

Technical Fact Sheet

Feuille de renseignements



Ministry of Natural Resources

Ministère des Richesses naturelles

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COMPARISON OF DRAFT GREAT LAKES CHARTER ANNEX AGREEMENTS RELEASED IN 2004 AND REVISED DRAFT AGREEMENTS RELEASED IN 2005

For the past year, Ontario has been involved in intense negotiations to toughen protections for the Great Lakes waters. We listened to the public comments and incorporated that input. Here is how the 2005 revised draft agreements are different.

KEY ISSUES	JULY 2004 DRAFT AGREEMENTS	REVISED DRAFT AGREEMENTS
Overarching principles of agreements	General commitment to protection, conservation, improvement of Great Lakes Basin water resources	Strengthened foundations of agreements including integrity of basin ecosystem; need for precautionary approaches in face of climate change uncertainties and cumulative effects; protection for future generations; recognition of commitment of Tribes and First Nations to protect Basin waters; recognition of Boundary Waters Treaty and role of federal governments & International Joint Commission
Control of water diversions	Regulation based on minimum standard plus regional review over a certain size	Banned with limited, strictly regulated exceptions based on environmental standard, plus additional restrictions
Exceptions	<ul style="list-style-type: none"> Exemption from agreements for operation of vehicles or vessels and short term fire fighting/humanitarian use Exemption from return flow requirement of standard for very small municipal uses within 12 miles of Great Lakes Basin boundary 	<ul style="list-style-type: none"> Exemption from agreements for operation of vehicles or vessels and short term fire fighting/humanitarian use as in earlier draft; NO exemptions from return flow requirements of standard; Exception from ban on diversions, subject to regulation based on environmental standard PLUS additional restrictions, for: <ul style="list-style-type: none"> - straddling communities (cities, towns that straddle Great Lakes Basin boundary or boundary between two Great Lakes watersheds) - communities in straddling counties (cities, towns in counties that straddle Great Lakes Basin boundary) - intra-basin transfers (water uses that cross the boundary between one Great Lake watershed and another Great Lake watershed)
Intra-basin diversions	<ul style="list-style-type: none"> Regulated based on minimum standard, with regional review for larger transfers Flexibility for location of return flow 	<ul style="list-style-type: none"> Excepted from ban Only permitted if there are no reasonable alternatives in watershed where water is needed, and water is returned to source Great Lake watershed for larger transfers Flexibility for location of return flow only for smaller transfers Regulated based on environmental standard, with additional restrictions

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Illinois Diversion at Chicago	<ul style="list-style-type: none"> • Illinois withdrawal and diversion remain under authority of U.S. Supreme Court Decree (currently capped at 3200 cubic feet per second) • Formal input of Ontario, Quebec on any proposed modification of Supreme Court Decree • Illinois subject to all other provisions of the agreement (e.g., water management and conservation programs, information sharing, science, cumulative impact evaluation etc.) 	<p>As in July 2004 draft PLUS:</p> <ul style="list-style-type: none"> • Illinois prohibited from seeking to withdraw basin water under agreements (e.g., through exceptions to ban on diversions) • A proposed diversion out of the territorial boundaries of the Great Lakes states and provinces would be subject to all terms of the agreement, including the prohibition of diversions
Management and regulation of water withdrawals and consumptive uses	<ul style="list-style-type: none"> • Management and regulation by states and provinces based on minimum standard • Up to 10-year phase-in for regulation of water withdrawals to allow jurisdictions that do not currently regulate water uses to establish programs • Proposals involving larger consumptive use subject to regional review. U.S. proposals would also require vote under compact agreement • Water management programs of states, provinces subject to regional review, annual reporting to regional body 	<p>As in July 2004 draft agreements, with required vote under U.S. Compact removed for consumptive use proposals (regional review maintained)</p>
The environmental standard	<p>Standard for all proposed diversions or withdrawals includes:</p> <ul style="list-style-type: none"> • Conservation of existing supplies • Use limited to reasonable quantities • Water returned to source Great Lake watershed (some flexibility) • No significant adverse or cumulative impacts • Water conservation • Compliance with applicable laws and agreements • Resource improvement project required for all diversions and large consumptive uses (e.g. wetland restoration project) 	<p>As in July 2004 draft except:</p> <ul style="list-style-type: none"> • Requirement for resource improvement project removed from standard due to risk of enabling “buying” approval for water uses by funding resource improvement; • NO exemptions from return flow requirement, with NO supplementary water from outside the Basin permitted due to risk of invasive species; • Compliance with applicable laws and agreements explicitly includes Boundary Waters Treaty
Return flow requirements	<ul style="list-style-type: none"> • For proposed diversions and withdrawals, water must be returned to source Great Lake watershed • Agreements silent on use of supplementary water from outside basin • Some flexibility in location of return flow, e.g., for intra-basin transfers • Exemption for small communities within 12 miles of basin boundary 	<p>As in July 2004 draft PLUS:</p> <ul style="list-style-type: none"> • NO exemptions from return flow requirement; • NO supplementary water from outside the basin permitted due to risk of invasive species; • Flexibility in location of return flow only for smaller intra-basin transfers. Larger transfers must return all water back to source Great Lake watershed • Return flow requirements for diversions excepted from ban explicitly require compliance with all applicable water quality standards
Resource improvement (restoration project requirement)	<ul style="list-style-type: none"> • Resource improvement project required for all diversions and large consumptive uses (see above) 	<ul style="list-style-type: none"> • Requirement for resource improvement project removed from standard due to risk of enabling “buying” approval for water uses by funding resource improvement • Replaced with broader commitment by states and provinces to Great Lakes restoration

