

**As Passed by the House**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 416**

**Representative Dolan**

**Cosponsors: Representatives Wagoner, Evans, Brown, Stebelton, Huffman, McGregor, J., Harwood, Skindell, Redfern, Webster, Yuko, Flowers, Koziura, Chandler, Combs, Szollosi, McGregor, R., Brinkman, Goodwin, Peterson, Foley, DeGeeter, Brady, Letson, Strahorn, Lundy, Oelslager, Hagan, J., Schindel, Williams, B., DeBose, Mallory, Celeste, Collier, Ujvagi, Hagan, R., Bacon, Beatty, Blessing, Bolon, Boyd, Budish, Coley, Domenick, Driehaus, Fende, Gardner, Heard, Hite, Hottinger, Hughes, Luckie, Mecklenborg, Otterman, J., Sayre, Sears, Setzer, Stewart, D., Stewart, J., Yates**

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**A B I L L**

To enact sections 1522.01, 1522.02, 1522.03, 1522.04, 1522.05, 1522.06, 1522.07, and 1522.08 of the Revised Code to ratify the Great Lakes-St. Lawrence River Basin Water Resources Compact and to establish related requirements.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1522.01, 1522.02, 1522.03, 1522.04, 1522.05, 1522.06, 1522.07, and 1522.08 of the Revised Code be enacted to read as follows:

Sec. 1522.01. The "great lakes-st. Lawrence river basin water resources compact," which has been negotiated by representatives of this state and the states of Illinois, Indiana, Michigan, Minnesota, New York, and Wisconsin and the commonwealth of

Pennsylvania, is hereby ratified, enacted into law, and entered 13  
into by this state as a party to it as follows: 14

**AGREEMENT** 15

**Section 1.** The states of Illinois, Indiana, Michigan, Minnesota, 16  
New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania 17  
hereby solemnly covenant and agree with each other, upon enactment 18  
of concurrent legislation by the respective state legislatures and 19  
consent by the Congress of the United States as follows: 20

**GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT** 21

**ARTICLE 1** 22

**SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION** 23

**Section 1.1. Short Title.** 24

This act shall be known and may be cited as the "Great Lakes-St. 25  
Lawrence River Basin Water Resources Compact." 26

**Section 1.2. Definitions.** 27

For the purposes of this Compact, and of any supplemental or 28  
concurring legislation enacted pursuant thereto, except as may be 29  
otherwise required by the context: 30

**Adaptive Management** means a Water resources management system that 31  
provides a systematic process for evaluation, monitoring and 32  
learning from the outcomes of operational programs and adjustment 33  
of policies, plans and programs based on experience and the 34  
evolution of scientific knowledge concerning Water resources and 35  
Water Dependent Natural Resources. 36

**Agreement** means the Great Lakes-St. Lawrence River Basin 37  
Sustainable Water Resources Agreement. 38

**Applicant** means a Person who is required to submit a Proposal that 39  
is subject to management and regulation under this Compact. 40

**Application** has a corresponding meaning. 41

Basin or Great Lakes-St. Lawrence River Basin means the watershed 42

of the Great Lakes and the St. Lawrence River upstream from 43  
Trois-Rivieres, Quebec within the jurisdiction of the Parties. 44

Basin Ecosystem or Great Lakes-St. Lawrence River Basin Ecosystem 45  
means the interacting components of air, land, Water and living 46  
organisms, including humankind, within the Basin. 47

Community within a Straddling County means any incorporated city, 48  
town or the equivalent thereof, that is located outside the Basin 49  
but wholly within a County that lies partly within the Basin and 50  
that is not a Straddling Community. 51

Compact means this Compact. 52

Consumptive Use means that portion of the Water Withdrawn or 53  
withheld from the Basin that is lost or otherwise not returned to 54  
the Basin due to evaporation, incorporation into Products or other 55  
processes. 56

Council means the Great Lakes-St. Lawrence River Basin Water 57  
Resources Council, created by this Compact. 58

Council Review means the collective review by the Council members 59  
as described in Article 4 of this Compact. 60

County means the largest territorial division for local government 61  
in a State. The County boundaries shall be defined as those 62  
boundaries that exist as of December 13, 2005. 63

Cumulative Impacts mean the impact on the Basin Ecosystem that 64  
results from incremental effects of all aspects of a Withdrawal, 65  
Diversion or Consumptive Use in addition to other past, present 66  
and reasonably foreseeable future Withdrawals, Diversions and 67  
Consumptive Uses regardless of who undertakes the other 68  
Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts 69  
can result from individually minor but collectively significant 70  
Withdrawals, Diversions and Consumptive Uses taking place over a 71  
period of time. 72

Decision-Making Standard means the decision-making standard 73  
established by Section 4.11 for Proposals subject to management 74  
and regulation in Section 4.10. 75

Diversion means a transfer of Water from the Basin into another 76  
watershed, or from the watershed of one of the Great Lakes into 77  
that of another by any means of transfer, including but not 78  
limited to a pipeline, canal, tunnel, aqueduct, channel, 79  
modification of the direction of a water course, a tanker ship, 80  
tanker truck or rail tanker but does not apply to Water that is 81  
used in the Basin or a Great Lake watershed to manufacture or 82  
produce a Product that is then transferred out of the Basin or 83  
watershed. **Divert** has a corresponding meaning. 84

Environmentally Sound and Economically Feasible Water Conservation 85  
Measures mean those measures, methods, technologies or practices 86  
for efficient water use and for reduction of water loss and waste 87  
or for reducing a Withdrawal, Consumptive Use or Diversion that i) 88  
are environmentally sound, ii) reflect best practices applicable 89  
to the water use sector, iii) are technically feasible and 90  
available, iv) are economically feasible and cost effective based 91  
on an analysis that considers direct and avoided economic and 92  
environmental costs and v) consider the particular facilities and 93  
processes involved, taking into account the environmental impact, 94  
age of equipment and facilities involved, the processes employed, 95  
energy impacts and other appropriate factors. 96

Exception means a transfer of Water that is excepted under Section 97  
4.9 from the prohibition against Diversions in Section 4.8. 98

Exception Standard means the standard for Exceptions established 99  
in Section 4.9.4. 100

Intra-Basin Transfer means the transfer of Water from the 101  
watershed of one of the Great Lakes into the watershed of another 102  
Great Lake. 103

<u>Measures</u> means any legislation, law, regulation, directive,	104
<u>requirement, guideline, program, policy, administrative practice</u>	105
<u>or other procedure.</u>	106
<u>New or Increased Diversion</u> means a new Diversion, an increase in	107
<u>an existing Diversion or the alteration of an existing Withdrawal</u>	108
<u>so that it becomes a Diversion.</u>	109
<u>New or Increased Withdrawal or Consumptive Use</u> means a new	110
<u>Withdrawal or Consumptive Use or an increase in an existing</u>	111
<u>Withdrawal or Consumptive Use.</u>	112
<u>Originating Party</u> means the Party within whose jurisdiction an	113
<u>Application or registration is made or required.</u>	114
<u>Party</u> means a State party to this Compact.	115
<u>Person</u> means a human being or a legal person, including a	116
<u>government or a non-governmental organization, including any</u>	117
<u>scientific, professional, business, nonprofit or public interest</u>	118
<u>organization or association that is neither affiliated with, nor</u>	119
<u>under the direction of a government.</u>	120
<u>Product</u> means something produced in the Basin by human or	121
<u>mechanical effort or through agricultural processes and used in</u>	122
<u>manufacturing, commercial or other processes or intended for</u>	123
<u>intermediate or end use consumers. (i) Water used as part of the</u>	124
<u>packaging of a Product shall be considered to be part of the</u>	125
<u>Product. (ii) Other than Water used as part of the packaging of a</u>	126
<u>Product, Water that is used primarily to transport materials in or</u>	127
<u>out of the Basin is not a Product or part of a Product. (iii)</u>	128
<u>Except as provided in (i) above, Water which is transferred as</u>	129
<u>part of a public or private supply is not a Product or part of a</u>	130
<u>Product. (iv) Water in its natural state such as in lakes, rivers,</u>	131
<u>reservoirs, aquifers or water basins is not a Product.</u>	132
<u>Proposal</u> means a Withdrawal, Diversion or Consumptive Use of Water	133
<u>that is subject to this Compact.</u>	134

<u>Province</u> means Ontario or Quebec.	135
<u>Public Water Supply Purposes</u> means water distributed to the public through a physically connected system of treatment, storage and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial and other institutional operators. Water Withdrawn directly from the Basin and not through such a system shall not be considered to be used for Public Water Supply Purposes.	136 137 138 139 140 141 142
<u>Regional Body</u> means the members of the Council and the Premiers of Ontario and Quebec or their designee as established by the Agreement.	143 144 145
<u>Regional Review</u> means the collective review by the Regional Body as described in Article 4 of this Compact.	146 147
<u>Source Watershed</u> means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.	148 149 150 151 152 153 154 155 156 157 158
<u>Standard of Review and Decision</u> means the Exception Standard, Decision-Making Standard and reviews as outlined in Article 4 of this Compact.	159 160 161
<u>State</u> means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.	162 163 164
<u>Straddling Community</u> means any incorporated city, town or the	165

equivalent thereof, wholly within any County that lies partly or 166  
completely within the Basin, whose corporate boundary existing as 167  
of the effective date of this Compact, is partly within the Basin 168  
or partly within two Great Lakes watersheds. 169

**Technical Review** means a detailed review conducted to determine 170  
whether or not a Proposal that requires Regional Review under this 171  
Compact meets the Standard of Review and Decision following 172  
procedures and guidelines as set out in this Compact. 173

**Water** means ground or surface water contained within the Basin. 174

**Water Dependent Natural Resources** means the interacting components 175  
of land, Water and living organisms affected by the Waters of the 176  
Basin. 177

**Waters of the Basin or Basin Water** means the Great Lakes and all 178  
streams, rivers, lakes, connecting channels and other bodies of 179  
water, including tributary groundwater, within the Basin. 180

**Withdrawal** means the taking of water from surface water or 181  
groundwater. **Withdraw** has a corresponding meaning. 182

**Section 1.3. Findings and Purposes.** 183

The legislative bodies of the respective Parties hereby find and 184  
declare: 185

1. Findings: 186

a. The Waters of the Basin are precious public natural resources 187  
shared and held in trust by the States; 188

b. The Waters of the Basin are interconnected and part of a single 189  
hydrologic system; 190

c. The Waters of the Basin can concurrently serve multiple uses. 191  
Such multiple uses include municipal, public, industrial, 192  
commercial, agriculture, mining, navigation, energy 193  
development and production, recreation, the subsistence, 194  
economic and cultural activities of native peoples, Water 195

