

**GREAT LAKES BASIN SUSTAINABLE WATER RESOURCES AGREEMENT
ENTENTE SUR LES RESSOURCES EN EAUX DURABLES DU BASSIN DES
GRANDS LACS**

The State of Illinois,

The State of Indiana,

The State of Michigan,

The State of Minnesota,

The State of New York,

The State of Ohio,

The Province of Ontario,

The Commonwealth of Pennsylvania,

The Government of Québec,

The State of Wisconsin,

PREAMBLE

Recognizing that,

The Waters of the Great Lakes Basin are a shared public treasure and the States and Provinces as stewards have a shared duty to protect, conserve and manage these renewable but finite Waters;

These Waters are interconnected and form a single hydrologic system;

Protecting, conserving, restoring, and improving these Waters is the foundation of Water resource management in the Great Lakes Basin and essential to maintaining the integrity of the Great Lakes Basin ecosystem;

Managing to conserve and restore these Waters will improve them as well as the Water Dependent Natural Resources of the Great Lakes Basin;

The States and Provinces must balance economic development, social development and environmental protection as interdependent and mutually reinforcing pillars of sustainable development;

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Even though there has been significant progress in restoring and improving the health of the Great Lakes Basin ecosystem, the Waters and Water Dependent Natural Resources of the Great Lakes Basin remain at risk;

In light of possible variations in climate conditions and the potential cumulative effects of demands that may be placed on the Waters of the Great Lakes Basin, the States and Provinces must act with precaution to ensure the protection and conservation of the Waters and Water Dependent Natural Resources of the Great Lakes Basin for future generations;

Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; and,

Sustainable development and harmony with nature and among neighbours require cooperative arrangements for the development and implementation of watershed protection approaches in the Great Lakes Basin.

Reaffirming,

The principles and findings of the Great Lakes Charter and the commitments and directives of the Great Lakes Charter Annex 2001;

Acknowledging,

Nothing in this agreement is intended to abrogate or derogate from the protection provided for the existing aboriginal or treaty rights of aboriginal peoples in Ontario and Quebec as recognized and affirmed by section 35 of the Constitution Act, 1982 or from the treaty rights or rights held by any tribe recognized by the federal government of the United States based upon its status as a tribe recognized by the federal government of the United States, and acknowledging the commitment of these peoples to preserve and protect the waters of the Great Lake Basin;

The continuing and abiding roles of the United States and Canadian federal governments under the Boundary Waters Treaty of 1909 and other applicable international agreements, that continue unaffected by this agreement, and the valuable contribution of the International Joint Commission; and,

Effective management is dependent upon all Parties acting in a continuing spirit of comity and mutual cooperation.

Agree as follows:

**CHAPTER I
GENERAL PROVISIONS**

**ARTICLE 100
OBJECTIVES**

1. The objectives of this Agreement are:
 - a. To facilitate consistent approaches to Water management across the Basin to protect, conserve, restore, improve and efficiently and effectively manage the Waters and Water Dependent Natural Resources of the Great Lakes Basin;
 - b. To promote co-operation among the Parties by providing common and regional mechanisms to evaluate Proposals to Withdraw Water;
 - c. To create a co-operative arrangement regarding Water management that provides tools for shared future challenges;
 - d. To retain State and Provincial authority within the Great Lakes Basin under appropriate arrangements for intergovernmental cooperation and consultation;
 - e. To facilitate the exchange of data, strengthen the scientific information upon which decisions are made, and engage in consultation on the potential effects of Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Great Lakes Basin; and,
 - f. To promote a precautionary approach to prevent significant adverse impacts of Withdrawals and losses on the Great Lakes Basin's ecosystems and watersheds.
2. The Parties shall interpret and apply the provisions of this Agreement to achieve these objectives.

**ARTICLE 101
SCOPE OF APPLICATION**

This Agreement applies to the Waters of the Great Lakes Basin within the Parties' territorial boundaries.

**ARTICLE 102
GENERAL COMMITMENT**

Each Party to this Agreement shall seek to adopt and implement Measures that may be required to give effect to the commitments embodied within this Agreement.

**ARTICLE 103
GENERAL DEFINITIONS**

In this Agreement,

“**Agreement**” means this Agreement.

“**Applicant**” means a Person who is required to submit a Proposal that is subject to management and regulation under this Agreement. “**Application**” has a corresponding meaning.

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“**Basin**” or “**Great Lakes Basin**” means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec within the jurisdiction of the Parties.

“**Community within a Straddling County**” means any incorporated city, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling Community.

“**Compact**” means the Great Lakes Basin Water Resources Compact.

“**Consumptive Use**” means that portion of Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into products, or other processes.

“**County**” means the largest territorial division for local government in a State. In Québec, county means a regional county municipality (municipalité régionale de comté - MRC). The Counties shall be defined as of the signing date of this Agreement.

“**Cumulative Impacts**” mean the impact on the Great Lakes Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal in addition to other past, present, and reasonably foreseeable future Withdrawals regardless of who undertakes the other Withdrawals. Cumulative Impacts can result from individually minor but collectively significant Withdrawals taking place over a period of time.

“**Diversión**” means a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another. “**Divert**” has a corresponding meaning.

“**Environmentally Sound and Economically Feasible Water Conservation Measures**” mean any beneficial reduction in Water loss, waste, or use accomplished by the implementation of Water management practices and Water efficiency measures. Water management practices and Water efficiency measures must be economically feasible based on a cost-benefit analysis that includes avoided environmental and economic costs.

“**Exception**” means a transfer of Water that is excepted under Article 201 from the prohibition against Diversions.

“**Great Lakes Basin Ecosystem**” means the interacting components of air, land, Water and living organisms, including humankind, within the Basin.

“**Intra-Basin Transfer**” means the transfer of Water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

“**Manual**” means the procedures manual established under this Agreement.

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“**Measures**” means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice or other procedure.

“**New or Increased Diversion**” means a new Diversion, an increase in an existing Diversion, or the alteration of an existing Withdrawal so that it becomes a Diversion.

“**New or Increased Withdrawal or Consumptive Use**” means a new Withdrawal or Consumptive Use or increase in existing Withdrawal or Consumptive Use.

“**Originating Party**” means the Party within whose jurisdiction an Application is made.

“**Party**” means a State or Province that enters into this Agreement.

“**Person**” means a human being or a legal person, including a government or a non-governmental organization, including any scientific, professional, business, non-profit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

“**Proposal**” means a prospective Withdrawal, Diversion or Consumptive Use of Water that is subject to this Agreement.

“**Province**” means Ontario or Québec.

“**Regional Body**” means the Great Lakes Water Resources Regional Body established by this Agreement.

“**Regional Review**” means the collective review by all Parties in accordance with this Agreement.

“**Return flow**” means the remaining portion of Water Withdrawn which returns naturally or is returned to the Source Watershed after use and thus becomes available for further use in the Basin.

“**Source Watershed**” means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.

“**Standard**” means the Decision-Making Standard established by this Agreement.

“**State**” means one of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.

“**Straddling Community**” means any incorporated city, town or the equivalent thereof whose corporate boundary existing as of the date that paragraph 2 of Article 710 comes into force, is partly within the Basin or partly within two Great Lakes watersheds.

“**Technical review**” means a detailed review conducted to determine whether or not a Proposal that requires Regional Review under this Agreement meets the Standard, following procedures and guidelines as set out in this Agreement and the Manual

“**Water**” means ground or surface Water contained within the Basin.

“**Water Dependent Natural Resources**” mean the interacting components of land, Water and living organisms affected by the Waters of the Basin.

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

“**Withdrawal**” means the taking of Water from surface Water or groundwater.

“**Withdraw**” has a corresponding meaning.

CHAPTER TWO PROHIBITION OF DIVERSIONS, THE STANDARD, WITHDRAWALS AND EXCEPTIONS

ARTICLE 200 PROHIBITION OF DIVERSIONS AND MANAGEMENT OF WITHDRAWALS

1. The Parties shall adopt and implement Measures to prohibit New or Increased Diversions, except as provided for in this Agreement.
2. The Parties shall adopt and implement Measures to manage Exceptions in accordance with this Agreement.
3. The Parties shall adopt and implement Measures to manage Withdrawals and Consumptive Uses in accordance with this Agreement.

