SUMMARY

Statement of Secretary of Transportation

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Before the

Coast Guard Navigation Subcommittee on

Oil Spill Liability and Compensation

House of Representatives

June 13, 1984

I'm pleased to have the opportunity to testify before this Committee in support of effective oil spill liability and compensation legislation. With me this morning is Rear Admiral Bobby F. Hollingsworth, Chief of the Coast Guard Office of Marine Environment and Systems. Admiral Hollingsworth led the U.S. delegation to the International Maritime Organization's diplomatic conference in London two weeks ago. During the conference I met personally with IMO Secretary General Chandrika Srivastava to convince him just how serious we in the United States are about oil pollution liability and compensation.

No one, Mr. Chairman, likes oil spills. The network news last night brought us all too vivid pictures of the damage Louisiana is suffering today because of this most recent accident. Oil spills kill marine life, pollute the water, discolor beaches and damage our shorelines and shore facilities. But while environmental damage may be substantial, it doesn't have to be permanent. With adequate and readily-available financial resources, clean-up programs can be quick and complete. Fortunately, we have been spared epic spills in recent months, and the Coast Guard's program in reducing the non-accidental discharge of oil at sea is increasingly effective. Still, the danger of a major accidental spill remains. We must provide incentives for industry to take every safety precaution, but when the next spill takes place, our response must be swift, sure and sufficient. We want fast, effective clean-up, ample compensation for property damage and, to the extent possible, all damaged natural resources restored.

I believe H.R. 3278, with some modifications, can satisfy those objectives, forming the foundation for a comprehensive national approach to the problem of oil pollution. It also combines a domestic oil pollution liability program with international conventions dealing with that issue.

As you know, the United States declined to join the 1969 Civil Liability* and the 1971 FUND** international conventions, because their liability limits were too low to be effective. The U.S. delegation and I last month worked to raise those limits to make the IMO Conventions acceptable to the United States.

We were impressed by the world maritime community's interest in seeing the United States share as a partner in the international conventions. Conference delegates eventually recommended several revisions closely aligned to our own objectives.

For example, the Conventions -- as revised -- will cover oil pollution cleanup costs and damages sustained both by governments and private parties. They will also cover any reasonable measures to restore the marine environment seaward to the edge of the exclusive economic zone. Coverage will apply to all "persistent" oils which include crude, heavy diesel and fuel and lube oil.

The U.S. delegation particularly sought to raise the limits of liability to levels sufficient to ensure that all legitimate claimants would be adequately compensated. The revised CLC provides a minimum vessel liability of $3 million for vessels of 5,000 gross registered tons (GRT) and below. For larger vessels, liability would be $437 per GRT to a maximum of $62 million. Total incident coverage was raised to $140 million. And that coverage can be expanded to $208 million when ratified by at least three signatory countries whose total oil imports reach 600 million tons per year. Since U.S. oil approximates 450 million tons per year, our ratification would virtually assure expanded coverage.

Oil pollution from accidental spills is an international problem that demands an international solution. The United States has an opportunity to lead the world in concern for our environment and protection of our people who are hurt by these devastating accidents. I urge swift Congressional hearings on ratification of the IMO Conventions so that we may move quickly to embrace them. We should make it our goal for the United States to be the first signatory to these historic and important conventions.

Let me turn now to the provisions of H.R. 3278 that especially concern us.

First, the bill will merge four existing funds into a single trust fund. We will avoid the duplication, confusion and unnecessary administrative costs resulting from those multiple statutes.

Second, we support the bill's coverage of vessels as well as outer continental shelf and deepwater port facilities. We agree that liability of onshore facilities and facilities in state waters should be subject to state laws.

Third, we view the proposed Trust Fund's liability for damage claims as too broad. The Trust Fund must not become a "deep pocket" for speculative claims. It should be liable only for removal costs, the costs to replace or restore personal or real property and the costs for actual replacement or restoration of natural resources. The Fund should pay those costs only when claimants have exhausted their recourse against the

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*International Convention on Civil Liability for Oil Pollution Damage.

**International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.

spiller by reason of their claims exceeding the liability limit. The Administration feels strongly that the Trust Fund's liability should not include lost profits or taxes,or the value of natural resources that are destroyed but cannot be replaced. When the responsible party is unknown, the Trust Fund should be liable only for removal costs. Of course, the Fund must be immediately available to cover Federal removal costs. I also support state utilization of the Trust Fund, for removal costs, as now provided in section 311 of the Clean Water Act.

