



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Commissioner

July 24, 2013

The Honorable Marc Pacheco, Senate Chair
Joint Committee on Natural Resources, Environment, and Agriculture
State House, Room 312B
Boston, MA 02133

The Honorable Anne Gobi, House Chair
Joint Committee on Natural Resources, Environment, and Agriculture
State House, Room 473F
Boston, MA 02133

Re: Report on “Exigent Circumstances” Waiver Requests under the Massachusetts Oil Spill Prevention and Response Act (MOSPRA)

Dear Chairs of the Joint Committee:

I attach MassDEP’s annual report on tugboat escort waivers for exigent circumstances for calendar year 2012 pursuant to the Massachusetts Oil Spill Prevention and Response Act (MOSPRA) and MassDEP’s Oil Spill Prevention and Response Regulations at 314 CMR 19.00. This law regulates the passage of oil tank barges through Buzzards Bay and the Cape Cod Canal.

The requirement for an annual report is found in M.G.L. c. 21M, § 9, as most recently amended by chapter 101 of the Acts of 2009. This section reads, in relevant part:

(f) the Commissioner may waive the requirement of subsection (b) or (d) [the requirements for a state-provided pilot and tugboat escort for oil tank barges carrying 6,000 or more barrels of oil] upon determination that exigent circumstances exist. No such authorization shall be construed to relieve or otherwise limit the liability of an owner or operator of a tank vessel for any oil spill from such tank vessel that occurs while the tank vessel enters or operates in Buzzards Bay. The Commissioner shall report, annually, not later than January 1, to the joint committee on the environment, natural resources, and agriculture, as well as report in the *Environmental Monitor*, the number of occasions that such exemptions were authorized.

The pilot and escort program currently in effect is not the state-provided program described in Section 9 (for reasons explained below), and, consequently, no waivers for exigent circumstances have been granted under this section of Chapter 21M. However, waivers have been granted under MassDEP’s Oil Spill Prevention and Response Regulations at 314 CMR

19.03(1), promulgated pursuant to M.G.L. c. 21M, § 6(c). The regulations require, among other things, that oil tank barges passing through Buzzards Bay and the Cape Cod Canal have a tugboat escort at the vessel owner’s or operator’s expense. MassDEP voluntarily provides this report to inform the legislature of waivers issued under this authority.

The state-provided pilot and tugboat escort program under Section 9 of Chapter 21M is not currently in effect because on July 11, 2011, the United States Court of Appeals for the First Circuit issued a ruling which lifted the injunction that had prevented MassDEP from implementing and enforcing MOSPRA's manning and tugboat escort requirements under Sections 4 and 6 of Chapter 21M and 314 CMR 19.00. As a result of this ruling, owners or operators of single and double-hulled tank barges carrying 6,000 or more barrels of oil through Buzzards Bay and the Cape Cod Canal were required to hire a tugboat escort during calendar year 2012, and MassDEP was relieved of its obligation to provide tank barges with a state-funded pilot and tugboat escort.

During calendar year 2012, six hundred forty three (643) escorts of oil-carrying tank barges were performed by tugboats from McAllister Towing of New England (DBA Providence Steamboat) or Reinauer Towing and Transportation (DBA Boston Towing and Transportation).

Of the 643 escorts of oil tank barges in 2012, there were one hundred six (106) requests by the companies providing tugboat escort services to use a tugboat that did not fully meet the specifications found in Chapter 21M and 314 CMR 19.00. The Department approved use of a tugboat that did not meet all of the specifications in all 106 instances after determining that exigent circumstances existed and that the tugboat to be used would still be protective. In each of these instances, compelling circumstances were anticipated such as approaching bad weather, vessel traffic that exceeded the number of compliant escort tugboats available or because maintenance/mechanical problems had taken the fully compliant tugboats out of service.

In six (6) of the 106 occasions in which the waiver was granted, it was ultimately not needed because a fully compliant tugboat became available due to changes in weather or vessel schedules.