ARTICLE 201 EXCEPTIONS TO THE PROHIBITION OF DIVERSIONS

Straddling Communities

1. A Proposal to transfer Water to an area within a Straddling Community shall be excepted from the prohibition against Diversions and managed by the Originating Party as a Withdrawal and Consumptive Use under the provisions of this Agreement, including but not limited to those provisions related to the requirement to meet the

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Standard and undergo Regional Review, provided that, regardless of the volume of Water transferred:

- a. All the Water so transferred shall be used solely for public water supply purposes; and,
- b. The Return Flow required for any such transferred Water shall be to the Source Watershed, not include any Water from outside the Basin and meet all applicable Water quality standards.

Intra-Basin Transfers

2. A Proposal for an Intra-Basin Transfer that would be considered a Diversion under this Agreement, and not already excepted pursuant to paragraph 1 of this Article, shall be excepted from the prohibition against Diversions, provided that:
 - a. If the Proposal results from a New or Increased Withdrawal less than 100,000 gallons per day (379,000 litres per day) average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party.
 - b. If the Proposal results from a New or Increased Withdrawal 100,000 gallons per day (379,000 litres per day) or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day (19 million litres per day) average over any 90-day period:
 - i. The Proposal shall meet the Standard and be subject to management and regulation by the Originating Party;
 - ii. The Return Flow requirements of the Standard shall be met, recognizing that the Return Flow may be to another Great Lake watershed rather than the Source Watershed. The Return Flow shall not include any water from outside the Basin, and shall meet all applicable Water quality standards;
 - iii. The Applicant shall demonstrate that there is no reasonable water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies; and,
 - iv. The Originating Party shall provide notice to the other Parties prior to making any decision with respect to the Proposal.
 - c. If the Proposal results in a New or Increased Consumptive Use 5 million gallons per day (19 million litres per day) or greater average over any 90-day period:
 - i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Standard, ensure that the Return Flow shall be to the Source Watershed, shall not include any water from outside the Basin, and shall meet all applicable water quality standards;
 - ii. The Applicant shall demonstrate that there is no reasonable water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies;
 - iii. The Proposal undergoes Regional Review; and,
 - iv. If the Originating Party is a State, the Proposal is approved pursuant to the Compact.

Straddling Counties

3. A Proposal to transfer Water to a Community within a Straddling County that would be considered a Diversion under this Agreement shall be excepted from the prohibition against Diversions, provided that it satisfies all of the following conditions:
 - a. The Water shall be used solely for the public water supply purposes of a community that is without adequate supplies of potable water.
 - b. The Proposal meets the Standard, with particular emphasis upon ensuring that:
 - i. The Return Flow shall be to the Source Watershed, and shall not include any water from outside the Basin;
 - ii. The Return Flow meets all applicable water quality standards.
 - c. The Proposal shall be subject to management and regulation by the Originating Party, regardless of its size.
 - d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies.
 - e. A precautionary approach shall be used in determining whether or not the Proposal meets the conditions for this exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the Great Lakes Basin Ecosystem.
 - f. The Proposal undergoes Regional Review.
 - g. If the Originating Party is a State, the Proposal is approved pursuant to the Compact.

Review of Article

4. The Parties shall evaluate this Article in the context of the periodic cumulative impact assessment as described in Article 209.

ARTICLE 202
IMPLEMENTATION OF THE STANDARD

1. The Parties shall seek to adopt and implement Measures establishing the Standard. The Standard is one of the means by which the Parties will together protect, conserve, restore, improve and manage the Waters of the Basin.
2. The Standard is a minimum Standard. The Parties may implement Measures that are more restrictive than the requirements of this Agreement. Although a Proposal may meet the Standard, it may not be approved under the laws of the Originating Party if that Party has implemented more restrictive Measures.
3. When fully implemented, this Agreement will lead to Water Withdrawal management systems that are consistent in their fundamentals within the Basin.

ARTICLE 203
THE DECISION-MAKING STANDARD

The following criteria constitute the Standard:

1. The need for all or part of the proposed Withdrawal, Consumptive Use or Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies; and,

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2. The Withdrawal, Consumptive Use or Exception shall be limited to quantities that are considered reasonable for the purposes for which it is proposed; and,
3. All Water Withdrawn from the Basin shall be returned to the Source Watershed less an allowance for Consumptive Use of the applicable water use sector. No water other than Basin Water shall be used in the Return Flow; and,
4. The Withdrawal, Consumptive Use or Exception shall be implemented so as to ensure that it shall result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin with consideration given to the potential Cumulative Impacts of any precedent-setting consequences associated with the Proposal; and,
5. The Withdrawal, Consumptive Use or Exception shall be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use; and,
6. The Withdrawal, Consumptive Use or Exception shall be implemented so as to ensure that it is in compliance with all applicable municipal, State, Provincial and federal laws as well as regional interstate, inter-provincial and international agreements, including the Boundary Waters Treaty of 1909.
7. For an Exception which is subject to this Standard, all applicable criteria in Article 201 have also been met.

ARTICLE 204
PROPOSALS SUBJECT TO REGIONAL REVIEW

1. Regional Review as outlined in Chapter 5 applies to a Proposal for any New or Increased Consumptive Use of 5 million gallons per day (19 million litres per day) or greater average in any 90-day period and any Exception requiring Regional Review under Article 201.
2. The Proposal may be approved by the Originating Party thereafter only if it meets the Standard.

ARTICLE 205
PROPOSALS SUBJECT TO MANAGEMENT AND REGULATION

1. Any Proposal for a new or increased Withdrawal 100,000 gallons per day (379,000 litres per day) or greater average in any 90-day period shall be managed and regulated by the Originating Party.
2. The Proposal may be approved by the Originating Party thereafter only if it meets the Standard.

ARTICLE 206
PROCEDURES MANUAL

The Procedures Manual (Manual), is a guide for the implementation of the Standard and in particular the review of a Proposal and the preparation of an Application. It also provides guidance on the review of the Parties' Water management programs. The Manual is part of the Agreement and is attached as Appendix 1.

ARTICLE 207

DETERMINATION OF WHETHER THE STANDARD APPLIES

Determining New or Increased Diversions, Consumptive Uses or Withdrawals

1. To establish a baseline for determining whether a Proposal is a New or Increased Diversion, Consumptive Use or Withdrawal, each Party shall develop either or both of the following lists for their jurisdiction:
 - a. A list of existing Water Withdrawal approvals.
 - b. A list of the capacity of existing systems. The capacity of the existing systems should be presented in terms of Withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems on the effective date of Paragraph 2 of Article 710. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

Timing of Additional Applications

2. Applications for New or Increased Withdrawals, Consumptive Uses or Exceptions shall be considered cumulatively within ten years of any application.

Change of Ownership

3. The change of ownership of any entity for which a Party previously issued an approval shall not require Regional Review, provided the facts, conditions or other criteria upon which that approval was based have not changed.

Groundwater

4. The Basin surface Water divide shall be used to define the Basin groundwater divide.

Withdrawal systems

5. The total volume of surface Water and groundwater resources that supply a common distribution system shall determine the volume of a Withdrawal, Consumptive Use or Exception.

Connecting Channels

6. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

Transmission in Water Lines

7. Transmission of Water within a line that extends outside the Basin as it conveys Water from one point to another within the Basin shall not be considered a Diversion if none of the Water is used outside the Basin.

Hydrologic Units

8. The Lake Michigan and Lake Huron watersheds are considered to be a single hydrologic unit and watershed.

Bulk Water Transfer

9. A Proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons (20 litres) shall be considered to be a Proposal for a Diversion. A Proposal to Withdraw Water and to package it within the Basin for human consumption in containers 5.7 gallons (20 litres) or less shall be considered to be a Proposal for a Consumptive Use.

U.S. Supreme Court Decree: Wisconsin et al. v. Illinois et al.

