

As Introduced

**127th General Assembly
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S. B. No. 291

Senator Grendell

**Cosponsors: Senators Wagoner, Harris, Spada, Niehaus, Jacobson, Austria,
Seitz, Schuring, Mumper, Schuler, Padgett, Goodman, Cates, Faber, Carey,
Amstutz**

—

A B I L L

To enact sections 1522.01, 1522.02, 1522.03, 1522.04, 1
1522.05, 1522.06, 1522.07, and 1522.08 of the 2
Revised Code to ratify the Great Lakes-St. 3
Lawrence River Basin Water Resources Compact and 4
to establish related requirements. 5

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

Section 1. That sections 1522.01, 1522.02, 1522.03, 1522.04, 6
1522.05, 1522.06, 1522.07, and 1522.08 of the Revised Code be 7
enacted to read as follows: 8

Sec. 1522.01. The "great lakes-st. Lawrence river basin water 9
resources compact," which has been negotiated by representatives 10
of this state and the states of Illinois, Indiana, Michigan, 11
Minnesota, New York, and Wisconsin and the commonwealth of 12
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, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling Community. 48
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Compact means this Compact. 52

Consumptive Use means that portion of the Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into Products or other processes. 53
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Council means the Great Lakes-St. Lawrence River Basin Water Resources Council, created by this Compact. 57
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Council Review means the collective review by the Council members as described in Article 4 of this Compact. 59
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County means the largest territorial division for local government in a State. The County boundaries shall be defined as those boundaries that exist as of December 13, 2005. 61
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Cumulative Impacts mean the impact on the Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal, Diversion or Consumptive Use in addition to other past, present and reasonably foreseeable future Withdrawals, Diversions and Consumptive Uses regardless of who undertakes the other Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts can result from individually minor but collectively significant Withdrawals, Diversions and Consumptive Uses taking place over a period of time. 64
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Decision-Making Standard means the decision-making standard established by Section 4.11 for Proposals subject to management and regulation in Section 4.10. 73
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Diversion means a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into 76
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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

Measures means any legislation, law, regulation, directive, 104
requirement, guideline, program, policy, administrative practice 105
or other procedure. 106

New or Increased Diversion means a new Diversion, an increase in 107
an existing Diversion or the alteration of an existing Withdrawal 108

<u>so that it becomes a Diversion.</u>	109
<u>New or Increased Withdrawal or Consumptive Use means a new</u>	110
<u>Withdrawal or Consumptive Use or an increase in an existing</u>	111
<u>Withdrawal or Consumptive Use.</u>	112
Originating Party <u>means the Party within whose jurisdiction an</u>	113
<u>Application or registration is made or required.</u>	114
Party <u>means a State party to this Compact.</u>	115
Person <u>means a human being or a legal person, including a</u>	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
Product <u>means something produced in the Basin by human or</u>	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
Proposal <u>means a Withdrawal, Diversion or Consumptive Use of Water</u>	133
<u>that is subject to this Compact.</u>	134
Province <u>means Ontario or Quebec.</u>	135
Public Water Supply Purposes <u>means water distributed to the public</u>	136
<u>through a physically connected system of treatment, storage and</u>	137
<u>distribution facilities serving a group of largely residential</u>	138

customers that may also serve industrial, commercial and other 139
institutional operators. Water Withdrawn directly from the Basin 140
and not through such a system shall not be considered to be used 141
for Public Water Supply Purposes. 142

Regional Body means the members of the Council and the Premiers of 143
Ontario and Quebec or their designee as established by the 144
Agreement. 145

Regional Review means the collective review by the Regional Body 146
as described in Article 4 of this Compact. 147

Source Watershed means the watershed from which a Withdrawal 148
originates. If Water is Withdrawn directly from a Great Lake or 149
from the St. Lawrence River, then the Source Watershed shall be 150
considered to be the watershed of that Great Lake or the watershed 151
of the St. Lawrence River, respectively. If Water is Withdrawn 152
from the watershed of a stream that is a direct tributary to a 153
Great Lake or a direct tributary to the St. Lawrence River, then 154
the Source Watershed shall be considered to be the watershed of 155
that Great Lake or the watershed of the St. Lawrence River, 156
respectively, with a preference to the direct tributary stream 157
watershed from which it was Withdrawn. 158

Standard of Review and Decision means the Exception Standard, 159
Decision-Making Standard and reviews as outlined in Article 4 of 160
this Compact. 161

State means one of the states of Illinois, Indiana, Michigan, 162
Minnesota, New York, Ohio or Wisconsin or the Commonwealth of 163
Pennsylvania. 164

Straddling Community 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 whether or not a Proposal that requires Regional Review under this Compact meets the Standard of Review and Decision following procedures and guidelines as set out in this Compact.

Water means ground or surface water contained within the Basin.

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

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

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

Section 1.3. Findings and Purposes.

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

1. Findings:

a. The Waters of the Basin are precious public natural resources and, except for tributary groundwater and nonnavigable surface waters, are shared and held in trust by the States. In addition, the Waters of the Basin are subject to reasonable regulation by the Council.

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

c. The Waters of the Basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, Water quality maintenance and the maintenance of fish and wildlife

<u>habitat and a balanced ecosystem. And, other purposes are</u>	200
<u>encouraged, recognizing that such uses are interdependent and</u>	201
<u>must be balanced;</u>	202
<u>d. Future Diversions and Consumptive Uses of Basin Water resources</u>	203
<u>have the potential to significantly impact the environment,</u>	204
<u>economy and welfare of the Great Lakes-St. Lawrence River</u>	205
<u>region;</u>	206
<u>e. Continued sustainable, accessible and adequate Water supplies</u>	207
<u>for the people and economy of the Basin are of vital</u>	208
<u>importance; and,</u>	209
<u>f. The Parties have a shared duty to protect, conserve, restore,</u>	210
<u>improve and manage the renewable but finite Waters of the</u>	211
<u>Basin for the use, benefit and enjoyment of all their</u>	212
<u>citizens, including generations yet to come. The most</u>	213
<u>effective means of protecting, conserving, restoring,</u>	214
<u>improving and managing the Basin Waters is through the joint</u>	215
<u>pursuit of unified and cooperative principles, policies and</u>	216
<u>programs mutually agreed upon, enacted and adhered to by all</u>	217
<u>Parties.</u>	218
<u>2. Purposes:</u>	219
<u>a. To act together to protect, conserve, restore, improve and</u>	220
<u>effectively manage the Waters and Water Dependent Natural</u>	221
<u>Resources of the Basin under appropriate arrangements for</u>	222
<u>intergovernmental cooperation and consultation because</u>	223
<u>current lack of full scientific certainty should not be used</u>	224
<u>as a reason for postponing measures to protect the Basin</u>	225
<u>Ecosystem;</u>	226
<u>b. To remove causes of present and future controversies;</u>	227
<u>c. To provide for cooperative planning and action by the Parties</u>	228
<u>with respect to such Water resources;</u>	229

<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>	230 231 232
<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>	233 234 235 236 237
<u>f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;</u>	238 239
<u>g. To promote interstate and State-Provincial comity; and,</u>	240
<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>	241 242 243 244 245
<u>Section 1.4. Science.</u>	246
<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>	247 248 249 250
<u>2. The strategy shall guide the collection and application of scientific information to support:</u>	251 252
<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>	253 254 255 256
<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>	257 258 259

- c. Improved scientific understanding of the Waters of the Basin; 260
- d. Improved understanding of the role of groundwater in Basin 261
Water resources management; and, 262
- e. The development, transfer and application of science and 263
research related to Water conservation and Water use 264
efficiency. 265

ARTICLE 2 266

ORGANIZATION 267

Section 2.1. Council Created. 268

The Great Lakes-St. Lawrence River Basin Water Resources Council 269
is hereby created as a body politic and corporate, with succession 270
for the duration of this Compact, as an agency and instrumentality 271
of the governments of the respective Parties. 272

Section 2.2. Council Membership. 273

The Council shall consist of the Governors of the Parties, ex 274
officio. 275

Section 2.3. Alternates. 276

Each member of the Council shall appoint at least one alternate 277
who may act in his or her place and stead, with authority to 278
attend all meetings of the Council and with power to vote in the 279
absence of the member. Unless otherwise provided by law of the 280
Party for which he or she is appointed, each alternate shall serve 281
during the term of the member appointing him or her, subject to 282
removal at the pleasure of the member. In the event of a vacancy 283
in the office of alternate, it shall be filled in the same manner 284
as an original appointment for the unexpired term only. 285

Section 2.4. Voting. 286

1. Each member is entitled to one vote on all matters that may 287
come before the Council. 288

2. Unless otherwise stated, the rule of decision shall be by a 289

<u>simple majority.</u>	290
<u>3. The Council shall annually adopt a budget for each fiscal year</u>	291
<u>and the amount required to balance the budget shall be</u>	292
<u>apportioned equitably among the Parties by unanimous vote of</u>	293
<u>the Council. The appropriation of such amounts shall be</u>	294
<u>subject to such review and approval as may be required by the</u>	295
<u>budgetary processes of the respective Parties.</u>	296
<u>4. The participation of Council members from a majority of the</u>	297
<u>Parties shall constitute a quorum for the transaction of</u>	298
<u>business at any meeting of the Council.</u>	299
<u>Section 2.5. Organization and Procedure.</u>	300
<u>The Council shall provide for its own organization and procedure,</u>	301
<u>and may adopt rules and regulations governing its meetings and</u>	302
<u>transactions, as well as the procedures and timeline for</u>	303
<u>submission, review and consideration of Proposals that come before</u>	304
<u>the Council for its review and action. The Council shall organize,</u>	305
<u>annually, by the election of a Chair and Vice-Chair from among its</u>	306
<u>members. Each member may appoint an advisor, who may attend all</u>	307
<u>meetings of the Council and its committees, but shall not have</u>	308
<u>voting power. The Council may employ or appoint professional and</u>	309
<u>administrative personnel, including an Executive Director, as it</u>	310
<u>may deem advisable, to carry out the purposes of this Compact.</u>	311
<u>Section 2.6. Use of Existing Offices and Agencies.</u>	312
<u>It is the policy of the Parties to preserve and utilize the</u>	313
<u>functions, powers and duties of existing offices and agencies of</u>	314
<u>government to the extent consistent with this Compact. Further,</u>	315
<u>the Council shall promote and aid the coordination of the</u>	316
<u>activities and programs of the Parties concerned with Water</u>	317
<u>resources management in the Basin. To this end, but without</u>	318
<u>limitation, the Council may:</u>	319
<u>1. Advise, consult, contract, assist or otherwise cooperate with</u>	320