I believe such a system can be effective, but only if H.R. 3278 provides adequate liability limits with corresponding financial responsibility requirements. We cannot support the present low liability limit levels proposed in the bill, including those for inland oil barges. Because of their frequent trips and oil transfers, the necessity of navigating in congested waters and their proximity to environmentally sensitive areas, inland oil barges pose oil pollution damage risks equivalent to those of self-propelled vessels of similar size. The accident Monday on the Mississippi, involving a collision between a tanker and a four-barge tow, demonstrates the importance of applying the same liability limits to inland oil barges as to ships.

The Administration is looking forward to working with the Congress on limits while bearing in mind the results of the amendments recently agreed on with respect to CLC and Fund.

Fourth, we support the preemption of claims for damages covered by the system. With a uniformly high liability limit, narrow defenses to liability, a broad range of compensable damages, and a per barrel fee on oil, it is only fair to the owners and operators of vessels and facilities that they receive protection from overlapping and duplicative claims. States would be free to establish their own liability and compensation systems for facilities in their waters and on their shores.

As for operation of the Trust Fund itself, the Administration favors public rather than private administration of the Trust Fund. We do so for two reasons.

First, it would be inappropriate for a non-governmental agency to exercise discretionary authority over monies derived from fees assessed and collected by the Federal government.

Second, the H.R. 3278 Trust Fund, by providing up-front federal removal financing, will be highly active in contrast to the Trans-Alaska Pipeline Liability Fund (TAPS Fund) which derives its revenue from a few easily identifiable contributors. Further, under H.R. 3278, the Trust Fund makes the necessary contributions to the international fund, in lieu of the "receivers" who otherwise would be called upon to make those contributions, a concept we fully support. These differences in financing, function, and activity call for the administration of the Trust Fund by a governmental entity.

We also support a "user fee" of 1.3 cents per barrel of oil to finance the Trust Fund. This is consistent with Administration policy -- that those who benefit from a service pay their fair share of its costs. It is our view that the current bill improperly identifies those who should be responsible for paying the fees to the Trust Fund. We also perceive some apparent collection duplication between domestic refiners and producers. We have made several specific recommendations to improve the bill in this respect.

Finally, we believe that balances in the TAPS fund, like those in the Offshore and Deepwater Port Funds should be transferred to the Trust Fund. This will enable the new Trust Fund to meet its obligations, including those arising from the TAPS trade, in a short period of time.

Now, Mr. Chairman, let me mention a few other ways the Administration is demonstrating its very real interest in preventing oil spills and minimizing damages.

The grounding and breakup of the Argo Merchant near Georges Bank in December 1976 provided the impetus for significant improvements to our National Contingency Plan. That Plan is periodically reviewed by all National and Regional Response Team members and by the Coast Guard. In addition, the Coast Guard recently proposed an "Extraordinary Spill Plan" for our coastal waters. That Plan, when developed, will address more detailed measures to combat oil spills of major proportions or unusual nature. It will focus on solutions to the logistical and coordination problems which often make these spills difficult to deal with.

State response team representatives are important, and state members should have equal status with federal members serving on those important bodies. We want, and need, a strong state voice when addressing oftentimes sensitive and emotional situations involving oil spills. I support maximum state utilization of the pollution fund now administered by the Coast Guard, for removal of oil spills. I will soon ask all governors to examine current procedures to determine if they are receiving the maximum benefit from that fund.

On the international side we are extremely gratified with our Joint U.S./Canadian Plan for response to oil spills. That Plan has been under review and was significantly improved just last September. I am also pleased with a similar plan with the Government of Mexico and recent steps taken to increase the level of dialogue with our Mexican counterparts.

For some time we have been coordinating with the Department of State to develop a multilateral regional oil spill plan to protect our interests in Puerto Rico and the U.S. Virgin Islands, and to assist our friends in the Caribbean in the event of a major oil spill.

The real solution to oil spills, of course, is in preventing them in the first place. Recent Coast Guard regulatory proposals, based on the Port and Tanker Safety Act, will further reduce operational as well as accidental discharges.

We have also developed regulations to implement the oil pollution prevention requirements of the 1973/78 International Marine Pollution Conventions. I have directed the Coast Guard to pursue a policy of aggressive enforcement with respect to this important treaty.

By pursuing realistic oil spill legislation, incorporating the revised Civil Liability and Fund Conventions, improving our contingency planning both domestically and internationally, and by making a dedicated effort to reduce oil spills, the Administration is demonstrating its determination to reduce and deal with the effects of oil spills in a meaningful and responsible way. We look forward to working closely with the Congress, states, the public and industry in achieving these objectives.

Mr. Chairman, that concludes my testimony. I will be pleased to respond to any questions you may have.

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