10. Notwithstanding any terms of this Agreement to the contrary, with the exception of Paragraph 14 of this Article, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of this Agreement nor any rules or regulations promulgated pursuant to this Agreement. This means that, with the exception of Paragraph 14 of this Article, for purposes of this Agreement, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water within the State of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.
11. The Parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that this Agreement shall not modify any terms thereof, and that this Agreement shall grant the parties no additional rights, obligations, remedies or defenses thereto. The Parties specifically acknowledge that this Agreement shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Agreement who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of the Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.
12. With the exception of Paragraph 14 of this Article, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Agreement, the State of Illinois is prohibited from using any term of this Agreement, including Article 201, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water.
13. With the exception of Paragraph 14 of this Article, Articles 200, 201, 202, 203, 204, 205, 206 (first sentence only), 207 (Paragraphs 1, 2, 3, 5 and 9 only), 208 and 210 of this Agreement all relate to current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water and, therefore, do not apply to the State of Illinois. All other provisions of this Agreement not listed in the preceding sentence shall apply to the State of Illinois, including the Water Conservation Programs provision of Article 303.

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14. In the event of a Proposal for a Diversion of Basin Water for use outside the territorial boundaries of the Parties to this Agreement, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Agreement, except Paragraphs 10, 12 and 13 of this Article.

ARTICLE 208
EXEMPTIONS FROM THE AGREEMENT

This Agreement does not apply to Withdrawals of Basin Water for the following purposes:

1. Supply of vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of vehicles; or,
2. Use in a non-commercial project on a short-term basis for firefighting or humanitarian purposes.

ARTICLE 209
AMENDMENTS TO THE STANDARD AND MANUAL

1. The Standard and Manual may be amended periodically according to the rules in this Agreement to reflect advancements in science, information and knowledge.
2. The Parties shall co-ordinate the collection and application of scientific information to further develop a mechanism by which individual and Cumulative Impacts of Water Withdrawals may be assessed.
3. The Parties shall collectively conduct, on a Great Lake and St. Lawrence River watershed basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin. The assessment of the Cumulative Impacts shall be done upon the earlier of:
 - a. Every 5 years;
 - b. Each time the incremental losses to the Basin reach 50,000,000 gallons (190,000,000 litres) per day average in any 90-day period in excess of the quantity at the time of the last assessment; or,
 - c. At the request of one or more of the Parties.
4. The assessment of Cumulative Impacts shall form a basis for the review of the Standard and the Manual and their application. This assessment shall:
 - a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;
 - b. Take climate change fully into account;
 - c. Consider precautionary principles and approaches; and,
 - d. Include the evaluation of Article 201 concerning Exceptions. Based on the results of this assessment, the provisions in that Article may be maintained, made more restrictive or withdrawn.

ARTICLE 210
JUDICIAL REVIEW

The Parties shall seek to adopt and implement Measures to permit a Party to, in an Originating Party's court of competent jurisdiction, seek judicial review of a decision of

the Originating Party with respect to a Withdrawal, Consumptive Use or Exception if that decision is, according to this Agreement, subject to the Standard.

CHAPTER 3 PROGRAMS

ARTICLE 300 WATER MANAGEMENT PROGRAMS

1. The Parties shall seek to implement programs to protect, conserve, restore and improve the Waters and Water Dependent Natural Resources of the Basin.
2. Each Party shall submit a report to the Regional Body, detailing the Water management programs that implement this Agreement in their jurisdiction.
3. The Regional Body shall forward each report to all members and shall give the members at least 30 days to consider it.
4. Following that period, the Regional Body shall consider the reports submitted by each Party.
5. The Regional Body shall issue a Declaration of Finding on whether the programs in place in each Party:
 - a. Meet or exceed the requirements of this Agreement;
 - b. Do not meet the requirements of this Agreement; or,
 - c. Would meet the requirements if certain modifications were made.
6. Every year each Party shall give the Regional Body a report setting out the changes made that year to the Party's Water management programs.
7. The Regional Body shall distribute the annual reports to its members.
8. Any Party may ask the Regional Body to issue a Declaration of Finding respecting the Water management programs of any of the Parties, including themselves, to determine whether the programs,
 - a. Meet or exceed the requirements of this Agreement.
 - b. Do not meet the requirements of this Agreement.
 - c. Would meet the requirements if certain modifications were made.

ARTICLE 301 INFORMATION

1. The Parties shall annually gather and share accurate and comparable information on all Withdrawals in excess of 100,000 gallons per day (379,000 litres per day) or greater average in any 30-day period (including Consumptive Uses) and all Diversions, including all Exceptions.
2. The Parties shall report this information to a Great Lakes water use data base repository and it shall be available to the public.
3. Each Party shall require users to report their monthly Withdrawals, Consumptive Uses and Diversions on an annual basis.
4. Information gathered shall be used to improve: scientific understanding of the Waters of the Basin; the impacts of Withdrawals from various locations and Water sources on the Great Lakes Basin Ecosystem; understanding of the role of groundwater; and, to clarify what groundwater forms part of the Waters of the Basin.

ARTICLE 302

AVAILABILITY OF APPLICATIONS AND RECORD OF DECISIONS

1. Each Party shall seek to make publicly available all Applications it receives that are subject to management and regulation under this Agreement.
2. Each Party shall seek to make publicly available the record of decision including comments, objections and responses.

ARTICLE 303

WATER CONSERVATION PROGRAMS

1. The Parties commit to develop and implement Water conservation programs that, collectively, will ensure improvement of the Waters and Water Dependent Natural Resources; protection of the integrity of the Great Lakes Ecosystem; and, specifically, will retain and restore the quantity of surface Water and groundwater in the Basin. Conservation programs need to anticipate new demands and the potential impacts of cumulative effects and climate change.
2. The Parties commit to reduce demand for Water wherever feasible and to improve the efficiency of use by all users and reduce losses and waste of Water.
3. Conservation shall be achieved by each Party through demand and supply-side Measures or incentives that are Environmentally Sound and Economically Feasible.
4. The Parties commit to promote and address conservation through:
 - a. Development and sharing of state of the art conservation technologies and best management practices;
 - b. Application of sound planning principles;
 - c. Development, transfer and application of science and research; and,
 - d. Establishment of reporting and performance standards and program monitoring.
5. Each Party shall implement a Water conservation program for all, including existing, Basin Water users.

CHAPTER FOUR

GREAT LAKES WATER RESOURCES REGIONAL BODY

ARTICLE 400

FUNCTIONS OF THE REGIONAL BODY

1. The Great Lakes Water Resources Regional Body (Regional Body) is composed of the Governor or Premier of each of the Parties, or a person designated by each of them.
2. The Regional Body is established to undertake the following duties and responsibilities:
 - a. Ensure, in accordance with this Agreement, a formalized process with respect to Proposals that require Regional Review and thereby provide an opportunity to address concerns within the Basin;
 - b. Declare whether or not an application meets the Standard;
 - c. Declare whether a Party's programs meet the requirements of this Agreement;
 - d. Facilitate the development of consensus and the resolution of disputes on matters arising under this Agreement;

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- e. Monitor and report on the implementation of this Agreement by the Parties, including: data collection; the implementation of each Party's program to manage and regulate Withdrawals, Consumptive Uses and Diversions; promotion of Water conservation; and, the assessment of Cumulative Impacts;
- f. Periodically review the Standard and the Manual and their application including new scientific information relating to groundwater,
- g. Propose amendments to this Agreement; and,
- h. Perform any other functions or duties necessary to implement this Agreement.

