

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1705 Session of 2007

INTRODUCED BY HARKINS, FABRIZIO, M. O'BRIEN, WALKO, COHEN, GRUCELA, KOTIK, JOSEPHS, GALLOWAY, KULA, MELIO, GEORGE, YOUNGBLOOD, BRENNAN, TANGRETTI, McILHATTAN, MURT, PETRONE, J. EVANS, CARROLL, HORNAMAN, CONKLIN, KING, FREEMAN, LONGIETTI, MILNE, KORTZ, FRANKEL, HENNESSEY, McILVAINE SMITH, SIPTROTH AND SONNEY, JULY 6, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 17, 2008

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the Great
2 Lakes-St. Lawrence River Basin Water Resources Compact;
3 providing for the form of the compact; and imposing <—
4 additional powers and duties on the Governor, the Secretary
5 of the Commonwealth, THE DEPARTMENT OF ENVIRONMENTAL <—
6 PROTECTION, THE ENVIRONMENTAL QUALITY BOARD and the Compact; <—
7 AND IMPOSING PENALTIES.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

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

13 Section 2. Authority to execute ENACTMENT OF compact. <—

14 The Governor of Pennsylvania, on behalf of this State, is
15 hereby authorized to execute a compact in substantially the
16 following form with any one or more of the states of the United
17 States, and the General Assembly hereby signifies in advance its
18 approval and ratification of such compact AND ENACTS SUCH <—

1 COMPACT INTO LAW.

2 THE GREAT LAKES-ST. LAWRENCE RIVER BASIN

3 WATER RESOURCES COMPACT

4 ARTICLE 1

5 SHORT TITLE, DEFINITIONS, PURPOSES AND

6 DURATION EXPLANATION

7 Section 1.1. Short title.

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

10 Section 1.2. Definitions.

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

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

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

22 "Applicant" means a person who is required to submit a  
23 proposal that is subject to management and regulation under this  
24 compact. Application has a corresponding meaning.

25 "Basin or Great Lakes-St. Lawrence River Basin" means the  
26 watershed of the Great Lakes and the St. Lawrence River upstream  
27 from Trois-Rivieres, Quebec within the jurisdiction of the  
28 parties.

29 "Basin ecosystem or Great Lakes-St. Lawrence River Basin  
30 Ecosystem" means the interacting components of air, land, water

1 and living organisms, including humankind, within the basin.

2 "Community within a straddling county" means any incorporated  
3 city, town or the equivalent thereof, that is located outside  
4 the basin but wholly within a county that lies partly within the  
5 basin and that is not a straddling community.

6 "Compact" means this compact.

7 "Consumptive use" means that portion of the water withdrawn  
8 or withheld from the basin that is lost or otherwise not  
9 returned to the basin due to evaporation, incorporation into  
10 products or other processes.

11 "Council" means the Great Lakes-St. Lawrence River Basin  
12 Water Resources Council, created by this compact.

13 "Council review" means the collective review by the council  
14 members as described in Article 4 of this compact.

15 "County" means the largest territorial division for local  
16 government in a state. The county boundaries shall be defined as  
17 those boundaries that exist as of December 13, 2005.

18 "Cumulative impacts" mean the impact on the basin ecosystem  
19 that results from incremental effects of all aspects of a  
20 withdrawal, diversion or consumptive use in addition to other  
21 past, present, and reasonably foreseeable future withdrawals,  
22 diversions and consumptive uses regardless of who undertakes the  
23 other withdrawals, diversions and consumptive uses. Cumulative  
24 impacts can result from individually minor but collectively  
25 significant withdrawals, diversions and consumptive uses taking  
26 place over a period of time.

27 "Decision-making standard" means the decision-making standard  
28 established by section 4.11 for proposals subject to management  
29 and regulation in section 4.10.

30 "Diversion" means a transfer of water from the basin into

1 another watershed, or from the watershed of one of the Great  
2 Lakes into that of another by any means of transfer, including  
3 but not limited to, a pipeline, canal, tunnel, aqueduct,  
4 channel, modification of the direction of a water course, a  
5 tanker ship, tanker truck or rail tanker but does not apply to  
6 water that is used in the basin or a Great Lake watershed to  
7 manufacture or produce a product that is then transferred out of  
8 the basin or watershed. "Divert" has a corresponding meaning.

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

22 "Exception" means a transfer of water that is excepted under  
23 section 4.9 from the prohibition against diversions in section  
24 4.8.

25 "Exception standard" means the standard for exceptions  
26 established in section 4.9.4.

27 "Intra-basin transfer" means the transfer of water from the  
28 watershed of one of the Great Lakes into the watershed of  
29 another Great Lake.

30 "Measures" means any legislation, law, regulation, directive,

1 requirement, guideline, program, policy, administrative practice  
2 or other procedure.

3 "New or increased diversion" means a new diversion, an  
4 increase in an existing diversion, or the alternation of an  
5 existing withdrawal so that it becomes a diversion.

6 "New or increased withdrawal or consumptive use" means a new  
7 withdrawal or consumptive use or an increase in an existing  
8 withdrawal or consumptive use.

9 "Originating party" means the party within whose jurisdiction  
10 an application or registration is made or required.

11 "Party" means a state party to this compact.

12 "Person" means a human being or a legal person, including a  
13 government or a non-governmental organization, including any  
14 scientific, professional, business, non-profit, or public  
15 interest organization or association that is neither affiliated  
16 with, nor under the direction of a government.

17 "Product" means something produced in the basin by human or  
18 mechanical effort or through agricultural processes and used in  
19 manufacturing, commercial or other processes or intended for  
20 intermediate or end use consumers. (I) Water used as part of  
21 the packaging of a product shall be considered to be part of the  
22 product. (II) Other than water used as part of the packaging of  
23 a product, water that is used primarily to transport materials  
24 in or out of the basin is not a product or part of a product.  
25 (III) Except as provided in (I) above, water which is  
26 transferred as part of a public or private supply is not a  
27 product or part of a product. (IV) Water in its natural state  
28 such as in lakes, rivers, reservoirs, aquifers, or water basins  
29 is not a product.

30 "Proposal" means a withdrawal, diversion or consumptive use

1 of water that is subject to this compact.

2 "Province" means Ontario or Quebec.

3 "Public water supply purposes" means water distributed to the  
4 public through a physically connected system of treatment,  
5 storage and distribution facilities serving a group of largely  
6 residential customers that may also serve industrial,  
7 commercial, and other institutional operators. Water withdrawn  
8 directly from the basin and not through such a system shall not  
9 be considered to be used for public water supply purposes.

10 "Regional body" means the members of the council and the  
11 premiers of Ontario and Quebec or their designee as established  
12 by the agreement.

13 "Regional review" means the collective review by the regional  
14 body as described in Article 4 of this compact.

15 "Source watershed" means the watershed from which a  
16 withdrawal originates. If water is withdrawn directly from a  
17 Great Lake or from the St. Lawrence River, then the source  
18 watershed shall be considered to be the watershed of that Great  
19 Lake or the watershed of the St. Lawrence River, respectively.  
20 If water is withdrawn from the watershed of a stream that is a  
21 direct tributary to a Great Lake or a direct tributary to the  
22 St. Lawrence River, then the source watershed shall be  
23 considered to be the watershed of that Great Lake or the  
24 Watershed of the St. Lawrence River, respectively, with a  
25 preference to the direct tributary stream watershed from which  
26 it was withdrawn.

27 "Standard of review and decision" means the exception  
28 standard, decision-making standard and reviews as outlined in  
29 Article 4 of this compact.

30 "State" means one of the states of Illinois, Indiana,

1 Michigan, Minnesota, New York, Ohio or Wisconsin or the  
2 Commonwealth of Pennsylvania.

3 "Straddling community" means any incorporated city, town or  
4 the equivalent thereof, wholly within any county that lies  
5 partly or completely within the basin, whose corporate boundary  
6 existing as of the effective date of this compact, is partly  
7 within the basin or partly within two Great Lakes watersheds.

8 "Technical review" means a detailed review conducted to  
9 determine whether or not a proposal that requires regional  
10 review under this compact meets the standard of review and  
11 decision following procedures and guidelines as set out in this  
12 compact.

13 "Water" means ground or surface water contained within the  
14 basin.

15 "Water dependent natural resources" means the interacting  
16 components of land, water and living organisms affected by the  
17 waters of the basin.

18 "Waters of the basin" or "basin water" means the Great Lakes  
19 and all streams, rivers, lakes, connecting channels and other  
20 bodies of water, including tributary groundwater, within the  
21 basin.

