

As Passed by the House

126th General Assembly

Regular Session

2005-2006

Am. Sub. H. B. No. 574

**Representatives Dolan, Collier, Law, Martin, Distel, DeGeeter, Perry,
Wagoner, McGregor, J., Yuko, Williams, Skindell, Seitz, Setzer, Flowers,
Combs, Hagan, Taylor, Strahorn, DeBose, Stewart, J., Domenick, Chandler,
Fende, Harwood, Barrett, Beatty, Blessing, Book, Brown, Driehaus,
Evans, C., Evans, D., Foley, Garrison, Hartnett, Hoops, Hughes, Key, Koziura,
McGregor, R., Mitchell, Otterman, Schneider, Ujvagi, Webster, White, D.,
White, J., Yates, Luckie, Mason, Smith, G., Stewart, D.**

—

A BILL

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,
New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania
hereby solemnly covenant and agree with each other, upon enactment
of concurrent legislation by the respective state legislatures and
consent by the Congress of the United States as follows:

16

17

18

19

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.
Lawrence River Basin Water Resources Compact."

25

26

Section 1.2. Definitions.

27

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

28

29

30

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

31

32

33

34

35

36

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

37

38

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

39

40

Application has a corresponding meaning.

41

Basin or Great Lakes-St. Lawrence River Basin means the watershed
of the Great Lakes and the St. Lawrence River upstream from
Trois-Rivieres, Quebec within the jurisdiction of the Parties.

42

43

44

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

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

Compact means this Compact. 52

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

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

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

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

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

Decision-Making Standard means the decision-making standard 73
established by Section 4.11 for Proposals subject to management 74

and regulation in Section 4.10. 75

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

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

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

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

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

Measures means any legislation, law, regulation, directive, 104
requirement, guideline, program, policy, administrative practice 105

<u>or other procedure.</u>	106
<u>New or Increased Diversion means a new Diversion, an increase in</u>	107
<u>an existing Diversion or the alteration of an existing Withdrawal</u>	108
<u>so that it becomes a Diversion.</u>	109
<u>New or Increased Withdrawal or Consumptive Use 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
<u>Originating Party means the Party within whose jurisdiction an</u>	113
<u>Application or registration is made or required.</u>	114
<u>Party means a State party to this Compact.</u>	115
<u>Person 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
<u>Product 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
<u>Proposal means a Withdrawal, Diversion or Consumptive Use of Water</u>	133
<u>that is subject to this Compact.</u>	134
<u>Province means Ontario or Quebec.</u>	135

Public Water Supply Purposes means water distributed to the public 136
through a physically connected system of treatment, storage and 137
distribution facilities serving a group of largely residential 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 170
whether or not a Proposal that requires Regional Review under this 171
Compact meets the Standard of Review and Decision following 172
procedures and guidelines as set out in this Compact. 173

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

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

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

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

Section 1.3. Findings and Purposes. 183

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

1. Findings: 186

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

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

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

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

<u>with respect to such Water resources;</u>	226
d. <u>To facilitate consistent approaches to Water management across</u>	227
<u>the Basin while retaining State management authority over</u>	228
<u>Water management decisions within the Basin;</u>	229
e. <u>To facilitate the exchange of data, strengthen the scientific</u>	230
<u>information base upon which decisions are made and engage in</u>	231
<u>consultation on the potential effects of proposed Withdrawals</u>	232
<u>and losses on the Waters and Water Dependent Natural</u>	233
<u>Resources of the Basin;</u>	234
f. <u>To prevent significant adverse impacts of Withdrawals and</u>	235
<u>losses on the Basin's ecosystems and watersheds;</u>	236
g. <u>To promote interstate and State-Provincial comity; and,</u>	237
h. <u>To promote an Adaptive Management approach to the conservation</u>	238
<u>and management of Basin Water resources, which recognizes,</u>	239
<u>considers and provides adjustments for the uncertainties in,</u>	240
<u>and evolution of, scientific knowledge concerning the Basin's</u>	241
<u>Waters and Water Dependent Natural Resources.</u>	242
<u>Section 1.4. Science.</u>	243
1. <u>The Parties commit to provide leadership for the development of</u>	244
<u>a collaborative strategy with other regional partners to</u>	245
<u>strengthen the scientific basis for sound Water management</u>	246
<u>decision making under this Compact.</u>	247
2. <u>The strategy shall guide the collection and application of</u>	248
<u>scientific information to support:</u>	249
a. <u>An improved understanding of the individual and Cumulative</u>	250
<u>Impacts of Withdrawals from various locations and Water</u>	251
<u>sources on the Basin Ecosystem and to develop a mechanism by</u>	252
<u>which impacts of Withdrawals may be assessed;</u>	253
b. <u>The periodic assessment of Cumulative Impacts of Withdrawals,</u>	254
<u>Diversions and Consumptive Uses on a Great Lake and St.</u>	255

<u>Lawrence River watershed basis;</u>	256
<u>c. Improved scientific understanding of the Waters of the Basin;</u>	257
<u>d. Improved understanding of the role of groundwater in Basin</u>	258
<u>Water resources management; and,</u>	259
<u>e. The development, transfer and application of science and</u>	260
<u>research related to Water conservation and Water use</u>	261
<u>efficiency.</u>	262
<u>ARTICLE 2</u>	263
<u>ORGANIZATION</u>	264
<u>Section 2.1. Council Created.</u>	265
<u>The Great Lakes-St. Lawrence River Basin Water Resources Council</u>	266
<u>is hereby created as a body politic and corporate, with succession</u>	267
<u>for the duration of this Compact, as an agency and instrumentality</u>	268
<u>of the governments of the respective Parties.</u>	269
<u>Section 2.2. Council Membership.</u>	270
<u>The Council shall consist of the Governors of the Parties, ex</u>	271
<u>officio.</u>	272
<u>Section 2.3. Alternates.</u>	273
<u>Each member of the Council shall appoint at least one alternate</u>	274
<u>who may act in his or her place and stead, with authority to</u>	275
<u>attend all meetings of the Council and with power to vote in the</u>	276
<u>absence of the member. Unless otherwise provided by law of the</u>	277
<u>Party for which he or she is appointed, each alternate shall serve</u>	278
<u>during the term of the member appointing him or her, subject to</u>	279
<u>removal at the pleasure of the member. In the event of a vacancy</u>	280
<u>in the office of alternate, it shall be filled in the same manner</u>	281
<u>as an original appointment for the unexpired term only.</u>	282
<u>Section 2.4. Voting.</u>	283
<u>1. Each member is entitled to one vote on all matters that may</u>	284

