

2007 SENATE BILL 523

February 22, 2008 – Introduced by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES. Referred to Committee on Environment and Natural Resources.

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

Analysis by the Legislative Reference Bureau

This bill ratifies the Great Lakes—St. Lawrence River Basin Water Resources Compact and creates provisions for implementing the compact in this state. The bill

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also includes provisions that apply statewide relating to the registration and reporting of water withdrawals, to water conservation, and to water supply planning for public water supply systems (water utilities).

CURRENT FEDERAL LAW

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

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

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

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

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

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

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in deciding whether to approve or disapprove a proposal that is subject to council approval and authorizes the council to revise these standards using procedures specified in the compact.

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

REGISTRATION AND REPORTING

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

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

REGULATION OF DIVERSIONS

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

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

Straddling communities

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

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

If the proposed new diversion or increase in an existing diversion would result from a new or increased withdrawal that averages 100,000 GPD or more in any 90-day period, the diversion must also meet the exception standard, described below. A proposal for a diversion to a straddling community that results in a very large new

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or increased water loss to the Great Lakes basin (5,000,000 GPD or greater average over 90 days) must also be reviewed by the regional body before the state decides whether to approve the diversion.

Intrabasin transfers

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

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

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

Communities in straddling counties

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

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

1. All of the water is used to supply water to the public.
2. The community is otherwise without an adequate supply of water that is safe to drink.
3. The diversion satisfies the exception standard.
4. The proposal maximizes the amount of water that originated in the basin that is returned to the basin and minimizes the amount of water that originated outside of the basin that is returned to the basin.
5. There is no reasonable water supply alternative in the basin in which the community is located (in Wisconsin, that would be the upper Mississippi River basin).
6. The proposal is reviewed by the regional body.
7. The proposal is approved by the council with no disapproving votes.

Exception standard

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

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

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

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

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

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

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

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

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

The compact requires states to establish baselines for existing withdrawals. A baseline basically grandfathers withdrawals that exist when the compact takes effect. The decision-making standard applies when the increase in an existing withdrawal over its baseline, during a ten-year period, exceeds the threshold set by the state. If a withdrawal is never increased by the threshold amount, the decision-making standard need never be applied.

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

WATER CONSERVATION AND EFFICIENCY

The compact includes water conservation and efficiency goals for the Great Lakes basin. The council will identify water conservation and efficiency objectives for the basin. The compact requires each state to develop water conservation and efficiency goals and objectives, consistent with the goals and objectives for the Great Lakes basin, and requires each state to develop and implement a water conservation and efficiency program, which may be voluntary or mandatory. The compact also

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requires states to promote environmentally sound and economically efficient water conservation measures, such as demand-side and supply-side incentives for water conservation.

PUBLIC PARTICIPATION

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

OTHER PROVISIONS

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

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

PROVISIONS THAT TAKE EFFECT BEFORE THE COMPACT TAKES EFFECT

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

REGULATION OF INTERBASIN TRANSFERS

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

Approval required

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

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

Automatic approval for existing interbasin transfers

The bill requires DNR to automatically issue an approval to a person who operates a public water supply system receiving water from an interbasin transfer that begins before the compact takes effect if the public water supply system delivers the water to customers in an area that is outside of the Great Lakes basin and that is in a sewer service area that provides for return of wastewater to the Great Lakes

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basin, as authorized in the sewer service area provisions of an areawide water quality management plan approved by DNR before December 31, 2007.

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

New and increased interbasin transfers

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

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

If an applicant for approval of a new or increased interbasin transfer will not be the person who withdraws the water from the Great Lakes basin, the bill requires the applicant to identify the person who will withdraw the water and provide evidence of an agreement to provide the water. Also, if an applicant for a new or increased interbasin transfer will not directly return the water to the Great Lakes basin, the applicant must identify the entity that will return the water and provide evidence of an agreement to return the water to the basin.

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

Straddling communities

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

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

Intrabasin transfers

The bill authorizes DNR to approve an intrabasin transfer (from the Lake Superior watershed to the Lake Michigan watershed or vice versa) that would

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average less than 100,000 GPD over 90 days if the proposal satisfies the requirements under laws related to high capacity wells, the withdrawal of water from streams, or the approval of plans for public water supply systems or, if none of those laws apply, if the proposal satisfies the requirements set by DNR by rule, and, if the water will be used for public water supply purposes, the proposal is consistent with an approved water supply plan.

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

Communities in straddling counties

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

An interbasin transfer to a community in a straddling county is only allowed under the bill if all of the following apply:

1. All of the water is used to supply water to the public.
2. The community does not have a water supply that is economically and environmentally sustainable in the long term to meet reasonable demands.
3. The interbasin transfer satisfies the exception standard.
4. The proposal maximizes the amount of water that originated in the basin that is returned to the basin and minimizes the amount of water that originated outside of the basin that is returned to the basin.
5. There is no reasonable water supply alternative in the basin in which the community is located.
6. The proposal is consistent with an approved water supply plan.

Exception standard

As explained above, some interbasin transfers that may be approved under the bill (when the compact is not in effect) are subject to the exception standard. To satisfy the exception standard, in addition to the requirements contained in the exception standard in the compact (described above), the place at which the water is returned to the Great Lakes basin must be as close as practicable to the place at which the water is withdrawn, unless that would not be economically feasible, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, the physical, chemical, and biological integrity of the stream must be protected and sustained.

STATEWIDE WATER SUPPLY PLANNING FOR PUBLIC WATER SUPPLY SYSTEMS

The bill requires DNR to administer a water supply planning process for public water supply systems statewide. A plan may cover a period of not more than 20 years. The bill requires a public water supply system that serves a population of

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10,000 or more and that withdraws water from the waters of the state to be covered by a plan approved by DNR no later than December 31, 2025, but public water supply systems may obtain approval of plans before that date. The bill authorizes regional planning commissions to prepare water supply plans for public water supply systems.

The bill requires a person preparing a water supply plan to identify the sources and quantities of water supplies in the area for which the plan is prepared and to forecast the expected population of the area during the planning period and the demand for water in the area during that period. The person must identify alternatives for supplying water in the area and compare the costs and benefits of the alternatives.

The bill prohibits DNR from approving a water supply plan unless the plan provides for the water supply system that will minimize monetary costs and environmental and other nonmonetary costs and maximize environmental benefits during the planning period while complying with all other applicable legal requirements. The bill also requires that a water supply plan be consistent with any applicable local development plans or master plans and with areawide water quality management plans (which, among other provisions, specify service areas for sewage systems).

STATEWIDE REGISTRATION AND REPORTING OF WITHDRAWALS

The bill requires any person in this state who, three years after this bill becomes law, has a water supply system with the capacity to make a withdrawal of water that averages 100,000 GPD or more in a 30-day period (such as a high capacity well) to register the withdrawal with DNR and provide information about the system and the withdrawal. Any person who proposes to start a withdrawal with that capacity more than three years after this bill becomes law must also register with DNR.

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

PERMITTING OF WITHDRAWALS IN THE GREAT LAKES BASIN***Permit requirement***

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

Initial withdrawal amounts

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

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

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

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

General permits

This bill requires DNR to issue one or more general permits to cover withdrawals from the Great Lakes basin that average 100,000 GPD or more in any 30-day period but that do not equal 1,000,000 GPD for any 30 consecutive days. A general permit covers numerous withdrawals with similar characteristics, as specified by DNR. DNR is required to include requirements for reporting, metering, surveillance, and water conservation in a general permit, in accordance with rules that DNR promulgates. A general permit has a 10-year term.

The bill requires DNR to automatically issue a notice of coverage under a general permit to every person who makes a withdrawal from the Great Lakes basin that averages 100,000 GPD or more in any 30-day period but that does not equal 1,000,000 GPD for any 30 consecutive days and who complies with the registration and reporting requirements in the bill before the date on which the permit requirement applies. In the automatic notice of coverage, DNR specifies a withdrawal amount equal to the initial withdrawal amount determined as described above.

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

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restrictive component that will be used in the water supply system or any limit on the amount of water that may be withdrawn specified in other approvals needed for the withdrawal.

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

The bill authorizes DNR to require a person who would otherwise qualify for coverage under a general permit to obtain an individual permit in certain situations, including when it is necessary to protect public health or safety or to ensure the proper management of the waters of the state.

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

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

Individual permits

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

The bill requires DNR to automatically issue an individual permit to every person who makes a withdrawal from the Great Lakes basin that equals 1,000,000 GPD for any 30 consecutive days and who complies with the registration and reporting requirements in the bill before the date on which the permit requirement applies. In the permit, DNR specifies a withdrawal amount equal to the initial withdrawal amount determined as described above.

A person who proposes to begin a withdrawal, after the date on which the permit requirement applies, that equals 1,000,000 GPD for any 30 consecutive days must apply to DNR for an individual permit. Generally, if DNR has issued any approvals that are required under other laws for the withdrawal, such as high capacity well approvals or approvals for any structures on the bed of a navigable water that are needed for the withdrawal, DNR must issue an individual permit. In

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the permit, DNR specifies a withdrawal amount equal to the lesser of the capacity of the most restrictive component that will be used in the water supply system or any limit on the amount of water that may be withdrawn specified in other approvals needed for the withdrawal.

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

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

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

An individual permit is not transferable.

STATEWIDE WATER CONSERVATION

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

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

PROVISIONS THAT TAKE EFFECT AFTER THE COMPACT TAKES EFFECT**REGULATION OF DIVERSIONS*****Approval required***

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

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

SENATE BILL 523***New and increased diversions***

The general prohibition on new diversions and on increases in existing diversions and the three exceptions to the prohibition continue to apply after the compact takes effect. The precompact standards for approval for new and existing diversions continue to apply, but for some diversions new requirements also apply, as described below.

Straddling communities

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

Intrabasin transfers

In addition to the requirements that apply before the compact takes effect, a proposal for an intrabasin transfer that results in a very large new or increased water loss to the Great Lakes basin must be reviewed by the regional body and DNR may not approve the proposal unless the council approves the proposal with no disapproving votes.

Communities in straddling counties

In addition to the requirements that apply before the compact takes effect, a proposal for a diversion to a community in a straddling county must be reviewed by the regional body and DNR may not approve the proposal unless the council approves the proposal with no disapproving votes.

WATER SUPPLY PLANNING

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

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

STATEWIDE REGISTRATION AND REPORTING OF WITHDRAWALS

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

PERMITTING OF WITHDRAWALS IN THE GREAT LAKES BASIN***Permit requirement***

The permitting requirement for a withdrawal of water from the Great Lakes basin that averages 100,000 GPD or more in any 30-day period continues after the

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compact takes effect. A notice of coverage under a general permit or an individual permit issued before the compact takes effect continues to be valid, but postcompact decision-making standards apply to withdrawals that are proposed to be increased by one of the threshold amounts, as described below.

General permits

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

Individual permits

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

After the compact takes effect, the bill conditions the issuance of an individual permit for a new withdrawal that equals at least 1,000,000 GPD, but less than 10,000,000 GPD, for any 30 consecutive days on compliance with the state decision-making standard, described below. The bill conditions the issuance of an individual permit for a new withdrawal that equals at least 10,000,000 GPD for any 30 consecutive days on compliance with the compact decision-making standard. In addition, if a new withdrawal that is subject to the state or compact decision-making standard results in a water loss that averages more than 2,000,000 GPD in any 30-day period, it is subject to the consumptive use decision-making standard.

