

September 15, 2020

NOTICE

AGENCY:

The Great Lakes-St. Lawrence River Basin Water Resources Council (Council) and the Great Lakes-St. Lawrence River Water Resources Regional Body (Regional Body).

The Great Lakes St. Lawrence Governors & Premiers serves as the Secretariat to the Council and Regional Body.

ACTION:

Notice of: Council's proposed Rules of Practice and Procedure; Council's proposed Council Guidance; and, Regional Body's proposed Regional Body Procedures.

SUMMARY:

The Council under the Great Lakes-St. Lawrence River Basin Water Resources Compact ("Compact") is proposing to modify its Rules of Practice and Procedure and to amend its Guidance, and the Regional Body under the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement ("Agreement") is proposing to amend its Procedures guidance as described below:

1. ***Great Lakes-St. Lawrence River Basin Water Resources Compact Rules of Practice and Procedures.*** This document, proposed to be modified by Council as a regulation, includes proposed revisions addressing alternative dispute resolution and arbitration, and enforcement. Comments are being accepted on proposed revisions to the Rules of Practice and Procedure.
2. ***Great Lakes—St. Lawrence River Basin Water Resources Compact Guidance.*** This guidance document mirrors the Regional Body Procedures through Parts I and II with respect to review of a diversion subject to the Great Lakes-St. Lawrence River Basin Water Resources Compact, and also includes certain provisions applicable only to the Council. The Compact Council proposes amending the Guidance adopted on December 6, 2018. Comments are being accepted on proposed revisions to the Compact Guidance in Sections 200.2; 200.3; 200.4; and 200.5.
3. ***Great Lakes—St. Lawrence River Water Resources Regional Body Procedures.*** This guidance document contains the procedures that the Regional Body will follow during the review of a diversion subject to the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement through the issuance of its Declaration of Finding. This document mirrors the Compact Guidance for Parts I and II. The Regional Body proposes amending Interim Procedures adopted on December 6, 2018. Comments are being accepted on proposed revisions to the Regional Body Procedures in Sections 200.2; 200.3; 200.4; and 200.5.

All materials are available for review at <https://www.glsregionalbody.org/procedures-and-guidance/proposed-procedures-updates/> and <https://www.glscompactcouncil.org/procedures-and-guidance/proposed-procedures-updates/>.

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Copies may also be obtained by contacting the office of the Great Lakes St. Lawrence Governors & Premiers at the address noted under “For Further Information Contact” below.

DATES:

Anyone wishing to comment on the proposed revised Rules of Practice and Procedure; proposed revised Council Guidance; and proposed revised Regional Body Procedures; must file such comments at the addresses noted below no later than 5:00 p.m. EDT October 15, 2020.

Due to Covid-19, a virtual-only Public Hearing will be held on the proposed revised Rules of Practice and Procedure; proposed revised Council Guidance; and proposed revised Regional Body Procedures on October 13, 2020 beginning no sooner than 2:00 p.m. EDT, and will end when all present have had an opportunity to provide comments.

Participation is available by registering at <https://attendee.gotowebinar.com/register/1419399551651881999>.

ADDRESSES:

Comments should be submitted to the Council and/or Regional Body electronically at comments@gsgp.org. Comments may also be submitted at:

Great Lakes St. Lawrence River Water Resources Council
Great Lakes St. Lawrence Water Resources Regional Body
c/o Great Lakes St. Lawrence Governors & Premiers
20 N. Wacker Drive, Suite 2700
Chicago, Illinois 60606

FOR FURTHER INFORMATION CONTACT:

Peter Johnson, Deputy Director
Great Lakes St. Lawrence Governors & Premiers
20 N. Wacker Drive, Suite 2700
Chicago, Illinois 60606
Tel: 312/305-4133
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Responsible Official: Peter R. Johnson, Deputy Director, is the official responsible for the development of the Council’s Rules of Practice and Procedure and the guidance documents discussed herein.

SUPPLEMENTARY INFORMATION:

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PART I Introduction and Background

The Great Lakes-St. Lawrence River Water Resources Regional Body was created on December 13, 2005, when the Great Lakes Governors (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin) and the Premiers of Ontario and Québec signed the *Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement* (“Agreement”). The Agreement details how the States and Provinces will work together to manage and protect the Great Lakes—St. Lawrence River Basin. It also provides a framework for each State and Province to enact programs and laws protecting the Basin.