Although MassDEP is not required to report instances where the tugboat escort came to the assistance of the vessel it escorted, we have included a description of these instances as they represent examples where the provisions of MOSPRA have added a level of safety to vessels navigating Buzzards Bay and reduced the risk of future oil spills.

Sincerely,

Kenneth L. Kimmell
Commissioner

Massachusetts Oil Spill Prevention and Response Act

M.G.L. Chapter 21M, Section 9

Report on “Exigent Circumstances” Waiver Requests

and

Vessels Requesting Escort Tugboat Assistance in 2012

M.G.L. c. 21M, §9(f), effective September 24, 2009 (*An Act Preventing Oil Spills in Buzzards Bay*), enables the Commissioner of the Department of Environmental Protection (MassDEP) to waive the requirements of M.G.L. c. 21M, §9(b) regarding the dispatch of a state pilot and §9(d) regarding the dispatch of a state-provided tugboat escort upon determination that exigent circumstances exist.

This report documents requests to waive the specific equipment requirements applicable to escort tugboats as well as instances when an escort tugboat responded to assist the tug/tank barge while being escorted.

The substitute escort tug approved in most cases met all requirements except for the ABS Fire Fighting 1 standard. The approved escort tugs did, however, meet a fire fighting standard that was deemed acceptable for the state-provided escort tug and provided a capability that is consistent with industry practice for towing or providing assistance to tank barges of the size that transit Massachusetts coastal waters.

In each case the request was approved by MassDEP so as to not to significantly disrupt energy services to the public and to provide an escort tugboat deemed capable of meeting the intent of MOSPRA to prevent a navigational incident and therefore reduce the risk of an oil spill in Buzzards Bay and the Cape Cod Canal.

Table 1 below lists the escort tugboat waivers requested and approved by MassDEP in 2012.