<u>any and all such agencies;</u>	321
<u>2. Employ any other agency or instrumentality of any of the</u>	322
<u>Parties for any purpose; and,</u>	323
<u>3. Develop and adopt plans consistent with the Water resources</u>	324
<u>plans of the Parties.</u>	325
<u>Section 2.7. Jurisdiction.</u>	326
<u>The Council shall have, exercise and discharge its functions,</u>	327
<u>powers and duties within the limits of the Basin. Outside the</u>	328
<u>Basin, it may act in its discretion, but only to the extent such</u>	329
<u>action may be necessary or convenient to effectuate or implement</u>	330
<u>its powers or responsibilities within the Basin and subject to the</u>	331
<u>consent of the jurisdiction wherein it proposes to act.</u>	332
<u>Section 2.8. Status, Immunities and Privileges.</u>	333
<u>1. The Council, its members and personnel in their official</u>	334
<u>capacity and when engaged directly in the affairs of the</u>	335
<u>Council, its property and its assets, wherever located and by</u>	336
<u>whomsoever held, shall enjoy the same immunity from suit and</u>	337
<u>every form of judicial process as is enjoyed by the Parties,</u>	338
<u>except to the extent that the Council may expressly waive its</u>	339
<u>immunity for the purposes of any proceedings or by the terms</u>	340
<u>of any contract.</u>	341
<u>2. The property and assets of the Council, wherever located and by</u>	342
<u>whomsoever held, shall be considered public property and</u>	343
<u>shall be immune from search, requisition, confiscation,</u>	344
<u>expropriation or any other form of taking or foreclosure by</u>	345
<u>executive or legislative action.</u>	346
<u>3. The Council, its property and its assets, income and the</u>	347
<u>operations it carries out pursuant to this Compact shall be</u>	348
<u>immune from all taxation by or under the authority of any of</u>	349
<u>the Parties or any political subdivision thereof; provided,</u>	350

however, that in lieu of property taxes the Council may make 351
reasonable payments to local taxing districts in annual 352
amounts which shall approximate the taxes lawfully assessed 353
upon similar property. 354

Section 2.9. Advisory Committees. 355

The Council may constitute and empower advisory committees, which 356
may be comprised of representatives of the public and of federal, 357
State, tribal, county and local governments, water resources 358
agencies, water-using industries and sectors, water-interest 359
groups and academic experts in related fields. 360

ARTICLE 3 361

GENERAL POWERS AND DUTIES 362

Section 3.1. General. 363

The Waters and Water Dependent Natural Resources of the Basin are 364
subject to the sovereign right and responsibilities of the 365
Parties, and it is the purpose of this Compact to provide for 366
joint exercise of such powers of sovereignty by the Council in the 367
common interests of the people of the region, in the manner and to 368
the extent provided in this Compact. The Council and the Parties 369
shall use the Standard of Review and Decision and procedures 370
contained in or adopted pursuant to this Compact as the means to 371
exercise their authority under this Compact. 372

The Council may revise the Standard of Review and Decision, after 373
consultation with the Provinces and upon unanimous vote of all 374
Council members, by regulation duly adopted in accordance with 375
Section 3.3 of this Compact and in accordance with each Party's 376
respective statutory authorities and applicable procedures. 377

The Council shall identify priorities and develop plans and 378
policies relating to Basin Water resources. It shall adopt and 379
promote uniform and coordinated policies for Water resources 380
conservation and management in the Basin. 381

Section 3.2. Council Powers. 382

The Council may: plan; conduct research and collect, compile, 383
analyze, interpret, report and disseminate data on Water resources 384
and uses; forecast Water levels; conduct investigations; institute 385
court actions; design, acquire, construct, reconstruct, own, 386
operate, maintain, control, sell and convey real and personal 387
property and any interest therein as it may deem necessary, useful 388
or convenient to carry out the purposes of this Compact; make 389
contracts; receive and accept such payments, appropriations, 390
grants, gifts, loans, advances and other funds, properties and 391
services as may be transferred or made available to it by any 392
Party or by any other public or private agency, corporation or 393
individual; and, exercise such other and different powers as may 394
be delegated to it by this Compact or otherwise pursuant to law, 395
and have and exercise all powers necessary or convenient to carry 396
out its express powers or which may be reasonably implied 397
therefrom. 398

Section 3.3. Rules and Regulations. 399

1. The Council may promulgate and enforce such rules and 400
regulations as may be necessary for the implementation and 401
enforcement of this Compact. The Council may adopt by 402
regulation, after public notice and public hearing, 403
reasonable Application fees with respect to those Proposals 404
for Exceptions that are subject to Council review under 405
Section 4.9. Any rule or regulation of the Council, other 406
than one which deals solely with the internal management of 407
the Council or its property, shall be adopted only after 408
public notice and hearing. 409

2. Each Party, in accordance with its respective statutory 410
authorities and applicable procedures, may adopt and enforce 411
rules and regulations to implement and enforce this Compact 412
and the programs adopted by such Party to carry out the 413

management programs contemplated by this Compact. 414

Section 3.4. Program Review and Findings. 415

1. Each Party shall submit a report to the Council and the 416
Regional Body detailing its Water management and conservation 417
and efficiency programs that implement this Compact. The 418
report shall set out the manner in which Water Withdrawals 419
are managed by sector, Water source, quantity or any other 420
means, and how the provisions of the Standard of Review and 421
Decision and conservation and efficiency programs are 422
implemented. The first report shall be provided by each Party 423
one year from the effective date of this Compact and 424
thereafter every five years. 425

2. The Council, in cooperation with the Provinces, shall review 426
its Water management and conservation and efficiency programs 427
and those of the Parties that are established in this Compact 428
and make findings on whether the Water management program 429
provisions in this Compact are being met, and if not, 430
recommend options to assist the Parties in meeting the 431
provisions of this Compact. Such review shall take place: 432

a. Thirty days after the first report is submitted by all Parties; 433
and, 434

b. Every five years after the effective date of this Compact; and, 435

c. At any other time at the request of one of the Parties. 436

3. As one of its duties and responsibilities, the Council may 437
recommend a range of approaches to the Parties with respect 438
to the development, enhancement and application of Water 439
management and conservation and efficiency programs to 440
implement the Standard of Review and Decision reflecting 441
improved scientific understanding of the Waters of the Basin, 442
including groundwater, and the impacts of Withdrawals on the 443
Basin Ecosystem. 444

4. In the exercise of its authority under this Compact, the 445
Council shall not take any action that results in any Party 446
being prohibited from using at least as much Water, based on 447
a gallons-per-day standard, as any other Party. In addition, 448
the Compact shall not be interpreted to prohibit and any 449
action of the Council shall not prohibit access to or use of 450
Waters of the Basin by Persons who used or had such access to 451
Waters of the Basin on February 1, 2008. 452

ARTICLE 4 453

WATER MANAGEMENT AND REGULATION 454

Section 4.1. Water Resources Inventory, Registration and 455
Reporting. 456

1. Within five years of the effective date of this Compact, each 457
Party shall develop and maintain a Water resources inventory 458
for the collection, interpretation, storage, retrieval, 459
exchange and dissemination of information concerning the 460
Water resources of the Party, including, but not limited to, 461
information on the location, type, quantity and use of those 462
resources and the location, type and quantity of Withdrawals, 463
Diversions and Consumptive Uses. To the extent feasible, the 464
Water resources inventory shall be developed in cooperation 465
with local, State, federal, tribal and other private agencies 466
and entities, as well as the Council. Each Party's agencies 467
shall cooperate with that Party in the development and 468
maintenance of the inventory. 469

2. The Council shall assist each Party to develop a common base of 470
data regarding the management of the Water resources of the 471
Basin and to establish systematic arrangements for the 472
exchange of those data with other States and Provinces. 473

3. To develop and maintain a compatible base of Water use 474
information, within five years of the effective date of this 475
Compact any Person who Withdraws Water in an amount of 476

100,000 gallons per day or greater average in any 30-day 477
period (including Consumptive Uses) from all sources, or 478
Diverts Water of any amount, shall register the Withdrawal or 479
Diversion by a date set by the Council unless the Person has 480
previously registered in accordance with an existing State 481
program. The Person shall register the Withdrawal or 482
Diversion with the Originating Party using a form prescribed 483
by the Originating Party that shall include, at a minimum and 484
without limitation: the name and address of the registrant 485
and date of registration; the locations and sources of the 486
Withdrawal or Diversion; the capacity of the Withdrawal or 487
Diversion per day and the amount Withdrawn or Diverted from 488
each source; the uses made of the Water; places of use and 489
places of discharge; and, such other information as the 490
Originating Party may require. All registrations shall 491
include an estimate of the volume of the Withdrawal or 492
Diversion in terms of gallons per day average in any 30-day 493
period. 494

4. All registrants shall annually report the monthly volumes of 495
the Withdrawal, Consumptive Use and Diversion in gallons to 496
the Originating Party and any other information requested by 497
the Originating Party. 498