ARTICLE 401

ORGANIZATION AND PROCEDURES OF THE REGIONAL BODY

1. The Regional Body may establish its own administrative practices and procedures.
2. The Regional Body may create a secretariat by the unanimous consent of its members.
3. The Regional Body shall meet:
 - a. At least once annually; and,
 - b. At any other time at the call of the Chair or at the request of two or more Parties.
4. The members shall appoint a Chair and Vice Chair through the following process:
 - a. For the first year, the Chair and Vice Chair shall be members elected by a vote of the members.
 - b. Each subsequent year, until all members have served, the Vice Chair shall be chosen by drawing lots from amongst those members who have not yet served.
 - c. Each member shall serve as Chair immediately after having served as Vice Chair.
 - d. Each member shall serve as Vice Chair and as Chair, each for one year.
 - e. Once all members have served as Vice Chair and Chair, the original order of serving shall be repeated.
5. In the event that an Application for Regional Review is from the Chair's State or Province, the role of the Chair shall be filled by the Vice Chair or another member.
6. Each Party shall bear an equitable share of the costs of the Regional Body to a maximum amount per annum that is agreed upon each year by the Parties.
7. The Parties shall support the Regional Body using existing agency staff and facilities to the greatest extent possible and are encouraged to make additional resources available through partnerships and co-operative arrangements with government agencies, public or private entities, individuals or academic institutions.
8. The Regional Body shall keep a complete public record of documents provided to it or generated by it, including but not limited to:
 - a. Proposals about which it is notified;
 - b. Applications, Technical Reviews and comments provided by the public;
 - c. Comments or objections made in respect of a Proposal by members of the Regional Body;
 - d. Declarations of Finding;
 - e. Materials in respect of dispute resolution; and,
 - f. Amendments to the Manual agreed to by the Parties.
9. Public access to documents is recognized to be subject to confidentiality obligations set out in this Agreement.

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10. To the greatest extent possible, the Regional Body shall conduct public participation and Regional Review concurrently and jointly with similar processes under the Compact and in the Originating Party's jurisdiction.
11. The Parties recognize the importance and necessity of public participation in promoting management of the Water resources of the Basin. Consequently, meetings of the Regional Body, at which official action is to be taken, shall be open to the public except when the Regional Body is meeting in executive session.
12. The minutes of the Regional Body shall be a public record.

CHAPTER 5
REGIONAL REVIEW

ARTICLE 500
REVIEW OF PROPOSALS

1. This Chapter sets out the process for Regional Review.
2. Regional Review provides the Parties an opportunity to address concerns with respect to a Proposal.
3. Unless the Applicant or the Originating Party otherwise requests, the Regional Body shall meet to consider a Proposal no later than 90 days after notice under Article 501 of such Proposal is received from the Originating Party.

ARTICLE 501
NOTICE FROM ORIGINATING PARTY
TO THE REGIONAL BODY AND THE PUBLIC

1. The Originating Party shall determine if an Application is subject to Regional Review.
2. If so, the Originating Party shall provide timely notice to the Regional Body, the Parties to this Agreement, and the public.
3. Such notice shall not be given unless and until all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Standard have been provided.

ARTICLE 502
OTHER NOTICE

1. An Originating Party may:
 - a. Provide notice to the Regional Body of an Application, even if notification is not required under this Agreement; or,
 - b. Request Regional Review of an application, even if Regional Review is not required under this Agreement.
2. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal.
3. Any such Regional Review shall be undertaken only after consulting the Applicant.
4. An Originating Party may provide preliminary notice of a potential Application.

ARTICLE 503
PUBLIC PARTICIPATION

1. To ensure adequate public participation, the Regional Body shall adopt procedures for the review of Proposals that are subject to Regional Review in accordance with this Article.
2. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard.
3. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Standard.
4. The Regional Body shall consider the comments received before issuing a Declaration of Finding.
5. The Regional Body shall forward the comments it receives to the Originating Party.

ARTICLE 504
TRIBES AND FIRST NATIONS CONSULTATION

1. In respect of a Proposal, appropriate consultation shall occur with Tribes or First Nations in the Originating Party in the manner suitable to the individual Proposal and the laws and policies of the Originating Party.
2. The Regional Body shall provide notice to the Tribes and First Nations within the Basin of a Proposal undergoing Regional Review. Such notice shall provide an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard.
3. The notice from the Regional Body shall inform the Tribes and First Nations of public meetings and invite them to attend.
4. The Regional Body shall forward the comments that it receives under this Article to the Originating Party for its consideration before issuing a Declaration of Finding.
5. The Regional Body shall consider the comments that it receives under this Article before issuing a Declaration of Finding.

ARTICLE 505
TECHNICAL REVIEW

Originating Party's Technical Review

1. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.
2. The Technical Review shall thoroughly analyze the Proposal and provide an evaluation of the Proposal sufficient for a determination of whether the Proposal meets the Standard.

Independent Technical Review

3. Any Party may undertake an independent Technical Review of a Proposal and the Originating Party shall assist by providing additional information as may be required.

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4. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal.
5. All Parties shall exercise their best efforts to ensure that a Technical Review undertaken under paragraphs 3 or 4 does not unnecessarily delay the decision by the Originating Party on the Application. Unless the Applicant or the Originating Party otherwise requests, all Technical Reviews shall be completed no later than 60 days after the date the notice of the Proposal was given to the Regional Body.

ARTICLE 506
DECLARATION OF FINDING

1. The Regional Body shall meet to consider a Proposal within 90 days of receiving the notice of the Proposal and the Originating Party's Technical Review.
2. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, Tribes and First Nations, and any other information that is provided under this Agreement shall issue a Declaration of Finding that the Proposal under consideration:
 - a. Meets the Standard;
 - b. Does not Meet the Standard; or,
 - c. Would meet the Standard if certain conditions were met.
3. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.
4. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Standard.
5. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.
6. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.
7. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.
8. The Originating Party shall consider the Declaration of Finding before it makes a decision on the Proposal.
9. The Regional Body shall release the Declarations of Finding to the public.

CHAPTER 6
DISPUTE RESOLUTION

ARTICLE 600
GENERAL

1. The Parties undertake to resolve any disputes under this Agreement in a conciliatory, co-operative and harmonious manner.
2. Where dispute resolution is required, the Parties undertake to use the dispute resolution mechanisms provided for in this Chapter to arrive at a mutually satisfactory resolution.

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3. The provisions of this Chapter shall not be used to dispute a Declaration of Finding on a Proposal that is subject to Regional Review.
4. A Person who is not a Party to this Agreement may not seek dispute resolution under this Agreement.

ARTICLE 601
PROCEDURE FOR DISPUTE RESOLUTION

Initial Steps

1. A Party may provide detailed written notice to another Party and to the Regional Body of a dispute that in its opinion requires resolution under this Chapter.

Measures to settle disputes

2. If the dispute is not resolved informally, the Chair shall initiate the most appropriate measures to resolve the dispute. These measures may include:
 - a. The appointment of a panel to hear the Parties to the dispute;
 - b. Consultation with experts;
 - c. Establishment of a working or fact-finding group; or,
 - d. The use of dispute resolution mechanisms such as conciliation or mediation.
3. After resolution is attempted by one of the means suggested in paragraph 2, recommendations shall be made in accordance with directions given by the Chair at the time the mean was adopted. The disputing Parties shall consider the recommendations and exercise their best efforts to settle their dispute.

Reference to Regional Body

4. If the disputing Parties, having considered the recommendations, fail to settle the dispute, any one of them may refer the matter to the Regional Body. In this case, the Chair shall, in consultation with the other members who are not involved in the dispute, direct the Regional Body to take such further steps as he or she considers advisable in the circumstances to resolve the dispute.
5. When those steps have been taken, the Regional Body shall issue its recommendations regarding the resolution of the dispute.
6. The disputing Parties shall consider the recommendations and shall exercise their best efforts to settle.

Role of the Chair

7. In the event that a dispute involves the Party of the Chair, the role of the Chair set out in this Chapter shall be filled by the Vice Chair or failing him or her, another member who is not a Party to the dispute.

**CHAPTER 7
FINAL PROVISIONS**

**ARTICLE 700
REAFFIRMATION OF CONSTITUTIONAL POWERS AND
RESPONSIBILITIES**

1. Nothing in this Agreement alters the legislative or other authority of Parliament or of the Provincial legislatures or of the federal Government of Canada or of the Provincial governments or the rights of any of them with respect to the exercise of their legislative or other authorities under the Constitution of Canada.
2. This Agreement is not intended to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

**ARTICLE 701
RELATIONSHIP TO AGREEMENTS CONCLUDED BY CANADA OR THE
UNITED STATES OF AMERICA**

1. Nothing in this Agreement is intended to provide nor shall be construed to provide, directly or indirectly, to any Person any right, claim or remedy under any international Agreement or treaty.
2. Nothing in this Agreement is intended to affect the application of the Boundary Waters Treaty of 1909 whose requirements with respect to boundary waters continue to apply in addition to the requirements of this Agreement.

