

The New Salvage/Marine Firefighting Regulations in the USA: Salvaging the Salvors?

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Outline of Presentation

- Brief History of VRP planning regulations
- Tank Vessels versus Non-Tank Vessels
- Current situation with tank vessels, regarding salvage and marine firefighting
- Current situation with non-tank vessels, regarding VRP's
- The Future: Let's not forget the EPA, Various States, Air Emissions



A Brief History of the VRP Regulations



- Marine Firefighting and Salvage: the need was apparent from the beginning, but too complex to tackle initially.
- Started with meetings in 1997.
- Additional meetings in 2000.
- May 10, 2002- proposed rule.
- December 31, 2008 – final rules.
- Deadline for inclusion in the VRP's was June 1, 2010.
- Change in compliance deadline: now set at February 22, 2011.



A Brief History (cont.)



- Non-Tank Vessel VRP's: to remedy an omission of OPA '90.
- NVIC in February, 2005, with a voluntary guidance type application, after the New Carissa incident in February, 1999, and the Selendang Ayu incident in December, 2004.
- The Cosco Busan in November, 2007 drove the USCG to the notion of a mandatory compliance scheme.



Marine Firefighting and Salvage



- The slate of salvors – who's who?
- The 'devil is in the details' – the contract in advance
- The expectations of performance – will, or can, these be met?
- Will response realities match pre-planned scenarios?



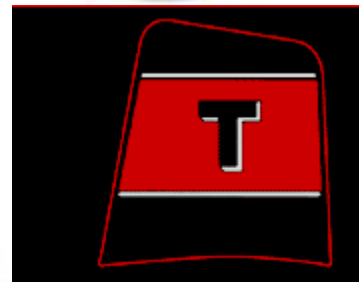
The Slate of Salvors – Who's Who in the USA?



- American Marine Corporation, Associated Marine Salvage, Bisso Marine, Crowley Marine Services, Donjon Marine, Foss Maritime, Global Diving & Salvage, Magone Marine Service, Marine Pollution Control, Ocean Group, Parker Diving Service, Resolve Marine Group, Smit Salvage Americas, Svitzer Salvage, T&T Marine Salvage, Titan Salvage, Weeks Marine, Dawn Services, Marine Hazard Response, Williams Fire & Hazard Control



The Forming of Consortia



'The Devil is in the Details': The Contractual Challenge



- Issue is the form and scope of the contracts – signing this without underwriter oversight. Vessel response plans already posed this issue, with mixed results.
- Contracts made in advance – the positives and negatives of such an arrangement.



Potential Contractual Issues

- The Owner is the entity that is responsible for meeting the USCG response standards on marine firefighting and salvage, *not the salvor!*
- There are binding funding agreements, which then enables the vessel owner to list the salvor in the plan. But who ultimately pays? Answer: underwriters
- With the hiring of the consortium, to ensure there are 'back-to-back' contractual arrangements between the members of the consortium, particular with the primary service provider (the 'general contractor').
- Jurisdiction and Choice-of-Law: the binding into the U.S. legal system is not something to be taken lightly!



Potential Contractual Issues (cont.)



- Waivers and issues re remote areas, e.g. western Alaska
- Payment issues – what is best? Will there be incremental auditing tolerated by salvors?
- Pre-planning on salvage and firefighting: who prepares and presents?



Performance Expectations: Can they, or will they, be met?

- Written representations beforehand are fine, but what about reality?
- The problems presented by a consortium
- The premise of these expectations
- The use of public resources versus private response elements
- Lists of specific resources, e.g. towing vessels – is this possible?
- Built in flexibility at §155.4032(a), but is it enough?



Prior Planning versus Performance : Will the Future Conform to the Plan?

- When dealing with an accidental event, can all factors be accounted for beforehand?
- Will the schedules of response and equipment be the later reality?
- With low frequency / high exposure events, will drills and resources be predictive enough in for marine firefighting and salvage casualty?



Will the Future Conform to the Plan? (cont.)



- Will pre-planning act as ensuring a proper response, or will it constrain independent thinking?
- How will a salvage master interact with: a) the spill response manager, b) the Federal OnScene Coordinator, c) the U.S. Navy SupSalv representative, d) state representatives?
- If timeframes set forth in the regulations are not met, what are the consequences? What if the estimated time for heavy lift capability is not met?



Will the Future Conform to the Plan? (cont.)

- The long list of requirements and standards put upon the salvors – they say they can meet them, but is that realistic? Do regulations provide for a method of auditing or independent verification?
- Can one say that it seems the choice by the USCG can be summarized as
"Planning over People" ?



Non-Tank Vessel VRP's – Status, Issues, and Concerns

- There are replications of issues faced by tank vessel operators and their insurers.
- More difficult because of less experience with such matters in cargo handling?
- Terminals in less remote areas, with highly compressed schedules.
- Still not perceived as high environmental threats, therefore slower reaction times?



