

THE MASSACHUSETTS OCEAN MANAGEMENT PLAN

Frequently Asked Questions

Q: What is the Massachusetts Ocean Management Plan?

A: In response to the growing threats and competing uses of Massachusetts' state ocean waters, The *Massachusetts Oceans Act* was signed into law by Governor Deval Patrick on May 28, 2008. The *Oceans Act* provides the Secretary of the Executive Office of Energy and Environmental Affairs with the authority and responsibility to see that the management of state ocean uses is conducted in a balanced and thoughtful way. The *Oceans Act* requires the promulgation of a comprehensive Ocean Management Plan for Massachusetts' ocean waters by December 31, 2009 — putting the Bay State at the forefront, nationally, of responsible ocean stewardship.

Q: Why does Massachusetts need a comprehensive Ocean Management Plan?

A: We can no longer afford to address the many proposed new uses of the Bay State's ocean — including new liquefied natural gas terminals, offshore renewable energy facilities, sand and gravel mining, and deepwater aquaculture — on a case-by-case basis. The Ocean Management Plan will balance these commercial interests with other priorities, including the provision for continued recreational and commercial uses while protecting endangered species like right whales and other sensitive wildlife and habitats.

Q: What area falls under the jurisdiction of the Ocean Management Plan?

A: The Massachusetts Ocean Management Plan will address the state's "blue water" area, extending 1/3 of a mile offshore from low tide, out 3 miles to the state-federal ocean boundary. Projects located in federal waters that may affect state waters may also be guided by the plan.

Q: Have other states developed a comprehensive Ocean Management Plan like this?

A: Not yet. The need for improving ocean governance was a strong recommendation of both the President's U.S. Commission on Ocean Policy and the Pew Ocean Commission. Other states, such as Rhode Island, have addressed the management of specific uses in their ocean waters. However, Massachusetts is the first state in the nation to statutorily require a comprehensive Ocean Management Plan.

Q: Will the Ocean Management Plan stop Cape Wind?

A: No. The Ocean Management Plan places no additional regulatory restrictions on the proposed Cape Wind Energy Project, which lies four miles off the Massachusetts coast in federal waters. As Cape Wind was already in the midst of its state and federal permit review process, the legislature grandfathered it and other projects that have reached a similar stage in the permitting process.

Q: Will the Ocean Management Plan alter the fisheries management planning process?

A: No. The Ocean Management Plan will not alter the authority of the Massachusetts Division of Marine Fisheries or its Marine Fisheries Advisory Commission. The *Oceans Act* states that the Division of Marine Fisheries shall have sole responsibility for developing and implementing any fisheries management plans or fisheries regulations. Marine fisheries shall be managed in compliance with the applicable rules and regulations of the Division of Marine Fisheries and federal or interstate fishery management plans.

Q: Will the Ocean Management Plan restrict commercial or recreational navigation?

A: No. The Ocean Management Plan will not change existing regulatory authorities on the move-

ment of commercial or recreational vessels. The United States Coast Guard governs navigation in ocean waters, and federal rules preempt state laws. The *Oceans Act* clarifies that nothing contained in the Ocean Management Plan shall be construed to prohibit the transit of commercial fishing and recreational vessels in Massachusetts' ocean waters.

Q: How will the Ocean Management Plan affect the construction of energy and/or telecommunications facilities and infrastructure in state waters?

A: The *Oceans Act* grants the Commonwealth clear direction and stronger authority for guiding uses and activities within state waters, including the construction of utility facilities and infrastructure. In areas outside the Cape Cod Ocean Sanctuary, the Ocean Management Plan will allow certain utility construction projects that meet applicable local, state, and federal requirements and which are consistent with the Ocean Management Plan including infrastructure facilities associated with the transmission or distribution of electricity or telecommunications services. The *Act* continues the longstanding prohibition on the building of any structure on the seabed or under the subsoil or construction or operation of offshore or floating electric generating stations in areas designated as ocean sanctuaries, except for (a) the emergency or temporary supply of energy; or (b) "appropriate-scale" renewable energy facilities in areas other than the Cape Cod Ocean Sanctuary. In recognition of the public benefits and need for clean renewable energy supplies, the *Oceans Act* allows for appropriate-scale renewable energy systems in all state waters except the Cape Cod Ocean Sanctuary, providing that any such facility meet all applicable state, local and federal requirements and is consistent with the Ocean Management Plan.

Q: How does the Ocean Management Plan affect the Ocean Sanctuaries Act?

A: Oversight of the Oceans Sanctuaries Act shifted from the Department of Conservation and Recreation to the Office of Coastal Zone Management. Except for the Cape Cod Ocean Sanctuary, where no changes were made by the *Oceans Act*, projects prohibited in the other four Sanctuaries will continue to be prohibited except for offshore renewable energy projects that are of "appropriate scale" and consistent with an Ocean Management Plan.

Q: Does the Oceans Act create a new bureaucracy that might delay or obstruct activities in state ocean waters?

A: No. In fact, the Ocean Management Plan will complement the current permitting process. Under the *Oceans Act*, the Secretary of Energy and Environmental Affairs is empowered to oversee, coordinate, and implement the Ocean Management Plan, assisted by a seventeen-member Ocean Advisory Commission, made up of state agency representatives, state legislators, a municipal official, and environmental, fishing, and marine industry stakeholders and advised by a nine-member Ocean Science Advisory Council. The Ocean Management Plan will not establish new regulatory processes, but rather guide regulatory decision-making along consistent principles and standards.

Q: Is there funding to implement the Oceans Act?

A: Yes. The *Act* establishes an Ocean Resources and Waterways Trust Fund as a dedicated funding source to restore or enhance marine habitat, improve public navigation, conduct fisheries restoration and management programs, and address environmental enhancement, restoration, and management of ocean resources.

Additionally, as the Ocean Management Plan is being formulated, a privately funded Massachusetts Ocean Partnership has been formed to assist the state in scientific research, data collection, and public outreach.

To learn more about the Massachusetts Ocean Management Plan visit: www.massocceanaction.org or contact:

Matthew Boger • Massachusetts Ocean Coalition
(617) 574-3399
mattboger@yahoo.com

Priscilla Brooks • Conservation Law Foundation
(617) 850-1737
pbrooks@clf.org

Jack Clarke • Mass Audubon
(617) 523-8448
jclarke@massaudubon.org

Susan Olcott • Ocean Conservancy
(207) 879-5444
solcott@oceanconservancy.org