5. Each Party shall annually report the information gathered 499
pursuant to this Section to a Great Lakes-St. Lawrence River 500
Water use data base repository and aggregated information 501
shall be made publicly available, consistent with the 502
confidentiality requirements in Section 8.3. 503

6. Information gathered by the Parties pursuant to this Section 504
shall be used to improve the sources and applications of 505
scientific information regarding the Waters of the Basin and 506
the impacts of the Withdrawals and Diversions from various 507
locations and Water sources on the Basin Ecosystem, and to 508

better understand the role of groundwater in the Basin. The 509
Council and the Parties shall coordinate the collection and 510
application of scientific information to further develop a 511
mechanism by which individual and Cumulative Impacts of 512
Withdrawals, Consumptive Uses and Diversions shall be 513
assessed. 514

Section 4.2. Water Conservation and Efficiency Programs. 515

1. The Council commits to identify, in cooperation with the 516
Provinces, Basin-wide Water conservation and efficiency 517
objectives to assist the Parties in developing their Water 518
conservation and efficiency program. These objectives are 519
based on the goals of: 520

a. Ensuring improvement of the Waters and Water Dependent Natural 521
Resources; 522

b. Protecting and restoring the hydrologic and ecosystem integrity 523
of the Basin; 524

c. Retaining the quantity of surface water and groundwater in the 525
Basin; 526

d. Ensuring sustainable use of Waters of the Basin; and, 527

e. Promoting the efficiency of use and reducing losses and waste 528
of Water. 529

2. Within two years of the effective date of this Compact, each 530
Party shall develop its own Water conservation and efficiency 531
goals and objectives consistent with the Basin-wide goals and 532
objectives, and shall develop and implement a Water 533
conservation and efficiency program, either voluntary or 534
mandatory, within its jurisdiction based on the Party's goals 535
and objectives. Each Party shall annually assess its programs 536
in meeting the Party's goals and objectives, report to the 537
Council and the Regional Body and make this annual assessment 538

<u>available to the public.</u>	539
<u>3. Beginning five years after the effective date of this Compact,</u>	540
<u>and every five years thereafter, the Council, in cooperation</u>	541
<u>with the Provinces, shall review and modify as appropriate</u>	542
<u>the Basin-wide objectives, and the Parties shall have regard</u>	543
<u>for any such modifications in implementing their programs.</u>	544
<u>This assessment will be based on examining new technologies,</u>	545
<u>new patterns of Water use, new resource demands and threats</u>	546
<u>and Cumulative Impact assessment under Section 4.15.</u>	547
<u>4. Within two years of the effective date of this Compact, the</u>	548
<u>Parties commit to promote Environmentally Sound and</u>	549
<u>Economically Feasible Water Conservation Measures such as:</u>	550
<u>a. Measures that promote efficient use of Water;</u>	551
<u>b. Identification and sharing of best management practices and</u>	552
<u>state of the art conservation and efficiency technologies;</u>	553
<u>c. Application of sound planning principles;</u>	554
<u>d. Demand-side and supply-side Measures or incentives; and,</u>	555
<u>e. Development, transfer and application of science and research.</u>	556
<u>5. Each Party shall implement in accordance with Paragraph 2 above</u>	557
<u>a voluntary or mandatory Water conservation program for all,</u>	558
<u>including existing, Basin Water users. Conservation programs</u>	559
<u>need to adjust to new demands and the potential impacts of</u>	560
<u>cumulative effects and climate.</u>	561
Section 4.3. Party Powers and Duties.	562
<u>1. Each Party, within its jurisdiction, shall manage and regulate</u>	563
<u>New or Increased Withdrawals, Consumptive Uses and</u>	564
<u>Diversions, including Exceptions, in accordance with this</u>	565
<u>Compact.</u>	566
<u>2. Each Party shall require an Applicant to submit an Application</u>	567
<u>in such manner and with such accompanying information as the</u>	568

<u>Party shall prescribe.</u>	569
<u>3. No Party may approve a Proposal if the Party determines that</u>	570
<u>the Proposal is inconsistent with this Compact or the</u>	571
<u>Standard of Review and Decision or any implementing rules or</u>	572
<u>regulations promulgated thereunder. The Party may approve,</u>	573
<u>approve with modifications or disapprove any Proposal</u>	574
<u>depending on the Proposal's consistency with this Compact and</u>	575
<u>the Standard of Review and Decision.</u>	576
<u>4. Each Party shall monitor the implementation of any approved</u>	577
<u>Proposal to ensure consistency with the approval and may take</u>	578
<u>all necessary enforcement actions.</u>	579
<u>5. No Party shall approve a Proposal subject to Council or</u>	580
<u>Regional Review, or both, pursuant to this Compact unless it</u>	581
<u>shall have been first submitted to and reviewed by either the</u>	582
<u>Council or Regional Body, or both, and approved by the</u>	583
<u>Council, as applicable. Sufficient opportunity shall be</u>	584
<u>provided for comment on the Proposal's consistency with this</u>	585
<u>Compact and the Standard of Review and Decision. All such</u>	586
<u>comments shall become part of the Party's formal record of</u>	587
<u>decision, and the Party shall take into consideration any</u>	588
<u>such comments received.</u>	589
<u>Section 4.4. Requirement for Originating Party Approval.</u>	590
<u>No Proposal subject to management and regulation under this</u>	591
<u>Compact shall hereafter be undertaken by any Person unless it</u>	592
<u>shall have been approved by the Originating Party.</u>	593
<u>Section 4.5. Regional Review.</u>	594
<u>1. General.</u>	595
<u>a. It is the intention of the Parties to participate in Regional</u>	596
<u>Review of Proposals with the Provinces, as described in this</u>	597
<u>Compact and the Agreement.</u>	598

- 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. 599 600 601 602 603
- 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 concurrent review. 604 605 606 607
- d. The Parties agree that the protection of the integrity of the Great Lakes-St. Lawrence River Basin Ecosystem shall be the overarching principle for reviewing Proposals subject to Regional Review, recognizing uncertainties with respect to demands that may be placed on Basin Water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data and the extent to which Diversions may harm the integrity of the Basin Ecosystem. 608 609 610 611 612 613 614 615 616
- e. The Originating Party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a Proposal, and shall consult with the Applicant throughout the Regional Review process. 617 618 619 620
- f. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal. Such Regional Review must be conducted, to the extent possible, within the time frames set forth in this Section. Any such Regional Review shall be undertaken only after consulting the Applicant. 621 622 623 624 625 626
2. Notice from Originating Party to the Regional Body. 627
- a. The Originating Party shall determine if a Proposal is subject to Regional Review. If so, the Originating Party shall 628 629

- provide timely notice to the Regional Body and the public. 630
- b. Such notice shall not be given unless and until all 631
information, documents and the Originating Party's Technical 632
Review needed to evaluate whether the Proposal meets the 633
Standard of Review and Decision have been provided. 634
- c. An Originating Party may: 635
- i. Provide notice to the Regional Body of an Application, even if 636
notification is not required; or, 637
- ii. Request Regional Review of an application, even if Regional 638
Review is not required. Any such Regional Review shall be 639
undertaken only after consulting the Applicant. 640
- d. An Originating Party may provide preliminary notice of a 641
potential Proposal. 642
3. Public Participation. 643
- a. To ensure adequate public participation, the Regional Body 644
shall adopt procedures for the review of Proposals that are 645
subject to Regional Review in accordance with this Article. 646
- b. The Regional Body shall provide notice to the public of a 647
Proposal undergoing Regional Review. Such notice shall 648
indicate that the public has an opportunity to comment in 649
writing to the Regional Body on whether the Proposal meets 650
the Standard of Review and Decision. 651
- c. The Regional Body shall hold a public meeting in the State or 652
Province of the Originating Party in order to receive public 653
comment on the issue of whether the Proposal under 654
consideration meets the Standard of Review and Decision. 655
- d. The Regional Body shall consider the comments received before 656
issuing a Declaration of Finding. 657
- e. The Regional Body shall forward the comments it receives to the 658
Originating Party. 659

4. Technical Review. 660
- a. The Originating Party shall provide the Regional Body with its 661
Technical Review of the Proposal under consideration. 662
- b. The Originating Party's Technical Review shall thoroughly 663
analyze the Proposal and provide an evaluation of the 664
Proposal sufficient for a determination of whether the 665
Proposal meets the Standard of Review and Decision. 666
- c. Any member of the Regional Body may conduct their own Technical 667
Review of any Proposal subject to Regional Review. 668
- d. At the request of the majority of its members, the Regional 669
Body shall make such arrangements as it considers appropriate 670
for an independent Technical Review of a Proposal. 671
- e. All Parties shall exercise their best efforts to ensure that a 672
Technical Review undertaken under Sections 4.5.4.c and 673
4.5.4.d does not unnecessarily delay the decision by the 674
Originating Party on the Application. Unless the Applicant or 675
the Originating Party otherwise requests, all Technical 676
Reviews shall be completed no later than 60 days after the 677
date the notice of the Proposal was given to the Regional 678
Body. 679
5. Declaration of Finding. 680
- a. The Regional Body shall meet to consider a Proposal. The 681
Applicant shall be provided with an opportunity to present 682
the Proposal to the Regional Body at such time. 683
- b. The Regional Body, having considered the notice, the 684
Originating Party's Technical Review, any other independent 685
Technical Review that is made, any comments or objections 686
including the analysis of comments made by the public, First 687
Nations and federally recognized Tribes, and any other 688
information that is provided under this Compact shall issue a 689

