

Marine News

JULY 2017

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The Real Story Behind the Attack on SMFF Regulations

ASA Sets the Record Straight.

By Todd Schauer



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The U.S. salvage industry came under attack at a recent Congressional hearing on May 3rd by a special commercial interest that is promoting its own agenda. The American Salvage Association (ASA) intends to set the record straight. At the hearing, the attacking group made false allegations that the Salvage and Marine Firefighting (SMFF) resource providers are not willing or contractually obligated to respond and lack the resources to meet regulated response requirements. At the same hearing, this group also criticized the U.S. Coast Guard's oversight of the Vessel Response Plan (VRP) Program. The fact that this entity can provide none of the required 19 SMFF services themselves has not slowed their aggressive lobbying of Congress nor their promoting of a very dangerous precedent that would have dramatic cost implications for all vessel owners should it get traction.

The SMFF regulations were promulgated in December 2008 for tank ships and barges, and were extended to all commercial non-tank self-propelled vessels over 400 gross tons in October 2013. As such, the regulations apply to all but the smallest U.S. and foreign-flag vessels operating in U.S. waters. Estimates place the number of vessels subject to the SMFF regulations at over 24,000 vessels. The SMFF regulations have four principal components:

- *Define salvage and marine firefighting services and resources*
- *Establish planning timeframes for response*
- *Provide criteria for determination of resource adequacy*
- *Provide for pre-arranged contracts*

Critical to an understanding of these SMFF rules is that they are planning criteria, not performance standards. This is specifically stated in the SMFF regulations in 33 CFR 155.4010. Compliance with the regulations is based on assumptions that may not exist during an actual incident.

Vessel owners can rest assured that there will not be response delays due to contracting issues. All four national SMFF resource provider agreements in question meet

the regulations by making the necessary statements of capability and commitment to respond within the required response times. The USCG clearly addressed this via the implementation of the SMFF regulations.

The crux of the resource matter is that 24-hour dedicated availability of each supporting resource for every SMFF service was never intended by the SMFF regulations. Such a commitment to have the vast myriad of SMFF support resources specifically dedicated for the 19 SMFF services in all U.S. ports and for all U.S. coastal and offshore areas would be absolutely cost prohibitive for the salvor and its clients. This was clearly not considered by the original economic analysis of the SMFF Tank Vessel Regulations.

Unlike pollution cleanup contractors that have focused kits of specialized equipment (boom, spill boats, and skimmers, etc.), the diversity of the 19 salvage services demands a vast network of high value support resources in addition to specialized salvage equipment and these support resources routinely perform other marine related work and services to be commercially viable. (The Federal Register Dec 31, 2008, Pg 80645, VII Regulatory Analysis, contains a detailed discussion.)

SMFF providers rely heavily on the 'vessel of opportunity' and 'resource of opportunity' system that exists throughout the ports and waterways of the United States and throughout the industrial maritime infrastructure of the U.S. This includes thousands of tugs, workboats, supply and crew boats, hundreds of derrick barges, cargo barges and a nationwide network of other marine and industrial resources including heavy equipment, commercial logistics and transportation assets, industrial service providers, divers, welders, small boat operators, etc.

As stated by Coast Guard Rear Admiral Paul Thomas during his May 3rd testimony at the same Congressional hearing, the SMFF regulations do not require "dedicated resources" and the SMFF regulatory economic analyses were not based on this premise. Admiral Thomas went on to state that a system of dedicated resources would require a change in statute to support any regulatory change.

This system of national salvage resource providers, qualified subcontractors and other providers is fully capable

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and, importantly, cost effective for the salvage industry, the ship operators and, ultimately, the consumer. It spreads the opportunity for response over a range of existing businesses, from small tugboat operators to large diving contractors, precluding the need for new investment in equipment that may sit idle and be employed only occasionally.

When the SMFF regulations came into effect, the salvage industry greatly expanded its existing equipment inventories, response staffing levels, and administrative support to ensure the regulatory timeframes are met for all 19 SMFF services. This expansion is concurrent with an even greater role internationally for American salvors. The U.S. SMFF providers through recent growth and continuous improvements in capability now represent a majority of the globally operating salvage providers; in essence, the strength of the US capability is growing and also being exported. This is also a substantial benefit to the US Navy's global salvage response capability which is directly supported by emergency response contracts with ASA members in a time of declining organic Navy salvage capability.

U.S. salvors will continue their proud and growing legacy of professional and effective salvage response throughout U.S. waters and in support of U.S. interests abroad. Salvors will continue to meet or exceed SMFF response standards and work closely with ship owners, regulators, and resource providers to grow and improve upon our substantial response capabilities. The ASA member salvors

will continue the time-honored marine salvage tradition of “best endeavors” in responding anywhere, any time and for any incident to protect life and the environment, to keep our waterways open for commerce, and to save valuable ships and cargo.

In summary, every vessel owner should take note of the actions of the small group aggressively lobbying Congress in an attempt to establish a monopoly market for themselves. By attempting to exclude existing fleets of tugs, supply boats, crew boats and other work boats from SMFF planning requirements, this group is promoting a precedent that will require an entirely new system of dedicated SMFF vessels and resources, at an overwhelming cost burden for vessel owners. The ASA continues to counter this effort through dissemination of the facts and by building a coalition of relevant shipping organizations.



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He graduated from the U.S. Coast Guard Academy with a degree in Naval Architecture. His experience in the Coast Guard included shipboard engineering, marine safety, advanced engineering and emergency response. He served for 5 years on the USCG Salvage Emergency Response Team (SERT) including acting as Team Leader.