

## Expansion of the Deep-Draft Berthing Area

The Commonwealth proposed, in its January 18, 2012 submission (MassDEP 2012), to excavate 600 feet of deep-draft area at the bulkhead to accommodate a maximum international vessel length of approximately 500 feet. The 600' length of deep-draft area was increased from a prior proposal of 500'. The vessels described in the submission that were expected to be used to support development of an offshore wind energy facility ranged in length up to approximately 490 feet (see pages 20, 31, 59, 60). See also Memos from Siemens at Appendix 3 (international vessels range between 460-490 feet in length) and Appendix 4 (international cargo vessel would be approximately 480 feet in length).

In its June 18, 2012 submission (MassDEP 2012a), the Commonwealth described an additional amount of dredging that it wanted to include as part of the project at the request of the City of New Bedford : “The City of New Bedford has lobbied the Commonwealth to expand the deep-draft quay-side area of the dredge footprint from its existing 600 foot length.” (See page 3). *At the same time, the Commonwealth stated that “it is unclear whether this work will take place or not,” and that it did not anticipate obtaining sufficient funding to do the additional dredging but that the City was pursuing independent funding.* Id. The Commonwealth mentioned its intent to request this additional dredging in a May 31, 2012 meeting with EPA, and indicated that this additional dredging reflected the City’s hope to bring in larger vessels involved in short sea shipping operations (when the terminal is not in use for offshore wind energy development).

On page 36 of the June 18, 2012 submission, the Commonwealth states that the design cargo vessel for the terminal is the BBC Mississippi, and references Attachment T. That attachment states that the length of the BBC Mississippi is 143 meters, which equals 469.16 feet.

In its October 22, 2012 “Essential Fish Habitat Addendum” the Commonwealth referred to a meeting with the Northeast Marine Pilots Association (“Pilots”), in which the Pilots “stated that the largest vessel they anticipated to dock at the new terminal facility is approximately 600 feet in length with a beam width of 90 feet.” (See page 2). However, the Pilots’ meeting referenced in the Commonwealth’s October 22, 2012 submission occurred on February 11, 2011, so this statement was made well before the January 18, 2012 submittal, as was the report on short sea shipping (MassDEP 2012, Appendix 23), but neither resulted in a proposal for a 700-900 foot deep-draft dredge length. It is clear from the meeting minutes that the pilots were referring to future cargo vessels (MassDEP 2012, Appendix 15). And indeed, in the October 22, 2012 submittal, the Commonwealth states that “[T]he purpose of the expansion is to provide adequate deep draft area for large shipping vessels that are expected to utilize the terminal in the future.” Nevertheless, as noted above, the design cargo vessel for the terminal is 469 feet in length.

The June 18, 2012 and October 22, 2012 submittals do not provide any new information compared to what was available with the January 18, 2012 submittal regarding the likelihood that 600 foot long vessels would utilize the terminal. Both the expected international vessels to support wind energy development and the design cargo vessel are less than 500 feet in length. In addition, the Commonwealth indicated in the June 18 submittal that it did not expect to have funding to do the additional dredging, and it did not indicate anything to the

contrary in the October 22 submittal. The record does not support that this expansion is necessary for the viability of the facility.

Finally, the Commonwealth stated that “design standards” typically call for at least a 50 foot buffer on either end of the vessel for navigation and safety and that “guidance documents” recommend as much as 100 feet on either end. Neither the design standards nor the guidance documents were referenced by name or provided to EPA so it is not possible to evaluate these assertions or the context in which they were made. In any case, at most they would support an expansion to either 700 or 800 feet to accommodate a 600 foot long vessel, whereas the Commonwealth seeks approval to expand up to 900 feet. Even assuming a 600 foot vessel, the record would not support an expansion up to 900 feet.