**ARTICLE 702
RELATIONSHIP TO TRIBES AND FIRST NATIONS**

1. Nothing in this Agreement is intended to abrogate or derogate from treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States.
2. Nothing in this Agreement is intended to abrogate or derogate from the protection provided for the existing aboriginal or treaty rights of aboriginal peoples in Ontario and Québec as recognized and affirmed by section 35 of the Constitution Act, 1982.

**ARTICLE 703
RELATIONSHIP TO OTHER AGREEMENTS AMONG THE PARTIES**

1. The Parties assert that by this Agreement they are fulfilling their existing commitments with respect to each other under the Great Lakes Charter and the Great Lakes Charter Annex.
2. The obligations of this Agreement shall be co-ordinated with any obligations set out in other environmental and conservation agreements between or among the Parties.

**ARTICLE 704
CONFIDENTIALITY**

1. Nothing in this Agreement requires a Party to breach confidentiality obligations or requirements prohibiting disclosure that it has under its own laws, to compromise security or a person's commercially sensitive or proprietary information.
2. A Party may take steps, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary or commercially sensitive information when distributing information to other Parties. The Party shall summarize or paraphrase any such information in a manner sufficient for the Regional Body to exercise its authorities contained in this Agreement.

**ARTICLE 705
MEASURES SUBJECT TO TRANSITIONAL PROVISIONS**

Each Party shall, from the date of execution of this Agreement, exercise its best efforts to refrain from taking any action that would defeat the objectives of this Agreement.

**ARTICLE 706
APPENDIX**

The Appendix to this Agreement constitutes an integral part of the Agreement.

**ARTICLE 707
AMENDMENTS**

1. The Parties may agree in writing to amend this Agreement.
2. An amendment to this Agreement requires the consent of all Parties to the Agreement.
3. When so agreed, and approved in accordance with the applicable legal procedures of each Party, an amendment shall constitute an integral part of this Agreement from the date of its entry into force.
4. Despite paragraph 2, the Manual may be amended on the unanimous written consent of the members of the Regional Body.

**ARTICLE 708
WITHDRAWAL AND TERMINATION PROCEDURE**

1. Twelve months after it gives written notice to all other Parties, a Party may withdraw from this Agreement.
2. If a Party withdraws, the Agreement shall remain in force among the remaining Parties.
3. This Agreement shall be terminated when all Parties, or all remaining Parties, agree in writing.

**ARTICLE 709
LANGUAGE**

This Agreement has been made and executed in English and French and both versions are equally authoritative.

ARTICLE 710
ENTRY INTO FORCE

The Parties intend to implement this Agreement as expeditiously as possible.

Parts of this Agreement come into force at different times.

1. On the day the Agreement is signed by all Parties:
 - a. Preamble.
 - b. Chapter 1 (General Provisions).
 - c. Article 202 (Implementation of the Standard).
 - d. Article 208 (Exemptions from the Agreement).
 - e. Chapter 4 (Great Lakes Water Resources Regional Body).
 - f. Chapter 6 (Dispute Resolution).
 - g. Chapter 7 (Final Provisions).
2. 60 days after the last Party has notified the others that it has completed the Measures necessary to implement the following parts of this Agreement:
 - a. Article 200, paragraphs 1 and 2 (Prohibition of Diversions and Management of Exceptions).
 - b. Article 201 (Exceptions to Prohibition of Diversions).
 - c. Article 203 (The Decision-Making Standard).
 - d. Article 204 (Proposals Subject to Regional Review)
 - e. Article 206 (Procedures Manual)
 - f. Article 207, except paragraph 1 (Determination of whether the Standard Applies)
 - g. Article 209 (Amendments to the Standard and Manual and Periodic Assessment of Cumulative Impacts)
 - h. Article 210 (Judicial Review)
 - i. Chapter 5 (Regional Review).
3. 1 year after the date paragraph 2 of this Article comes into force:
 - a. Article 207, paragraph 1 (Baseline for Determining New or Increased Diversions, Consumptive Uses or Withdrawals.)
4. 5 years after the date paragraph 2 of this Article comes into force:
 - a. Article 303 (Water Conservation Programs)
5. 10 years after the date paragraph 2 of this Article comes into force or 60 days after the last Party has notified the others that it has completed the Measure necessary to implement it, whichever is first:
 - a. Article 200, paragraph 3 (Management of Withdrawals and Consumptive Uses)
 - b. Article 205 (Proposals Subject to Management and Regulation).
 - c. Chapter 3, except Article 303 (Water Management Programs and Information).
6. Except as otherwise set out in this Agreement, 60 days following the date that the last Party has notified the others that it has completed the necessary legal procedures, any remaining parts of this Agreement shall come into force.
7. The terms, agreements, and review processes contained in the Great Lakes Charter of 1985 (“Charter”) shall remain in full force and effect unless and until the Parties to the Charter certify in writing that it has been replaced by the terms of this Agreement. Until the coming into force of Chapter 5 of this Agreement, the Regional Body as described in Chapter 4 shall be used for all prior notice and consultation activities as described in the Charter.

**—DRAFT—
JUNE 30, 2005**

Signed this X day of 2005.

Governor of Illinois

Governor of Indiana

Governor of Michigan

Governor of Minnesota

Governor of New York

Governor of Ohio

Premier of Ontario

Governor of Pennsylvania

Premier of Québec

Governor of Wisconsin

APPENDIX 1
PROCEDURES MANUAL
Decision Making Standard Procedures Manual – Table of Contents

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 - C) Return Flow
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 - G) Point of Measurement
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 - K) Statement of Justification Analysis of Alternative Sources (*information necessary only if the Applicant is seeking an Exception*)
 - L) Environmentally Sound and Economically Feasible Water Conservation Measures and Status of Implementation
 - M) Assessment of Impacts
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Part 2: Review of Party Water Management Programs

4. Party Management and Information
 - A) Submission and Review
 - B) Components of Party Program Report
 - C) Water Conservation Programs

INTRODUCTION OF PROCEDURES MANUAL PURPOSE AND USE

This Manual addresses:

Part 1: Preparation of an Application and Review of a Proposal to Withdraw Water

- Proposal review guidance (section 1)
- The Proposal review guidance applies to Proposals subject to Regional Review and Proposals reviewed only by the Originating Party. Certain of the program requirements for New or Increased Withdrawals shall be phased in by the Parties over time.
- A discussion of Application information (Section 2)
- Elements of an Application (Section 3)

Part 2: Review of Party Water Management Programs

- The submission and review/comment process.
- The components of the Party program report.
- Guidance to Parties on Water conservation.
- Information collection and management.

PART 1: PREPARATION OF AN APPLICATION AND REVIEW OF A PROPOSAL TO WITHDRAW WATER

1. PROPOSAL REVIEW GUIDANCE

A) Efficient Use and Conservation of Existing Water Supplies

Description of intent

The purpose of this requirement is to ensure that the need for a New or Increased Withdrawal of Great Lakes Basin Water cannot be reasonably avoided through the efficient use and conservation of existing water supplies available to the Applicant.

Application Requirements

Applications shall include a narrative description of the need for the proposed New or Increased Withdrawal. This description should include an analysis of the efficiency of current water Withdrawals, including the application of Environmentally Sound and Economically Feasible Water Conservation Measures as outlined in Section 1.E. of this Manual.

Criteria for Decisions

Water conservation and efficient use of existing water supplies must be an alternative that is pursued first to minimize or eliminate the need for the New or Increased Withdrawal. A clear demonstration must be made that the requirement for additional Great Lakes Basin Water cannot be minimized or eliminated through the application of Environmentally Sound and Economically Feasible Water Conservation Measures as outlined in Section 1.E. of this Manual.