Table 1 Escort Tugboat Waivers 2012					
Date Requested	Towing Vessel	Barge	Cargo	Quantity	Non Compliant Escort Used
1/1/2012	Ruth Reinauer	RTC 102	# 2 fuel oil	90,000	Iona McAllister
1/1/2012	Barbara Bouchard	B-240	Gasoline	110,000	Iona McAllister
1/1/2012	Linda Moran	Houston	Jet Fuel	100,000	Reliance
1/3/2012	Irish Sea	DBL-103	# 2 fuel oil	100,000	Iona McAllister
1/3/2012	Steven Reinauer	RTC-80	Jet Fuel	80,000	Iona McAllister
1/12/2012	Reinauer Twins	RTC-104	Jet Fuel	89,000	Waiver Not Needed
1/15/2012	Ruth Reinauer	RTC-102	# 2 fuel oil	100,000	Iona McAllister
1/16/2012	Greenland Sea	DBL-82	Jet Fuel	80,000	Waiver Not Needed
1/18/2012	Barbara Bouchard	B-210	Jet Fuel	100,000	Iona McAllister
1/18/2012	Penn # 6	Penn # 4	# 6 oil	100,000	Reliance
1/18/2012	Steven Reinauer	RTC-80	Jet Fuel	80,000	Iona McAllister
1/21/2012	Laurie Anne Reinauer	RTC-85	# 2 fuel oil	80,000	Waiver Not Needed
1/23/2012	Rhea Bouchard	B-284	LS diesel	80,000	Iona McAllister
1/25/2012	Christine McAllister	RTC-502	# 2 fuel oil	115,000	Liberty
1/26/2012	Austin Reinauer	RTC-100	LS diesel	50,000	Liberty
2/1/2012	McKinley Sea	DBL-134	Gasoline	125,000	Iona McAllister
2/14/2012	Viking	DBL-102	# 2 fuel oil	100,000	Iona McAllister
2/16/2012	Reinauer Twins	RTC-61	diesel/kero	100,000	Iona McAllister
2/20/2012	Chop Tank	DS-53	# 6 fuel oil	50,000	Iona McAllister
2/22/2012	Pathfinder	Delaware	#6 oil	32,000	Iona McAllister
2/26/2012	Mary Turacamo	Portland	Jet Fuel	80,000	Iona McAllister
2/28/2012	Magothy	DS-502	Jet Fuel	50,000	Iona McAllister
2/29/2012	Tasman Sea	DBL-101	Gasoline/Ethanol	20,000	Iona McAllister
3/10/2012	Christine McAllister	RTC-502	Gasoline	35,000	Iona McAllister
3/12/2012	Ruby M	Fire Island	Diesel	27,000	Iona McAllister
3/15/2012	Austin Reinauer	RTC-100	Gasoline	50,000	Iona McAllister
3/19/2012	Gulf Service	Energy11104	Gasoline	100,000	Iona McAllister
3/19/2012	Reinauer Twins	RTC-104	#2 oil	100,000	Iona McAllister
3/20/2012	Ruth Reinauer	RTC-102	# 2 oil	80,000	Iona McAllister
3/25/2012	Meredith Reinauer	RTC-150	# 2 oil	108,000	Iona McAllister
3/28/2012	Huron Service	Energy6506	Gasoline	60,000	Iona McAllister
3/27/2012	Ellen Bouchard	B-280	Gasoline	80,000	Iona McAllister
3/31/2012	Potomac	DS-58	Gasoline	50,000	Iona McAllister
4/11/2012	Coho	Penn 92	Asphalt	89,200	Iona McAllister
4/11/2012	Jane Bouchard	B-225	Gasoline	110,000	Iona McAllister
4/13/2012	Ruth Reinauer	RTC-102	Jet	100,000	Iona McAllister
4/17/2012	Viking	DBL 134	Gasoline/Ethanol	100,000	Iona McAllister
4/22/2012	Ellen Bouchard	B-284	Jet	80,000	Iona McAllister
4/29/2012	Ruby M	Fire Island	ULSD	29,000	Iona McAllister
4/28/2012	Austin Reinauer	RTC-100	ULSD	40,000	Iona McAllister
4/29/2012	Bohemian	DS-51	# 6 oil	50,000	Iona McAllister
5/17/2012	Mary Turecamo	Portland	Jet	85,000	Iona McAllister
5/17/2012	Marjorie McAllister	RTC-61	Jet	45,000	Iona McAllister
5/17/2012	Peter Gellatly	DS-59	#2 oil	50,000	Iona McAllister
5/17/2012	Quenames	DBL-16	waste oil	8,230	Iona McAllister
5/19/2012	Jane Bouchard	B-225	ULSD	110,000	Iona McAllister
5/24/2012	Gulf Service	Energy 1104	Gasoline	not listed	Reliance
6/1/2012	Beaufort Sea	DBL-103	Diesel	100,000	Waiver Not Needed
6/1/2012	Potomac	DS-58	Diesel	50,700	Waiver Not Needed
6/18/2012	Beaufort Sea	DBL-103	Jet Fuel	100,000	Waiver Not Needed
6/28/2012	Viking	DBL 102	Jet Fuel	100,000	Iona McAllister
7/22/2012	Potomac	DS-58	Diesel	37,000	Iona McAllister
7/24/2012	Magothy	DS-502	Jet/ULSD	50,000	Iona McAllister
7/29/2012	Evening Mist	B-233	Gasoline	35,000	Iona McAllister
8/4/2012	Tasman Sea	DBL-103	Ethanol/Gas	100,000	Iona McAllister
8/9/2012	Magothy	DS-502	Gasoline	50,577	Andrew McAllister