<u>quality maintenance and the maintenance of fish and wildlife</u>	196
<u>habitat and a balanced ecosystem. And, other purposes are</u>	197
<u>encouraged, recognizing that such uses are interdependent and</u>	198
<u>must be balanced;</u>	199
<u>d. Future Diversions and Consumptive Uses of Basin Water resources</u>	200
<u>have the potential to significantly impact the environment,</u>	201
<u>economy and welfare of the Great Lakes-St. Lawrence River</u>	202
<u>region;</u>	203
<u>e. Continued sustainable, accessible and adequate Water supplies</u>	204
<u>for the people and economy of the Basin are of vital</u>	205
<u>importance; and,</u>	206
<u>f. The Parties have a shared duty to protect, conserve, restore,</u>	207
<u>improve and manage the renewable but finite Waters of the</u>	208
<u>Basin for the use, benefit and enjoyment of all their</u>	209
<u>citizens, including generations yet to come. The most</u>	210
<u>effective means of protecting, conserving, restoring,</u>	211
<u>improving and managing the Basin Waters is through the joint</u>	212
<u>pursuit of unified and cooperative principles, policies and</u>	213
<u>programs mutually agreed upon, enacted and adhered to by all</u>	214
<u>Parties.</u>	215
<u>2. Purposes:</u>	216
<u>a. To act together to protect, conserve, restore, improve and</u>	217
<u>effectively manage the Waters and Water Dependent Natural</u>	218
<u>Resources of the Basin under appropriate arrangements for</u>	219
<u>intergovernmental cooperation and consultation because</u>	220
<u>current lack of full scientific certainty should not be used</u>	221
<u>as a reason for postponing measures to protect the Basin</u>	222
<u>Ecosystem;</u>	223
<u>b. To remove causes of present and future controversies;</u>	224
<u>c. To provide for cooperative planning and action by the Parties</u>	225
<u>with respect to such Water resources;</u>	226

<u>d. To facilitate consistent approaches to Water management across the Basin while retaining State management authority over Water management decisions within the Basin;</u>	227 228 229
<u>e. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made and engage in consultation on the potential effects of proposed Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;</u>	230 231 232 233 234
<u>f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;</u>	235 236
<u>g. To promote interstate and State-Provincial comity; and,</u>	237
<u>h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources.</u>	238 239 240 241 242
<b><u>Section 1.4. Science.</u></b>	243
<u>1. The Parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound Water management decision making under this Compact.</u>	244 245 246 247
<u>2. The strategy shall guide the collection and application of scientific information to support:</u>	248 249
<u>a. An improved understanding of the individual and Cumulative Impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem and to develop a mechanism by which impacts of Withdrawals may be assessed;</u>	250 251 252 253
<u>b. The periodic assessment of Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses on a Great Lake and St. Lawrence River watershed basis;</u>	254 255 256

- c. Improved scientific understanding of the Waters of the Basin; 257
- d. Improved understanding of the role of groundwater in Basin 258  
Water resources management; and, 259
- e. The development, transfer and application of science and 260  
research related to Water conservation and Water use 261  
efficiency. 262

**ARTICLE 2** 263

**ORGANIZATION** 264

**Section 2.1. Council Created.** 265

The Great Lakes-St. Lawrence River Basin Water Resources Council 266  
is hereby created as a body politic and corporate, with succession 267  
for the duration of this Compact, as an agency and instrumentality 268  
of the governments of the respective Parties. 269

**Section 2.2. Council Membership.** 270

The Council shall consist of the Governors of the Parties, ex 271  
officio. 272

**Section 2.3. Alternates.** 273

Each member of the Council shall appoint at least one alternate 274  
who may act in his or her place and stead, with authority to 275  
attend all meetings of the Council and with power to vote in the 276  
absence of the member. Unless otherwise provided by law of the 277  
Party for which he or she is appointed, each alternate shall serve 278  
during the term of the member appointing him or her, subject to 279  
removal at the pleasure of the member. In the event of a vacancy 280  
in the office of alternate, it shall be filled in the same manner 281  
as an original appointment for the unexpired term only. 282

**Section 2.4. Voting.** 283

1. Each member is entitled to one vote on all matters that may 284  
come before the Council. 285
2. Unless otherwise stated, the rule of decision shall be by a 286

<u>simple majority.</u>	287
<u>3. The Council shall annually adopt a budget for each fiscal year</u>	288
<u>and the amount required to balance the budget shall be</u>	289
<u>apportioned equitably among the Parties by unanimous vote of</u>	290
<u>the Council. The appropriation of such amounts shall be</u>	291
<u>subject to such review and approval as may be required by the</u>	292
<u>budgetary processes of the respective Parties.</u>	293
<u>4. The participation of Council members from a majority of the</u>	294
<u>Parties shall constitute a quorum for the transaction of</u>	295
<u>business at any meeting of the Council.</u>	296
<b><u>Section 2.5. Organization and Procedure.</u></b>	297
<u>The Council shall provide for its own organization and procedure,</u>	298
<u>and may adopt rules and regulations governing its meetings and</u>	299
<u>transactions, as well as the procedures and timeline for</u>	300
<u>submission, review and consideration of Proposals that come before</u>	301
<u>the Council for its review and action. The Council shall organize,</u>	302
<u>annually, by the election of a Chair and Vice-Chair from among its</u>	303
<u>members. Each member may appoint an advisor, who may attend all</u>	304
<u>meetings of the Council and its committees, but shall not have</u>	305
<u>voting power. The Council may employ or appoint professional and</u>	306
<u>administrative personnel, including an Executive Director, as it</u>	307
<u>may deem advisable, to carry out the purposes of this Compact.</u>	308
<b><u>Section 2.6. Use of Existing Offices and Agencies.</u></b>	309
<u>It is the policy of the Parties to preserve and utilize the</u>	310
<u>functions, powers and duties of existing offices and agencies of</u>	311
<u>government to the extent consistent with this Compact. Further,</u>	312
<u>the Council shall promote and aid the coordination of the</u>	313
<u>activities and programs of the Parties concerned with Water</u>	314
<u>resources management in the Basin. To this end, but without</u>	315
<u>limitation, the Council may:</u>	316
<u>1. Advise, consult, contract, assist or otherwise cooperate with</u>	317

<u>any and all such agencies;</u>	318
<u>2. Employ any other agency or instrumentality of any of the</u>	319
<u>Parties for any purpose; and,</u>	320
<u>3. Develop and adopt plans consistent with the Water resources</u>	321
<u>plans of the Parties.</u>	322
<b><u>Section 2.7. Jurisdiction.</u></b>	323
<u>The Council shall have, exercise and discharge its functions,</u>	324
<u>powers and duties within the limits of the Basin. Outside the</u>	325
<u>Basin, it may act in its discretion, but only to the extent such</u>	326
<u>action may be necessary or convenient to effectuate or implement</u>	327
<u>its powers or responsibilities within the Basin and subject to the</u>	328
<u>consent of the jurisdiction wherein it proposes to act.</u>	329
<b><u>Section 2.8. Status, Immunities and Privileges.</u></b>	330
<u>1. The Council, its members and personnel in their official</u>	331
<u>capacity and when engaged directly in the affairs of the</u>	332
<u>Council, its property and its assets, wherever located and by</u>	333
<u>whomsoever held, shall enjoy the same immunity from suit and</u>	334
<u>every form of judicial process as is enjoyed by the Parties,</u>	335
<u>except to the extent that the Council may expressly waive its</u>	336
<u>immunity for the purposes of any proceedings or by the terms</u>	337
<u>of any contract.</u>	338
<u>2. The property and assets of the Council, wherever located and by</u>	339
<u>whomsoever held, shall be considered public property and</u>	340
<u>shall be immune from search, requisition, confiscation,</u>	341
<u>expropriation or any other form of taking or foreclosure by</u>	342
<u>executive or legislative action.</u>	343
<u>3. The Council, its property and its assets, income and the</u>	344
<u>operations it carries out pursuant to this Compact shall be</u>	345
<u>immune from all taxation by or under the authority of any of</u>	346
<u>the Parties or any political subdivision thereof; provided,</u>	347

however, that in lieu of property taxes the Council may make 348  
reasonable payments to local taxing districts in annual 349  
amounts which shall approximate the taxes lawfully assessed 350  
upon similar property. 351

**Section 2.9. Advisory Committees.** 352

The Council may constitute and empower advisory committees, which 353  
may be comprised of representatives of the public and of federal, 354  
State, tribal, county and local governments, water resources 355  
agencies, water-using industries and sectors, water-interest 356  
groups and academic experts in related fields. 357

**ARTICLE 3** 358

**GENERAL POWERS AND DUTIES** 359

**Section 3.1. General.** 360

The Waters and Water Dependent Natural Resources of the Basin are 361  
subject to the sovereign right and responsibilities of the 362  
Parties, and it is the purpose of this Compact to provide for 363  
joint exercise of such powers of sovereignty by the Council in the 364  
common interests of the people of the region, in the manner and to 365  
the extent provided in this Compact. The Council and the Parties 366  
shall use the Standard of Review and Decision and procedures 367  
contained in or adopted pursuant to this Compact as the means to 368  
exercise their authority under this Compact. 369

The Council may revise the Standard of Review and Decision, after 370  
consultation with the Provinces and upon unanimous vote of all 371  
Council members, by regulation duly adopted in accordance with 372  
Section 3.3 of this Compact and in accordance with each Party's 373  
respective statutory authorities and applicable procedures. 374

The Council shall identify priorities and develop plans and 375  
policies relating to Basin Water resources. It shall adopt and 376  
promote uniform and coordinated policies for Water resources 377  
conservation and management in the Basin. 378

**Section 3.2. Council Powers.** 379

The Council may: plan; conduct research and collect, compile, 380  
analyze, interpret, report and disseminate data on Water resources 381  
and uses; forecast Water levels; conduct investigations; institute 382  
court actions; design, acquire, construct, reconstruct, own, 383  
operate, maintain, control, sell and convey real and personal 384  
property and any interest therein as it may deem necessary, useful 385  
or convenient to carry out the purposes of this Compact; make 386  
contracts; receive and accept such payments, appropriations, 387  
grants, gifts, loans, advances and other funds, properties and 388  
services as may be transferred or made available to it by any 389  
Party or by any other public or private agency, corporation or 390  
individual; and, exercise such other and different powers as may 391  
be delegated to it by this Compact or otherwise pursuant to law, 392  
and have and exercise all powers necessary or convenient to carry 393  
out its express powers or which may be reasonably implied 394  
therefrom. 395

**Section 3.3. Rules and Regulations.** 396

1. The Council may promulgate and enforce such rules and 397  
regulations as may be necessary for the implementation and 398  
enforcement of this Compact. The Council may adopt by 399  
regulation, after public notice and public hearing, 400  
reasonable Application fees with respect to those Proposals 401  
for Exceptions that are subject to Council review under 402  
Section 4.9. Any rule or regulation of the Council, other 403  
than one which deals solely with the internal management of 404  
the Council or its property, shall be adopted only after 405  
public notice and hearing. 406

2. Each Party, in accordance with its respective statutory 407  
authorities and applicable procedures, may adopt and enforce 408  
rules and regulations to implement and enforce this Compact 409  
and the programs adopted by such Party to carry out the 410

management programs contemplated by this Compact. 411

**Section 3.4. Program Review and Findings.** 412

1. Each Party shall submit a report to the Council and the 413

Regional Body detailing its Water management and conservation 414

and efficiency programs that implement this Compact. The 415

report shall set out the manner in which Water Withdrawals 416

are managed by sector, Water source, quantity or any other 417

means, and how the provisions of the Standard of Review and 418

Decision and conservation and efficiency programs are 419

implemented. The first report shall be provided by each Party 420

one year from the effective date of this Compact and 421

thereafter every five years. 422

2. The Council, in cooperation with the Provinces, shall review 423

its Water management and conservation and efficiency programs 424

and those of the Parties that are established in this Compact 425

and make findings on whether the Water management program 426

provisions in this Compact are being met, and if not, 427

recommend options to assist the Parties in meeting the 428

provisions of this Compact. Such review shall take place: 429

a. Thirty days after the first report is submitted by all Parties; 430

and, 431

b. Every five years after the effective date of this Compact; and, 432

c. At any other time at the request of one of the Parties.

