallons per day in any 30-day period
18 above the applicant's authorized base level of water loss, the department shall notify
19 the office of the governor or premier and the agency responsible for management of
20 water resources in each state and province of the Great Lakes region and, if required
21 under the boundary water agreement of 1909, the international joint commission.
22 The department shall also request each state and province that has cooperated in
23 establishing the regional consultation procedure under sub. (11) ~~(f)~~ (11m) to
24 comment on the application. In making its determination on an application, the

1 department shall consider any comments that are received within the time limit
2 established under par. (c).

3 **SECTION 31.** 281.35 (6) (a) (intro.) of the statutes is amended to read:

4 281.35 (6) (a) *Issuance; contents.* (intro.) If Subject to par. (am). if an
5 application is approved under sub. (5), the department shall modify the applicant's
6 existing approval or shall issue a new approval that specifies all of the following:

7 **SECTION 32.** 281.35 (6) (am) of the statutes is created to read:

8 281.35 (6) (am) *Water loss permit.* If the department approves an application
9 under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s.
10 281.346 (5) and another approval, the department shall modify the permit under s.
11 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters
12 under par. (a).

13 **SECTION 33.** 281.35 (6) (f) of the statutes is amended to read:

14 281.35 (6) (f) *Notice; right to hearing.* The department shall notify the person
15 to whom the approval has been issued and any other person who has in writing
16 requested notice of the receipt of a request to modify an approval or of the
17 department's intent to modify or revoke an approval. The person to whom the
18 approval is issued is entitled to a contested case hearing under ch. 227 before a
19 revocation or modification takes effect. Any other person who may be adversely
20 affected by a proposed modification is entitled to a contested case hearing under ch.
21 ~~227 before a modification takes effect.~~

22 **SECTION 34.** 281.35 (8) of the statutes is repealed.

23 **SECTION 35.** 281.35 (9) (a) of the statutes is amended to read:

24 281.35 (9) (a) The Wisconsin coastal management council, established under
25 executive order number 62, dated August 2, 1984, shall amend this state's coastal

1 management program submitted to the U.S. secretary of commerce under 16 USC
2 1455, to incorporate the requirements of this section and, before the compact's
3 effective date, s. 281.344 and the findings and purposes specified in 1985 Wisconsin
4 Act 60, section 1, as they apply to the water resources of the Great Lakes basin, and
5 shall formally submit the proposed amendments to the U.S. secretary of commerce.

6 **SECTION 36.** 281.35 (9) (d) of the statutes is created to read:

7 281.35 (9) (d) This subsection does not apply after the compact's effective date.

8 **SECTION 37.** 281.35 (10) (a) 4. of the statutes is repealed.

9 **SECTION 38.** 281.35 (11) (intro.) of the statutes is amended to read:

10 281.35 (11) COOPERATION WITH OTHER STATES AND PROVINCES. (intro.) ~~The~~ Before
11 the compact's effective date, the department shall do all of the following:

12 **SECTION 39.** 281.35 (11) (f) of the statutes is renumbered 281.35 (11m) and
13 amended to read:

14 281.35 (11m) UPPER MISSISSIPPI RIVER BASIN CONSULTATION. ~~Participate~~ The
15 department shall participate in the development of an upper Mississippi River basin
16 regional consultation procedure for use in exchanging information on the effects of
17 proposed water losses from that basin.

18 **SECTION 40.** 281.35 (12) (c) of the statutes is amended to read:

19 281.35 (12) (c) This state reserves the right to seek, in any state, federal or
20 provincial forum, an adjudication of the equitable apportionment of the water
21 resources of the ~~Great Lakes basin or upper Mississippi River basin~~ and, before the
22 compact's effective date, of the Great Lakes basin, and the protection and
23 determination of its rights and interests in those water resources, in any manner
24 provided by law.