If a person proposes to increase the amount of a withdrawal that is covered by a water supply permit so that it equals at least 1,000,000 GPD, but not 10,000,000 GPD, for any 30 consecutive days over the withdrawal amount for the withdrawal as of the beginning of the current permit term, the compact's effective date, or the last date on which the state or compact decision-making standard was applied to an increase in the withdrawal, whichever is latest, approval of the increase is conditioned on compliance with the state decision-making standard. If a person proposes to increase the amount of a withdrawal that is covered by a water supply permit so that it equals at least 10,000,000 GPD for any 30 consecutive days over the withdrawal amount for the withdrawal as of the beginning of the current permit term, the compact's effective date, or the last date on which the compact decision-making standard was applied to an increase in the withdrawal, whichever is latest, approval of the increase is conditioned on compliance with the compact decision-making standard. In addition, generally, if the state or compact decision-making standard applies to a proposed increase in a withdrawal and the water loss from the proposed increase, plus other increases since the beginning of the permit term, averages more than 2,000,000 GPD in any 30-day period, the increase in the withdrawal is subject to the consumptive use decision-making standard.

If a proposal will result in a new water loss or an increase in water loss that averages 5,000,000 gallons or more in any 90-day period, DNR is required to provide notice of the proposal to the other states and to Ontario and Quebec. Also, if a majority of the members of the regional body request regional review of a regionally

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significant or potentially precedent setting proposal, the proposal must be reviewed by the regional body before DNR decides whether to approve the proposal.

State decision-making standard

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

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

DNR may by rule add to the state decision-making standard other criteria that it determines are necessary.

Compact decision-making standard

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

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

Consumptive use decision-making standard

The consumptive use decision-making standard is similar to the standard in current law that applies to withdrawals that result in water losses averaging more than 2,000,000 GPD in any 30-day period. A proposal meets the consumptive use decision-making standard if it satisfies several criteria, including the following:

1. No public rights in navigable waters will be adversely affected by the use of the water.
2. Reasonable water conservation practices will be applied to the use of the water.
3. The proposed consumptive use will not have a significant adverse effect on the quantity or quality of the waters of the state.
4. If the water loss averages 5,000,000 gallons or more in any 90-day period, the consumptive use will not have a significant adverse impact on the environment of the Great Lakes basin or the state.

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

PUBLIC PARTICIPATION

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

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

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

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

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

7 **(2)** The governor shall serve as this state's representative on the Great
8 Lakes—St. Lawrence River Basin Water Resources Council. In discharging his or
9 her responsibilities under s. 281.343 (2) and (3), the governor may designate the
10 secretary of natural resources, or the secretary's designee, as the governor's
11 alternate to attend all meetings of the Great Lakes—St. Lawrence River Basin Water
12 Resources Council and to vote at all meetings of the Great Lakes—St. Lawrence
13 River Basin Water Resources Council in the absence of the governor. If the secretary

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1 chooses to specify a designee, the secretary shall specify an individual with
2 knowledge of and experience with Great Lakes water management issues.

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

9 **SECTION 2.** 30.18 (2) (b) of the statutes is renumbered 30.18 (2) (b) 1. and
10 amended to read:

11 30.18 **(2)** (b) 1. ~~No~~ Before the compact's effective date, as defined in s. 281.35
12 (1) (bm), no person, except a person required to obtain an approval under s. 281.41,
13 may divert water from any lake or stream in this state without an individual permit
14 under this section if the diversion will result in a water loss averaging 2,000,000
15 gallons per day in any 30-day period above the person's authorized base level of
16 water loss.

17 **SECTION 3.** 30.18 (2) (b) 2. of the statutes is created to read:

18 30.18 **(2)** (b) 2. Beginning on the compact's effective date, as defined in s. 281.35
19 (1) (bm), no person, except a person required to obtain an approval under s. 281.41,
20 may divert water from any lake or stream in the upper Mississippi River basin, as
21 defined in s. 281.35 (1) (j), without an individual permit under this section if the
22 diversion will result in a water loss averaging 2,000,000 gallons per day in any
23 30-day period above the person's authorized base level of water loss.

24 **SECTION 4.** 30.208 (3m) of the statutes is created to read:

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

8 **SECTION 5.** 196.49 (2) of the statutes is amended to read:

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

25 **SECTION 6.** 196.98 of the statutes is repealed.

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1 **SECTION 7.** 281.34 (5) (dm) of the statutes is created to read:

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

6 **SECTION 8.** 281.34 (5) (e) 1. of the statutes is amended to read:

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

10 **SECTION 9.** 281.343 of the statutes is created to read:

11 **281.343 Great Lakes—St. Lawrence River Basin Water Resources**
12 **Compact. (1) RATIFICATION.** The Great Lakes—St. Lawrence River Basin Water
13 Resources Compact, contained in subs. (1e) to (9), is ratified and approved, as
14 implemented and interpreted in ss. 14.95, 281.346, and 281.348.

15 **(1e) DEFINITIONS.** In this section, except as otherwise required by the context:

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

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

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

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

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

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

10 (dm) “Compact” means this compact.

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

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

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

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

21 (g) “Cumulative impacts” means the impact on the basin ecosystem that results
22 from incremental effects of all aspects of a withdrawal, diversion, or consumptive use
23 in addition to other past, present, and reasonably foreseeable future withdrawals,
24 diversions, and consumptive uses regardless of who undertakes the other
25 withdrawals, diversions, and consumptive uses. Cumulative impacts can result

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1 from individually minor but collectively significant withdrawals, diversions, and
2 consumptive uses taking place over a period of time.

3 (gm) “Decision-making standard” means the decision-making standard
4 established by sub. (4r) for proposals subject to management and regulation in sub.
5 (4p).

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

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

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

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1 (j) “Exception standard” means the standard for exceptions established in sub.
2 (4n) (d).

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

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

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

10 (L) “New or increased withdrawal or consumptive use” means a new
11 withdrawal or consumptive use or an increase in an existing withdrawal or
12 consumptive use.

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

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

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

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

23 2. Water used as part of the packaging of a product shall be considered to be
24 part of the product.

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

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

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

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

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

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

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

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

21 (r) “Source watershed” means the watershed from which a withdrawal
22 originates. If water is withdrawn directly from a Great Lake or from the St.
23 Lawrence River, then the source watershed shall be considered to be the watershed
24 of that Great Lake or the watershed of the St. Lawrence River, respectively. If water
25 is withdrawn from the watershed of a stream that is a direct tributary to a Great

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1 Lake or a direct tributary to the St. Lawrence River, then the source watershed shall
2 be considered to be the watershed of that Great Lake or the watershed of the St.
3 Lawrence River, respectively, with a preference to the direct tributary stream
4 watershed from which it was withdrawn.

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

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

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

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

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

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

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

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

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

3 (a) Findings:

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

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

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

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

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

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

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1 (b) Purposes:

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

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

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

10 4. To facilitate consistent approaches to water management across the basin
11 while retaining state management authority over water management decisions
12 within the basin;

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

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

19 7. To promote interstate and state-provincial comity; and

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

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

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

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

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

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

12 4. Improved understanding of the role of groundwater in basin water resources
13 management; and

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

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

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

22 (c) *Alternates.* Each member of the council shall appoint at least one alternate
23 who may act in his or her place and stead, with authority to attend all meetings of
24 the council and with power to vote in the absence of the member. Unless otherwise
25 provided by law of the party for which he or she is appointed, each alternate shall

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1 serve during the term of the member appointing him or her, subject to removal at the
2 pleasure of the member. In the event of a vacancy in the office of alternate, it shall
3 be filled in the same manner as an original appointment for the unexpired term only.

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

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

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

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

14 (e) *Organization and procedure.* The council shall provide for its own
15 organization and procedure, and may adopt rules and regulations governing its
16 meetings and transactions, as well as the procedures and timeline for submission,
17 review, and consideration of proposals that come before the council for its review and
18 action. The council shall organize, annually, by the election of a chairperson and vice
19 chairperson from among its members. Each member may appoint an advisor, who
20 may attend all meetings of the council and its committees, but shall not have voting
21 power. The council may employ or appoint professional and administrative
22 personnel, including an executive director, as it may deem advisable, to carry out the
23 purposes of this compact.

24 (f) *Use of existing offices and agencies.* It is the policy of the parties to preserve
25 and utilize the functions, powers, and duties of existing offices and agencies of

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1 government to the extent consistent with this compact. Further, the council shall
2 promote and aid the coordination of the activities and programs of the parties
3 concerned with water resources management in the basin. To this end, but without
4 limitation, the council may:

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

7 2. Employ any other agency or instrumentality of any of the parties for any
8 purpose; and

9 3. Develop and adopt plans consistent with the water resources plans of the
10 parties.

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

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

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

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

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

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

20 2. The council may revise the standard of review and decision, after
21 consultation with the provinces and upon unanimous vote of all council members, by
22 regulation duly adopted in accordance with par. (c) and in accordance with each
23 party's respective statutory authorities and applicable procedures.

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

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

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

24 2. Each party, in accordance with its respective statutory authorities and
25 applicable procedures, may adopt and enforce rules and regulations to implement

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1 and enforce this compact and the programs adopted by such party to carry out the
2 management programs contemplated by this compact.

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

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

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

20 3. As one of its duties and responsibilities, the council may recommend a range
21 of approaches to the parties with respect to the development, enhancement, and
22 application of water management and conservation and efficiency programs to
23 implement the standard of review and decision reflecting improved scientific
24 understanding of the waters of the basin, including groundwater, and the impacts
25 of withdrawals on the basin ecosystem.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 1. Measures that promote efficient use of water;

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

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1 3. Application of sound planning principles;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 3. An originating party may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 12 a. Meets the standard of review and decision;
13 b. Does not meet the standard of review and decision; or
14 c. Would meet the standard of review and decision if certain conditions were
15 met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 c. The proposal undergoes regional review; and

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

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

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

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

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

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

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

4 f. The proposal undergoes regional review; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 (a) To supply vehicles, including vessels and aircraft, whether for the needs of
2 the persons or animals being transported or for ballast or other needs related to the
3 operation of the vehicles.

4 (b) To use in a noncommercial project on a short-term basis for fire fighting,
5 humanitarian, or emergency response purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **SECTION 10.** 281.344 of the statutes is created to read:

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

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

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

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

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

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

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

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

11 1. Environmentally sound.

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

13 3. Technically feasible and available.

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

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

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

20 (k) “Interbasin transfer” means a transfer of water from the Great Lakes basin
21 into a watershed outside of the Great Lakes basin or from the watershed of one of the
22 Great Lakes into that of another, except that “interbasin transfer” does not include
23 any of the following:

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

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

7 3. The transfer of bottled water from the Great Lakes basin in containers of
8 5.7 gallons or less.

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

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

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

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

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

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

23 (pm) “Public water supply” means water distributed to the public through a
24 physically connected system of treatment, storage, and distribution facilities that

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1 serve a group of largely residential customers and that may also serve industrial,
2 commercial, and other institutional customers.

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

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

15 (t) “Straddling community” means any city, village, or town that is partly
16 within the Great Lakes basin or partly within the watersheds of 2 of the Great Lakes
17 and that is wholly within any county that lies partly or completely within the Great
18 Lakes basin.

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

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

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

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

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

5 (z) “Withdrawal” means the taking of water from surface water or groundwater,
6 including the taking of surface water or groundwater for the purpose of bottling the
7 water.

8 **(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS.** (a) *Use of*
9 *surface water divide.* For the purposes of this section, the surface water divide is used
10 to determine whether a withdrawal or transfer of surface water or groundwater is
11 from the Great Lakes basin.

12 (b) *Transfers and withdrawals from more than one source.* For the purposes
13 of this section, the interbasin transfer or withdrawal of water from more than one
14 source within the Great Lakes basin to supply a common distribution system is
15 considered one interbasin transfer or withdrawal.

16 (c) *Water loss.* The department shall promulgate rules for determining the
17 amount of water loss from consumptive uses.

18 (d) *County boundaries.* For the purposes of sub. (1) (d) and (t), a county’s
19 boundaries as of December 13, 2005, shall be used to determine whether a county lies
20 partly within the Great Lakes basin.

