



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Silver Spring, Maryland 20910

**SEP 23 2011**

Mr. Bruce Carlisle  
Director  
Massachusetts Office of Coastal Zone Management  
Executive Office of Energy and Environmental Affairs  
251 Causeway Street, Suite 800  
Boston, MA 02114

Dear Mr. ~~Carlisle~~ *Bruce*:

Thank you for the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs' August 19, 2011, request to incorporate into the Massachusetts Coastal Management Program (CMP): (1) the Massachusetts Ocean Management Plan (Ocean Plan); (2) the enforceable polices of the Ocean Plan into the Massachusetts Office of Coastal Zone Management Policy Guide 2011 (Policy Guide); (3) updates to state legal authorities included in the Policy Guide; and (4) reinstating certain Federal Energy Regulatory Commission (FERC) authorizations on the Massachusetts CMP list of federal license or permit activities reviewed under Federal Consistency. You requested that the changes described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on August 19, 2011, and OCRM extended its decision deadline until September 23, 2011.

Based on our review of your submission, we concur that the changes are RPCs, and we approve the incorporation of the changes into the Massachusetts CMP. Federal Consistency will apply to the approved changes to enforceable policies only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the list of changes to enforceable policies provided in this letter, and send a copy of the notice to OCRM.

### **CHANGES APPROVED**

*See* enclosed list of the changes incorporated into the Commonwealth of Massachusetts Coastal Management Program.

### **PUBLIC AND FEDERAL AGENCY COMMENTS**

NOAA's National Marine Fisheries Service (NMFS) and the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) provided comments. OCRM responded to BOEMRE's comments clarifying, with approval from Massachusetts, the location of the wind areas in the Ocean Plan and the Commonwealth's authority to apply MEPA. No other issues or concerns were raised through public or Federal agency comments.



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Thank you for your cooperation in this review. Please contact Becca Newhall at 978-281-9237 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joelle Gore', with a stylized flourish extending to the right.

Joelle Gore, Acting Chief  
Coastal Programs Division

Enclosure: Changes Approved and Incorporated into the Commonwealth of Massachusetts CMP.

Enclosure to OCRM's September 23, 2011 Approval of the Incorporation of Changes to the MASSACHUSETTS COASTAL MANAGEMENT PROGRAM			
Name/Description of State or Local Law/Regulation/Policy/Program Authority	State Legal Citation	Date Adopted by State	Date Effective in State
<b>ADDED:</b>			
Massachusetts Ocean Management Plan	Massachusetts Ocean Management Plan	12/31/09	12/31/09
Enforceable Standards of the Massachusetts Ocean Management Plan	Massachusetts Office of Coastal Zone Management Policy Guide (2011), Appendix 5	Date of public notice of OCRM's approval	Date of public notice of OCRM's approval
<p>FERC Federal License and Permit Activities</p> <ul style="list-style-type: none"> <li>- Licenses for non-federal hydroelectric projects and primary transmission lines under Sections 3 (11), 4 (e), and 15 of the Federal Power Act.</li> <li>- Orders for interconnection of electric transmission facilities under Section 202 (b) of the Federal Power Act.</li> <li>- Certificates for the construction and operation of interstate natural gas facilities, including both pipelines and terminal facilities under Section 7 (c) of the Natural Gas Act and Section 311 of the Energy Policy Act of 2005.</li> <li>- Permission and approval for the abandonment of natural gas pipeline facilities under Section 7 (b) of the Natural Gas Act.</li> </ul>	Massachusetts Office of Coastal Zone Management Policy Guide (2011), Appendix 4	Date of public notice of OCRM's approval	Date of public notice of OCRM's approval
<b>MODIFIED:</b>			
List of State Legal Authorities, as detailed below	Massachusetts Office of Coastal Zone Management Policy Guide (2011), Appendix 3	Date of public notice of OCRM's approval	Date of public notice of OCRM's approval
<b>CHANGES TO STATE LEGAL AUTHORITIES</b>			
<b>ADDED:</b>			
Department of Agricultural Resources (formerly Food and Agriculture) – establishing food policy council and advisory committee thereto to develop recommendations to advance the food system goals for the Commonwealth	M.G.L. c. 20, § 6C	2010	2010
Massachusetts Coastal Zone Management (CZM) Program, Executive Office of Energy and Environmental Affairs – settlement of claims involving injury and damage/destruction or loss of natural resources	M.G.L. c. 21A, § 2A	2009	2009
Marine Fish and Fisheries –provides for state recreational saltwater fishing permit program to comply with the state exemption requirements of section 401 (g)(2) of the federal Magnuson-Stevens fishery Conservation and Management Act	M.G.L. c. 130, § 17C	11/23/09	2/21/10

