

Massachusetts Oil Spill Prevention and Response Act Advisory Committee

Commonwealth Museum and Archives, 220 Morrissey Blvd., Boston, MA 02125

Wednesday, April 24, 2019

Meeting Agenda

The meeting began at 9:30 am with a welcome, introductions and a review of the agenda topics by Paul Locke, Assistant Commissioner for Waste Site Clean-up, MassDEP and Julie Hutcheson, MOSPRA Program Coordinator, MassDEP. Thirty two people were in attendance.

USCG 2018 Buzzards Bay Ports and Waterways Safety Assessment (PAWSA)

Mr. Ed LeBlanc, USCG Sector Southeastern New England reviewed the results of the two-day Buzzards Bay, Port and Waterway Safety Assessment (PAWSA) conducted in February 7-8, 2018. A total of 50 recommended risk mitigation actions resulted from the PAWSA. A number of the most important recommendations were;

1. Track the type and volume of hazardous materials moving through Buzzards Bay and the Cape Cod Canal,
2. Improve VMRS data collection,
3. Establish a P.O.R.T.S. navigation data system,
4. Improve weather data with the installation of additional buoys, and
5. Support by the USCG of the MOSPRA the towing vessel/tank barge safety provisions in Buzzards Bay and the Cape Cod Canal.

Mr. LeBlanc stated that the U.S Army Corp of Engineers (ACOE) and USCG have begun to implement the hazardous materials tracking and towing vessel/barge safety recommendations.

Ms. Julie Hutcheson, MassDEP MOSPRA Program Coordinator followed with a description of the actions that the MOSPRA Program has begun or completed that were recommended by the 2018 Buzzards Bay PAWSA. The actions include; acquisition of additional oil spill response equipment, continued testing of GRP's, conducting large scale GRP testing exercises and installation of an additional wave buoy in Buzzards Bay and a current meter with PO.R.T.S. capability at Massachusetts Maritime Academy.

Escort Tug Program

Industry Provided Tugboat Escorts / Assists

Mr. Steve Mahoney, MassDEP – described the current industry provided escort tug provisions in effect in Buzzards Bay and the extent of the area covered by these regulations. Tank vessels transporting over 6,000 bbls of petroleum are required to hire a tugboat escort. He highlighted key escort tug specifications (>4,000 HP, minimum bollard pull of 50 tons, ABS Fire Fighting vessel Class 1 and Maltese Cross A1) and indicated that the number of barges escorted in 2018 was 624 transporting over 2 billion gallons of petroleum through the Cape Cod Canal. There are occasions when a tugboat meeting all of the statutory requirements is not available. In order to prevent adversely affecting the flow of petroleum and commerce, MassDEP grants a waiver to use a tugboat that is not fully compliant but is capable to do the work as an escort tugboat. Waivers are granted under “exigent circumstances” under the statute. In 2018, 76 waivers (12% of the total transits) were granted and 26 tug/barge units were assisted by the escort tug in 2018. In 2017, 67 waivers (12%) were granted during a year with 570 transits. Mark Rasmussen, Buzzards Bay Coalition noted that the

number of escorts and waivers granted seems to be increasing and questioned if there were sufficient escort tugs available.

The group had a lengthy discussion regarding the number of compliant vs non-compliant escorts tugs available, the number of waivers granted, what happens if a waiver is denied and whether that has occurred and the capability of the non-compliant escort tugboats. Mr. Locke stated that MassDEP had ever denied a waiver. MOSPRA program staff indicated that if DEP denies a waiver the tug/barge would not be able to transit the canal until a compliant escort tug was available. Also early on in the program when the number of compliant escort tugs was smaller there were a few instances when loaded tank barges were denied entry and were forced to wait outside of the entrance to Buzzards Bay until an escort was available. DEP staff explained that to minimize the disruption to the company voyage schedules and to not create shortages of fuel, DEP has worked to find additional compliant tugs and to assess the capabilities of the non-compliant tugs. Mr. Locke noted that MassDEP “wants to make sure we are balancing navigation safety vs. the need for vessels to travel through the canal.” DEP staff noted that to their knowledge there has never been an instance where a vessel requiring an escort has been approved to transit through the canal without an escort.

Tugboat Self-Certification Verification / Inspection Project

Steve Mahoney, MassDEP and Rich Packard, Nuka Research and Planning Group followed with a presentation on the current DEP effort to audit and inspect tugboats that are allowed to provide escort services. Since MassDEP does not have in house expertise in tug/barge inspection and vessel crew requirements, a professional marine surveyor has been contracted through MOSPRA.