25 **SECTION 41.** 281.41 (1) (c) of the statutes is amended to read:

1 281.41 (1) (c) Construction or material change shall be according to approved
2 plans only. The department may disapprove plans that are not in conformance with
3 any existing approved areawide waste treatment management plan prepared
4 pursuant to the federal water pollution control act, P.L. 92-500, as amended, and
5 shall disapprove plans that do not meet the grounds for approval specified under s.
6 281.35 (5) (d), if applicable. ~~The department shall require each person whose plans~~
7 ~~are approved under this section to report that person's volume and rate of water~~
8 ~~withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of~~
9 ~~water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times~~
10 ~~specified by the department. The department shall disapprove plans that are not in~~
11 ~~conformance with any applicable approved water supply service area plan under s.~~
12 ~~281.348.~~

13 **SECTION 42.** 281.41 (4) of the statutes is created to read:

14 281.41 (4) When the department receives for review a plan under sub. (1) that
15 would result in returning water transferred from the Great Lakes basin to the source
16 watershed through a stream tributary to one of the Great Lakes, the department
17 shall provide notice of the plan or revision to the governing body of each city, village,
18 and town through which the stream flows or that is adjacent to the stream
19 downstream from the point at which the water would enter the stream.

20 **SECTION 43.** 281.93 of the statutes is created to read:

21 **281.93 Hearings on certain water use actions. (1)** PERMIT OR APPROVAL
22 HOLDER OR APPLICANT; ORDER RECIPIENT. Any permit or approval, part of a permit or
23 approval, condition or requirement in a permit or approval, order, decision or
24 determination by the department under s. 281.344, 281.346, or 281.35 shall become

1 effective unless the permit or approval holder or applicant or the order recipient
2 seeks a hearing challenging the action in the following manner:

3 (a) *Petition.* The person seeking a hearing shall file a petition with the
4 department within 30 days after the date of the action sought to be reviewed. The
5 petition shall set forth specifically the issue sought to be reviewed, the interest of the
6 petitioner, the reasons why a hearing is warranted, and the relief desired. Upon
7 receipt of the petition, the department shall hold a hearing after at least 10 days'
8 notice.

9 (b) *Hearing.* The hearing shall be a contested case under ch. 227. At the
10 beginning of the hearing the petitioner shall present evidence in support of the
11 allegations made in the petition. Following the hearing the department's action may
12 be affirmed, modified, or withdrawn.

13 **(1m)** EFFECT OF A CHALLENGE. If a permit or approval holder or applicant seeks
14 a hearing challenging part of a permit or approval or a condition or requirement in
15 a permit or approval under sub. (1), the remainder of the permit or approval shall
16 become effective and the permit or approval holder or applicant may, at its discretion,
17 begin the activity for which the application was submitted or for which the permit
18 or approval was issued.

19 **(2)** OTHER PERSONS. Except as provided in ss. 281.344 (4e) (g) and 281.346 (4e)
20 (g), any person who is not entitled to seek a hearing under sub. (1) (intro.) and who
21 meets the requirements of s. 227.42 (1) or who submitted comments in the public
22 comment process under s. 281.344, 281.346, or 281.35 may seek review under sub.
23 (1) of any permit or approval, part of a permit or approval, order, decision, or
24 determination by the department under s. 281.344, 281.346, or 281.35.

1 **(3) MINING HEARING.** Subsections (1) and (2) do not apply if a hearing on the
2 matter is conducted as a part of a hearing under s. 293.43.

3 **SECTION 44.** 281.94 (1) of the statutes is amended to read:

4 281.94 **(1)** Any 6 or more residents of this state may petition for an
5 investigation of a withdrawal, ~~as defined under s. 281.35 (1) (m)~~, alleged to be in
6 violation of s. 281.35 ~~(3) (a)~~, 281.344 (3) (a), or 281.346 (3) (a), in violation of a
7 condition, limitation or restriction of a permit or approval issued in conformance
8 with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 ~~(3) (a)~~
9 ~~or (4) to (6)~~, 281.344 (3) (a), or 281.346 (3) (a) by submitting to the department a
10 petition identifying the alleged violator and setting forth in detail the reasons for
11 believing a violation occurred. The petition shall state the name and address of a
12 person in this state authorized to receive service of answer and other papers on
13 behalf of the petitioners and the name and address of a person authorized to appear
14 at a hearing on behalf of the petitioners.

