

MINUTES
Massachusetts Oil Spill Prevention and Response Act Advisory Committee
Thursday, April 9, 2009
Black Falcon Cruise Terminal, Boston, MA

Attendees:

Janine Commerford, MassDEP	Clint Walker, Northeast Pilots
Rich Packard, MassDEP	Gregg Farmer, Boston Pilots
Patrick Hurley, MassDEP	Kirk Franklin, Frank Corp.
Steve Mahoney, MassDEP	Pamela Garcia, USCG – Boston
David Janik, MA EOE	Tom Bushy, Deputy Pilot Commander – D3
Karen Pelto, MA EEA	Scott Metzger, Clean Harbors
Dale Young, MA EEA	Mark Rasmussen, Coalition Buzzards Bay
Gordon Bullard, Mass Dept. Revenue	Megan Kirchgessner, NE Wildlife Center
Steve Dodge, Massachusetts Petroleum Council	Mark Cetela, Woods Hole Group
Richard McDermott, Harbormaster – Braintree	Ben Bryant, Nuka Research
Paul Milone, Harbormaster – Weymouth	Elise DeCola, Nuka Research
Tim Bouthier, Harbormaster – Plymouth	Bill Cass, NEWMOA
John Simpson, Dennis Waterway Commission	Rachel Colella, NEWMOA

Welcome and Introductions:

Janine Commerford, Assistant Commissioner, Massachusetts Department of Environmental Protection (MassDEP), welcomed the group and reviewed the agenda planned for the meeting. She noted that there has been a lot of activity and updates since the last meeting in June 2008. In particular, Ms. Commerford discussed the recent legislation and amendments to Mass Oil Spill Act that effect Buzzards Bay.

The purpose of this legislation was to provide additional protection from oil spills by targeting double-hulled vessels. This state legislation was designed to be in addition to the federal USCG regulations, which currently target only the single-hulled vessels. The legislation included the following three provisions:

1. Notification – The notification to MassDEP is voluntary for any tank vessels entering Buzzards Bay, but provides some liability protections in the event that there is an oil spill incident.
2. State Marine Pilots – Double-hulled vessels carrying 6,000 or more barrels of petroleum may request the service of a state-funded marine pilot to board while entering the canal. There is currently a memorandum of agreement (MOA) between MassDEP and the District 3 Pilot Association for this service.
3. Rescue Tugs – The 2008 Mass Oil Spill Act amendments require MassDEP to contract for rescue tugs services that would be available to tank vessels transiting Buzzards Bay in

the event that they become distressed. The statute specified that the rescue tug have firefighting capability that meets ABS fire fighting one standard (FiFi 1), carry at least 600-feet of boom, and other response equipment. MassDEP developed a Request for Proposals (RFP) and received several bids for this service. MassDEP's evaluation of the proposals indicated that only 2 of the bids received were compliant with all of the vessel specification requirements in the statute. The bid that came closest to meeting the statutory criteria was priced at almost \$5 million per year and had a response time of 165 minutes.

MassDEP determined that this proposal was not sufficiently protective relative to its cost, and therefore, cancelled the procurement. However, discussions are being held to amending the provisions in the statute and a future procurement effort is anticipated.

Ms. Commerford stated that emergency regulations (314 CMR 19.00) were put in place to implement the three provisions on February 12, 2009. They have gone through public hearings and a public comment period will close next week. After which they will be finalized and made permanent. Ms. Commerford noted that the rescue tug provision may not be included in the final regulations, but that the other provisions (notification and state marine pilots) will be retained.

Mark Rasmussen, Coalition for Buzzards Bay, recommended that MassDEP take out the word "rescue" in rescue tug program. He stated that the original intent was supposed to be for an escort tug to mirror the federal regulations for the single-hulled vessels. He noted that the term rescue has led to some confusion among the industry and other parties.

Marine Pilot Program:

Rich Packard, Program Manager, MassDEP provided an overview of the state marine pilot program, that is a provision required in the legislation. The program has been in place since March 1, 2009. Since then, over 40 notifications have been made through the Massachusetts Emergency Management Agency (MEMA) telephone hotline. Of those requests, 27 vessels, representing 7 companies, have requested the service of a state marine pilot.