3. As one of its duties and responsibilities, the Council may 433

recommend a range of approaches to the Parties with respect 434

to the development, enhancement and application of Water 435

management and conservation and efficiency programs to 436

implement the Standard of Review and Decision reflecting 437

improved scientific understanding of the Waters of the Basin, 438

including groundwater, and the impacts of Withdrawals on the 439

Basin Ecosystem. 440

ARTICLE 4

441

WATER MANAGEMENT AND REGULATION

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Section 4.1. Water Resources Inventory, Registration and Reporting.

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1. Within five years of the effective date of this Compact, each Party shall develop and maintain a Water resources inventory for the collection, interpretation, storage, retrieval, exchange and dissemination of information concerning the Water resources of the Party, including, but not limited to, information on the location, type, quantity and use of those resources and the location, type and quantity of Withdrawals, Diversions and Consumptive Uses. To the extent feasible, the Water resources inventory shall be developed in cooperation with local, State, federal, tribal and other private agencies and entities, as well as the Council. Each Party's agencies shall cooperate with that Party in the development and maintenance of the inventory. 445  
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2. The Council shall assist each Party to develop a common base of data regarding the management of the Water resources of the Basin and to establish systematic arrangements for the exchange of those data with other States and Provinces. 458  
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3. To develop and maintain a compatible base of Water use information, within five years of the effective date of this Compact any Person who Withdraws Water in an amount of 100,000 gallons per day or greater average in any 30-day period (including Consumptive Uses) from all sources, or Diverts Water of any amount, shall register the Withdrawal or Diversion by a date set by the Council unless the Person has previously registered in accordance with an existing State program. The Person shall register the Withdrawal or Diversion with the Originating Party using a form prescribed by the Originating Party that shall include, at a minimum and 462  
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without limitation: the name and address of the registrant 473  
and date of registration; the locations and sources of the 474  
Withdrawal or Diversion; the capacity of the Withdrawal or 475  
Diversion per day and the amount Withdrawn or Diverted from 476  
each source; the uses made of the Water; places of use and 477  
places of discharge; and, such other information as the 478  
Originating Party may require. All registrations shall 479  
include an estimate of the volume of the Withdrawal or 480  
Diversion in terms of gallons per day average in any 30-day 481  
period. 482

4. All registrants shall annually report the monthly volumes of 483  
the Withdrawal, Consumptive Use and Diversion in gallons to 484  
the Originating Party and any other information requested by 485  
the Originating Party. 486

5. Each Party shall annually report the information gathered 487  
pursuant to this Section to a Great Lakes-St. Lawrence River 488  
Water use data base repository and aggregated information 489  
shall be made publicly available, consistent with the 490  
confidentiality requirements in Section 8.3. 491

6. Information gathered by the Parties pursuant to this Section 492  
shall be used to improve the sources and applications of 493  
scientific information regarding the Waters of the Basin and 494  
the impacts of the Withdrawals and Diversions from various 495  
locations and Water sources on the Basin Ecosystem, and to 496  
better understand the role of groundwater in the Basin. The 497  
Council and the Parties shall coordinate the collection and 498  
application of scientific information to further develop a 499  
mechanism by which individual and Cumulative Impacts of 500  
Withdrawals, Consumptive Uses and Diversions shall be 501  
assessed. 502

**Section 4.2. Water Conservation and Efficiency Programs.** 503

1. The Council commits to identify, in cooperation with the 504  
Provinces, Basin-wide Water conservation and efficiency 505  
objectives to assist the Parties in developing their Water 506  
conservation and efficiency program. These objectives are 507  
based on the goals of: 508
  - a. Ensuring improvement of the Waters and Water Dependent Natural 509  
Resources; 510
  - b. Protecting and restoring the hydrologic and ecosystem integrity 511  
of the Basin; 512
  - c. Retaining the quantity of surface water and groundwater in the 513  
Basin; 514
  - d. Ensuring sustainable use of Waters of the Basin; and, 515
  - e. Promoting the efficiency of use and reducing losses and waste 516  
of Water. 517
2. Within two years of the effective date of this Compact, each 518  
Party shall develop its own Water conservation and efficiency 519  
goals and objectives consistent with the Basin-wide goals and 520  
objectives, and shall develop and implement a Water 521  
conservation and efficiency program, either voluntary or 522  
mandatory, within its jurisdiction based on the Party's goals 523  
and objectives. Each Party shall annually assess its programs 524  
in meeting the Party's goals and objectives, report to the 525  
Council and the Regional Body and make this annual assessment 526  
available to the public. 527
3. Beginning five years after the effective date of this Compact, 528  
and every five years thereafter, the Council, in cooperation 529  
with the Provinces, shall review and modify as appropriate 530  
the Basin-wide objectives, and the Parties shall have regard 531  
for any such modifications in implementing their programs. 532  
This assessment will be based on examining new technologies, 533  
new patterns of Water use, new resource demands and threats 534

<u>and Cumulative Impact assessment under Section 4.15.</u>	535
<u>4. Within two years of the effective date of this Compact, the</u>	536
<u>Parties commit to promote Environmentally Sound and</u>	537
<u>Economically Feasible Water Conservation Measures such as:</u>	538
<u>a. Measures that promote efficient use of Water;</u>	539
<u>b. Identification and sharing of best management practices and</u>	540
<u>state of the art conservation and efficiency technologies;</u>	541
<u>c. Application of sound planning principles;</u>	542
<u>d. Demand-side and supply-side Measures or incentives; and,</u>	543
<u>e. Development, transfer and application of science and research.</u>	544
<u>5. Each Party shall implement in accordance with Paragraph 2 above</u>	545
<u>a voluntary or mandatory Water conservation program for all,</u>	546
<u>including existing, Basin Water users. Conservation programs</u>	547
<u>need to adjust to new demands and the potential impacts of</u>	548
<u>cumulative effects and climate.</u>	549
<b><u>Section 4.3. Party Powers and Duties.</u></b>	550
<u>1. Each Party, within its jurisdiction, shall manage and regulate</u>	551
<u>New or Increased Withdrawals, Consumptive Uses and</u>	552
<u>Diversions, including Exceptions, in accordance with this</u>	553
<u>Compact.</u>	554
<u>2. Each Party shall require an Applicant to submit an Application</u>	555
<u>in such manner and with such accompanying information as the</u>	556
<u>Party shall prescribe.</u>	557
<u>3. No Party may approve a Proposal if the Party determines that</u>	558
<u>the Proposal is inconsistent with this Compact or the</u>	559
<u>Standard of Review and Decision or any implementing rules or</u>	560
<u>regulations promulgated thereunder. The Party may approve,</u>	561
<u>approve with modifications or disapprove any Proposal</u>	562
<u>depending on the Proposal's consistency with this Compact and</u>	563
<u>the Standard of Review and Decision.</u>	564

4. Each Party shall monitor the implementation of any approved Proposal to ensure consistency with the approval and may take all necessary enforcement actions. 565  
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5. No Party shall approve a Proposal subject to Council or Regional Review, or both, pursuant to this Compact unless it shall have been first submitted to and reviewed by either the Council or Regional Body, or both, and approved by the Council, as applicable. Sufficient opportunity shall be provided for comment on the Proposal's consistency with this Compact and the Standard of Review and Decision. All such comments shall become part of the Party's formal record of decision, and the Party shall take into consideration any such comments received. 568  
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**Section 4.4. Requirement for Originating Party Approval.** 578

No Proposal subject to management and regulation under this Compact shall hereafter be undertaken by any Person unless it shall have been approved by the Originating Party. 579  
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**Section 4.5. Regional Review.** 582

1. General. 583

a. It is the intention of the Parties to participate in Regional Review of Proposals with the Provinces, as described in this Compact and the Agreement. 584  
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b. Unless the Applicant or the Originating Party otherwise requests, it shall be the goal of the Regional Body to conclude its review no later than 90 days after notice under Section 4.5.2 of such Proposal is received from the Originating Party. 587  
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c. Proposals for Exceptions subject to Regional Review shall be submitted by the Originating Party to the Regional Body for Regional Review, and where applicable, to the Council for 592  
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- concurrent review. 595
- d. The Parties agree that the protection of the integrity of the 596  
Great Lakes-St. Lawrence River Basin Ecosystem shall be the 597  
overarching principle for reviewing Proposals subject to 598  
Regional Review, recognizing uncertainties with respect to 599  
demands that may be placed on Basin Water, including 600  
groundwater, levels and flows of the Great Lakes and the St. 601  
Lawrence River, future changes in environmental conditions, 602  
the reliability of existing data and the extent to which 603  
Diversions may harm the integrity of the Basin Ecosystem. 604
- e. The Originating Party shall have lead responsibility for 605  
coordinating information for resolution of issues related to 606  
evaluation of a Proposal, and shall consult with the 607  
Applicant throughout the Regional Review process. 608
- f. A majority of the members of the Regional Body may request 609  
Regional Review of a regionally significant or potentially 610  
precedent setting Proposal. Such Regional Review must be 611  
conducted, to the extent possible, within the time frames set 612  
forth in this Section. Any such Regional Review shall be 613  
undertaken only after consulting the Applicant. 614
2. Notice from Originating Party to the Regional Body. 615
- a. The Originating Party shall determine if a Proposal is subject 616  
to Regional Review. If so, the Originating Party shall 617  
provide timely notice to the Regional Body and the public. 618
- b. Such notice shall not be given unless and until all 619  
information, documents and the Originating Party's Technical 620  
Review needed to evaluate whether the Proposal meets the 621  
Standard of Review and Decision have been provided. 622
- c. An Originating Party may: 623
- i. Provide notice to the Regional Body of an Application, even if 624