<u>come before the Council.</u>	285
<u>2. Unless otherwise stated, the rule of decision shall be by a</u>	286
<u>simple majority.</u>	287
<u>3. The Council shall annually adopt a budget for each fiscal year</u>	288
<u>and the amount required to balance the budget shall be</u>	289
<u>apportioned equitably among the Parties by unanimous vote of</u>	290
<u>the Council. The appropriation of such amounts shall be</u>	291
<u>subject to such review and approval as may be required by the</u>	292
<u>budgetary processes of the respective Parties.</u>	293
<u>4. The participation of Council members from a majority of the</u>	294
<u>Parties shall constitute a quorum for the transaction of</u>	295
<u>business at any meeting of the Council.</u>	296
<u>Section 2.5. Organization and Procedure.</u>	297
<u>The Council shall provide for its own organization and procedure,</u>	298
<u>and may adopt rules and regulations governing its meetings and</u>	299
<u>transactions, as well as the procedures and timeline for</u>	300
<u>submission, review and consideration of Proposals that come before</u>	301
<u>the Council for its review and action. The Council shall organize,</u>	302
<u>annually, by the election of a Chair and Vice-Chair from among its</u>	303
<u>members. Each member may appoint an advisor, who may attend all</u>	304
<u>meetings of the Council and its committees, but shall not have</u>	305
<u>voting power. The Council may employ or appoint professional and</u>	306
<u>administrative personnel, including an Executive Director, as it</u>	307
<u>may deem advisable, to carry out the purposes of this Compact.</u>	308
<u>Section 2.6. Use of Existing Offices and Agencies.</u>	309
<u>It is the policy of the Parties to preserve and utilize the</u>	310
<u>functions, powers and duties of existing offices and agencies of</u>	311
<u>government to the extent consistent with this Compact. Further,</u>	312
<u>the Council shall promote and aid the coordination of the</u>	313
<u>activities and programs of the Parties concerned with Water</u>	314

resources management in the Basin. To this end, but without 315
limitation, the Council may: 316

1. Advise, consult, contract, assist or otherwise cooperate with 317
any and all such agencies; 318

2. Employ any other agency or instrumentality of any of the 319
Parties for any purpose; and, 320

3. Develop and adopt plans consistent with the Water resources 321
plans of the Parties. 322

Section 2.7. Jurisdiction. 323

The Council shall have, exercise and discharge its functions, 324
powers and duties within the limits of the Basin. Outside the 325
Basin, it may act in its discretion, but only to the extent such 326
action may be necessary or convenient to effectuate or implement 327
its powers or responsibilities within the Basin and subject to the 328
consent of the jurisdiction wherein it proposes to act. 329

Section 2.8. Status, Immunities and Privileges. 330

1. The Council, its members and personnel in their official 331
capacity and when engaged directly in the affairs of the 332
Council, its property and its assets, wherever located and by 333
whomsoever held, shall enjoy the same immunity from suit and 334
every form of judicial process as is enjoyed by the Parties, 335
except to the extent that the Council may expressly waive its 336
immunity for the purposes of any proceedings or by the terms 337
of any contract. 338

2. The property and assets of the Council, wherever located and by 339
whomsoever held, shall be considered public property and 340
shall be immune from search, requisition, confiscation, 341
expropriation or any other form of taking or foreclosure by 342
executive or legislative action. 343

3. The Council, its property and its assets, income and the 344

operations it carries out pursuant to this Compact shall be 345
immune from all taxation by or under the authority of any of 346
the Parties or any political subdivision thereof; provided, 347
however, that in lieu of property taxes the Council may make 348
reasonable payments to local taxing districts in annual 349
amounts which shall approximate the taxes lawfully assessed 350
upon similar property. 351

Section 2.9. Advisory Committees. 352

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

ARTICLE 3 358

GENERAL POWERS AND DUTIES 359

Section 3.1. General. 360

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

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

The Council shall identify priorities and develop plans and 375

policies relating to Basin Water resources. It shall adopt and 376
promote uniform and coordinated policies for Water resources 377
conservation and management in the Basin. 378

Section 3.2. Council Powers. 379

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

Section 3.3. Rules and Regulations. 396

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

2. Each Party, in accordance with its respective statutory 407
authorities and applicable procedures, may adopt and enforce 408
rules and regulations to implement and enforce this Compact 409
and the programs adopted by such Party to carry out the 410
management programs contemplated by this Compact. 411

Section 3.4. Program Review and Findings. 412

1. Each Party shall submit a report to the Council and the 413
Regional Body detailing its Water management and conservation 414
and efficiency programs that implement this Compact. The 415
report shall set out the manner in which Water Withdrawals 416
are managed by sector, Water source, quantity or any other 417
means, and how the provisions of the Standard of Review and 418
Decision and conservation and efficiency programs are 419
implemented. The first report shall be provided by each Party 420
one year from the effective date of this Compact and 421
thereafter every five years. 422

2. The Council, in cooperation with the Provinces, shall review 423
its Water management and conservation and efficiency programs 424
and those of the Parties that are established in this Compact 425
and make findings on whether the Water management program 426
provisions in this Compact are being met, and if not, 427
recommend options to assist the Parties in meeting the 428
provisions of this Compact. Such review shall take place: 429

a. Thirty days after the first report is submitted by all Parties; 430
and, 431

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

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

3. As one of its duties and responsibilities, the Council may 433
recommend a range of approaches to the Parties with respect 434
to the development, enhancement and application of Water 435
management and conservation and efficiency programs to 436

implement the Standard of Review and Decision reflecting 437
improved scientific understanding of the Waters of the Basin, 438
including groundwater, and the impacts of Withdrawals on the 439
Basin Ecosystem. 440

ARTICLE 4 441

WATER MANAGEMENT AND REGULATION 442

Section 4.1. Water Resources Inventory, Registration and 443
Reporting. 444

1. Within five years of the effective date of this Compact, each 445
Party shall develop and maintain a Water resources inventory 446
for the collection, interpretation, storage, retrieval, 447
exchange and dissemination of information concerning the 448
Water resources of the Party, including, but not limited to, 449
information on the location, type, quantity and use of those 450
resources and the location, type and quantity of Withdrawals, 451
Diversions and Consumptive Uses. To the extent feasible, the 452
Water resources inventory shall be developed in cooperation 453
with local, State, federal, tribal and other private agencies 454
and entities, as well as the Council. Each Party's agencies 455
shall cooperate with that Party in the development and 456
maintenance of the inventory. 457
2. The Council shall assist each Party to develop a common base of 458
data regarding the management of the Water resources of the 459
Basin and to establish systematic arrangements for the 460
exchange of those data with other States and Provinces. 461
3. To develop and maintain a compatible base of Water use 462
information, within five years of the effective date of this 463
Compact any Person who Withdraws Water in an amount of 464
100,000 gallons per day or greater average in any 30-day 465
period (including Consumptive Uses) from all sources, or 466
Diverts Water of any amount, shall register the Withdrawal or 467

Diversion by a date set by the Council unless the Person has 468
previously registered in accordance with an existing State 469
program. The Person shall register the Withdrawal or 470
Diversion with the Originating Party using a form prescribed 471
by the Originating Party that shall include, at a minimum and 472
without limitation: the name and address of the registrant 473
and date of registration; the locations and sources of the 474
Withdrawal or Diversion; the capacity of the Withdrawal or 475
Diversion per day and the amount Withdrawn or Diverted from 476
each source; the uses made of the Water; places of use and 477
places of discharge; and, such other information as the 478
Originating Party may require. All registrations shall 479
include an estimate of the volume of the Withdrawal or 480
Diversion in terms of gallons per day average in any 30-day 481
period. 482

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

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

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

mechanism by which individual and Cumulative Impacts of 500
Withdrawals, Consumptive Uses and Diversions shall be 501
assessed. 502

Section 4.2. Water Conservation and Efficiency Programs. 503

1. The Council commits to identify, in cooperation with the 504
Provinces, Basin-wide Water conservation and efficiency 505
objectives to assist the Parties in developing their Water 506
conservation and efficiency program. These objectives are 507
based on the goals of: 508

a. Ensuring improvement of the Waters and Water Dependent Natural 509
Resources; 510

b. Protecting and restoring the hydrologic and ecosystem integrity 511
of the Basin; 512

c. Retaining the quantity of surface water and groundwater in the 513
Basin; 514

d. Ensuring sustainable use of Waters of the Basin; and, 515

e. Promoting the efficiency of use and reducing losses and waste 516
of Water. 517