The Great Lakes-St. Lawrence River Basin Water Resources Council was established on December 8, 2008, when the *Great Lakes—St. Lawrence River Basin Water Resources Compact* (“Compact”) became State and federal law, enacted by the federal government as U.S. Public Law No: 110-342, October 3, 2008. The Compact details how the States will work together to manage and protect the Great Lakes—St. Lawrence River Basin. It also provides a framework for each State to enact programs and laws protecting the Basin.

Both the Agreement and the Compact include provisions that allow both the Regional Body and Compact Council to adopt rules and procedures for managing their authorities. To that end, on December 6, 2018, the Regional Body adopted Procedures and the Council adopted Guidance and rules of Practice and Procedure. The Procedures and Guidance have provided procedures for regionally reviewing proposals to divert water from the Great Lakes-St. Lawrence River Basin. The Council Rules of Practice and Procedure describes the procedures for any administrative hearing, how modifications may be made to Council decisions, and the process to be used for Council rule making.

Procedures Update Team

On December 6, 2018, the Council and the Regional Body tasked the Procedures Update Team (“Team”) with drafting Phase II revisions to the Regional Body Procedures and Council Guidance for the Regional Body and Council’s consideration and potentially modifying the Rules of Practice and Procedure for the Council’s consideration. Each member of the Regional Body and the Council has appointed at least one individual to the joint Team.

Advisory Committee, Resource Group, Observers; Tribes and First Nations

The existing Regional Body/Compact Council Advisory Committee, Resource Group, and Observers, as well as Tribes and First Nations have provided input and feedback to the Team at

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specific times throughout the process. In addition, from May 18 through June 17, 2020, the public provided feedback on initial drafts.

The Council and Regional Body will accept written comments from the public on their respective proposed revisions to Council Rules of Practice and Procedure; Council Guidance; and, Regional Body Procedures until the deadline stated above. After considering written comments and comments made at the public hearing scheduled as noted above, on or about December 8, 2020, the Council and Regional Body will conduct meetings open to the public to consider and potentially adopt the final revisions to the Council Rules of Practice and Procedure; Council Guidance; and, Regional Body Procedures.

Part II Summary of Proposed Regional Body Procedures and Council Guidance

The statements below provide general summaries of some of the proposed revisions to the Regional Body Procedures and Council Guidance.

Section 200.2 Preliminary Actions Prior to the Submission of an Application. (Council Guidance Only)

- The phrase “or Regional Review” was added to the second to last sentence.

Section 200.3 Originating Party Powers and Duties; Applicant’s Submission to Originating Party

- Provides clarification on timelines that should be followed.
- Includes a process for notifying the other Parties when an Originating Party receives an Application for a New or Increased Withdrawal or Consumptive Use if the other Parties are substantially likely to consider it important to evaluate whether the Proposal contained in the Application may be regionally significant or precedent setting and warrants regional review.
- Includes a process for the other Parties to ask the Originating Party for additional information after receiving Diversion, Withdrawal or Consumptive Use Application notices from the Originating Party.

Section 200.4 Submission of Application to Council and Regional Body

- Provides minor clarifications.

Section 200.5 Consideration of regionally significant or potentially precedent setting Proposals.

- Provides a process for initiating Regional Review when a majority of Regional Body members determine that a Proposal is regionally significant or potentially precedent setting.
- Provides a process for initiating alternative means of collaboratively reviewing an application containing a Proposal that is regionally significant or potentially precedent setting

Section 500 Alternative Dispute Resolution (Regional Body Procedures Only)

- Describes the procedures that apply to alternative dispute resolution

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Part III Summary of Proposed Revisions to Council Rules of Practice and Procedures

The statements below provide general summaries of the proposed revisions to the Council Rules of Practice and Procedure.

Section 500 Alternative Dispute Resolution

- Describes the procedures that apply to alternative dispute resolution conducted pursuant to Section 7.2 of the Compact.

Section 501 Arbitration Procedures

- Describes the process to be used to initiate arbitration procedures, and the arbitration procedures to be used.

Section 600 Enforcement

- Describes the process to be used to initiate enforcement pursuant to Section 7.3.2.a of the Compact.

Section 700-704 Rulemaking Procedures

- Renumbers the rulemaking procedures