



THE COMMONWEALTH OF MASSACHUSETTS
WATER RESOURCES COMMISSION
100 CAMBRIDGE STREET, BOSTON MA 02114

To: MA Water Resources Commission
From: WRC Staff
Re: Interbasin Transfer Act Regulations (313 CMR 4.00) Revisions
Date: 8 September 2016

The Interbasin Transfer Act regulations were first promulgated in December 1986 and have never been officially updated. In 2013 and 2014, Staff worked with an interagency group to propose updates that incorporate the many policy interpretations the WRC developed over the years to address gaps in the existing regulations, as well as incorporating current environmental thinking and practice.

In 2014, Staff made five presentations to the WRC on the proposed revisions to the Interbasin Transfer Act regulations (313 CMR 4.00). Since that time, there have been administrative reviews that have led to the regulations being released for WRC vote to proceed to public comment. To refresh your memory and assist you in review of the changes to the regulations, this memo provides a summary of the proposed major changes and explains the rationale for each.

Major Changes and Need:

1) Separated the Applicability and Insignificance Procedures

The original regulations (313 CMR 4.04 (2)) have these two procedures combined, but the information required for each is very different. In 2001, the WRC approved language for its Interbasin Transfer regulations which separated these procedures. This separation has been incorporated into the regulations.

2) Tailored the data required and criteria for Insignificance to different types of transfers

The Commission typically receives requests for determination of insignificance for:

- Wastewater transfers
- Groundwater transfers
- Transfers mainly impacting a lake or reservoir

The current regulations address all requests for determination of insignificance as though they involved direct river withdrawals, which are rarely proposed. As a result, the information required and the criteria used to evaluate transfers are often not relevant to the proposed project. The proposed revisions provide criteria suited to each type of transfer the WRC may be asked to evaluate.

3) Added option under the Insignificance Review for smaller transfers

Smaller Transfers (less than or equal to 10,000 gallons per day) are typically applications by small businesses or single-building owners. The existing requirements under the regulations can be cumbersome and costly for projects of this scale. A separate pathway that is still environmentally protective is being proposed for those small transfers that can be presumed to have an insignificant impact on the donor basin, without the more rigorous submittal requirements. The Commission

retains the ability to seek a higher level of review if it determines that the small transfer could have a significant impact on the donor basin.

4) Added Regional Water Supply Approval Process (313 CMR 4.10)

A provision has been added to allow Regional Water Suppliers to demonstrate compliance with the donor basin criteria of the Act, and then sell water to communities which, at a later date can demonstrate compliance with the receiving basin criteria of the Act. Receiving area communities would apply to the WRC for approval of their portion of the transfer as needed. This process will eliminate the need for repeated donor basin review for the same applicant each time a new receiving community is added to the system.

5) Eliminated the requirement for a Local Water Resources Management Plan

When the regulations were first promulgated, most water suppliers were not developing comprehensive plans for their water supplies. Since then, most water suppliers have implemented extensive planning programs, and the requirement to provide this particular type of document is outdated and redundant. However, to continue to ensure interbasin transfers occur within the context of long-range planning, under the Application section, a requirement that the proponent an evaluation of how the transfer supports its long-range water resources planning has been added.

6) Specified analyses and other requirements for wastewater transfers

The existing regulations do not fully address information or analyses needed for the review of projects involving the interbasin transfers of wastewater. Since 1987, the WRC has been relying on guidance developed for these reviews; this guidance is being incorporated in the regulations.