- notification is not required; or, 625
- ii. Request Regional Review of an application, even if Regional 626  
Review is not required. Any such Regional Review shall be 627  
undertaken only after consulting the Applicant. 628
- d. An Originating Party may provide preliminary notice of a 629  
potential Proposal. 630
3. Public Participation. 631
- a. To ensure adequate public participation, the Regional Body 632  
shall adopt procedures for the review of Proposals that are 633  
subject to Regional Review in accordance with this Article. 634
- b. The Regional Body shall provide notice to the public of a 635  
Proposal undergoing Regional Review. Such notice shall 636  
indicate that the public has an opportunity to comment in 637  
writing to the Regional Body on whether the Proposal meets 638  
the Standard of Review and Decision. 639
- c. The Regional Body shall hold a public meeting in the State or 640  
Province of the Originating Party in order to receive public 641  
comment on the issue of whether the Proposal under 642  
consideration meets the Standard of Review and Decision. 643
- d. The Regional Body shall consider the comments received before 644  
issuing a Declaration of Finding. 645
- e. The Regional Body shall forward the comments it receives to the 646  
Originating Party. 647
4. Technical Review. 648
- a. The Originating Party shall provide the Regional Body with its 649  
Technical Review of the Proposal under consideration. 650
- b. The Originating Party's Technical Review shall thoroughly 651  
analyze the Proposal and provide an evaluation of the 652  
Proposal sufficient for a determination of whether the 653  
Proposal meets the Standard of Review and Decision. 654

- c. Any member of the Regional Body may conduct their own Technical Review of any Proposal subject to Regional Review. 655  
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- d. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal. 657  
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- e. All Parties shall exercise their best efforts to ensure that a Technical Review undertaken under Sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the Originating Party on the Application. Unless the Applicant or the Originating Party otherwise requests, all Technical Reviews shall be completed no later than 60 days after the date the notice of the Proposal was given to the Regional Body. 660  
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5. Declaration of Finding. 668
- a. The Regional Body shall meet to consider a Proposal. The Applicant shall be provided with an opportunity to present the Proposal to the Regional Body at such time. 669  
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- b. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized Tribes, and any other information that is provided under this Compact shall issue a Declaration of Finding that the Proposal under consideration: 672  
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- i. Meets the Standard of Review and Decision; 679
- ii. Does not meet the Standard of Review and Decision; or, 680
- iii. Would meet the Standard of Review and Decision if certain conditions were met. 681  
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- c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body. 683  
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- d. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Standard of Review and Decision. 685  
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- e. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus. 688  
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- f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days. 691  
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- g. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions. 694  
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- h. The Regional Body shall release the Declaration of Finding to the public. 697  
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- i. The Originating Party and the Council shall consider the Declaration of Finding before making a decision on the Proposal. 699  
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- Section 4.6. Proposals Subject to Prior Notice.** 702
1. Beginning no later than five years from the effective date of this Compact, the Originating Party shall provide all Parties and the Provinces with detailed and timely notice and an opportunity to comment within 90 days on any Proposal for a New or Increased Consumptive Use of 5 million gallons per day or greater average in any 90-day period. Comments shall address whether or not the Proposal is consistent with the Standard of Review and Decision. The Originating Party shall provide a response to any such comment received from another Party. 703  
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2. A Party may provide notice, an opportunity to comment and a response to comments even if this is not required under 713  
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Paragraph 1 of this Section. Any provision of such notice and 715  
opportunity to comment shall be undertaken only after 716  
consulting the Applicant. 717

**Section 4.7 Council Actions.** 718

1. Proposals for Exceptions subject to Council Review shall be 719  
submitted by the Originating Party to the Council for Council 720  
Review, and where applicable, to the Regional Body for 721  
concurrent review. 722

2. The Council shall review and take action on Proposals in 723  
accordance with this Compact and the Standard of Review and 724  
Decision. The Council shall not take action on a Proposal 725  
subject to Regional Review pursuant to this Compact unless 726  
the Proposal shall have been first submitted to and reviewed 727  
by the Regional Body. The Council shall consider any findings 728  
resulting from such review. 729

**Section 4.8. Prohibition of New or Increased Diversions.** 730

All New or Increased Diversions are prohibited, except as provided 731  
for in this Article. 732

**Section 4.9. Exceptions to the Prohibition of Diversions.** 733

1. Straddling Communities. A Proposal to transfer Water to an area 734  
within a Straddling Community but outside the Basin or 735  
outside the Source Great Lake Watershed shall be excepted 736  
from the prohibition against Diversions and be managed and 737  
regulated by the Originating Party provided that, regardless 738  
of the volume of Water transferred, all the Water so 739  
transferred shall be used solely for Public Water Supply 740  
Purposes within the Straddling Community, and: 741

a. All Water Withdrawn from the Basin shall be returned, either 742  
naturally or after use, to the Source Watershed less an 743  
allowance for Consumptive Use. No surface water or 744

- groundwater from outside the Basin may be used to satisfy any 745  
portion of this criterion except if it: 746
- i. Is part of a water supply or wastewater treatment system that 747  
combines water from inside and outside of the Basin; 748
- ii. Is treated to meet applicable water quality discharge 749  
standards and to prevent the introduction of invasive species 750  
into the Basin; 751
- iii. Maximizes the portion of water returned to the Source 752  
Watershed as Basin Water and minimizes the surface water or 753  
groundwater from outside the Basin; 754
- b. If the Proposal results from a New or Increased Withdrawal of 755  
100,000 gallons per day or greater average over any 90-day 756  
period, the Proposal shall also meet the Exception Standard; 757  
and, 758
- c. If the Proposal results in a New or Increased Consumptive Use 759  
of 5 million gallons per day or greater average over any 760  
90-day period, the Proposal shall also undergo Regional 761  
Review. 762
2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer 763  
that would be considered a Diversion under this Compact, and 764  
not already excepted pursuant to Paragraph 1 of this Section, 765  
shall be excepted from the prohibition against Diversions, 766  
provided that: 767
- a. If the Proposal results from a New or Increased Withdrawal of 768  
less than 100,000 gallons per day average over any 90-day 769  
period, the Proposal shall be subject to management and 770  
regulation at the discretion of the Originating Party. 771
- b. If the Proposal results from a New or Increased Withdrawal of 772  
100,000 gallons per day or greater average over any 90-day 773  
period and if the Consumptive Use resulting from the 774

<u>Withdrawal is less than 5 million gallons per day average</u>	775
<u>over any 90-day period:</u>	776
<u>i. The Proposal shall meet the Exception Standard and be subject</u>	777
<u>to management and regulation by the Originating Party, except</u>	778
<u>that the Water may be returned to another Great Lake</u>	779
<u>watershed rather than the Source Watershed;</u>	780
<u>ii. The Applicant shall demonstrate that there is no feasible,</u>	781
<u>cost effective, and environmentally sound water supply</u>	782
<u>alternative within the Great Lake watershed to which the</u>	783
<u>Water will be transferred, including conservation of existing</u>	784
<u>water supplies; and,</u>	785
<u>iii. The Originating Party shall provide notice to the other</u>	786
<u>Parties prior to making any decision with respect to the</u>	787
<u>Proposal.</u>	788
<u>c. If the Proposal results in a New or Increased Consumptive Use</u>	789
<u>of 5 million gallons per day or greater average over any</u>	790
<u>90-day period:</u>	791
<u>i. The Proposal shall be subject to management and regulation by</u>	792
<u>the Originating Party and shall meet the Exception Standard,</u>	793
<u>ensuring that Water Withdrawn shall be returned to the Source</u>	794
<u>Watershed;</u>	795
<u>ii. The Applicant shall demonstrate that there is no feasible,</u>	796
<u>cost effective, and environmentally sound water supply</u>	797
<u>alternative within the Great Lake watershed to which the</u>	798
<u>Water will be transferred, including conservation of existing</u>	799
<u>water supplies;</u>	800
<u>iii. The Proposal undergoes Regional Review; and,</u>	801
<u>iv. The Proposal is approved by the Council. Council approval</u>	802
<u>shall be given unless one or more Council members vote to</u>	803
<u>disapprove.</u>	804

3. Straddling Counties. A Proposal to transfer Water to a 805  
Community within a Straddling County that would be considered 806  
a Diversion under this Compact shall be excepted from the 807  
prohibition against Diversions, provided that it satisfies 808  
all of the following conditions: 809
- a. The Water shall be used solely for the Public Water Supply 810  
Purposes of the Community within a Straddling County that is 811  
without adequate supplies of potable water; 812
- b. The Proposal meets the Exception Standard, maximizing the 813  
portion of water returned to the Source Watershed as Basin 814  
Water and minimizing the surface water or groundwater from 815  
outside the Basin; 816
- c. The Proposal shall be subject to management and regulation by 817  
the Originating Party, regardless of its size; 818
- d. There is no reasonable water supply alternative within the 819  
Basin in which the community is located, including 820  
conservation of existing water supplies; 821
- e. Caution shall be used in determining whether or not the 822  
Proposal meets the conditions for this Exception. This 823  
Exception should not be authorized unless it can be shown 824  
that it will not endanger the integrity of the Basin 825  
Ecosystem; 826
- f. The Proposal undergoes Regional Review; and, 827
- g. The Proposal is approved by the Council. Council approval shall 828  
be given unless one or more Council members vote to 829  
disapprove. 830
- A Proposal must satisfy all of the conditions listed above. 831  
Further, substantive consideration will also be given to whether 832  
or not the Proposal can provide sufficient scientifically based 833  
evidence that the existing water supply is derived from 834