<u>Declaration of Finding that the Proposal under consideration:</u>	690
<u>i. Meets the Standard of Review and Decision;</u>	691
<u>ii. Does not meet the Standard of Review and Decision; or,</u>	692
<u>iii. Would meet the Standard of Review and Decision if certain conditions were met.</u>	693 694
<u>c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.</u>	695 696
<u>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.</u>	697 698 699
<u>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.</u>	700 701 702
<u>f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.</u>	703 704 705
<u>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.</u>	706 707 708
<u>h. The Regional Body shall release the Declaration of Finding to the public.</u>	709 710
<u>i. The Originating Party and the Council shall consider the Declaration of Finding before making a decision on the Proposal.</u>	711 712 713
<u>Section 4.6. Proposals Subject to Prior Notice.</u>	714
<u>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</u>	715 716 717 718

New or Increased Consumptive Use of 5 million gallons per day 719
or greater average in any 90-day period. Comments shall 720
address whether or not the Proposal is consistent with the 721
Standard of Review and Decision. The Originating Party shall 722
provide a response to any such comment received from another 723
Party. 724

2. A Party may provide notice, an opportunity to comment and a 725
response to comments even if this is not required under 726
Paragraph 1 of this Section. Any provision of such notice and 727
opportunity to comment shall be undertaken only after 728
consulting the Applicant. 729

Section 4.7 Council Actions. 730

1. Proposals for Exceptions subject to Council Review shall be 731
submitted by the Originating Party to the Council for Council 732
Review, and where applicable, to the Regional Body for 733
concurrent review. 734

2. The Council shall review and take action on Proposals in 735
accordance with this Compact and the Standard of Review and 736
Decision. The Council shall not take action on a Proposal 737
subject to Regional Review pursuant to this Compact unless 738
the Proposal shall have been first submitted to and reviewed 739
by the Regional Body. The Council shall consider any findings 740
resulting from such review. 741

Section 4.8. Prohibition of New or Increased Diversions. 742

All New or Increased Diversions are prohibited, except as provided 743
for in this Article. 744

Section 4.9. Exceptions to the Prohibition of Diversions. 745

1. Straddling Communities. A Proposal to transfer Water to an area 746
within a Straddling Community but outside the Basin or 747
outside the Source Great Lake Watershed shall be excepted 748

from the prohibition against Diversions and be managed and 749
regulated by the Originating Party provided that, regardless 750
of the volume of Water transferred, all the Water so 751
transferred shall be used solely for Public Water Supply 752
Purposes within the Straddling Community, and: 753

a. All Water Withdrawn from the Basin shall be returned, either 754
naturally or after use, to the Source Watershed less an 755
allowance for Consumptive Use. No surface water or 756
groundwater from outside the Basin may be used to satisfy any 757
portion of this criterion except if it: 758

i. Is part of a water supply or wastewater treatment system that 759
combines water from inside and outside of the Basin; 760

ii. Is treated to meet applicable water quality discharge 761
standards and to prevent the introduction of invasive species 762
into the Basin; 763

iii. Maximizes the portion of water returned to the Source 764
Watershed as Basin Water and minimizes the surface water or 765
groundwater from outside the Basin; 766

b. If the Proposal results from a New or Increased Withdrawal of 767
100,000 gallons per day or greater average over any 90-day 768
period, the Proposal shall also meet the Exception Standard; 769
and, 770

c. If the Proposal results in a New or Increased Consumptive Use 771
of 5 million gallons per day or greater average over any 772
90-day period, the Proposal shall also undergo Regional 773
Review. 774

2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer 775
that would be considered a Diversion under this Compact, and 776
not already excepted pursuant to Paragraph 1 of this Section, 777
shall be excepted from the prohibition against Diversions, 778
provided that: 779

- a. If the Proposal results from a New or Increased Withdrawal of less than 100,000 gallons per day average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party. 780
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783
- b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day average over any 90-day period: 784
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- i. The Proposal shall meet the Exception Standard and be subject to management and regulation by the Originating Party, except that the Water may be returned to another Great Lake watershed rather than the Source Watershed; 789
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- ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies; and, 793
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797
- iii. The Originating Party shall provide notice to the other Parties prior to making any decision with respect to the Proposal. 798
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- c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period: 801
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803
- i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Exception Standard, ensuring that Water Withdrawn shall be returned to the Source Watershed; 804
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807
- ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the 808
809
810

<u>Water will be transferred, including conservation of existing</u>	811
<u>water supplies;</u>	812
<u>iii. The Proposal undergoes Regional Review; and,</u>	813
<u>iv. The Proposal is approved by the Council. Council approval</u>	814
<u>shall be given if a majority of the Council members vote to</u>	815
<u>approve the Proposal.</u>	816
<u>3. Straddling Counties. A Proposal to transfer Water to a</u>	817
<u>Community within a Straddling County that would be considered</u>	818
<u>a Diversion under this Compact shall be excepted from the</u>	819
<u>prohibition against Diversions, provided that it satisfies</u>	820
<u>all of the following conditions:</u>	821
<u>a. The Water shall be used solely for the Public Water Supply</u>	822
<u>Purposes of the Community within a Straddling County that is</u>	823
<u>without adequate supplies of potable water;</u>	824
<u>b. The Proposal meets the Exception Standard, maximizing the</u>	825
<u>portion of water returned to the Source Watershed as Basin</u>	826
<u>Water and minimizing the surface water or groundwater from</u>	827
<u>outside the Basin;</u>	828
<u>c. The Proposal shall be subject to management and regulation by</u>	829
<u>the Originating Party, regardless of its size;</u>	830
<u>d. There is no reasonable water supply alternative within the</u>	831
<u>Basin in which the community is located, including</u>	832
<u>conservation of existing water supplies;</u>	833
<u>e. Caution shall be used in determining whether or not the</u>	834
<u>Proposal meets the conditions for this Exception. This</u>	835
<u>Exception should not be authorized unless it can be shown</u>	836
<u>that it will not endanger the integrity of the Basin</u>	837
<u>Ecosystem;</u>	838
<u>f. The Proposal undergoes Regional Review; and,</u>	839
<u>g. The Proposal is approved by the Council. Council approval shall</u>	840

be given if a majority of the Council members vote to approve 841
the Proposal. 842

A Proposal must satisfy all of the conditions listed above. 843
Further, substantive consideration will also be given to whether 844
or not the Proposal can provide sufficient scientifically based 845
evidence that the existing water supply is derived from 846
groundwater that is hydrologically interconnected to Waters of the 847
Basin. 848

4. Exception Standard. Proposals subject to management and 849
regulation in this Section shall be declared to meet this 850
Exception Standard and may be approved as appropriate only 851
when the following criteria are met: 852

a. The need for all or part of the proposed Exception cannot be 853
reasonably avoided through the efficient use and conservation 854
of existing water supplies; 855

b. The Exception will be limited to quantities that are considered 856
reasonable for the purposes for which it is proposed; 857

c. All Water Withdrawn shall be returned, either naturally or 858
after use, to the Source Watershed less an allowance for 859
Consumptive Use. No surface water or groundwater from outside 860
the Basin may be used to satisfy any portion of this 861
criterion except if it: 862

i. Is part of a water supply or wastewater treatment system that 863
combines water from inside and outside of the Basin; 864

ii. Is treated to meet applicable water quality discharge 865
standards and to prevent the introduction of invasive species 866
into the Basin; 867

d. The Exception will be implemented so as to ensure that it will 868
result in no significant individual or cumulative adverse 869
impacts to the quantity or quality of the Waters and Water 870

<u>Dependent Natural Resources of the Basin with consideration</u>	871
<u>given to the potential Cumulative Impacts of any</u>	872
<u>precedent-setting consequences associated with the Proposal;</u>	873
<u>e. The Exception will be implemented so as to incorporate</u>	874
<u>Environmentally Sound and Economically Feasible Water</u>	875
<u>Conservation Measures to minimize Water Withdrawals or</u>	876
<u>Consumptive Use;</u>	877
<u>f. The Exception will be implemented so as to ensure that it is in</u>	878
<u>compliance with all applicable municipal, State and federal</u>	879
<u>laws as well as regional interstate and international</u>	880
<u>agreements, including the Boundary Waters Treaty of 1909;</u>	881
<u>and,</u>	882
<u>g. All other applicable criteria in Section 4.9 have also been</u>	883
<u>met.</u>	884
<u>Section 4.10. Management and Regulation of New or Increased</u>	885
<u>Withdrawals and Consumptive Uses.</u>	886
<u>1. Within five years of the effective date of this Compact, each</u>	887
<u>Party shall create a program for the management and</u>	888
<u>regulation of New or Increased Withdrawals and Consumptive</u>	889
<u>Uses by adopting and implementing Measures consistent with</u>	890
<u>the Decision-Making Standard. Each Party, through a</u>	891
<u>considered process, shall set and may modify threshold levels</u>	892
<u>for the regulation of New or Increased Withdrawals in order</u>	893
<u>to assure an effective and efficient Water management program</u>	894
<u>that will ensure that uses overall are reasonable, that</u>	895
<u>Withdrawals overall will not result in significant impacts to</u>	896
<u>the Waters and Water Dependent Natural Resources of the</u>	897
<u>Basin, determined on the basis of significant impacts to the</u>	898
<u>physical, chemical, and biological integrity of Source</u>	899
<u>Watersheds, and that all other objectives of the Compact are</u>	900
<u>achieved. Each Party may determine the scope and thresholds</u>	901

of its program, including which New or Increased Withdrawals 902
and Consumptive Uses will be subject to the program. 903

2. Any Party that fails to set threshold levels that comply with 904
Section 4.10.1 any time before ten years after the effective 905
date of this Compact shall apply a threshold level for 906
management and regulation of all New or Increased Withdrawals 907
of 100,000 gallons per day or greater average in any 90-day 908
period. 909

3. The Parties intend programs for New or Increased Withdrawals 910
and Consumptive Uses to evolve as may be necessary to protect 911
Basin Waters. Pursuant to Section 3.4, the Council, in 912
cooperation with the Provinces, shall periodically assess the 913
Water management programs of the Parties. Such assessments 914
may produce recommendations for the strengthening of the 915
programs, including without limitation, establishing lower 916
thresholds for management and regulation in accordance with 917
the Decision-Making Standard. 918

