



U.S. Environmental Protection Agency (EPA)

New Bedford Harbor Superfund Site

New Bedford, Massachusetts

EXECUTIVE SUMMARY

FINAL DETERMINATION for the Commonwealth of Massachusetts' Request to Include Construction of a Confined Disposal Facility as Part of the State Enhanced Remedy

Summary of the Final Determination

After completing consultation with other federal and state agencies, as required by federal and state law, reviewing additional submissions by the Commonwealth, and after careful consideration of the public comments received during the public comment period, EPA has determined that the Commonwealth's proposal to construct a 28.45 acre marine terminal, consisting of a confined disposal facility ("CDF") and upland area in the South Terminal location of the New Bedford Harbor, as well as the dredging and filling associated with that construction, including dredging and filling of confined aquatic disposal cells ("CAD cells") (collectively, referred to herein as the "South Terminal Project" or the "Project"), is both protective of human health and the environment and meets the substantive requirements of applicable or relevant and appropriate federal environmental standards and, through the Commonwealth's determination, meets applicable or relevant and appropriate state environmental standards, as long as all the conditions set forth in this Final Determination are met. As a result, by this Final Determination, EPA is modifying the State Enhanced Remedy ("State Enhanced Remedy" or "SER"), which is incorporated into the 1998 Record of Decision for

the Upper and Lower Harbor at the New Bedford Harbor Superfund Site ("1998 Record of Decision" or "1998 ROD") so that it includes the South Terminal Project.

As part of the State Enhanced Remedy, the Commonwealth of Massachusetts ("Mass DEP") will continue to be the lead agency for conducting the State Enhanced Remedy work, as modified, and is responsible for securing all funding of the State Enhanced Remedy work, as modified. EPA and other federal, state and local entities will continue to act as supporting regulatory agencies for the State Enhanced Remedy work, as modified.

EPA issued a Draft Determination and administrative record for the South Terminal Project on July 16, 2012 and held a 30-day formal comment period from July 16 to August 21, 2012. During that time EPA accepted written comments via mail and email. Additionally, verbal comments were recorded at a formal Public Hearing that followed an informational meeting, both of which were held on July 24, 2012. A transcript of that Public Hearing is included in the Administrative Record along with all the written comments EPA received during the public comment period. EPA specifically sought public comment on EPA's finding under the federal Clean Water Act ("CWA") that the South Terminal Project is the least environmentally damaging practicable alternative; on the actions relating to floodplains; and on two Toxic Substance Control Act ("TSCA") risk-based findings concerning the disposal of polychlorinated biphenyls ("PCBs") in CAD cells. For a detailed discussion of these findings and the conditions upon which these findings are based, see Appendix E (Clean Water Act); Appendix L (Floodplains) and Appendix J for the TSCA Determinations.

This Final Determination includes the South Terminal Project as part of the State Enhanced Remedy that was approved and integrated into the 1998 Record of Decision for New Bedford Harbor. This document and its supporting Appendices and Administrative Record provide the rationale for EPA's determination that although the South Terminal Project increases the scope and detail of the SER as set forth in the 1998 ROD, it does not fundamentally change the approved SER and it is consistent with the regulations at 40 C.F.R. 300.515(f)(1)(ii) (State enhancement of remedy) and of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §§9601 *et. seq.*

With this document EPA determines that the South Terminal Project, which consists of constructing a 28.45 acre marine terminal (consisting of 6.91 acres of filled waters (referred to as "the confined disposal facility" or the "CDF") and approximately 21.54 acres of upland area, (including a filled 0.11 acre freshwater wetland and the ancillary properties) (referred to as "the upland area")) in the South Terminal location of the New Bedford Harbor as well as the dredging and filling associated with that construction, including dredging and filling of CAD cells 2 and 3 and capping of CAD cell 1 and the borrow pit is both protective of human health and the environment and meets the substantive requirements of applicable or relevant and appropriate federal environmental standards. EPA also accepts the Commonwealth's determination that the

Project meets the applicable or relevant and appropriate state environmental standards. The Project does not conflict with and is not inconsistent with the New Bedford Harbor Superfund remediation, and EPA reaffirms that the 1998 ROD, including the State Enhanced Remedy, remains protective of human health and the environment. EPA makes this determination after carefully reviewing the extensive submissions provided by MassDEP, the comments received during the public comment period, and after completing its consultation requirements with other federal and state agencies. This Final Determination is subject to a number of conditions set forth in detail in the document itself. Accordingly, the South Terminal Project will benefit from the Section 121(e) permit exclusion under CERCLA.