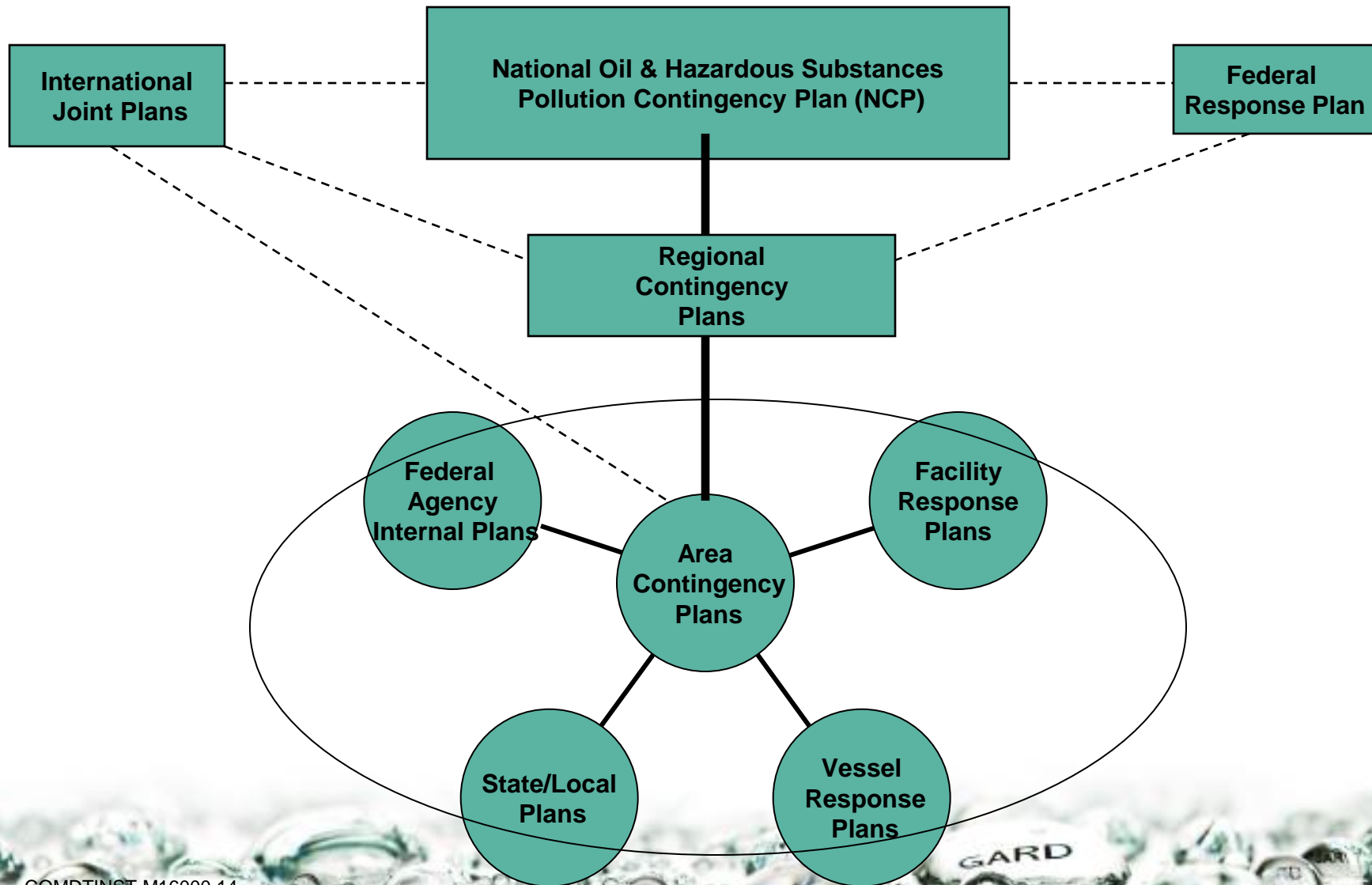
ALL VRP NT

Vessel Name	VIN	Status	Vessel Type	Worst Case Discharge
AEGEAN SPIRIT	L9231901	INACTIVE	TANK SHIP	8
AFRICAN SPIRIT	L9250737	APPROVED	TANK SHIP	1
AL AREESH	L9325697	INTERIM OPS	TANK VESSEL: GAS CARRIER	47,965 barrels
AL DAAYEN	L9325702	INTERIM OPS	TANK VESSEL: GAS CARRIER	47,965 barrels
AL HUWAILA		PENDING		
AL MARROUNA	L9325685	INTERIM OPS	TANK VESSEL: GAS CARRIER	
ALGECIRAS SPIRIT	L9207027	APPROVED	TANK SHIP	
ALLIANCE SPIRIT	L8907400	INACTIVE	TANK SHIP	683,081 barrels
AMERICAS SPIRIT	L9247443	APPROVED	TANK SHIP	852,580 barrels
ARCTIC SPIRIT	L9001784	APPROVED	TANK SHIP	22,745 barrels
ASHKINI SPIRIT	L9239484	APPROVED	TANK SHIP	1,176,009 barrels
ASIAN SPIRIT	L9247431	APPROVED	TANK SHIP	1,122,452 barrels