Section 4.11. Decision-Making Standard. 919

Proposals subject to management and regulation in Section 4.10 920
shall be declared to meet this Decision-Making Standard and 921
may be approved as appropriate only when the following 922
criteria are met: 923

1. All Water Withdrawn shall be returned, either naturally or 924
after use, to the Source Watershed less an allowance for 925
Consumptive Use; 926

2. The Withdrawal or Consumptive Use will be implemented so as to 927
ensure that the Proposal will result in no significant 928
individual or cumulative adverse impacts to the quantity or 929
quality of the Waters and Water Dependent Natural Resources 930
and the applicable Source Watershed; 931

3. The Withdrawal or Consumptive Use will be implemented so as to 932

<u>incorporate Environmentally Sound and Economically Feasible</u>	933
<u>Water Conservation Measures;</u>	934
<u>4. The Withdrawal or Consumptive Use will be implemented so as to</u>	935
<u>ensure that it is in compliance with all applicable</u>	936
<u>municipal, State and federal laws as well as regional</u>	937
<u>interstate and international agreements, including the</u>	938
<u>Boundary Waters Treaty of 1909;</u>	939
<u>5. The proposed use is reasonable, based upon a consideration of</u>	940
<u>the following factors:</u>	941
<u>a. Whether the proposed Withdrawal or Consumptive Use is planned</u>	942
<u>in a fashion that provides for efficient use of the Water,</u>	943
<u>and will avoid or minimize the waste of Water;</u>	944
<u>b. If the Proposal is for an increased Withdrawal or Consumptive</u>	945
<u>Use, whether efficient use is made of existing water</u>	946
<u>supplies;</u>	947
<u>c. The balance between economic development, social development</u>	948
<u>and environmental protection of the proposed Withdrawal and</u>	949
<u>use and other existing or planned withdrawals and water uses</u>	950
<u>sharing the Water source;</u>	951
<u>d. The supply potential of the Water source, considering quantity,</u>	952
<u>quality and reliability and safe yield of hydrologically</u>	953
<u>interconnected water sources;</u>	954
<u>e. The probable degree and duration of any adverse impacts caused</u>	955
<u>or expected to be caused by the proposed Withdrawal and use</u>	956
<u>under foreseeable conditions, to other lawful consumptive or</u>	957
<u>non-consumptive uses of water or to the quantity or quality</u>	958
<u>of the Waters and Water Dependent Natural Resources of the</u>	959
<u>Basin, and the proposed plans and arrangements for avoidance</u>	960
<u>or mitigation of such impacts; and,</u>	961
<u>f. If a Proposal includes restoration of hydrologic conditions and</u>	962

functions of the Source Watershed, the Party may consider 963
that. 964

Section 4.12. Applicability. 965

1. Minimum Standard. This Standard of Review and Decision shall be 966
used as a minimum standard. Parties may impose a more 967
restrictive decision-making standard for Withdrawals under 968
their authority. It is also acknowledged that although a 969
Proposal meets the Standard of Review and Decision it may not 970
be approved under the laws of the Originating Party that has 971
implemented more restrictive Measures. 972

2. Baseline. 973

a. To establish a baseline for determining a New or Increased 974
Diversion, Consumptive Use or Withdrawal, each Party shall 975
develop either or both of the following lists for their 976
jurisdiction: 977

i. A list of existing Withdrawal approvals as of the effective 978
date of the Compact; 979

ii. A list of the capacity of existing systems as of the effective 980
date of this Compact. The capacity of the existing systems 981
should be presented in terms of Withdrawal capacity, 982
treatment capacity, distribution capacity, or other capacity 983
limiting factors. The capacity of the existing systems must 984
represent the state of the systems. Existing capacity 985
determinations shall be based upon approval limits or the 986
most restrictive capacity information. 987

b. For all purposes of this Compact, volumes of Diversions, 988
Consumptive Uses, or Withdrawals of Water set forth in the 989
list(s) prepared by each Party in accordance with this 990
Section, shall constitute the baseline volume. 991

c. The list(s) shall be furnished to the Regional Body and the 992

<u>Council within one year of the effective date of this</u>	993
<u>Compact.</u>	994
<u>3. Timing of Additional Applications. Applications for New or</u>	995
<u>Increased Withdrawals, Consumptive Uses or Exceptions shall</u>	996
<u>be considered cumulatively within ten years of any</u>	997
<u>application.</u>	998
<u>4. Change of Ownership. Unless a new owner proposes a project that</u>	999
<u>shall result in a Proposal for a New or Increased Diversion</u>	1000
<u>or Consumptive Use subject to Regional Review or Council</u>	1001
<u>approval, the change of ownership in and of itself shall not</u>	1002
<u>require Regional Review or Council approval.</u>	1003
<u>5. Groundwater. The Basin surface water divide shall be used for</u>	1004
<u>the purpose of managing and regulating New or Increased</u>	1005
<u>Diversions, Consumptive Uses or Withdrawals of surface water</u>	1006
<u>and groundwater.</u>	1007
<u>6. Withdrawal Systems. The total volume of surface water and</u>	1008
<u>groundwater resources that supply a common distribution</u>	1009
<u>system shall determine the volume of a Withdrawal,</u>	1010
<u>Consumptive Use or Diversion.</u>	1011
<u>7. Connecting Channels. The watershed of each Great Lake shall</u>	1012
<u>include its upstream and downstream connecting channels.</u>	1013
<u>8. Transmission in Water Lines. Transmission of Water within a</u>	1014
<u>line that extends outside the Basin as it conveys Water from</u>	1015
<u>one point to another within the Basin shall not be considered</u>	1016
<u>a Diversion if none of the Water is used outside the Basin.</u>	1017
<u>9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds</u>	1018
<u>shall be considered to be a single hydrologic unit and</u>	1019
<u>watershed.</u>	1020
<u>10. Bulk Water Transfer. A Proposal to Withdraw Water and to</u>	1021
<u>remove it from the Basin in any container greater than 5.7</u>	1022

gallons shall be treated under this Compact in the same 1023
manner as a Proposal for a Diversion. Each Party shall have 1024
the discretion, within its jurisdiction, to determine the 1025
treatment of Proposals to Withdraw Water and to remove it 1026
from the Basin in any container of 5.7 gallons or less. 1027

Section 4.13. Exemptions. 1028

Withdrawals from the Basin for the following purposes are exempt 1029
from the requirements of Article 4: 1030

1. To supply vehicles, including vessels and aircraft, whether for 1031
the needs of the persons or animals being transported or for 1032
ballast or other needs related to the operation of the 1033
vehicles. 1034

2. To use in a non-commercial project on a short-term basis for 1035
firefighting, humanitarian, or emergency response purposes. 1036

Section 4.14. U.S. Supreme Court Decree: *Wisconsin et al. v.* 1037

Illinois et al. 1038

1. Notwithstanding any terms of this Compact to the contrary, with 1039
the exception of Paragraph 5 of this Section, current, New or 1040
Increased Withdrawals, Consumptive Uses and Diversions of 1041
Basin Water by the State of Illinois shall be governed by the 1042
terms of the United States Supreme Court decree in *Wisconsin* 1043
et al. v. Illinois et al. and shall not be subject to the 1044
terms of this Compact nor any rules or regulations 1045
promulgated pursuant to this Compact. This means that, with 1046
the exception of Paragraph 5 of this Section, for purposes of 1047
this Compact, current, New or Increased Withdrawals, 1048
Consumptive Uses and Diversions of Basin Water within the 1049
State of Illinois shall be allowed unless prohibited by the 1050
terms of the United States Supreme Court decree in *Wisconsin* 1051
et al. v. Illinois et al. 1052

2. The Parties acknowledge that the United States Supreme Court 1053

decree in *Wisconsin et al. v. Illinois et al.* shall continue 1054
in full force and effect, that this Compact shall not modify 1055
any terms thereof and that this Compact shall grant the 1056
parties no additional rights, obligations, remedies or 1057
defenses thereto. The Parties specifically acknowledge that 1058
this Compact shall not prohibit or limit the State of 1059
Illinois in any manner from seeking additional Basin Water as 1060
allowed under the terms of the United States Supreme Court 1061
decree in *Wisconsin et al. v. Illinois et al.*, any other 1062
party from objecting to any request by the State of Illinois 1063
for additional Basin Water under the terms of said decree, or 1064
any party from seeking any other type of modification to said 1065
decree. If an application is made by any party to the Supreme 1066
Court of the United States to modify said decree, the Parties 1067
to this Compact who are also parties to the decree shall seek 1068
formal input from the Canadian Provinces of Ontario and 1069
Quebec, with respect to the proposed modification, use best 1070
efforts to facilitate the appropriate participation of said 1071
Provinces in the proceedings to modify the decree, and shall 1072
not unreasonably impede or restrict such participation. 1073

3. With the exception of Paragraph 5 of this Section, because 1074
current, New or Increased Withdrawals, Consumptive Uses and 1075
Diversions of Basin Water by the State of Illinois are not 1076
subject to the terms of this Compact, the State of Illinois 1077
is prohibited from using any term of this Compact, including 1078
Section 4.9, to seek New or Increased Withdrawals, 1079
Consumptive Uses or Diversions of Basin Water. 1080

4. With the exception of Paragraph 5 of this Section, because 1081
Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 1082
(Paragraphs 1, 2, 3, 4, 6 and 10 only) and 4.13 of this 1083
Compact all relate to current, New or Increased Withdrawals, 1084
Consumptive Uses and Diversions of Basin Waters, said 1085

provisions do not apply to the State of Illinois. All other 1086
provisions of this Compact not listed in the preceding 1087
sentence shall apply to the State of Illinois, including the 1088
Water Conservation Programs provision of Section 4.2. 1089

