

Draft for WRC Vote

Massachusetts Water Resources Commission
Proposed Interim Policy
Guidelines for the Interpretation of 313 CMR 4.04(3) and 4.04(4)
Request for Determination of Insignificance

As Applied to Transfers Primarily Derived From
Lakes, Ponds, Reservoirs or Other Impoundments

December 11, 2014

The Interbasin Transfer Act, MGL Chapter 21 § 8C, allows the Water Resources Commission to establish criteria to determine insignificance based upon the impact to the donor basin.

Since the promulgation of the original regulations in 1986, the Commission has realized that review of requests for Determination of Insignificance involving water supply derived primarily from lakes, ponds, reservoirs or other impoundments involve different considerations from transfers derived primarily from streamflow. The existing regulations, 313 CMR 4.04(3) and 4.04(4), which list the information needed to review a request, and the criteria for the Commission to evaluate a request for determination of insignificance did not anticipate these types of transfers.

An interagency work group has been working throughout 2014 to review and revise 313 CMR 4.00, the Interbasin Transfer Act regulations. It appears that the process to promulgate these revised regulations may take longer than anticipated. In the meantime, in order to address transfers of these types that may arise, the Commission adopts the following guidelines for the review and evaluation of transfers derived primarily from lakes, ponds, reservoirs or other impoundments. These proposed guidelines are tailored to transfers that are not primarily derived from streamflow, but they still require a proposed transfer to meet a rigorous review standard to demonstrate insignificance.

In addition to providing the information requested in 313 CMR 4.04(3):

- Water Supply transfers primarily derived from lakes, ponds, reservoirs or other impoundments either directly or through groundwater withdrawals, shall provide the delineated drainage area of the water body and its area in square miles.

In order to evaluate water supply transfers primarily derived from lakes, ponds, reservoirs or other impoundments either directly or through groundwater withdrawals, in addition to the criteria listed in 313 CMR 4.05(a), (b), (e) and (f) the WRC shall use the following criteria:

- That the cumulative annual amount of the transfer including the proposed amount, in all cases, is less than one percent (1%) of the average annual precipitation on the drainage area of the water body, and five percent (5%) of the drought year inflow to the water body.
- That consideration has been given to measures to protect instream flows, as described in 4.04(3)(i), and where appropriate, any such measures proposed as part of the application.

This policy will remain in effect until such time as revisions to the Interbasin Transfer Act regulations, 313 CMR 4.00, are approved and promulgated, at which time the revised regulations will govern all reviews for a determination of insignificance.