2. Within two years of the effective date of this Compact, each 518
Party shall develop its own Water conservation and efficiency 519
goals and objectives consistent with the Basin-wide goals and 520
objectives, and shall develop and implement a Water 521
conservation and efficiency program, either voluntary or 522
mandatory, within its jurisdiction based on the Party's goals 523
and objectives. Each Party shall annually assess its programs 524
in meeting the Party's goals and objectives, report to the 525
Council and the Regional Body and make this annual assessment 526
available to the public. 527

3. Beginning five years after the effective date of this Compact, 528
and every five years thereafter, the Council, in cooperation 529

<u>with the Provinces, shall review and modify as appropriate</u>	530
<u>the Basin-wide objectives, and the Parties shall have regard</u>	531
<u>for any such modifications in implementing their programs.</u>	532
<u>This assessment will be based on examining new technologies,</u>	533
<u>new patterns of Water use, new resource demands and threats</u>	534
<u>and Cumulative Impact assessment under Section 4.15.</u>	535
<u>4. Within two years of the effective date of this Compact, the</u>	536
<u>Parties commit to promote Environmentally Sound and</u>	537
<u>Economically Feasible Water Conservation Measures such as:</u>	538
<u>a. Measures that promote efficient use of Water;</u>	539
<u>b. Identification and sharing of best management practices and</u>	540
<u>state of the art conservation and efficiency technologies;</u>	541
<u>c. Application of sound planning principles;</u>	542
<u>d. Demand-side and supply-side Measures or incentives; and,</u>	543
<u>e. Development, transfer and application of science and research.</u>	544
<u>5. Each Party shall implement in accordance with Paragraph 2 above</u>	545
<u>a voluntary or mandatory Water conservation program for all,</u>	546
<u>including existing, Basin Water users. Conservation programs</u>	547
<u>need to adjust to new demands and the potential impacts of</u>	548
<u>cumulative effects and climate.</u>	549
<u>Section 4.3. Party Powers and Duties.</u>	550
<u>1. Each Party, within its jurisdiction, shall manage and regulate</u>	551
<u>New or Increased Withdrawals, Consumptive Uses and</u>	552
<u>Diversions, including Exceptions, in accordance with this</u>	553
<u>Compact.</u>	554
<u>2. Each Party shall require an Applicant to submit an Application</u>	555
<u>in such manner and with such accompanying information as the</u>	556
<u>Party shall prescribe.</u>	557
<u>3. No Party may approve a Proposal if the Party determines that</u>	558

the Proposal is inconsistent with this Compact or the
Standard of Review and Decision or any implementing rules or
regulations promulgated thereunder. The Party may approve,
approve with modifications or disapprove any Proposal
depending on the Proposal's consistency with this Compact and
the Standard of Review and Decision.

559
560
561
562
563
564

4. Each Party shall monitor the implementation of any approved
Proposal to ensure consistency with the approval and may take
all necessary enforcement actions.

565
566
567

5. No Party shall approve a Proposal subject to Council or
Regional Review, or both, pursuant to this Compact unless it
shall have been first submitted to and reviewed by either the
Council or Regional Body, or both, and approved by the
Council, as applicable. Sufficient opportunity shall be
provided for comment on the Proposal's consistency with this
Compact and the Standard of Review and Decision. All such
comments shall become part of the Party's formal record of
decision, and the Party shall take into consideration any
such comments received.

568
569
570
571
572
573
574
575
576
577

Section 4.4. Requirement for Originating Party Approval.

578

No Proposal subject to management and regulation under this
Compact shall hereafter be undertaken by any Person unless it
shall have been approved by the Originating Party.

579
580
581

Section 4.5. Regional Review.

582

1. General.

583

a. It is the intention of the Parties to participate in Regional
Review of Proposals with the Provinces, as described in this
Compact and the Agreement.

584
585
586

b. Unless the Applicant or the Originating Party otherwise
requests, it shall be the goal of the Regional Body to

587
588

- conclude its review no later than 90 days after notice under 589
Section 4.5.2 of such Proposal is received from the 590
Originating Party. 591
- c. Proposals for Exceptions subject to Regional Review shall be 592
submitted by the Originating Party to the Regional Body for 593
Regional Review, and where applicable, to the Council for 594
concurrent review. 595
- d. The Parties agree that the protection of the integrity of the 596
Great Lakes-St. Lawrence River Basin Ecosystem shall be the 597
overarching principle for reviewing Proposals subject to 598
Regional Review, recognizing uncertainties with respect to 599
demands that may be placed on Basin Water, including 600
groundwater, levels and flows of the Great Lakes and the St. 601
Lawrence River, future changes in environmental conditions, 602
the reliability of existing data and the extent to which 603
Diversions may harm the integrity of the Basin Ecosystem. 604
- e. The Originating Party shall have lead responsibility for 605
coordinating information for resolution of issues related to 606
evaluation of a Proposal, and shall consult with the 607
Applicant throughout the Regional Review process. 608
- f. A majority of the members of the Regional Body may request 609
Regional Review of a regionally significant or potentially 610
precedent setting Proposal. Such Regional Review must be 611
conducted, to the extent possible, within the time frames set 612
forth in this Section. Any such Regional Review shall be 613
undertaken only after consulting the Applicant. 614
2. Notice from Originating Party to the Regional Body. 615
- a. The Originating Party shall determine if a Proposal is subject 616
to Regional Review. If so, the Originating Party shall 617
provide timely notice to the Regional Body and the public. 618

- b. Such notice shall not be given unless and until all 619
information, documents and the Originating Party's Technical 620
Review needed to evaluate whether the Proposal meets the 621
Standard of Review and Decision have been provided. 622
- c. An Originating Party may: 623
- i. Provide notice to the Regional Body of an Application, even if 624
notification is not required; or, 625
- ii. Request Regional Review of an application, even if Regional 626
Review is not required. Any such Regional Review shall be 627
undertaken only after consulting the Applicant. 628
- d. An Originating Party may provide preliminary notice of a 629
potential Proposal. 630
3. Public Participation. 631
- a. To ensure adequate public participation, the Regional Body 632
shall adopt procedures for the review of Proposals that are 633
subject to Regional Review in accordance with this Article. 634
- b. The Regional Body shall provide notice to the public of a 635
Proposal undergoing Regional Review. Such notice shall 636
indicate that the public has an opportunity to comment in 637
writing to the Regional Body on whether the Proposal meets 638
the Standard of Review and Decision. 639
- c. The Regional Body shall hold a public meeting in the State or 640
Province of the Originating Party in order to receive public 641
comment on the issue of whether the Proposal under 642
consideration meets the Standard of Review and Decision. 643
- d. The Regional Body shall consider the comments received before 644
issuing a Declaration of Finding. 645
- e. The Regional Body shall forward the comments it receives to the 646
Originating Party. 647