The main goals of the inspections will be to:

- verify that the self-certification forms submitted for each of the tugs are accurate;
- provide an opinion on the capability of the tugboats to perform escort services in Buzzards Bay & the Cape Cod Canal; and
- ensure that MassDEP is only issuing waivers (during exigent circumstances) to tugboats capable of performing those services.

Mr. Nathaniel “Frosty” Leonard has been hired to provide vessel inspection services. The scope of the inspection will cover MOSPRA statutory and regulatory requirements and will not duplicate other inspection protocols that exist (USCG, SIRE, ABS). Mr. Leonard will also provide a professional opinion on the capabilities each tug to assist a laden barge in distress. Vessel inspections will be conducted between June and August in 2019. Summaries of the inspection findings and providing guidance for waiver decisions will be delivered in Fall of 2019.

Mr. Locke noted that the goal of this effort is not an audit/enforcement of the escort tugs; it’s a data gathering exercise to have confidence that when waivers are approved that navigation safety is still maintained.

Mr. Dave Janik, Coastal Zone Management (CZM) asked if MassDEP determined what is a “core” requirements i.e. most important specifications and what are less important. Mr. Locke replied that an expected outcome of this project is a better idea of what capabilities an escort tug should possess. And may result in a prioritization of the vessel specification that are most important.

Mr. Rasmussen stated that the MOSPRA law is now 15 years old and the language may need to be updated if there are technologies or industry practices that are more current. He asked if there was a possibility of amending the statute to reduce the need for vessels requiring waivers, especially since the percentage of the waivers is increasing.

Mr. Locke replied that it would be ideal to improve the law to reduce waivers and that would be a long-term goal. There are areas of the program that MassDEP has identified that are inconsistent or improperly worded.

Mr. Mahoney further explained that in the past, the waivers have been between 5-10% of the total trips. However weather and increased demand are a factor in how many waivers are requested. He noted that the escort tug companies do an excellent job of making sure compliant tugs are available.

Mr. Carlos Castillo, Global Oil Co added that his company frequently receives fuel barge deliveries from tugs that may need a waiver. If a waiver is denied his terminal may not receive fuel for the Department of Energy for emergency fuel reserve. If the fuel is not delivered on time it could have a devastating impact. Most oil terminals do not maintain large reserve capacities any more. Also vessels requiring a waiver are also traveling to Portsmouth, NH and other northern ports. There are lots of tide, weather, and logistic restrictions of when vessels can be received and can impact schedules. In Boston Harbor a Co-op of oil companies work as a group to make things work.

Mr. Di Giovanni, Reinauer Towing and Transportation Co. noted that the equipment on towing vessels is very well maintained and is inspected by many agencies.

Mr. Locke explained that part of this project is to document how the tugs function, and if the inspections reveal areas where the statute should be changed there will be good documentation to support this.

Mr. Gary Oliveira with McAllister Towing suggested that the DEP inspections were another type of compliance check that looks at different aspects of the vessels that aren't looked at by others. He stated that the standard required for equipment is good, but there are other areas that can be checked as well. He stated that McAllister Towing has two compliant tugs and they are expensive to build and operate. There has never been an issue or complaint or mistake so it appears that we are doing a good job and the equipment on the boats is good. He indicated that McAllister always prioritizes using a compliant tug for escort work but when they need to use a waived tug they bring in the compliant tug as soon as it's available. He stated that they welcomed the opinion of an outside consultant on the capabilities of their vessels.

Mr. Locke restated that DEP wants to be able to say that they're confident about the capability of the vessels being used with waiver approval or not. He felt that the current waiver process was working well but it needs some supporting information from a professional inspector. He indicated that DEP should share the vessel inspection checklist and inspection results with this group.

A discussion began regarding if several vessels in the non-compliant category were determined to be very capable of doing escorts then what would result from that. A question was asked if a list or ranking of escort tugs and their capability would result from the inspections. It was stated that it may be a possible outcome. Most likely MassDEP will look at the inspection results and determine which vessels they have confidence can do the job then will look at any need to change or streamline the waiver process.

MOSPRA Funded Projects

New Bedford Harbor Mystery Sheen and Clean Bilge Program

Mr. Andy Jones, MassDEP Southeast Region, gave a presentation on the effort to mitigate mystery spills in New Bedford Harbor. He presented information that New Bedford has the greatest number of spills of any port in New England. Spills and mystery sheens have been a chronic problem for 25 years and continue to occur with the source not being identified. A segment of the New Bedford fishing fleet do not think there is a problem with oil spills and have resisted efforts to change the culture of looking the other way.