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

24 Section 1.3. Findings and purposes.

25 The legislative bodies of the respective parties hereby find  
26 and declare:

27 1. Findings:

28 A. the waters of the basin are precious public natural  
29 resources shared and held in trust by the states;

30 B. the waters of the basin are interconnected and part of a

1 single hydrologic system;

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

11 D. future diversions and consumptive uses of basin water  
12 resources have the potential to significantly impact the  
13 environment, economy and welfare of the Great Lakes-St. Lawrence  
14 River region;

15 E. continued sustainable, accessible and adequate water  
16 supplies for the people and economy of the basin are of vital  
17 importance; and

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

26 2. Purposes:

27 A. to act together to protect, conserve, restore, improve  
28 and effectively manage the waters and water dependent natural  
29 resources of the basin under appropriate arrangements for  
30 intergovernmental cooperation and consultation because current



1 lack of full scientific certainty should not be used as a reason  
2 for postponing measures to protect the basin ecosystem;

3 B. to remove causes of present and future controversies;

4 C. to provide for cooperative planning and action by the  
5 parties with respect to such water resources;

6 D. to facilitate consistent approaches to water management  
7 across the basin while retaining state management authority over  
8 water management decisions within the basin;

9 E. to facilitate the exchange of data, strengthen the  
10 scientific information base upon which decisions are made and  
11 engage in consultation on the potential effects of proposed  
12 withdrawals and losses on the waters and water dependent natural  
13 resources of the basin;

14 F. to prevent significant adverse impacts of withdrawals and  
15 losses on the basin's ecosystems and watersheds;

16 G. to promote interstate and state-provincial comity; and

17 H. to promote an adaptive management approach to the  
18 conservation and management of basin water resources, which  
19 recognizes, considers and provides adjustments for the  
20 uncertainties in, and evolution of, scientific knowledge  
21 concerning the basin's waters and water dependent natural  
22 resources.

23 Section 1.4. Science.

24 1. The parties commit to provide leadership for the  
25 development of a collaborative strategy with other regional  
26 partners to strengthen the scientific basis for sound water  
27 management decision making under this compact.

28 2. The strategy shall guide the collection and application  
29 of scientific information to support:

30 A. an improved understanding of the individual and

1 cumulative impacts of withdrawals from various locations and  
2 water sources on the basin ecosystem and to develop a mechanism  
3 by which impacts of withdrawals may be assessed;

4 B. the periodic assessment of cumulative impacts of  
5 withdrawals, diversions and consumptive uses on a Great Lake and  
6 St. Lawrence River watershed basis;

7 C. improved scientific understanding of the waters of the  
8 basin;

9 D. improved understanding of the role of groundwater in  
10 basin water resources management; and,

11 E. the development, transfer and application of science and  
12 research related to water conservation and water use efficiency.

13 ARTICLE 2

14 ORGANIZATION

15 Section 2.1. Council created.

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

20 Section 2.2. Council membership.

21 The council shall consist of the governors of the parties, ex  
22 officio.

23 Section 2.3. Alternates.

24 Each member of the council shall appoint at least one  
25 alternate who may act in his or her place and stead, with  
26 authority to attend all meetings of the council and with power  
27 to vote in the absence of the member, unless otherwise provided  
28 by law of the party for which he or she is appointed, each  
29 alternate shall serve during the term of the member appointing  
30 him or her, subject to removal at the pleasure of the member. In

1 the event of a vacancy in the Office of Alternate, it shall be  
2 filled in the same manner as an original appointment for the  
3 unexpired term only.

4 Section 2.4. Voting.

5 1. Each member is entitled to one vote on all matters that  
6 may come before the council.

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

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

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

18 Section 2.5. Organization and procedure.

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

1 Section 2.6. Use of existing offices and agencies.

2 It is the policy of the parties to preserve and utilize the  
3 functions, powers and duties of existing offices and agencies of  
4 government to the extent consistent with this compact. Further,  
5 the council shall promote and aid the coordination of the  
6 activities and programs of the parties concerned with water  
7 resources management in the basin. To this end, but without  
8 limitation, the council may:

9 1. advise, consult, contract, assist or otherwise cooperate  
10 with any and all such agencies;

11 2. employ any other agency or instrumentality of any of the  
12 parties for any purpose; and

13 3. develop and adopt plans consistent with the water  
14 resources plans of the parties.

15 Section 2.7. Jurisdiction.

16 The council shall have, exercise and discharge its functions,  
17 powers and duties within the limits of the basin. Outside the  
18 basin, it may act in its discretion, but only to the extent such  
19 action may be necessary or convenient to effectuate or implement  
20 its powers or responsibilities within the basin and subject to  
21 the consent of the jurisdiction wherein it proposes to act.

22 Section 2.8. Status, immunities and privileges.

23 1. The council, its members and personnel in their official  
24 capacity and when engaged directly in the affairs of the  
25 council, its property and its assets, wherever located and by  
26 whomsoever held, shall enjoy the same immunity from suit and  
27 every form of judicial process as is enjoyed by the parties,  
28 except to the extent that the council may expressly waive its  
29 immunity for the purposes of any proceedings or by the terms of  
30 any contract.

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

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

13 Section 2.9. Advisory committees.

14       The council may constitute and empower advisory committees,  
15 which may be comprised of representatives of the public and of  
16 Federal, state, tribal, county and local governments, water  
17 resources agencies, water-using industries and sectors, water-  
18 interest groups and academic experts in related fields.

19   ARTICLE 3

20   GENERAL POWERS AND DUTIES

21 Section 3.1. General.

22       The waters and water dependent natural resources of the basin  
23 are subject to the sovereign right and responsibilities of the  
24 parties, and it is the purpose of this compact to provide for  
25 joint exercise of such powers of sovereignty by the council in  
26 the common interests of the people of the region, in the manner  
27 and to the extent provided in this compact. The council and the  
28 parties shall use the standard of review and decision and  
29 procedures contained in or adopted pursuant to this compact as  
30 the means to exercise their authority under this compact.

1 The council may revise the standard of review and decision,  
2 after consultation with the provinces and upon unanimous vote of  
3 all council members, by regulation duly adopted in accordance  
4 with section 3.3 of this compact and in accordance with each  
5 party's respective statutory authorities and applicable  
6 procedures.

7 The council shall identify priorities and develop plans and  
8 policies relating to basin water resources. It shall adopt and  
9 promote uniform and coordinated policies for water resources  
10 conservation and management in the basin.

11 Section 3.2. Council powers.

12 The council may: plan; conduct research and collect,  
13 compile, analyze, interpret, report and disseminate data on  
14 water resources and uses; forecast water levels; conduct  
15 investigations; institute court actions; design, acquire,  
16 construct, reconstruct, own, operate, maintain, control, sell  
17 and convey real and personal property and any interest therein  
18 as it may deem necessary, useful or convenient to carry out the  
19 purposes of this compact; make contracts; receive and accept  
20 such payments, appropriations, grants, gifts, loans, advances  
21 and other funds, properties and services as may be transferred  
22 or made available to it by any party or by any other public or  
23 private agency, corporation or individual; and, exercise such  
24 other and different powers as may be delegated to it by this  
25 compact or otherwise pursuant to law, and have and exercise all  
26 powers necessary or convenient to carry out its express powers  
27 or which may be reasonably implied therefrom.

28 Section 3.3. Rules and regulations.

29 1. The council may promulgate and enforce such rules and  
30 regulations as may be necessary for the implementation and

1 enforcement of this compact. The council may adopt by  
2 regulation, after public notice and public hearing, reasonable  
3 application fees with respect to those proposals for exceptions  
4 that are subject to council review under section 4.9. any rule  
5 or regulation of the council, other than one which deals solely  
6 with the internal management of the council or its property,  
7 shall be adopted only after public notice or hearing.

8       2. Each party, in accordance with its respective statutory  
9 authorities and applicable procedures, may adopt and enforce  
10 rules and regulations to implement and enforce this compact and  
11 the programs adopted by such party to carry out the management  
12 programs contemplated by this compact.

13 Section 3.4. Program review and findings.

14       1. Each party shall submit a report to the council and the  
15 regional body detailing its water management and conservation  
16 and efficiency programs that implement this compact. The report  
17 shall set out the manner in which water withdrawals are managed  
18 by sector, water source, quantity or any other means, and how  
19 the provisions of the standard of review and decision and  
20 conservation and efficiency programs are implemented. The first  
21 report shall be provided by each party one year from the  
22 effective date of this compact and thereafter every 5 years.

23       2. The council, in cooperation with the provinces, shall  
24 review its water management and conservation and efficiency  
25 programs and those of the parties that are established in this  
26 compact and make findings on whether the water management  
27 program provisions in this compact are being met, and if not,  
28 recommend options to assist the parties in meeting the  
29 provisions of this compact. Such review shall take place:

30       A. 30 days after the first report is submitted by all

1 parties; and,

2 B. every five years after the effective date of this  
3 compact; and,

4 C. at any other time at the request of one of the parties.

5 3. As one of its duties and responsibilities, the council  
6 may recommend a range of approaches to the parties with respect  
7 to the development, enhancement and application of water  
8 management and conservation and efficiency programs to implement  
9 the standard of review and decision reflecting improved  
10 scientific understanding of the waters of the basin, including  
11 groundwater, and the impacts of withdrawals on the basin  
12 ecosystem.