15 **SECTION 45.** 281.95 of the statutes is amended to read:

16 **281.95 Remedies; water withdrawal violations.** Any person who makes
17 a withdrawal, ~~as defined under s. 281.35 (1) (m)~~, in violation of s. 281.35 ~~(3) (a)~~,
18 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction
19 of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of
20 any rule promulgated under s. 281.35 ~~(3) (a) or (4) to (6)~~, 281.344 (3) (a), or 281.346
21 (3) (a) is liable to any person who is adversely affected by the withdrawal for damages
22 or other appropriate relief. Any person who is or may be adversely affected by an
23 existing or proposed withdrawal, ~~as defined under s. 281.35 (1) (m)~~, which is in
24 violation of a condition, limitation or restriction of a permit or approval issued in
25 conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s.

1 281.35 (4) to (6) may bring an action in the circuit court to restrain or enjoin the
2 withdrawal.

3 **SECTION 46.** 281.98 (1) of the statutes is amended to read:

4 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.346 (14) (a), 281.47
5 (1) (d), 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule
6 promulgated or any plan approval, license, special order, or water quality
7 certification issued under this chapter shall forfeit not less than \$10 nor more than
8 \$5,000 for each violation. Each day of continued violation is a separate offense.
9 While an order is suspended, stayed, or enjoined, this penalty does not accrue.

10 **SECTION 47.** 283.41 (3) of the statutes is created to read:

11 283.41 (3) When the department receives an application for a permit for a
12 discharge that would return water transferred from the Great Lakes basin to the
13 source watershed through a stream tributary to one of the Great Lakes, the
14 department shall provide notice of the application to the governing body of each city,
15 village, and town through which the stream flows or that is adjacent to the stream
16 downstream from the point at which the water would enter the stream.

17 **SECTION 48.** 283.83 of the statutes is renumbered 283.83 (1).

18 **SECTION 49.** 283.83 (2) of the statutes is created to read:

19 283.83 (2) When the department receives for review or prepares a new plan
20 under sub. (1) or a revision to a plan under sub. (1) that includes a proposal to return
21 water transferred from the Great Lakes basin to the source watershed through a
22 stream tributary to one of the Great Lakes, the department shall provide notice of
23 the plan or revision to the governing body of each city, village, and town through
24 which the stream flows or that is adjacent to the stream downstream from the point
25 at which the water would enter the stream.

1 **SECTION 50.** 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are amended
2 to read:

3 **293.65 (title) ~~Diversio~~ Withdrawal of surface waters; withdrawal of**
4 **groundwater; damage claims. (1) SCOPE.** This section governs the withdrawal
5 ~~or diversion~~ of groundwaters or surface waters by persons engaged in prospecting or
6 mining. Discharges of waters are subject to ch. 283, construction of necessary dams
7 or other structures is subject to chs. 30 and 31 and construction of wells is subject to
8 ch. 280, to the extent applicable.

9 **(2) (title) ~~DIVERSION~~ WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED.** (a) Any
10 person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall
11 apply to the department for a permit. The forms and procedures used under s. 30.18
12 apply to the extent practicable.

13 (b) The department, upon receipt of an application for a permit, shall determine
14 the minimum stream flow or lake level necessary to protect public rights, the
15 minimum flow or level necessary to protect the rights of affected riparians, the point
16 downstream beyond which riparian rights are not likely to be injured by the proposed
17 ~~diversio~~ withdrawal and the amount of surplus water, as defined in s. 30.01 (6d),
18 if any, at the point of the proposed ~~diversio~~ withdrawal.

19 **SECTION 51.** 293.65 (2) (c) 1. of the statutes is amended to read:

20 293.65 **(2) (c) 1.** The public rights in the lake or stream and the related
21 environment which may be injured by the proposed ~~diversio~~ withdrawal;

22 **SECTION 52.** 293.65 (2) (d) 2. of the statutes is amended to read:

23 293.65 **(2) (d) 2.** If the proposed ~~diversio~~ withdrawal will consume nonsurplus
24 waters, and will unreasonably injure rights of riparians identified by par. (b) who are