groundwater that is hydrologically interconnected to Waters of the Basin. 835  
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4. Exception Standard. Proposals subject to management and regulation in this Section shall be declared to meet this Exception Standard and may be approved as appropriate only when the following criteria are met: 837  
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a. The need for all or part of the proposed Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies; 841  
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b. The Exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed; 844  
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c. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from outside the Basin may be used to satisfy any portion of this criterion except if it: 846  
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i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin; 851  
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ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin; 853  
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d. The Exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin with consideration given to the potential Cumulative Impacts of any precedent-setting consequences associated with the Proposal; 856  
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e. The Exception will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or 862  
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<u>Consumptive Use;</u>	865
<u>f. The Exception will be implemented so as to ensure that it is in</u>	866
<u>compliance with all applicable municipal, State and federal</u>	867
<u>laws as well as regional interstate and international</u>	868
<u>agreements, including the Boundary Waters Treaty of 1909;</u>	869
<u>and,</u>	870
<u>g. All other applicable criteria in Section 4.9 have also been</u>	871
<u>met.</u>	872
<b><u>Section 4.10. Management and Regulation of New or Increased</u></b>	873
<b><u>Withdrawals and Consumptive Uses.</u></b>	874
<u>1. Within five years of the effective date of this Compact, each</u>	875
<u>Party shall create a program for the management and</u>	876
<u>regulation of New or Increased Withdrawals and Consumptive</u>	877
<u>Uses by adopting and implementing Measures consistent with</u>	878
<u>the Decision-Making Standard. Each Party, through a</u>	879
<u>considered process, shall set and may modify threshold levels</u>	880
<u>for the regulation of New or Increased Withdrawals in order</u>	881
<u>to assure an effective and efficient Water management program</u>	882
<u>that will ensure that uses overall are reasonable, that</u>	883
<u>Withdrawals overall will not result in significant impacts to</u>	884
<u>the Waters and Water Dependent Natural Resources of the</u>	885
<u>Basin, determined on the basis of significant impacts to the</u>	886
<u>physical, chemical, and biological integrity of Source</u>	887
<u>Watersheds, and that all other objectives of the Compact are</u>	888
<u>achieved. Each Party may determine the scope and thresholds</u>	889
<u>of its program, including which New or Increased Withdrawals</u>	890
<u>and Consumptive Uses will be subject to the program.</u>	891
<u>2. Any Party that fails to set threshold levels that comply with</u>	892
<u>Section 4.10.1 any time before ten years after the effective</u>	893
<u>date of this Compact shall apply a threshold level for</u>	894
<u>management and regulation of all New or Increased Withdrawals</u>	895

of 100,000 gallons per day or greater average in any 90-day 896  
period. 897

3. The Parties intend programs for New or Increased Withdrawals 898  
and Consumptive Uses to evolve as may be necessary to protect 899  
Basin Waters. Pursuant to Section 3.4, the Council, in 900  
cooperation with the Provinces, shall periodically assess the 901  
Water management programs of the Parties. Such assessments 902  
may produce recommendations for the strengthening of the 903  
programs, including without limitation, establishing lower 904  
thresholds for management and regulation in accordance with 905  
the Decision-Making Standard. 906

**Section 4.11. Decision-Making Standard.** 907

Proposals subject to management and regulation in Section 4.10 908  
shall be declared to meet this Decision-Making Standard and 909  
may be approved as appropriate only when the following 910  
criteria are met: 911

1. All Water Withdrawn shall be returned, either naturally or 912  
after use, to the Source Watershed less an allowance for 913  
Consumptive Use; 914

2. The Withdrawal or Consumptive Use will be implemented so as to 915  
ensure that the Proposal will result in no significant 916  
individual or cumulative adverse impacts to the quantity or 917  
quality of the Waters and Water Dependent Natural Resources 918  
and the applicable Source Watershed; 919

3. The Withdrawal or Consumptive Use will be implemented so as to 920  
incorporate Environmentally Sound and Economically Feasible 921  
Water Conservation Measures; 922

4. The Withdrawal or Consumptive Use will be implemented so as to 923  
ensure that it is in compliance with all applicable 924  
municipal, State and federal laws as well as regional 925  
interstate and international agreements, including the 926

<u>Boundary Waters Treaty of 1909;</u>	927
<u>5. The proposed use is reasonable, based upon a consideration of</u>	928
<u>the following factors:</u>	929
<u>a. Whether the proposed Withdrawal or Consumptive Use is planned</u>	930
<u>in a fashion that provides for efficient use of the Water,</u>	931
<u>and will avoid or minimize the waste of Water;</u>	932
<u>b. If the Proposal is for an increased Withdrawal or Consumptive</u>	933
<u>Use, whether efficient use is made of existing water</u>	934
<u>supplies;</u>	935
<u>c. The balance between economic development, social development</u>	936
<u>and environmental protection of the proposed Withdrawal and</u>	937
<u>use and other existing or planned withdrawals and water uses</u>	938
<u>sharing the Water source;</u>	939
<u>d. The supply potential of the Water source, considering quantity,</u>	940
<u>quality and reliability and safe yield of hydrologically</u>	941
<u>interconnected water sources;</u>	942
<u>e. The probable degree and duration of any adverse impacts caused</u>	943
<u>or expected to be caused by the proposed Withdrawal and use</u>	944
<u>under foreseeable conditions, to other lawful consumptive or</u>	945
<u>non-consumptive uses of water or to the quantity or quality</u>	946
<u>of the Waters and Water Dependent Natural Resources of the</u>	947
<u>Basin, and the proposed plans and arrangements for avoidance</u>	948
<u>or mitigation of such impacts; and,</u>	949
<u>f. If a Proposal includes restoration of hydrologic conditions and</u>	950
<u>functions of the Source Watershed, the Party may consider</u>	951
<u>that.</u>	952
<b>Section 4.12. Applicability.</b>	953
<u>1. Minimum Standard. This Standard of Review and Decision shall be</u>	954
<u>used as a minimum standard. Parties may impose a more</u>	955
<u>restrictive decision-making standard for Withdrawals under</u>	956

their authority. It is also acknowledged that although a 957  
Proposal meets the Standard of Review and Decision it may not 958  
be approved under the laws of the Originating Party that has 959  
implemented more restrictive Measures. 960

2. Baseline. 961

a. To establish a baseline for determining a New or Increased 962  
Diversion, Consumptive Use or Withdrawal, each Party shall 963  
develop either or both of the following lists for their 964  
jurisdiction: 965

i. A list of existing Withdrawal approvals as of the effective 966  
date of the Compact; 967

ii. A list of the capacity of existing systems as of the effective 968  
date of this Compact. The capacity of the existing systems 969  
should be presented in terms of Withdrawal capacity, 970  
treatment capacity, distribution capacity, or other capacity 971  
limiting factors. The capacity of the existing systems must 972  
represent the state of the systems. Existing capacity 973  
determinations shall be based upon approval limits or the 974  
most restrictive capacity information. 975

For all purposes of this Compact, volumes of Diversions, 976  
Consumptive Uses, or Withdrawals of Water set forth in the 977  
list(s) prepared by each Party in accordance with this 978  
Section, shall constitute the baseline volume. 979

c. The list(s) shall be furnished to the Regional Body and the 980  
Council within one year of the effective date of this 981  
Compact. 982

3. Timing of Additional Applications. Applications for New or 983  
Increased Withdrawals, Consumptive Uses or Exceptions shall 984  
be considered cumulatively within ten years of any 985  
application. 986

<u>4. Change of Ownership. Unless a new owner proposes a project that</u>	987
<u>shall result in a Proposal for a New or Increased Diversion</u>	988
<u>or Consumptive Use subject to Regional Review or Council</u>	989
<u>approval, the change of ownership in and of itself shall not</u>	990
<u>require Regional Review or Council approval.</u>	991
<u>5. Groundwater. The Basin surface water divide shall be used for</u>	992
<u>the purpose of managing and regulating New or Increased</u>	993
<u>Diversions, Consumptive Uses or Withdrawals of surface water</u>	994
<u>and groundwater.</u>	995
<u>6. Withdrawal Systems. The total volume of surface water and</u>	996
<u>groundwater resources that supply a common distribution</u>	997
<u>system shall determine the volume of a Withdrawal,</u>	998
<u>Consumptive Use or Diversion.</u>	999
<u>7. Connecting Channels. The watershed of each Great Lake shall</u>	1000
<u>include its upstream and downstream connecting channels.</u>	1001
<u>8. Transmission in Water Lines. Transmission of Water within a</u>	1002
<u>line that extends outside the Basin as it conveys Water from</u>	1003
<u>one point to another within the Basin shall not be considered</u>	1004
<u>a Diversion if none of the Water is used outside the Basin.</u>	1005
<u>9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds</u>	1006
<u>shall be considered to be a single hydrologic unit and</u>	1007
<u>watershed.</u>	1008
<u>10. Bulk Water Transfer. A Proposal to Withdraw Water and to</u>	1009
<u>remove it from the Basin in any container greater than 5.7</u>	1010
<u>gallons shall be treated under this Compact in the same</u>	1011
<u>manner as a Proposal for a Diversion. Each Party shall have</u>	1012
<u>the discretion, within its jurisdiction, to determine the</u>	1013
<u>treatment of Proposals to Withdraw Water and to remove it</u>	1014
<u>from the Basin in any container of 5.7 gallons or less.</u>	1015
<b><u>Section 4.13. Exemptions.</u></b>	1016

Withdrawals from the Basin for the following purposes are exempt 1017  
from the requirements of Article 4: 1018

1. To supply vehicles, including vessels and aircraft, whether for 1019  
the needs of the persons or animals being transported or for 1020  
ballast or other needs related to the operation of the 1021  
vehicles. 1022

2. To use in a non-commercial project on a short-term basis for 1023  
firefighting, humanitarian, or emergency response purposes. 1024

**Section 4.14. U.S. Supreme Court Decree: *Wisconsin et al. v.*** 1025  
***Illinois et al.*** 1026

1. Notwithstanding any terms of this Compact to the contrary, with 1027  
the exception of Paragraph 5 of this Section, current, New or 1028  
Increased Withdrawals, Consumptive Uses and Diversions of 1029  
Basin Water by the State of Illinois shall be governed by the 1030  
terms of the United States Supreme Court decree in *Wisconsin* 1031  
*et al. v. Illinois et al.* and shall not be subject to the 1032  
terms of this Compact nor any rules or regulations 1033  
promulgated pursuant to this Compact. This means that, with 1034  
the exception of Paragraph 5 of this Section, for purposes of 1035  
this Compact, current, New or Increased Withdrawals, 1036  
Consumptive Uses and Diversions of Basin Water within the 1037  
State of Illinois shall be allowed unless prohibited by the 1038  
terms of the United States Supreme Court decree in *Wisconsin* 1039  
*et al. v. Illinois et al.* 1040

2. The Parties acknowledge that the United States Supreme Court 1041  
decree in *Wisconsin et al. v. Illinois et al.* shall continue 1042  
in full force and effect, that this Compact shall not modify 1043  
any terms thereof and that this Compact shall grant the 1044  
parties no additional rights, obligations, remedies or 1045  
defenses thereto. The Parties specifically acknowledge that 1046  
this Compact shall not prohibit or limit the State of 1047

Illinois in any manner from seeking additional Basin Water as 1048  
allowed under the terms of the United States Supreme Court 1049  
decree in *Wisconsin et al. v. Illinois et al.*, any other 1050  
party from objecting to any request by the State of Illinois 1051  
for additional Basin Water under the terms of said decree, or 1052  
any party from seeking any other type of modification to said 1053  
decree. If an application is made by any party to the Supreme 1054  
Court of the United States to modify said decree, the Parties 1055  
to this Compact who are also parties to the decree shall seek 1056  
formal input from the Canadian Provinces of Ontario and 1057  
Quebec, with respect to the proposed modification, use best 1058  
efforts to facilitate the appropriate participation of said 1059  
Provinces in the proceedings to modify the decree, and shall 1060  
not unreasonably impede or restrict such participation. 1061