13 ARTICLE 4

14 WATER MANAGEMENT AND REGULATIONS

15 Section 4.1. Water resources inventory, registration and  
16 reporting.

17 1. Within five years of the effective date of this compact,  
18 each party shall develop and maintain a water resources  
19 inventory for the collection, interpretation, storage,  
20 retrieval, exchange, and dissemination of information concerning  
21 the water resources of the party, including, but not limited to,  
22 information on the location, type, quantity, and use of those  
23 resources and the location, type, and quantity of withdrawals,  
24 diversions and consumptive uses. To the extent feasible, the  
25 water resources inventory shall be developed in cooperation with  
26 local, State, Federal, tribal and other private agencies and  
27 entities, as well as the council. Each party's agencies shall  
28 cooperate with that party in the development and maintenance of  
29 the inventory.

30 2. The council shall assist each party to develop a common



1 base of data regarding the management of the water resources of  
2 the basin and to establish systematic arrangements for the  
3 exchange of those data with other states and provinces.

4 3. To develop and maintain a compatible base of water use  
5 information, within five years of the effective date of this  
6 compact any person who withdraws water in an amount of 100,000  
7 gallons per day or greater average in any 30-day period  
8 (including consumptive uses) from all sources, or diverts water  
9 of any amount, shall register the withdrawal or diversion by a  
10 date set by the council unless the person has previously  
11 registered in accordance with an existing state program. The  
12 person shall register the withdrawal or diversion with the  
13 originating party using a form prescribed by the originating  
14 party that shall include, at a minimum and without limitation:  
15 the name and address of the registrant and date of registration;  
16 the locations and sources of the withdrawal or diversion; the  
17 capacity of the withdrawal or diversion per day and the amount  
18 withdrawn or diverted from each source; the uses made of the  
19 water; places of use and places of discharge; and, such other  
20 information as the originating party may require. All  
21 registrations shall include an estimate of the volume of the  
22 withdrawal or diversion in terms of gallons per day average in  
23 any 30-day period.

24 4. All registrants shall annually report the monthly volumes  
25 of the withdrawal, consumptive use and diversion in gallons to  
26 the originating party and any other information requested by the  
27 originating party.

28 5. Each party shall annually report the information gathered  
29 pursuant to this section to a Great Lakes-St. Lawrence River  
30 water use data base repository and aggregated information shall

1 be made publicly available, consistent with the confidentiality  
2 requirements in section 8.3.

3 6. Information gathered by the parties pursuant to this  
4 section shall be used to improve the sources and applications of  
5 scientific information regarding the waters of the basin and the  
6 impacts of the withdrawals and diversions from various locations  
7 and water sources on the basin ecosystem, and to better  
8 understand the role of groundwater in the basin. The council and  
9 the parties shall coordinate the collection and application of  
10 scientific information to further develop a mechanism by which  
11 individual and cumulative impacts of withdrawals, consumptive  
12 uses and diversions shall be assessed.

13 Section 4.2. Water conservation and efficiency programs.

14 1. The council commits to identify, in cooperation with the  
15 provinces, basin-wide water conservation and efficiency  
16 objectives to assist the parties in developing their water  
17 conservation and efficiency program. These objectives are based  
18 on the goals of:

19 A. ensuring improvement of the waters and water dependent  
20 natural resources;

21 B. protecting and restoring the hydrologic and ecosystem  
22 integrity of the basin;

23 C. retaining the quantity of surface water and groundwater  
24 in the basin;

25 D. ensuring sustainable use of waters of the basin; and,

26 E. promoting the efficiency of use and reducing losses and  
27 waste of water.

28 2. Within two years of the effective date of this compact,  
29 each party shall develop its own water conservation and  
30 efficiency goals and objectives consistent with the basin-wide

1 goals and objectives, and shall develop and implement a water  
2 conservation and efficiency program, either voluntary or  
3 mandatory, within its jurisdiction based on the party's goals  
4 and objectives. Each party shall annually assess its programs in  
5 meeting the party's goals and objectives, report to the council  
6 and the regional body and make this annual assessment available  
7 to the public.

8 3. Beginning five years after the effective date of this  
9 compact, and every five years thereafter, the council, in  
10 cooperation with the provinces, shall review and modify as  
11 appropriate the basin-wide objectives, and the parties shall  
12 have regard for any such modifications in implementing their  
13 programs. This assessment will be based on examining new  
14 technologies, new patterns of water use, new resource demands  
15 and threats, and cumulative impact assessment under section  
16 4.15.

17 4. Within two years of the effective date of this compact,  
18 the parties commit to promote environmentally sound and  
19 economically feasible water conservation measures such as:

- 20 A. measures that promote efficient use of water;
- 21 B. identification and sharing of best management practices  
22 and state of the art conservation and efficiency technologies;
- 23 C. application of sound planning principles;
- 24 D. demand-side and supply-side measures or incentives; and,
- 25 E. development, transfer and application of science and  
26 research.

27 5. Each party shall implement in accordance with paragraph 2  
28 a voluntary or mandatory water conservation program for all,  
29 including existing, basin water users. Conservation programs  
30 need to adjust to new demands and the potential impacts of

1 cumulative effects and climate.

2 Section 4.3. Party powers and duties.

3 1. Each party, within its jurisdiction, shall manage and  
4 regulate new or increased withdrawals, consumptive uses and  
5 diversions, including exceptions, in accordance with this  
6 compact.

7 2. Each party shall require an applicant to submit an  
8 application in such manner and with such accompanying  
9 information as the party shall prescribe.

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

17 4. Each party shall monitor the implementation of any  
18 approved proposal to ensure consistency with the approval and  
19 may take all necessary enforcement actions.

20 5. No party shall approve a proposal subject to council or  
21 regional review, or both, pursuant to this compact unless it  
22 shall have been first submitted to and reviewed by either the  
23 council or regional body, or both, and approved by the council,  
24 as applicable. Sufficient opportunity shall be provided for  
25 comment on the proposal's consistency with this compact and the  
26 standard of review and decision. All such comments shall become  
27 part of the party's formal record of decision, and the party  
28 shall take into consideration any such comments received.

29 Section 4.4. Requirement for originating party approval.

30 No proposal subject to management and regulation under this

1 compact shall hereafter be undertaken by any person unless it  
2 shall have been approved by the originating party.

3 Section 4.5. Regional review.

4 1. General.

5 A. It is the intention of the parties to participate in  
6 regional review of proposals with the provinces, as described in  
7 this compact and the agreement.

8 B. Unless the applicant or the originating party otherwise  
9 requests, it shall be the goal of the regional body to conclude  
10 its review no later than 90 days after notice under section  
11 4.5.2 of such proposal is received from the originating party.

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

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

25 E. The originating party shall have lead responsibility for  
26 coordinating information for resolution of issues related to  
27 evaluation of a proposal, and shall consult with the applicant  
28 throughout the regional review process.

29 F. A majority of the members of the regional body may  
30 request regional review of a regionally significant or

1 potentially precedent setting proposal. Such regional review  
2 must be conducted, to the extent possible, within the time  
3 frames set forth in this section. Any such regional review shall  
4 be undertaken only after consulting the applicant.

5 2. Notice from originating party to the regional body.

6 A. The originating party shall determine if a proposal is  
7 subject to regional review. If so, the originating party shall  
8 provide timely notice to the regional body and the public.

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

13 C. An originating party may:

14 I. provide notice to the regional body of an application,  
15 even if notification is not required; or

16 II. request regional review of an application, even if  
17 regional review is not required. Any such regional review shall  
18 be undertaken only after consulting the applicant.

19 D. An originating party may provide preliminary notice of a  
20 potential proposal.

21 3. Public participation.

22 A. To ensure adequate public participation, the regional  
23 body shall adopt procedures for the review of proposals that are  
24 subject to regional review in accordance with this article.

25 B. The regional body shall provide notice to the public of  
26 proposal undergoing regional review. Such notice shall indicate  
27 that the public has an opportunity to comment in writing to the  
28 regional body on whether the proposal meets the standard of  
29 review and decision.

30 C. The regional body shall hold a public meeting in the

1 state or province of the originating party in order to receive  
2 public comment on the issue of whether the proposal under  
3 consideration meets the standard of review and decision.

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

6 E. The regional body shall forward the comments it receives  
7 to the originating party.

8 4. Technical review.

9 A. The originating party shall provide the regional body  
10 with its technical review of the proposal under consideration.

11 B. The originating party's technical review shall thoroughly  
12 analyze the proposal and provide an evaluation of the proposal  
13 sufficient for a determination of whether the proposal meets the  
14 standard of review and decision.

15 C. Any member of the regional body may conduct their own  
16 technical review of any proposal subject to regional review.

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

20 E. All parties shall exercise their best efforts to ensure  
21 that a technical review undertaken under sections 4.5.4.C and  
22 4.5.4.D does not unnecessarily delay the decision by the  
23 originating party on the application. Unless the applicant or  
24 the originating party otherwise requests, all technical reviews  
25 shall be completed no later than 60 days after the date the  
26 notice of the proposal was given to the regional body.

27 5. Declaration of finding.

28 A. The regional body shall meet to consider a proposal. The  
29 applicant shall be provided with an opportunity to present the  
30 proposal to the regional body at such time.

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

8 I. meets the standard of review and decision;

9 II. does not meet the standard of review and decision; or

10 III. would meet the standard of review and decision if  
11 certain conditions were met.

12 C. An originating party may decline to participate in a  
13 declaration of finding made by the regional body.

14 D. The parties recognize and affirm that it is preferable  
15 for all members of the regional body to agree whether the  
16 proposal meets the standard of review and decision.