4. Technical Review. 648
- a. The Originating Party shall provide the Regional Body with its 649
Technical Review of the Proposal under consideration. 650
- b. The Originating Party's Technical Review shall thoroughly 651
analyze the Proposal and provide an evaluation of the 652
Proposal sufficient for a determination of whether the 653
Proposal meets the Standard of Review and Decision. 654
- c. Any member of the Regional Body may conduct their own Technical 655
Review of any Proposal subject to Regional Review. 656
- d. At the request of the majority of its members, the Regional 657
Body shall make such arrangements as it considers appropriate 658
for an independent Technical Review of a Proposal. 659
- e. All Parties shall exercise their best efforts to ensure that a 660
Technical Review undertaken under Sections 4.5.4.c and 661
4.5.4.d does not unnecessarily delay the decision by the 662
Originating Party on the Application. Unless the Applicant or 663
the Originating Party otherwise requests, all Technical 664
Reviews shall be completed no later than 60 days after the 665
date the notice of the Proposal was given to the Regional 666
Body. 667
5. Declaration of Finding. 668
- a. The Regional Body shall meet to consider a Proposal. The 669
Applicant shall be provided with an opportunity to present 670
the Proposal to the Regional Body at such time. 671
- b. The Regional Body, having considered the notice, the 672
Originating Party's Technical Review, any other independent 673
Technical Review that is made, any comments or objections 674
including the analysis of comments made by the public, First 675
Nations and federally recognized Tribes, and any other 676
information that is provided under this Compact shall issue a 677

<u>Declaration of Finding that the Proposal under consideration:</u>	678
<u>i. Meets the Standard of Review and Decision;</u>	679
<u>ii. Does not meet the Standard of Review and Decision; or,</u>	680
<u>iii. Would meet the Standard of Review and Decision if certain</u>	681
<u>conditions were met.</u>	682
<u>c. An Originating Party may decline to participate in a</u>	683
<u>Declaration of Finding made by the Regional Body.</u>	684
<u>d. The Parties recognize and affirm that it is preferable for all</u>	685
<u>members of the Regional Body to agree whether the Proposal</u>	686
<u>meets the Standard of Review and Decision.</u>	687
<u>e. If the members of the Regional Body who participate in the</u>	688
<u>Declaration of Finding all agree, they shall issue a written</u>	689
<u>Declaration of Finding with consensus.</u>	690
<u>f. In the event that the members cannot agree, the Regional Body</u>	691
<u>shall make every reasonable effort to achieve consensus</u>	692
<u>within 25 days.</u>	693
<u>g. Should consensus not be achieved, the Regional Body may issue a</u>	694
<u>Declaration of Finding that presents different points of view</u>	695
<u>and indicates each Party's conclusions.</u>	696
<u>h. The Regional Body shall release the Declaration of Finding to</u>	697
<u>the public.</u>	698
<u>i. The Originating Party and the Council shall consider the</u>	699
<u>Declaration of Finding before making a decision on the</u>	700
<u>Proposal.</u>	701
<u>Section 4.6. Proposals Subject to Prior Notice.</u>	702
<u>1. Beginning no later than five years from the effective date of</u>	703
<u>this Compact, the Originating Party shall provide all Parties</u>	704
<u>and the Provinces with detailed and timely notice and an</u>	705
<u>opportunity to comment within 90 days on any Proposal for a</u>	706

New or Increased Consumptive Use of 5 million gallons per day 707
or greater average in any 90-day period. Comments shall 708
address whether or not the Proposal is consistent with the 709
Standard of Review and Decision. The Originating Party shall 710
provide a response to any such comment received from another 711
Party. 712

2. A Party may provide notice, an opportunity to comment and a 713
response to comments even if this is not required under 714
Paragraph 1 of this Section. Any provision of such notice and 715
opportunity to comment shall be undertaken only after 716
consulting the Applicant. 717

Section 4.7 Council Actions. 718

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

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

Section 4.8. Prohibition of New or Increased Diversions. 730

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

Section 4.9. Exceptions to the Prohibition of Diversions. 733

1. Straddling Communities. A Proposal to transfer Water to an area 734
within a Straddling Community but outside the Basin or 735
outside the Source Great Lake Watershed shall be excepted 736

- from the prohibition against Diversions and be managed and 737
regulated by the Originating Party provided that, regardless 738
of the volume of Water transferred, all the Water so 739
transferred shall be used solely for Public Water Supply 740
Purposes within the Straddling Community, and: 741
- a. All Water Withdrawn from the Basin shall be returned, either 742
naturally or after use, to the Source Watershed less an 743
allowance for Consumptive Use. No surface water or 744
groundwater from outside the Basin may be used to satisfy any 745
portion of this criterion except if it: 746
- i. Is part of a water supply or wastewater treatment system that 747
combines water from inside and outside of the Basin; 748
- ii. Is treated to meet applicable water quality discharge 749
standards and to prevent the introduction of invasive species 750
into the Basin; 751
- iii. Maximizes the portion of water returned to the Source 752
Watershed as Basin Water and minimizes the surface water or 753
groundwater from outside the Basin; 754
- b. If the Proposal results from a New or Increased Withdrawal of 755
100,000 gallons per day or greater average over any 90-day 756
period, the Proposal shall also meet the Exception Standard; 757
and, 758
- c. If the Proposal results in a New or Increased Consumptive Use 759
of 5 million gallons per day or greater average over any 760
90-day period, the Proposal shall also undergo Regional 761
Review. 762
2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer 763
that would be considered a Diversion under this Compact, and 764
not already excepted pursuant to Paragraph 1 of this Section, 765
shall be excepted from the prohibition against Diversions, 766

- provided that: 767
- a. If the Proposal results from a New or Increased Withdrawal of 768
less than 100,000 gallons per day average over any 90-day 769
period, the Proposal shall be subject to management and 770
regulation at the discretion of the Originating Party. 771
- b. If the Proposal results from a New or Increased Withdrawal of 772
100,000 gallons per day or greater average over any 90-day 773
period and if the Consumptive Use resulting from the 774
Withdrawal is less than 5 million gallons per day average 775
over any 90-day period: 776
- i. The Proposal shall meet the Exception Standard and be subject 777
to management and regulation by the Originating Party, except 778
that the Water may be returned to another Great Lake 779
watershed rather than the Source Watershed; 780
- ii. The Applicant shall demonstrate that there is no feasible, 781
cost effective, and environmentally sound water supply 782
alternative within the Great Lake watershed to which the 783
Water will be transferred, including conservation of existing 784
water supplies; and, 785
- iii. The Originating Party shall provide notice to the other 786
Parties prior to making any decision with respect to the 787
Proposal. 788
- c. If the Proposal results in a New or Increased Consumptive Use 789
of 5 million gallons per day or greater average over any 790
90-day period: 791
- i. The Proposal shall be subject to management and regulation by 792
the Originating Party and shall meet the Exception Standard, 793
ensuring that Water Withdrawn shall be returned to the Source 794
Watershed; 795
- ii. The Applicant shall demonstrate that there is no feasible, 796

<u>cost effective, and environmentally sound water supply</u>	797
<u>alternative within the Great Lake watershed to which the</u>	798
<u>Water will be transferred, including conservation of existing</u>	799
<u>water supplies;</u>	800
<u>iii. The Proposal undergoes Regional Review; and,</u>	801
<u>iv. The Proposal is approved by the Council. Council approval</u>	802
<u>shall be given unless one or more Council members vote to</u>	803
<u>disapprove.</u>	804
<u>3. Straddling Counties. A Proposal to transfer Water to a</u>	805
<u>Community within a Straddling County that would be considered</u>	806
<u>a Diversion under this Compact shall be excepted from the</u>	807
<u>prohibition against Diversions, provided that it satisfies</u>	808
<u>all of the following conditions:</u>	809
<u>a. The Water shall be used solely for the Public Water Supply</u>	810
<u>Purposes of the Community within a Straddling County that is</u>	811
<u>without adequate supplies of potable water;</u>	812
<u>b. The Proposal meets the Exception Standard, maximizing the</u>	813
<u>portion of water returned to the Source Watershed as Basin</u>	814
<u>Water and minimizing the surface water or groundwater from</u>	815
<u>outside the Basin;</u>	816
<u>c. The Proposal shall be subject to management and regulation by</u>	817
<u>the Originating Party, regardless of its size;</u>	818
<u>d. There is no reasonable water supply alternative within the</u>	819
<u>Basin in which the community is located, including</u>	820
<u>conservation of existing water supplies;</u>	821
<u>e. Caution shall be used in determining whether or not the</u>	822
<u>Proposal meets the conditions for this Exception. This</u>	823
<u>Exception should not be authorized unless it can be shown</u>	824
<u>that it will not endanger the integrity of the Basin</u>	825
<u>Ecosystem;</u>	826