3. With the exception of Paragraph 5 of this Section, because 1062  
current, New or Increased Withdrawals, Consumptive Uses and 1063  
Diversions of Basin Water by the State of Illinois are not 1064  
subject to the terms of this Compact, the State of Illinois 1065  
is prohibited from using any term of this Compact, including 1066  
Section 4.9, to seek New or Increased Withdrawals, 1067  
Consumptive Uses or Diversions of Basin Water. 1068

4. With the exception of Paragraph 5 of this Section, because 1069  
Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 1070  
(Paragraphs 1, 2, 3, 4, 6 and 10 only) and 4.13 of this 1071  
Compact all relate to current, New or Increased Withdrawals, 1072  
Consumptive Uses and Diversions of Basin Waters, said 1073  
provisions do not apply to the State of Illinois. All other 1074  
provisions of this Compact not listed in the preceding 1075  
sentence shall apply to the State of Illinois, including the 1076  
Water Conservation Programs provision of Section 4.2. 1077

5. In the event of a Proposal for a Diversion of Basin Water for 1078  
use outside the territorial boundaries of the Parties to this 1079

Compact, decisions by the State of Illinois regarding such a 1080  
Proposal would be subject to all terms of this Compact, 1081  
except Paragraphs 1, 3 and 4 of this Section. 1082

6. For purposes of the State of Illinois' participation in this 1083  
Compact, the entirety of this Section 4.14 is necessary for 1084  
the continued implementation of this Compact and, if severed, 1085  
this Compact shall no longer be binding on or enforceable by 1086  
or against the State of Illinois. 1087

1088

**Section 4.15. Assessment of Cumulative Impacts.** 1089

1. The Parties in cooperation with the Provinces shall 1090  
collectively conduct within the Basin, on a Great Lake 1091  
watershed and St. Lawrence River Basin basis, a periodic 1092  
assessment of the Cumulative Impacts of Withdrawals, 1093  
Diversions and Consumptive Uses from the Waters of the Basin, 1094  
every five years or each time the incremental Basin Water 1095  
losses reach 50 million gallons per day average in any 90-day 1096  
period in excess of the quantity at the time of the most 1097  
recent assessment, whichever comes first, or at the request 1098  
of one or more of the Parties. The assessment shall form the 1099  
basis for a review of the Standard of Review and Decision, 1100  
Council and Party regulations and their application. This 1101  
assessment shall: 1102

a. Utilize the most current and appropriate guidelines for such a 1103  
review, which may include but not be limited to Council on 1104  
Environmental Quality and Environment Canada guidelines; 1105

b. Give substantive consideration to climate change or other 1106  
significant threats to Basin Waters and take into account the 1107  
current state of scientific knowledge, or uncertainty, and 1108  
appropriate Measures to exercise caution in cases of 1109  
uncertainty if serious damage may result; 1110

c. Consider Adaptive Management principles and approaches, 1111  
recognizing, considering and providing adjustments for the 1112  
uncertainties in, and evolution of science concerning the 1113  
Basin's Water resources, watersheds and Ecosystems, including 1114  
potential changes to Basin-wide processes, such as lake level 1115  
cycles and climate. 1116

2. The Parties have the responsibility of conducting this 1117  
Cumulative Impact assessment. Applicants are not required to 1118  
participate in this assessment. 1119

3. Unless required by other statutes, Applicants are not required 1120  
to conduct a separate Cumulative Impact assessment in 1121  
connection with an Application but shall submit information 1122  
about the potential impacts of a Proposal to the quantity or 1123  
quality of the Waters and Water Dependent Natural Resources 1124  
of the applicable Source Watershed. An Applicant may, 1125  
however, provide an analysis of how their Proposal meets the 1126  
no significant adverse Cumulative Impact provision of the 1127  
Standard of Review and Decision. 1128

**ARTICLE 5** 1129

**TRIBAL CONSULTATION** 1130

**Section 5.1. Consultation with Tribes.** 1131

1. In addition to all other opportunities to comment pursuant to 1132  
Section 6.2, appropriate consultations shall occur with 1133  
federally recognized Tribes in the Originating Party for all 1134  
Proposals subject to Council or Regional Review pursuant to 1135  
this Compact. Such consultations shall be organized in the 1136  
manner suitable to the individual Proposal and the laws and 1137  
policies of the Originating Party. 1138

2. All federally recognized Tribes within the Basin shall receive 1139  
reasonable notice indicating that they have an opportunity to 1140  
comment in writing to the Council or the Regional Body, or 1141

both, and other relevant organizations on whether the 1142  
Proposal meets the requirements of the Standard of Review and 1143  
Decision when a Proposal is subject to Regional Review or 1144  
Council approval. Any notice from the Council shall inform 1145  
the Tribes of any meeting or hearing that is to be held under 1146  
Section 6.2 and invite them to attend. The Parties and the 1147  
Council shall consider the comments received under this 1148  
Section before approving, approving with modifications or 1149  
disapproving any Proposal subject to Council or Regional 1150  
Review. 1151

3. In addition to the specific consultation mechanisms described 1152  
above, the Council shall seek to establish mutually agreed 1153  
upon mechanisms or processes to facilitate dialogue with, and 1154  
input from federally recognized Tribes on matters to be dealt 1155  
with by the Council; and, the Council shall seek to establish 1156  
mechanisms and processes with federally recognized Tribes 1157  
designed to facilitate on-going scientific and technical 1158  
interaction and data exchange regarding matters falling 1159  
within the scope of this Compact. This may include 1160  
participation of tribal representatives on advisory 1161  
committees established under this Compact or such other 1162  
processes that are mutually-agreed upon with federally 1163  
recognized Tribes individually or through duly-authorized 1164  
intertribal agencies or bodies. 1165

**ARTICLE 6** 1166

**PUBLIC PARTICIPATION** 1167

**Section 6.1. Meetings, Public Hearings and Records.** 1168

1. The Parties recognize the importance and necessity of public 1169  
participation in promoting management of the Water Resources 1170  
of the Basin. Consequently, all meetings of the Council shall 1171  
be open to the public, except with respect to issues of 1172  
personnel. 1173

2. The minutes of the Council shall be a public record open to 1174  
inspection at its offices during regular business hours. 1175

**Section 6.2. Public Participation.** 1176

It is the intent of the Council to conduct public participation 1177  
processes concurrently and jointly with processes undertaken by 1178  
the Parties and through Regional Review. To ensure adequate public 1179  
participation, each Party or the Council shall ensure procedures 1180  
for the review of Proposals subject to the Standard of Review and 1181  
Decision consistent with the following requirements: 1182

1. Provide public notification of receipt of all Applications and 1183  
a reasonable opportunity for the public to submit comments 1184  
before Applications are acted upon. 1185

2. Assure public accessibility to all documents relevant to an 1186  
Application, including public comment received. 1187

3. Provide guidance on standards for determining whether to 1188  
conduct a public meeting or hearing for an Application, time 1189  
and place of such a meeting(s) or hearing(s), and procedures 1190  
for conducting of the same. 1191

4. Provide the record of decision for public inspection including 1192  
comments, objections, responses and approvals, approvals with 1193  
conditions and disapprovals. 1194

**ARTICLE 7** 1195

**DISPUTE RESOLUTION AND ENFORCEMENT** 1196

**Section 7.1. Good Faith Implementation.** 1197

Each of the Parties pledges to support implementation of all 1198  
provisions of this Compact, and covenants that its officers and 1199  
agencies shall not hinder, impair or prevent any other Party 1200  
carrying out any provision of this Compact. 1201

**Section 7.2. Alternative Dispute Resolution.** 1202

1. Desiring that this Compact be carried out in full, the Parties 1203

agree that disputes between the Parties regarding 1204  
interpretation, application and implementation of this 1205  
Compact shall be settled by alternative dispute resolution. 1206

2. The Council, in consultation with the Provinces, shall provide 1207  
by rule procedures for the resolution of disputes pursuant to 1208  
this section. 1209

**Section 7.3. Enforcement.** 1210

1. Any Person aggrieved by any action taken by the Council 1211  
pursuant to the authorities contained in this Compact shall 1212  
be entitled to a hearing before the Council. Any Person 1213  
aggrieved by a Party action shall be entitled to a hearing 1214  
pursuant to the relevant Party's administrative procedures 1215  
and laws. After exhaustion of such administrative remedies, 1216  
(i) any aggrieved Person shall have the right to judicial 1217  
review of a Council action in the United States District 1218  
Court for the District of Columbia or the District Court in 1219  
which the Council maintains offices, provided such action is 1220  
commenced within 90 days; and, (ii) any aggrieved Person 1221  
shall have the right to judicial review of a Party's action 1222  
in the relevant Party's court of competent jurisdiction, 1223  
provided that an action or proceeding for such review is 1224  
commenced within the time frames provided for by the Party's 1225  
law. For the purposes of this paragraph, a State or Province 1226  
is deemed to be an aggrieved Person with respect to any Party 1227  
action pursuant to this Compact. 1228

2.a. Any Party or the Council may initiate actions to compel 1229  
compliance with the provisions of this Compact, and the rules 1230  
and regulations promulgated hereunder by the Council. 1231  
Jurisdiction over such actions is granted to the court of the 1232  
relevant Party, as well as the United States District Court 1233  
for the District of Columbia and the District Court in which 1234  
the Council maintains offices. The remedies available to any 1235

<u>such court shall include, but not be limited to, equitable</u>	1236
<u>relief and civil penalties.</u>	1237
<u>b. Each Party may issue orders within its respective jurisdiction</u>	1238
<u>and may initiate actions to compel compliance with the</u>	1239
<u>provisions of its respective statutes and regulations adopted</u>	1240
<u>to implement the authorities contemplated by this Compact in</u>	1241
<u>accordance with the provisions of the laws adopted in each</u>	1242
<u>Party's jurisdiction.</u>	1243
<u>3. Any aggrieved Person, Party or the Council may commence a civil</u>	1244
<u>action in the relevant Party's courts and administrative</u>	1245
<u>systems to compel any Person to comply with this Compact</u>	1246
<u>should any such Person, without approval having been given,</u>	1247
<u>undertake a New or Increased Withdrawal, Consumptive Use or</u>	1248
<u>Diversion that is prohibited or subject to approval pursuant</u>	1249
<u>to this Compact.</u>	1250
<u>a. No action under this subsection may be commenced if:</u>	1251
<u>i. The Originating Party or Council approval for the New or</u>	1252
<u>Increased Withdrawal, Consumptive Use or Diversion has been</u>	1253
<u>granted; or,</u>	1254
<u>ii. The Originating Party or Council has found that the New or</u>	1255
<u>Increased Withdrawal, Consumptive Use or Diversion is not</u>	1256
<u>subject to approval pursuant to this Compact.</u>	1257
<u>b. No action under this subsection may be commenced unless:</u>	1258
<u>i. A Person commencing such action has first given 60 days' prior</u>	1259
<u>notice to the Originating Party, the Council and Person</u>	1260
<u>alleged to be in noncompliance; and,</u>	1261
<u>ii. Neither the Originating Party nor the Council has commenced</u>	1262
<u>and is diligently prosecuting appropriate enforcement actions</u>	1263
<u>to compel compliance with this Compact.</u>	1264
<u>The available remedies shall include equitable relief, and the</u>	1265

prevailing or substantially prevailing party may recover the costs 1266  
of litigation, including reasonable attorney and expert witness 1267  
fees, whenever the court determines that such an award is 1268  
appropriate. 1269