17 E. If the members of the regional body who participate in  
18 the declaration of finding all agree, they shall issue a written  
19 declaration of finding with consensus.

20 F. In the event that the members cannot agree, the regional  
21 body shall make every reasonable effort to achieve consensus  
22 within 25 days.

23 G. Should consensus not be achieved, the regional body may  
24 issue a declaration of finding that presents different points of  
25 view and indicates each party's conclusions.

26 H. The regional body shall release the declarations of  
27 finding to the public.

28 I. The originating party and the council shall consider the  
29 declaration of finding before making a decision on the proposal.

30 Section 4.6. Proposals subject to prior notice.



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

10 2. A party may provide notice, an opportunity to comment and  
11 a response to comments even if this is not required under  
12 paragraph 1 of this section. Any provision of such notice and  
13 opportunity to comment shall be undertaken only after consulting  
14 the applicant.

15 Section 4.7. Council actions.

16 1. Proposals for exceptions subject to council review shall  
17 be submitted by the originating party to the council for council  
18 review, and where applicable, to the regional body for  
19 concurrent review.

20 2. The council shall review and take action on proposals in  
21 accordance with this compact and the standard of review and  
22 decision. The council shall not take action on a proposal  
23 subject to regional review pursuant to this compact unless the  
24 proposal shall have been first submitted to and reviewed by the  
25 regional body. The council shall consider any findings resulting  
26 from such review.

27 Section 4.8. Prohibition of new or increased diversions.

28 All new or increased diversions are prohibited, except as  
29 provided for in this article.

30 Section 4.9. Exceptions to the prohibition of diversions.

1        1. Straddling communities. A proposal to transfer water to  
2 an area within a straddling community but outside the basin or  
3 outside the source Great Lake watershed shall be excepted from  
4 the prohibition against diversions and be managed and regulated  
5 by the originating party provided that, regardless of the volume  
6 of water transferred, all the water so transferred shall be used  
7 solely for public water supply purposes within the straddling  
8 community; and:

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

14        I. is part of a water supply or wastewater treatment system  
15 that combines water from inside and outside of the basin;

16        II. is treated to meet applicable water quality discharge  
17 standards and to prevent the introduction of invasive species  
18 into the basin;

19        III. maximizes the portion of water returned to the source  
20 watershed as basin water and minimizes the surface water or  
21 groundwater from outside the basin;

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

26        C. If the proposal results in a new or increased consumptive  
27 use of 5 million gallons per day or greater average over any 90-  
28 day period, the proposal shall also undergo regional review.

29        2. Intra-basin transfer. A proposal for an intra-basin  
30 transfer that would be considered a diversion under this

1 compact, and not already excepted pursuant to paragraph 1 of  
2 this section, shall be excepted from the prohibition against  
3 diversions, provided that:

4 A. If the proposal results from a new or increased  
5 withdrawal less than 100,000 gallons per day average over any  
6 90-day period, the proposal shall be subject to management and  
7 regulation at the discretion of the originating party.

8 B. If the proposal results from a new or increased  
9 withdrawal 100,000 gallons per day or greater average over any  
10 90-day period and if the consumptive use resulting from the  
11 withdrawal is less than five million gallons per day average  
12 over any 90-day period:

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

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

22 III. the originating party shall provide notice to the other  
23 parties prior to making any decision with respect to the  
24 proposal.

25 C. If the proposal results in a new or increased consumptive  
26 use of 5 million gallons per day or greater average over any 90-  
27 day period:

28 I. the proposal shall be subject to management and  
29 regulation by the originating party and shall meet the exception  
30 standard, ensuring that water withdrawn shall be returned to the

1 source watershed;

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

7 III. the proposal undergoes regional review; and,

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

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

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

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

23 C. the proposal shall be subject to management and  
24 regulation by the originating party, regardless of its size;

25 D. there is no reasonable water supply alternative within  
26 the basin in which the community is located, including  
27 conservation of existing water supplies;

28 E. caution shall be used in determining whether or not the  
29 proposal meets the conditions for this exception. This exception  
30 should not be authorized unless it can be shown that it will not

1 endanger the integrity of the basin ecosystem;

2 F. the proposal undergoes regional review; and,

3 G. the proposal is approved by the council. Council approval  
4 shall be given unless one or more council members vote to  
5 disapprove.

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

12 4. Exception standard. Proposals subject to management and  
13 regulation in this section shall be declared to meet this  
14 exception standard and may be approved as appropriate only when  
15 the following criteria are met:

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

19 B. the exception will be limited to quantities that are  
20 considered reasonable for the purposes for which it is proposed;

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

26 I. is part of a water supply or wastewater treatment system  
27 that combines water from inside and outside of the basin;

28 II. is treated to meet applicable water quality discharge  
29 standards and to prevent the introduction of invasive species  
30 into the basin.

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

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

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

15 G. all other applicable criteria in section 4.9 have also  
16 been met.

17 Section 4.10. Management and regulation of new or increased  
18 withdrawals and consumptive uses.

19 1. Within five years of the effective date of this compact,  
20 each party shall create a program for the management and  
21 regulation of new or increased withdrawals and consumptive uses  
22 by adopting and implementing measures consistent with the  
23 decision-making standard. Each party, through a considered  
24 process, shall set and may modify threshold levels for the  
25 regulation of new or increased withdrawals in order to assure an  
26 effective and efficient water management program that will  
27 ensure that uses overall are reasonable, that withdrawals  
28 overall will not result in significant impacts to the waters and  
29 water dependent natural resources of the basin, determined on  
30 the basis of significant impacts to the physical, chemical, and

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

6 2. Any party that fails to set threshold levels that comply  
7 with section 4.10.1 any time before 10 years after the effective  
8 date of this compact shall apply a threshold level for  
9 management and regulation of all new or increased withdrawals of  
10 100,000 gallons per day or greater average in any 90-day period.

11 3. The parties intend programs for new or increased  
12 withdrawals and consumptive uses to evolve as may be necessary  
13 to protect basin waters. Pursuant to section 3.4, the council,  
14 in cooperation with the provinces, shall periodically assess the  
15 water management programs of the parties. Such assessments may  
16 produce recommendations for the strengthening of the programs,  
17 including without limitation, establishing lower thresholds for  
18 management and regulation in accordance with the decision-making  
19 standard.

20 Section 4.11. Decision-making standard.

21 Proposals subject to management and regulations in section  
22 4.10 shall be declared to meet this decision-making standard and  
23 may be approved as appropriate only when the following criteria  
24 are met:

25 1. all water withdrawn shall be returned, either naturally  
26 or after use, to the source watershed less an allowance for  
27 consumptive use;

28 2. the withdrawal or consumptive use will be implemented so  
29 as to ensure that the proposal will result in no significant  
30 individual or cumulative adverse impacts to the quantity or

1 quality of the waters and water dependent natural resources and  
2 the applicable source watershed;

3 3. the withdrawal or consumptive use will be implemented so  
4 as to incorporate environmentally sound and economically  
5 feasible water conservation measures;

6 4. the withdrawal or consumptive use will be implemented so  
7 as to ensure that it is in compliance with all applicable  
8 municipal, State and Federal laws as well as regional interstate  
9 and international agreements, including the Boundary Waters  
10 Treaty of 1909;

11 5. the proposed use is reasonable, based upon a  
12 consideration of the following factors:

13 A. whether the proposed withdrawal or consumptive use is  
14 planned in a fashion that provides for efficient use of the  
15 water, and will avoid or minimize the waste of water;

16 B. if the proposal is for an increased withdrawal or  
17 consumptive use, whether efficient use is made of existing water  
18 supplies;

19 C. the balance between economic development, social  
20 development and environmental protection of the proposed  
21 withdrawal and use and other existing or planned withdrawals and  
22 water uses sharing the water source;

23 D. the supply potential of the water source, considering  
24 quantity, quality, and reliability and safe yield of  
25 hydrologically interconnected water sources;

26 E. the probable degree and duration of any adverse impacts  
27 caused or expected to be caused by the proposed withdrawal and  
28 use under foreseeable conditions, to other lawful consumptive or  
29 non-consumptive uses of water or to the quantity or quality of  
30 the waters and water dependent natural resources of the basin,



1 and the proposed plans and arrangements for avoidance or  
2 mitigation of such impacts; and,

3 F. if a proposal includes restoration of hydrologic  
4 conditions and functions of the source watershed, the party may  
5 consider that.

6 Section 4.12. Applicability.

7 1. Minimum standard. This standard of review and decision  
8 shall be used as a minimum standard. Parties may impose a more  
9 restrictive decision-making standard for withdrawals under their  
10 authority. It is also acknowledged that although a proposal  
11 meets the standards of review and decision it may not be  
12 approved under the laws of the originating party that has  
13 implemented more restrictive measures.

