



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 13

TO: MEMBERS OF THE SUBCOMMITTEE ON REGULATION OF WITHDRAWALS, CONSUMPTIVE USES, AND DIVERSIONS OF THE SPECIAL COMMITTEE ON GREAT LAKES WATER RESOURCES COMPACT

FROM: Rachel Letzing, Senior Staff Attorney, and John Stolzenberg, Chief of Research Services

RE: Drafting Instructions from the Subcommittee on Regulation of Withdrawals, Consumptive Uses, and Diversions - Version 1

DATE: January 10, 2007

This Memo lists the drafting instructions provided by your subcommittee at its January 4 and January 8, 2007 meetings. The Memo will be revised to include additional drafting instructions developed by the subcommittee at subsequent meetings.

The last page in the Memo contains the proposed sequence of issues for consideration by the subcommittee that we presented at the subcommittee's January 4 meeting.

DRAFTING INSTRUCTIONS

- I. Registration
 - A. Goal of Having One Uniform, Statewide Registration System
 - B. Required Information:
 1. Require all registrants to submit the information specified in the compact to the Department of Natural Resources (DNR) (registrant's name and address; date of registration; locations, sources, and daily capacities of withdrawals and diversions; amount withdrawn or diverted from each source; uses made of the water; and places of use and discharge).
 2. Registrants must also specify whether the registrant holds a WPDES permit and whether the water use (withdrawal or diversion) is continuous or intermittent.
 3. Authorize DNR to request other information by rule, provided information is related to purposes of the compact. Authorize DNR to take into account homeland security

concerns when determining what information regarding locations of withdrawals and diversions to release to the public.

Comment: Discussed defining “capacity” for purposes of the registration requirement as “projected service life of a facility,” or “projected total quantity of water use in a one-time period.”

B. Applicability - Amount and Location

1. Registration requirement applies to persons withdrawing or diverting the least amount of water specified in the compact (withdrawals of 100,000 gallons per day or greater average in a 30-day period, including consumptive uses, and any amount of diversion).
2. Registration requirement applies to statewide [i.e. to persons withdrawing or diverting water within the Great Lakes basin and also in the part of the state outside the basin].

Comment: The subcommittee should review this section in conjunction with the applicability and location of reporting requirements under II. B. 2. and 3. to ensure these sections reflect the subcommittee’s intent.

C. Registration Deadline

1. Require existing water users to register by approximately three years after the effective date of the bill [i.e. to allow time for rule-making and then delayed implementation to allow for public education, etc.].

II. Reporting

A. Required Information

1. Require all registrants to report minimum information specified in the compact (monthly volumes of the withdrawal, consumptive use, or diversion in gallons, reported annually).
2. Authorize DNR to create different reporting frequencies or required information based on categories of users by administrative rule.
3. Limit DNR rule-making on other types of required information to relevant information which must be related to withdrawal, consumptive use, or diversion.

B. Applicability and Location

1. Apply the reporting requirements to persons subject to the registration requirements.
2. If in the Great Lakes basin, and current law requires reporting, will be required to report the above information. If in the basin and current law does not require reporting, and withdrawal is 100,000 gallons per day or greater average in any 30-day period, will be required to report the above information.
3. If outside the basin and current law requires reporting, will be required to report the above information. If outside the basin and current law does not require reporting, will not be required to report the above information.

Comment: The subcommittee should review items 2. and 3. to ensure they reflect the subcommittee’s intent.

III. Inventory

A. Content

1. Direct DNR to prepare the inventory containing the information specified in the compact (location, types, quantity, and use of the water resources of the state, and the location, type, and quantity of withdrawals, diversions, and consumptive uses), plus require DNR to base the inventory on information it receives from the registry.
2. Specify that DNR may only provide inventory information to the council from water resources and registrants with withdrawals of 100,000 gallons per day or greater average in any 30-day period in the basin.

B. Development

1. Direct DNR to develop the inventory in cooperation with the entities specified in the compact (the council and local, state, federal, tribal, and other private agencies and entities).

C. Deadline

1. Direct DNR to prepare the inventory for the Great Lakes basin by the deadline in the compact (within five years of the compact's effective date). Direct DNR to prepare the inventory for the rest of the state by three years after the effective date of the bill.

Subcommittee on Regulation of Withdrawals, Consumptive Uses and Diversions

*Proposed Sequence of Issues**

[Citations to applicable provisions in LRB-0058/P1 in brackets]

- Registration and reporting by existing and new water users.
- State water resources inventory.
- Baseline determination.
- Exceptions to the prohibition on new or increased diversions, including the exception standard.
- Regulation of new withdrawals subject to the decision-making standard, including interpretation of the standard.
- Council revision of the exception standard or decision-making standard (“standard of review and decision”).
- Assessment of cumulative impacts.
- Other issues.

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* Includes applicable definitions in the compact.