Mr. Packard noted that only the double-hulled vessels carrying 6,000 or more barrels of petroleum, that are not otherwise required to have a marine pilot, can take advantage of this state-funded service. For example, single-hulled vessels are already required under federal USCG regulations to have a marine pilot on board; therefore, these vessels would not be eligible to request a state funded pilot.

Since March, MassDEP has been invoiced and has paid approximately \$70,000 for this program. The program seems to be going well, although there have been questions about streamlining the process to make it easier for industry (e.g., submit notifications via email).

Captain Clint Walker, Northeast Pilots, wasn't previously aware that any vessel/ship could notify through this system, and therefore, gain some liability protection. He believes that there needs to be more outreach about this voluntary notification process to all vessels.

Threat Evaluation and Equipment Inventory:

Elise DeCola, Nuka Research, gave a presentation about the coastline threat evaluation and oil spill response equipment inventory projects completed by Nuka. The data and analysis of these two projects are presented as a draft and will be available on the MassDEP website for review and comment before the reports are finalized.

Ms. DeCola first described the coastal oil spill risk factors and relative oil spill threats. Nuka used 10 threat measures divided into 3 categories: vessel movement, resident vessel fleets, and land-based storage threats. They assessed 95 harbors in the 5 broad regions of the state: Boston, North Shore, South Shore, South Coastal, and Cape Cod & Islands. As a result, there are many different data sets and scenarios. The information in the report provides the worst-case scenario as well as the most probable scenarios and can help inform MassDEP Oil Spill Program's planning efforts such as geographic response plan (GRP) development, prevention programs and training efforts. For example, the threat analysis and probable oil spill scenarios strongly suggest that Boston is in need of a GRP update.

Another project that Nuka completed was the inventory of oil spill response equipment in Massachusetts and the surrounding New England states. Information was gathered on federal, state and privately owned sources of equipment, including the spill response trailers, OSRO equipment, co-op resources in Boston, etc. They did not include facilities with dedicated resources. They conducted an inventory of all equipment, including boom (calm-water, protected water, and open-water boom), skimmers, and storage capabilities. The information collected as a result of this inventory can be used to inform spill response management (e.g., trainings) and ensure that there is a system in place to deploy and manage the equipment. Ms. DeCola noted that the data suggests diversifying the types of equipment in the response trailers and coordinating equipment with the U. S. C. G.

Mr. Packard reported that the information gathered during these projects is a good start for the program. It confirmed a lot of assumptions (e.g., vessel transit is priority) but also brought new issues to our attention (e.g., Boston oil spill risks). In addition, these exercises brought all of the information together in one place.

Status of Current Implementation Activities:

Equipment Procurement

Mr. Packard reported that there are currently 48 oil spill response trailers that have been distributed throughout Massachusetts. Thus far, they have been concentrated on Cape Cod and the Islands and somewhat on the North Shore. MassDEP has put out an RFR for another round of 28 trailers, which will be distributed to the North and South Shores. MassDEP is planning to meet with the coast guard to assess the need for an oil spill response equipment needs in Boston.

Paul Milone, Weymouth Harbormaster, expressed concern that the Weymouth, Braintree and Quincy areas do not yet have trailers. He noted that Weymouth has sensitive areas such as estuaries, recreational boat traffic, and has met the criteria in Nuka's threat evaluation report.

Because of this, he feels that Weymouth (and other areas along the South Shore) should be next in line for the oil spill response trailers. He is surprised that the trailers have been distributed only in the northern and southern parts of the state, leaving the middle area, which is the South Shore, without any. Mr. Packard took note of these concerns and stated that the South Shore towns will all get trailers in 2009 and 2010. He noted that all of the trailers are owned by MassDEP, and therefore, can be moved to other communities if and when they are needed.