Mr. Jones explained that the program has a three phase approach consisting of outreach & education, a bilge oil & water collection/disposal pilot project, and enhanced enforcement. He stated that spill reporting has increased as a result of the project. Also the involvement of the USCG is an important component to the project. The outreach and the bilge

pump-outs bring fishing vessels into the program and result in educational opportunities. During the first phase of the pump-out program 18,402 gallons of oil and water was collected in one year. The program was viewed by the vessel owners/operators as the MassDEP free waste oil pump-out program.

A question was asked as to how the amount of oil was measured after a pump out. Mr. Jones explained that oil and water were allowed to separate in the vacuum truck and the oil thickness in inches was measured and converted into gallons was.

Mr. Jones indicated that enforcement of rules against spilling oil and not reporting (to the USCG and MassDEP) can be difficult but penalties issued by the USCG and identifying the responsible party and requirement of them to pay for the clean-up is helping. He noted that lack of support for this program by the City of New Bedford has undermined the success of these efforts.

Mr. Lock noted that recently MassDEP issued new draft regulations covering threat of release of oil to the environment from oil in bilges were released and should be a significant tool in this effort.

Mr. Jones noted that in Phase II of this effort a DEP representative is present at a vessel pump-out along with a MOSPRA contracted marine consultant to inspect and provide recommendations to the boat owner. Because of the challenges and push back from the fleet the bilge pump-outs will be stopped soon as changes to the program are assessed.

Several committee members noted that the USCG has issued fines for fisheries violations that have been noticed by fishermen and have made a positive impact in beginning to change the behavior of the fishing fleet. A comment was made that the water from the bilges has harmful components in it and the fishermen don't realize that the "bilge water" can be harmful.

Mr. Jones presented options for a long term solution to this problem. They involve collecting oil and water from vessel bilges with a vacuum truck and using portable fractionation ("frac") tank to separate the oil or building an oil/water reclamation facility as has been done in Texas. MassDEP contracted to have design plans done for a system of this type but a location to site it has not been found.

Mr Rasmussen asked if a viable piece of waterfront was found would DEP fund the construction and operation of the facility. MassDEP stated they would entertain funding the constructing a facility (estimate was \$100,000) but the ownership and operation of the facility would have to be done locally.

Another participant mentioned that EPA will soon be turning over to the City of New Bedford property along the water front.

Break

Program Implementation Activities

Oil Spill Equipment Procurement, Maintenance & Restocking

Ms. Hutcheson explained that MassDEP was able to acquire 11,500 feet of 42 inch Foam Filled Boom (FFB) from the USCG which is staged at Joint Base Cape Cod (JBCC). The equipment is brand new, includes six trailers. and was free. Photos of the equipment were shown. Transporting the trailers carrying the FFB from Virginia to MA was the sole expense. A punch list for the maintenance of the containers holding the boom and the trailers is under development. Efforts are underway to obtain JBCC long-term passes for MassDEP personnel and MassDEP/MOSRA contractors. Ms. Hutcheson also stated that efforts are being made to obtain anchoring systems from the USCG needed to deploy the FFB.

Regarding the MassDEP Oil Spill Trailers provided to coastal towns, she stated that maintenance and restocking is a challenge. Under the agreement with MassDEP (owner of the trailer/equipment) a call needs to be made by the town that trailer / equipment is / has been used but this is not happening on a regular basis. Having the trailers stocked at all times is key. MassDEP restocks materials used but if there is a party responsible for a spill that party should pay for the materials. Maintenance of trailers is increasing, especially the wear and tear due to being in coastal environments some for 10 years. She showed photos of various wear and tear such as , animal and weather damage. She explained that a Trailer Tracking System was developed under MOSPRA is used by Moran Environmental Recovery (MER), (a MOSPRA contractor) to record inspection findings using a tablet. The TTS is working very well.

Mr. Rasmussen asked how long it will be until the FFB boom is fully operational? Mr. Locke, stated that the boom could be deployed now using anchors provided by contractor until the USCG anchors are received.

First Responder Training & GRP Testing Exercises

Mr. Mike Popovich, Nuka Research and Planning Group provided a summary of the ongoing MassDEP First Responder Training & Geographic Response Plan Testing Exercises. Mr. Popovich began by stating that 2018 marked the 10th year of the MOSPRA GRP development, testing and training program. He noted that 160 GRPs have been developed for coastal Massachusetts and all are now integrated into the USCG Area Contingency Plans.