Table 1 Escort Tugboat Waivers 2012					
Date Requested	Towing Vessel	Barge	Cargo	Quantity	Non Compliant Escort Used
8/9/2012	Susquehanna	DS-56	Diesel	not listed	Andrew McAllister
8/10/2012	Liberty Service	Energy 1105	CBOB	100,000	Iona McAllister
8/26/2012	Susquehanna	DS 56	ULSD	15,000	Iona McAllister
9/2/2012	Linda Moran	Houston	# 6 Oil	97,000	Iona McAllister
9/1/2012	Bohemia	DS-58	Jet fuel	50,000	Iona McAllister
9/9/2012	Ellen Bouchard	B-284	Gasoline	75,000	Nancy McAllister
9/9/2012	Frederick Bouchard	B-210	Gasoline	100,000	Iona McAllister
9/12/2012	Viking	DB-134	Gas/Ethanol	120,000	Iona McAllister
9/17/2012	Evening Tide	B-262	Gasoline	54,000	Rainbow
9/17/2012	Ellen Bouchard	B-284	Gasoline	25,000	Iona McAllister
9/20/2012	Evening Mist	B-231	Gasoline	35,000	Iona McAllister
9/19/2012	Beaufort Sea	DBL-102	Jet A	100,000	Iona McAllister
9/20/2012	Zachary Reinauer	RTC-26	RBOB	26,000	Nancy McAllister
9/20/2012	Jane Bouchard	B-225	#2 Fuel Oil	100,000	Rainbow
9/21/2012	Marjorie McAllister	RTC-62	Diesel	60,000	Rainbow
9/20/2012	Siberian Sea	Columbia	#6 Oil	54,985	Andrew McAllister
9/23/2012	Morton Bouchard Jr.	B-220	Gasoline	110,000	Iona McAllister
9/22/2012	Ruth Reinauer	RTC-102	#2 Oil	100,000	Andrew McAllister
9/23/2012	Michigan Service	Energy 6507	PBOB	not listed	Andrew McAllister
9/23/2012	Susquehanna	DS-58	Jet Fuel	50,000	Rainbow
9/25/2012	Ellen Bouchard	B-284	Gasoline	55,000	Iona McAllister
9/25/2012	Joanne Reinauer	RTC-61	Jet Fuel	45,000	Andrew McAllister
9/25/2012	Christine McAllister	RTC-502	ULSD	74,800	Andrew McAllister
9/26/2012	Siberian Sea	Columbia	#6 Oil	18,000	Andrew McAllister
9/27/2012	Morton Bouchard IV	B-242	Gasoline	83,500	Andrew McAllister
9/27/2012	Rhea Bouchard	B-250	Gasoline	55,000	Iona McAllister
9/29/2012	Bluefin	Penn - 80	Asphalt	76,000	Andrew McAllister
9/28/2012	Beaufort Sea	DBL-102	Jet Fuel	100,062	Andrew McAllister
9/29/2012	Tasman Sea	DBL-101	Ethanol/Gas	90,000	Iona McAllister
9/28/2012	Ruth Reinauer	RTC-102	#2 Oil	100,000	Iona McAllister
9/29/2012	Morton Bouchard Jr.	B-220	Gasoline	55,000	Andrew McAllister
9/29/2012	Morton Bouchard IV	B-242	Gasoline	50,000	Iona McAllister
9/29/2012	Viking	DBL-134	Gasoline	124,197	Nancy McAllister
10/2/2012	Nanticoke	DS-56	ULSD	49,744	Iona McAllister
10/9/2012	Morton Bouchard VI	B-242	Gasoline	90,000	Iona McAllister
10/12/2012	Ruth Reinauer	RTC-102	#2 oil/ULSD	100,000	Nancy McAllister
10/16/2012	Ruth Reinauer	RTC-102	#2 Oil	100,000	Iona McAllister
10/20/2012	Bruce McAllister	B-250	Gasoline	58,000	Iona McAllister
11/17/12	Joanne Reinauer	RTC-62	#2 Oil	50,000	Iona McAllister
11/23/2012	North Sea	DBL-103	#2 Oil	90000	Rainbow
12/2/2012	Jane Bouchard	B-225	Gasoline	110000	Iona McAllister
12/3/2012	Pathfinder	Delaware	Asphalt	not listed	Iona McAllister
12/3/2012	Java Sea	DBL-82	Gasoline	75,000	Nancy McAllister
12/11/2012	Barbara McAllister	B-220	#2 Oil	100,000	Iona McAllister
12/20/2012	Christine McAllister	RTC-502	#2 Oil	80,000	Nancy McAllister
12/24/2012	Peter Gellatly	DS-59	#6 Oil	50,000	Iona McAllister
12/24/2012	Tasman Sea	DBL-102	Gas/Ethanol	70,000	Iona McAllister
12/28/2012	Ruth Reinauer	RTC-102	#2 Oil & ULSD	100,000	Reliance
12/28/2012	Ruth Reinauer	RTC-102	#2 Oil & ULSD	100,000	Iona McAllister
12/28/2012	Curtis Reinauer	RTC-81	#2 Fuel Oil	80,000	Iona McAllister

Request to Assist Escorted Vessel through Buzzards Bay

Of the six hundred forty three (643) escorts of oil carrying tank barges conducted during 2012 there were 51 occasions when the escort tugboat was called upon to render assistance while escorting a vessel through Buzzards Bay and the Cape Cod Canal.

