

Power Facility Siting and Water Resources

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Water Quantity

- Common Law is inadequate to safeguard water quantity
- Reasonable Use Doctrine

Great Lakes Compact

- Background and brief discussion of what the Compact does and does not require
- 100,000 GPD threshold only applies to registration and reporting
- 100,000 GPD threshold may be too high
- Compact does not require states to establish consumptive use thresholds

Example of State Implementation: The Michigan Water Withdrawal Act

- Ensures compliance with Compact's Decision-making Standard
- Defines adverse resource impact
- Water Withdrawal Assessment Tool

Suggestions to Strengthen the Compact's Water Quantity Protections

- Condition approval of withdrawals on environmental review, not just registration and reporting
- Consider lowering threshold level
- Set Consumptive Use ceiling
- Increase sanctions for non-compliance

Making Changes Under the Compact

- State Implementation
- Compact Council review of state conservation and efficiency measures every 5 years
- In 2013, and every five years thereafter, the Compact Council will review state programs to ensure that the Compact provisions are being met, and make suggestions for more protective water management, conservation and efficiency measures.
- If a state is not living up to the terms of the Compact, that state is subject to action by the Compact Council, and/or litigation in federal court from another Party state or other interested parties.

316(b) Regulations

- Minimize mortality to fish that come in contact with cooling water intake structures from power plants
- EPA proposed rule in March, final action on the rule by July 27, 2012
- New power plants will have to use closed-cycle cooling, a system that draws less water and ensnares less fish
- Will require existing facilities to work with states to meet the new requirements, but will not require the building of new cooling towers

Water Quality and Siting Concerns

- EPA Proposed 316(b) rule for cooling water intake structures
- Wetlands regulation under Clean Water Act post *Rapanos*
- State and local permitting and siting decisions may lack environmental review component

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