14 2. Baseline. A. To establish a baseline for determining a  
15 new or increased diversion, consumptive use or withdrawal, each  
16 party shall develop either or both of the following lists for  
17 their jurisdiction:

18 I. a list of existing withdrawal approvals as of the  
19 effective date of the compact;

20 II. a list of the capacity of existing systems as of the  
21 effective date of this compact. The capacity of the existing  
22 systems should be presented in terms of withdrawal capacity,  
23 treatment capacity, distribution capacity, or other capacity  
24 limiting factors. The capacity of the existing systems must  
25 represent the state of the systems. Existing capacity  
26 determinations shall be based upon approval limits or the most  
27 restrictive capacity information.

28 B. For all purposes of this compact, volumes of diversions,  
29 consumptive uses, or withdrawals of water set forth in the  
30 list(s) prepared by each party in accordance with this section,

1 shall constitute the baseline volume.

2 C. The list(s) shall be furnished to the regional body and  
3 the council within one year of the effective date of this  
4 compact.

5 3. Timing of additional applications. Applications for new  
6 or increased withdrawals, consumptive uses or exceptions shall  
7 be considered cumulatively within ten years of any application.

8 4. Change of ownership. Unless a new owner proposes a  
9 project that shall result in a proposal for a new or increased  
10 diversion or consumptive use subject to regional review or  
11 council approval, the change of ownership in and of itself shall  
12 not require regional review or council approval.

13 5. Groundwater. The basin surface water divide shall be  
14 used for the purpose of managing and regulating new or increased  
15 diversions, consumptive uses or withdrawals of surface water and  
16 groundwater.

17 6. Withdrawal systems. The total volume of surface water  
18 and groundwater resources that supply a common distribution  
19 system shall determine the volume of a withdrawal, consumptive  
20 use or diversion.

21 7. Connecting channels. The watershed of each Great Lake  
22 shall include its upstream and downstream connecting channels.

23 8. Transmission in water lines. Transmission of water  
24 within a line that extends outside the basin as it conveys water  
25 from one point to another within the basin shall not be  
26 considered a diversion if none of the water is used outside the  
27 basin.

28 9. Hydrologic units. The Lake Michigan and Lake Huron  
29 watersheds shall be considered to be a single hydrologic unit  
30 and watershed.

1        10. Bulk water transfer. A proposal to withdraw water and  
2 to remove it from the basin in any container greater than 5.7  
3 gallons shall be treated under this compact in the same manner  
4 as a proposal for a diversion. Each party shall have the  
5 discretion, within its jurisdiction, to determine the treatment  
6 of proposals to withdraw water and to remove it from the basin  
7 in any container of 5.7 gallons or less.

8 Section 4.13. Exemptions.

9        Withdrawals from the basin for the following purposes are  
10 exempt from the requirements of Article 4.

11        1. To supply vehicles, including vessels and aircraft,  
12 whether for the needs of the persons or animals being  
13 transported or for ballast or other needs related to the  
14 operation of the vehicles.

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

17 Section 4.14. U.S. Supreme Court Decree: Wisconsin et al. v.  
18 Illinois et al.

19        1. Notwithstanding any terms of this compact to the  
20 contrary, with the exception of paragraph 5 of this section,  
21 current, new or increased withdrawals, consumptive uses and  
22 diversions of basin water by the State of Illinois shall be  
23 governed by the terms of the United States Supreme Court decree  
24 in Wisconsin et al. v. Illinois et al. and shall not be subject  
25 to the terms of this compact nor any rules or regulations  
26 promulgated pursuant to this compact. This means that, with the  
27 exception of paragraph 5 of this section, for purposes of this  
28 compact, current, new or increased withdrawals, consumptive uses  
29 and diversions of basin water within the State of Illinois shall  
30 be allowed unless prohibited by the terms of the United States

1 Supreme Court decree in Wisconsin et al. v. Illinois et al.

2 2. The parties acknowledge that the United States Supreme  
3 Court decree in Wisconsin et al. v. Illinois et al. shall  
4 continue in full force and effect, that this compact shall not  
5 modify any terms thereof, and that this compact shall grant the  
6 parties no additional rights, obligations, remedies or defenses  
7 thereto. The parties specifically acknowledge that this compact  
8 shall not prohibit or limit the State of Illinois in any manner  
9 from seeking additional basin water as allowed under the terms  
10 of the United States Supreme Court decree in Wisconsin et al. v.  
11 Illinois et al., any other party from objecting to any request  
12 by the State of Illinois for additional basin water under the  
13 terms of said decree, or any party from seeking any other type  
14 of modification to said decree. If an application is made by any  
15 party to the Supreme Court of the United States to modify said  
16 decree, the parties to this compact who are also parties to the  
17 decree shall seek formal input from the Canadian provinces of  
18 Ontario and Quebec, with respect to the proposed modification,  
19 use best efforts to facilitate the appropriate participation of  
20 said provinces in the proceedings to modify the decree, and  
21 shall not unreasonably impede or restrict such participation.

22 3. With the exception of paragraph 5 of this section,  
23 because current, new or increased withdrawals, consumptive uses  
24 and diversions of basin water by the State of Illinois are not  
25 subject to the terms of this compact, the State of Illinois is  
26 prohibited from using any term of this compact, including  
27 section 4.9, to seek new or increased withdrawals, consumptive  
28 uses or diversions of basin water.

29 4. With the exception of paragraph 5 of this section,  
30 because sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11,

1 4.12 (paragraphs 1, 2, 3, 4, 6 and 10 only), and 4.13 of this  
2 compact all relate to current, new or increased withdrawals,  
3 consumptive uses and diversions of basin waters, said provisions  
4 do not apply to the State of Illinois. All other provisions of  
5 this compact not listed in the preceding sentence shall apply to  
6 the State of Illinois, including the water conservation programs  
7 provisions of section 4.2.

8 5. In the event of a proposal for a diversion of basin water  
9 for use outside the territorial boundaries of the parties to  
10 this compact, decisions by the State of Illinois regarding such  
11 a proposal would be subject to all terms of this compact, except  
12 paragraphs 1, 3 and 4 of this section.

13 6. For purposes of the State of Illinois' participation in  
14 this compact, the entirety of this section 4.14 is necessary for  
15 the continued implementation of this compact and, if severed,  
16 this compact shall no longer be binding on or enforceable by or  
17 against the State of Illinois.

18 Section 4.15. Assessment of cumulative impacts.

19 1. The parties in cooperation with the provinces shall  
20 collectively conduct within the basin, on a lake watershed and  
21 St. Lawrence River Basin basis, a periodic assessment of the  
22 cumulative impacts of withdrawals, diversions and consumptive  
23 uses from the waters of the basin, every 5 years or each time  
24 incremental basin water losses reach 50 million gallons per day  
25 average in any 90-day period in excess of the quantity at the  
26 time of the most recent assessment, whichever comes first, or at  
27 the request of one or more of the parties. The assessment shall  
28 form the basis for a review of the standard of review and  
29 decision, council and party regulations and their application.  
30 This assessment shall:

1 A. utilize the most current and appropriate guidelines for  
2 such a review, which may include but not be limited to council  
3 on environmental quality and Environment Canada guidelines;

4 B. give substantive consideration to climate change or other  
5 significant threats to basin waters and take into account the  
6 current state of scientific knowledge, or uncertainty, and  
7 appropriate measures to exercise caution in cases of uncertainty  
8 if serious damage may result;

9 C. consider adaptive management principles and approaches,  
10 recognizing, considering and providing adjustments for the  
11 uncertainties in, and evolution of science concerning the  
12 basin's water resources, watersheds and ecosystems, including  
13 potential changes to basin-wide processes, such as lake level  
14 cycles and climate.

15 2. The parties have the responsibility of conducting this  
16 cumulative impact assessment. Applicants are not required to  
17 participate in this assessment.

18 3. Unless required by other statutes, applicants are not  
19 required to conduct a separate cumulative impact assessment in  
20 connection with an application but shall submit information  
21 about the potential impacts of a proposal to the quantity or  
22 quality of the waters and water dependent natural resources of  
23 the applicable source watershed. An applicant may, however,  
24 provide an analysis of how their proposal meets the no  
25 significant adverse cumulative impact provision of the standard  
26 of review and decision.

27 ARTICLE 5

28 TRIBAL CONSULTATION

29 Section 5.1. Consultation with tribes.

30 1. In addition to all other opportunities to comment

1 pursuant to section 6.2, appropriate consultations shall occur  
2 with federally recognized tribes in the originating party for  
3 all proposals subject to council or regional review pursuant to  
4 this compact. Such consultations shall be organized in the  
5 manner suitable to the individual proposal and the laws and  
6 policies of the originating party.

7 2. All federally recognized tribes within the basin shall  
8 receive reasonable notice indicating that they have an  
9 opportunity to comment in writing to the council or the regional  
10 body, or both, and other relevant organizations on whether the  
11 proposal meets the requirements of the standard of review and  
12 decision when a proposal is subject to regional review or  
13 council approval. Any notice from the council shall inform the  
14 tribes of any meeting or hearing that is to be held under  
15 section 6.2 and invite them to attend. The parties and the  
16 council shall consider the comments received under this section  
17 before approving, approving with modifications or disapproving  
18 any proposal subject to council or regional review.

