



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 05/09/2008 (Per: RCT)



☞ Appendix A ... Part 06 of 06

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☞ The 2007 drafting file for LRB-4360

has been copied/added to the drafting file for

2007 LRB-4367

(Ap8 SB-1)

☞ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

1 2. Except as provided in subd. 3. or par. (dm), the department may not approve
2 an application under par. (d) 1. for a withdrawal that is covered under a general
3 permit under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the
4 withdrawal so that it equals 10,000,000 or more gallons per day for any 30
5 consecutive days over the withdrawal amount as of the date that the department
6 issued the current notice of coverage under the general permit or as of the compact's
7 effective date, whichever is later, unless the withdrawal meets the compact
8 decision-making standard under sub. (6).

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

17 (g) *Modification of individual permit for increased withdrawal.* 1. If a person
18 making a withdrawal that is covered under an individual permit issued under this
19 subsection or s. 281.344 (5) proposes to increase, during the term of the permit, the
20 amount of the withdrawal over the withdrawal amount specified in the permit, the
21 person shall apply to the department for a modification of the permit to increase the
22 withdrawal amount.

23 2. After receiving an application under subd. 1., the department shall, within
24 the time limit established by the department by rule, determine whether to approve

1 the application for modification of the permit or notify the applicant of any additional
2 information needed to determine whether to approve the application.

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

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

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

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

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

24 3m. If the department approves an application under subd. 1. for a withdrawal
25 for the purpose of providing water to a public water supply system that is covered by

1 an approved water supply service area plan under s. 281.348, the department shall
2 modify the individual permit. In the modified permit, the department shall specify
3 a withdrawal amount that is equal to the withdrawal amount in the water supply
4 service area plan.

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

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

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

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

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

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

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

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

23 2. After receiving an application under subd. 1., the department shall, within
24 the time limit established by the department by rule, determine whether to approve

1 the application or notify the applicant of any additional information needed to
2 determine whether to approve the application.

3 3. Except as provided in subd. 3m., if the department approves an application
4 under subd. 1., determines that the person is in substantial compliance with the
5 current individual permit, and has issued any approvals that are required for the
6 withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the
7 department shall reissue the individual permit. In the permit, the department shall
8 specify a withdrawal amount that is equal to the amount in the current permit,
9 except that, if the person proposes in the application to increase the amount of the
10 withdrawal, the department shall specify a withdrawal amount that is, except as
11 provided in subd. 3e., equal to the smallest of the following amounts:

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

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

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

22 3e. If water is withdrawn through more than one water supply system to serve
23 a facility and subd. 3. c. does not apply, the department shall determine the smallest
24 amount under subd. 3. a. or b. for each of the water supply systems and shall specify

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

3 3m. If the department approves an application under subd. 1. for a withdrawal
4 for the purpose of providing water to a public water supply system that is covered by
5 an approved water supply service area plan under s. 281.348 and determines that
6 the person is in substantial compliance with the current individual permit, the
7 department shall reissue the individual permit. In the permit, the department shall
8 specify a withdrawal amount that is equal to the withdrawal amount in the water
9 supply service area plan.

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

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

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

22 (k) *Standards for reissuance in certain cases.* 1. Except as provided in par. (jm),
23 the department may not approve an application under par. (j) 1., if the person
24 proposes in the application to increase the amount of the withdrawal so that it equals
25 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal

1 amount as of the beginning of the current permit term, the compact's effective date,
2 or the date that the department issued a modified permit for the withdrawal if the
3 modification was subject to the state decision-making standard under sub. (5m) or
4 the compact decision-making standard under sub. (6), whichever is latest, and if
5 subd. 2. does not apply, unless the increased withdrawal meets the state
6 decision-making standard under sub. (5m).

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

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

23 (L) *Prior notice.* Beginning no later than 60 months after the compact's
24 effective date, if a proposal for which approval is required under this subsection will
25 result in a new water loss or an increase in a water loss that will average more than

1 5,000,000 gallons per day in any 90-day period, the department shall provide the
2 other parties and the provinces of Ontario and Quebec, Canada, with detailed notice
3 of the proposal and an opportunity to comment on the proposal. The department
4 shall provide a response to any comment received under this paragraph. The
5 department may not grant an approval under this subsection until at least 90 days
6 after the day on which it provided notice under this paragraph.

7 (m) *Regional review.* If a majority of the members of the regional body request
8 regional review of a proposal described in s. 281.343 (4h) (a) 6. for a withdrawal and
9 the department determines under s. 281.343 (4h) (b) 1. that the proposal is subject
10 to regional review, the department shall conduct a technical review of the proposal
11 and submit the proposal for regional review. The department may not determine
12 under s. 281.343 (4h) (b) 1. that the proposal is subject to regional review unless the
13 proposal will result in a water loss that will average more than 5,000,000 gallons per
14 day in any 90-day period. If the department submits the proposal for regional
15 review, the department may not act on the proposal until the proposal has undergone
16 regional review and the department has considered the regional declaration of
17 finding in determining whether to approve the proposal or until 90 days after the
18 department submits the proposal for regional review, whichever is sooner.

19 (n) *Information to be provided.* A person who submits an application under par.
20 (d) 1., (g) 1., or (j) 1. shall provide the information required by the department by rule.
21 If a decision-making standard under sub. (5m) or (6) applies, the person shall
22 provide information about the potential impacts of the withdrawal on the waters of
23 the Great Lakes basin and water dependent natural resources. If the compact
24 decision-making standard under sub. (6) applies, the person shall provide an

1 assessment of the individual impacts of the proposal for the purposes of sub. (6) (b).

