

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, <sup>is not affected by 2007 Wisconsin Act 967</sup> is amended to read:

23 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss  
24 over any 30-day period that is reported to the department ~~or the public service~~

*strike*  
*of s. 281.17, 2001 stats. for*

1 commission under sub. (3) (c) ~~or~~ s. 30.18 (6) (c), ~~196.98, 281.34, 281.344 (5), 281.346~~

2 ~~(5), or 281.41 or s. 281.17 (1), 2001 stats.~~

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) Diversion 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 ~~diversion~~ withdrawal and the amount of surplus water, as defined in s. 30.01 (6d),  
18 if any, at the point of the proposed ~~diversion~~ 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 ~~diversion~~ 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 ~~diversion~~ withdrawal will consume nonsurplus  
24 waters, and will unreasonably injure rights of riparians identified by par. (b) who are

1 beneficially using such waters, the permit shall be denied unless a permit is granted  
2 under par. (e) or all such riparians consent to the proposed ~~diversion~~ withdrawal.

3 **SECTION 53.** 293.65 (2) (e) of the statutes is amended to read:

4 293.65 (2) (e) The department may require modification of a proposed ~~diversion~~  
5 withdrawal so as to avoid injury to public or riparian rights, and as modified, may  
6 grant the permit.

7 **SECTION 54.** 293.65 (2) (f) of the statutes is amended to read:

8 293.65 (2) (f) Water ~~diverted~~ withdrawn in accordance with a permit issued  
9 under this subsection may be used on nonriparian property.

10 **SECTION 55.** 293.65 (2) (h) of the statutes is amended to read:

11 293.65 (2) (h) Hearings on applications for ~~diversion~~ withdrawal permits under  
12 this subsection shall be preceded by mailed notice to all parties or affected persons  
13 and by publication in the affected area of a class 2 notice, under ch. 985. Hearings  
14 may be conducted as part of a hearing on an application for a mining permit under  
15 s. 293.37.

16 **SECTION 56. Nonstatutory provisions.**

17 (1) SUBMISSION OF PROPOSED RULES. The department of natural resources shall  
18 submit in proposed form the rules required under section 281.344 (4) (g) and 281.348  
19 (3) of the statutes, as created by this act, to the legislative council staff under section  
20 227.15 (1) of the statutes no later than the first day of the 18th month beginning after  
21 the effective date of this subsection.

22 (END)

**Duerst, Christina**

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**From:** Bier, Beth  
**Sent:** Monday, May 12, 2008 10:19 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-4367/1 Topic: Great Lakes Water Resources Compact ratification and implementation

Please Jacket LRB 07-4367/1 for the SENATE.