19 3. In addition to the specific consultation mechanisms  
20 described above, the council shall seek to establish mutually  
21 agreed upon mechanisms or processes to facilitate dialogue with,  
22 and input from federally recognized tribes on matters to be  
23 dealt with by the council; and, the council shall seek to  
24 establish mechanisms and processes with federally recognized  
25 tribes designed to facilitate on-going scientific and technical  
26 interaction and data exchange regarding matters falling within  
27 the scope of this compact. This may include participation of  
28 tribal representatives on advisory committees established under  
29 this compact or such other processes that are mutually agreed  
30 upon with federally recognized tribes individually or through

1 duly authorized intertribal agencies or bodies.

2 ARTICLE 6

3 PUBLIC PARTICIPATION

4 Section 6.1. Meetings, public hearings and records.

5 1. The parties recognize the importance and necessity of  
6 public participation in promoting management of the water  
7 resources of the basin. Consequently, all meetings of the  
8 council shall be open to the public, except with respect to  
9 issues of personnel.

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

12 Section 6.2. Public participation.

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

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

23 2. Assure public accessibility to all documents relevant to  
24 an application, including public comment received.

25 3. Provide guidance on standards for determining whether to  
26 conduct a public meeting(s) or hearing(s) for an application,  
27 time and place of such a meeting or hearing, and procedures for  
28 conducting of the same.

29 4. Provide the record of decision for public inspection  
30 including comments, objections, responses and approvals,



1 approvals with conditions and disapprovals.

2 ARTICLE 7

3 DISPUTE RESOLUTION AND ENFORCEMENT

4 Section 7.1. Good faith implementation.

5 Each of the parties pledges to support implementation of all  
6 provisions of this compact, and covenants that its officers and  
7 agencies shall not hinder, impair or prevent any other party  
8 carrying out any provision of this compact.

9 Section 7.2. Alternative dispute resolution.

10 1. Desiring that this compact be carried out in full, the  
11 parties agree that disputes between the parties regarding  
12 interpretation, application and implementation of this compact  
13 shall be settled by alternative dispute resolution.

14 2. The council, in consultation with the provinces, shall  
15 provide by rule procedures for the resolution of disputes  
16 pursuant to this section.

17 Section 7.3. Enforcement.

18 1. Any person aggrieved by any action taken by the council  
19 pursuant to the authorities contained in this compact shall be  
20 entitled to a hearing before the council. Any person aggrieved  
21 by a party action shall be entitled to a hearing pursuant to the  
22 relevant party's administrative procedures and laws. After  
23 exhaustion of such administrative procedures and laws. After  
24 exhaustion of such administrative remedies, (I) any aggrieved  
25 person shall have the right to judicial review of a council  
26 action in the United States District Courts for the District of  
27 Columbia or the district court in which the council maintains  
28 offices, provided such action is commenced within 90 days; and,  
29 (II) any aggrieved person shall have the right to judicial  
30 review of a party's action in the relevant party's court of

1 competent jurisdiction, provided that an action or proceeding  
2 for such review is commenced within the time frames provided for  
3 the by the party's law. For the purposes of this paragraph, a  
4 state or province is deemed to be an aggrieved person with  
5 respect to any party action pursuant to this compact.

6 2. A. Any party or the council may initiate actions to  
7 compel compliance with the provisions of this compact, and the  
8 rules and regulations promulgated hereunder by the council.  
9 Jurisdiction over such actions is granted to the court of the  
10 relevant party, as well as the United States District Courts for  
11 the District of Columbia and the district court in which the  
12 council maintains offices. The remedies available to any such  
13 court shall include, but not be limited to, equitable relief and  
14 civil penalties.

15 B. Each party may issue orders within its respective  
16 jurisdiction and may initiate actions to compel compliance with  
17 the provisions of its respective statutes and regulations  
18 adopted to implement the authorities contemplated by this  
19 compact in accordance with the provisions of the laws adopted in  
20 each party's jurisdiction.

21 3. Any aggrieved person, party or the council may commence a  
22 civil action in the relevant party's courts and administrative  
23 systems to compel any person to comply with this compact should  
24 any such person, without approval having been given, undertake a  
25 new or increased withdrawal, consumptive use or diversion that  
26 is prohibited or subject to approval pursuant to this compact.

27 A. No action under this subsection may be commenced if:

28 I. the originating party or council approval for the new or  
29 increased withdrawal, consumptive use or diversion has been  
30 granted; or,

1 II. the originating party or council has found that the new  
2 or increased withdrawal, consumptive use or diversion is not  
3 subject to approval pursuant to this compact.

4 B. No action under this subsection may be commenced unless:

5 I. a person commencing such action has first given 60 days  
6 prior notice to the originating party, the council and person  
7 alleged to be in noncompliance; and,

8 II. neither the originating party nor the council has  
9 commenced and is diligently prosecuting appropriate enforcement  
10 actions to compel compliance with this compact.

11 The available remedies shall include equitable relief, and  
12 the prevailing or substantially prevailing party may recover the  
13 costs of litigation, including reasonable attorney and expert  
14 witness fees, whenever the court determines that such an award  
15 is appropriate.

16 4. Each of the parties may adopt provisions providing  
17 additional enforcement mechanisms and remedies including  
18 equitable relief and civil penalties applicable within its  
19 jurisdiction to assist in the implementation of this compact.

20 ARTICLE 8

21 ADDITIONAL PROVISIONS

22 Section 8.1. Effect on existing rights.

23 1. Nothing in this compact shall be construed to affect,  
24 limit, diminish or impair any rights validly established and  
25 existing as of the effective date of this compact under Federal  
26 or state law governing the withdrawal of waters of the basin.

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

1 3. Nothing in this compact is intended to abrogate or  
2 derogate from treaty rights or rights held by any tribe  
3 recognized by the Federal Government of the United States based  
4 upon its status as a tribe recognized by the Federal Government  
5 of the United States.

6 4. An approval by a party or the council under this compact  
7 does not give any property rights, nor any exclusive privileges,  
8 nor shall it be construed to grant or confer any right, title,  
9 easement, or interest in, to or over any land belonging to or  
10 held in trust by a party; neither does it authorize any injury  
11 to private property or invasion of private rights, nor  
12 infringement of Federal, state or local laws or regulations; nor  
13 does it obviate the necessity of obtaining Federal assent when  
14 necessary.

15 Section 8.2. Relationship to agreements concluded by the United  
16 States of America.

17 1. Nothing in this compact is intended to provide nor shall  
18 be construed to provide, directly or indirectly, to any person  
19 any right, claim or remedy under any treaty or international  
20 agreement nor is it intended to derogate any right, claim or  
21 remedy that already exists under any treaty or international  
22 agreement.

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

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

1 to the requirements of this compact.

2 Section 8.3. Confidentiality.

3 1. Nothing in this compact requires a party to breach  
4 confidentiality obligations or requirements prohibiting  
5 disclosure, or to compromise security of commercially sensitive  
6 or proprietary information.

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

14 Section 8.4. Additional laws.

15 Nothing in this compact shall be construed to repeal, modify  
16 or qualify the authority of any party to enact any legislation  
17 or enforce any additional conditions and restrictions regarding  
18 the management and regulation of waters within its jurisdiction.

19 Section 8.5. Amendments and supplements.

20 The provisions of this compact shall remain in full force and  
21 effect until amended by action of the governing bodies of the  
22 parties and consented to and approved by any other necessary  
23 authority in the same manner as this compact is required to be  
24 ratified to become effective.

25 Section 8.6. Severability.

26 Should a court of competent jurisdiction hold any part of  
27 this compact to be void or unenforceable, it shall be considered  
28 severable from those portions of the compact capable of  
29 continued implementation in the absence of the voided  
30 provisions. All other provisions capable of continued

1 implementation shall continue in full force and effect.

2 Section 8.7. Duration of compact and termination.

3 Once effective, the compact shall continue in force and  
4 remain binding upon each and every party unless terminated.

5 This compact may be terminated at any time by a majority vote  
6 of the parties. In the event of such termination, all rights  
7 established under it shall continued unimpaired.

8 ARTICLE 9

9 EFFECTUATION

10 Section 9.1. Repealer.

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

13 Section 9.2. Effectuation by chief executive.

14 The Governor is authorized to take such action as may be  
15 necessary and proper in his or her discretion to effectuate the  
16 compact and the initial organization and operation hereunder.

17 Section 9.3. Entire agreement.

18 The parties consider this compact to be complete and an  
19 integral whole. Each provision of this compact is considered  
20 material to the entire compact, and failure to implement or  
21 adhere to any provision may be considered a material breach.  
22 Unless otherwise noted in this compact, any change or amendment  
23 made to the compact by any party in its implementing legislation  
24 or by the United States Congress when giving its consent to this  
25 compact is not considered effective unless concurred in by all  
26 parties.