21 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) 1. Any person who, on the first
22 day of the 36th month beginning after the effective date of this subdivision
23 [revisor inserts date], or, for a withdrawal from the Great Lakes basin, on the
24 compact’s effective date if that is sooner, has a water supply system with the capacity
25 to make a withdrawal from the waters of the state averaging 100,000 gallons per day

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1 or more in any 30–day period or is making any interbasin transfer shall register the
2 withdrawal or interbasin transfer with the department by the deadline specified by
3 the department by rule.

4 2. Any person who, after the first day of the 36th month beginning after the
5 effective date of this subdivision [revisor inserts date], or, if the withdrawal is from
6 the Great Lakes basin, on the compact’s effective date if that is sooner, proposes to
7 begin a withdrawal from the waters of the state using a water supply system that will
8 have the capacity to withdraw an average of 100,000 gallons per day or more in any
9 30–day period, to increase the capacity of a water supply system that existed on the
10 first day of the 36th month beginning after the effective date of this subdivision
11 [revisor inserts date], or, if the withdrawal is from the Great Lakes basin, on the
12 compact’s effective date if that is sooner, so that it will have the capacity to withdraw
13 an average of 100,000 gallons per day or more in any 30–day period, or to begin an
14 interbasin transfer shall register the withdrawal or interbasin transfer with the
15 department.

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

- 18 1. The name and address of the registrant and the date of registration.
- 19 2. The locations and sources of the withdrawal or interbasin transfer.
- 20 3. The daily capacity of the withdrawal or interbasin transfer and the daily
21 capacity to withdraw or transfer from each source.
- 22 4. An estimate of the volume of the withdrawal or interbasin transfer in terms
23 of gallons per day average in any 30–day period.
- 24 5. The uses made of the water.
- 25 6. The places at which the water is used.

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

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

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

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

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

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

10 (e) 1. Each person who makes a withdrawal from the waters of the state that
11 averages 100,000 gallons per day or more in any 30-day period or transfers from the
12 Great Lakes basin any amount and who has registered the withdrawal or interbasin
13 transfer under par. (a) shall annually report to the department the monthly volumes
14 of withdrawal, whether the person ever withdraws at least 1,000,000 gallons per day
15 for 30 consecutive days, and, if applicable, the volumes of interbasin transfer and,
16 subject to par. (em), water loss from consumptive use.

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

21 (em) 1. Except as provided in subd. 2., if a person to whom par. (e) 1. applies
22 provides any of the water that the person withdraws to a public water supply system,
23 the person who operates the public water supply system, rather than the person who
24 withdraws the water, shall annually report to the department the volume of water

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1 loss from the consumptive use of the water provided to the public water supply
2 system.

3 2. A person who operates a wastewater treatment system, rather than the
4 person who withdraws the water or who operates a public water supply system, shall
5 annually report to the department the volume of water loss from a consumptive use
6 of water that occurs after the treatment of the wastewater by the person who
7 operates the wastewater treatment system.

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

10 **(3e) DETERMINING INITIAL INTERBASIN TRANSFER AMOUNTS.** (a) Before issuing an
11 automatic approval under sub. (3m) for an interbasin transfer to a person operating
12 a public water supply system, the department shall determine the initial interbasin
13 transfer amount for the interbasin transfer under this subsection.

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

- 19 1. Outside of the Great Lakes basin.
- 20 2. Within a sewer service territory that provides for return of wastewater to the
21 Great Lakes basin and that is specified in the sewer service area provisions of an
22 areawide water quality management plan under s. 283.83 approved by the
23 department before December 31, 2007.

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

4 **(3m)** AUTOMATIC APPROVAL FOR EXISTING INTERBASIN TRANSFERS. Before the
5 compact's effective date, the department shall automatically issue an approval for
6 an interbasin transfer that begins before the compact's effective date, to a person who
7 operates a public water supply system that receives water from the interbasin
8 transfer and that delivers water to customers in an area that is outside of the Great
9 Lakes basin and that is within a sewer service territory that provides for return of
10 wastewater to the Great Lakes basin as specified in the sewer service area provisions
11 of an areawide water quality management plan under s. 283.83 approved by the
12 department before December 31, 2007. The department may not issue an automatic
13 approval before the interbasin transfer begins. In the automatic approval, the
14 department shall specify an interbasin transfer amount equal to the amount
15 determined under sub. (3e) and an interbasin transfer area that is the area described
16 in sub. (3e) (b).

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

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

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

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1 3. No person may increase an interbasin transfer over the interbasin transfer
2 amount in an approval issued under sub. (3m) or expand the interbasin transfer area
3 beyond the area specified in an approval under sub. (3m) unless the department
4 modifies the approval under par. (c), (d), or (e) to increase the interbasin transfer
5 amount or to expand the interbasin transfer area.

6 (b) *Application.* 1. A person who proposes to begin an interbasin transfer,
7 increase the amount of an interbasin transfer, or expand the interbasin transfer area
8 of an interbasin transfer covered by an approval issued under sub. (3m) shall apply
9 to the department for approval.

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

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

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

21 4m. If a person who applies under subd. 1. will not directly withdraw the water
22 proposed to be transferred, the person shall identify the entity that will withdraw the
23 water and provide evidence of any agreement necessary to obtain water from that
24 entity.

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1 4p. If the person who applies under subd. 1. will not directly return the water
2 to the Great Lakes basin, the person shall identify the entity that will return the
3 water and provide evidence of any agreement necessary to have that entity return
4 the water.

5 4s. If the proposal for which a person applies under subd. 1. is subject to the
6 exception standard under par. (f), the person shall provide documentation of how the
7 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will
8 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,
9 considering the state of the receiving water before the proposal is implemented. If
10 the receiving water is a surface water body that is tributary to one of the Great Lakes,
11 the person shall include a description of the flow of the receiving water before the
12 proposal is implemented, considering both low and high flow conditions.

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

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

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

22 b. If the proposal is to provide a public water supply within more than one city,
23 village, or town, any portion of the proposal that provides a public water supply
24 within a straddling community is subject to par. (c) and any portion of the proposal

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1 that provides a public water supply within a community within a straddling county
2 is subject to par. (e).

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

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

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

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

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

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

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1 c. The proposal maximizes the amount of water withdrawn from the Great
2 Lakes basin that will be returned to the source watershed and minimizes the amount
3 of water from outside the Great Lakes basin that will be returned to the source
4 watershed.

5 2m. The proposal is consistent with an approved water supply service area plan
6 under s. 281.348 that covers the public water supply system.

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

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

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

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

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

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

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

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

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

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

20 (e) *Straddling counties.* 1. The department may approve a proposal under par.
21 (b) for a new interbasin transfer or an increase in an interbasin transfer if the water
22 transferred will be used solely for public water supply purposes in a community
23 within a straddling county and all of the following apply:

24 a. The community does not have a water supply that is economically and
25 environmentally sustainable in the long term to meet reasonable demands for a

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1 water supply, based on considerations of public health, economic feasibility, and
2 direct and avoided environmental impacts.

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

4 c. The proposal maximizes the amount of water withdrawn from the Great
5 Lakes basin that will be returned to the source watershed and minimizes the amount
6 of water from outside the Great Lakes basin that will be returned to the source
7 watershed.

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

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

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

16 2. In determining whether to approve a proposal under this paragraph, the
17 department shall give substantive consideration to whether the applicant provides
18 sufficient scientifically based evidence that the existing water supply is derived from
19 groundwater that is hydrologically interconnected to waters of the Great Lakes
20 basin.

21 (f) *Exception standard.* A proposal meets the exception standard if all of the
22 following apply:

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

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

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

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

9 a. Not economically feasible.

10 b. Not environmentally sound.

11 c. Not in the interest of public health.

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

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

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

19 c. The structure used to return the water is designed and will be operated to
20 meet the applicable permit requirements under s. 30.12 and the department has
21 approved the permit under s. 30.12.

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

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1 before the proposal is implemented and considering both low and high flow
2 conditions.

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

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

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

16 (g) *Conservation and efficient use of existing water supplies.* The department
17 shall promulgate rules specifying the requirements for an applicant for a new,
18 increased, or expanded interbasin transfer subject to par. (f) to demonstrate the
19 efficient use and conservation of existing water supplies for the purposes of pars. (d)
20 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to quantify the
21 amount of water conserved through efficiency and conservation measures.

22 (i) *Interbasin transfer amount.* In an approval issued under this subsection or
23 a modification granted under this subsection to increase the amount of an interbasin
24 transfer, the department shall specify an interbasin transfer amount equal to the

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1 quantity of water that is reasonable for the purposes for which the interbasin
2 transfer is proposed.

3 **(4e)** DETERMINING INITIAL WITHDRAWAL AMOUNTS FOR WITHDRAWALS FROM THE
4 GREAT LAKES BASIN. (a) Before issuing automatic notice of coverage under a general
5 permit under sub. (4s) or an automatic individual permit under sub. (5) (c) for a
6 withdrawal from the Great Lakes basin for which the department is required to issue
7 automatic notice of coverage under a general permit or an automatic individual
8 permit, the department shall determine the initial withdrawal amount for the
9 withdrawal under this subsection.

10 (b) 1. Except as provided in subd. 2. and par. (f), the department shall estimate
11 the initial withdrawal amount for a withdrawal based on the maximum hydraulic
12 capacity of the most restrictive component in the water supply system used for the
13 withdrawal as of the date that the department makes the estimate, based on
14 information available to the department.

15 2. If the department has issued an approval under s. 30.12, 30.18, 281.34, or
16 281.41, or s. 281.17, 2001 stats., that is required for a withdrawal and the approval
17 contains a limit on the amount of water that may be withdrawn, the department
18 shall provide an estimate of the initial withdrawal amount equal to the limit in the
19 approval.

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

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

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

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

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

6 4. Amounts withdrawn during the 5 years before the year in which the person
7 submits the information.

8 5. Successful water conservation efforts by persons using the water that is
9 withdrawn.

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

12 7. Other information that the department considers to be relevant.

13 (e) Except as provided in par. (f), the department shall determine the initial
14 withdrawal amount for a withdrawal based on the estimate under par. (b) and the
15 department's evaluation of any information provided under par. (d). The department
16 may not consider information provided by any other person.

17 (f) For a public water supply system that, on the effective date of this paragraph
18 [revisor inserts date], has approval under s. 281.41 to provide water from the
19 Great Lakes basin for public water supply purposes outside of the Great Lakes basin
20 and approval under s. 283.31 to return the associated wastewater to the Great Lakes
21 basin, the department shall determine the initial withdrawal amount to be the
22 amount of water necessary to provide water for public water supply purposes in the
23 service territory specified in the sewer service area provisions of the areawide water
24 quality management plan under s. 283.83 approved by the department before

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1 December 31, 2007, based on the population and related service projections in those
2 provisions.

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

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

11 **(4m)** WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN. Beginning on the
12 earliest of the following dates, a person may not make a withdrawal from the Great
13 Lakes basin that averages 100,000 gallons per day or more in any 30-day period
14 unless the withdrawal is covered under a general permit under sub. (4s) or an
15 individual permit under sub. (5):

16 (a) The first day of the 84th month beginning after the effective date of this
17 paragraph [revisor inserts date].

18 (b) The compact's effective date.

19 **(4s)** GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Department to*
20 *issue.* The department shall issue one or more general permits to cover withdrawals
21 from the Great Lakes basin that average 100,000 gallons per day or more in any
22 30-day period but that do not equal at least 1,000,000 gallons per day for any 30
23 consecutive days. The department shall include all of the following in a general
24 permit:

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

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1 2. Requirements for reporting, metering, and surveillance, as provided in rules
2 promulgated by the department.

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

5 4. Other conditions, limitations, or restrictions, as provided in rules
6 promulgated by the department, that the department determines are necessary to
7 protect the environment or public health and safety or to ensure the conservation and
8 proper management of the waters of the Great Lakes basin.