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Water conservation	<ul style="list-style-type: none"> • Minimum standard for new or increased water withdrawals and diversions requires conservation measures or plan and conservation of existing water supplies • Broad commitment to conservation programs by states and provinces for existing and proposed water uses • Conservation programs subject to annual reporting and regional review 	<p>As in July 2004 draft PLUS:</p> <ul style="list-style-type: none"> • Minimum standard focuses on required conservation measures, rather than a plan • Strengthened commitment to conservation programs by states and provinces for existing and proposed water uses – including 5-year deadline for implementation; sharing of best management practices, performance standards, monitoring, research, etc.
Cumulative impact assessment	<ul style="list-style-type: none"> • Commitment to periodic regional assessment of cumulative impacts of water uses at least every 5 years or at request of one or more state/province, as foundation for review of minimum standard, procedures manual that accompanies the agreement and their application • Cumulative impact evaluation part of minimum standard for proposed new or increased water withdrawals, diversions 	<p>As in July 2004 draft PLUS:</p> <ul style="list-style-type: none"> • Periodic cumulative impact assessment enhanced through explicit recognition of climate change and precautionary approaches, use of up-to-date guidelines, development of evaluation mechanism • Commitment to review provisions for exceptions to ban on diversions as part of periodic cumulative impact assessment, resulting in withdrawal of exception provisions, more restrictive provisions, or maintenance of provisions
Relationship to Boundary Waters Treaty, federal governments, International Joint Commission	Boundary Waters Treaty, International Joint Commission recognized in preamble to agreement	Agreement, standard, procedures manual explicitly recognize authority of federal governments and International Joint Commission under Boundary Waters Treaty, which are unaffected and complemented by agreements
Regional Oversight	<p>Agreements commit to creation of a “regional body” to oversee agreement. Among their roles are:</p> <ul style="list-style-type: none"> • Review of regionally significant water use proposals based on the minimum standard • Resolution of disputes • Review of annual reports on state/ provincial water management and conservation programs • Periodic review of minimum standard and its application based on cumulative impact assessment • Coordination of consultation with basin Tribes and First Nations and public review of regionally significant proposals • Issuing public declarations of the results of regional reviews of proposals and state/provincial programs <p>U.S. interstate Compact also provides for a vote by Great Lake state governors on proposed U.S. diversions above a certain size and on large consumptive uses</p>	<p>As in July 2004 draft, except:</p> <ul style="list-style-type: none"> • General replacement of regional oversight on proposed diversions with a virtual ban on diversions • Regional oversight maintained for proposals for larger consumptive uses, intra-basin transfers and straddling communities, and ALL communities in straddling counties • Required vote under U.S. Compact removed for consumptive use proposals (regional review maintained)

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Recognition and role of First Nations	Commitment to consult with Basin Tribes, First Nations on regionally significant water withdrawal, diversion proposals	As in July 2004 draft PLUS: <ul style="list-style-type: none"> • Explicit recognition of Tribes and First Nations commitment to protection of Great Lakes Basin waters • Parallel dialogue with First Nations, Tribes ongoing
Public Participation	<ul style="list-style-type: none"> • Commitment to public notice, participation in review of regionally significant water withdrawal, diversion proposals • Declarations of regional body made public • Meetings of regional body open to public, proceedings publicly accessible 	Commitments maintained as in July 2004 draft
Information and Science	Commitment to: <ul style="list-style-type: none"> • Annual collection and sharing of information on water withdrawals and diversions • Mandatory annual water use reporting by water users • Collect information and develop a mechanism for cumulative impact evaluation • Periodic regional cumulative impact assessment • Gather information to improve the understanding of underground water and its relationship to the waters of the Great Lakes Basin 	Commitments maintained as in July 2004 draft
Averaging Period	Water use averaged over any 120-day period	Water use averaged over any 90-day period
Enforcement	<ul style="list-style-type: none"> • Commitment to process for dispute resolution • State-provincial agreement to be implemented through enforceable domestic legislation • U.S. Interstate Compact binding and enforceable (e.g. judicial review by states themselves and by persons who are aggrieved by decision made under the Compact) 	As in July 2004 draft PLUS <ul style="list-style-type: none"> • Agreement commits to mechanisms to permit a state or province to seek judicial review of another state or province's decision with respect to a withdrawal that is subject to the standard under the Agreement

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