5. In the event of a Proposal for a Diversion of Basin Water for 1090
use outside the territorial boundaries of the Parties to this 1091
Compact, decisions by the State of Illinois regarding such a 1092
Proposal would be subject to all terms of this Compact, 1093
except Paragraphs 1, 3 and 4 of this Section. 1094

6. For purposes of the State of Illinois' participation in this 1095
Compact, the entirety of this Section 4.14 is necessary for 1096
the continued implementation of this Compact and, if severed, 1097
this Compact shall no longer be binding on or enforceable by 1098
or against the State of Illinois. 1099

Section 4.15. Assessment of Cumulative Impacts. 1100

1. The Parties in cooperation with the Provinces shall 1101
collectively conduct within the Basin, on a Great Lake 1102
watershed and St. Lawrence River Basin basis, a periodic 1103
assessment of the Cumulative Impacts of Withdrawals, 1104
Diversions and Consumptive Uses from the Waters of the Basin, 1105
every five years or each time the incremental Basin Water 1106
losses reach 50 million gallons per day average in any 90-day 1107
period in excess of the quantity at the time of the most 1108
recent assessment, whichever comes first, or at the request 1109
of one or more of the Parties. The assessment shall form the 1110
basis for a review of the Standard of Review and Decision, 1111
Council and Party regulations and their application. This 1112
assessment shall: 1113

a. Utilize the most current and appropriate guidelines for such a 1114
review, which may include but not be limited to Council on 1115
Environmental Quality and Environment Canada guidelines; 1116

- b. Give substantive consideration to climate change or other 1117
significant threats to Basin Waters and take into account the 1118
current state of scientific knowledge, or uncertainty, and 1119
appropriate Measures to exercise caution in cases of 1120
uncertainty if serious damage may result; 1121
- c. Consider Adaptive Management principles and approaches, 1122
recognizing, considering and providing adjustments for the 1123
uncertainties in, and evolution of science concerning the 1124
Basin's Water resources, watersheds and Ecosystems, including 1125
potential changes to Basin-wide processes, such as lake level 1126
cycles and climate. 1127
2. The Parties have the responsibility of conducting this 1128
Cumulative Impact assessment. Applicants are not required to 1129
participate in this assessment. 1130
3. Unless required by other statutes, Applicants are not required 1131
to conduct a separate Cumulative Impact assessment in 1132
connection with an Application but shall submit information 1133
about the potential impacts of a Proposal to the quantity or 1134
quality of the Waters and Water Dependent Natural Resources 1135
of the applicable Source Watershed. An Applicant may, 1136
however, provide an analysis of how their Proposal meets the 1137
no significant adverse Cumulative Impact provision of the 1138
Standard of Review and Decision. 1139

ARTICLE 5 1140

TRIBAL CONSULTATION 1141

Section 5.1. Consultation with Tribes. 1142

1. In addition to all other opportunities to comment pursuant to 1143
Section 6.2, appropriate consultations shall occur with 1144
federally recognized Tribes in the Originating Party for all 1145
Proposals subject to Council or Regional Review pursuant to 1146
this Compact. Such consultations shall be organized in the 1147

manner suitable to the individual Proposal and the laws and 1148
policies of the Originating Party. 1149

2. All federally recognized Tribes within the Basin shall receive 1150
reasonable notice indicating that they have an opportunity to 1151
comment in writing to the Council or the Regional Body, or 1152
both, and other relevant organizations on whether the 1153
Proposal meets the requirements of the Standard of Review and 1154
Decision when a Proposal is subject to Regional Review or 1155
Council approval. Any notice from the Council shall inform 1156
the Tribes of any meeting or hearing that is to be held under 1157
Section 6.2 and invite them to attend. The Parties and the 1158
Council shall consider the comments received under this 1159
Section before approving, approving with modifications or 1160
disapproving any Proposal subject to Council or Regional 1161
Review. 1162

3. In addition to the specific consultation mechanisms described 1163
above, the Council shall seek to establish mutually agreed 1164
upon mechanisms or processes to facilitate dialogue with, and 1165
input from federally recognized Tribes on matters to be dealt 1166
with by the Council; and, the Council shall seek to establish 1167
mechanisms and processes with federally recognized Tribes 1168
designed to facilitate on-going scientific and technical 1169
interaction and data exchange regarding matters falling 1170
within the scope of this Compact. This may include 1171
participation of tribal representatives on advisory 1172
committees established under this Compact or such other 1173
processes that are mutually-agreed upon with federally 1174
recognized Tribes individually or through duly-authorized 1175
intertribal agencies or bodies. 1176

ARTICLE 6 1177

PUBLIC PARTICIPATION 1178

Section 6.1. Meetings, Public Hearings and Records. 1179

1. The Parties recognize the importance and necessity of public participation in promoting management of the Water Resources of the Basin. Consequently, all meetings of the Council shall be open to the public, except with respect to issues of personnel. 1180
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2. The minutes of the Council shall be a public record open to inspection at its offices during regular business hours. 1185
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Section 6.2. Public Participation. 1187

It is the intent of the Council to conduct public participation processes concurrently and jointly with processes undertaken by the Parties and through Regional Review. To ensure adequate public participation, each Party or the Council shall ensure procedures for the review of Proposals subject to the Standard of Review and Decision consistent with the following requirements: 1188
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1. Provide public notification of receipt of all Applications and a reasonable opportunity for the public to submit comments before Applications are acted upon. 1194
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2. Assure public accessibility to all documents relevant to an Application, including public comment received. 1197
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3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an Application, time and place of such a meeting(s) or hearing(s), and procedures for conducting of the same. 1199
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4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions and disapprovals. 1203
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ARTICLE 7 1206

DISPUTE RESOLUTION AND ENFORCEMENT 1207

Section 7.1. Good Faith Implementation. 1208

Each of the Parties pledges to support implementation of all 1209

provisions of this Compact, and covenants that its officers and 1210
agencies shall not hinder, impair or prevent any other Party 1211
carrying out any provision of this Compact. 1212

Section 7.2. Alternative Dispute Resolution. 1213

1. Desiring that this Compact be carried out in full, the Parties 1214
agree that disputes between the Parties regarding 1215
interpretation, application and implementation of this 1216
Compact shall be settled by alternative dispute resolution. 1217

2. The Council, in consultation with the Provinces, shall provide 1218
by rule procedures for the resolution of disputes pursuant to 1219
this section. 1220

Section 7.3. Enforcement. 1221

1. Any Person aggrieved by any action taken by the Council 1222
pursuant to the authorities contained in this Compact shall 1223
be entitled to a hearing before the Council. Any Person 1224
aggrieved by a Party action shall be entitled to a hearing 1225
pursuant to the relevant Party's administrative procedures 1226
and laws. After exhaustion of such administrative remedies, 1227
(i) any aggrieved Person shall have the right to judicial 1228
review of a Council action in the United States District 1229
Court for the District of Columbia or the District Court in 1230
which the Council maintains offices, provided such action is 1231
commenced within 90 days; and, (ii) any aggrieved Person 1232
shall have the right to judicial review of a Party's action 1233
in the relevant Party's court of competent jurisdiction, 1234
provided that an action or proceeding for such review is 1235
commenced within the time frames provided for by the Party's 1236
law. For the purposes of this paragraph, a State or Province 1237
is deemed to be an aggrieved Person with respect to any Party 1238
action pursuant to this Compact. 1239

2.a. Any Party or the Council may initiate actions to compel 1240

<u>compliance with the provisions of this Compact, and the rules</u>	1241
<u>and regulations promulgated hereunder by the Council.</u>	1242
<u>Jurisdiction over such actions is granted to the court of the</u>	1243
<u>relevant Party, as well as the United States District Court</u>	1244
<u>for the District of Columbia and the District Court in which</u>	1245
<u>the Council maintains offices. The remedies available to any</u>	1246
<u>such court shall include, but not be limited to, equitable</u>	1247
<u>relief and civil penalties.</u>	1248
<u>b. Each Party may issue orders within its respective jurisdiction</u>	1249
<u>and may initiate actions to compel compliance with the</u>	1250
<u>provisions of its respective statutes and regulations adopted</u>	1251
<u>to implement the authorities contemplated by this Compact in</u>	1252
<u>accordance with the provisions of the laws adopted in each</u>	1253
<u>Party's jurisdiction.</u>	1254
<u>3. Any aggrieved Person, Party or the Council may commence a civil</u>	1255
<u>action in the relevant Party's courts and administrative</u>	1256
<u>systems to compel any Person to comply with this Compact</u>	1257
<u>should any such Person, without approval having been given,</u>	1258
<u>undertake a New or Increased Withdrawal, Consumptive Use or</u>	1259
<u>Diversion that is prohibited or subject to approval pursuant</u>	1260
<u>to this Compact.</u>	1261
<u>a. No action under this subsection may be commenced if:</u>	1262
<u>i. The Originating Party or Council approval for the New or</u>	1263
<u>Increased Withdrawal, Consumptive Use or Diversion has been</u>	1264
<u>granted; or,</u>	1265
<u>ii. The Originating Party or Council has found that the New or</u>	1266
<u>Increased Withdrawal, Consumptive Use or Diversion is not</u>	1267
<u>subject to approval pursuant to this Compact.</u>	1268
<u>b. No action under this subsection may be commenced unless:</u>	1269
<u>i. A Person commencing such action has first given 60 days' prior</u>	1270
<u>notice to the Originating Party, the Council and Person</u>	1271