9 (am) *Term of general permit.* The term of a general permit issued under par.
10 (a) is 10 years.

11 (b) *General requirement.* Beginning on the earlier of the dates under sub. (4m)
12 (a) and (b), a person who does not hold an individual permit under sub. (5) may not
13 make a withdrawal that averages 100,000 gallons per day or more in any 30-day
14 period, but that does not equal at least 1,000,000 gallons per day for any 30
15 consecutive days, unless the withdrawal is covered under a general permit. A person
16 to whom the department has issued a notice of coverage under a general permit shall
17 comply with the general permit.

18 (c) *Automatic notice of coverage for existing withdrawals.* The department shall
19 automatically issue a notice of coverage under a general permit to a person who
20 makes a withdrawal from the Great Lakes basin and who reports under sub. (3) (e)
21 before the earlier of the dates under sub. (4m) (a) or (b), if the withdrawal averages
22 100,000 gallons per day or more in any 30-day period but does not equal at least
23 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department
24 may request additional information before issuing a notice under this paragraph.
25 The department shall issue a notice under this paragraph no later than the earlier

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1 of the dates under sub. (4m) (a) or (b). The department may promulgate a rule under
2 which the department issues automatic notices of coverage under a general permit
3 on a staggered schedule before the earlier of the dates under sub. (4m) (a) or (b). In
4 the notice provided under this paragraph for a withdrawal, the department shall
5 specify a withdrawal amount equal to the initial withdrawal amount determined
6 under sub. (4e) for the withdrawal.

7 (d) *Coverage under general permit for new or increased withdrawals.* 1. A
8 person who proposes to begin a withdrawal from the Great Lakes basin that will
9 average 100,000 gallons per day or more in any 30-day period, or to increase an
10 existing withdrawal so that it will average 100,000 gallons per day or more in any
11 30-day period, after the first day of the 36th month beginning after the effective date
12 of this subdivision [revisor inserts date], and to whom the department is not
13 required to issue automatic notice of coverage under a general permit under par. (c),
14 but who does not propose to withdraw at least 1,000,000 gallons per day for any 30
15 consecutive days, shall apply to the department for coverage under a general permit.
16 In the application, the person shall provide the information required by the
17 department by rule.

18 2. After receiving an application under subd. 1., the department shall, within
19 the time limit established by the department by rule, determine whether the
20 withdrawal qualifies for coverage under a general permit or notify the applicant of
21 any additional information needed to determine whether the withdrawal qualifies
22 for coverage under a general permit.

23 3. Except as provided in subd. 3m., if the department determines that a
24 withdrawal qualifies for coverage under a general permit and the department has
25 issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats.,

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1 that are required for the withdrawal, the department shall issue a notice of coverage.

2 In the notice, the department shall specify a withdrawal amount that is equal to the
3 smallest of the following amounts:

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

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

12 3m. a. The department may not approve an application under subd. 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
15 the withdrawal is consistent with the water supply service area plan.

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

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

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1 (dm) *Requiring individual permit.* The department may require a person who
2 is making or proposes to make a withdrawal that averages 100,000 gallons per day
3 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per
4 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the
5 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)
6 (a), or a groundwater management area designated under s. 281.34 (9) or if coverage
7 under an individual permit is necessary to protect public health or safety or to ensure
8 the conservation and proper management of the waters of the state.

9 (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if
10 a person making a withdrawal that is covered under a general permit proposes to
11 increase the amount of the withdrawal over the withdrawal amount specified in the
12 database under par. (i) for the withdrawal, but does not propose to withdraw at least
13 1,000,000 gallons per day for any 30 consecutive days, the person shall apply to the
14 department for a modification of the withdrawal amount.

15 3. Except as provided in subd. 3m., if the department has issued any approvals
16 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for
17 modifying the withdrawal, the department shall modify the withdrawal amount to
18 an amount equal to the smallest of the following amounts:

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

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

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

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

12 (f) *Term of coverage.* Coverage under a general permit ends on the date that
13 the term of the general permit under par. (am) ends.

14 (g) *Redetermination.* A person to whom the department has issued a notice of
15 coverage under a general permit shall apply to the department for redetermination
16 of coverage under a new general permit at least 180 days before the end of the term
17 of the current general permit if the person intends to continue to withdraw from the
18 Great Lakes basin an average of 100,000 gallons per day or more in any 30-day
19 period but does not intend to withdraw at least 1,000,000 gallons per day for any 30
20 consecutive days. If the person is in compliance with the current general permit and
21 the withdrawal qualifies for coverage under the new general permit, the department
22 shall issue a notice of coverage under the new general permit.

23 (h) *Suspension and revocation.* After an opportunity for a hearing, the
24 department may suspend or revoke coverage under a general permit issued under
25 this subsection for cause, including obtaining coverage under the permit by

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1 misrepresentation or failure to disclose relevant facts or violating the terms of the
2 permit.

3 (i) *Database.* The department shall maintain a database of the withdrawal
4 amounts for all withdrawals that are covered under general permits under this
5 subsection.

6 **(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Requirement.*
7 Beginning on the earlier of the dates under sub. (4m) (a) or (b), a person may not
8 make a withdrawal from the Great Lakes basin that equals at least 1,000,000 gallons
9 per day for any 30 consecutive days unless the withdrawal is covered by an individual
10 permit. A person to whom the department has issued an individual permit shall
11 comply with the individual permit.

12 (b) *Content of individual permits.* The department shall include all of the
13 following in an individual permit:

14 1. A withdrawal amount as determined under par. (d) 3. or 3m. or (e) 3. or 3m.
15 or sub. (4e).

16 3. Requirements for reporting, metering, and surveillance, as provided in rules
17 promulgated by the department.

18 4. Requirements for water conservation, as provided in rules promulgated by
19 the department under sub. (8) (d).

20 5. Limits on the location and dates or seasons of the withdrawal and on the
21 allowable uses of the water, as provided in rules promulgated by the department.

22 6. Conditions on any interbasin transfer under sub. (4) made by the person
23 making the withdrawal.

24 7. Other conditions, limitations, or restrictions, as provided in rules
25 promulgated by the department, that the department determines are necessary to

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1 protect the environment or public health and safety or to ensure the conservation and
2 proper management of the waters of the Great Lakes basin.

3 (c) *Automatic issuance of individual permits for existing withdrawals.* The
4 department shall automatically issue an individual permit to a person who makes
5 a withdrawal from the Great Lakes basin and who reports under sub. (3) (e) before
6 the earlier of the dates under sub. (4m) (a) or (b), if the withdrawal equals at least
7 1,000,000 gallons per day for any 30 consecutive days. If necessary, the department
8 may request additional information before issuing a permit under this paragraph.
9 The department shall issue a permit under this paragraph no later than the earlier
10 of the dates under sub. (4m) (a) or (b). In the permit, the department shall specify
11 a withdrawal amount equal to the initial withdrawal amount determined under sub.
12 (4e) for the withdrawal. The department may promulgate a rule under which the
13 department issues automatic individual permits on a staggered schedule before the
14 earlier of the dates under sub. (4m) (a) or (b).

15 (d) *Individual permit for new or increased unpermitted withdrawals.* 1. A
16 person who proposes to begin a withdrawal from the Great Lakes basin that will
17 equal at least 1,000,000 gallons per day for any 30 consecutive days or to modify an
18 existing withdrawal so that it will equal at least 1,000,000 gallons per day for any
19 30 consecutive days, after the first day of the 36th month beginning after the effective
20 date of this subdivision [revisor inserts date], and to whom the department is not
21 required to issue an automatic individual permit under par. (c), shall apply to the
22 department for an individual permit. In the application, the person shall provide the
23 information required by the department by rule.

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

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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. and the department has issued any approvals under s. 30.12, 30.18,
5 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for the withdrawal, the
6 department shall issue an individual permit. In the permit, the department shall
7 specify a withdrawal amount that is equal to the smallest of the following amounts:

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

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

16 3m. a. The department may not approve an application under subd. 1. for a
17 withdrawal for the purpose of providing water to a public water supply system that
18 is covered by an approved water supply service area plan under s. 281.348, unless
19 the withdrawal is consistent with the water supply service area plan.

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

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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 (e) *Increase in withdrawal amount.* 1. Before the compact's effective date, if
4 a person making a withdrawal that is covered under an individual permit proposes
5 to increase the amount of the withdrawal over the withdrawal amount specified in
6 the permit, the person shall apply to the department for a modification of the permit
7 to increase the withdrawal amount.

8 3. Except as provided in subd. 3m., if the department has issued any approvals
9 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for
10 modifying the withdrawal, the department shall modify the withdrawal amount to
11 an amount 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 3m. a. The department may not approve an application under subd. 1. for a
21 withdrawal for the purpose of providing water to a public water supply system that
22 is covered by an approved water supply service area plan under s. 281.348, unless
23 the withdrawal is consistent with the water supply service area plan.

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

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

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

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

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

17 (i) *Permits not transferable.* An individual water use permit is not transferable.

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

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

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

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

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

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

13 1. Promotion of environmentally sound and economically feasible water
14 conservation measures.

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

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

19 (d) *Water conservation and efficiency measures.* The department shall
20 promulgate rules specifying water conservation and efficiency measures for the
21 purposes of this section. In the rules, the department may not require retrofitting
22 of existing fixtures, appliances, or equipment. In specifying the measures, the
23 department shall consider the results of any pilot water conservation program
24 conducted by the department in cooperation with the regional body.

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

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

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

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

11 a. The name and address of each applicant.

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

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

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

22 (d) *Public hearing.* 1. The department shall provide an opportunity for any
23 interested person or group of persons, any affected local governmental unit, or any
24 state agency to request a public hearing with respect to a proposal for which the
25 department receives an application under sub. (4). A request for a public hearing

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1 shall be filed with the department within 30 days after the department gives notice
2 under par. (b). The party filing a request for a public hearing shall indicate the
3 interest of the party and the reasons why a hearing is warranted. The department
4 shall hold a public hearing on a proposal for which the department receives an
5 application under sub. (4) if the department determines that there is a significant
6 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) 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 interbasin
18 transfer under sub. (4) is received, except that any record or other information
19 provided to the department may be treated as confidential upon a showing to the
20 secretary that the record or information is entitled to protection as a trade secret, as
21 defined in s. 134.90 (1) (c), or upon a determination by the department that domestic
22 security concerns warrant confidential treatment. Nothing in this subsection
23 prevents the use of any confidential records or information obtained by the
24 department in the administration of this section in compiling or publishing general

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1 analyses or summaries, if the analyses or summaries do not identify a specific owner
2 or operator.

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 defendant.

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

12 **SECTION 11.** 281.346 of the statutes is created to read:

13 **281.346 Water conservation, reporting, and supply regulation; after**
14 **the compact takes effect. (1) DEFINITIONS.** In this section:

15 (d) "Community within a straddling county" means any city, village, or town
16 that is not a straddling community and that is located outside the Great Lakes basin
17 but wholly within a county that lies partly within the Great Lakes basin.

18 (dm) "Compact" means the Great Lakes—St. Lawrence River Basin Water
19 Resources Compact under s. 281.343.

20 (dr) "Compact's effective date" means the effective date of the compact under
21 s. 281.343 (9) (d).

22 (e) "Consumptive use" means a use of water that results in the loss of or failure
23 to return some or all of the water to the basin from which the water is withdrawn due
24 to evaporation, incorporation into products, or other processes.

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

8 (h) “Diversion” means a transfer of water from the Great Lakes basin into a
9 watershed outside the Great Lakes basin, or from the watershed of one of the Great
10 Lakes into that of another, by any means of transfer, including a pipeline, canal,
11 tunnel, aqueduct, channel, modification of the direction of a water course, tanker
12 ship, tanker truck, or rail tanker except that “diversion” does not include any of the
13 following:

14 1. The transfer of a product produced in the Great Lakes basin or in the
15 watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of
16 the Great Lakes basin or out of that watershed.