Mr. Popovich explained the number of exercises held per year and the format used with 2-3 towns included in each exercise. He reviewed how the GRPs are revised as a result of field exercises and that in addition to first responder exercises advanced GRP tests performed by contractors are conducted. The exercise program meets the state's initial in-service training requirement for harbor masters, but for firemen this does not meet any training requirements. In the interest of time Mr. Popovich was asked to cede his remaining time on the agenda so that time was available to discuss funding matters.

Advanced GRP Testing Exercises & FFB Familiarization Training

This presentation was not given – see above

MOSPRA Trust Fund and Reserve Account Project

Trust Fund Status

Mr. Mahoney and Mr. Packard presented the status of the MOSPRA Trust Fund and the project to establish a Reserve Account.

Mr. Mahoney began by stating that the trust fund money has been moved to an interest-bearing account. He also explained that there are statutory obligations that MassDEP must ensure have sufficient funds available to cover if needed. These obligations are the payment of 3rd party damage claims resulting from an oil spill and the need to resume paying for the escort tug and marine pilot programs if a court should again overturn provisions of the MOSPRA statute. He then turned the presentation over to Mr. Richard Packard to present the results of an effort to estimate the cost of paying for the 3rd party damage claims and escort tug and marine pilot programs that would comprise a reserve fund.

Trust Fund Reserve Account Project

Mr. Packard explained that the method used to estimate the cost of 3rd party damage claims was derived from a model developed by Etkin using a formula for socioeconomic cost per gallon of oil spilled. He also stated that he interviewed other states that have oil spill trust funds, and the federal oil spill liability trust fund to understand the likelihood of the MOSPRA trust fund having to pay 3rd party claims from an oil spill.

To estimate the cost of the tug escort and marine pilot programs he contacted the companies currently conducting the escorts and the Northeast Pilots Association, gathered their rates and used them to estimate the cost of conducting 570 escorts in one year. The results of this method estimate that \$35 -38 million would be needed to cover these obligations if both events occurred simultaneously. However, since interviews with states with oil spill trust funds showed that the likelihood of a claim from the fund is pretty low and it is also unlikely that both events will happen at the same time it was recommended that \$17 million be placed in the initial reserve account.

Present and Future Proposals

Current Meter Status

Mr. Mahoney and Mr. Tom Shyka, NERACOOS followed with a presentation on funding a current meter and a wave buoy. A proposal from the Massachusetts Maritime Academy and NERACOOS for MOSPRA to fund the purchase of a current meter is being considered by MassDEP as it helps to reduce a navigational risk identified by the Buzzards Bay PAWSA. Data would be collected by Mass Maritime Academy and uploaded to PORTS where it could be accessed by commercial and recreational vessels. It is estimated that the meter may be installed and operational by the fall of 2020.

Buzzards Bay Wave Buoy

Mr. Shyka explained that a new wave buoy near the entrance to Buzzards Bay was also a recommendation of the PAWSA to provide accurate wave and weather information. After considering many types of buoys NERACOOS is recommending a wave buoy that is compatible with the technology that NOAA PORTS system uses. There is no timeline for implementation at this point.

Mr. Rasmussen asked if there is a possibility that a water quality sensors could be added to benefit project that the Buzzards Bay Coalition is funding.

Grant Program Development

Mr. Mahoney and Ms. Hutcheson presented a proposal from MassDEP to develop a grant program to fund projects that are compatible with the uses allowed by MOSPRA. Initially local municipalities, academic institutions and other partners would be eligible to apply. The first round of grants may be limited to \$500,000 or less and it is envisioned that most projects be less than \$50,000. It is estimated that grant applications would be accepted every 2-5 years depending on fund availability. It is anticipated that funds will not be available for the purchase of vessels.

MassDEP is seeking input for the MOSPRA committee members and other interested partners on priorities for this grant program and general grant program ideas.

The following discussion and feedback was received;

- Focus of much of today is to determine size of a reserve,
- PAWSA recommendations will still be considered especially improvements to navigational aids.
- Some funds could be used to reach out to industry to get better costs on 3rd party damage costs from the spills.
- Target grant program to communities that have greatest needs. Some communities lack staff resources to request grants.
- Look for ways to make the system (marine transportation?) more robust and more resilient.
- Keep industry engaged and involved.

- Do not cap grant size at \$50,000. Maybe there are great projects for larger sums of money. See what comes in for the first round.
- Looks for port security grants success stories. Some discussions there in terms of what equipment is available.
- Speak with academia to figure out needs. Environmental sensors or monitors to benefit coastal communities.
- Government shut down created issues with the OSLTF being used to pay contractors. If the federal shutdown had gone longer may have been a problem in Mass if a spill happened during shutdown.

New Business & Wrap-up

Closing Remarks – Mr. Locke

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