4. Each of the Parties may adopt provisions providing additional 1270  
enforcement mechanisms and remedies including equitable 1271  
relief and civil penalties applicable within its jurisdiction 1272  
to assist in the implementation of this Compact. 1273

**ARTICLE 8** 1274

**ADDITIONAL PROVISIONS** 1275

**Section 8.1. Effect on Existing Rights.** 1276

1. Nothing in this Compact shall be construed to affect, limit, 1277  
diminish or impair any rights validly established and 1278  
existing as of the effective date of this Compact under State 1279  
or federal law governing the Withdrawal of Waters of the 1280  
Basin. 1281

2. Nothing contained in this Compact shall be construed as 1282  
affecting or intending to affect or in any way to interfere 1283  
with the law of the respective Parties relating to common law 1284  
Water rights. 1285

3. Nothing in this Compact is intended to abrogate or derogate 1286  
from treaty rights or rights held by any Tribe recognized by 1287  
the federal government of the United States based upon its 1288  
status as a Tribe recognized by the federal government of the 1289  
United States. 1290

4. An approval by a Party or the Council under this Compact does 1291  
not give any property rights, nor any exclusive privileges, 1292  
nor shall it be construed to grant or confer any right, 1293  
title, easement or interest in, to or over any land belonging 1294  
to or held in trust by a Party; neither does it authorize any 1295  
injury to private property or invasion of private rights, nor 1296

infringement of federal, State or local laws or regulations; 1297  
nor does it obviate the necessity of obtaining federal assent 1298  
when necessary. 1299

**Section 8.2. Relationship to Agreements Concluded by the United** 1300  
**States of America.** 1301

1. Nothing in this Compact is intended to provide nor shall be 1302  
construed to provide, directly or indirectly, to any Person 1303  
any right, claim or remedy under any treaty or international 1304  
agreement nor is it intended to derogate any right, claim or 1305  
remedy that already exists under any treaty or international 1306  
agreement. 1307

2. Nothing in this Compact is intended to infringe nor shall be 1308  
construed to infringe upon the treaty power of the United 1309  
States of America, nor shall any term hereof be construed to 1310  
alter or amend any treaty or term thereof that has been or 1311  
may hereafter be executed by the United States of America. 1312

3. Nothing in this Compact is intended to affect nor shall be 1313  
construed to affect the application of the Boundary Waters 1314  
Treaty of 1909 whose requirements continue to apply in 1315  
addition to the requirements of this Compact. 1316

**Section 8.3. Confidentiality.** 1317

1. Nothing in this Compact requires a Party to breach 1318  
confidentiality obligations or requirements prohibiting 1319  
disclosure, or to compromise security of commercially 1320  
sensitive or proprietary information. 1321

2. A Party may take measures, including but not limited to 1322  
deletion and redaction, deemed necessary to protect any 1323  
confidential, proprietary or commercially sensitive 1324  
information when distributing information to other Parties. 1325  
The Party shall summarize or paraphrase any such information 1326  
in a manner sufficient for the Council to exercise its 1327

authorities contained in this Compact. 1328

**Section 8.4. Additional Laws.** 1329

Nothing in this Compact shall be construed to repeal, modify or 1330

qualify the authority of any Party to enact any legislation or 1331

enforce any additional conditions and restrictions regarding the 1332

management and regulation of Waters within its jurisdiction. 1333

**Section 8.5. Amendments and Supplements.** 1334

The provisions of this Compact shall remain in full force and 1335

effect until amended by action of the governing bodies of the 1336

Parties and consented to and approved by any other necessary 1337

authority in the same manner as this Compact is required to be 1338

ratified to become effective. 1339

**Section 8.6. Severability.** 1340

Should a court of competent jurisdiction hold any part of this 1341

Compact to be void or unenforceable, it shall be considered 1342

severable from those portions of the Compact capable of continued 1343

implementation in the absence of the voided provisions. All other 1344

provisions capable of continued implementation shall continue in 1345

full force and effect. 1346

**Section 8.7. Duration of Compact and Termination.** 1347

Once effective, the Compact shall continue in force and remain 1348

binding upon each and every Party unless terminated. 1349

This Compact may be terminated at any time by a majority vote of 1350

the Parties. In the event of such termination, all rights 1351

established under it shall continue unimpaired. 1352

**ARTICLE 9** 1353

**EFFECTUATION** 1354

**Section 9.1. Repealer.** 1355

All acts and parts of acts inconsistent with this act are to the 1356

extent of such inconsistency hereby repealed. 1357

**Section 9.2. Effectuation by Chief Executive.** 1358

The Governor is authorized to take such action as may be necessary 1359  
and proper in his or her discretion to effectuate the Compact and 1360  
the initial organization and operation thereunder. 1361

**Section 9.3. Entire Agreement.** 1362

The Parties consider this Compact to be complete and an integral 1363  
whole. Each provision of this Compact is considered material to 1364  
the entire Compact, and failure to implement or adhere to any 1365  
provision may be considered a material breach. Unless otherwise 1366  
noted in this Compact, any change or amendment made to the Compact 1367  
by any Party in its implementing legislation or by the U.S. 1368  
Congress when giving its consent to this Compact is not considered 1369  
effective unless concurred in by all Parties. 1370

**Section 9.4. Effective Date and Execution.** 1371

This Compact shall become binding and effective when ratified 1372  
through concurring legislation by the states of Illinois, Indiana, 1373  
Michigan, Minnesota, New York, Ohio and Wisconsin and the 1374  
Commonwealth of Pennsylvania and consented to by the Congress of 1375  
the United States. This Compact shall be signed and sealed in nine 1376  
identical original copies by the respective chief executives of 1377  
the signatory Parties. One such copy shall be filed with the 1378  
Secretary of State of each of the signatory Parties or in 1379  
accordance with the laws of the state in which the filing is made, 1380  
and one copy shall be filed and retained in the archives of the 1381  
Council upon its organization. The signatures shall be affixed and 1382  
attested under the following form: 1383

In Witness Whereof, and in evidence of the adoption and enactment 1384  
into law of this Compact by the legislatures of the signatory 1385  
parties and consent by the Congress of the United States, the 1386  
respective Governors do hereby, in accordance with the authority 1387  
conferred by law, sign this Compact in nine duplicate original 1388

copies, attested by the respective Secretaries of State, and have 1389  
caused the seals of the respective states to be hereunto affixed 1390  
this \_\_\_\_\_ day of (month), (year). 1391

Sec. 1522.02. The governor, ex officio, shall serve as this 1392  
state's administrator of the great lakes-st. Lawrence river basin 1393  
water resources compact. The governor shall appoint the director 1394  
of natural resources as the governor's alternate for purposes of 1395  
attending all meetings of the great lakes-st. Lawrence river basin 1396  
water resources council and voting on matters before the council 1397  
in the governor's absence. 1398

The governor shall do all of the following as administrator: 1399

(A) Receive copies of all agreements that are entered into 1400  
pursuant to the compact by this state or its political 1401  
subdivisions and other states or their political subdivisions; 1402

(B) Consult with, advise, and aid this state, other states, 1403  
and political subdivisions in the formulation of such agreements; 1404

(C) Make any recommendations to the general assembly, 1405  
legislatures of other states, governmental agencies, and political 1406  
subdivisions that the governor considers desirable in order to 1407  
effectuate the purposes of the compact; 1408

(D) Consult with and cooperate with the compact 1409  
administrators of other states that are parties to the compact. 1410

Sec. 1522.03. (A) Subject to the limitations established in 1411  
division (B) of section 1522.05 of the Revised Code, the director 1412  
of natural resources shall do both of the following: 1413

(1) Adopt rules in accordance with Chapter 119. of the 1414  
Revised Code for the implementation, administration, and 1415  
enforcement of this chapter; 1416

(2) Enforce the great lakes-st. Lawrence river basin water 1417

resources compact and take appropriate actions to effectuate its 1418  
purposes and intent. 1419

(B) Subject to the limitations established in division (B) of 1420  
section 1522.05 of the Revised Code, any appropriate state agency 1421  
or governmental officer shall enforce the compact and take 1422  
appropriate actions to effectuate its purpose and intent. 1423

**Sec. 1522.04.** (A) Prior to casting a vote under Section 3.1 1424  
of the great lakes-st. Lawrence river basin water resources 1425  
compact with respect to any regulation that amends or revises the 1426  
standard of review and decision, the governor or the governor's 1427  
alternate shall obtain authorization from the general assembly for 1428  
the vote. The governor or the governor's alternate shall obtain 1429  
the authorization via a concurrent resolution adopted or bill 1430  
enacted by the general assembly. The governor or the governor's 1431  
alternate shall exercise the vote consistent with the terms of the 1432  
general assembly's authorization. The procedures established in 1433  
this section are material requirements for adoption of any such 1434  
regulation in accordance with Section 3.1 of the compact and 1435  
Ohio's respective statutory authority and procedures. 1436

(B) No regulation duly adopted as provided for in Section 3.1 1437  
of the compact that amends or revises the standard of review and 1438  
decision as set forth in the compact may be adopted by the 1439  
director of natural resources unless the regulation is first 1440  
approved by the general assembly in the same manner as a statutory 1441  
enactment. 1442

**Sec. 1522.05.** (A) Pursuant to Section 9.2 of the great 1443  
lakes-st. Lawrence river basin water resources compact, the 1444  
governor may take such actions as are necessary for the initial 1445  
organization and operation of the great lakes-st. Lawrence river 1446  
basin water resources council created in Section 2.1 of the 1447

compact. Agencies of the state are hereby authorized to cooperate 1448  
with the council. 1449

(B)(1) The governor, the department of natural resources, or 1450  
any other agency of the state shall not adopt rules or implement 1451  
any program regulating the use, withdrawal, consumptive use, or 1452  
diversion of water pursuant to Sections 4.10 and 4.12.2 of the 1453  
compact unless the general assembly enacts legislation after the 1454  
effective date of this section authorizing the implementation of 1455  
the program or adoption of rules. 1456

