

**Designation Decision
for the
Gloucester Inner Harbor Designated Port Area**

**Executive Office of Energy and Environmental Affairs
Office of Coastal Zone Management
April 23, 2014**

I. Introduction

Pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00, today, as Director of the Office of Coastal Zone Management (CZM), I hereby issue this designation decision for the boundary review of the Gloucester Inner Harbor DPA. This decision affirms the findings and proposed DPA boundary modifications in CZM's February 3, 2014 designation report, *Boundary Review of the Gloucester Inner Harbor Designated Port Area*, and its issuance concludes the review and decision-making process, as described below.

In March 2013, at the request of the Gloucester Harbor Plan Committee, the Mayor of Gloucester formally requested that CZM initiate a review of the entire boundary of the Gloucester Inner Harbor DPA. CZM accepted the request in April 2013, and notices of the review were published in the *Environmental Monitor* and the *Gloucester Daily Times*. A public meeting was held on May 20, 2013 in Gloucester, and the formal public comment period closed on June 7, 2013. To inform the boundary review process, CZM reviewed comments submitted, attended Harbor Plan Committee meetings, met with property owners, city officials, Department of Environmental Protection (DEP) staff, and interested citizens. CZM also conducted an intensive review of available plans, permits, and licenses applicable to the DPA review. A detailed boundary review designation report was issued on February 3, 2014. The report concluded with the finding that the DPA boundary should be modified. Pursuant to 301 CMR 25.03(4), the commencement of a 30-day comment period was noticed in the February 5, 2014 *Environmental Monitor* and a public hearing was held on February 24, 2014. Thirteen people provided oral testimony at the public hearing, and CZM received six comment letters on the designation report during the public comment period.

This designation decision summarizes and responds to key issues that have been raised by commenters and formally designates the DPA boundary. I have carefully considered all of the oral and written comments received in response to the boundary review report. I want to recognize the time and effort taken by those who provided comments and thank you for the valuable input you have provided in this boundary review process.

II. Summary of Boundary Review Designation Report

As detailed in the boundary review designation report, CZM defined seven planning units within the existing Gloucester Inner Harbor DPA that formed coherent areas with groups of parcels that are delineated by shared physical, geographical, and land use characteristics. These planning units were sized and configured in a manner that allowed for consideration of all relevant factors affecting *overall suitability* to accommodate water dependent industrial use.

Pursuant to the criteria at 301 CMR 25.03(2), certain areas within the DPA are not eligible for review. Based on a thorough assessment, the Harbor Cove, North Channel, State Fish Pier, Cold Storage East Gloucester, and Rocky Neck planning units, and their adjacent waterways, did not meet

all of the criteria for eligibility for review, and therefore were not further analyzed for substantial conformance with the criteria governing suitability to accommodate water dependent industrial use.

The DPA regulations direct that an area of land or water reviewed under 301 CMR 25.00 shall be included or remain in a DPA *if and only if* CZM finds that the area is in substantial conformance with each of the criteria governing suitability to accommodate water dependent industrial use. As detailed in the boundary designation report, CZM determined that the East Gloucester and Smith Cove planning units are dominated by residential and non-industrial buildings, that in most cases existed in this area before the establishment of the DPA and have not been removed or converted to industrial use to date. The predominant uses here, including residential, commercial, recreational boating facilities, small public boating facilities, and public recreational areas, are largely incompatible with activities characteristic of a water dependent industry, because of the inherent functional conflicts and destabilization that may arise. Therefore, CZM found that these two planning units did not meet the criteria for inclusion in a DPA boundary as required by 301 CMR 25.04(2)(d) and concluded that they should be removed from the Gloucester Inner Harbor DPA. As the shorelines in these areas no longer establish a functional connection to a DPA land area, CZM found that the waterways adjacent to these areas did not meet the criteria for inclusion at 25.04(1) and concluded they should also be removed from the DPA.