In many of these instances the escort tug assistance allowed the vessel to proceed during bad weather conditions while others were requested due to a mechanical or steering malfunction or to provide additional horsepower to a vessel traveling against the tide.

A common practice for towing vessels traveling through Buzzards Bay is to shorten up the towing wire during transit and then the towing vessel moves to the rear of the barge to push the barge through the canal. The process requires the towing vessel to release the free floating barge while the tug moves into position in the notch in the rear of the barge. Using the escort tug to hold the barge in place during this transition from towing to pushing allows more control of the barge in areas with limited maneuverability.

Table 2 lists examples of assists where the use of an escort tug reduced the likelihood of a navigational incident or oil spill and provided an additional level of safety for vessels.

Date	Tug Barge	Description	Activity Type
1/4/2012	Morton Bouchard B-210	Made up to barge while Morton broke tow, weather/fog	Assist
1/6/2012	Endeavor VB-38	Made up to VB-38 @ Cleve ledge as tail boat, weather/fog	Weather
1/19/2012	Christine McAllister RTC-502	Sabine made up to the oil barge in anch L, to steady while making tow, weather	Weather
1/19/2012	Marion Moran Adelaide	Cement barge, requested a tug to act as "tail boat" to assist steering through the canal, weather	Weather
1/21/2012	Ruth Reinauer RTC-102	Gave the Ruth an assist into and out of Sprague terminal, New Bedford	Assist
1/25/2012	Susquehanna DS-506	Made up to the barge while the transit tug broke tow and made up in push gear for weather	Weather
2/2/2012	Gulf Service Energy11104	Tug asked the Sabine to make up to the barge to steady it while they broke tow and went to push gear	Assist
2/3/2012	Mary Turecamo Portland	Capt had Sabine make up to the barge as a tail boat through the canal	Assist
2/13/2012	Frederick Bouchard B-210	Made up to barge to keep it in the channel as the Frederick went from towing to push gear- strong current	Current
2/21/2012	Liberty Service Energy11105	Escort requested through the canal for barge carrying ethanol-Tug called Prov and stated they had "mechanical issues"	Equipment
2/21/2012	Choptank DS-53	Made up alongside barge and standby in Anch C for weather	Weather
2/24/2012	Penn#4 Penn-92	Assist the Penn#4/Penn-92 into the west end stakes for weather	Weather
2/26/2012	Penn#4 Penn-92	Assist the Penn#4/Penn-92 off of the west end stakes for weather	Weather
2/26/2012	Weddell Sea DBL-83	Capt had Sabine make up in the notch to assist unit through the canal	Assist
3/4/2012	Mary Turecamo Portland	Capt had Sabine make up alongside barge Portland to assist from Cleve Ledge to east end	Assist
3/9/2012	Jennifer Turecamo Maria T	Capt ordered tug to assist cement barge from Cleve Ledge to East End, high winds	Weather
3/10/2012	Mary Turecamo Portland	Capt had the Sabine make up alongside the barge with 3 lines, high winds	Weather
3/10/2012	Quenames Portland	Sabine assisted the barge into the Sandwich Terminal	Assist

