Ocean Resources and Waterways Trust Fund Implementation Guidelines

Chapter 114 of the Acts of 2008 (Oceans Act) created a new Ocean Resources and Waterways Trust Fund in Section 35HH of MGL Chapter 10. The trust receives ocean development mitigation fee payments associated with projects subject to the Ocean Sanctuaries Act and Massachusetts Ocean Management Plan (ocean plan), as well as other appropriations, grants, or investment income. The Act identifies the Secretary of the Executive Office of Energy and Environmental Affairs (EEA) as trustee of the trust and contains provisions pertaining to expenditures from the trust. The ocean plan provides additional guidance on the management of the trust. Based on the statutory requirements and ocean plan guidelines, these Ocean Resources and Waterways Trust Implementation Guidelines have been developed to direct the administration and management of the trust.

I. Purpose

The trust was established by law for the purpose of accepting funds from projects subject to an ocean development mitigation fee and other appropriations, royalties, and grants to be used by the Commonwealth for managing, protecting, restoring, and/or enhancing marine habitat, resources, and specified uses in state waters or adjacent ocean areas.

II. Trustee

The EEA Secretary serves as trustee of the trust. The Secretary may delegate certain trustee duties in order to assist with elements of the trust administration and management. Such duties include, but are not limited to: project identification, planning, and implementation; recommendations for and approval of expenditures consistent with these guidelines; fiscal management and auditing; and reporting on progress of projects supported by the trust.

III. Massachusetts Ocean Management Plan

The Oceans Act also conferred the EEA Secretary with the authority for oversight, coordination, and planning for the Commonwealth's ocean waters, resources, and development and required the development of an integrated ocean management plan. Working with the Ocean Advisory Commission (OAC) and the Ocean Science Advisory Council (SAC), advisory bodies established in the Act to provide policy guidance, EEA developed specific strategies and targeted outcomes for the ocean plan based on the goals of the Act. Along with integrated management and stewardship of marine ecosystems, a key principle for the ocean plan is to ensure that it can adapt to evolving knowledge and understanding of the ocean environment and its future uses. The ocean plan also

provides a blueprint for ocean management-related science and research needs in Massachusetts. The blueprint, or Science Framework, was developed in consultation with the OAC and SAC, as well as public and stakeholder input, and identifies both long-terms goals and objectives as well as priority actions.

An interagency ocean management team was identified in the ocean plan to provide the EEA Secretary with input and advice on ocean planning and management—including policy development, technical and scientific information and research, and regulatory decision-making. The interagency group is chaired by EEA's Office of Coastal Zone Management (CZM) and is comprised of personnel from CZM, the Department of Environmental Protection, the Department of Fish and Game, and the Massachusetts Environmental Policy Act Office.

IV. Trust Account

Pursuant to the Act, the trust was established as account #2000-0115 in the Massachusetts Management Accounting and Reporting System (MMARS). The effective date of the trust is May 28, 2008, the enabling date of the Act.

V. Deposits/Credits

The trust is eligible to receive revenue from appropriations or other funds specifically designated to be credited to the trust by the legislature; other appropriations or grants that are explicitly directed to the trust; income derived from the investment of amounts credited to the trust; and payments resulting from any ocean development mitigation fee established pursuant to MGL c. 132A, section 18 or similar compensation/mitigation payments.

Checks for deposits/credits should be made out to *Commonwealth of Massachusetts - Ocean Resources and Waterways Trust Fund.*

VI. Trust Expenditure Criteria

The use of trust funds for proposed projects is subject to the following qualifications:

- No less than fifty percent of trust funds from renewable energy projects must be directed to the "host" community(ies) as defined in the ocean plan and implementing regulations. The host community(ies) must utilize such funds in a manner consistent with the provisions of these trust expenditure criteria.

- Trust funds are to be used for the restoration, enhancement, or management of marine habitat and resources impacted by the project. Within this framework, the following provisions apply:
    - Funds derived from impacts to public navigation by an ocean development project should be targeted to navigational improvements.
    - Funds derived from impacts to fisheries resources should be targeted to fisheries restoration and management programs.

- Other funds credited to the trust are to be used only for the purposes of environmental enhancement, restoration, and management of ocean resources and uses generally consistent with the Act and the ocean plan.

- All approved expenditures from the trust shall follow all applicable Commonwealth procurement and finance laws, regulations, and guidelines. These expenditures include direct procurement by EEA as well as fund transfers from EEA to another state agency via an Interagency Service Agreement.

VII. Trust Project Identification, Approval, and Implementation

As designated by EEA, CZM will lead the interagency ocean management group tasked with the review and approval of projects that are consistent with the expenditure criteria and will (1) advance the Commonwealth's identified ocean planning and management science, research, and informational needs, such as those specified in the ocean plan and/or (2) restore, enhance, or manage the habitat and resources impacted by specific projects. In determining whether projects proposed for trust support are consistent with these Trust Implementation Guidelines, CZM will seek input on proposed projects from the interagency ocean management group. Such review will include an assessment of the following:

- Purpose - The proposed project's purpose must conform to the expenditure criteria above and must further an identified science, research, or informational need and/or must restore, enhance, or manage habitats and resources impacted by specific projects.

- Objectives - The project objectives, including the project's scope, methodology, tasks, and technology, must advance the stated goals of the ocean plan. Project objectives must exhibit technical and scientific merit.

- Deliverables - The products/outcomes/deliverables of the proposed project must demonstrate quantifiable benefits to improve the public use and protection of the Commonwealth's marine habitats and resources.

- Budget - The project must be cost-effective and represent a good value for the Commonwealth. Projects should seek to leverage financial resources from other sources or associations with sponsoring partners.

Based on the review of the proposed project, CZM will make a recommendation to the EEA Secretary as to trust support for the proposed project. If approval from the Secretary or their designee is granted, the proposed project will move to final scoping, procurement of necessary services (if applicable), and implementation. A member of the interagency ocean management group will be designated as project manager and will be responsible for approving the final scope of work and outcomes/deliverables, overseeing the project through its completion, and reporting on progress and final results.

VIII. Tracking and Reporting

On behalf of the Secretary and in close coordination with EEA fiscal personnel, CZM will assume duties for monitoring trust deposits/credits and expenditures, as well as maintaining procurement/audit files.

CZM will maintain a registry of projects supported by the trust, with details on the budget, project purposes, primary tasks, and deliverables. This information will be shared with the OAC and the SAC and made publicly available through the CZM website or similar means. Additionally, since the trust projects are designed to advance ocean planning and management issues, CZM will include project summaries and updates in its regular communications (such as the CZ-Mail newsletter) as well as incorporate related content on relevant websites.