Interbasin Transfer Act
Proposed Revisions to Regulations

MASSACHUSETTS WATER RESOURCES COMMISSION

APRIL 10, 2014 UPDATE

Why are changes needed?

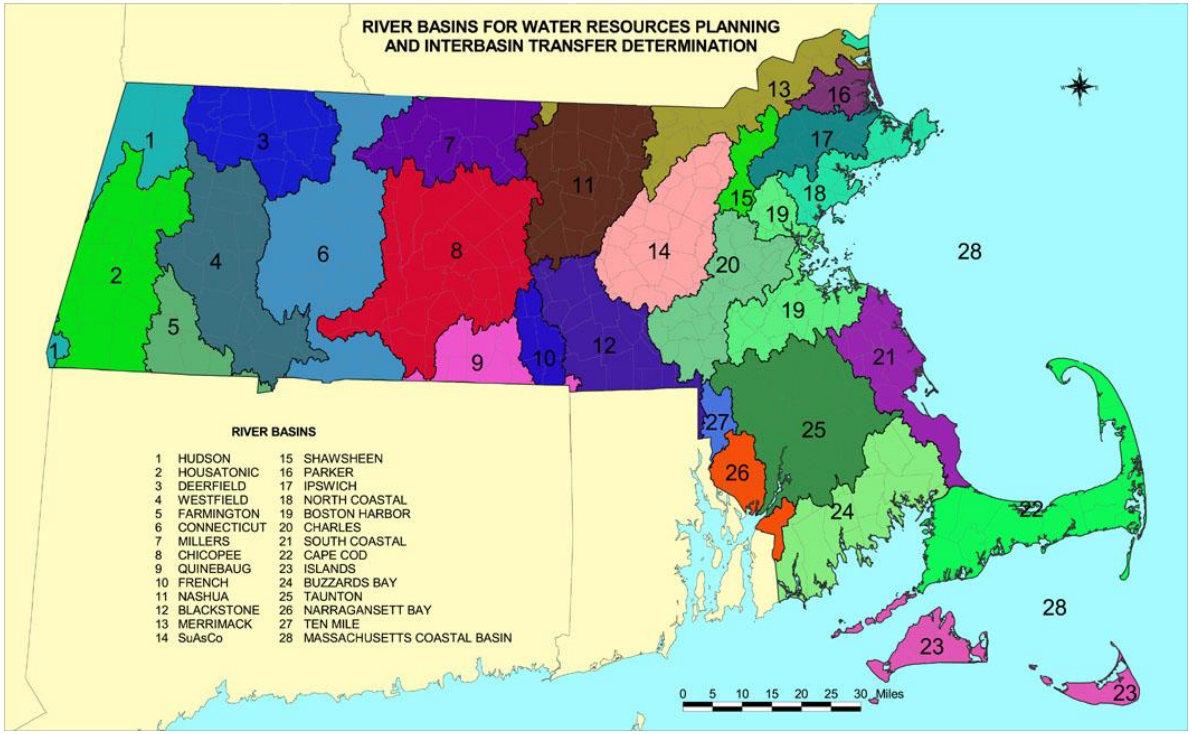
Incorporate 30 years of experience

Incorporate policy and practice into regulation where appropriate

Incorporate the latest science

Bring the regulations into the 21st century

Streamline where possible, while maintaining the high level of environmental protection mandated by the Act



Review of Major Changes

- Revise Criteria for Insignificant Transfers
- Eliminate Local Water Resources Management Plan
- Add consolidated donor basin application
- Separate procedures for Applicability and Insignificance
- Separate the Boston Harbor Basin into three basins and South Coastal Basin into two basins
- Third public hearing (policy change)

Determinations of Insignificance

Proposal: Two insignificance categories based on transfer size transfer

- <15,000 gpd
  - *Proposed Regulation language:*

    313 CMR 4.04(4)(j) If the proposed transfer is less than or equal to 15,000 gallons per day, after review of the information submitted, the Commission, may, **at its discretion, and upon its action**, find the transfer to be insignificant without further analysis.

Determinations of Insignificance

Proposal for >15,000 gpd, but < 1mgd:

- Revise extremely strict requirement limiting transfer to 5% of instantaneous flow (occurs once in 40 years)
- Expand criteria to address different types of transfers
  - Currently addresses river flows
  - Propose to address lakes, reservoirs, groundwater, wastewater

Reasons:

- More accurately estimated using StreamStats
- Tailored to different types of transfers
- Still provide a high level of environmental protection

Determinations of Insignificance

Proposed Criteria:

- Tailored Criteria
  - **Wastewater:** <5% of unimpacted/unaffected 95th percentile flow
  - **Groundwater/River Intake:** <5% of unimpacted/unaffected 95th percentile flow
  - **Surface water (lakes, reservoirs):** cumulative annual amount of the additional flow to be transferred must be less than 1% of annual rainfall and 5% of drought year inflow
- Consider proposed measures to protect or enhance streamflow
- Cumulative impact criterion enhanced: "The proposed transfer will be evaluated cumulatively with authorized and proposed transfers against relevant criteria of this section, in relation to previously approved transfers from the source."

Determinations of Insignificance

- Unchanged insignificance criteria:
  - Less than 1 mgd
  - Protection of 7Q10 flow, when applicable
  - Protection of special resource values

Local Water Resources Management Plan

- Proposal: Eliminate local water resources management plan
  - Requirements redundant to existing planning efforts (remnant of 1980's, before suppliers and state were doing extensive planning)
  - Not necessary for review of environmental and water supply system management criteria under the ITA
  - Not required by the Act
  - If ITA application is denied, WRC could recommend comprehensive planning before re-applying

Consolidated Donor Basin Application

- Proposal: Provide application process for regional water suppliers to receive permission to transfer water before identifying all customers
  - Streamlined donor basin application for a specified transfer amount eliminates need to duplicate donor basin portion in future applications
  - Streamlined receiving basin application
    - Purchasers of 1 mgd or greater must meet the applicable receiving basin criteria
    - Purchasers of <1 mgd must demonstrate ongoing water conservation program

Other Proposed Changes

- Separate procedures for Determinations of Applicability and Insignificance
  - Different processes need different information
  - Language approved by WRC in 2001
- Separate Boston Harbor Basin into 3 basins and South Coastal Basins into 2 basins
  - To be consistent with proposed revisions to the Water Management Act regulations
- Modernize public notification
  - Require notification in electronic media (Environmental Monitor and other media generally available in both the donor and receiving basins)
  - Eliminate costly newspaper ads

Policy Change for WRC Consideration

Proposal: Eliminate third public hearing

- Hearing on Staff Recommendation adopted as policy in 1998
- Not required by the Act
- Poorly attended
- WRC meetings also serve to collect public opinions on the Staff Recommendations
- Written public comment will still be solicited
- Two public hearings required by the Act will still be held

Next Steps

- Comments on the April 10, 2014 Redline Regulation Revisions **due by 8am April 22, 2014**
- Email comments to michele.drury@state.ma.us; cc: kathleen.baskin@state.ma.us
- Potential interim WRC meeting to discuss comments/concerns with the revised regulations (April 28th or May 1st)
- Vote in May on redline of regulations
- May/June: Governor's Office review
- July/August: Draft regulations issued for public comment
- Fall: WRC vote on final regulations