- f. The Proposal undergoes Regional Review; and, 827
- g. The Proposal is approved by the Council. Council approval shall 828
be given unless one or more Council members vote to 829
disapprove. 830
- A Proposal must satisfy all of the conditions listed above. 831
Further, substantive consideration will also be given to whether 832
or not the Proposal can provide sufficient scientifically based 833
evidence that the existing water supply is derived from 834
groundwater that is hydrologically interconnected to Waters of the 835
Basin. 836
4. Exception Standard. Proposals subject to management and 837
regulation in this Section shall be declared to meet this 838
Exception Standard and may be approved as appropriate only 839
when the following criteria are met: 840
- a. The need for all or part of the proposed Exception cannot be 841
reasonably avoided through the efficient use and conservation 842
of existing water supplies; 843
- b. The Exception will be limited to quantities that are considered 844
reasonable for the purposes for which it is proposed; 845
- c. All Water Withdrawn shall be returned, either naturally or 846
after use, to the Source Watershed less an allowance for 847
Consumptive Use. No surface water or groundwater from outside 848
the Basin may be used to satisfy any portion of this 849
criterion except if it: 850
- i. Is part of a water supply or wastewater treatment system that 851
combines water from inside and outside of the Basin; 852
- ii. Is treated to meet applicable water quality discharge 853
standards and to prevent the introduction of invasive species 854
into the Basin; 855
- d. The Exception will be implemented so as to ensure that it will 856

<u>result in no significant individual or cumulative adverse</u>	857
<u>impacts to the quantity or quality of the Waters and Water</u>	858
<u>Dependent Natural Resources of the Basin with consideration</u>	859
<u>given to the potential Cumulative Impacts of any</u>	860
<u>precedent-setting consequences associated with the Proposal;</u>	861
<u>e. The Exception will be implemented so as to incorporate</u>	862
<u>Environmentally Sound and Economically Feasible Water</u>	863
<u>Conservation Measures to minimize Water Withdrawals or</u>	864
<u>Consumptive Use;</u>	865
<u>f. The Exception will be implemented so as to ensure that it is in</u>	866
<u>compliance with all applicable municipal, State and federal</u>	867
<u>laws as well as regional interstate and international</u>	868
<u>agreements, including the Boundary Waters Treaty of 1909;</u>	869
<u>and,</u>	870
<u>g. All other applicable criteria in Section 4.9 have also been</u>	871
<u>met.</u>	872
<u>Section 4.10. Management and Regulation of New or Increased</u>	873
<u>Withdrawals and Consumptive Uses.</u>	874
<u>1. Within five years of the effective date of this Compact, each</u>	875
<u>Party shall create a program for the management and</u>	876
<u>regulation of New or Increased Withdrawals and Consumptive</u>	877
<u>Uses by adopting and implementing Measures consistent with</u>	878
<u>the Decision-Making Standard. Each Party, through a</u>	879
<u>considered process, shall set and may modify threshold levels</u>	880
<u>for the regulation of New or Increased Withdrawals in order</u>	881
<u>to assure an effective and efficient Water management program</u>	882
<u>that will ensure that uses overall are reasonable, that</u>	883
<u>Withdrawals overall will not result in significant impacts to</u>	884
<u>the Waters and Water Dependent Natural Resources of the</u>	885
<u>Basin, determined on the basis of significant impacts to the</u>	886
<u>physical, chemical, and biological integrity of Source</u>	887

Watersheds, and that all other objectives of the Compact are 888
achieved. Each Party may determine the scope and thresholds 889
of its program, including which New or Increased Withdrawals 890
and Consumptive Uses will be subject to the program. 891

2. Any Party that fails to set threshold levels that comply with 892
Section 4.10.1 any time before ten years after the effective 893
date of this Compact shall apply a threshold level for 894
management and regulation of all New or Increased Withdrawals 895
of 100,000 gallons per day or greater average in any 90-day 896
period. 897

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

Section 4.11. Decision-Making Standard. 907

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

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

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

<u>and the applicable Source Watershed;</u>	919
<u>3. The Withdrawal or Consumptive Use will be implemented so as to</u>	920
<u>incorporate Environmentally Sound and Economically Feasible</u>	921
<u>Water Conservation Measures;</u>	922
<u>4. The Withdrawal or Consumptive Use will be implemented so as to</u>	923
<u>ensure that it is in compliance with all applicable</u>	924
<u>municipal, State and federal laws as well as regional</u>	925
<u>interstate and international agreements, including the</u>	926
<u>Boundary Waters Treaty of 1909;</u>	927
<u>5. The proposed use is reasonable, based upon a consideration of</u>	928
<u>the following factors:</u>	929
<u>a. Whether the proposed Withdrawal or Consumptive Use is planned</u>	930
<u>in a fashion that provides for efficient use of the Water,</u>	931
<u>and will avoid or minimize the waste of Water;</u>	932
<u>b. If the Proposal is for an increased Withdrawal or Consumptive</u>	933
<u>Use, whether efficient use is made of existing water</u>	934
<u>supplies;</u>	935
<u>c. The balance between economic development, social development</u>	936
<u>and environmental protection of the proposed Withdrawal and</u>	937
<u>use and other existing or planned withdrawals and water uses</u>	938
<u>sharing the Water source;</u>	939
<u>d. The supply potential of the Water source, considering quantity,</u>	940
<u>quality and reliability and safe yield of hydrologically</u>	941
<u>interconnected water sources;</u>	942
<u>e. The probable degree and duration of any adverse impacts caused</u>	943
<u>or expected to be caused by the proposed Withdrawal and use</u>	944
<u>under foreseeable conditions, to other lawful consumptive or</u>	945
<u>non-consumptive uses of water or to the quantity or quality</u>	946
<u>of the Waters and Water Dependent Natural Resources of the</u>	947
<u>Basin, and the proposed plans and arrangements for avoidance</u>	948

or mitigation of such impacts; and,

949

f. If a Proposal includes restoration of hydrologic conditions and functions of the Source Watershed, the Party may consider that.

950

951

952

Section 4.12. Applicability.