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

20 3. The transfer of bottled water from the Great Lakes basin in containers of
21 5.7 gallons or less.

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

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

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

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

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

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

17 1. Environmentally sound.

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

19 3. Technically feasible and available.

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

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

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

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

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

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

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

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

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

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

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

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

24 (pm) “Public water supply” means water distributed to the public through a
25 physically connected system of treatment, storage, and distribution facilities that

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1 serve a group of largely residential customers and that may also serve industrial,
2 commercial, and other institutional customers.

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

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

9 (qm) “Regional review” means review by the regional body as described in s.
10 281.343 (4h).

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

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

22 (u) “Technical review” means a thorough analysis and evaluation conducted to
23 determine whether a proposal that is subject to regional review under this section
24 meets the criteria for approval under sub. (4), (5), or (6).

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

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

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

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

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

12 (z) “Withdrawal” means the taking of water from surface water or groundwater,
13 including the taking of surface water or groundwater for the purpose of bottling the
14 water.

15 **(1m)** APPLICABILITY. This section does not apply before the compact’s effective
16 date.

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

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

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1 (c) *Water loss.* The department shall promulgate rules for determining the
2 amount of water loss from consumptive uses.

3 (d) *County boundaries.* For the purposes of sub. (1) (d) and (t), a county's
4 boundaries as of December 13, 2005, shall be used to determine whether a county lies
5 partly within the Great Lakes basin.

6 (e) *Baseline.* 1. The baseline for a withdrawal that is covered by a general
7 permit issued under s. 281.344 (4s) on the compact's effective date is the withdrawal
8 amount specified for the withdrawal in the database under s. 281.344 (4s) (i) on the
9 compact's effective date. The baseline for a withdrawal for which the department has
10 issued an individual permit under s. 281.344 (5) before the compact's effective date
11 is the withdrawal amount specified in the permit on the compact's effective date.
12 There is no baseline for any other withdrawal.

13 2. The baseline water loss for a consumptive use for which the department has
14 specified an authorized base level of water loss under s. 281.35 (6) (a) 2. is the amount
15 of that authorized base level on the compact's effective date. There is no baseline
16 water loss for any other consumptive use.

17 4. The baseline volume for a diversion for which the department has issued an
18 approval under s. 281.344 (3m) or (4) before the compact's effective date is the
19 interbasin transfer amount specified in the approval on the compact's effective date.
20 There is no baseline for any other diversion.

21 6. The department shall provide a list of the baseline volumes determined
22 under this paragraph to the Great Lakes council and the regional body no later than
23 12 months after the compact's effective date.

24 (e) *Change of ownership.* Regional review or Great Lakes council approval is
25 not required when there is a change of ownership of a water supply system that

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1 withdraws, diverts, or consumptively uses waters of the Great Lakes basin unless
2 the new owner proposes a change that is otherwise subject to regional review or
3 Great Lakes council approval.

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

6 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) Any person who proposes to
7 begin a withdrawal from the waters of the state using a water supply system that will
8 have the capacity to withdraw an average of 100,000 gallons per day or more in any
9 30–day period, to increase the capacity of a water supply system so that it will have
10 the capacity to withdraw an average of 100,000 gallons per day or more in any 30–day
11 period, or to begin a diversion shall register the withdrawal or diversion with the
12 department.

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

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

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

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

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

7 (e) 1. Each person who makes a withdrawal from the waters of the state that
8 averages 100,000 gallons per day or more in any 30-day period or diverts any amount
9 and who has registered the withdrawal or diversion under par. (a) or s. 287.344 (3)
10 (a) shall annually report to the department the monthly volumes of withdrawal,
11 whether the person withdraws at least 1,000,000 gallons per day for 30 consecutive
12 days, and, if applicable, the volumes of diversion and, subject to par. (em), water loss
13 from consumptive use.

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

18 (em) 1. Except as provided in subd. 2., if a person to whom par. (e) 1. applies
19 provides any of the water that the person withdraws to a public water supply system,
20 the person who operates the public water supply system, rather than the person who
21 withdraws the water, shall annually report to the department the volume of water
22 loss from the consumptive use of the water provided to the public water supply
23 system.

24 2. A person who operates a wastewater treatment system, rather than the
25 person who withdraws the water or who operates a public water supply system, shall

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1 annually report to the department the volume of water loss from a consumptive use
2 of water that occurs after the treatment of the wastewater by the person who
3 operates the wastewater treatment system.

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

6 **(4) DIVERSIONS.** (a) *Prohibition.* Beginning on the compact's effective date, no
7 person may begin a diversion or increase the amount of a diversion over the diversion
8 amount specified in an approval under this subsection or over the interbasin transfer
9 amount specified in an approval issued under s. 281.344 (3m) or (4), except as
10 authorized under par. (c), (d), or (e).

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

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

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

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

23 4m. If a person who applies under subd. 1. will not directly withdraw the water
24 proposed to be diverted, the person shall identify the entity that will withdraw the

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1 water and provide evidence of any agreement necessary to obtain water from that
2 entity.

3 4p. If the person who applies under subd. 1. will not directly return the water
4 to the Great Lakes basin, the person shall identify the entity that will return the
5 water and provide evidence of any agreement necessary to have that entity return
6 the water.

7 4s. If the proposal for which a person applies under subd. 1. is subject to the
8 exception standard under par. (f), the person shall provide documentation of how the
9 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will
10 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,
11 considering the state of the receiving water before the proposal is implemented. If
12 the receiving water is a surface water body that is tributary to one of the Great Lakes,
13 the person shall include a description of the flow of the receiving water before the
14 proposal is implemented, considering both low and high flow conditions.

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

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

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

24 b. If the proposal is to provide a public water supply within more than one city,
25 village, or town, any portion of the proposal that provides a public water supply

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1 within a straddling community is subject to par. (c) and any portion of the proposal
2 that provides a public water supply within a community within a straddling county
3 is subject to par. (e).

4 2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a
5 proposal under par. (b), the department shall use, as appropriate, the current or
6 planned service area of the public water supply system receiving water under the
7 proposal. The planned service area is the service area of the system at the end of any
8 planning period authorized by the department in the approved water supply service
9 area plan under s. 281.348 that covers the public water supply system.

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

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

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

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

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

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1 c. The proposal maximizes the amount of water withdrawn from the Great
2 Lakes basin that will be returned to the source watershed and minimizes the amount
3 of water from outside the Great Lakes basin that will be returned to the source
4 watershed.

5 2m. The proposal is consistent with an approved water supply service area plan
6 under s. 281.348 that covers the public water supply system.

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

10 4. If the proposal would result in a new water loss or an increase in a water loss
11 from consumptive use that would average 5,000,000 gallons or more per day in any
12 90–day period, all of the following apply:

13 a. The department conducts a technical review.

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

15 1.

16 c. The proposal undergoes regional review.

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

19 (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.
20 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.
21 (c) does not apply that would average less than 100,000 gallons per day in every
22 90–day period, if the proposal meets the applicable requirements under s. 30.18,
23 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the
24 department by rule and, if the water will be used for public water supply purposes,

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

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

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

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

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

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

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

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

24 b. The applicant demonstrates that there is no feasible, cost–effective, and
25 environmentally sound water supply alternative within the watershed to which the

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1 water will be transferred, including conservation of existing water supplies as
2 determined under par. (g).

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

6 d. The department conducts a technical review.

7 e. The department notifies the regional body as required in s. 281.343 (4h) (b)
8 1.

9 f. The proposal undergoes regional review.

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

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

13 (e) *Straddling counties.* 1. The department may approve a proposal under par.
14 (b) for a new diversion or an increase in a diversion if the water diverted will be used
15 solely for public water supply purposes in a community within a straddling county
16 and all of the following apply:

17 a. The community does not have a water supply that is economically and
18 environmentally sustainable in the long term to meet reasonable demands for a
19 water supply, based on considerations of public health, economic feasibility, and
20 direct and avoided environmental impacts.

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

22 c. The proposal maximizes the amount of water withdrawn from the Great
23 Lakes basin that will be returned to the source watershed and minimizes the amount
24 of water from outside the Great Lakes basin that will be returned to the source
25 watershed.

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

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

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

9 f. The department conducts a technical review.

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

11 1.

12 h. The proposal undergoes regional review.

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

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

16 2. In determining whether to approve a proposal under this paragraph, the
17 department shall give substantive consideration to whether the applicant provides
18 sufficient scientifically based evidence that the existing water supply is derived from
19 groundwater that is hydrologically interconnected to waters of the Great Lakes
20 basin.

21 (f) *Exception standard.* A proposal meets the exception standard if all of the
22 following apply:

23 1. The need for the proposed diversion cannot reasonably be avoided through
24 the efficient use and conservation of existing water supplies as determined under
25 par. (g).

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1 2. The diversion is limited to quantities that are reasonable for the purposes
2 for which the diversion is proposed.

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

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

9 a. Not economically feasible.

10 b. Not environmentally sound.

11 c. Not in the interest of public health.

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

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

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

19 c. The structure used to return the water is designed and will be operated to
20 meet the applicable permit requirements under s. 30.12 and the department has
21 approved the permit under s. 30.12.

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

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1 before the proposal is implemented and considering both low and high flow
2 conditions.

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

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

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

15 (g) *Conservation and efficient use of existing water supplies.* The department
16 shall promulgate rules specifying the requirements for an applicant for a new or
17 increased diversion subject to par. (f) to demonstrate the efficient use and
18 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)
19 1. d., and (f) 1., including requiring the applicant to quantify the amount of water
20 conserved through efficiency and conservation measures.

21 (i) *Diversion amount.* In an approval issued under this subsection or a
22 modification granted under this subsection to increase the amount of a diversion, the
23 department shall specify a diversion amount equal to the quantity of water that is
24 reasonable for the purposes for which the diversion is proposed.

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1 **(4m)** WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN. (a) A person may
2 not make a withdrawal from the Great Lakes basin that averages 100,000 gallons
3 per day or more in any 30–day period unless the withdrawal is covered under a
4 general permit issued under sub. (4s) or s. 281.344 (4s) or an individual permit issued
5 under sub. (5) or s. 281.344 (5).

6 **(4s)** GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN. (a) *Department to*
7 *issue.* The department shall issue one or more general permits to cover withdrawals
8 from the Great Lakes basin that average 100,000 gallons per day or more in any
9 30–day period but that do not equal at least 1,000,000 gallons per day for any 30
10 consecutive days. The department shall include all of the following in a general
11 permit:

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

13 2. Requirements for reporting, metering, and surveillance, as provided in rules
14 promulgated by the department.

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

17 4. Other conditions, limitations, or restrictions, as provided in rules
18 promulgated by the department, that the department determines are necessary to
19 protect the environment or public health and safety or to ensure the conservation and
20 proper management of the waters of the Great Lakes basin.

21 (am) *Term of general permit.* The term of a general permit issued under par.
22 (a) is 10 years.

23 (b) *General requirement.* A person who does not hold an individual permit
24 under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or
25 more in any 30–day period, but that does not equal at least 1,000,000 gallons per day

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1 for any 30 consecutive days, unless the withdrawal is covered under a general permit
2 issued under this subsection or s. 281.344 (4s). A person to whom the department
3 has issued a notice of coverage under a general permit shall comply with the general
4 permit.

5 (d) *Coverage under general permit for new or increased withdrawals.* 1. A
6 person who proposes to begin a withdrawal from the Great Lakes basin that will
7 average 100,000 gallons per day or more in any 30-day period, or to increase an
8 existing withdrawal so that it will average 100,000 gallons per day or more in any
9 30-day period, but who does not propose to withdraw at least 1,000,000 gallons per
10 day for any 30 consecutive days, shall apply to the department for coverage under
11 a general permit, unless the person applies for an individual permit under sub. (5).
12 In the application, the person shall provide the information required by the
13 department by rule.