Dave Janik, MassCZM, suggested that MassDEP coordinate equipment between communities so that each community has the necessary resources for their number one priority in the GRP. For example, in some communities, 600-feet of boom are more than enough for responding to an oil spill, but other communities might require twice as much. Dale Young, Massachusetts Office of Energy and Environmental Affairs (MA EEA), agreed with this and noted that MassDEP should also coordinate with the natural resources trustees and other federal resources.

Following the deliveries of the oil spill response trailers, community first responders will be able to participate in a classroom-style “familiarization” training, to better understand the equipment in the trailers, as well as an in-the-field oil spill response exercise to learn how to deploy and use it. These events will take place in the fall and spring of each year.

North Shore GRP

The GRPs for the North Shore communities will be started this spring (following a kick-off meeting in Gloucester on April 29th). They are expected to be completed in the fall of this year.

Buzzards Bay GRP

The updated Buzzards Bay area GRP was completed in March 2009, with the assistance of Nuka and input from the Coalition for Buzzards Bay.

GRP Testing Program

Mr. Packard noted that the GRPs represent only the “best guess scenario.” Therefore, MassDEP plans to test these GRPs in the field, through the oil spill response exercises. MassDEP, with the assistance of other contractors, will host six trainings each year over the next three years (except in 2009, which will have only three trainings in the fall). Nuka will incorporate the “lessons learned” from these field exercises into the GRPs and revise or update them as necessary.

OSA Three-Year Plan

The Three-Year Plan was updated in April 2009. One of the additions to the Plan is the procurement of a wildlife rehabilitation trailer. This would be used mainly for small oil spills or in the cases where there is no primary responsible party (PRP). Mr. Packard gave the example of a small petroleum spill in the Fenway muddy river area. The source of the spill was unknown, but it resulted in oiled birds that needed attention. MassDEP acknowledges that it is always a good idea to have some local equipment and will be working with the Massachusetts Fish and Wildlife Department to procure a trailer for this use.

OSA Trust Fund Status:

Mr. Packard reported on the status of the OSA Trust Fund, which currently has a reserve of approximately \$1 million and a balance of almost \$5 million. Ms. Commerford stated that the Trust Fund is currently funded with the 2¢ per barrel fee on petroleum products, but that the Commissioner of MassDEP has the authority to raise the fees to 5¢ per barrel if needed. She stated that, based on the estimated costs of the marine pilot program (\$800,000 to \$1 million per year), and the anticipated costs of the rescue tug program (no contract is in place yet, but it is estimated at least \$2 million per year), she expects that the fees will be raised to 5¢ per barrel later this year.

Captain Walker noted that more and more vessels coming through the canal are double-hulled and that, as of 2015, all vessels will be required to be double-hulled. Therefore, over the next few years, there will be a lot more vessel traffic requiring the services of a state marine pilot, which will cost more money for the state.

Ms. Young asked if the Trust Fund was an interest-retaining account. Gordon Bullard, Massachusetts Department of Revenue, stated that he did not believe this was an interest account. He stated that the money is in a specific account according to the statute, but will check to see about it gaining interest.

Briefing on PORTS:

Mark Cetela, representing the Woods Hole Group, gave a brief summary about the physical oceanography real-time system (PORTS) and project goals, which include: navigation safety, improved economic efficiency, and coastal resource protection. He stated that the main benefit of the PORTS system, in relation to other types of vessel-tracking systems, is that it provides information in real-time (every six minutes) so that the marine pilots have a way to get accurate data fast, for better planning.

PORTS is a federal program administered by the National Oceanic and Atmospheric Administration (NOAA), but is mainly funded through local sources. The installation costs are \$1.4 million, with an annual operation and maintenance budget of \$440,000 per year. Mr. Cetela asked if MassDEP would consider funding the annual operation and maintenance costs of this system, if the upfront installation costs are paid for by the federal coast guard. The Woods Hole Group recommends this system and urges the OSA committee participants and other stakeholders to petition the federal government to pay for the installation of this system in Buzzards Bay.

Adjournment:

Ms. Commerford thanked everyone for attending and adjourned the meeting.