

NOVEMBER, 2009

## **RIDING THE WAVE OF OCEAN MANAGEMENT PLANNING**

On July 1, 2009, the Secretary of Energy and Environmental Affairs (EEA) released the Draft Massachusetts Ocean Management Plan, a highly anticipated, first in the nation effort to balance protection of estuarine and marine resources with traditional and emerging human uses of our coastal waters. The Plan covers waters 1,500 feet seaward of mean high water to three nautical miles offshore in five areas, mostly within ocean sanctuaries. Under the erudite leadership of Deerin Babb-Brott, the Assistant Secretary for Oceans and Director of Coastal Zone Management (CZM), EEA successfully navigated our busy coastal waters, using the 15 principles in the Oceans Act of 2008 and cutting-edge marine spatial planning techniques to produce an almost coffee table quality, yet user –friendly, two volume treatise with comprehensible analysis, colored maps and figures. We now have a state-of-the-art tool to review and permit proposed ocean uses in a way which should minimize potential conflicts between growing coastal economies, the health of coastal ecologies and protection of ocean resources.

The Plan presents a Compatibility Assessment of uses, activities and facilities allowed by the Ocean Sanctuaries Act and determines if they are incompatible with marine resources and other uses based on function (e.g. two uses that can't physically occupy the same location), potential impacts to natural resources which have a special legal status (e.g. eel grass), and potential impacts to values protected in the Oceans Act (e.g. high fishing value). These results were mapped using available data, incorporating both spatial siting standards and performance-based measures. Special, sensitive or unique marine life and habitats (SSU) are protected using a new method, the ecological valuation index (EVI). The Plan manages the uses, activities and facilities in three categories: a Prohibited Area (mostly the Cape Cod Ocean Sanctuary); Renewable Energy Areas (two commercial Wind Energy Areas for 150 3.6 KW turbines in 2% of the 2,145 sq. mile planning area south of the Elizabeth Islands and Nomans Land); and a Multi-Use Area (the largest area allowing uses based on siting and performance standards that direct new uses away from high value resources and water dependant uses). The Multi-Use Area allows most uses including pilot/ community scale wind energy facilities, aquaculture, cables and pipelines, and sand and gravel extraction for beach nourishment.

The Oceans Act does not create a new regulatory program. Instead, the Plan will be implemented through existing and modified environmental review and permitting regulatory programs. For coastal projects within a mapped SSU area that require an EIR under MEPA, there is a new MEPA standard of “avoid, or demonstrate that there is no less damaging practicable alternative, or demonstrate that data does not accurately characterize the resource or area.” For projects which may impact existing water dependent uses, if no feasible alternative exists, under MEPA the proponent will need to identify potential *economic* impacts to significant resources and activities and develop compensatory mitigation. All state certificates, licenses, permits and approvals shall be consistent to the maximum extent practicable with the Plan.

Public comments can be submitted to CZM by November 23, 2009. The Final Plan will be promulgated on December 31, 2009. It may undergo routine updates to incorporate new geo-spatial data and information on uses and resources. Changes in performance standards will require more extensive peer and public review processes. The Plan will be formally updated every five years.

On June 12, 2009, President Obama issued a Memorandum to the Executive Departments and Agencies requiring a new national policy for oceans, coasts and the Great Lakes. An Inter-agency Task Force was created and charged with developing a national policy to protect, maintain and restore and enhance ocean and coastal resources and economies, and a framework for coastal and marine spatial planning. The Interim Report on a Proposed National Policy for Stewardship of the Ocean was issued on September 10, 2009. A second report on coastal and marine spatial planning is due to the President by December 9, 2009 and will surely be influenced by the Draft Massachusetts Plan.

The 2 volume Draft Plan and six Technical Reports can be found on the Massachusetts Ocean Plan website, which is linked as a Key Initiative on the EEA homepage at [www.mass.gov](http://www.mass.gov).

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