2 The person may also include a cumulative impact assessment.

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

6 (p) *Suspension and revocation.* The department may suspend or revoke a
7 permit issued under this subsection or s. 281.344 (5) for cause, including obtaining
8 the permit by misrepresentation or failure to disclose material facts or substantially
9 violating the terms of the permit.

10 (q) *Transfer of control.* A permit is not transferable to any person except after
11 notice to the department. A person who proposes to assume control over a permitted
12 withdrawal shall file with the department a permit application and a statement of
13 acceptance of the permit. The department may require modification or revocation
14 and reissuance of the permit to change the name of the permittee.

15 (5e) REQUIREMENTS FOR WATER SUPPLY SERVICE AREA PLANS FOR PUBLIC WATER
16 SUPPLY SYSTEMS IN THE GREAT LAKES BASIN. (a) *Unpermitted withdrawals.* 1.
17 Beginning on the compact's effective date, the department may not approve a water
18 supply service area plan under s. 281.348 that provides for a new withdrawal from
19 the Great Lakes basin of at least 1,000,000 gallons per day for any 30 consecutive
20 days, or for modification of an existing withdrawal that is not covered by a general
21 permit under sub. (4s) or s. 281.344 (4s) so that it will equal at least 1,000,000 gallons
22 per day for any 30 consecutive days, but to which subd. 2. does not apply, unless the
23 withdrawal meets the state decision-making standard under sub. (5m).

24 2. Beginning on the compact's effective date, except as provided in subd. 3., the
25 department may not approve a water supply service area plan under s. 281.348 that

1 provides for a new withdrawal from the Great Lakes basin of at least 10,000,000
2 gallons per day for any 30 consecutive days, or for modification of an existing
3 withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s)
4 so that it will equal at least 10,000,000 gallons per day for any 30 consecutive days,
5 unless the withdrawal meets the compact decision-making standard under sub. (6).

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

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

22 2. Beginning on the compact's effective date, except as provided in subd. 3., the
23 department may not approve a water supply service area plan under s. 281.348 that
24 provides for modifying a withdrawal that is covered under a general permit under
25 sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 10,000,000 or more gallons

1 per day for any 30 consecutive days over the withdrawal amount as of the date that
2 the department issued the current notice of coverage under the general permit or as
3 of the compact's effective date, whichever is later, unless the withdrawal meets the
4 compact decision-making standard under sub. (6).

5 3. A person who submits a water supply service area plan under s. 281.348, that
6 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,
7 may choose to demonstrate, using procedures specified in rules promulgated by the
8 department, the water loss that will result from the increase in the withdrawal over
9 the withdrawal amount as of the later of the dates under subd. 2. If the person
10 demonstrates that the resulting increase in water loss would average less than
11 5,000,000 gallons per day in every 90-day period, the state decision-making
12 standard under sub. (5m), rather than the compact decision-making standard under
13 sub. (6), applies to the increase in the withdrawal.

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

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

11 3. A person who submits a water supply service area plan under s. 281.348, that
12 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,
13 may choose to demonstrate, using procedures specified in rules promulgated by the
14 department, the water loss that will result from the increase in the withdrawal over
15 the withdrawal amount as of the latest of the dates under subd. 2. If the person
16 demonstrates that the resulting increase in water loss would average less than
17 5,000,000 gallons per day in every 90-day period, the state decision-making
18 standard under sub. (5m), rather than the compact decision-making standard under
19 sub. (6), applies to the increase in the withdrawal.

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

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

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

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

9 (b) For an increase in a withdrawal, cost-effective conservation practices have
10 been implemented for existing uses of the water, as required under rules
11 promulgated by the department under sub. (8) (d).

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

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

17 (e) One of the following applies:

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

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

23 3. The department has issued a permit under s. 30.18 for the new or increased
24 withdrawal or has issued a permit under s. 30.12 for a structure that will be used for
25 the new or increased withdrawal.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (7) EXEMPTIONS. Subsections (3) to (6) do not apply to withdrawals from the
13 Great Lakes basin or diversions for any of the following purposes:

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

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

19 (7m) EMERGENCY ORDER. The department may, without a prior hearing, order
20 a person to whom the department has issued an individual permit or notice of
21 coverage under a general permit under this section or s. 281.344 to immediately stop
22 a withdrawal if the department determines that there is a danger of imminent harm
23 to the public health, safety, or welfare, to the environment, or to the water resources
24 or related land resources of this state. The order shall specify the date on which the
25 withdrawal must be stopped and the date, if any, on which it may be resumed. The

1 order shall notify the person that the person may request a contested case hearing
2 under ch. 227. The hearing shall be held as soon as practicable after receipt of a
3 request for a hearing. An emergency order remains in effect pending the result of
4 the hearing.

5 (8) STATEWIDE WATER CONSERVATION AND EFFICIENCY. (a) *Goals and objectives.*
6 The department shall specify water conservation and efficiency goals and objectives
7 for the waters of the state and for the waters of the Great Lakes basin. The
8 department shall specify goals and objectives for the waters of the Great Lakes basin
9 that are consistent with the goals under s. 281.343 (4b) (a) and the objectives
10 identified by the Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying
11 these goals and objectives, the department shall consult with the department of
12 commerce and the public service commission and consider the water conservation
13 and efficiency goals and objectives developed in any pilot program conducted by the
14 department in cooperation with the regional body.