953

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

954

955

956

957

958

959

960

2. Baseline.

961

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

962

963

964

965

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

966

967

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

968

969

970

971

972

973

974

975

For all purposes of this Compact, volumes of Diversions, Consumptive Uses, or Withdrawals of Water set forth in the list(s) prepared by each Party in accordance with this

976

977

978

<u>Section, shall constitute the baseline volume.</u>	979
<u>c. The list(s) shall be furnished to the Regional Body and the</u>	980
<u>Council within one year of the effective date of this</u>	981
<u>Compact.</u>	982
<u>3. Timing of Additional Applications. Applications for New or</u>	983
<u>Increased Withdrawals, Consumptive Uses or Exceptions shall</u>	984
<u>be considered cumulatively within ten years of any</u>	985
<u>application.</u>	986
<u>4. Change of Ownership. Unless a new owner proposes a project that</u>	987
<u>shall result in a Proposal for a New or Increased Diversion</u>	988
<u>or Consumptive Use subject to Regional Review or Council</u>	989
<u>approval, the change of ownership in and of itself shall not</u>	990
<u>require Regional Review or Council approval.</u>	991
<u>5. Groundwater. The Basin surface water divide shall be used for</u>	992
<u>the purpose of managing and regulating New or Increased</u>	993
<u>Diversions, Consumptive Uses or Withdrawals of surface water</u>	994
<u>and groundwater.</u>	995
<u>6. Withdrawal Systems. The total volume of surface water and</u>	996
<u>groundwater resources that supply a common distribution</u>	997
<u>system shall determine the volume of a Withdrawal,</u>	998
<u>Consumptive Use or Diversion.</u>	999
<u>7. Connecting Channels. The watershed of each Great Lake shall</u>	1000
<u>include its upstream and downstream connecting channels.</u>	1001
<u>8. Transmission in Water Lines. Transmission of Water within a</u>	1002
<u>line that extends outside the Basin as it conveys Water from</u>	1003
<u>one point to another within the Basin shall not be considered</u>	1004
<u>a Diversion if none of the Water is used outside the Basin.</u>	1005
<u>9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds</u>	1006
<u>shall be considered to be a single hydrologic unit and</u>	1007
<u>watershed.</u>	1008

10. Bulk Water Transfer. A Proposal to Withdraw Water and to 1009
remove it from the Basin in any container greater than 5.7 1010
gallons shall be treated under this Compact in the same 1011
manner as a Proposal for a Diversion. Each Party shall have 1012
the discretion, within its jurisdiction, to determine the 1013
treatment of Proposals to Withdraw Water and to remove it 1014
from the Basin in any container of 5.7 gallons or less. 1015

Section 4.13. Exemptions. 1016

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

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

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

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

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

- et al. v. Illinois et al. 1040
2. The Parties acknowledge that the United States Supreme Court 1041
decree in Wisconsin et al. v. Illinois et al. shall continue 1042
in full force and effect, that this Compact shall not modify 1043
any terms thereof and that this Compact shall grant the 1044
parties no additional rights, obligations, remedies or 1045
defenses thereto. The Parties specifically acknowledge that 1046
this Compact shall not prohibit or limit the State of 1047
Illinois in any manner from seeking additional Basin Water as 1048
allowed under the terms of the United States Supreme Court 1049
decree in Wisconsin et al. v. Illinois et al., any other 1050
party from objecting to any request by the State of Illinois 1051
for additional Basin Water under the terms of said decree, or 1052
any party from seeking any other type of modification to said 1053
decree. If an application is made by any party to the Supreme 1054
Court of the United States to modify said decree, the Parties 1055
to this Compact who are also parties to the decree shall seek 1056
formal input from the Canadian Provinces of Ontario and 1057
Quebec, with respect to the proposed modification, use best 1058
efforts to facilitate the appropriate participation of said 1059
Provinces in the proceedings to modify the decree, and shall 1060
not unreasonably impede or restrict such participation. 1061
3. With the exception of Paragraph 5 of this Section, because 1062
current, New or Increased Withdrawals, Consumptive Uses and 1063
Diversions of Basin Water by the State of Illinois are not 1064
subject to the terms of this Compact, the State of Illinois 1065
is prohibited from using any term of this Compact, including 1066
Section 4.9, to seek New or Increased Withdrawals, 1067
Consumptive Uses or Diversions of Basin Water. 1068
4. With the exception of Paragraph 5 of this Section, because 1069
Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 1070
(Paragraphs 1, 2, 3, 4, 6 and 10 only) and 4.13 of this 1071

Compact all relate to current, New or Increased Withdrawals, 1072
Consumptive Uses and Diversions of Basin Waters, said 1073
provisions do not apply to the State of Illinois. All other 1074
provisions of this Compact not listed in the preceding 1075
sentence shall apply to the State of Illinois, including the 1076
Water Conservation Programs provision of Section 4.2. 1077

5. In the event of a Proposal for a Diversion of Basin Water for 1078
use outside the territorial boundaries of the Parties to this 1079
Compact, decisions by the State of Illinois regarding such a 1080
Proposal would be subject to all terms of this Compact, 1081
except Paragraphs 1, 3 and 4 of this Section. 1082

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

Section 4.15. Assessment of Cumulative Impacts. 1088
1089

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

- a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines; 1103
1104
1105
- b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of uncertainty if serious damage may result; 1106
1107
1108
1109
1110
- c. Consider Adaptive Management principles and approaches, recognizing, considering and providing adjustments for the uncertainties in, and evolution of science concerning the Basin's Water resources, watersheds and Ecosystems, including potential changes to Basin-wide processes, such as lake level cycles and climate. 1111
1112
1113
1114
1115
1116
2. The Parties have the responsibility of conducting this Cumulative Impact assessment. Applicants are not required to participate in this assessment. 1117
1118
1119
3. Unless required by other statutes, Applicants are not required to conduct a separate Cumulative Impact assessment in connection with an Application but shall submit information about the potential impacts of a Proposal to the quantity or quality of the Waters and Water Dependent Natural Resources of the applicable Source Watershed. An Applicant may, however, provide an analysis of how their Proposal meets the no significant adverse Cumulative Impact provision of the Standard of Review and Decision. 1120
1121
1122
1123
1124
1125
1126
1127
1128

ARTICLE 5 1129

TRIBAL CONSULTATION 1130

Section 5.1. Consultation with Tribes. 1131

1. In addition to all other opportunities to comment pursuant to Section 6.2, appropriate consultations shall occur with 1132
1133

federally recognized Tribes in the Originating Party for all 1134
Proposals subject to Council or Regional Review pursuant to 1135
this Compact. Such consultations shall be organized in the 1136
manner suitable to the individual Proposal and the laws and 1137
policies of the Originating Party. 1138

2. All federally recognized Tribes within the Basin shall receive 1139
reasonable notice indicating that they have an opportunity to 1140
comment in writing to the Council or the Regional Body, or 1141
both, and other relevant organizations on whether the 1142
Proposal meets the requirements of the Standard of Review and 1143
Decision when a Proposal is subject to Regional Review or 1144
Council approval. Any notice from the Council shall inform 1145
the Tribes of any meeting or hearing that is to be held under 1146
Section 6.2 and invite them to attend. The Parties and the 1147
Council shall consider the comments received under this 1148
Section before approving, approving with modifications or 1149
disapproving any Proposal subject to Council or Regional 1150
Review. 1151

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

ARTICLE 6

1166

PUBLIC PARTICIPATION

1167

Section 6.1. Meetings, Public Hearings and Records.

1168

1. The Parties recognize the importance and necessity of public 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.

1169

1170

1171

1172

1173

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

1174

1175

Section 6.2. Public Participation.

1176

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:

1177

1178

1179

1180

1181

1182

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

1183

1184

1185

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

1186

1187

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.

1188

1189

1190

1191

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

1192

1193

1194

ARTICLE 7

1195

DISPUTE RESOLUTION AND ENFORCEMENT

1196

Section 7.1. Good Faith Implementation.

1197

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

1198

1199

1200

1201

Section 7.2. Alternative Dispute Resolution.

1202

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

1203

1204

1205

1206

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

1207

1208

1209

Section 7.3. Enforcement.