27 Section 9.4. Effective date and execution.

28 This compact shall become binding and effective when ratified  
29 through concurring legislation by the States of Illinois,  
30 Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and

1 the Commonwealth of Pennsylvania and consented to by the  
2 Congress of the United States. This compact shall be signed and  
3 sealed in nine identical original copies by the respective chief  
4 executives of the signatory parties. One such copy shall be  
5 filed with the Secretary of State of each of the signatory  
6 parties or in accordance with the laws of the state in which the  
7 filing is made, and one copy shall be filed and retained in the  
8 archives of the council upon its organization. The signatures  
9 shall be affixed and attested under the following form:

10 In witness whereof, and in evidence of the adoption and  
11 enactment into law of this compact by the legislatures of the  
12 signatory parties and consent by the Congress of the United  
13 States, the respective Governors do hereby, in accordance with  
14 the authority conferred by law, sign this compact in nine  
15 duplicate original copies, attested by the respective  
16 Secretaries of State, and have caused the seals of the  
17 respective states to be hereunto affixed this \_\_\_\_\_ day of  
18 (Month), (Year).

19 ~~Section 3. When and how compact becomes operative.~~ <—

20 ~~(a) General rule. When the following conditions occur:~~

21 ~~(1) the Governor executes the Great Lakes St. Lawrence~~  
22 ~~River Basin Water Resources Compact on behalf of this State~~  
23 ~~and files a verified copy thereof with the Secretary of the~~  
24 ~~Commonwealth;~~

25 ~~(2) the compact is ratified by one or more other states;~~  
26 ~~and~~

27 ~~(3) the Congress of the United States confers its~~  
28 ~~consent or approval to the compact,~~

29 ~~then the compact shall become operative and effective between~~  
30 ~~this State and such other state or states. The Governor is~~

1 hereby authorized and directed to take such action as may be  
2 necessary to complete the exchange of official documents between  
3 this State and any other state ratifying the compact.

4 ~~(b) Notice in Pennsylvania Bulletin. The Secretary of the~~  
5 ~~Commonwealth shall publish a notice in the Pennsylvania Bulletin~~  
6 ~~when the conditions set forth in subsection (a) are satisfied~~  
7 ~~and shall include in the notice the date on which the Great~~  
8 ~~Lakes St. Lawrence River Basin Water Resources Compact became~~  
9 ~~effective and operative between this State and any other state~~  
10 ~~or states in accordance with this act.~~

11 Section 4. Expiration.

12 ~~(a) Notice in Pennsylvania Bulletin. If the Congress of the~~  
13 ~~United States has failed to confer its consent and approval to~~  
14 ~~the compact authorized by this act as of January 1, 2011, then~~  
15 ~~the Secretary of the Commonwealth shall publish a notice in the~~  
16 ~~Pennsylvania Bulletin within 30 days after January 1, 2011,~~  
17 ~~stating such failure.~~

18 ~~(b) Effect of publication. This act shall expire~~  
19 ~~immediately upon publication of the notice under subsection (a).~~

20 SECTION 3. IMPLEMENTATION OF COMPACT. ←

21 THE COMPACT SHALL BE EFFECTUATED AND IMPLEMENTED IN  
22 PENNSYLVANIA IN ACCORDANCE WITH SECTIONS 4, 5, 6, 7, 8, 9 AND 10  
23 OF THIS ACT, WHEN THE COMPACT IS RATIFIED AND BECOMES BINDING  
24 AND EFFECTIVE PURSUANT TO SECTION 9.4 OF THE COMPACT.

25 SECTION 4. ADDITIONAL DEFINITIONS.

26 (A) GENERAL RULE.--ALL WORDS AND PHRASES USED IN THIS ACT  
27 WHICH ARE DEFINED IN SECTION 1.1 OF THE COMPACT SHALL HAVE THE  
28 MEANINGS SET FORTH IN THE COMPACT.

29 (B) DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES WHEN USED  
30 IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS



1 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

2 "CONFIDENTIAL INFORMATION." THE TERM AS DEFINED IN 27  
3 PA.C.S. § 3102 (RELATING TO DEFINITIONS).

4 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF  
5 THE COMMONWEALTH.

6 "ENVIRONMENTAL HEARING BOARD." THE BOARD ESTABLISHED  
7 PURSUANT TO THE ACT OF JULY 13, 1988 (P.L.530, NO.94), KNOWN AS  
8 THE ENVIRONMENTAL HEARING BOARD ACT.

9 "ENVIRONMENTAL HEARING BOARD ACT." THE ACT OF JULY 13, 1988  
10 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING BOARD ACT.

11 "ENVIRONMENTAL QUALITY BOARD." THE BOARD ESTABLISHED  
12 PURSUANT TO SECTION 1920-A OF THE ACT OF APRIL 9, 1929 (P.L.177,  
13 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

14 "SAFE DRINKING WATER ACT." THE ACT OF MAY 1, 1984 (P.L.206,  
15 NO.43), KNOWN AS THE PENNSYLVANIA SAFE DRINKING WATER ACT.

16 "WATER RIGHTS LAW." THE ACT OF JUNE 24, 1939 (P.L.842,  
17 NO.365), REFERRED TO AS THE WATER RIGHTS LAW.

18 SECTION 5. POWERS AND DUTIES OF DEPARTMENT.

19 THE DEPARTMENT SHALL HAVE THE POWER AND DUTY TO IMPLEMENT AND  
20 ENFORCE THE COMPACT, AND TO CARRY OUT THE FUNCTIONS, POWERS AND  
21 DUTIES CONTAINED IN THE COMPACT WHICH ARE ASSIGNED TO  
22 PENNSYLVANIA AS A PARTY TO THE COMPACT, CONSISTENT WITH  
23 REGULATIONS ADOPTED BY THE ENVIRONMENTAL QUALITY BOARD AND THE  
24 PROVISIONS OF THIS ACT. THE DEPARTMENT SHALL HAVE THE POWER AND  
25 DUTY TO:

26 (1) ADMINISTER AND IMPLEMENT THE PROGRAMS FOR WATER  
27 RESOURCES INVENTORY, REGISTRATION AND REPORTING REQUIRED  
28 UNDER SECTION 4.1 OF THE COMPACT, THROUGH THE WATER USE  
29 REGISTRATION AND REPORTING PROGRAM AND REGULATIONS  
30 ESTABLISHED PURSUANT TO 27 PA.C.S. § 3118 (RELATING TO WATER

1 USE REGISTRATION AND REPORTING) AND SECTION 6 OF THIS ACT.

2 (2) ADMINISTER AND IMPLEMENT WITHIN THE BASIN A WATER  
3 CONSERVATION AND EFFICIENCY PROGRAM REQUIRED UNDER SECTION  
4 4.2 OF THE COMPACT. SUCH PROGRAM SHALL BE A VOLUNTARY  
5 PROGRAM, UTILIZING THE PROVISIONS OF 27 PA.C.S. § 3120  
6 (RELATING TO WATER CONSERVATION).

7 (3) REVIEW AND ACT UPON PROPOSALS FOR NEW OR INCREASED  
8 WATER WITHDRAWALS, CONSUMPTIVE USES OR DIVERSIONS AND, IF  
9 APPROVED, SPECIFY REASONABLE TERMS AND CONDITIONS THEREOF. IN  
10 ASSESSING THE IMPACTS OF A WITHDRAWAL OR CONSUMPTIVE USE  
11 PROPOSAL UNDER THE DECISION-MAKING STANDARD IN SECTION  
12 4.11(2) OF THE COMPACT, THE DEPARTMENT SHALL CONSIDER THE  
13 IMPACTS TO THE WATERS AND WATER-DEPENDENT NATURAL RESOURCES  
14 OF THE BASIN AS A WHOLE AND THE APPLICABLE SOURCE WATERSHED  
15 TO BE EITHER THE WATERSHED OF LAKE ERIE OR LAKE ONTARIO, AS A  
16 WHOLE, WHICHEVER IS THE WATERSHED FROM WHICH WATER IS  
17 PROPOSED TO BE WITHDRAWN.

18 (4) CONDUCT INSPECTIONS AND ENFORCE THE PROVISIONS OF  
19 THE COMPACT AND THIS ACT.

20 SECTION 6. POWERS AND DUTIES OF ENVIRONMENTAL QUALITY BOARD.

21 THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND DUTY  
22 TO ADOPT REGULATIONS AS REASONABLY NECESSARY TO IMPLEMENT AND  
23 ENFORCE THE COMPACT AND THE MANAGEMENT PROGRAMS REQUIRED BY THE  
24 COMPACT AND THIS ACT. SUCH REGULATIONS MAY INCLUDE RULES  
25 ESTABLISHING:

26 (1) CRITERIA AND PROCEDURES FOR REVIEW AND APPROVAL OF  
27 PROPOSALS FOR WATER WITHDRAWALS, CONSUMPTIVE USES OR  
28 DIVERSIONS CONSISTENT WITH THE STANDARD OF REVIEW AND  
29 DECISION SET FORTH IN THE COMPACT. FOR PURPOSES OF SECTION  
30 4.10 OF THE COMPACT, THE THRESHOLD FOR MANAGEMENT AND

1 REGULATION SHALL BE AS FOLLOWS:

2 (I) ANY NEW OR INCREASED WITHDRAWAL FROM THE BASIN  
3 IN AN AMOUNT THAT EQUALS OR EXCEEDS 100,000 GALLONS PER  
4 DAY AVERAGED OVER ANY 90-DAY PERIOD;

5 (II) ANY NEW OR INCREASED CONSUMPTIVE USE OF WATER  
6 WITHDRAWN FROM THE BASIN IN AN AMOUNT WHICH EQUALS OR  
7 EXCEEDS 5,000,000 GALLONS PER DAY AVERAGED OVER ANY 90-  
8 DAY PERIOD; OR

9 (III) ANY NEW OR INCREASED DIVERSION OF WATER FROM  
10 THE BASIN.