III. Response to Comments on the Boundary Review Designation Report

The large majority of oral and written public comments received on the designation report were supportive of the process and the outcome of the study. There were a number of concerns specific to the designation report that were raised, as well as comments related to the DPA program in general.

Comments on issues specific to the Gloucester boundary review process and report included concerns regarding the delineation of the East Gloucester Cold Storage planning unit. A few suggested that this planning unit should not have been considered separately from the adjacent areas and should therefore also have been considered for removal from the DPA. As detailed in the boundary review designation report, the DPA planning units were delineated by their distinctive physical, geographic, and land use characteristics. The East Gloucester Cold Storage planning unit was determined to be discrete from the adjacent East Gloucester and Smith Cove planning units in each of these categories. Physically, the entire unit, and particularly the waterfront, is extensively developed for intensive industrial use, which sets it apart from its neighbors on either side, which are primarily developed for recreational and commercial uses. Geographically, this planning unit sits out on a peninsula that functionally separates it from operations on either side. Finally, the land use on the property is entirely water-dependent industrial, in contrast to the smaller-scale, residential, commercial and recreational uses that characterize the surrounding planning units. After carefully considering this determination, CZM affirms that the delineation of East Gloucester Cold Storage should be viewed as a discrete planning unit.

With respect to the East Gloucester Cold Storage planning unit, there were also a few comments questioning why the area was not recommended for removal from the DPA designation, with references to an underutilized waterfront. CZM notes that this area is currently functioning entirely as a water-dependent industrial use, as defined in DEP’s Chapter 91 Waterways regulations. As such, the East Gloucester Cold Storage planning unit did not meet all the eligibility criteria for review required pursuant to 301 CMR 25.03(2) and was therefore not further analyzed for substantial conformance with the criteria governing suitability to accommodate water-dependent industrial use.

Other comments suggested that East Main Street in East Gloucester is not appropriate for truck traffic and should not qualify as a road sufficient to support marine industrial uses. In the boundary review designation report, CZM acknowledged that East Main Street is the primary public road that links East Gloucester to Route 127A and Route 128, which is the main route into and out of the city. East Main Street is generally a narrow road flanked by residential and commercial properties in this area. While not ideally suited for large commercial vehicles, CZM determined that the road does currently meet the criteria of an established road link leading to a major route, and large trucks routinely use the road to serve commercial and water-dependent industrial businesses in the area. Therefore, CZM affirms the finding that the road does adequately meet the criteria of an established road link leading to a major route.

Another comment concerned the depth of the entrance channel for Gloucester Harbor. The concern was that on a recent NOAA chart for the harbor, the depth was shown as 19 feet, and therefore did not meet designation standard criteria for inclusion in the DPA. With respect to this concern, it is important to point out that the relevant criterion for designation or continued inclusion of waters in a DPA (301 CMR 25.04(1)(a)1) specifies that the water area must include, or be contiguous with other DPA waters that include, “a navigable entrance or main channel with a *design depth* of at least 20 feet” [emphasis added]. CZM has confirmed with the U.S. Army Corps of Engineers that the design depth for the Gloucester Harbor entrance channel is 20 feet¹, and the most recent NOAA chart² for Gloucester Harbor reflects this depth. CZM therefore affirms the inclusion of the Gloucester Harbor entrance channel in the DPA.

Several comments reflected concerns for continued support and protection of the existing water-dependent industrial users, particularly with respect to commercial fishing vessel dockage in the harbor and especially East Gloucester and Smith Cove. CZM recognizes, and the City’s recent commercial vessel study confirms, that a number of commercial vessels are currently berthed in these areas. The City of Gloucester’s current Municipal Harbor Plan and Designated Port Area Master Plan, which was approved by the Executive Office of Energy and Environmental Affairs in

¹ Pers. communication with E. O’Donnell, Army Corps New England District, March 6, 2013

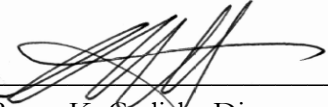
² U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of Coast Survey (OCS). *Gloucester Harbor and Annisquam River* [nautical chart]. 19th ed. 1:10,000. Chart #13281. Washington, D.C.: DOC, NOAA, NOS, OCS, Oct. 2010.