In summary, it does not appear that additional dredging is necessary to support the Cape Wind offshore development; it is not evident that use of the terminal by 600 foot cargo vessels is likely to occur in the foreseeable future; and at present it does not appear that the requested dredging would even be accomplished given the lack of funding. *At the same time, we recognize that in the future, facts may change that could justify additional dredging and we will allow the Commonwealth to seek a modification of this final determination if additional information becomes available that would justify the need for an additional 100-200 feet of dredging.*

#### Expansion of the Channel Dredging

In its January 18, 2012 submittal, the Commonwealth changed the alignment of the navigational channel compared to its original proposal, increased the width of the navigational channel from 150 feet to 175 feet, and added a 100 foot tug channel, all in response to feedback in February 2011 from the Northeast Marine Pilots Association and New Bedford Harbor tug operators. In its June 18, 2012 submittal, the Commonwealth proposed to add an *additional* 50 feet of width to the navigational channel based on its statement that “it is possible that the channel may need to be further expanded if a future vessel’s dimensions vary significantly from what is currently anticipated.” (MassDEP 2012a at 4.) The Commonwealth stated that the additional 50 foot width “is not currently contemplated for construction,” but it was being included as a worst case scenario of impacts “assuming that the channel width may be expanded in the future to accommodate larger vessels than are currently envisioned.” *Id.* at 5. It also discussed existing harbor use, environmental, and financial factors that limit expansion. *Id.* at 36-37.

In its October 22, 2012 “Essential Fish Habitat Addendum,” the Commonwealth stated that it *may* become necessary in the future to widen the channel to 225 feet for safety and maneuverability to facilitate offshore energy development or future cargo operations at the terminal. However, the Commonwealth also stated that “due to existing harbor use limitations, environmental impact limitations, and financial limitations outlined in the June 18, 2012 submission ... only the current 175 foot channel is currently anticipated to be constructed by the Commonwealth at this time.” Nonetheless, the Commonwealth renewed its request for approval of the additional dredging in order to avoid segmentation concerns.

The Pilots’ meeting referenced in the Commonwealth’s October 22, 2012 submission occurred on February 11, 2011, and the Commonwealth responded to the Pilot’s request for channel widening by expanding the proposed channel from 150 feet to 175 feet. The Pilots

indicated that 200 feet would be better but did not state that 175 feet was unworkable. (MassDEP 2012, Appendix 15.) At a February 18, 2011 meeting, the tug operators “stated that they would like as much channel width as possible, but generally agreed that the adjusted footprint [to 175 feet] could work with the facility.” (MassDEP 2012, Appendix 16.) The June 18, 2012 and October 22, 2012 submittals do not provide any new information about the likelihood that widening beyond 175 feet would be necessary. It is significant that in both the June 18 and October 22 submittals, as well as in its June 29, 2012 submittal (MassDEP 2012b), the Commonwealth is clear that it does not currently expect to do the additional dredging associated with widening the channel beyond 175 feet.

Based on this information, EPA does not believe that additional dredging to widen the channel beyond 175 feet has been adequately justified to support approval at this time. The Commonwealth does not currently intend to conduct the additional dredging, and it is not clear whether, if at all, it will ever become necessary. *At the same time, we recognize that in the future, facts may change that could justify additional dredging and we will allow the Commonwealth to seek a modification of this final determination if additional information becomes available that would justify the need for additional dredging to widen the navigational channel beyond 175 feet.*

#### Expanded CAD Cell

The Commonwealth’s June 18, 2012 submittal included dredging for an 8.76 acre CAD cell, sized to accommodate disposal of excavated material associated with the additional dredging discussed above. Given that EPA is not approving the additional dredging, it is similarly not approving the additional CAD cell excavation. Therefore, the size of the CAD cell authorized under EPA’s final determination 6.3 acres. The Commonwealth may seek a modification of this final determination if additional information becomes available that would justify the need for additional channel and quayside dredging, and it may also seek approval for disposal of the additional channel and quayside dredging. (A work plan for the dredging and disposal of this material would be required and an additional or modified TSCA Determination may be necessary.)