

**Appendix C**  
**Overview of Areas of Critical Environmental Concern (ACEC) Program**  
**and State Regulations Concerning ACECs (Spring, 1998)**

**ACEC Program**

The ACEC Program was established in 1975, when the State Legislature authorized and directed the Secretary of Environmental Affairs to identify and designate "areas of critical environmental concern to the Commonwealth," and to develop policies for their acquisition, protection and use. Since that time 25 ACECs covering 170,000 acres have been designated, from the Berkshires to the North Shore to Cape Cod. The Environmental Affairs Secretary has delegated the administration of the ACEC Program to the Department of Environmental Management (DEM). DEM coordinates very closely with the Massachusetts Coastal Zone Management (MCZM) Office regarding coastal ACECs (MCZM administered the coastal ACEC program until 1993).

The ACEC Regulations (301 CMR 12.00) describe the procedures for the nomination and review of ACECs and amendments to ACECs, and the purpose and general effects of designation. Generally ACECs are nominated by citizens or municipal boards, and nominations undergo a rigorous public review prior to formal designation. An ACEC is a formal state designation directed principally to the actions and jurisdictions of state environmental agencies. The ACEC regulations generally direct Executive Office of Environmental Affairs (EOEA) agencies to take actions, administer programs, and revise regulations in order to preserve, restore or enhance the resources of ACECs.

Consequently, an ACEC designation does not create new regulations to implement the goals of designation, nor do the ACEC regulations determine permitting decisions. The designation works through the existing state environmental regulatory and review framework. The principal role of DEM ACEC program staff is to work with other state agencies to help preserve and manage ACECs, to provide overall coordination between federal, state and local agencies and private organizations and citizens regarding ACECs, and to review ACEC nominations (including amendment proposals and resource management plans). Besides the regulatory roles listed below, several agencies and programs give priority attention to ACECs, including the Agricultural Preservation Program, the Self-Help Program, the Natural Heritage and Endangered Species Program, and DEP's Division of Water Supply, Division of Solid Waste Management, and Bureau of Waste Site Cleanup.

**State Regulations Concerning ACECs**

The specific state regulatory requirements concerning ACECs are outlined in the June, 1993 ACEC Program Guide. The principal state agencies with regulations that refer to ACECs are the Massachusetts Environmental Policy Act (MEPA) Unit, the Department of Environmental Protection (DEP), and the MCZM Office.

- The **MEPA Regulations** (301 CMR 11.00) require closer scrutiny or review of projects within ACECs that require certain state permits, use state funding, or involve state actions. The review threshold (size or type) of projects that require the filing of an Environmental Notification Form (ENF), is reduced for projects located within an ACEC. For example, a state highway access permit, a Waterways Chapter 91 license (other than Amnesty), or a request to DEP for an appeal (i.e., a Superseding Order of Conditions) of

a local Conservation Commission decision (i.e., an Order of Conditions) will require the filing of an ENF and initiate a state environmental review. Outside of an ACEC, these kinds of reviews are generally required only for large-scale projects. Projects requiring state funding, or projects initiated by state agencies such as the Massachusetts Highway Department (such as for highway improvement projects that may affect the resources of an ACEC) or the Department of Environmental Management (for park planning or development) within an ACEC, also require MEPA reviews. The purpose of the reviews are to ensure that the proposed project will minimize or avoid adverse impacts to the resources of the ACEC. (note: The MEPA Regulations are expected to be revised in the spring of 1998; however, the provisions regarding ACECs are expected to remain in the revised regulations. Please contact the MEPA Unit.)

- The principal DEP Regulations or programs regarding ACECs include the Waterways Regulation Program, the Wetlands Protection Program, and the Solid Waste Facilities Site Assignment Regulations:
  - The Waterways (or Chapter 91) Regulations (310 CMR 9.00) require higher environmental standards for certain kinds of projects located within ACECs. The regulations do not allow new fill in ACECs, and place increased limits on new structures (see sections 9.32(1) and 9.32(2)(d)). Proposed privately owned structures for water-dependent use below the high-water mark, such as private, noncommercial piers, are only eligible for a license provided that such structures are consistent with a resource management plan for the ACEC which has been adopted by the municipality and approved by the Secretary of Environmental Affairs. Improvement (new) dredging, except for the sole purpose of fisheries and wildlife enhancement, is prohibited within an ACEC. (Maintenance dredging is eligible for a permit.) The disposal of dredged material is prohibited within an ACEC, except for the purposes of beach nourishment, dune construction or stabilization with proper vegetative cover, or the enhancement of fishery or wildlife resources.
  - The Wetlands Protection Act Regulations (310 CMR 10.00) include provisions regarding ACECs for both coastal and inland wetland Resource Areas. For coastal Resource Areas within ACECs, the performance standard is raised to "no adverse effect" on the interests of the Act (310 CMR 10.45(5)(b)), except for maintenance dredging for navigational purposes of "Land Under the Ocean." For inland Resource Areas within ACECs, the performance standard is raised to prohibit the destruction or impairment of a "Bordering Vegetated Wetland (BVW)" unless the proposed project qualifies as a "limited project" under the Wetlands Protection Act Regulations (310 CMR 10.00, 10.53(3), 10.55(4)(5)).
  - The Solid Waste Facilities Site Assignment Regulations (310 CMR 16.00) prohibit the siting of new solid waste facilities within an ACEC.
  - The Massachusetts Coastal Zone Management Program Regulations (310 CMR 21.00) call for all appropriate EOEA agencies to preserve, restore and enhance complexes of coastal resources of regional or statewide significance through the ACEC Program. State and federal coastal zone regulations stipulate that any federal activity affecting the coastal zone will be consistent with MCZM's Policies to the maximum extent practicable. As such, any project proposed in an ACEC that requires a federal permit, is federally funded or is a direct federal action is subject to review by MCZM before the federal activity can take place.

**For more detailed or updated information, please contact ACEC Program staff, at 617-727-3160, or other state agencies directly.**