December 2009, recognizes that berthing space for commercial vessels on the harbor is limited, specifically for commercial fishing boats, and seeks to protect these important spaces. The 2009 plan includes an approved provision that guides DEP in its Chapter 91 licensing to specifically protect commercial fishing vessels. The plan requires that any proposed change to a Chapter 91 license that would result in the displacement of a commercial vessel from an existing berth must include the assurance of reasonable accommodation at a comparable and suitable alternative site, assuring that no commercial fishing vessel will be displaced at the alternative site. The 2009 plan also includes a commitment from the City to adopt similar language in local zoning and to reflect this protection through local permitting. At least one comment specifically recommended that the City include these provisions in its upcoming renewal of the Municipal Harbor Plan and Designated Port Area Master Plan. CZM supports this approach as an important mechanism for the City to continue to provide the desired protection for this valuable asset.

Many comments noted that the areas that are to remain in the DPA are facing significant infrastructure, function, and disrepair issues that must be addressed in order for these areas to remain viable for water-dependent industrial uses, including dredging needs to address navigation issues, both in channels and alongside piers and wharves; derelict pilings that hamper navigation and limit reconfiguration options for the waterfront; and significant underutilization of large areas of the waterfront. Most of these comments strongly encouraged the Commonwealth to provide focused investment in DPA harbor infrastructure and port uses, including making financial investment and assistance available to properties still in the DPA for dredging and infrastructure improvements. Comments also called for a comprehensive and meaningful reevaluation of the DPA program in general, including expansion of definitions of water-dependent industrial uses, reevaluation of regulations, and reassessment of financial assistance provided to DPA communities. With respect to the DPA program and policies, CZM is working with other state agencies and stakeholders on a number of initiatives to review boundaries in other ports, examine definitions related to water-dependent industrial uses, and modernize regulations. With respect to the financial and infrastructure issues, CZM supports the significant work underway on the implementation of the Commonwealth's Ports Compact, an agreement between the cities of Boston, New Bedford, Fall River, Gloucester and Salem; the Executive Offices of Transportation, Energy and Environmental Affairs, Housing and Economic Development; Massport; and the Legislature's Joint Committee on Transportation. A Ports of Massachusetts Strategic Plan is being developed by MassDOT and will include: strategies for further increasing the economic development potential of the ports in Massachusetts, including the re-use of port infrastructure and increasing port commerce; recommending financing sources, programs, and strategies to fund improvements in maritime port infrastructure and operations in Massachusetts; and the identification and evaluation of potential investment opportunities to help the Commonwealth's ports achieve the stated strategic goals. The City of Gloucester is also working on its own local port revitalization plan, and CZM looks forward to working with the City, MassDOT, the Seaport Advisory Council, other agencies, and other port communities on efforts to support investment in DPA harbor infrastructure and port uses.

IV. Designation Decision

In conclusion, effective today, I affirm the findings and proposed boundary modifications in CZM's February 3, 2014 designation report, and hereby determine that, pursuant to 301 CMR 25.03(5), the Gloucester Inner Harbor DPA boundary shall be modified, and that the East Gloucester and Smith Cove planning units, as well as the water areas associated with these, will no longer be included in the Gloucester Inner Harbor DPA. The new boundary of the Gloucester Inner Harbor DPA is depicted on the attached map and available in electronic format from CZM.



Bruce K. Carlisle, Director



Gloucester Inner Harbor

Designated Port Area (DPA)

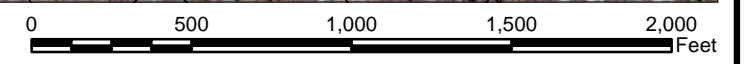
For planning purposes only. In the event of conflict between this map and the accompanying written description, CZM shall issue a written clarification pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00.