Date	Tug Barge	Description	Activity Type
3/19/2012	Christine McAllister RTC-502	Sabine assisted the barge into the west stakes due to "0" visibility fog	Weather
4/16/2012	Brendan Turecamo Portland	Sabine made up to the barge at Anch C waiting for vis and current	Weather
4/19/2012	Endeavor VB-38	Sabine made up as a tail boat for an assist and boost, from BB #4 to the East End	Assist
4/22/2012	Jane Bouchard B-225	Sabine made up to the barge at Anch C waiting for zero vis	Weather
4/26/2012	Stephen Scott RTC-61	Sabine assisted in search for mariner overboard 0430 until 1430	Assist
4/27/2012	Patuxent DS-508	Sabine made up to the barge at Cleve Ledge to give assist through canal due to wind and vis	Weather
5/5/2012	Gulf Service Energy 11105	Carrying Ethanol but requested the Sabine to make up to the starbd bow of the barge, from Cleve Ledge to the EE due to weather and wind.	Weather
5/12/2012	Rhea Bouchard B-280	Ordered by Rhea to go ahead and clear small recreational boat traffic on Saturday morning, at Hog 1 & 2	Vessel traffic
5/27/2012	Siberian Sea Columbia	Sabine made up to barge for steering and power help bucking tide through the canal	Assist
5/28/2012	Bohemia DS-59	Sabine made up in notch to assist tow through the canal	Assist
6/9/2012	Siberian Sea Columbia	They had the Sabine make up 3 lines in the notch, the Siberian Sea kept the barge on the tow	Assist
6/11/2012	North Sea Pacific	Sabine made up to the barge in rough seas while the North Sea went from push gear to tow	Assist
7/7/2012	Pocomoke DS-53	Stand by to assist with a broken (push gear) tow wire @0615, then push on barge as they adjusted push gear @0745	Equipment
7/11/2012	Arabian Sea DBL-102	Made up to the barge to assist it through Buzzards Bay and the CCC	Assist
7/31/2012	Morton Bouchard Jr. B-220	S/V Lulu Belle sailed over wire between tug and barge despite repeated attempts to contact on VHF. Morton Bouchard Jr. dipped their tow wire to allow the vessel to pass over without incident.	Vessel traffic
8/2/2012	Brendan Turecamo Adelaide	Requesting an assist from the Sabine, using Sabine as a tail boat to go through the CCC	Assist
9/4/2012	North Sea Columbia	Sabine made up in the notch to assist in steering the barge through the canal	Assist
9/21/2012	Siberian Sea Columbia	Andrew McAllister made up in the notch to assist and steer through the canal	Assist
9/21/2012	Zachary Reinauer RTC-26	Nancy gave assist from stream into the East End Stakes	Assist
9/21/2012	Zachary Reinauer RTC-26	Iona gave assist from the East End Stakes into stream	Assist
10/6/2012	Siberian Sea/Columbia	Made up to barge @ CC Buoy in push gear from 0600 to 0815	Assist
10/8/2012	Siberian Sea/Columbia	Requested to make up in push gear from 0245 to 0600	Assist
10/9/2012	Susquehanna/DS-58	Made up in push gear 1340 to 1545, from Cleve Ledge to East End	Assist
10/12/2012	Tuckahoe/DS-54	Put line up to hold barge while Tuckahoe gets into push gear	Assist
10/20/2012	Siberian Sea/Columbia	Made up in push gear @Cleve Ledge 1830 to 2115	Assist
11/2/2012	Anacostia/DS-502	Made up in push gear to steer through the canal	Assist
11/29/2012	Siberian Sea/Columbia	Sabine made up in push gear at Anchorage C to East End 1430 to 1645	Assist
12/1/2012	Weddell Sea/DBL-83	Made up to barge, power boost to make canal tide 2200 to 0040	Assist
12/2/2012	North Sea/DBL-103	Line up on barge to break tow, stand by at Anchorage C for canal current and weather	Weather
12/9/2012	Anacostia/DS-56	Made up to DS-56 to buck max ebb current through CCC 0710 to 0930	Current
12/18/2012	Barbara McAllister/B-225	Sabine had to remove a wire that got fouled up in the Barbara's anchor when leaving Anchorage C	Equipment
12/30/2012	Siberian Sea/Columbia	Had the Sabine assist her into the West Stakes	Assist
12/30/2012	Huron Service/Energy 6506	Assisted the Huron as they broke tow and went into Anchorage C	Assist