# Interbasin Transfer Act Proposed Revisions to Regulations

MASSACHUSETTS WATER RESOURCES
COMMISSION
MAY 8, 2014

#### **Presentation Outline**

- Summary of outreach meetings and comment letters
- Staff proposed revisions in response to comments
- Next steps

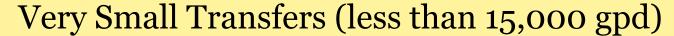
## Outreach Meetings with Stakeholders

- April 30: MA Water Works Association\*
- April 30: MA Water Resources Authority\*
- May 1: Charles River Watershed Association\*
- May 2: Western MA
  - MA Rivers Alliance
  - Nashua River Watershed Association
  - Connecticut River Watershed Council
  - MWRA Water Supply Citizens Advisory Committee
  - Robie Hubley (Private Citizen, retired from Mass Audubon and WSCAC)
- \*Also provided written comments

### Topics covered by comments

- 1. Determinations of Insignificance
- 2. Local Water Resources Management Plan
- 3. Splitting Boston Harbor and South Coastal Basins
- 4. Integration with SWMI
- 5. Timing/Schedule
- 6. Consolidated Donor Basin

## **Insignificance- Summary of Comments**



- 15,000 gpd not scalable to watershed size and type
- Not enough donor basin information to assess impacts
- Those below 15,000 gpd may not look at offsets

Overall feedback: moderate support to strong opposition

#### Staff Recommendation

• Lower threshold to 10,000 gpd and require description of any special resource values potentially impacted

## **Insignificance - Additional Comments**

- Addition of eelgrass and shellfish beds as special resource values to be considered under the criteria for insignificance (CZM comments – received at the April WRC meeting and through written comments)
- Addition of fishery resources and wetlands as special resource values to be considered under the criteria for insignificance (DFG comments – received at the April WRC meeting)

#### Staff Response

 Both of these suggestions will be incorporated into the regulations

#### Elimination of Local Water Resources Management Plan-Summary of Comments

- Concern that removal will eliminate an important concept
- Concern that removal may impact DEP WMA requirements
- Recognition that WRC could address this in policy

#### Staff Recommendation

- Move forward with elimination of criterion, but require applicant to demonstrate how transfer supports long range water resources plans
- WRC discuss policy on how to better support goal

#### Splitting Boston Harbor and South Coastal Basins-Summary of Comments

- Support for the separation: "better reflects reality"
- Concern that the ITA will be triggered when it had not previously, want analysis of implications
- Will WRC grandfather existing transfers?

#### Staff Recommendation

- Move forward with splitting as proposed
- Assure that existing transfers between previously single basins will be grandfathered
- Consult with DEP to report on implications of splitting

#### Integration with SWMI- Summary of Comments

- SWMI Science should inform Viable Source analysis
- WRC should allow "double counting" of mitigation done under SWMI
- Concern that ITA decisions could have unintended SWMI impacts for water suppliers

#### Staff Recommendation

• Reconvene interagency workgroup to discuss above issues and report back to WRC and public

## Timing/Schedule-Summary of Comments

- Concern that stakeholders should have been involved earlier in the process
- Difficult to focus on ITA with current SWMI demands on time and resources

#### Staff Response

- Conducting targeted outreach sessions
- Postpone vote until June
- Be responsive to concerns whenever possible

## Consolidated Donor Basin

## PROPOSED APPROACH AND COMMENTS RECEIVED

#### Consolidated Donor Basin- Summary of Comments

- General support for one-time donor basin review
- Range from strong opposition to moderate support for separate receiving basin pathway for less than 1 mgd
- Range from strong opposition to strong support for reservoir release requirements
- Range from opposition to support for time limit on donor basin analysis for unsold water

#### Staff Recommendation

- Eliminate separate receiving basin pathway for less than 1mgd
- Under full review, include language parallel to the proposed insignificance language on protecting instream flows

## Proposed Addition to Full Review- Consideration of protecting instream flows

Propose adding language under full review parallel to proposed insignificance language in 4.04:

#### Information Required -

"(4)(m)Any proposed flow management provisions, flow protection thresholds or other measures to minimize or offset impacts of the transfer on streamflows."

#### Criteria -

"(5)(f)That consideration has been given to measures to protect instream flows, as described in (4)(m), and where appropriate, any such measures are proposed as part of the application"

## Consolidated Donor Basin Application

- Proposal: Provide application process for regional water suppliers to receive permission to transfer water before identifying all customers
  - Streamlined one-time donor basin application for a specified transfer amount eliminates need to duplicate donor basin portion in future applications
  - Donor and Receiving Basin Criteria same as for any full review, but may be completed at different times
  - Time Limit on WRC Acceptance of Donor Basin Criteria Concept: Determination of volume available from the donor basin will be effective for 20 years from date of issuance; unsold volume will be evaluated based on review of donor basin conditions and relevant science 10 years from date of issuance

## **Donor Basin Requirements**

- MEPA Compliance
- Reasonable instream flow
- Pumping Test (if a Groundwater Source)
- Cumulative Impacts

### Receiving Basin Requirements

- MEPA Compliance
- Identify and develop all viable sources
- Water Conservation
- Comprehensive forestry management program (on *existing* surface water sources)

## Next Steps

- Vote to move redline into the revision process: June
- Governor's Office review: June/July
- Draft regulations issued for public comment: August/September
- WRC vote on final regulations: Fall 2014
- Update ITA Guidance, Performance Standards and application materials to reflect the revised regulations: Ongoing