

BY MAURICIO GARRIDO, PRESIDENT, AMERICAN SALVAGE ASSOCIATION

## SALVAGE REGULATIONS: THE FINAL COUNTDOWN?

Approximately 8,500 oil-carrying tank vessels trading in and out of U.S. waters will soon be operating under new ground rules set out by the Salvage and Marine Firefighting regulations of the Oil Pollution Act of 1990 (OPA 90). Not far behind, several thousand more Non-Tank vessels will be subject to the same rules.

Professional response to maritime casualties in order to protect environment and property is an essential component of the maritime business cycle. Salvage companies must exist and the system to a great extent must support their existence. Salvors have been around ever since maritime trade began thousands of years ago and their capability has adapted, and fluctuated with time as ships, cargoes, and commercial priorities have evolved in society. Yet, professional salvage response has never failed its end users and one could easily wonder why government is trying to fix something that is not broken—especially by regulation.

While the latter is certainly accurate, the American Salvage Association felt regulatory action would primarily aid in defining a professional salvor and to set the parameters outlining professional salvage response actions. As we enter the final stage of the regulatory implementation phase, it would appear as if the USCG

has fallen into the trap of “overtightening some of the regulatory screws” siphoning away the much needed flexibility real life casualty response needs. Conflicts between regulatory interpretation and operational realities of requirements such as rescue towage, pre-fire plans, and the potential interface with municipal fire departments, highlight the potential risk of misinformed future enforcement by regulators whose knowledge of salvage is limited to a pocket size checklist. With inland tank barges making up close to 50% of the regulated vessel population, the need for common sense flexibility will be even greater in order to recognize the diversity of the salvage business such as operational variances of a stranded 195 foot long non-self propelled tank barge versus an exploding 300,000 deadweight ton VLCC.

From a shipowner’s perspective, the added burden of a new set of regulations led them once again to weigh the possibility of not calling on U.S. ports. But 310 million Americans, who may not know much about shipping but believe in compulsive shopping, maintain the U.S. as the world’s top trading post. Vessel owners simply cannot afford to just skip



it. In fact, during the past 15 years shipowners and salvors have adapted well to an ever-tightening environment of quality vetting programs, port state oversight, and snowballing regulations all of which is now spiced up by pirate attacks and widespread seafarer criminalization. Most if not all ship operating companies have well staffed in-house departments charged with handling quality and compliance issues. Salvage has always been self-regulating and the governing principle of “No Cure-No Pay” serves as an ideal performance standard. Salvors and shipowners are mentally prepared and have accepted the challenge of complying with the new regulations in U.S. waters.

The real challenge of this venture will actually revolve around the USCG’s ability to manage the implementation and enforcement of the regulations so they produce the desired results. The area between regulation and overregulation is rather gray and narrow, and the USCG must look deep inside to ensure their acts actually support and facilitate maritime commerce. **ML**

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