

THE MASSACHUSETTS OCEAN ACT

Frequently Asked Questions

Q: What is The Massachusetts Ocean Act?

A: Responding to the growing threats and competing uses of Massachusetts' state ocean waters, Cape & Islands Senator Robert O'Leary introduced The Massachusetts Ocean Act. The Act provides the Secretary of the Executive Office of Environmental Affairs with the authority and responsibility to see that management of our ocean uses is conducted in a balanced and thoughtful way. Specifically The Act calls for the creation of a comprehensive ocean management plan for Massachusetts' ocean waters — something that would put the Bay State at the forefront of responsible ocean stewardship.

Q: Why does Massachusetts need a comprehensive plan for its ocean?

A: Simply put, we can no longer address proposed new uses of the Bay State's ocean — including new liquefied natural gas terminals, offshore wind and tidal energy facilities, sand and gravel mining, desalination plants, and deepwater aquaculture — on a case-by-case basis. We need a comprehensive plan to help balance these commercial interests with other priorities of the Bay State including personal recreation and protection of endangered species like right whales and sensitive coastal and ocean habitats.

The growing need to balance these important needs prompted creation of the Massachusetts Ocean Management Task Force — a 23-member team of state and local elected officials, representatives of state and federal agencies, conservation organizations, fishing associations, and academic institutions. The Task Force recommended that a new and comprehensive law be passed to give public agencies clear direction and stronger authority for planning use of these important waters. In 2006, The Massachusetts Ocean Act was filed by Senator Robert

O'Leary and unanimously passed the Massachusetts Senate. The same bill has been re-filed in 2007.

Q: Have other states developed comprehensive plans 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 Oceans Commission. In fact the commissioners recently acknowledged Massachusetts' leadership for introducing the legislation in their Joint Ocean Commission Initiative Report Card. The Report Card was released on a national stage in Washington D.C. in January 2007.

Q: Will this bill stop Cape Wind?

A: No. The bill places no additional regulatory restrictions on the proposed Cape Wind Energy Project, which lies four miles off the Massachusetts coast in federally controlled waters. The project is currently under review by federal, state and regional authorities. If the final impact statement is adequate and complete, Cape Wind Associates could begin obtaining the necessary permits. Once permits are issued, construction may begin.

This bill "grandfathers" any project, including Cape Wind, that meets any of the following criteria:

- filed Chapter 91 license application and received a written determination of completeness; or,
- received a certificate of adequacy regarding a Final Environmental Impact Report from the Secretary, or
- received both final decision from the energy facilities siting board and a certificate of adequacy regarding a Draft Environmental Impact Report from the Secretary.

Q: Will this bill alter the fisheries management planning process?

A: No. The bill does not alter the authority of the Massachusetts Division of Marine Fisheries or its Marine Fisheries Advisory Commission. The bill states clearly and throughout that: The Division of Marine Fisheries... shall have sole responsibility for developing and implementing any fisheries management plans and fisheries regulations that are determined to be necessary by said Division based on the best available scientific information. Management of marine fisheries shall comply with all rules and regulations of the Division of Marine Fisheries or federal or interstate fishery management plans... and shall be integrated, to the maximum extent possible, with an ocean management plan.

Q: Will this bill restrict commercial or recreational navigation?

A: No. The bill does not change existing regulatory authorities on the movement of commercial or recreational vessels. The United States Coast Guard governs navigation in ocean waters, and federal rules preempt state laws. The bill clarifies that: nothing contained in this section shall be construed to prohibit the transiting of recreational boats in Massachusetts' ocean waters.

Q: How does this bill affect the construction of energy and/or telecommunications facilities and infrastructure in state waters?

A: The bill grants the Commonwealth clear direction and stronger authority for guiding uses and activities within the state waters, including the construction of utility facilities and infrastructure.

The bill allows certain utility construction projects that meet applicable local, state, and federal requirements and which are consistent with an ocean management plan. These projects would include: the operation, maintenance, repair or construction of infrastructure facilities used in the transmission or distribution of electricity, natural gas, or telecommunications services, including pipelines, cables, and conduits. The only exception is in the Cape Cod Ocean Sanctuary.

This bill prohibits the construction or operation of offshore or floating electric generating stations in areas designated as ocean sanctuaries, except for:

- emergency or temporary supply of energy; or
- certain small-scale renewable energy systems in areas outside the Cape Cod ocean sanctuary deemed consistent with the management plan.

A prohibition on large-scale offshore oil and gas drilling in state waters has existed since the 1970s. The new bill eases restrictions for small scale renewable energy systems in recognition of the public benefits and need for clean renewable energy supplies.

Q: If this bill is passed, what will happen to the Ocean Sanctuaries Act?

A: The Ocean Act would supercede the Oceans Sanctuaries Act.

Q: Will this bill create a new bureaucracy that might delay or obstruct activities in state ocean waters?

A: Not at all. In fact, the ocean management plan will complement the current permitting process. Under the bill, the Secretary of Environmental Affairs would be empowered to oversee, coordinate, and implement an ocean management plan, assisted by an ocean management commission of state agency representatives, state legislators, a municipal official, and environmental, fishing, and marine industry stakeholders. Licensing decisions would have to be consistent with the approved plan. The plan would not establish new regulatory processes, but rather guide regulatory decision-making along consistent principles and standards.

Q: Is there funding to implement the Act?

A: Yes. The bill establishes an Ocean Resources and Waterways Trust Fund as a dedicated funding source to support the new laws.

To learn more about the Massachusetts Ocean Act visit www.massoceanaction.org or contact:

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