<u>alleged to be in noncompliance; and,</u>	1272
<u>ii. Neither the Originating Party nor the Council has commenced</u>	1273
<u>and is diligently prosecuting appropriate enforcement actions</u>	1274
<u>to compel compliance with this Compact.</u>	1275
<u>The available remedies shall include equitable relief, and the</u>	1276
<u>prevailing or substantially prevailing party may recover the costs</u>	1277
<u>of litigation, including reasonable attorney and expert witness</u>	1278
<u>fees, whenever the court determines that such an award is</u>	1279
<u>appropriate.</u>	1280
<u>4. Each of the Parties may adopt provisions providing additional</u>	1281
<u>enforcement mechanisms and remedies including equitable</u>	1282
<u>relief and civil penalties applicable within its jurisdiction</u>	1283
<u>to assist in the implementation of this Compact.</u>	1284
<u>ARTICLE 8</u>	1285
<u>ADDITIONAL PROVISIONS</u>	1286
<u>Section 8.1. Effect on Existing Rights.</u>	1287
<u>1. Nothing in this Compact shall be construed to affect, limit,</u>	1288
<u>diminish or impair any rights validly established and</u>	1289
<u>existing as of the effective date of this Compact under State</u>	1290
<u>or federal law governing the Withdrawal of Waters of the</u>	1291
<u>Basin.</u>	1292
<u>2. Nothing contained in this Compact shall be construed as</u>	1293
<u>affecting or intending to affect or in any way to interfere</u>	1294
<u>with the law of the respective Parties relating to common law</u>	1295
<u>Water rights.</u>	1296
<u>3. Nothing in this Compact is intended to abrogate or derogate</u>	1297
<u>from treaty rights or rights held by any Tribe recognized by</u>	1298
<u>the federal government of the United States based upon its</u>	1299
<u>status as a Tribe recognized by the federal government of the</u>	1300
<u>United States.</u>	1301

4. An approval by a Party or the Council under this Compact does 1302
not give any property rights, nor any exclusive privileges, 1303
nor shall it be construed to grant or confer any right, 1304
title, easement or interest in, to or over any land belonging 1305
to or held in trust by a Party; neither does it authorize any 1306
injury to private property or invasion of private rights, nor 1307
infringement of federal, State or local laws or regulations; 1308
nor does it obviate the necessity of obtaining federal assent 1309
when necessary. 1310

Section 8.2. Relationship to Agreements Concluded by the United 1311
States of America. 1312

1. Nothing in this Compact is intended to provide nor shall be 1313
construed to provide, directly or indirectly, to any Person 1314
any right, claim or remedy under any treaty or international 1315
agreement nor is it intended to derogate any right, claim or 1316
remedy that already exists under any treaty or international 1317
agreement. 1318

2. Nothing in this Compact is intended to infringe nor shall be 1319
construed to infringe upon the treaty power of the United 1320
States of America, nor shall any term hereof be construed to 1321
alter or amend any treaty or term thereof that has been or 1322
may hereafter be executed by the United States of America. 1323

3. Nothing in this Compact is intended to affect nor shall be 1324
construed to affect the application of the Boundary Waters 1325
Treaty of 1909 whose requirements continue to apply in 1326
addition to the requirements of this Compact. 1327

Section 8.3. Confidentiality. 1328

1. Nothing in this Compact requires a Party to breach 1329
confidentiality obligations or requirements prohibiting 1330
disclosure, or to compromise security of commercially 1331
sensitive or proprietary information. 1332

2. A Party may take measures, including but not limited to 1333
deletion and redaction, deemed necessary to protect any 1334
confidential, proprietary or commercially sensitive 1335
information when distributing information to other Parties. 1336
The Party shall summarize or paraphrase any such information 1337
in a manner sufficient for the Council to exercise its 1338
authorities contained in this Compact. 1339

Section 8.4. Additional Laws. 1340

Nothing in this Compact shall be construed to repeal, modify or 1341
qualify the authority of any Party to enact any legislation or 1342
enforce any additional conditions and restrictions regarding the 1343
management and regulation of Waters within its jurisdiction. 1344

Section 8.5. Amendments and Supplements. 1345

The provisions of this Compact shall remain in full force and 1346
effect until amended by action of the governing bodies of the 1347
Parties and consented to and approved by any other necessary 1348
authority in the same manner as this Compact is required to be 1349
ratified to become effective. 1350

Section 8.6. Severability. 1351

Should a court of competent jurisdiction hold any part of this 1352
Compact to be void or unenforceable, it shall be considered 1353
severable from those portions of the Compact capable of continued 1354
implementation in the absence of the voided provisions. All other 1355
provisions capable of continued implementation shall continue in 1356
full force and effect. 1357

Section 8.7. Duration of Compact and Termination. 1358

Once effective, the Compact shall continue in force and remain 1359
binding upon each and every Party unless terminated. 1360

This Compact may be terminated at any time by a majority vote of 1361
the Parties. In the event of such termination, all rights 1362

established under it shall continue unimpaired. 1363

ARTICLE 9 1364

EFFECTUATION 1365

Section 9.1. Repealer. 1366

All acts and parts of acts inconsistent with this act are to the 1367

extent of such inconsistency hereby repealed. 1368

Section 9.2. Effectuation by Chief Executive. 1369

The Governor is authorized to take such action as may be necessary 1370

and proper in his or her discretion to effectuate the Compact and 1371

the initial organization and operation thereunder. 1372

Section 9.3. Entire Agreement. 1373

The Parties consider this Compact to be complete and an integral 1374

whole. Each provision of this Compact is considered material to 1375

the entire Compact, and failure to implement or adhere to any 1376

provision may be considered a material breach. Unless otherwise 1377

noted in this Compact, any change or amendment made to the Compact 1378

by any Party in its implementing legislation or by the U.S. 1379

Congress when giving its consent to this Compact is not considered 1380

effective unless concurred in by all Parties. 1381

Section 9.4. Effective Date and Execution. 1382

This Compact shall become binding and effective when ratified 1383

through concurring legislation by the states of Illinois, Indiana, 1384

Michigan, Minnesota, New York, Ohio and Wisconsin and the 1385

Commonwealth of Pennsylvania and consented to by the Congress of 1386

the United States. This Compact shall be signed and sealed in nine 1387

identical original copies by the respective chief executives of 1388

the signatory Parties. One such copy shall be filed with the 1389

Secretary of State of each of the signatory Parties or in 1390

accordance with the laws of the state in which the filing is made, 1391

and one copy shall be filed and retained in the archives of the 1392

Council upon its organization. The signatures shall be affixed and 1393
attested under the following form: 1394

In Witness Whereof, and in evidence of the adoption and enactment 1395
into law of this Compact by the legislatures of the signatory 1396
parties and consent by the Congress of the United States, the 1397
respective Governors do hereby, in accordance with the authority 1398
conferred by law, sign this Compact in nine duplicate original 1399
copies, attested by the respective Secretaries of State, and have 1400
caused the seals of the respective states to be hereunto affixed 1401
this _____ day of (month), (year). 1402

Sec. 1522.02. The governor, ex officio, shall serve as this 1403
state's administrator of the great lakes-st. Lawrence river basin 1404
water resources compact. The governor shall appoint the director 1405
of natural resources as the governor's alternate for purposes of 1406
attending all meetings of the great lakes-st. Lawrence river basin 1407
water resources council and voting on matters before the council 1408
in the governor's absence. 1409

The governor shall do all of the following as administrator: 1410

(A) Receive copies of all agreements that are entered into 1411
pursuant to the compact by this state or its political 1412
subdivisions and other states or their political subdivisions; 1413

(B) Consult with, advise, and aid this state, other states, 1414
and political subdivisions in the formulation of such agreements; 1415

(C) Make any recommendations to the general assembly, 1416
legislatures of other states, governmental agencies, and political 1417
subdivisions that the governor considers desirable in order to 1418
effectuate the purposes of the compact; 1419

(D) Consult with and cooperate with the compact 1420
administrators of other states that are parties to the compact. 1421

Sec. 1522.03. (A) Subject to the limitations established in 1422
division (B) of section 1522.05 of the Revised Code, the director 1423
of natural resources shall do both of the following: 1424

(1) Adopt rules in accordance with Chapter 119. of the 1425
Revised Code for the implementation, administration, and 1426
enforcement of this chapter; 1427

(2) Enforce the great lakes-st. Lawrence river basin water 1428
resources compact and take appropriate actions to effectuate its 1429
purposes and intent. 1430

(B) Subject to the limitations established in division (B) of 1431
section 1522.05 of the Revised Code, any appropriate state agency 1432
or governmental officer shall enforce the compact and take 1433
appropriate actions to effectuate its purpose and intent. 1434

Sec. 1522.04. (A) Prior to casting a vote under Section 3.1 1435
of the great lakes-st. Lawrence river basin water resources 1436
compact with respect to any regulation that amends or revises the 1437
standard of review and decision, the governor or the governor's 1438
alternate shall obtain authorization from the general assembly for 1439
the vote. The governor or the governor's alternate shall obtain 1440
the authorization via a concurrent resolution adopted or bill 1441
enacted by the general assembly. The governor or the governor's 1442
alternate shall exercise the vote consistent with the terms of the 1443
general assembly's authorization. The procedures established in 1444
this section are material requirements for adoption of any such 1445
regulation in accordance with Section 3.1 of the compact and 1446
Ohio's respective statutory authority and procedures. 1447

(B) No regulation duly adopted as provided for in Section 3.1 1448
of the compact that amends or revises the standard of review and 1449
decision as set forth in the compact may be adopted by the 1450
director of natural resources unless the regulation is first 1451

approved by the general assembly in the same manner as a statutory 1452
enactment. 1453

Sec. 1522.05. (A) Pursuant to Section 9.2 of the great 1454
lakes-st. Lawrence river basin water resources compact, the 1455
governor may take such actions as are necessary for the initial 1456
organization and operation of the great lakes-st. Lawrence river 1457
basin water resources council created in Section 2.1 of the 1458
compact. Agencies of the state are hereby authorized to cooperate 1459
with the council. 1460