- Point of Beginning
- Chapter 91 Presumptive Line
- Assessor's Parcel
- Designated Port Area Boundary
- Municipal Boundary



Base map: MassGIS 1:5,000 Color Ortho Imagery, 2001.
 Map coordinate system: North American Datum of 1983,
 Massachusetts State Plane Coordinate System,
 Mainland Zone (FIPS zone 2001), meters.



Gloucester Inner Harbor Designated Port Area

An area of land and water within Gloucester Inner Harbor and located in the municipality of Gloucester in the Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point on the federal navigation channel (shown as “ENTRANCE CHANNEL 20 FT FOR A WIDTH OF 300 FT JUL 2010” on National Oceanic and Atmospheric Administration [NOAA] Chart #13281ⁱ) at the seaward limit of Gloucester Inner Harbor, proximate to Navigation Buoy 10ⁱ (R “10” Fl R 2.5s at approximate coordinates N42°36’18.3” W70°39’50.0”, NAD83) in the municipality of Gloucester;

Thence northwesterly by a straight line to the southerly corner of the dredged area (shown as “17 FT JUL 2010” on NOAA Chart #13281ⁱ);

Thence northerly along the westerly, seaward line of the dredged area (shown as “17 FT JUL 2010” on NOAA Chart #13281ⁱ) to the northwesterly corner of said dredged area;

Thence northeasterly along the northwesterly line of the dredged area (shown as “17 FT JUL 2010” on NOAA Chart #13281ⁱ) to the northerly corner of said dredged area;

Thence northerly along the westerly line of the dredged area (shown as “Harbor Cove 15½ FT JUL 2010” on NOAA Chart #13281ⁱ) to the intersection of said line and the northeasterly projection of the southeasterly line of Parcel 1-9;ⁱⁱ

Thence southwestwesterly along the northeasterly projection of the southeasterly line of Parcel 1-9ⁱⁱ and continuing along the southeasterly line of said parcel to the intersection of the southwestwesterly projection of said line and the southwestwesterly line of Commercial Street;

Thence northwesterly along the southwestwesterly line and northerly along the westerly line of Commercial Street to the northeasterly corner of Parcel 2-11;ⁱⁱ

Thence northeasterly by a straight line to the southerly corner of Parcel 7-18;ⁱⁱ

Thence northeasterly and easterly along the northerly line of Rogers Street to the intersection of said line and the northwesterly projection of the northeasterly line of Harbor Loop road proximate to Parcel 9-26;ⁱⁱ

Thence southeasterly along the northwesterly projection of the northeasterly line of Harbor Loop and continuing southeasterly, easterly, northeasterly, northerly, and northwesterly along the landward line of said road to the intersection of the northwesterly projection of said line and the northwesterly line of Rogers Street;

Thence northeasterly along the northwesterly line of Rogers Street to the southerly corner of Parcel 10-3;ⁱⁱ

Thence northwesterly along the southwesterly lines of Parcels 10-3 and 10-25ⁱⁱ to the intersection of the northwesterly projection of said line and the northwesterly line of Main Street;

Thence northeasterly along the northwesterly line of Main Street to the southeasterly corner of Parcel 51-74;ⁱⁱ

Thence southeasterly by a straight line to the westerly corner of Parcel 53-5;ⁱⁱ

Thence easterly along the northerly line of East Main Street to the intersection of said line and the northerly projection of the easterly line of Parker Street;

Thence southerly along the northerly projection of the easterly line of Parker Street and continuing along the easterly line of said street to the southerly corner of Parcel 54-106;ⁱⁱ

Thence southeasterly along the westerly line and westerly along the northerly line of Parcel 54-107ⁱⁱ to the easterly corner of Parcel 54-108;ⁱⁱ

Thence southwesterly, northwesterly, and southwesterly along the southeasterly lines of Parcel 54-108ⁱⁱ to the intersection of said line and the northwesterly projection of the northeasterly terminus line of the federal navigation channel (shown as “SOUTH CHANNEL 18 FT FOR WIDTH OF 200 FT JUL 2010” on NOAA Chart #13281¹);