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

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

21 1m. Mandatory and voluntary conservation and efficiency measures for the
22 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), (5),
23 (5m), and (6) and s. 281.348.

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

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

3 (c) *Great Lakes basin program.* No later than the 24th month beginning after
4 the compact's effective date, the department shall implement a Great Lakes basin
5 water conservation and efficiency program as part of the statewide program under
6 par. (b), for all users of the waters of the Great Lakes basin, that is designed to
7 achieve the goals and objectives for the waters of the Great Lakes basin that are
8 specified under par. (a). The department shall include in the Great Lakes basin
9 program the activities in par. (b) 1. to 3. applicable in the Great Lakes basin and
10 application of the water conservation and efficiency measures specified under par.
11 (d) in subs. (4) (f) 6. and (g) and (6) (c).

12 (d) *Water conservation and efficiency measures.* The department shall
13 promulgate rules specifying water conservation and efficiency measures for the
14 purposes of implementing par. (b). In the rules, the department may not require
15 retrofitting of existing fixtures, appliances, or equipment. The department shall
16 specify measures based on all of the following:

17 1. The amount and type of diversion, withdrawal, or consumptive use and
18 whether the diversion, withdrawal, or consumptive use exists on the first day of the
19 84th month beginning after the effective date of this subdivision [revisor inserts
20 date], or the compact's effective date, whichever is earlier, is expanded, or is new.

21 2. The results of any pilot water conservation program conducted by the
22 department in cooperation with the regional body.

23 3. The results of any assessments under sub. (11) (d).

24 (9) TRIBAL CONSULTATION; PUBLIC PARTICIPATION. (a) *Tribal consultation.* The
25 department shall consult with a federally recognized American Indian tribe or band

1 in this state concerning a proposal that may affect the tribe or band and that is
2 subject to regional review or Great Lakes council approval under sub. (4) or (5).

3 (b) *Public Notice.* 1. The department shall, by rule, create procedures for
4 circulating to interested and potentially interested members of the public notices of
5 each complete application that the department receives under sub. (5) to which the
6 state decision-making standard under sub. (5m) or the compact decision-making
7 standard under sub. (6) applies, other than an application from a person operating
8 a public water supply system that is covered by an approved water supply service
9 area plan under s. 281.348, and each complete application that the department
10 receives under sub. (4) and of each general permit that the department proposes to
11 issue under sub. (4s) (a). The department shall include, in the rule, at least the
12 following procedures:

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

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

16 2. The department shall establish the form and content of a public notice by
17 rule. The department shall include in every public notice concerning an application
18 to which subd. 1. applies at least the following information:

19 a. The name and address of each applicant.

20 b. A brief description of the proposal for which the application is made,
21 including the amount of the proposed withdrawal or diversion.

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

1 (c) *Public comment.* The department shall receive public comments on a
2 proposal for which it receives an application to which par. (b) 1. applies or on a
3 proposed general permit under sub. (4s) (a) for a 30-day period beginning when the
4 department gives notice under par. (b) 1. The department shall retain all written
5 comments submitted during the comment period and shall consider the comments
6 in making its decisions on the application.

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

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

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

23 (e) *Public access to information.* Any record or other information provided to
24 or obtained by the department regarding a proposal for which an application under
25 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The

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

13 (h) *Expediting review.* The department shall take appropriate measures to
14 expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes
15 council, parties, and the provinces of Ontario and Quebec of applications under this
16 section that are subject to regional review.

17 (10m) AMENDMENT OF COASTAL MANAGEMENT PROGRAM. (a) The Wisconsin
18 coastal management council, created under s. 14.019, shall amend this state's
19 coastal management program submitted to the U.S. secretary of commerce under 16
20 USC 1455, to incorporate the requirements of this section, as they apply to the water
21 resources of the Great Lakes basin, and shall formally submit the proposed
22 amendments to the U.S. secretary of commerce.

23 (b) After approval of the amendments submitted to the U.S. secretary of
24 commerce under par. (a), the Wisconsin coastal management council shall, when

1 conducting federal consistency reviews under 16 USC 1456 (c), consider the
2 requirements specified under par. (a), if applicable.

3 (c) If the department issues a permit for a withdrawal to which this section
4 applies, and the withdrawal is subject to a federal consistency review under 16 USC
5 1456 (c), the Wisconsin coastal management council shall certify that the withdrawal
6 is consistent with this state's coastal management program.

7 (11) INFORMATION, REPORTS, AND ASSESSMENTS. (a) *Statewide inventory*. 1. The
8 department shall develop and maintain a water resources inventory consisting of
9 information about the waters of the state including information about the location,
10 type, quantity, and uses of water resources and the location, and type of diversions,
11 withdrawals, and consumptive uses and quantities of withdrawals and water losses.
12 The department shall develop the inventory in cooperation with federal and local
13 governmental entities, agencies of this state and of the other parties, tribal agencies,
14 and private entities. The department shall use information in the registry under
15 sub. (3) (c) in creating the inventory.

16 2. The department shall create the water resources inventory under subd. 1.
17 no later than the first day of the 72nd month beginning after the effective date of this
18 subdivision [revisor inserts date], or the first day of the 60th month beginning
19 after the compact's effective date whichever is later.

