

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

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

16 (c) To develop and maintain a compatible base of water use information, within
17 5 years of the effective date of this compact any person who withdraws water in an
18 amount of 100,000 gallons per day or greater average in any 30-day period, including
19 consumptive uses, from all sources, or diverts water of any amount, shall register the
20 withdrawal or diversion by a date set by the council unless the person has previously
21 registered in accordance with an existing state program. The person shall register
22 the withdrawal or diversion with the originating party using a form prescribed by
23 the originating party that shall include, at a minimum and without limitation: the
24 name and address of the registrant and date of registration; the locations and sources
25 of the withdrawal or diversion; the capacity of the withdrawal or diversion per day

1 and the amount withdrawn or diverted from each source; the uses made of the water;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

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

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

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

20 **(4b) WATER MANAGEMENT AND REGULATION; WATER CONSERVATION AND EFFICIENCY**
21 PROGRAMS. (a) The council commits to identify, in cooperation with the provinces,
22 basin-wide water conservation and efficiency objectives to assist the parties in
23 developing their water conservation and efficiency programs. These objectives are
24 based on the goals of:

- 1 1. Ensuring improvement of the waters and water dependent natural
- 2 resources;
- 3 2. Protecting and restoring the hydrologic and ecosystem integrity of the basin;
- 4 3. Retaining the quantity of surface water and groundwater in the basin;
- 5 4. Ensuring sustainable use of waters of the basin; and
- 6 5. Promoting the efficiency of use and reducing losses and waste of water.

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

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

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

- 23 1. Measures that promote efficient use of water;
- 24 2. Identification and sharing of best management practices and state of the art
- 25 conservation and efficiency technologies;

1 3. Application of sound planning principles;

2 4. Demand-side and supply-side measures or incentives; and

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

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

8 **(4d) WATER MANAGEMENT AND REGULATION; PARTY POWERS AND DUTIES.** (a) Each
9 party, within its jurisdiction, shall manage and regulate new or increased
10 withdrawals, consumptive uses, and diversions, including exceptions, in accordance
11 with this compact.

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

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

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

22 (e) No party shall approve a proposal subject to council or regional review, or
23 both, pursuant to this compact unless it shall have been first submitted to and
24 reviewed by either the council or regional body, or both, and approved by the council,
25 as applicable. Sufficient opportunity shall be provided for comment on the proposal's

1 consistency with this compact and the standard of review and decision. All such
2 comments shall become part of the party's formal record of decision, and the party
3 shall take into consideration any such comments received.

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

8 **(4h) WATER MANAGEMENT AND REGULATION; REGIONAL REVIEW.** (a) *General.* 1. It
9 is the intention of the parties to participate in regional review of proposals with the
10 provinces, as described in this compact and the agreement.

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

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

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