Thence southeasterly along the northwesterly projection of the northeasterly terminus line of the federal navigation channel (shown as “SOUTH CHANNEL 18 FT FOR WIDTH OF 200 FT JUL 2010” on NOAA Chart #13281¹) and continuing along the northeasterly terminus line of said channel to the easterly corner of the terminus of said channel;

Thence southwesterly along the southeasterly line of the federal navigation channel (shown as “SOUTH CHANNEL 18 FT FOR WIDTH OF 200 FT JUL 2010” on NOAA Chart #13281¹) to the intersection of said line and the northwesterly projection of the northeasterly line of Parcel 63-26;ⁱⁱ

Thence southeasterly along the northwesterly projection of the northeasterly line of Parcel 63-26ⁱⁱ and continuing along the northeasterly line of said parcel to the northerly corner of Parcel 63-22;ⁱⁱ

Thence generally southwesterly along the generally southeasterly lines of Parcel 63-26ⁱⁱ to the westerly corner of Parcel 63-33;ⁱⁱ

Thence northwesterly and westerly along the southerly lines of Parcel 63-26ⁱⁱ and continuing along the westerly projection of the southerly line of said parcel to the intersection of said line and the northeasterly line of the dredged area (shown as “15 FT JUL 2010” on NOAA Chart #13281¹);

Thence southeasterly along the northeasterly line and southwesterly along the southeasterly line of the dredged area (shown as “15 FT JUL 2010” on NOAA Chart #13281ⁱ) to the southerly corner of said dredged area;

Thence westerly by a straight line to a point on the southeasterly line of Parcel 128-40ⁱⁱ located at the intersection of said parcel line and a straight line connecting the westerly corner of Parcel 79-8ⁱⁱ and the southeasterly corner of Parcel 128-39ⁱⁱ at approximate coordinates N42°36’28.3” W70°39’18.2”, NAD83;

Thence northwesterly by a straight line to the southeasterly corner of Parcel 128-39;ⁱⁱ

Thence northwesterly, northerly, westerly, and northerly along the easterly lines of Parcel 128-39ⁱⁱ to the intersection of the northerly projection of said line and the southeasterly line of the federal navigation channel (shown as “SOUTH CHANNEL 18 FT FOR WIDTH OF 200 FT JUL 2010” on NOAA Chart #13281ⁱ);

Thence southwesterly along the southeasterly line of the federal navigation channels (shown as “SOUTH CHANNEL 18 FT FOR WIDTH OF 200 FT JUL 2010” and “ENTRANCE CHANNEL 20 FT FOR A WIDTH OF 300 FT JUL 2010” on NOAA Chart #13281ⁱ) to the point of beginning.

The above described Gloucester Inner Harbor Designated Port Area contains an area of 214.9 acres more or less and is shown generally on a plan entitled: “Gloucester Inner Harbor Designated Port Area (DPA),” Scale: 1” = 600’ +/-, Prepared by: Massachusetts Office of Coastal Zone Management, 251 Causeway Street, Suite 800, Boston, MA 02114, Date: April 2014.

Please note: In the event of conflict between this written description and the accompanying map, CZM shall issue a written clarification pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00.

ⁱ U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of Coast Survey (OCS). *Gloucester Harbor and Annisquam River* [nautical chart]. 19th ed. 1:10,000. Chart #13281. Washington, D.C.: DOC, NOAA, NOS, OCS, Oct. 2010.

ⁱⁱ The City of Gloucester Assessor’s parcel data were extracted from the Massachusetts Office of Geographic Information (MassGIS) Level 3 Assessors’ Parcels Mapping data layer. The data were last updated for Gloucester in 2012 and were accessed March 21, 2014, from the MassGIS website (<http://www.mass.gov/anf/research-and-tech/it-serv-and-support/application-serv/office-of-geographic-information-massgis/datalayers/13parcels.html>). Please note: These data were used for planning purposes only and should not be used for, and are not intended for, survey and engineering purposes. The data do not take the place of a legal survey or other primary source documentation.