14 2. After receiving an application under subd. 1., the department shall, within
15 the time limit established by the department by rule, determine whether the
16 withdrawal qualifies for coverage under a general permit or notify the applicant of
17 any additional information needed to determine whether the withdrawal qualifies
18 for coverage under a general permit.

19 3. Except as provided in subd. 3m., if the department determines that a
20 withdrawal qualifies for coverage under a general permit and the department has
21 issued any approvals under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats.,
22 that are required for the withdrawal, the department shall issue a notice of coverage.
23 In the notice, the department shall specify a withdrawal amount that is equal to the
24 smallest of the following amounts:

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1 a. The maximum hydraulic capacity of the most restrictive component of the
2 water supply system used for the withdrawal for which the person has approval
3 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
4 under one of those provisions is not required for the most restrictive component of
5 the water supply system, the maximum hydraulic capacity of the most restrictive
6 component that the person proposes to use in the water supply system.

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

9 3m. a. The department may not approve an application under subd. 1. for a
10 withdrawal for the purpose of providing water to a public water supply system that
11 serves a population of more than 10,000 unless the withdrawal is covered by an
12 approved water supply service area plan under s. 281.348.

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

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

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

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1 (dm) *Requiring individual permit.* The department may require a person who
2 is making or proposes to make a withdrawal that averages 100,000 gallons per day
3 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per
4 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the
5 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)
6 (a), or a groundwater management area designated under s. 281.34 (9) or if coverage
7 under an individual permit is necessary to protect public health or safety or to ensure
8 the conservation and proper management of the waters of the state.

9 (e) *Increase in withdrawal amount.* 1. If a person making a withdrawal that
10 is covered under a general permit issued under this subsection or s. 281.344 (4s)
11 proposes to increase the amount of the withdrawal over the withdrawal amount
12 specified in the database under par. (i) for the withdrawal, but does not propose to
13 withdraw at least 1,000,000 gallons per day for any 30 consecutive days, the person
14 shall apply to the department for a modification of the withdrawal amount.

15 3. Except as provided in subd. 3m., if the department has issued any approvals
16 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for
17 modifying the withdrawal, the department shall modify the withdrawal amount to
18 an amount equal to the smallest of the following amounts:

19 1. The maximum hydraulic capacity of the most restrictive component of the
20 water supply system used for the withdrawal for which the person has approval
21 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
22 under one of those provisions is not required for the most restrictive component of
23 the water supply system, the maximum hydraulic capacity of the most restrictive
24 component that the person proposes to use in the water supply system.

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

3 3m. a. The department may not approve an application under subd. 1. for a
4 withdrawal for the purpose of providing water to a public water supply system that
5 serves a population of more than 10,000 unless the withdrawal is covered by an
6 approved water supply service area plan under s. 281.348.

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

11 c. If the department approves an application under subd. 1. for a withdrawal
12 for the purpose of providing water to a public water supply system that is covered by
13 an approved water supply service area plan under s. 281.348, the department shall
14 issue a notice of coverage. In the notice of coverage the department shall specify a
15 withdrawal amount that is equal to the withdrawal amount in the water supply
16 service area plan.

17 (f) *Term of coverage.* Coverage under a general permit ends on the date that
18 the term of the general permit under par. (am) ends.

19 (g) *Redetermination.* A person to whom the department has issued a notice of
20 coverage under a general permit issued under this subsection or s. 281.344 (4s) shall
21 apply to the department for redetermination of coverage under a new general permit
22 issued under this subsection at least 180 days before the end of the term of the
23 current general permit if the person intends to continue to withdraw from the Great
24 Lakes basin an average of 100,000 gallons per day or more in any 30-day period but
25 does not intend to withdraw at least 1,000,000 gallons per day for any 30 consecutive

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1 days. If the person is in compliance with the current general permit and the
2 withdrawal qualifies for coverage under the new general permit, the department
3 shall issue a notice of coverage under the new general permit.

4 (h) *Suspension and revocation.* After an opportunity for a hearing, the
5 department may suspend or revoke coverage under a general permit issued under
6 this subsection or s. 281.344 (4s) for cause, including obtaining coverage under the
7 permit by misrepresentation or failure to disclose relevant facts or violating the
8 terms of the permit.

9 (i) *Database.* The department shall maintain a database of the withdrawal
10 amounts for all withdrawals that are covered under general permits issued under
11 this subsection and s. 281.344 (4s).

12 **(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Requirement.* A
13 person may not make a withdrawal from the Great Lakes basin that equals at least
14 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is
15 covered by an individual permit issued under this subsection or s. 281.344 (5). A
16 person to whom the department has issued an individual permit shall comply with
17 the individual permit.

18 (b) *Content of individual permits.* The department shall include all of the
19 following in an individual permit:

20 1. A withdrawal amount as determined under par. (d) 3. or 3m., (g) 3. or 3m.,
21 or (j) 3. or 3m. or s. 281.344 (3m) or (4e).

22 2. Provisions that the department determines are necessary for tracking
23 increases in water loss resulting from increases in withdrawal amounts during the
24 term of the permit.

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1 3. Requirements for reporting, metering, and surveillance, as provided in rules
2 promulgated by the department.

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

5 5. Limits on the location and dates or seasons of the withdrawal and on the
6 allowable uses of the water, as provided in rules promulgated by the department.

7 6. Conditions on any diversion approved under sub. (4) made by the person
8 making the withdrawal.

9 7. If the withdrawal is from a surface water body tributary to one of the Great
10 Lakes and would result in a water loss of more than 95 percent of the amount of water
11 withdrawn, conditions that ensure that the withdrawal does not cause significant
12 adverse environmental impact.

13 8. Other conditions, limitations, or restrictions, as provided in rules
14 promulgated by the department, that the department determines are necessary to
15 protect the environment or public health and safety or to ensure the conservation and
16 proper management of the waters of the Great Lakes basin.

17 (d) *Initial individual permit.* 1. A person who proposes to begin a withdrawal
18 from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any
19 30 consecutive days or to modify an existing withdrawal so that it will equal at least
20 1,000,000 gallons per day for any 30 consecutive days shall apply to the department
21 for an individual permit.

22 2. After receiving an application under subd. 1., the department shall, within
23 the time limit established by the department by rule, determine whether to approve
24 the application or notify the applicant of any additional information needed to
25 determine whether to approve the application.

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

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

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

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

16 3m. If the department approves an application under subd. 1. for a withdrawal
17 for the purpose of providing water to a public water supply system that is covered by
18 an approved water supply service area plan under s. 281.348, the department shall
19 issue an individual permit. In the permit, the department shall specify a withdrawal
20 amount that is equal to the withdrawal amount in the water supply service area
21 plan.

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

24 (dm) *Consistency with water supply plans.* 1. The department may not approve
25 an application under par. (d) 1. for a withdrawal for the purpose of providing water

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1 to a public water supply system that serves a population of more than 10,000 unless
2 the public water supply system is covered by an approved water supply service area
3 plan under s. 281.348.

4 2. The department may not approve an application under par. (d) 1. for the
5 purpose of providing water to a public water supply system that is covered by an
6 approved water supply service area plan under s. 281.348 unless the withdrawal is
7 consistent with the water supply service area plan.

8 (e) *Standards for approval of certain unpermitted withdrawals.* 1. Except as
9 provided in par. (dm), the department may not approve an application under par. (d)
10 1. for a new withdrawal that will equal at least 1,000,000 gallons per day for any 30
11 consecutive days, or for an existing withdrawal that is not covered by a general
12 permit under sub. (4s) or s. 281.344 (4s) and that is proposed to be modified so that
13 it will equal at least 1,000,000 gallons per day for any 30 consecutive days, but to
14 which subd. 2. does not apply, unless the withdrawal meets the state
15 decision-making standard under sub. (5m) and, if the withdrawal will result in a
16 water loss that averages more than 2,000,000 gallons per day in any 30-day period,
17 the withdrawal meets the consumptive use decision-making standard under sub.
18 (6m).

19 2. Except as provided in par. (dm), the department may not approve an
20 application under par. (d) 1. for a new withdrawal that will equal at least 10,000,000
21 gallons per day for any 30 consecutive days, or for an existing withdrawal that is not
22 covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is proposed
23 to be modified so that it will equal at least 10,000,000 gallons per day for any 30
24 consecutive days, unless the withdrawal meets the compact decision-making
25 standard under sub. (6) and, if the withdrawal will result in a water loss that

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1 averages more than 2,000,000 gallons per day in any 30–day period, the withdrawal
2 meets the consumptive use decision–making standard under sub. (6m).

3 (f) *Standards for approval of withdrawals covered by general permits.* 1.
4 Except as provided in par. (dm), the department may not approve an application
5 under par. (d) 1. for a withdrawal that is covered under a general permit under sub.
6 (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal so that it
7 equals 1,000,000 or more gallons per day for any 30 consecutive days over the
8 withdrawal amount as of the date that the department issued the current notice of
9 coverage under the general permit or as of the compact’s effective date, whichever
10 is later, and if subd. 2. does not apply, unless the withdrawal meets the state
11 decision–making standard under sub. (5m) and, if the cumulative water loss, as
12 determined under par. (km), averages more than 2,000,000 gallons per day in any
13 30–day period, the withdrawal meets the consumptive use decision–making
14 standard under sub. (6m).

15 2. Except as provided in par. (dm), the department may not approve an
16 application under par. (d) 1. for a withdrawal that is covered under a general permit
17 under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal
18 so that it equals 10,000,000 or more gallons per day for any 30 consecutive days over
19 the withdrawal amount as of the date that the department issued the current notice
20 of coverage under the general permit or as of the compact’s effective date, whichever
21 is later, unless the withdrawal meets the compact decision–making standard under
22 sub. (6) and, if the cumulative water loss, as determined under par. (km), averages
23 more than 2,000,000 gallons per day in any 30–day period, the withdrawal meets the
24 consumptive use decision–making standard under sub. (6m).

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

7 2. After receiving an application under subd. 1., the department shall, within
8 the time limit established by the department by rule, determine whether to approve
9 the application for modification of the permit or notify the applicant of any additional
10 information needed to determine whether to approve the application.

11 3. Except as provided in subd. 3m., if the department approves an application
12 under subd. 1. and the department has issued any approvals under s. 30.12, 30.18,
13 281.34, or 281.41 or s. 281.17, 2001 stats., that are required for the modification of
14 the withdrawal, the department shall modify the individual permit. In the modified
15 permit, the department shall specify a withdrawal amount that is equal to the
16 smallest of the following amounts:

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

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

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

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, the department shall
6 modify the individual permit. In the modified permit, the department shall specify
7 a withdrawal amount that is equal to the withdrawal amount in the water supply
8 service area plan.

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

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

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

20 (h) *Standards for approval of certain modifications.* 1. Except as provided in
21 par. (gm), the department may not approve an application under par. (g) 1., if the
22 person proposes to increase the amount of the withdrawal so that it equals 1,000,000
23 or more gallons per day for any 30 consecutive days over the withdrawal amount as
24 of the beginning of the current permit term, the compact's effective date, or the date
25 that the department issued a modified permit for the withdrawal if the modification

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1 was subject to the state decision-making standard under sub. (5m) or the compact
2 decision-making standard under sub. (6), whichever is latest, and if subd. 2. does not
3 apply, unless the increased withdrawal meets the state decision-making standard
4 under sub. (5m) and, if the cumulative water loss, as determined under par. (km),
5 averages more than 2,000,000 gallons per day in any 30-day period, the withdrawal
6 meets the consumptive use decision-making standard under sub. (6m), except as
7 provided in par. (ks).