1210

1. Any Person aggrieved by any action taken by the Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council. Any Person aggrieved by a Party action shall be entitled to a hearing pursuant to the relevant Party's administrative procedures and laws. After exhaustion of such administrative remedies, (i) any aggrieved Person shall have the right to judicial review of a Council action in the United States District Court for the District of Columbia or the District Court in which the Council maintains offices, provided such action is commenced within 90 days; and, (ii) any aggrieved Person shall have the right to judicial review of a Party's action in the relevant Party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the Party's law. For the purposes of this paragraph, a State or Province

1211

1212

1213

1214

1215

1216

1217

1218

1219

1220

1221

1222

1223

1224

1225

1226

<u>is deemed to be an aggrieved Person with respect to any Party</u>	1227
<u>action pursuant to this Compact.</u>	1228
<u>2.a. Any Party or the Council may initiate actions to compel</u>	1229
<u>compliance with the provisions of this Compact, and the rules</u>	1230
<u>and regulations promulgated hereunder by the Council.</u>	1231
<u>Jurisdiction over such actions is granted to the court of the</u>	1232
<u>relevant Party, as well as the United States District Court</u>	1233
<u>for the District of Columbia and the District Court in which</u>	1234
<u>the Council maintains offices. The remedies available to any</u>	1235
<u>such court shall include, but not be limited to, equitable</u>	1236
<u>relief and civil penalties.</u>	1237
<u>b. Each Party may issue orders within its respective jurisdiction</u>	1238
<u>and may initiate actions to compel compliance with the</u>	1239
<u>provisions of its respective statutes and regulations adopted</u>	1240
<u>to implement the authorities contemplated by this Compact in</u>	1241
<u>accordance with the provisions of the laws adopted in each</u>	1242
<u>Party's jurisdiction.</u>	1243
<u>3. Any aggrieved Person, Party or the Council may commence a civil</u>	1244
<u>action in the relevant Party's courts and administrative</u>	1245
<u>systems to compel any Person to comply with this Compact</u>	1246
<u>should any such Person, without approval having been given,</u>	1247
<u>undertake a New or Increased Withdrawal, Consumptive Use or</u>	1248
<u>Diversion that is prohibited or subject to approval pursuant</u>	1249
<u>to this Compact.</u>	1250
<u>a. No action under this subsection may be commenced if:</u>	1251
<u>i. The Originating Party or Council approval for the New or</u>	1252
<u>Increased Withdrawal, Consumptive Use or Diversion has been</u>	1253
<u>granted; or,</u>	1254
<u>ii. The Originating Party or Council has found that the New or</u>	1255
<u>Increased Withdrawal, Consumptive Use or Diversion is not</u>	1256
<u>subject to approval pursuant to this Compact.</u>	1257

<u>b. No action under this subsection may be commenced unless:</u>	1258
<u>i. A Person commencing such action has first given 60 days' prior</u>	1259
<u>notice to the Originating Party, the Council and Person</u>	1260
<u>alleged to be in noncompliance; and,</u>	1261
<u>ii. Neither the Originating Party nor the Council has commenced</u>	1262
<u>and is diligently prosecuting appropriate enforcement actions</u>	1263
<u>to compel compliance with this Compact.</u>	1264
<u>The available remedies shall include equitable relief, and the</u>	1265
<u>prevailing or substantially prevailing party may recover the costs</u>	1266
<u>of litigation, including reasonable attorney and expert witness</u>	1267
<u>fees, whenever the court determines that such an award is</u>	1268
<u>appropriate.</u>	1269
<u>4. Each of the Parties may adopt provisions providing additional</u>	1270
<u>enforcement mechanisms and remedies including equitable</u>	1271
<u>relief and civil penalties applicable within its jurisdiction</u>	1272
<u>to assist in the implementation of this Compact.</u>	1273
<u>ARTICLE 8</u>	1274
<u>ADDITIONAL PROVISIONS</u>	1275
<u>Section 8.1. Effect on Existing Rights.</u>	1276
<u>1. Nothing in this Compact shall be construed to affect, limit,</u>	1277
<u>diminish or impair any rights validly established and</u>	1278
<u>existing as of the effective date of this Compact under State</u>	1279
<u>or federal law governing the Withdrawal of Waters of the</u>	1280
<u>Basin.</u>	1281
<u>2. Nothing contained in this Compact shall be construed as</u>	1282
<u>affecting or intending to affect or in any way to interfere</u>	1283
<u>with the law of the respective Parties relating to common law</u>	1284
<u>Water rights.</u>	1285
<u>3. Nothing in this Compact is intended to abrogate or derogate</u>	1286
<u>from treaty rights or rights held by any Tribe recognized by</u>	1287

the federal government of the United States based upon its 1288
status as a Tribe recognized by the federal government of the 1289
United States. 1290

4. An approval by a Party or the Council under this Compact does 1291
not give any property rights, nor any exclusive privileges, 1292
nor shall it be construed to grant or confer any right, 1293
title, easement or interest in, to or over any land belonging 1294
to or held in trust by a Party; neither does it authorize any 1295
injury to private property or invasion of private rights, nor 1296
infringement of federal, State or local laws or regulations; 1297
nor does it obviate the necessity of obtaining federal assent 1298
when necessary. 1299

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

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

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

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

Section 8.3. Confidentiality. 1317

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

2. A Party may take measures, including but not limited to 1322
deletion and redaction, deemed necessary to protect any 1323
confidential, proprietary or commercially sensitive 1324
information when distributing information to other Parties. 1325
The Party shall summarize or paraphrase any such information 1326
in a manner sufficient for the Council to exercise its 1327
authorities contained in this Compact. 1328

Section 8.4. Additional Laws. 1329

Nothing in this Compact shall be construed to repeal, modify or 1330
qualify the authority of any Party to enact any legislation or 1331
enforce any additional conditions and restrictions regarding the 1332
management and regulation of Waters within its jurisdiction. 1333

Section 8.5. Amendments and Supplements. 1334

The provisions of this Compact shall remain in full force and 1335
effect until amended by action of the governing bodies of the 1336
Parties and consented to and approved by any other necessary 1337
authority in the same manner as this Compact is required to be 1338
ratified to become effective. 1339

Section 8.6. Severability. 1340

Should a court of competent jurisdiction hold any part of this 1341
Compact to be void or unenforceable, it shall be considered 1342
severable from those portions of the Compact capable of continued 1343
implementation in the absence of the voided provisions. All other 1344
provisions capable of continued implementation shall continue in 1345
full force and effect. 1346

Section 8.7. Duration of Compact and Termination. 1347

Once effective, the Compact shall continue in force and remain 1348
binding upon each and every Party unless terminated. 1349

This Compact may be terminated at any time by a majority vote of 1350
the Parties. In the event of such termination, all rights 1351
established under it shall continue unimpaired. 1352

ARTICLE 9 1353

EFFECTUATION 1354

Section 9.1. Repealer. 1355

All acts and parts of acts inconsistent with this act are to the 1356
extent of such inconsistency hereby repealed. 1357

Section 9.2. Effectuation by Chief Executive. 1358

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

Section 9.3. Entire Agreement. 1362

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

Section 9.4. Effective Date and Execution. 1371

This Compact shall become binding and effective when ratified 1372
through concurring legislation by the states of Illinois, Indiana, 1373
Michigan, Minnesota, New York, Ohio and Wisconsin and the 1374
Commonwealth of Pennsylvania and consented to by the Congress of 1375
the United States. This Compact shall be signed and sealed in nine 1376
identical original copies by the respective chief executives of 1377

the signatory Parties. One such copy shall be filed with the 1378
Secretary of State of each of the signatory Parties or in 1379
accordance with the laws of the state in which the filing is made, 1380
and one copy shall be filed and retained in the archives of the 1381
Council upon its organization. The signatures shall be affixed and 1382
attested under the following form: 1383