B) Quantities that are Considered Reasonable

Description on Intent

The purpose of this requirement is to ensure that the Withdrawal of Great Lakes Basin Water shall be limited to quantities that are considered reasonable to meet the requirements of the intended use.

Application Requirements

The Applicant must estimate the highest 90-day average use for the period for which the approval is being sought. The Application must include a Water use plan. For a public water supply system, publicly or privately operated, the plan must include:

- A description and map of the service area at the time of the Application and projected for up to twenty years or for the period for which the approval is being sought.
- Water use and population projections at the time of the application and projected for the next five, ten and twenty years. Population projections should be credible and the entity conducting the projections identified. Water use must be presented in terms of maximum use for any 90-day period for a given year. Water use must also be presented in terms of annual average gallons or litres per day.
- A description of the capacity of the Withdrawal, treatment and distribution portions of the system.
- An assessment of the water use savings of current and proposed water conservation programs.

Applications for other uses, such as industrial or agricultural, must include a plan that projects Water use at the time of application and projected for up to twenty years or for the period for which the approval is being sought. Water use must be presented in terms of maximum 90-day average use for a given year and in terms of annual average gallons per day.

Criteria for Decisions

In determining if a Proposal has successfully met the requirements of this Standard provision, the Proposal shall be evaluated in terms of how realistic and reasonable the quantity of the proposed Water Withdrawal is to meet the requirements of the intended purposes for the Withdrawal. The review shall be conducted in concert with the review of the Proposal's Environmentally Sound and Economically Feasible Water Conservation Measures to determine how effective it is in minimizing the quantity of the Withdrawal or Consumptive Use.

The proposed Water use projections shall be evaluated upon the following criteria:

- The presentation of current use information – including proposed Withdrawal and/or Consumptive Use;
- The existence of a Water use plan with credible multi-year use projections; and,
- The potential effectiveness of current and proposed Water conservation programs in minimizing the Withdrawal and/or Consumptive Use of Water.

C) Return Flow

Description of Intent

The intent of the Return Flow requirement is to ensure that all of the Water Withdrawn from the Great Lakes Basin is returned to the Source Watershed, less an allowance for Consumptive Use, in order to support the ecological health of the system and for further use. It is recognized that Consumptive Uses will occur and the amount of Consumptive Use will differ depending of the use of the Water. The desire is that Consumptive Uses be reasonable and that the Proposal maximizes the return of Water at a quality that meets all applicable Water quality requirements. Except as provided for in the Agreement, Return Flow shall be required to the Source Watershed for all New or Increased Withdrawals subject to the Standard.

Application Requirements

Applicants must submit a description of their Return Flow program. This program description should include:

- A description on how the Water will be returned. To the extent the local entity that will be discharging the Return Flow is not the Applicant for the project, agreements must be presented demonstrating that the Return Flow will be guaranteed;
- An estimate of total Return Flow by volume and as a percentage of Water Withdrawn;
- Location of Return Flow;
- An estimate of Consumptive Use, including historic use information. These estimates may be presented in the form of project engineering design plans or utilizing United States Geological Survey (USGS) or other Consumptive Use coefficients. To the extent use estimates are greater than “generally accepted Consumptive Use coefficients,” the Application must include a detailed explanation and justification for projected additional Consumptive Use;
- A description of the anticipated Water quality of the Return Flow including a description of the proposed measurement methods (quality and quantity) and discharge location(s); and,
- A certification that the Return Flow shall consist only of Water Withdrawn from the Great Lakes Basin, except for groundwater that may infiltrate into wastewater systems.

Criteria for Decisions

In determining if a Proposal has successfully met the requirements for Return Flow, the following shall be evaluated:

- The clarity and completeness of the description of the Return Flow program, including the quantity, quality and location of the Return Flow.
- The verification and justification of Consumptive Use estimates, by sector, using engineering estimates or Consumptive Use coefficients.
- There is no replacement water from outside the Basin.
- The Return Flow meets all applicable water quality Standards.
- Water that is returned to the Source Watershed via non-point sources (e.g. percolation, infiltration, septic system seepage) shall be considered part of Return Flow.

In reviewing Consumptive Use estimates, commonly used coefficients shall be used as a benchmark. It is understood that specific use situations vary and that in some cases higher use amounts may be justified. It is also understood that research will continue and that Consumptive Use information will improve. As of now, the Great Lakes Commission Survey, Spring 2002, entitled, “Consumptive Use Coefficients By Water Use Category Among Great Lakes Jurisdictions and USGS” is one benchmark evaluation tool for the listed water use categories, recognizing that coefficients will be updated periodically to reflect advancements in conservation practices. Recommendations from the International Joint Commission’s February 2000 report shall also be considered, as appropriate, in the context of evaluating the adequacy of the elements of the Proposal relating to Return Flow.

D) No Significant Individual or Cumulative Impacts

Description of Intent

The intent of this Standard provision is to ensure that New or Increased Withdrawals result in No Significant Adverse Individual or Cumulative Impacts to the Water and Water Dependent Resources of the Great Lakes Basin. This provision is central to the Parties’ commitment to responsible resource protection and management.

Application Requirements

Applications must be submitted with detailed information related to the proposed project including the location of the New or Increased Withdrawal and Return Flow.

The Proposal should include the following information:

- Source and location of the Withdrawal and Return Flow;
- A description of baseline conditions regarding hydrologic flow, water quality and habitat;
- A projected Withdrawal schedule including peak 30-day demand over the 90-day averaging period;
- Anticipated changes in Water quality and Water dependent natural resources;
- A description of all mitigation measures that will be implemented to prevent or eliminate significant impacts; and,

- A statement of how the Proposal would relate to other existing Withdrawals, Diversions and Consumptive Uses for purposes of enabling the Parties to collectively evaluate Cumulative Impacts from this Proposal. The Applicant shall use data and analyses on Cumulative Impacts that are available from the Parties.

Criteria for Decisions

In determining whether a Proposal has the potential for significant impacts, the Parties shall consider the impacts that may be reasonably expected to occur from the Proposal based on consideration of the following criteria and factors:

- The completeness of baseline information presented;
- Location, type, extent, scale and duration of impacts;
- The mitigation measures proposed, if any;
- Potential cumulative effects of related or anticipated future projects (supply and demand analysis), including the potential for precedent-setting consequences;
- The geographic and temporal scale of potential impacts; and,
- Individual impacts will be evaluated in the context of Cumulative Impacts. Where watershed plans exist, Applicants shall discuss impacts based upon these plans. Potential impacts on other users will be evaluated.

A Water Withdrawal Proposal will be considered to have a significant ecological impact if there is a significant change to any of the following parameters:

Physical Criteria

- Measurable change to the pre-Proposal range of variability of the hydrologic regime
- Degradation of structural habitat
- Disruption of pre-Proposal connections between and among habitats
- Disruption of pre-Proposal temperature regime of the hydrologic system
- Significant/measurable impacts to existing Water uses

Chemical Criteria

- Disruption of natural productivity of the ecosystem
- Introduction of potentially harmful toxins, contaminants and excessive nutrients
- Disruption of the hydrologic system's ability to process toxins, contaminants, and nutrients

Biological Criteria

- Decline in population levels or health of native species
- Introduction of non-native species
- Disruption of biological interactions such as predation and competition
- Introduction of harmful microorganisms and no elevation of microorganisms to harmful level
- Impact on human health

Compliance with the Originating Party’s environmental regulatory requirements (water and air) could contribute to a demonstration of the lack of significant ecological impact. In some cases, these processes require a showing of no impact. In these cases, such a finding by an Originating Party could meet the requirements of this section.