In addition, the governor, the department of natural 1457  
resources, or any other agency of the state shall not adopt rules 1458  
or implement any mandatory program governing water conservation 1459  
and efficiency pursuant to Section 4.2 of the compact unless the 1460  
general assembly enacts legislation after the effective date of 1461  
the compact authorizing the implementation of the program or 1462  
adoption of rules. However, the governor, the department of 1463  
natural resources, or any other agency of the state may adopt 1464  
rules concerning and may implement voluntary water conservation 1465  
and efficiency programs without authorization from the general 1466  
assembly. Such voluntary programs shall not include any mandatory 1467  
requirements. 1468

(2) Division (B)(1) of this section does not prohibit the 1469  
effectuation of Sections 4.8 and 4.9 of the compact after the 1470  
effective date of the compact or prohibit the continued 1471  
implementation and enforcement by the governor or applicable 1472  
agencies of this state of laws, rules, or programs regulating the 1473  
use, withdrawal, consumptive use, or diversion of water that are 1474  
in effect on or before the effective date of this section. 1475

**Sec. 1522.06.** It is the intent of the general assembly that 1476  
any incorporation of water into a product that is produced within 1477  
the great lakes-st. Lawrence river basin and packaged and intended 1478

for intermediate or end-use consumers, whether distributed inside 1479  
or outside the basin, is a consumptive use and does not constitute 1480  
a diversion for purposes of the great lakes-st. Lawrence river 1481  
basin water resources compact. A proposal to withdraw water and 1482  
remove it from the basin in a container greater than five and 1483  
seven-tenths gallons in capacity shall be treated as a proposal 1484  
for a diversion as provided under Section 4.12.10 of the great 1485  
lakes-st. Lawrence river basin water resources compact. 1486

**Sec. 1522.07.** (A)(1) It is the intent of the general assembly 1487  
that for purposes of establishing the baseline for determining a 1488  
new or increased diversion, consumptive use, or withdrawal 1489  
pursuant to Section 4.12.2 of the great lakes-st. Lawrence river 1490  
basin water resources compact, the amount of each existing 1491  
diversion, consumptive use, or withdrawal shall be the larger of 1492  
either of the following: 1493

(a) The applicable limitation specified in a permit issued 1494  
under section 1501.32, 1501.33, or 1501.34 of the Revised Code or 1495  
another permit issued by an agency of the state that specifically 1496  
regulates and limits the amount of a water diversion, consumptive 1497  
use, or withdrawal; 1498

(b) The physical capacity of the withdrawal system of the 1499  
applicable facility as of the effective date of the great 1500  
lakes-st. Lawrence river basin water resources compact. 1501

(2) For purposes of division (A)(1) of this section, both of 1502  
the following apply: 1503

(a) A wastewater discharge permit issued under Chapter 6111. 1504  
of the Revised Code or the Federal Water Pollution Control Act as 1505  
defined in section 6111.01 of the Revised Code shall not be 1506  
considered a permit that regulates or limits the amount of an 1507  
existing diversion, consumptive use, or withdrawal. 1508

(b) Approval of a public water supply system under Chapter 6109. of the Revised Code shall not be considered a permit that regulates or limits the amount of an existing diversion, consumptive use, or withdrawal unless the approval contains a specific and legally enforceable limitation on the amount of the diversion, consumptive use, or withdrawal. 1509  
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(B)(1) It is the understanding and intent of the general assembly that Section 4.11.2 of the great lakes-st. Lawrence river basin water resources compact as enacted in section 1522.01 of the Revised Code shall be interpreted to require that a withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of either of the following: 1515  
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(a) The basin considered as a whole; 1524

(b) The applicable source watershed of lake Erie considered as a whole. 1525  
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(2) In addition, it is the understanding and intent of the general assembly that impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than the basin or an applicable source watershed as a whole are to be considered a part of the evaluation of reasonable use as provided in Section 4.11.5 of the compact. 1527  
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The governor and the governor's alternate on the great lakes-st. Lawrence river basin water resources council shall advise the council, the other states that are proposed parties to the compact, and the United States congress with respect to the understanding and statement of legislative intent set forth in division (B) of this section and shall inform them that such 1534  
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understanding and intent are a material consideration to the 1540  
general assembly's concurrence in the great lakes-st. Lawrence 1541  
river basin water resources compact. Prior to seeking the consent 1542  
of the United States congress to the compact, the governor and the 1543  
governor's alternate on the council shall actively seek the 1544  
concurrence of the council and the other state parties to the 1545  
compact with respect to the understanding and legislative intent 1546  
set forth in division (B) of this section, and the governor shall 1547  
report to the general assembly periodically concerning those 1548  
efforts. 1549

**Sec. 1522.08.** (A) It is the intent and understanding of the 1550  
general assembly that the enactment of the great lakes-st. 1551  
Lawrence river basin water resources compact and its 1552  
implementation in this state do not and shall not in any manner 1553  
abrogate any private property rights established under the Revised 1554  
Code or the common law of this state. In addition, it is the 1555  
intent and understanding of the general assembly that the 1556  
enactment of the great lakes-st. Lawrence river basin water 1557  
resources compact does not confer or extend any public trust 1558  
rights and does not confer any proprietary ownership rights to the 1559  
state or any public entity over the ground water or surface water 1560  
in the great lakes-st. Lawrence river basin in this state. 1561

(B) It is the intent and understanding of the general 1562  
assembly that the great lakes-st. Lawrence river basin water 1563  
resources compact does not create any cause of action that may be 1564  
brought against any person beyond those causes of action that are 1565  
specifically authorized under Section 7.3 of the compact. 1566

**Section 2.** It is the intent of the General Assembly that on 1567  
the effective date of the Great Lakes-St. Lawrence River Basin 1568  
Water Resources Compact, as that date is specified in Section 9.4 1569  
of the Compact as enacted in section 1522.01 of the Revised Code 1570

by this act, both of the following apply: 1571

(A) All provisions of the Revised Code that were inconsistent 1572  
with the Compact prior to the effective date of the Compact shall 1573  
have been amended or repealed in order to conform with the Compact 1574  
in accordance with section 9.1 of the Compact. 1575

(B) Sections 1521.15 and 1521.16 of the Revised Code, as they 1576  
exist on the effective date of this act or as subsequently 1577  
amended, shall be used to implement Section 4.1 of the Compact. 1578

**Section 3.** (A) Not later than three months after the 1579  
effective date of this section, the Director of Natural Resources 1580  
shall convene an advisory board consisting of the following 1581  
persons with an interest in the Great Lakes-St. Lawrence River 1582  
Basin Water Resources Compact: 1583

(1) The Director of Natural Resources or the Director's 1584  
designee, who shall serve as chairperson of the advisory board; 1585

(2) The Director of Environmental Protection or the 1586  
Director's designee; 1587

(3) The Director of Development or the Director's designee; 1588

(4) The following members appointed by the Governor: 1589

(a) One water quality expert from the faculty or staff of an 1590  
Ohio college or university; 1591

(b) One representative of a statewide environmental advocacy 1592  
organization; 1593

(c) One representative of a local environmental advocacy 1594  
organization in the Lake Erie Basin; 1595

(d) One representative of a sustainable economic development 1596  
organization in the Lake Erie Basin; 1597

(e) One representative of the travel and tourism industry; 1598

(f) One representative of the electric utility industry;	1599
(g) One representative of a county government in the Lake Erie Basin.	1600 1601
(5) The following members appointed by the President of the Senate:	1602 1603
(a) Two members of the Senate who shall not be members of the same political party;	1604 1605
(b) One representative of the bottled water industry;	1606
(c) One representative of a statewide land conservation advocacy organization;	1607 1608
(d) One representative of agricultural interests in the Lake Erie Basin;	1609 1610
(e) One representative of the aggregates industry;	1611
(f) One representative of the pulp and paper industry;	1612
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1613 1614
(h) One member of the public.	1615
(6) The following members appointed by the Speaker of the House of Representatives:	1616 1617
(a) Two members of the House of Representatives who shall not be members of the same political party;	1618 1619
(b) One representative of a municipal government in the Lake Erie Basin;	1620 1621
(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1622 1623
(d) One representative of a locally based organization in the Lake Erie Basin that assists in the development and implementation of a plan for the protection and management of surface and ground	1624 1625 1626

water resources in a watershed;	1627
(e) One representative of a fish and wildlife advocacy organization;	1628
(f) One representative of residential developers;	1630
(g) One representative of the chemical industry;	1631
(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin.	1632
All appointments shall be made to the advisory board not later than thirty days after the effective date of this section.	1634
The advisory board shall meet on a regular basis. Vacancies on the advisory board shall be filled in the manner provided for original appointments. Members of the advisory board shall receive no compensation for serving on the board. The Department of Natural Resources shall provide technical support to the advisory board.	1635
(B) The advisory board shall be convened for the purpose of developing recommendations for legislation that is necessary to implement and effectuate the requirements and purposes of the Great Lakes-St. Lawrence River Basin Water Resources Compact. The recommendations shall address, but not be limited to, the following:	1636
(1) The evaluation and recommendation of the threshold levels to be included in the implementing legislation for regulating new or increased water withdrawals in the state, considering at least all of the following:	1637
(a) The number of withdrawals that will be regulated;	1638
(b) The relative impact of those withdrawals;	1639
(c) The practicality of regulating those withdrawals;	1640
(d) The alternatives that are available in the establishment of a permitting program in order to meet the water management objectives of this state.	1641
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(2) The establishment of requirements regarding the review of lists of existing water users in the portion of the Great Lakes-St. Lawrence River Basin that is in this state;

(3) The establishment of a process for use by persons that wish to appeal their inclusion in the list of existing water users;

(4) The establishment of conservation objectives with respect to the Great Lakes-St. Lawrence River Basin Water Resources Compact and the development of the state's water conservation and efficiency programs;

(5) The method for determining the capacity of existing facilities as required in Section 4.12.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact.

(C) The advisory board shall present its final recommendations to the Governor and the General Assembly not later than eighteen months after the effective date of this section. It is the intent of the General Assembly that the recommendations of the advisory board will represent a consensus of the board's members regarding the issues presented to and discussed by the board. However, if a consensus cannot be reached on any or all of the issues before the board, one or more minority opinions may accompany the recommendations of the board.

(D) Upon submission of its recommendations under division (C) of this section, the advisory board shall cease to exist.

**Section 4.** If the state of Illinois, Indiana, Michigan, Minnesota, New York, or Wisconsin or the commonwealth of Pennsylvania fails to enact the Great Lakes-St. Lawrence River Basin Water Resources Compact not later than three years after the effective date of this section, Ohio reserves the right to reconsider its enactment of the Compact and, if necessary, repeal

the Compact in its entirety. 1687

**Section 5.** Text that is italicized in the Great Lakes-St. 1688  
Lawrence River Basin Water Resources Compact as presented in this 1689  
act shall not be italicized but rather underlined in publications 1690  
of the Compact. 1691