8 2. Except as provided in par. (gm), the department may not approve an
9 application under par. (g) 1., if the person proposes to increase the amount of the
10 withdrawal so that it equals at least 10,000,000 gallons per day for any 30
11 consecutive days over the withdrawal amount as of the beginning of the current
12 permit term, the compact's effective date, or the date that the department issued a
13 modified permit for the withdrawal if the modification was subject to the compact
14 decision-making standard under sub. (6), whichever is latest, unless the withdrawal
15 meets the compact decision-making standard under sub. (6) and, if the cumulative
16 water loss, as determined under par. (km), averages more than 2,000,000 gallons per
17 day in any 30-day period, the withdrawal meets the consumptive use
18 decision-making standard under sub. (6m), except as provided in par. (ks).

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

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

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

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

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

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

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

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

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1 an approved water supply service area plan under s. 281.348 and determines that
2 the person is in compliance with the current individual permit, the department shall
3 reissue the individual permit. In the permit, the department shall specify a
4 withdrawal amount that is equal to the withdrawal amount in the water supply
5 service area plan.

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

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

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

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

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1 subd. 2. does not apply, unless the increased withdrawal meets the state
2 decision-making standard under sub. (5m) and, if the cumulative water loss, as
3 determined under par. (km), averages more than 2,000,000 gallons per day in any
4 30-day period, the withdrawal meets the consumptive use decision-making
5 standard under sub. (6m), except as provided in par. (ks).

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

17 (km) *Cumulative water loss.* The cumulative water loss for a withdrawal is
18 determined by adding the amount of water loss from consumptive use that results
19 from the proposed increase in the withdrawal to the amount of water loss from
20 consumptive use that resulted from any other increases in the withdrawal amount
21 for the withdrawal that occurred after the latest of the following:

- 22 1. The beginning of the current permit term.
- 23 2. The date on which the department modified the withdrawal amount for the
24 withdrawal if the modification was subject to the consumptive use decision-making
25 standard.

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1 (ks) *Water loss for withdrawals with water loss approvals.* If the department
2 specified an authorized base level of water loss under s. 281.35 (6) (a) 2. for a
3 withdrawal and the total water loss resulting from the withdrawal, after a proposed
4 increase, averages less than 2,000,000 gallons per day in any 30–day period over that
5 authorized base level of water loss, the consumptive use decision–making standard
6 does not apply.

7 (L) *Prior notice.* Beginning no later than 60 months after the compact’s
8 effective date, if a proposal for which approval is required under this subsection will
9 result in a new water loss or an increase in a water loss that will average more than
10 5,000,000 gallons per day in any 90–day period, the department shall provide the
11 other parties and the provinces of Ontario and Quebec, Canada, with detailed notice
12 of the proposal and an opportunity to comment on the proposal. The department
13 shall provide a response to any comment received under this paragraph. The
14 department may not grant an approval under this subsection until at least 90 days
15 after the day on which it provided notice under this paragraph.

16 (m) *Regional review.* If a majority of the members of the regional body request
17 regional review of a proposal described in s. 281.343 (4h) (a) 6. for which approval is
18 required under this subsection, the department shall conduct a technical review of
19 the proposal and submit the proposal for regional review. The department may not
20 act on the proposal until the proposal has undergone regional review and the
21 department has considered the regional declaration of finding in determining
22 whether to approve the proposal.

23 (n) *Information to be provided.* A person who submits an application under par.
24 (d) 1., (g) 1., or (j) 1. shall provide the information required by the department by rule.
25 If a decision–making standard under sub. (5m), (6), or (6m) applies, the person shall

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1 provide information about the potential impacts of the withdrawal on the waters of
2 the Great Lakes basin and water dependent natural resources. If the compact
3 decision-making standard under sub. (6) applies, the person shall provide an
4 assessment of the individual impacts of the proposal for the purposes of sub. (6) (b).
5 The person may also include a cumulative impact assessment.

6 (o) *Departmental modifications.* After an opportunity for a hearing, the
7 department may modify a permit issued under this subsection as necessary to ensure
8 that a withdrawal complies with any applicable requirement under sub. (5m), (6), or
9 (6m).

10 (p) *Suspension and revocation.* The department may suspend or revoke a
11 permit issued under this subsection or s. 281.344 (5) for cause, including obtaining
12 the permit by misrepresentation or failure to disclose relevant facts or violating the
13 terms of the permit.

14 (q) *Permits not transferable.* An individual water use permit is not
15 transferable.

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

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1 day in any 30-day period, the withdrawal meets the consumptive use
2 decision-making standard under sub. (6m).

3 2. Beginning on the compact's effective date, the department may not approve
4 a water supply service area plan under s. 281.348 that provides for a new withdrawal
5 from the Great Lakes basin of at least 10,000,000 gallons per day for any 30
6 consecutive days, or for modification of an existing withdrawal that is not covered by
7 a general permit under sub. (4s) or s. 281.344 (4s) so that it will equal at least
8 10,000,000 gallons per day for any 30 consecutive days, unless the withdrawal meets
9 the compact decision-making standard under sub. (6) and, if the withdrawal will
10 result in a water loss that averages more than 2,000,000 gallons per day in any
11 30-day period, the withdrawal meets the consumptive use decision-making
12 standard under sub. (6m).

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) and, if the cumulative water loss, as
22 determined under sub. (5) (km), averages more than 2,000,000 gallons per day in any
23 30-day period, the withdrawal meets the consumptive use decision-making
24 standard under sub. (6m).

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1 2. Beginning on the compact's effective date, the department may not approve
2 a water supply service area plan under s. 281.348 that provides for modifying a
3 withdrawal that is covered under a general permit under sub. (4s) or s. 281.344 (4s)
4 so that the withdrawal 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 state
8 decision-making standard under sub. (5m) and, if the cumulative water loss, as
9 determined under sub. (5) (km), averages more than 2,000,000 gallons per day in any
10 30-day period, the withdrawal meets the consumptive use decision-making
11 standard under sub. (6m).

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

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1 2. Beginning on the compact's effective date, the department may not approve
2 a water supply service area plan under s. 281.348 that provides for increasing the
3 amount of a withdrawal that is covered under an individual permit issued under s.
4 sub. (5) or s. 281.344 (5) so that it equals 10,000,000 or more gallons per day for any
5 30 consecutive days over the withdrawal amount as of the beginning of the current
6 permit term, the compact's effective date, or the date that the department issued a
7 modified permit for the withdrawal if the modification was subject to the compact
8 decision-making standard under sub. (6), whichever is latest, unless the increased
9 withdrawal meets the state decision-making standard under sub. (5m) and, if the
10 cumulative water loss, as determined under sub. (5) (km), averages more than
11 2,000,000 gallons per day in any 30-day period, the withdrawal meets the
12 consumptive use decision-making standard under sub. (6m).

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

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

22 **(5m) STATE DECISION-MAKING STANDARD.** A proposal meets the state
23 decision-making standard if all of the following apply:

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

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1 (b) For an increase in a withdrawal, cost-effective conservation practices have
2 been implemented for existing uses of the water, as required under rules
3 promulgated by the department.

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

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

9 (e) One of the following applies:

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

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

15 3. The department has issued a permit under s. 30.18 for the new or increased
16 withdrawal or has issued a permit under s. 30.12 for a structure that will be used for
17 the new or increased withdrawal.

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

20 (f) The proposal satisfies any other standard that the department determines
21 is necessary and promulgates by rule.

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

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

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

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

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

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

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

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

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

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

21 5. The probable degree and duration of any adverse impacts caused or expected
22 to be caused by the proposed withdrawal and use, under foreseeable conditions, to
23 other lawful consumptive uses or nonconsumptive uses of water or to the quantity
24 or quality of the waters of the Great Lakes basin and water dependent natural

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1 resources, and the proposed plans and arrangements for avoidance or mitigation of
2 those impacts.

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

6 **(6m)** CONSUMPTIVE USE DECISION-MAKING STANDARD. A proposal meets the
7 consumptive use decision-making standard if all of the following apply:

8 (a) No public water rights in navigable waters will be adversely affected.

9 (b) The proposed withdrawal and consumptive use do not conflict with any
10 applicable plan for future uses of the waters of the state, including approved water
11 supply service area plans under s. 281.348 and areawide water quality management
12 plans under s. 283.83.

13 (c) Any current water use and the proposed plans for withdrawal,
14 transportation, development, and use of the water incorporate reasonable
15 conservation practices.

16 (d) If the water loss averages 5,000,000 gallons or more during any 90-day
17 period, the proposed withdrawal and uses will not have a significant adverse impact
18 on the environment and ecosystem of the Great Lakes basin or the state.

19 (e) The proposed withdrawal and consumptive use are consistent with the
20 protection of public health, safety, and welfare and will not be detrimental to the
21 public interest.

22 (f) The proposed withdrawal and consumptive use will not have a significant
23 detrimental effect on the quantity or quality of the waters of the state.

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

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

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

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

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

20 1. Promotion of environmentally sound and economically feasible water
21 conservation measures.

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

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

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

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

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

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

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

22 **(9) TRIBAL CONSULTATION; PUBLIC PARTICIPATION.** (a) *Tribal consultation.* The
23 department shall consult with a federally recognized American Indian tribe or band
24 in this state concerning a proposal that may affect the tribe or band and that is
25 subject to regional review or Great Lakes council approval under sub. (4) or (5).

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

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

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

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

15 a. The name and address of each applicant.

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

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

21 (c) *Public comment.* The department shall receive public comments on a
22 proposal for which it receives an application to which par. (b) 1. applies or on a
23 proposed general permit under sub. (4s) (a) for a 30-day period beginning when the
24 department gives notice under par. (b) 1. The department shall retain all written

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1 comments submitted during the comment period and shall consider the comments
2 in making its decisions on the application.

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

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

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

19 (e) *Public access to information.* Any record or other information provided to
20 or obtained by the department regarding a proposal for which an application under
21 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The
22 department shall make available to and provide facilities for the public to inspect and
23 copy any records or other information provided to or obtained by the department
24 regarding a proposal for which an application for a new or increased diversion or
25 withdrawal under sub. (4) or (5) is received, except that any record or other

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1 information provided to the department may be treated as confidential upon a
2 showing to the secretary that the record or information is entitled to protection as
3 a trade secret, as defined in s. 134.90 (1) (c), or upon a determination by the
4 department that domestic security concerns warrant confidential treatment.
5 Nothing in this subsection prevents the use of any confidential records or
6 information obtained by the department in the administration of this section in
7 compiling or publishing general analyses or summaries, if the analyses or
8 summaries do not identify a specific owner or operator.

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

13 **(10m)** AMENDMENT OF COASTAL MANAGEMENT PROGRAM. (a) The Wisconsin
14 coastal management council, created under s. 14.019, shall amend this state's
15 coastal management program submitted to the U.S. secretary of commerce under
16 USC 1455, to incorporate the requirements of this section, as they apply to the water
17 resources of the Great Lakes basin, and shall formally submit the proposed
18 amendments to the U.S. secretary of commerce.

19 (b) After approval of the amendments submitted to the U.S. secretary of
20 commerce under par. (a), the Wisconsin coastal management council shall, when
21 conducting federal consistency reviews under 16 USC 1456 (c), consider the
22 requirements specified under par. (a), if applicable.

23 (c) If the department issues a permit for a withdrawal to which this section
24 applies, and the withdrawal is subject to a federal consistency review under 16 USC

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1 1456 (c), the Wisconsin coastal management council shall certify that the withdrawal
2 is consistent with this state's coastal management program.

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

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

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

22 (c) *Program report.* No later than 12 months after the compact's effective date,
23 and every 5 years thereafter, the department shall submit a report to the Great Lakes
24 council and the regional body describing the implementation of the program under
25 this section, including the manner in which withdrawals from the Great Lakes basin

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1 are managed, how the criteria for approval under subs. (4), (5), and (6) are applied,
2 and how conservation and efficiency measures are implemented.