20 (b) *Annual report on water resources*. Beginning within 60 months after the
21 compact's effective date, the department shall annually report to the Great Lakes
22 council the information from par. (a) regarding withdrawals that average 100,000
23 gallons per day or more over a 30-day period, including consumptive uses, in the
24 basin and any diversions, as well as the amounts of the withdrawals, water losses
25 from consumptive uses, and diversions in the basin reported under sub. (3) (e).

1 (c) *Program report.* No later than 12 months after the compact's effective date,
2 and every 5 years thereafter, the department shall submit a report to the Great Lakes
3 council and the regional body describing the implementation of the program under
4 this section, including the manner in which withdrawals from the Great Lakes basin
5 are managed, how the criteria for approval under subs. (4), (5), and (6) are applied,
6 and how conservation and efficiency measures are implemented.

7 (d) *Assessment of water conservation and efficiency program.* After the
8 compact's effective date, the department shall annually assess the effectiveness of
9 the water conservation and efficiency program under sub. (8) (c) in meeting the Great
10 Lakes basin water conservation and efficiency goals under sub. (8) (a). In each
11 assessment, the department shall consider whether there is a need to adjust the
12 Great Lakes basin water conservation and efficiency program in response to new
13 demands for water from the basin and the potential impacts of the cumulative effects
14 of diversions, withdrawals, and consumptive uses and of climate. The department
15 shall provide the assessment to the Great Lakes council and the regional body and
16 make it available to the public.

17 (e) *Assessment of cumulative impacts.* The department shall participate in the
18 periodic assessment of the impacts of withdrawals, diversions, and consumptive uses
19 under s. 281.343 (4z) (a).

20 (f) *Report on threshold.* No later than the 60th month beginning after the
21 compact's effective date, the department shall submit to the legislature under s.
22 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and
23 providing any recommendations to change the threshold.

24 (g) *Water use report.* Beginning no later than 8 years after the effective date
25 of this paragraph [revisor inserts date], or 5 years after the last report published

1 under s. 281.344 (11), whichever is earlier, and every 5 years thereafter, the
2 department, using water use data reported under this section, shall publish a water
3 use report to summarize water usage, identify related trends, identify areas of future
4 water usage concerns, and recommend future actions to promote sustainable water
5 use. The department shall also include in the report water resource information
6 derived from reporting and data accumulation requirements under other water
7 regulatory laws.

8 **(13m) EXCEEDANCES.** It is not a violation of this section to withdraw an amount
9 of water that exceeds the withdrawal amount specified in a permit issued under sub.
10 (5) or in the database under sub. (4s) (i), unless the amount by which the withdrawal
11 exceeds the withdrawal amount would result in the application of the state
12 decision-making standard under sub. (5m) or the compact decision-making
13 standard under sub. (6).

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

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

22 **SECTION 19.** 281.348 of the statutes is created to read:

23 **281.348 Water supply service area plans for public water supply**
24 **systems. (1) DEFINITIONS.** In this section:

1 (a) "Compact's effective date" means the effective date of the Great Lakes—St.
2 Lawrence River Basin Water Resources Compact under s. 281.343 (9) (d).

3 (b) "Cost-effectiveness analysis" means a systematic comparison of alternative
4 means of providing a water supply in order to identify alternatives that will minimize
5 total resources costs and maximize environmental benefits over a planning period.

6 (c) "Great Lakes basin" means the watershed of the Great Lakes and the St.
7 Lawrence River upstream from Trois—Rivieres, Quebec.

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

12 (e) "Total resources costs" includes monetary costs and direct and indirect
13 environmental as well as other nonmonetary costs.

14 (f) "Withdraw" means to take water from surface water or groundwater.

15 (g) "Withdrawal" means the taking of water from surface water or
16 groundwater, including the taking of surface water or groundwater for the purpose
17 of bottling the water.

18 **(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS.** (a) For the
19 purposes of this section, the surface water divide is used to determine whether a
20 withdrawal of surface water or groundwater is from the Great Lakes basin.

21 (b) For the purposes of this section, the withdrawal of water from more than
22 one source within the Great Lakes basin to supply a common distribution system is
23 considered one withdrawal.

24 **(3) REQUIREMENTS.** (a) 1. The department shall establish, by rule, and
25 administer a continuing water supply planning process for the preparation of water

1 supply plans for persons operating public water supply systems. The period covered
2 by a plan under this subsection may not exceed 20 years. A regional planning
3 commission may prepare plans for persons operating public water supply systems.

4 2. A person operating a public water supply system that serves a population
5 of 10,000 or more and that withdraws water from the waters of the state shall have
6 an approved plan under this section no later than December 31, 2025.

7 (b) The department shall include in the process under par. (a) procedures and
8 requirements for all of the following:

9 1. Public review and comment on a proposed plan. For a plan submitted after
10 the compact's effective date covering a public water supply system that withdraws
11 water from the Great Lakes basin, the procedures and requirements under this
12 subdivision shall be consistent with s. 281.343 (6) (b).

13 2. Approval of a plan by the governing body of each city, village, and town whose
14 public water supply is addressed by the plan before the plan is submitted to the
15 department.

16 2m. Approval of a plan by the department.

17 3. Ensuring that plans remain current.

18 4. Intergovernmental cooperation.

19 5. Reopening or reconsideration by the department of a previously approved
20 plan.

21 (bm) A person preparing a plan under par. (a) shall consider existing regional
22 water needs assessments and other regional water supply planning information.

23 (c) A person preparing a plan under par. (a) shall include all of the following
24 in the plan:

1 1. Delineation of the area for which the plan is being prepared and proposed
2 water supply service areas for each public water supply system making a withdrawal
3 covered by the plan, except as provided in par. (cm).

4 2. An inventory of the sources and quantities of the current water supplies in
5 the area.

6 3. A forecast of the demand for water in the area over the period covered by the
7 plan.

8 3m. Identification of the existing population and population density of the area
9 for which the plan is prepared and forecasts of the expected population of the area
10 during the period covered by the plan based on growth projections for the area and
11 municipally planned population densities.

12 4. Identification of the options for supplying water in the area for the period
13 covered by the plan that are approvable under other applicable statutes and rules
14 and that are cost-effective based upon a cost-effectiveness analysis of regional and
15 individual water supply and water conservation alternatives.

16 5. An assessment of the environmental and economic impacts of carrying out
17 specific significant recommendations of the plan.

18 6. A demonstration that the plan will effectively utilize existing water supply
19 storage and distribution facilities and wastewater infrastructure to the extent
20 practicable.

21 7. Identification of the procedures for implementing and enforcing the plan and
22 a commitment to using those procedures.

23 8. An analysis of how the plan supports and is consistent with any applicable
24 comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved
25 areawide water quality management plans under s. 283.83.

1 9. Other information specified by the department.

2 (cm) For the purposes of plans under par. (a), an areawide water quality
3 planning agency designated by the governor under ch. NR 121, Wis. Adm. Code, shall
4 delineate the proposed water supply service areas for all of the public water supply
5 systems in the planning area for which the agency is designated. An areawide water
6 quality planning agency shall delineate proposed water supply service areas that are
7 consistent with the approved areawide water quality management plan under s.
8 283.83 for the planning area and that permit the development of plans that are
9 approvable under par. (d). An areawide water quality planning agency may also
10 provide regional water needs assessments and other regional water supply planning
11 information. The process for conducting regional activities under this subsection
12 may be the same as the process for regional water supply planning for a groundwater
13 management area designated under s. 281.34 (9).

14 (d) The department may not approve a plan under this subsection unless all
15 of the following apply:

16 1. The plan provides for a water supply system that is approvable under this
17 section and other applicable statutes and rules based on a cost-effectiveness
18 analysis of regional and individual water supply and water conservation
19 alternatives.

20 2. The plan will effectively utilize existing water supply storage and
21 distribution facilities and wastewater infrastructure to the extent practicable.

22 3. The plan is consistent with any applicable comprehensive plans, as defined
23 in s. 66.1001 (1) (a).

24 4. The plan is consistent with any applicable approved areawide water quality
25 management plans under s. 283.83.

1 5. Beginning on the compact's effective date, if the plan covers a public water
2 supply system that withdraws water from the Great Lakes basin, the plan complies
3 with any applicable requirements in s. 281.346 (5e).

4 (e) The department shall specify in a plan under this section a water supply
5 service area for each public water supply system making a withdrawal covered by
6 the plan. The department may not limit water supply service areas based on
7 jurisdictional boundaries, except as necessary to prevent waters of the Great Lakes
8 basin from being transferred from a county that lies completely or partly within the
9 Great Lakes basin into a county that lies entirely outside the Great Lakes basin.

10 (f) A person applying for an approval under s. 281.344 (4) or 281.346 (4) may
11 use elements of an approved plan under this subsection to show compliance with
12 requirements under s. 281.344 (4) or 281.346 (4) to which the plan is relevant.

13 **(4) WITHDRAWAL AMOUNT IN CERTAIN PLANS.** In a plan under this section that
14 covers a public water supply system making a withdrawal from the Great Lakes
15 basin, the department shall specify a withdrawal amount for the public water supply
16 system equal to the greatest of the following:

17 (a) The amount needed for the public water supply system to provide a public
18 water supply in the water supply service area in the plan during the period covered
19 by the plan, as determined using the population and related service projections in
20 the plan.

21 (b) If the withdrawal is covered by an individual permit issued under s. 281.344
22 (5) or 281.346 (5) when the department approves the plan, the withdrawal amount
23 in that permit when the department approves the plan or, if the withdrawal is
24 covered by a general permit issued under s. 281.344 (4s) or 281.346 (4s) when the
25 department approves the plan, the withdrawal amount for the public water supply

1 system in the database under s. 281.346 (4s) (i) when the department approves the
2 plan.

3 **SECTION 20.** 281.35 (1) (a) of the statutes is amended to read:

4 281.35 (1) (a) "Approval" means a permit issued under s. 30.18, 281.344 (5), or
5 281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.

6 **SECTION 21.** 281.35 (1) (b) 2. of the statutes is amended to read:

7 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss
8 over any 30-day period that is reported to the department ~~or the public service~~
9 ~~commission under sub. (3) (c) or s. 30.18 (6) (c), 196.98, 281.34, 281.344 (5), 281.346~~
10 (5), or 281.41 or s. 281.17 (1), 2001 stats.

11 **SECTION 22.** 281.35 (1) (bm) of the statutes is created to read:

12 281.35 (1) (bm) "Compact's effective date" means the effective date of the Great
13 Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

14 **SECTION 23.** 281.35 (1) (cm) of the statutes is created to read:

15 281.35 (1) (cm) "Facility" means an operating plant or establishment providing
16 electricity to the public or carrying on any manufacturing activity, trade, or business
17 on one site, including similar plants or establishments under common ownership or
18 control located on contiguous properties.

19 **SECTION 24.** 281.35 (2) (a) of the statutes is repealed.

20 **SECTION 25.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2) and
21 amended to read:

22 281.35 (2) In calculating the total amount of an existing or proposed water loss
23 for purposes of determining the applicability of sub. (4), a person shall include all
24 separate interbasin diversions and consumptive uses, or combinations thereof,

1 which the person makes or proposes to make ~~for a single use or for related uses to~~
2 supply a single facility or public water supply system. ✓

3 **SECTION 26.** 281.35 (3) of the statutes is repealed.

4 **SECTION 27.** 281.35 (4) (a) 4. of the statutes is created to read:

5 281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)
6 has been issued or who is required to obtain a permit under one of those provisions
7 before beginning or increasing a withdrawal.

8 **SECTION 28.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

9 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
10 withdrawal or increase the amount of an existing withdrawal, the person shall apply
11 to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new
12 approval or a modification of its existing approval if either of the following conditions
13 applies:

14 **SECTION 29.** 281.35 (5) (a) 13. of the statutes is amended to read:

15 281.35 (5) (a) 13. A statement as to whether the proposed withdrawal complies
16 with all applicable plans for the use, management and protection of the waters of the
17 state and related land resources, including plans developed under ~~ss. 281.12(1) and~~
18 s. 283.83 and the requirements specified in any water quantity resources plan under
19 sub. (8).

20 **SECTION 30.** 281.35 (5) (b) of the statutes is amended to read:

21 281.35 (5) (b) *Great Lakes basin; consultation required.* If the department
22 receives an application before the compact's effective date that, if approved, will
23 result in a new water loss to the Great Lakes basin averaging more than 5,000,000
24 gallons per day in any 30-day period, or an increase in an existing withdrawal that
25 will result in a water loss averaging 5,000,000 gallons per day in any 30-day period

1 above the applicant's authorized base level of water loss, the department shall notify
2 the office of the governor or premier and the agency responsible for management of
3 water resources in each state and province of the Great Lakes region and, if required
4 under the boundary water agreement of 1909, the international joint commission.
5 The department shall also request each state and province that has cooperated in
6 establishing the regional consultation procedure under sub. ~~(11)~~ ~~(f)~~ (11m) to
7 comment on the application. In making its determination on an application, the
8 department shall consider any comments that are received within the time limit
9 established under par. (c).

10 **SECTION 31.** 281.35 (6) (a) (intro.) of the statutes is amended to read:

11 281.35 (6) (a) *Issuance; contents.* (intro.) If Subject to par. (am), if an
12 application is approved under sub. (5), the department shall modify the applicant's
13 existing approval or shall issue a new approval that specifies all of the following:

14 **SECTION 32.** 281.35 (6) (am) of the statutes is created to read:

15 281.35 (6) (am) *Water loss permit.* If the department approves an application
16 under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s.
17 281.346 (5) and another approval, the department shall modify the permit under s.
18 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters
19 under par. (a).

20 **SECTION 33.** 281.35 (6) (f) of the statutes is amended to read:

21 281.35 (6) (f) *Notice; right to hearing.* The department shall notify the person
22 to whom the approval has been issued and any other person who has in writing
23 requested notice of the receipt of a request to modify an approval or of the
24 department's intent to modify or revoke an approval. The person to whom the
25 approval is issued is entitled to a contested case hearing under ch. 227 before a

1 revocation or modification takes effect. Any other person who may be adversely
2 affected by a proposed modification is entitled to a contested case hearing under ch.
3 227 ~~before a modification takes effect.~~

4 **SECTION 34.** 281.35 (8) of the statutes is repealed.

5 **SECTION 35.** 281.35 (9) (a) of the statutes is amended to read:

6 281.35 (9) (a) The Wisconsin coastal management council, established under
7 executive order number 62, dated August 2, 1984, shall amend this state's coastal
8 management program submitted to the U.S. secretary of commerce under 16 USC
9 1455, to incorporate the requirements of this section and, before the compact's
10 effective date, s. 281.344 and the findings and purposes specified in 1985 Wisconsin
11 Act 60, section 1, as they apply to the water resources of the Great Lakes basin, and
12 shall formally submit the proposed amendments to the U.S. secretary of commerce.

13 **SECTION 36.** 281.35 (9) (d) of the statutes is created to read:

14 281.35 (9) (d) This subsection does not apply after the compact's effective date.

15 **SECTION 37.** 281.35 (10) (a) 4. of the statutes is repealed.

16 **SECTION 38.** 281.35 (11) (intro.) of the statutes is amended to read:

17 281.35 (11) COOPERATION WITH OTHER STATES AND PROVINCES. (intro.) The Before
18 the compact's effective date, the department shall do all of the following:

19 **SECTION 39.** 281.35 (11) (f) of the statutes is renumbered 281.35 (11m) and
20 amended to read:

21 281.35 (11m) UPPER MISSISSIPPI RIVER BASIN CONSULTATION. Participate The
22 department shall participate in the development of an upper Mississippi River basin
23 regional consultation procedure for use in exchanging information on the effects of
24 proposed water losses from that basin.

25 **SECTION 40.** 281.35 (12) (c) of the statutes is amended to read:

1 281.35 (12) (c) This state reserves the right to seek, in any state, federal or
2 provincial forum, an adjudication of the equitable apportionment of the water
3 resources of the ~~Great Lakes basin or upper Mississippi River basin~~ and, before the
4 compact's effective date, of the Great Lakes basin, and the protection and
5 determination of its rights and interests in those water resources, in any manner
6 provided by law.

7 **SECTION 41.** 281.41 (1) (c) of the statutes is amended to read:

8 281.41 (1) (c) Construction or material change shall be according to approved
9 plans only. The department may disapprove plans that are not in conformance with
10 any existing approved areawide waste treatment management plan prepared
11 pursuant to the federal water pollution control act, P.L. 92-500, as amended, and
12 shall disapprove plans that do not meet the grounds for approval specified under s.
13 281.35 (5) (d), if applicable. ~~The department shall require each person whose plans~~
14 ~~are approved under this section to report that person's volume and rate of water~~
15 ~~withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of~~
16 ~~water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times~~
17 ~~specified by the department.~~ The department shall disapprove plans that are not in
18 conformance with any applicable approved water supply service area plan under s.
19 281.348.

20 **SECTION 42.** 281.41 (4) of the statutes is created to read:

21 281.41 (4) When the department receives for review a plan under sub. (1) that
22 would result in returning water transferred from the Great Lakes basin to the source
23 watershed through a stream tributary to one of the Great Lakes, the department
24 shall provide notice of the plan or revision to the governing body of each city, village,

1 and town through which the stream flows or that is adjacent to the stream
2 downstream from the point at which the water would enter the stream.

3 **SECTION 43.** 281.93 of the statutes is created to read:

4 **281.93 Hearings on certain water use actions.** (1) PERMIT OR APPROVAL
5 HOLDER OR APPLICANT; ORDER RECIPIENT. Any permit or approval, part of a permit or
6 approval, condition or requirement in a permit or approval, order, decision or
7 determination by the department under s. 281.344, 281.346, or 281.35 shall become
8 effective unless the permit or approval holder or applicant or the order recipient
9 seeks a hearing challenging the action in the following manner:

10 (a) *Petition.* The person seeking a hearing shall file a petition with the
11 department within 30 days after the date of the action sought to be reviewed. The
12 petition shall set forth specifically the issue sought to be reviewed, the interest of the
13 petitioner, the reasons why a hearing is warranted, and the relief desired. Upon
14 receipt of the petition, the department shall hold a hearing after at least 10 days'
15 notice.

16 (b) *Hearing.* The hearing shall be a contested case under ch. 227. At the
17 beginning of the hearing the petitioner shall present evidence in support of the
18 allegations made in the petition. Following the hearing the department's action may
19 be affirmed, modified, or withdrawn.

20 **(1m) EFFECT OF A CHALLENGE.** If a permit or approval holder or applicant seeks
21 a hearing challenging part of a permit or approval or a condition or requirement in
22 a permit or approval under sub. (1), the remainder of the permit or approval shall
23 become effective and the permit or approval holder or applicant may, at its discretion,
24 begin the activity for which the application was submitted or for which the permit
25 or approval was issued.

1 (2) OTHER PERSONS. Except as provided in ss. 281.344 (4e) (g) and 281.346 (4e)
2 (g), any person who is not entitled to seek a hearing under sub. (1) (intro.) and who
3 meets the requirements of s. 227.42 (1) or who submitted comments in the public
4 comment process under s. 281.344, 281.346, or 281.35 may seek review under sub.
5 (1) of any permit or approval, part of a permit or approval, order, decision, or
6 determination by the department under s. 281.344, 281.346, or 281.35.

7 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing on the
8 matter is conducted as a part of a hearing under s. 293.43. *P. e*

9 SECTION 44. 281.94 (1) of the statutes is amended to read:

10 281.94 (1) Any 6 or more residents of this state may petition for an
11 investigation of a withdrawal, ~~as defined under s. 281.35 (1) (m)~~, alleged to be in
12 violation of s. 281.35 (3) (a), 281.344 (3) (a), or 281.346 (3) (a), in violation of a
13 condition, limitation or restriction of a permit or approval issued in conformance
14 with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 (3) (a)
15 ~~or (4) to (6)~~, 281.344 (3) (a), or 281.346 (3) (a) by submitting to the department a
16 petition identifying the alleged violator and setting forth in detail the reasons for
17 believing a violation occurred. The petition shall state the name and address of a
18 person in this state authorized to receive service of answer and other papers on
19 behalf of the petitioners and the name and address of a person authorized to appear
20 at a hearing on behalf of the petitioners.

21 SECTION 45. 281.95 of the statutes is amended to read:

22 **281.95 Remedies; water withdrawal violations.** Any person who makes
23 a withdrawal, ~~as defined under s. 281.35 (1) (m)~~, in violation of s. 281.35 (3) (a),
24 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction
25 of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of

1 any rule promulgated under s. 281.35 ~~(3) (a) or~~ (4) to (6), 281.344 (3) (a), or 281.346
2 (3) (a) is liable to any person who is adversely affected by the withdrawal for damages
3 or other appropriate relief. Any person who is or may be adversely affected by an
4 existing or proposed withdrawal, ~~as defined under s. 281.35 (1) (m)~~, which is in
5 violation of a condition, limitation or restriction of a permit or approval issued in
6 conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s.
7 281.35 (4) to (6) may bring an action in the circuit court to restrain or enjoin the
8 withdrawal.

9 **SECTION 46.** 281.98 (1) of the statutes is amended to read:

10 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.346 (14) (a), 281.47
11 (1) (d), 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule
12 promulgated or any plan approval, license, special order, or water quality
13 certification issued under this chapter shall forfeit not less than \$10 nor more than
14 \$5,000 for each violation. Each day of continued violation is a separate offense.
15 While an order is suspended, stayed, or enjoined, this penalty does not accrue.

16 **SECTION 47.** 283.41 (3) of the statutes is created to read:

17 283.41 (3) When the department receives an application for a permit for a
18 discharge that would return water transferred from the Great Lakes basin to the
19 source watershed through a stream tributary to one of the Great Lakes, the
20 department shall provide notice of the application to the governing body of each city,
21 village, and town through which the stream flows or that is adjacent to the stream
22 downstream from the point at which the water would enter the stream.

23 **SECTION 48.** 283.83 of the statutes is renumbered 283.83 (1).

24 **SECTION 49.** 283.83 (2) of the statutes is created to read:

1 283.83 (2) When the department receives for review or prepares a new plan
2 under sub. (1) or a revision to a plan under sub. (1) that includes a proposal to return
3 water transferred from the Great Lakes basin to the source watershed through a
4 stream tributary to one of the Great Lakes, the department shall provide notice of
5 the plan or revision to the governing body of each city, village, and town through
6 which the stream flows or that is adjacent to the stream downstream from the point
7 [38; AA-SB523; Page: 144, Line: 2; Invalid Instruction] at which the water would
8 enter the stream.

9 SECTION 50. 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are amended
10 to read:

11 **293.65 (title) Diversion Withdrawal of surface waters; withdrawal of**
12 **groundwater; damage claims.** (1) SCOPE. This section governs the withdrawal
13 ~~or diversion~~ of groundwaters or surface waters by persons engaged in prospecting or
14 mining. Discharges of waters are subject to ch. 283, construction of necessary dams
15 or other structures is subject to chs. 30 and 31 and construction of wells is subject to
16 ch. 280, to the extent applicable.

17 (2) (title) DIVERSION WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED. (a) Any
18 person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall
19 apply to the department for a permit. The forms and procedures used under s. 30.18
20 apply to the extent practicable.

21 (b) The department, upon receipt of an application for a permit, shall determine
22 the minimum stream flow or lake level necessary to protect public rights, the
23 minimum flow or level necessary to protect the rights of affected riparians, the point
24 downstream beyond which riparian rights are not likely to be injured by the proposed

1 ~~diversion withdrawal~~ and the amount of surplus water, as defined in s. 30.01 (6d),
2 if any, at the point of the proposed ~~diversion withdrawal~~.

3 **SECTION 51.** 293.65 (2) (c) 1. of the statutes is amended to read:

4 293.65 (2) (c) 1. The public rights in the lake or stream and the related
5 environment which may be injured by the proposed ~~diversion withdrawal~~;

6 **SECTION 52.** 293.65 (2) (d) 2. of the statutes is amended to read:

7 293.65 (2) (d) 2. If the proposed ~~diversion withdrawal~~ will consume nonsurplus
8 waters, and will unreasonably injure rights of riparians identified by par. (b) who are
9 beneficially using such waters, the permit shall be denied unless a permit is granted
10 under par. (e) or all such riparians consent to the proposed ~~diversion withdrawal~~.

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

12 293.65 (2) (e) The department may require modification of a proposed ~~diversion~~
13 ~~withdrawal~~ so as to avoid injury to public or riparian rights, and as modified, may
14 grant the permit.

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

16 293.65 (2) (f) Water ~~diverted withdrawn~~ in accordance with a permit issued
17 under this subsection may be used on nonriparian property.

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

19 293.65 (2) (h) Hearings on applications for ~~diversion withdrawal~~ permits under
20 this subsection shall be preceded by mailed notice to all parties or affected persons
21 and by publication in the affected area of a class 2 notice, under ch. 985. Hearings
22 may be conducted as part of a hearing on an application for a mining permit under
23 s. 293.37.

24 **SECTION 56. Nonstatutory provisions.**

* Insert
a1697/16-1

1 (1) APPROVAL OF CERTAIN APPLICATIONS. The department of natural resources
2 shall determine whether to grant an approval under section 281.344 (4) (c) or (e) of
3 the statutes, as created by this act, of an application under section 281.344 (4) (b) 1.
4 of the statutes, as created by this act, that is submitted before the department
5 promulgates the rules required under s. 281.344 (4) (g), as created by this act, or July
6 1, 2010, whichever is earlier, through the water supply service area planning process
7 under s. 281.348 of the statutes, as created by this act, considering the items in
8 section 281.344 (4) (c) 1., 2., and 3., (e) 1. a. to e., and (f) 1. to 6. of the statutes, as
9 created by this act, that apply to the proposal for which the application is made as
10 factors in the cost-effectiveness analysis under section 281.348 (3) (d) 1. of the
11 statutes, as created by this act, notwithstanding the requirements in section 281.344
12 (4) (c) (intro.) or (e) (intro.) of the statutes, as created by this act, and section 281.344
13 (4) (f) (intro.) of the statutes, as created by this act, that all of the items following
14 those introductory provisions must apply to the proposal for which the application
15 is made.

16

(END)

Insert a1697/P6-1

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

6 **5.** Page 64, line 13: delete the material beginning with ", based" and ending
7 with "measures" on line 16.

8 **6.** Page 100, line 21: delete the material beginning with ", based" and ending
9 with "measures" on line 24.

10 **7.** Page 134, line 10: after "establish" insert ", by rule."

11 **8.** Page 144, line 2: after that line, delete the material inserted by senate
12 amendment 1 and substitute:

13 **"SECTION 38g. Nonstatutory provisions.**

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

19 (END) *d insert*