Overview of the Project and Major Components

The Project consists of construction of a 28.45 acre site, comprised of a 6.91 acre shoreline CDF adjacent to 21.54 acres of existing upland property (as well as to several ancillary properties) in the South Terminal area located in the lower portion of New Bedford Harbor, creation of a CAD cell (CAD cell 3), filling and capping of existing CAD cells, dredging of a navigational channel, boat basin and mooring area, and mitigation measures. The proposed CDF and upland area, once completed, will function as a marine industrial terminal capable of supporting offshore renewable energy development and, with some modification, container, break bulk, and bulk cargo shipping as well as short-sea shipping if it were to occur in the Harbor. The terminal would also provide a site for disposal of clean, dredged material associated with the SER during construction of the Project and would provide for a staging area for additional clean, dredged material for future beneficial reuse, thereby avoiding ocean disposal of all of this clean material.

The major components of the Project are set out below:

- Construction of a 8.54 acre CAD cell between the Route 195 and Route 6 bridges to hold navigational dredged contaminated sediment;
- Navigational dredging of up to approximately 801,400 cubic yards of material in the waters of New Bedford including:
 - Up to approximately 225,600 cubic yards of sediment contaminated with average PCB-concentrations of less than 50 parts per million (ppm) and disposal of these sediment in existing CAD cell 2 and the newly constructed CAD cell 3; and
 - Approximately 575,800 cubic yards of clean, glacial material below the removed contaminated sediment and use of this material as clean fill for the CDF and upland ancillary properties, capping of existing borrow pit and CAD cell 1, for use in associated mitigation projects, and offshore disposal;
- Construction of a 28.45 acre multi-purpose marine terminal (including ancillary properties) including:
 - Construction of a 6.91 acre CDF with a 1200 foot linear coffer dam bulkhead and a pier supported apron;

- Placement of approximately 134,000 cubic yards of clean, dredged material behind the bulkhead;
- Remediation of upland areas to address PCB concentrations greater than 25 ppm and elevated levels of PAHs and lead in soil, and investigation and remediation of ancillary properties if necessary;
- Excavating, filling and regrading portions of upland soil adjacent to the filled area, including excavation and modification of an existing state-authorized cleanup remedy;
- Realignment of Gifford Street Boat Ramp channel and creation of two new mooring areas;
- Capping of the CDF and upland area (together, the marine terminal) with 3 feet of a dense stone aggregate;
- Long-term upland groundwater monitoring;
- Mitigation, including:
 - Creation of 22.73 acres of winter flounder habitat;
 - Creation of 1.02 acres of salt marsh at River's End Park in New Bedford;
 - Creation/enhancement of 4.47 acres of intertidal habitat;
 - Creation/enhancement of 14.91 acres of shallow subtidal habitat;
 - Seeding of 24,542,803 shellfish over 10 to 15 years;
- Implementation of an Activity and Use Limitation on the CDF and certain upland areas to protect the remediated areas and to limit the use of groundwater; and
- Inclusion of locations of CAD cells on navigational charts and implementation of any required anchorage restrictions.

A map of the proposed work components is found in Attachment A of the Commonwealth's June 29, 2012 submittal and is attached to the Final Determination as Figure 1.

EPA's Final Determination

Subject to the conditions and understandings set out in the Final Determination, after review and consideration of all the information submitted by MassDEP on behalf of the Commonwealth of Massachusetts, and all public comments received, and after completing consultations with all federal and state agencies, EPA has determined that the Commonwealth's Project, which consists of constructing a 28.45 acre marine terminal (consisting of 7.02 acres of filled waters (the CDF and the freshwater wetland on the upland area) and approximately 21.54 acres of upland area, (including the ancillary properties)) in the South Terminal location of the New Bedford Harbor as well as the dredging and filling associated with that construction, including the dredging and filling of CAD cells 2 and 3 and the capping of CAD cell 1 and the borrow pit, is both protective and meets the substantive requirements of the applicable and relevant and appropriate federal environmental law that would normally apply as part of a permitting process; and EPA accepts the Commonwealth's determination that the Project meets the

applicable and relevant and appropriate State environmental standards. The Project does not conflict with and is not inconsistent with the remedy. EPA reaffirms that the 1998 ROD, including the State Enhanced Remedy, remains protective of human health and the environment.

As a result, EPA is approving inclusion of the Project in the State Enhanced Remedy at the New Bedford Harbor Superfund Site which enjoys the benefit of the permit exclusion found in Section 121(e) of CERCLA provided that the conditions set forth in detail in the document are met by the Commonwealth.

More Information

To read the entire Final Determination, go to New Bedford Harbor Superfund Site online at epa.gov/nbh or contact Kelsey O'Neil, U.S. EPA Community Involvement Coordinator, (617) 918-1799 oneil.kelsey@epa.gov



NEW BEDFORD MARINE COMMERCE TERMINAL GENERAL SITE PLAN SHEET NO. 1	PROJECT NO. _____ CONTRACT NO. _____ DRAWING NO. _____ DATE _____ SCALE _____ SHEET NO. 1 OF 1
	PROJECT NEW BEDFORD MARINE COMMERCE TERMINAL OWNER MASSACHUSETTS CLEAN ENERGY CENTER 55 SUMNER STREET, 9TH FLOOR BOSTON, MASSACHUSETTS

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