E) Environmentally Sound and Economically Feasible Water Conservation Measures

Description of Intent

The purpose of this Standard provision is to encourage efficient use through demand reduction and supply-side Environmentally Sound and Economically Feasible Water Conservation Measures and incentives. Environmentally Sound and Economically Feasible Water Conservation Measures can be grouped into two general categories: 1) “hardware” devices or equipment; and, 2) behavior or management practices. Examples of Water Conservation Measures for different water use sectors are provided in Table 1 from the *Handbook of Water Use and Conservation* (Vickers, 2001). Conservation incentives are incentives that motivate water users to implement Environmentally Sound and Economically Feasible Water Conservation Measures. They can be classified into three categories: 1) educational, 2) financial, and 3) regulatory. Examples of conservation incentives are presented in Table 2 from the *Handbook of Water Use and Conservation* (Vickers, 2001).

The Decision Making Standard includes a strong requirement regarding water conservation. All Proposals for New or Increased Withdrawals of Great Lakes Basin Water shall incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use.

Table 1. Types of Water Conservation Measures (Source: *The Handbook of Water Use and Conservation* (Vickers, 2001, p. 6) and the Great Lakes Commission’s Report *Water Resources Management Decision Support System for the Great Lakes-St. Lawrence River* (May, 2003)).

Water Use Sector	Hardware/Technology	Behavior/Management Practices
<i>Residential and Domestic</i>	<ul style="list-style-type: none"> • Low-volume toilets and urinals • Waterless and composting toilets and urinals • Low-flow showerheads and faucets • Water-efficient appliances such as clothes washers and dishwashers 	<ul style="list-style-type: none"> • Shut off unnecessary flows from faucets • Restrict outdoor water use • Use water-efficient practices for clothes washers and dishwashers (full loads, no pre-rinse, wash cycles)

Water Use Sector	Hardware/Technology	Behavior/Management Practices
<i>Landscapes</i>	<ul style="list-style-type: none"> • Native and drought-tolerant turf and plants • Drip irrigation • Automatic shut-off hoses • Rain sensors 	<ul style="list-style-type: none"> • Water less frequently (schedule during early or late hours) • Soil improvements and apply appropriate mulches • Use water-efficient landscape maintenance practices
<i>Industrial, Commercial, and Institutional Facilities</i>	<ul style="list-style-type: none"> • Cooling towers with recirculated water • Reuse process water • Leak detection and repair 	<ul style="list-style-type: none"> • Shut off unused valves • Use water-efficient operational practices
<i>Agriculture</i>	<ul style="list-style-type: none"> • Low-energy precision application of irrigation water • Canal lining • Tailwater recovery • Laser leveling • Drip irrigation 	<ul style="list-style-type: none"> • Use weather-controlled irrigation systems • Regular maintenance of irrigation systems • Use water-efficient cultivation practices
<i>Water Utilities</i>	<ul style="list-style-type: none"> • Distribution system leak detection and repair • Hydrant capping 	<ul style="list-style-type: none"> • Regularly service and adjust system valves and connections • Pressure management to reduce volume of water used

Table 2. Types of Conservation Incentives (Source: *The Handbook of Water Use and Conservation* (Vickers, 2001, p. 7) and the Great Lakes Commission's Report *Water Resources Management Decision Support System for the Great Lakes-St. Lawrence River* (May, 2003)).

Type of Conservation Incentive	Examples
Educational	<ul style="list-style-type: none"> • Direct-mail literature, television and radio advertisements, media coverage, demonstration gardens and projects, school education programs, conservation checklists developed for specific industries, local workshops and training programs for specialized users

Financial	<ul style="list-style-type: none">• Bill credits, rebates, conservation pricing/rate structures
Regulatory	<ul style="list-style-type: none">• Water-efficient policies, laws and plumbing codes for water-efficient fixtures and appliances, Standards for landscape design, irrigation scheduling, penalties for outdoor water waste, pollution prevention requirements

Application Requirements

All Proposals shall provide a detailed description of the Environmentally Sound and Economically Feasible Water Conservation Measures that have been and will be employed in the project. This must include water conservation goals as described below.

In addition to guidance provided by a Party's water conservation program, descriptions of an Applicant's Environmentally Sound and Economically Feasible Water Conservation Measures may include the elements outlined in the planning steps below. The planning steps, which are adapted from the *Handbook of Water Use and Conservation* (Vickers, 2001) and the USEPA's *Water Conservation Plan Guidelines* for Water systems (August, 1998), are meant as guidance for all water use sectors.

1. Identify Conservation Goals

- Establish Water use reduction goals (e.g. percent or volume per day).
- Determine the timeframe of the Water conservation program for existing and proposed Withdrawals.
- Description of community involvement in goals-development process.

2. Develop a Water-Use Profile and Forecast

- Identify existing Water supply sources, Water use (average and peak use/demand), total Withdrawal and Consumptive Use.
 - For Water systems, agricultural water districts, and industry, describe production characteristics of existing facilities if any.
 - For irrigation and other agricultural uses, the plan should demonstrate that systems are properly designed for soil characteristics, topography, climatic conditions, and crop types. Information should include:
 - Soil types and percentage of each
 - Purpose of irrigation (e.g. upland crops – corn, soybeans, fruit, etc.); golf course, sod, greenhouse etc.)
 - Acreage under each crop and total acres irrigated
 - Monthly irrigation schedule
 - Irrigation method(s) to be used
- Forecast anticipated future Water use/demand and costs associated with infrastructure changes (expansion, improvements or new facilities).

3. Identify and Evaluate Environmentally Sound and Economically Feasible Water Conservation Measures

- Review of Water conservation measures and incentives that have been implemented if any.
- Identify other Water conservation measures that save Water and identify conservation incentives that would motivate Water users to implement Water measures (see Tables 1 & 2 for examples), including consideration of generally accepted management practices and principles for the appropriate water use sector.
- Develop a matrix of Environmentally Sound and Economically Feasible Water Conservation Measures and incentives that can be considered options.
- Evaluate measures in terms of the following:
 - Potential Water savings (i.e. reducing Water loss and minimizing the need for a Withdrawal or increased Withdrawal to the maximum extent possible)
 - ◆ Estimate the short-term, long-term, average-day, and peak-day Water savings that can be achieved by each measure as well as the total (and/or per capita) Consumptive Use reduced.
 - Benefits and costs
 - ◆ For all Water uses, consider reduced need for new or additional Water supplies, reduced operation and maintenance costs, and environmental preservation. For water systems or agricultural water districts, consider deferred, downsized or eliminated new facilities for water systems and customer benefits.
 - ◆ Estimate conservation program costs including implementation and monitoring costs.
 - ◆ Determine cost-effectiveness of measures based on benefits and costs over the life of the program.
 - Applicable laws, regulations, and standards
- Identify any short-term or long-term obstacles (e.g. socio-economic, legal, etc.) to implementation of the measures.

4. Select Environmentally Sound and Economically Feasible Water Conservation Measures

- Identify quantitative criteria for selecting measures and associated program incentives. For example, identify the cost-effectiveness of Environmentally Sound and Economically Feasible Water Conservation Measures in terms of the avoidance of capital costs or through potential Water savings such as reducing Water loss and minimizing the need for a Withdrawal or increased Withdrawal.
- Identify qualitative criteria for selecting Environmentally Sound and Economically Feasible Water Conservation Measures and associated incentives, as appropriate. For example, identify the potential ease of implementation and the relationship of alternatives to other regulatory approvals that may be required.
- Evaluate and rank measures and incentives using quantitative and qualitative selection criteria.

- Justify why each measure and incentive should be selected or rejected.
- Refine total future Water use/demand forecasts taking into account Environmentally Sound and Economically Feasible Water Conservation Measures and incentives selected.

5. Implement the Conservation Plan

- Develop a strategy and timetable for implementing and monitoring the plan's Environmentally Sound and Economically Feasible Water Conservation Measures.

6. Monitor, Evaluate, and Revise Water Conservation Program as Needed

- Monitor and evaluate each measure's effectiveness by assessing actual Water savings (i.e. reducing Water loss and minimizing the need for a Withdrawal or increased Withdrawal to the maximum extent possible), and program costs and benefits.
- If necessary, adjust the Water conservation program, based on findings from the monitoring and evaluation process, to ensure that Water-savings goals are met.