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<b>MODIFIED:</b>			
401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters – editorial changes related to better coordination with wetlands regulations at 310 CMR 10.00	314 CMR 9	7/10/09	7/10/09
Hazardous Waste Regulations – adopt the federal Land Disposal Restrictions (LDR) program, requiring generators to treat hazardous waste to meet specified levels for hazardous constituents before disposing the waste on land	310 CMR 30	4/16/10	4/16/10
Massachusetts Contingency Plan – eliminate requirement for submitting unnecessary personal account information when paying fees	310 CMR 40	6/26/09	6/26/09
The Zoning Act – editorial terminology change and technical change	M.G.L. c. 40A, § 3; 40B, § 24	2009-2010	2009-2010
State Highways – editorial terminology change	M.G.L. c. 81, § 1	2009	2009
Public Waterfront Act - addition of sections 43A, 43B, and 43C and the deletion of section 49 regarding removal of abandoned vessels from state waterways	M.G.L. c. 91, §§ 38-49	8/13/10	11/11/10
Waterways Regulations – clarify permit application review schedules	310 CMR 9	6/26/09	6/26/09
Metropolitan Parks –coordination with capital plans of highway agencies	M.G.L. c. 92, § 35	2009	2009
Air Pollution Control – technical changes relating to jurisdictional threshold governing non-combustion emissions and vapor controls on facilities for dispensing motor vehicle fuel/ethanol blends; improve verification of statewide greenhouse gas emissions and ensure compliance with reporting provisions of the Global Warming Solutions Act of 2008; adoption of California's zero-emission vehicle standards and their motor vehicle greenhouse gas standards for 2009-2016	310 CMR 7	2009-2010, 6/26/09, 4/2/10, 3/18/11	2009-2010, 6/26/09, 4/2/10, 3/18/11
Solid Waste Disposal Facilities – changes related to permitting of refuse transfer facilities	M.G.L. c. 111. § 150A	2010	2010
Solid Waste Management– added adding clean gypsum wallboard to the list of restricted materials; specify how a waste-to-energy facility may obtain an approved recycling program, prohibit disposal of any mercury-added products in solid waste, and establish requirements for handling of end-of-life, mercury added products by facility operators	310 CMR 19	6/16/09, 8/21/09	12/10/10
Marine Fish and Fisheries – added a new section 7.10, which institutes regulations governing the new	322 CMR 4, 6, 7	2009, 2010, 2011	2/4/11

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saltwater fishing permit program; changes to regulations governing fishing and shellfishing equipment, catches, and permit regulations			
Wetland Protection – work needed to eradicate an infestation of Asian longhorned beetles	310 CMR 10	2009	7/10/09
Orders Protecting Inland Wetlands – terminology	M.G.L. c.131, § 40A	2009	2009
Endangered Species – refine/expand existing provisions governing exemptions, mapping process, and municipal and conservation planning	321 CMR 10	10/15/10	10/15/10
Massachusetts Ocean Sanctuaries Act - municipalities where Regional Planning Agencies have regulatory authority, a Regional Planning Agency shall define the appropriate scale of offshore renewable energy facilities and review such facilities as developments of regional impact, and the applicant may seek review of the Regional Planning Agency's development of regional impact determination, but not its determination of appropriate scale, pursuant to the authority of the energy facilities siting board to issue certificates of environmental impact and public interest	M.G.L. c. 132A, § 15	6/30/10	7/1/10
Massachusetts Building Code – terminology	M.G.L. c. 143, § 94	2009	2009
Flood Resistant Construction and Construction in Coastal Dunes – technical changes	780 CMR 120.G	2/4/11	2/4/11
Massachusetts Bay Transportation Authority – administrative modernization of the transportation systems	M.G.L. c. 161A	2009	2009
<b>DELETED:</b>			
Department of Conservation and Recreation (formerly Environmental Management) – well-digger registrations	M.G.L. c. 21, § 16	2009	2009
State Highways – contracting for engineering services	M.G.L. c. 81, § 8A	2010	2010
Metropolitan Parks –relating to abandonment of vessels in the Charles River Basin	M.G.L. c. 92, §§ 72-73	2010	2010