(B)(1) The governor, the department of natural resources, or 1461
any other agency of the state shall not adopt rules or implement 1462
any program regulating the use, withdrawal, consumptive use, or 1463
diversion of water pursuant to Sections 4.10 and 4.12.2 of the 1464
compact unless the general assembly enacts legislation after the 1465
effective date of this section authorizing the implementation of 1466
the program or adoption of rules. 1467

In addition, the governor, the department of natural 1468
resources, or any other agency of the state shall not adopt rules 1469
or implement any mandatory program governing water conservation 1470
and efficiency pursuant to Section 4.2 of the compact unless the 1471
general assembly enacts legislation after the effective date of 1472
the compact authorizing the implementation of the program or 1473
adoption of rules. However, the governor, the department of 1474
natural resources, or any other agency of the state may adopt 1475
rules concerning and may implement voluntary water conservation 1476
and efficiency programs without authorization from the general 1477
assembly. Such voluntary programs shall not include any mandatory 1478
requirements. 1479

(2) Division (B)(1) of this section does not prohibit the 1480
effectuation of Sections 4.8 and 4.9 of the compact after the 1481
effective date of the compact or prohibit the continued 1482

implementation and enforcement by the governor or applicable agencies of this state of laws, rules, or programs regulating the use, withdrawal, consumptive use, or diversion of water that are in effect on or before the effective date of this section. 1483
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Sec. 1522.06. It is the intent of the general assembly that any incorporation of water into a product that is produced within the great lakes-st. Lawrence river basin and packaged and intended for intermediate or end-use consumers, whether distributed inside or outside the basin, is a consumptive use and does not constitute a diversion for purposes of the great lakes-st. Lawrence river basin water resources compact. A proposal to withdraw water and remove it from the basin in a container greater than five and seven-tenths gallons in capacity shall be treated as a proposal for a diversion as provided under Section 4.12.10 of the great lakes-st. Lawrence river basin water resources compact. 1487
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Sec. 1522.07. (A)(1) It is the intent of the general assembly that for purposes of establishing the baseline for determining a new or increased diversion, consumptive use, or withdrawal pursuant to Section 4.12.2 of the great lakes-st. Lawrence river basin water resources compact, the amount of each existing diversion, consumptive use, or withdrawal shall be the larger of either of the following: 1498
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(a) The applicable limitation specified in a permit issued under section 1501.32, 1501.33, or 1501.34 of the Revised Code or another permit issued by an agency of the state that specifically regulates and limits the amount of a water diversion, consumptive use, or withdrawal; 1505
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(b) The physical capacity of the withdrawal system of the applicable facility as of the effective date of the great lakes-st. Lawrence river basin water resources compact. 1510
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(2) For purposes of division (A)(1) of this section, both of 1513
the following apply: 1514

(a) A wastewater discharge permit issued under Chapter 6111. 1515
of the Revised Code or the Federal Water Pollution Control Act as 1516
defined in section 6111.01 of the Revised Code shall not be 1517
considered a permit that regulates or limits the amount of an 1518
existing diversion, consumptive use, or withdrawal. 1519

(b) Approval of a public water supply system under Chapter 1520
6109. of the Revised Code shall not be considered a permit that 1521
regulates or limits the amount of an existing diversion, 1522
consumptive use, or withdrawal unless the approval contains a 1523
specific and legally enforceable limitation on the amount of the 1524
diversion, consumptive use, or withdrawal. 1525

(B)(1) It is the understanding and intent of the general 1526
assembly that Section 4.11.2 of the great lakes-st. Lawrence river 1527
basin water resources compact as enacted in section 1522.01 of the 1528
Revised Code shall be interpreted to require that a withdrawal or 1529
consumptive use will be implemented so as to ensure that the 1530
withdrawal or consumptive use will result in no significant 1531
individual or cumulative adverse impacts on the quantity or 1532
quality of the waters and water dependent natural resources of 1533
either of the following: 1534

(a) The basin considered as a whole; 1535

(b) The applicable source watershed of lake Erie considered 1536
as a whole. 1537

(2) In addition, it is the understanding and intent of the 1538
general assembly that impacts of a withdrawal or consumptive use 1539
on the quantity or quality of waters and water dependent natural 1540
resources of more localized areas that affect less than the basin 1541
or an applicable source watershed as a whole are to be considered 1542
a part of the evaluation of reasonable use as provided in Section 1543

4.11.5 of the compact. 1544

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 understanding and intent are a material consideration to the general assembly's concurrence in the great lakes-st. Lawrence river basin water resources compact. Prior to seeking the consent of the United States congress to the compact, the governor and the governor's alternate on the council shall actively seek the concurrence of the council and the other state parties to the compact with respect to the understanding and legislative intent set forth in division (B) of this section, and the governor shall report to the general assembly periodically concerning those efforts. 1545
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Sec. 1522.08. (A) It is the intent and understanding of the general assembly that the enactment of the great lakes-st. Lawrence river basin water resources compact and its implementation in this state do not and shall not in any manner abrogate any private property rights established under the Revised Code or the common law of this state. In addition, it is the intent and understanding of the general assembly that the enactment of the great lakes-st. Lawrence river basin water resources compact does not confer or extend any public trust rights and does not confer any proprietary ownership rights to the state or any public entity over the ground water or surface water in the great lakes-st. Lawrence river basin in this state. 1561
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(B) It is the intent and understanding of the general assembly that the great lakes-st. Lawrence river basin water 1573
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resources compact does not create any cause of action that may be 1575
brought against any person beyond those causes of action that are 1576
specifically authorized under Section 7.3 of the compact. 1577

Section 2. It is the intent of the General Assembly that on 1578
the effective date of the Great Lakes-St. Lawrence River Basin 1579
Water Resources Compact, as that date is specified in Section 9.4 1580
of the Compact as enacted in section 1522.01 of the Revised Code 1581
by this act, both of the following apply: 1582

(A) All provisions of the Revised Code that were inconsistent 1583
with the Compact prior to the effective date of the Compact shall 1584
have been amended or repealed in order to conform with the Compact 1585
in accordance with section 9.1 of the Compact. 1586

(B) Sections 1521.15 and 1521.16 of the Revised Code, as they 1587
exist on the effective date of this act or as subsequently 1588
amended, shall be used to implement Section 4.1 of the Compact. 1589

Section 3. (A) Not later than three months after the 1590
effective date of this section, the Director of Natural Resources 1591
shall convene an advisory board consisting of the following 1592
persons with an interest in the Great Lakes-St. Lawrence River 1593
Basin Water Resources Compact: 1594

(1) The Director of Natural Resources or the Director's 1595
designee, who shall serve as chairperson of the advisory board; 1596

(2) The Director of Environmental Protection or the 1597
Director's designee; 1598

(3) The Director of Development or the Director's designee; 1599

(4) The following members appointed by the Governor: 1600

(a) One water quality expert from the faculty or staff of an 1601
Ohio college or university; 1602

(b) One representative of a statewide environmental advocacy 1603

organization;	1604
(c) One representative of a local environmental advocacy organization in the Lake Erie Basin;	1605 1606
(d) One representative of a sustainable economic development organization in the Lake Erie Basin;	1607 1608
(e) One representative of the travel and tourism industry;	1609
(f) One representative of the electric utility industry;	1610
(g) One representative of a county government in the Lake Erie Basin.	1611 1612
(5) The following members appointed by the President of the Senate:	1613 1614
(a) Two members of the Senate who shall not be members of the same political party;	1615 1616
(b) One representative of the bottled water industry;	1617
(c) One representative of a statewide land conservation advocacy organization;	1618 1619
(d) One representative of agricultural interests in the Lake Erie Basin;	1620 1621
(e) One representative of the aggregates industry;	1622
(f) One representative of the pulp and paper industry;	1623
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1624 1625
(h) One member of the public.	1626
(6) The following members appointed by the Speaker of the House of Representatives:	1627 1628
(a) Two members of the House of Representatives who shall not be members of the same political party;	1629 1630
(b) One representative of a municipal government in the Lake	1631

Erie Basin;	1632
(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1633 1634
(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 water resources in a watershed;	1635 1636 1637 1638
(e) One representative of a fish and wildlife advocacy organization;	1639 1640
(f) One representative of residential developers;	1641
(g) One representative of the chemical industry;	1642
(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin.	1643 1644
All appointments shall be made to the advisory board not later than thirty days after the effective date of this section. 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.	1645 1646 1647 1648 1649 1650 1651
(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:	1652 1653 1654 1655 1656 1657
(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:	1658 1659 1660 1661

(a) The number of withdrawals that will be regulated;	1662
(b) The relative impact of those withdrawals;	1663
(c) The practicality of regulating those withdrawals;	1664
(d) The alternatives that are available in the establishment of a permitting program in order to meet the water management objectives of this state.	1665 1666 1667
(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;	1668 1669 1670
(3) The establishment of a process for use by persons that wish to appeal their inclusion in the list of existing water users;	1671 1672 1673
(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;	1674 1675 1676 1677
(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.	1678 1679 1680
(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.	1681 1682 1683 1684 1685 1686 1687 1688 1689
(D) Upon submission of its recommendations under division (C) of this section, the advisory board shall cease to exist.	1690 1691

Section 4. If the state of Illinois, Indiana, Michigan, 1692
Minnesota, New York, or Wisconsin or the commonwealth of 1693
Pennsylvania fails to enact the Great Lakes-St. Lawrence River 1694
Basin Water Resources Compact not later than three years after the 1695
effective date of this section, Ohio reserves the right to 1696
reconsider its enactment of the Compact and, if necessary, repeal 1697
the Compact in its entirety. 1698

Section 5. Text that is italicized in the Great Lakes-St. 1699
Lawrence River Basin Water Resources Compact as presented in this 1700
act shall not be italicized but rather underlined in publications 1701
of the Compact. 1702