

Talking points for MTC Cape Wind stakeholder presentation

Federal consistency

See the CZM web page at <http://www.mass.gov/czm> for a complete list of our coastal policies.

- The CZMA of 1972 gives states the authority to review federal projects, federally financed projects, and projects receiving federal licenses and permits, to ensure that they abide by state coastal policies.
- Coastal policies are broad expressions of the state's approach to the management of coastal resources; they derive their enforceability from existing state laws, regulations, and policies. For example, CZM's Habitat Policy #1 – Protect coastal resource areas including salt marshes, shellfish beds, dunes, beaches, barrier beaches, salt ponds, eelgrass beds, and fresh water wetlands for their important role as natural habitats – is underpinned by the Wetlands Protection Act.
- CZM uses the MEPA process – like the current EIR for Capewind – to collect information about projects.
- The CZMA also gives states the authority to review projects outside state waters for consistency with state coastal policies if the proposed activity may impact the resources or uses within state waters. CZM has used this authority to review such projects as the EPA disposal site designation in MA Bay, wastewater discharge from the Seabrook NH treatment plant, and the NOAA designation of Stellwagen Bank National Marine Sanctuary.
- For projects within and without state waters, federal authorizations – like Corps of Engineers permits – cannot be issued until a project has been issued federal consistency by CZM.
- CZM's role in the review of projects proposed outside state waters is straightforward: such projects are reviewed for their consistency with the coastal policies. For the Capewind project, we submitted comments to MEPA that addressed the following:
 - Public trust and resource allocation issues
 - Alternatives analysis
 - Federal consistency jurisdiction
- To develop the site-specific information necessary to assess potential impacts and benefits of the project, CZM is participating formally with the Corps and other agencies in the development of the Draft EIR/S.
- We have provided additional guidance to Capewind by providing models of fisheries studies and a competing site use assessment that we believe is appropriate to characterize the project area.
- CZM's review of the Capewind project for federal consistency will begin after the completion of an approved Final EIR.

US Commission on Ocean Policy

(See the Commission web page at www.oceancommission.gov for additional information.)

- The Commission was mandated by the Oceans Act of 2000 to present policy recommendations on a range of issues, including stewardship of marine resources, pollution prevention, marine science and marine commerce. The final recommendations are due in June of 2003.
- The Commission has held 10 meetings across the country to gather information and comments regarding uses and stewardship of the oceans.
- The Commission has published an interim report, Developing a National Ocean Policy that identifies preliminary observations, and has published several related white papers. (See the web page for a full discussion.)
- Comments to the Commission by EOEAs address two issues germane to the Capewind proposal: the state's public trust responsibilities and the lack of a coordinated plan for allocating uses in the EEZ.
- First, submerged lands of the US, whether state or federal, are public lands held in trust by the government. In MA, the Public Waterfront Act (Chapter 91), requires that private use of tidelands must be mitigated with some public benefit – usually through access or improvements for water-dependent use, and the payment of an occupancy fee. There is no similar program in federal waters, excepting minerals, oil and gas extraction. In addition, there is no primary agency to provide leadership and planning for use of the EEZ. Current management occurs through a patchwork of authorities, none of which can provide coordinated environmental review for multiple uses.
- In our comments to the Oceans Commission in July, EOEAs recommended that a comprehensive EEZ management and leasing authority is needed to provide planning, coordination, regulatory oversight, leasing and environmental protection for the full range of EEZ uses.
- EOEAs also recommended that a federal EEZ leasing structure be established to ensure that the public receives some benefit from the privatization of public resources.
- We will not know how recommendations of the Commission could affect the Capewind project until the final report is released in June.