ASIATIC SPIRIT	L7375117	INACTIVE	TANK SHIP	0 barrels
AUSTRALIAN SPIRIT	L9247455	APPROVED	TANK SHIP	852,580 barrels
AXEL SPIRIT	L9282041	APPROVED	TANK SHIP	824,393 barrels
BAHAMAS SPIRIT	L9186651	APPROVED	TANK SHIP	784,014 barrels
BARRINGTON	L8716356	APPROVED	TANK SHIP	259,665 barrels
BASKER SPIRIT	L9002386	APPROVED	TANK SHIP	722,396 barrels
BEAS SPIRIT	L9188764	APPROVED	TANK SHIP	288,608 barrels
BRILLIANCY	L7377816	INACTIVE	TANK SHIP	0 barrels

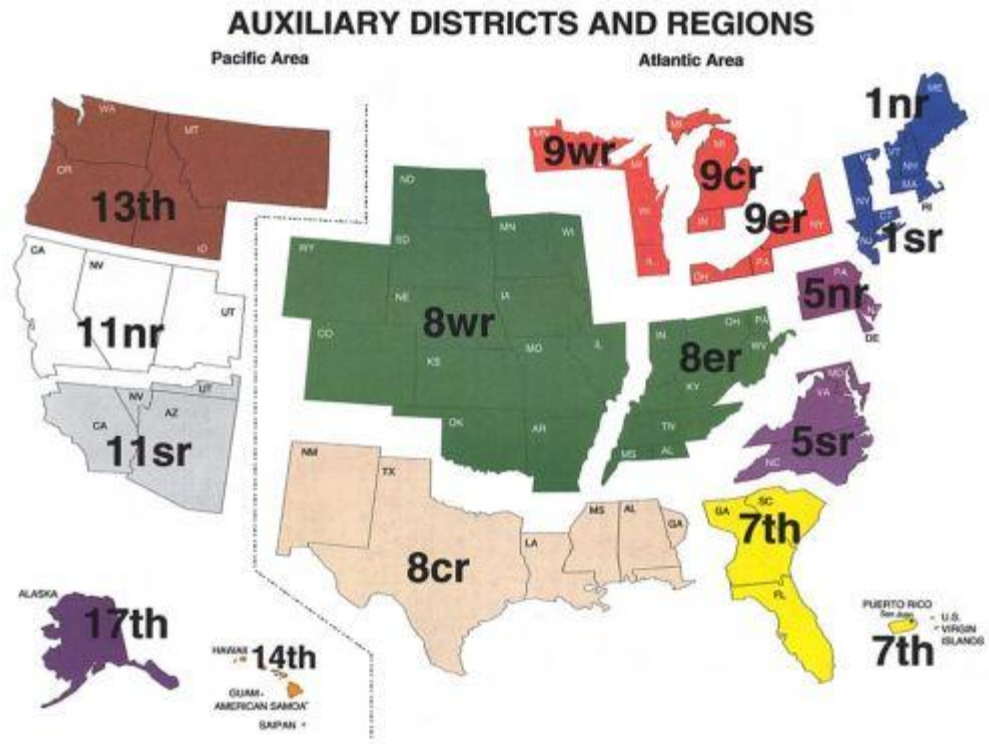
Is this vessel allowed to operate?

Yes, but reference the NTVRP Interim Enforcement Guidance

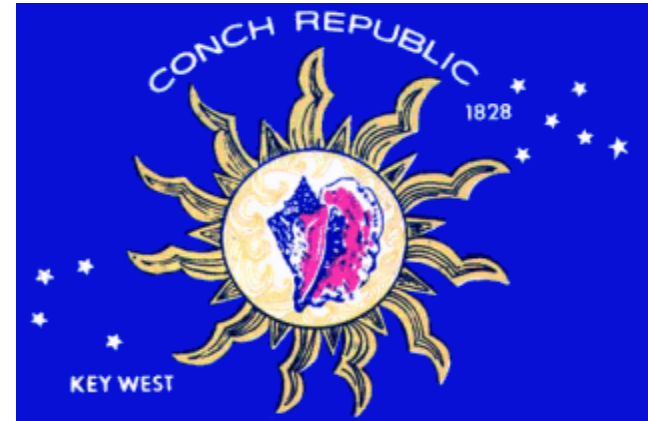
Relationship of Plans



Don't Forget the United States!



Different States – Additional/Different Treatments



Questions / Comments

Thank you for your
kind attention!