11 (2) CRITERIA AND PROCEDURES FOR ESTABLISHING THE  
12 BASELINE AMOUNT OF EXISTING WITHDRAWALS, CONSUMPTIVE USES AND  
13 DIVERSIONS, CONSISTENT WITH SECTION 8 OF THIS ACT.

14 (3) REASONABLE FEES FOR PROCESSING OF APPLICATIONS FOR  
15 PROPOSALS SUBJECT TO REVIEW AND APPROVAL BY THE DEPARTMENT.  
16 SUCH FEES SHALL BEAR A REASONABLE RELATIONSHIP TO THE ACTUAL  
17 COST OF ADMINISTERING THE PROGRAM.

18 THE ENVIRONMENTAL QUALITY BOARD SHALL NOT ADOPT RULES TO  
19 IMPLEMENT ANY MANDATORY PROGRAM GOVERNING WATER CONSERVATION AND  
20 EFFICIENCY PURSUANT TO SECTION 4.2 OF THE COMPACT, UNLESS THE  
21 GENERAL ASSEMBLY ENACTS LEGISLATION SPECIFICALLY AUTHORIZING THE  
22 ADOPTION OF SUCH REGULATIONS OR IMPLEMENTATION OF A MANDATORY  
23 PROGRAM.

24 SECTION 7. PROCESS FOR AMENDMENT OF STANDARD OF REVIEW AND  
25 DECISION.

26 (A) SUBSTANTIVE AMENDMENTS.--NO REGULATION ADOPTED BY THE  
27 COUNCIL PURSUANT TO SECTION 3.1 OF THE COMPACT WHICH REVISES THE  
28 STANDARD OF REVIEW AND DECISION AS SET FORTH IN THE COMPACT  
29 SHALL BE DEEMED DULY-ADOPTED IN ACCORDANCE WITH THE STATUTORY  
30 AUTHORITIES AND APPLICABLE PROCEDURES OF THIS COMMONWEALTH

1 UNLESS SUCH REGULATION IS APPROVED BY ENACTMENT OF THE GENERAL  
2 ASSEMBLY.

3 (B) EXCEPTIONS.--SUBSECTION (A) SHALL NOT APPLY TO A  
4 REGULATION ADOPTED PURSUANT TO SECTION 3.3 OF THE COMPACT WHICH  
5 INTERPRETS, EXPLAINS OR PROVIDES FOR ADMINISTRATION OF THE  
6 STANDARD OF REVIEW AND DECISION AS SET FORTH IN THE COMPACT, BUT  
7 DOES NOT SUBSTANTIVELY REVISE THE STANDARD OF REVIEW AND  
8 DECISION.

9 (C) PRIOR NOTIFICATION TO GENERAL ASSEMBLY.--THE  
10 COMMONWEALTH'S REPRESENTATIVE TO THE COUNCIL SHALL PROVIDE PRIOR  
11 NOTICE TO AND CONSULTATION WITH THE CHAIRMAN AND MINORITY  
12 CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF  
13 THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE  
14 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF  
15 REPRESENTATIVES AND THE MEMBERS OF THE GENERAL ASSEMBLY  
16 REPRESENTING THE AFFECTED DISTRICTS REGARDING ANY PROPOSED  
17 REVISION BY THE COUNCIL TO THE STANDARD OF REVIEW AND DECISION.  
18 SUCH NOTICE AND CONSULTATION SHALL OCCUR WITHIN 30 DAYS OF THE  
19 ISSUANCE OF THE PROPOSED REVISION BY THE COUNCIL.

20 SECTION 8. BASELINE FOR DETERMINING NEW OR INCREASED

21 WITHDRAWALS, CONSUMPTIVE USES OR DIVERSIONS.

22 (A) BASIS FOR DETERMINING BASELINE.--THE BASELINE AMOUNT OF  
23 EXISTING WITHDRAWALS, CONSUMPTIVE USES OR DIVERSIONS SHALL BE  
24 THE LARGER OF EITHER OF THE FOLLOWING:

25 (1) THE APPLICABLE WITHDRAWAL LIMITATION SPECIFIED IN A  
26 PERMIT ISSUED UNDER THE WATER RIGHTS LAW OR THE SAFE DRINKING  
27 WATER ACT; OR

28 (2) THE PHYSICAL CAPACITY OF THE EXISTING SYSTEMS,  
29 CONSIDERING WITHDRAWAL CAPACITY, TREATMENT CAPACITY,  
30 DISTRIBUTION CAPACITY OR OTHER CAPACITY-LIMITING FACTORS.

1 (B) PROCESS.--THE DEPARTMENT SHALL PREPARE A PROPOSED  
2 LISTING OF BASELINE AMOUNTS AND PROVIDE NOTICE OF SUCH PROPOSED  
3 LIST TO THE PUBLIC AND TO THE OWNER AND OPERATOR OF EACH  
4 AFFECTED FACILITY. THE NOTICE SHALL PROVIDE AT LEAST 30 DAYS FOR  
5 PUBLIC COMMENT. AFTER CONSIDERATION OF SUCH COMMENTS, THE  
6 DEPARTMENT SHALL PROVIDE WRITTEN NOTICE OF THE FINAL LIST TO THE  
7 OWNER AND OPERATOR OF EACH AFFECTED FACILITY AND TO THE PUBLIC.  
8 AN ACTION OF THE DEPARTMENT DETERMINING A BASELINE AMOUNT  
9 ADVERSELY AFFECTING A PERSON SHALL BE SUBJECT TO APPEAL TO THE  
10 ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH THE PROVISIONS OF  
11 THE ENVIRONMENTAL HEARING BOARD ACT. BASED UPON THE FINAL  
12 RESOLUTION OF ANY SUCH APPEAL, THE DEPARTMENT SHALL SUBMIT TO  
13 THE REGIONAL BODY AND COUNCIL A REVISED LIST, IF REQUIRED, TO  
14 REFLECT THE BASELINE AMOUNT DETERMINED PURSUANT TO SUCH APPEAL.  
15 SECTION 9. CONFIDENTIAL INFORMATION.

16 INFORMATION REQUIRED TO BE SUBMITTED TO THE DEPARTMENT OR ANY  
17 OTHER COMMONWEALTH AGENCY PURSUANT TO THE COMPACT SHALL BE  
18 SUBJECT TO THE PROVISIONS OF 27 PA.C.S. § 3119 (RELATING TO  
19 CONFIDENTIAL INFORMATION). PURSUANT TO SECTION 8.3 OF THE  
20 COMPACT, THE DEPARTMENT AND ANY OTHER COMMONWEALTH AGENCY  
21 DISTRIBUTING INFORMATION TO THE COUNCIL OR OTHER PARTIES SHALL  
22 TAKE SUCH MEASURES, INCLUDING, BUT NOT LIMITED TO, DELETION AND  
23 REDACTION, DEEMED NECESSARY TO PROTECT CONFIDENTIAL INFORMATION.  
24 SECTION 10. CIVIL PENALTIES.

25 FOR PURPOSES OF IMPLEMENTING SECTION 7.3.2.A OF THE COMPACT,  
26 UPON A COMPLAINT BROUGHT BY THE DEPARTMENT, THE COUNCIL OR ANY  
27 PARTY TO THE COMPACT, THE ENVIRONMENTAL HEARING BOARD OR ANY  
28 COURT OF COMPETENT JURISDICTION MAY ASSESS A CIVIL PENALTY UPON  
29 ANY PERSON WHO VIOLATES THE COMPACT OR THIS ACT. THE MAXIMUM  
30 CIVIL PENALTY THAT MAY BE ASSESSED IS \$5,000 PER DAY FOR EACH

1 VIOLATION. EACH VIOLATION OF ANY PROVISION OF THE COMPACT OR  
2 THIS ACT, AND EACH VIOLATION FOR EACH SEPARATE DAY, SHALL  
3 CONSTITUTE A SEPARATE OFFENSE. IN DETERMINING THE AMOUNT OF A  
4 CIVIL PENALTY, THE ENVIRONMENTAL HEARING BOARD OR COURT SHALL  
5 CONSIDER THE DEGREE OF WILLFULNESS OR NEGLIGENCE, THE DURATION  
6 OF THE VIOLATION, SAVINGS RESULTING TO THE PERSON AS THE RESULT  
7 OF THE VIOLATION, DAMAGE TO THE WATER RESOURCES OR WATER-RELATED  
8 NATURAL RESOURCES RESULTING FROM THE VIOLATION, COOPERATION BY  
9 THE ALLEGED VIOLATOR IN CORRECTING ANY VIOLATIONS OR RELATED  
10 IMPACTS AND OTHER RELEVANT FACTORS.

11 Section 5 11. Effective date.

←

12 This act shall take effect immediately.