In Witness Whereof, and in evidence of the adoption and enactment 1384
into law of this Compact by the legislatures of the signatory 1385
parties and consent by the Congress of the United States, the 1386
respective Governors do hereby, in accordance with the authority 1387
conferred by law, sign this Compact in nine duplicate original 1388
copies, attested by the respective Secretaries of State, and have 1389
caused the seals of the respective states to be hereunto affixed 1390
this _____ day of (month), (year). 1391

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

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

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

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

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

effectuate the purposes of the compact; 1408

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

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

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

(2) Enforce the Great Lakes-St. Lawrence river basin water 1417
resources compact and take appropriate actions to effectuate its 1418
purposes and intent. 1419

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

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

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

Sec. 1522.05. (A) Pursuant to Section 9.2 of the Great 1443
Lakes-St. Lawrence river basin water resources compact, the 1444
governor may take such actions as are necessary for the initial 1445
organization and operation of the Great Lakes-St. Lawrence river 1446
basin water resources council created in Section 2.1 of the 1447
compact. Agencies of the state are hereby authorized to cooperate 1448
with the council. 1449

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

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

requirements. 1468

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

Sec. 1522.06. It is the intent of the general assembly that 1476
any incorporation of water into a product that is produced within 1477
the Great Lakes-St. Lawrence river basin and packaged and intended 1478
for intermediate or end-use consumers, whether distributed inside 1479
or outside the basin, is a consumptive use and does not constitute 1480
a diversion for purposes of the Great Lakes-St. Lawrence river 1481
basin water resources compact. A proposal to withdraw water and 1482
remove it from the basin in a container greater than five and 1483
seven-tenths gallons in capacity shall be treated as a proposal 1484
for a diversion as provided under Section 4.12.10 of the Great 1485
Lakes-St. Lawrence river basin water resources compact. 1486

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

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

use, or withdrawal; 1498

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

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

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

(b) Approval of a public water supply system under Chapter 6109. of the Revised Code shall not be considered a permit that regulates or limits the amount of an existing diversion, consumptive use, or withdrawal unless the approval contains a specific and legally enforceable limitation on the amount of the diversion, consumptive use, or withdrawal. 1509
1510
1511
1512
1513
1514

(B)(1) It is the understanding and intent of the general assembly that Section 4.11.2 of the Great Lakes-St. Lawrence river basin water resources compact as enacted in section 1522.01 of the Revised Code shall be interpreted to require that a withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of either of the following: 1515
1516
1517
1518
1519
1520
1521
1522
1523

(a) The basin considered as a whole; 1524

(b) The applicable source watershed considered as a whole. 1525

(2) In addition, it is the understanding and intent of the general assembly that impacts of a withdrawal or consumptive use 1526
1527

on the quantity or quality of waters and water dependent natural 1528
resources of more localized areas that affect less than the basin 1529
or an applicable source watershed as a whole are to be considered 1530
a part of the evaluation of reasonable use as provided in Section 1531
4.11.5 of the compact. 1532

The governor and the governor's alternate on the Great 1533
Lakes-St. Lawrence river basin water resources council shall 1534
advise the council, the other states that are proposed parties to 1535
the compact, and the United States Congress with respect to the 1536
understanding and statement of legislative intent set forth in 1537
division (B) of this section and shall inform them that such 1538
understanding and intent are a material consideration to the 1539
general assembly's concurrence in the Great Lakes-St Lawrence 1540
river basin water resources compact. Prior to seeking the consent 1541
of the United States Congress to the compact, the governor and the 1542
governor's alternate on the council shall actively seek the 1543
concurrence of the council and the other state parties to the 1544
compact with respect to the understanding and legislative intent 1545
set forth in division (B) of this section, and the governor shall 1546
report to the general assembly periodically concerning those 1547
efforts. 1548

Sec. 1522.08. (A) It is the intent and understanding of the 1549
general assembly that the enactment of the Great Lakes-St. 1550
Lawrence river basin water resources compact and its 1551
implementation in this state do not and shall not in any manner 1552
abrogate any private property rights established under the Revised 1553
Code or the common law of this state. 1554

(B) It is the intent and understanding of the general assembly 1555
that the Great Lakes-St. Lawrence river basin water resources 1556
compact does not create any cause of action that may be brought 1557
against any person beyond those causes of action that are 1558

specifically authorized under Section 7.3 of the compact.

1559

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

1560

1561

1562

1563

1564

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

1565

1566

1567

1568

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

1569

1570

1571

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

1572

1573

1574

1575

1576

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

1577

1578

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

1579

1580

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

1581

(4) The following members appointed by the Governor:

1582

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

1583

1584

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

1585

1586

(c) One representative of a local environmental advocacy organization in the Lake Erie Basin;	1587 1588
(d) One representative of a sustainable economic development organization in the Lake Erie Basin;	1589 1590
(e) One representative of the travel and tourism industry;	1591
(f) One representative of the electric utility industry;	1592
(g) One representative of a county government in the Lake Erie Basin.	1593 1594
(5) The following members appointed by the President of the Senate:	1595 1596
(a) Two members of the Senate who shall not be members of the same political party;	1597 1598
(b) One representative of the bottled water industry;	1599
(c) One representative of a statewide land conservation advocacy organization;	1600 1601
(d) One representative of agricultural interests in the Lake Erie Basin;	1602 1603
(e) One representative of the aggregates industry;	1604
(f) One representative of the pulp and paper industry;	1605
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1606 1607
(h) One member of the public.	1608
(6) The following members appointed by the Speaker of the House of Representatives:	1609 1610
(a) Two members of the House of Representatives who shall not be members of the same political party;	1611 1612
(b) One representative of a municipal government in the Lake Erie Basin;	1613 1614

(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university; 1615
1616

(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; 1617
1618
1619
1620

(e) One representative of a fish and wildlife advocacy organization; 1621
1622

(f) One representative of residential developers; 1623

(g) One representative of the chemical industry; 1624

(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin. 1625
1626

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. 1627
1628
1629
1630
1631
1632
1633

(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: 1634
1635
1636
1637
1638
1639

(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: 1640
1641
1642
1643

(a) The number of withdrawals that will be regulated; 1644

(b) The relative impact of those withdrawals;	1645
(c) The practicality of regulating those withdrawals;	1646
(d) The alternatives that are available in the establishment of a permitting program in order to meet the water management objectives of this state.	1647 1648 1649
(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;	1650 1651 1652
(3) The establishment of a process for use by persons that wish to appeal their inclusion in the list of existing water users;	1653 1654 1655
(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;	1656 1657 1658 1659
(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.	1660 1661 1662
(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.	1663 1664 1665 1666 1667 1668 1669 1670 1671
(D) Upon submission of its recommendations under division (C) of this section, the advisory board shall cease to exist.	1672 1673

Section 4. If the state of Illinois, Indiana, Michigan, 1674
Minnesota, New York, or Wisconsin or the commonwealth of 1675
Pennsylvania fails to enact the Great Lakes-St. Lawrence River 1676
Basin Water Resources Compact not later than three years after the 1677
effective date of this section, Ohio reserves the right to 1678
reconsider its enactment of the Compact and, if necessary, repeal 1679
the Compact in its entirety. 1680

Section 5. Text that is italicized in the Great Lakes-St. 1681
Lawrence River Basin Water Resources Compact as presented in this 1682
act shall not be italicized but rather underlined in publications 1683
of the Compact. 1684