Criteria for Decisions

All Proposals will be evaluated on the adequacy of the Environmentally Sound and Economically Feasible Water Conservation Measures proposed and implemented. There must be water conservation goals to ensure efficient use. There must be a description of how water use is quantitatively measured (e.g. metering) to provide an accurate picture of water demand, supply, loss and projected savings; a forecast of anticipated future water use and demand; an identification and analysis of alternative methods and practices; and, an implementation and evaluation strategy.

F) COMPLIANCE WITH APPLICABLE LAWS

Description of Intent

The Applicant bears the responsibility that the proposed Withdrawal will be in compliance with all applicable municipal, State, Provincial and federal laws as well as regional, inter-State, inter-Provincial and international agreements, including the Boundary Waters Treaty of 1909.

G) NO REASONABLE WATER SUPPLY ALTERNATIVE

(Applicable when Applicant is seeking an Exception)

Description of Intent

The purpose of this requirement is to ensure that there are no reasonable alternatives available that would eliminate or diminish the need for an Exception.

Application Requirements

Applications for the Exception shall include a narrative description of the need. This description should include an analysis of the efficiency of current water Withdrawals, including the application of Environmentally Sound and Economically Feasible Water Conservation Measures as outlined in Section 1.E. of this Manual.

The application shall include an analysis of water supply alternatives available and considered to meet the new or increased need. This analysis shall address quantity and quality (including treatability) of alternative sources. The analysis shall describe the rationale for not using the other considered water supply alternatives.

Criteria for Decisions

A clear demonstration of alternatives considered, the analysis undertaken and conclusions and findings of this analysis shall be evaluated. There must be a showing that no reasonable water supplies are available. To determine what is reasonable, three factors will be evaluated for alternative options, including: 1) resource protection; 2) technology; and, 3) cost.

Water conservation and efficient use of existing water supplies must be an alternative that is pursued first to minimize or eliminate the need for the New or Increased Withdrawals described in Section 1.E. of this Manual.

3. APPLICATION INFORMATION

A) Who Applies and Who Bears the Regulatory Burden

Any Person proposing a New or Increased Withdrawal, Consumptive Use or Exception of Great Lakes Basin Water.

B) Legal Arrangements

In some situations, the Applicant may not have complete legal authority to carry out certain requirements. Examples could include: 1) a different entity may actually discharge Return Flow; or, 2) the entity Withdrawing Water, if not the Applicant may be responsible for ensuring there are no adverse impacts. In these cases, legal arrangements, such as contracts, should be submitted with the Application demonstrating that requirements will be met.

C) Jurisdictional Review

Applications that require Regional Review shall be submitted to the Regional Body by the Originating Party. Prior to submitting the Application for Regional Review, the Originating Party shall determine that the Application is complete and meets the requirements for Regional Review.

D) Timing of Additional Applications

For the purposes of determining whether Regional Review is required, applications for New or Increased Withdrawals, Consumptive Uses and Exceptions will be considered cumulatively within ten years of any application. In other words, when the total exceeds the Regional Review Threshold then the full amount of the Withdrawal will be Regionally Reviewed regardless of the increment. For example, if an Applicant has previously obtained approval for a Proposal resulting in a Consumptive Use of 4.5 million gallons per day (17 million litres per day) and five years later requests an

additional 1 million gallons per day Consumptive Use (3.8 million litres per day), the second request would trigger Regional Review. In this case, the total amount of both actions, 5.5 million gallons per day (20.8 million litres per day), would be subject to Regional Review. After Regional Review, the Originating Party's denial of the proposed incremental amount shall not negate or invalidate any previously approved actions. If, however, the second request is after ten years, it would be subject to Originating Party review only.

E) Other Requirements

Other federal, State/Provincial or local approvals may also be required. Such approvals including permits are the responsibility of the Applicant.

3. ELEMENTS OF AN APPLICATION

Section 3 is a list of categories of information that will be necessary for an Application to be evaluated. This list is illustrative only; each Party will use their own Application forms and information requirements.

A) Applicant Information

Name:
Mailing Address:
Phone Number:
Email Address:

B) Purpose of Withdrawal

Provide detailed written explanation of what the Water will be used for. Uses could include, for example: public water supply, commercial/industrial, irrigation or other. If the Water is to be used for multiple purposes, estimate percent usage by category of use.

C) Source of Water

Applications are required for all new or increased Withdrawals, Consumptive Uses and Exceptions as outlined in this Agreement.

The application must identify the source body of Water by type (lake, river, stream or aquifer) and exact name. The exact location of the Water taking should be identified. This information should include a legal description including longitude and latitude citations.

D) Point of Taking/Pumping Site

The Application should indicate the legal entity that proposes to Withdraw the Water. The Application should also provide a legal description of the location of the actual Withdrawal. If the Withdrawal is to be from multiple wells, all well locations should be identified.

E) Means of Taking and Rate

Specify the method to be used for taking and the rate of Withdrawal (in gallons per minute or cubic feet per second or metric equivalents). If multiple wells or pump sites are to be used, attach explanation information.

F) Method of Measurement

Indicate method of measurement, for example: flow meter, timing device or other.

G) Point of Measurement

The Application should provide a legal description of the location of the measurement of Withdrawal and use.

H) Schedule of Withdrawal

The Application should include a monthly projection of Withdrawals by year and information regarding whether the proposed use would be continuous, seasonal or temporary.

I) Total Amount of Use

Expressed in millions of gallons per day or millions of litres per day/projected maximum use for any 90-day period.

J) Return Flow

See section 1. C)

K) Statement of Justification Analysis of Alternative Sources (*information necessary only if the Applicant is seeking an Exception*)

See section 1. G)

L) Environmentally Sound and Economically Feasible Water Conservation Measures and Status of Implementation

See section 1. E)

M) Assessment of Impacts

See section 1. D)

N) Map or Air Photo: Must be provided of the area of the Source Watershed and area of use, as appropriate.

O) Signature: Signature of official from applying entity.

PART 2: REVIEW OF WATER MANAGEMENT PROGRAMS

4. PARTY MANAGEMENT AND INFORMATION

It is anticipated that the majority of New or Increased Withdrawals from the Great Lakes Basin will be subject to the management or regulatory programs of the individual Parties. In order to make sure that there is consistent implementation of Water Withdrawal management or regulatory programs, the Parties have agreed that each Party will submit their individual Water management programs for Regional Review. The Parties will also submit an annual report describing the authorities and implementation of their individual program.

A) Initial Submission and Review

Each Party shall submit their Water management program to the other Parties for Regional Review and a Declaration of Finding. This review and Declaration of Finding process is a one-time event. The initial submission will be one year from the effective date Article 710, paragraph 2. After program review, the Party will submit an annual report to the Regional Body. Reports will be submitted on October 1st thereafter.

The individual Party program submissions shall include a narrative description of the components of its program, including:

- The legal authority upon which the program is based, including laws, regulations, and management programs;
- A description of the public participation requirements; and,
- The reporting, inspection and enforcement program elements.

The Regional Review of Party programs will include:

- Each Party's submission of program to other Parties;
- Thirty day submission review period; and,
- Regional Body meeting based upon evaluation of the submission of the Jurisdictions program for a Declaration of Findings.

While the review of each Party's program occurs once, any other Party, based upon review of the information in the annual reports may request the Regional Body conduct an evaluation of an existing Party program to ensure it is still operational with necessary authority. The Regional Body may make an additional statement of findings based upon this evaluation.

B) Components of Party Program Report

The following descriptive information shall be provided about each Party's program in annual report submissions:

- A statement of changes to the scope of program authority and requirements (submitted during the initial submission and updated only as necessary). If a Party is phasing in elements of its Water management program, a status report on their program progress shall be submitted; and,

- Information required in Article 301 (Information) on Withdrawals, Consumptive Uses and Diversions, including Exceptions, and a brief narrative description of program activities.

C) Water Conservation Programs

Each Jurisdiction will implement programs to promote Environmentally Sound and Economically Feasible Water Conservation Measures to minimize existing Great Lakes Basin Withdrawals, Consumptive Uses and Diversions. These programs may include:

- Permitting and enforcement
- Technical Standards
- Reporting requirements
- Technical assistance and guidance
- Public Education