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

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

16 (f) *Report on threshold.* No later than the 60th month beginning after the
17 compact's effective date, the department shall submit to the legislature under s.
18 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and
19 providing any recommendations to change the threshold.

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

24 (c) In addition to the penalties under par. (a), the court may order the defendant
25 to abate any nuisance, restore a natural resource, or take, or refrain from taking, any

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1 other action as necessary to eliminate or minimize any environmental damage
2 caused by the defendant.

3 **SECTION 12.** 281.348 of the statutes is created to read:

4 **281.348 Regional water supply service area plans for public water**
5 **supply systems. (1) DEFINITIONS.** In this section:

6 (a) “Compact’s effective date” means the effective date of the Great Lakes—St.
7 Lawrence River Basin Water Resources Compact under s. 281.343 (9) (d).

8 (b) “Cost–effectiveness analysis” means a systematic comparison of alternative
9 means of providing a water supply in order to identify the alternative that will
10 minimize total resources costs and maximize environmental benefits over a planning
11 period.

12 (c) “Great Lakes basin” means the watershed of the Great Lakes and the St.
13 Lawrence River upstream from Trois—Rivieres, Quebec.

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

18 (e) “Total resources costs” includes monetary costs and direct and indirect
19 environmental as well as other nonmonetary costs.

20 (f) “Withdraw” means to take water from surface water or groundwater.

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

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

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

7 **(3) REQUIREMENTS.** (a) 1. The department shall establish and administer a
8 continuing water supply planning process for the preparation of water supply plans
9 for persons operating public water supply systems. The period covered by a plan
10 under this subsection may not exceed 20 years. A regional planning commission may
11 prepare plans for persons operating public water supply systems.

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

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

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

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

24 2m. Approval of a plan by the department.

25 3. Ensuring that plans remain current.

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- 1 4. Intergovernmental cooperation.
- 2 5. Reopening or reconsideration by the department of a previously approved
3 plan.
- 4 (c) A person preparing a plan under par. (a) shall include all of the following
5 in the plan:
- 6 1. Delineation of the area for which the plan is being prepared and proposed
7 water service areas for each public water supply system making a withdrawal
8 covered by the plan.
- 9 2. An inventory of the sources and quantities of the current water supplies in
10 the area.
- 11 3. A forecast of the demand for water in the area over the period covered by the
12 plan.
- 13 3m. Identification of the existing population and population density of the area
14 for which the plan is prepared and forecasts of the expected population and
15 population density of the area during the period covered by the plan.
- 16 4. Identification of the options for supplying water in the area for the period
17 covered by the plan that are approvable under other applicable statutes and rules
18 and that are cost-effective based upon a cost-effectiveness analysis of regional and
19 individual water supply and water conservation alternatives.
- 20 5. An assessment of the environmental, social, and economic impacts of
21 carrying out specific significant recommendations of the plan.
- 22 6. A demonstration that the plan will effectively maximize the use of existing
23 water supply and wastewater infrastructure.
- 24 7. Identification of the procedures for implementing and enforcing the plan and
25 a commitment to using those procedures.

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

4 9. Other information specified by the department.

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

7 1. The plan provides for the most cost-effective water supply system that is
8 approvable under this section and other applicable statutes and rules based on a
9 cost-effectiveness analysis of regional and individual water supply and water
10 conservation alternatives.

11 2. The plan will effectively maximize the use of existing water supply and
12 wastewater infrastructure.

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

15 4. The plan is consistent with any applicable approved areawide water quality
16 management plans under s. 283.83 and those plans were updated within 5 years
17 before the proposed plan is submitted to the department.

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

21 (e) The department shall specify in a plan under this section a water supply
22 service area for each public water supply system making a withdrawal covered by
23 the plan.

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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 13.** 281.35 (1) (b) 2. of the statutes is amended to read:

20 281.35 **(1)** (b) 2. If subd. 1. does not apply, the highest average daily water loss
21 over any 30-day period that is reported to the department ~~or the public service~~
22 ~~commission~~ under ~~sub. (3) (c) or s. 30.18 (6) (c), 196.98, 281.34, or 281.41 or s. 281.17~~
23 (1), 2001 stats.

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

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1 281.35 (1) (bm) “Compact’s effective date” means the effective date of the Great
2 Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

3 **SECTION 15.** 281.35 (2) (a) of the statutes is repealed.

4 **SECTION 16.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2).

5 **SECTION 17.** 281.35 (3) of the statutes is repealed.

6 **SECTION 18.** 281.35 (4) (a) (intro.) of the statutes is amended to read:

7 281.35 (4) (a) (intro.) ~~This~~ Except as provided in par. (c), this subsection applies
8 to all of the following:

9 **SECTION 19.** 281.35 (4) (c) of the statutes is created to read:

10 281.35 (4) (c) After the compact’s effective date, this subsection does not apply
11 to a person who withdraws water from the Great Lakes basin.

12 **SECTION 20.** 281.35 (5) (a) 13. of the statutes is amended to read:

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

18 **SECTION 21.** 281.35 (5) (b) of the statutes is amended to read:

19 281.35 (5) (b) *Great Lakes basin; consultation required.* If the department
20 receives an application before the compact’s effective date that, if approved, will
21 result in a new water loss to the Great Lakes basin averaging more than 5,000,000
22 gallons per day in any 30–day period, or an increase in an existing withdrawal that
23 will result in a water loss averaging 5,000,000 gallons per day in any 30–day period
24 above the applicant’s authorized base level of water loss, the department shall notify
25 the office of the governor or premier and the agency responsible for management of

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1 water resources in each state and province of the Great Lakes region and, if required
2 under the boundary water agreement of 1909, the international joint commission.
3 The department shall also request each state and province that has cooperated in
4 establishing the regional consultation procedure under sub. (11)–(f) (11m) to
5 comment on the application. In making its determination on an application, the
6 department shall consider any comments that are received within the time limit
7 established under par. (c).

8 **SECTION 22.** 281.35 (5) (c) (intro.) of the statutes is amended to read:

9 281.35 (5) (c) *Department response.* (intro.) Within the time limit established
10 by the department by rule, which, before the compact's effective date, shall be
11 consistent with the time limit, if any, established by the governors and premiers of
12 the Great Lakes states and provinces, the department shall do one of the following
13 in writing:

14 **SECTION 23.** 281.35 (5) (d) 2. of the statutes is amended to read:

15 281.35 (5) (d) 2. That the proposed withdrawal does not conflict with any
16 applicable plan for future uses of the waters of the state, including plans developed
17 under ~~ss. 281.12 (1) and s. 283.83 and any water quantity resources plan prepared~~
18 ~~under sub. (8).~~

19 **SECTION 24.** 281.35 (8) of the statutes is repealed.

20 **SECTION 25.** 281.35 (9) (a) of the statutes is amended to read:

21 281.35 (9) (a) The Wisconsin coastal management council, established under
22 executive order number 62, dated August 2, 1984, shall amend this state's coastal
23 management program submitted to the U.S. secretary of commerce under 16 USC
24 1455, to incorporate the requirements of this section and s. 281.344 and the findings
25 and purposes specified in 1985 Wisconsin Act 60, section 1, as they apply to the water

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1 resources of the Great Lakes basin, and shall formally submit the proposed
2 amendments to the U.S. secretary of commerce.

3 **SECTION 26.** 281.35 (9) (d) of the statutes is created to read:

4 281.35 (9) (d) This subsection does not apply after the compact's effective date.

5 **SECTION 27.** 281.35 (10) (a) 4. of the statutes is repealed.

6 **SECTION 28.** 281.35 (11) (intro.) of the statutes is amended to read:

7 281.35 (11) COOPERATION WITH OTHER STATES AND PROVINCES. (intro.) ~~The~~ Before
8 the compact's effective date, the department shall do all of the following:

9 **SECTION 29.** 281.35 (11) (f) of the statutes is renumbered 281.35 (11m) and
10 amended to read:

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

15 **SECTION 30.** 281.35 (12) (c) of the statutes is amended to read:

16 281.35 (12) (c) This state reserves the right to seek, in any state, federal or
17 provincial forum, an adjudication of the equitable apportionment of the water
18 resources of the ~~Great Lakes basin or upper Mississippi River basin~~ and, before the
19 compact's effective date, of the Great Lakes basin, and the protection and
20 determination of its rights and interests in those water resources, in any manner
21 provided by law.

22 **SECTION 31.** 281.41 (1) (c) of the statutes is amended to read:

23 281.41 (1) (c) Construction or material change shall be according to approved
24 plans only. The department may disapprove plans that are not in conformance with
25 any existing approved areawide waste treatment management plan prepared

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1 pursuant to the federal water pollution control act, P.L. 92-500, as amended, and
2 shall disapprove plans that do not meet the grounds for approval specified under s.
3 281.35 (5) (d), if applicable. ~~The department shall require each person whose plans~~
4 ~~are approved under this section to report that person's volume and rate of water~~
5 ~~withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of~~
6 ~~water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times~~
7 ~~specified by the department. The department shall disapprove plans that are not in~~
8 ~~conformance with any applicable approved water supply service area plan under s.~~
9 ~~281.348.~~

10 **SECTION 32.** 281.41 (4) of the statutes is created to read:

11 281.41 (4) When the department receives for review a plan under sub. (1) that
12 would result in returning water transferred from the Great Lakes basin to the source
13 watershed through a stream tributary to one of the Great Lakes, the department
14 shall provide notice of the plan or revision to the governing body of each city, village,
15 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 33.** 281.94 (1) of the statutes is amended to read:

18 281.94 (1) Any 6 or more residents of this state may petition for an
19 investigation of a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ alleged to be in
20 violation of s. 281.35 (3) ~~(a), 281.344 (3) (a), or 281.346 (3) (a),~~ in violation of a
21 condition, limitation or restriction of a permit or approval issued in conformance
22 with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 (3) ~~(a)~~
23 ~~or (4) to (6), 281.344 (3) (a), or 281.346 (3) (a)~~ by submitting to the department a
24 petition identifying the alleged violator and setting forth in detail the reasons for
25 believing a violation occurred. The petition shall state the name and address of a

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1 person in this state authorized to receive service of answer and other papers on
2 behalf of the petitioners and the name and address of a person authorized to appear
3 at a hearing on behalf of the petitioners.

4 **SECTION 34.** 281.95 of the statutes is amended to read:

5 **281.95 Remedies; water withdrawal violations.** Any person who makes
6 a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ in violation of s. 281.35 (3) (a),
7 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction
8 of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of
9 any rule promulgated under s. 281.35 (3) (a) ~~or~~ (4) to (6), 281.344 (3) (a), or 281.346
10 (3) (a) is liable to any person who is adversely affected by the withdrawal for damages
11 or other appropriate relief. Any person who is or may be adversely affected by an
12 existing or proposed withdrawal, ~~as defined under s. 281.35 (1) (m),~~ which is in
13 violation of a condition, limitation or restriction of a permit or approval issued in
14 conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s.
15 281.35 (4) to (6) may bring an action in the circuit court to restrain or enjoin the
16 withdrawal.

17 **SECTION 35.** 281.98 (1) of the statutes is amended to read:

18 **281.98 (1)** Except as provided in ss. 281.344 (14) (a), 281.346 (14) (a), 281.47
19 (1) (d), 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule
20 promulgated or any plan approval, license, special order, or water quality
21 certification issued under this chapter shall forfeit not less than \$10 nor more than
22 \$5,000 for each violation. Each day of continued violation is a separate offense.
23 While an order is suspended, stayed, or enjoined, this penalty does not accrue.

24 **SECTION 36.** 283.41 (3) of the statutes is created to read:

