



U.S. Department of  
Transportation

# News:

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OPENING STATEMENT OF SECRETARY OF TRANSPORTATION  
ELIZABETH HANFORD DOLE  
BEFORE THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE  
UNITED STATES SENATE  
WASHINGTON, D.C.  
APRIL 29, 1986

I'm delighted to be here today to convey the administration's continued support for oil spill liability and compensation legislation including, in particular, the 1984 Protocols. With me today is Rear Admiral J. William Kime, Chief of the Coast Guard Office of Merchant Marine Safety.

As you know, Mr. Chairman, there is wide agreement among the Congress, the administration, the oil and shipping interests and the environmental community that, in addition to a first class oil spill response capability, this country needs an equitable, adequate and comprehensive system to compensate those damaged by spills. Efforts to obtain oil spill liability and compensation legislation have been under way since 1975. My goal is to work with you to ensure passage of this legislation this year.

There are a number of desirable provisions and features that I believe comprehensive oil spill legislation should contain.

The four existing funds should be replaced with a single "Trust Fund." The Coast Guard presently administers three of the funds. They have extensive oil spill response experience, are highly respected in the community of experts and liability regimes, both nationally and internationally, and are well qualified to manage a new single fund.

Currently, the Coast Guard is not fully reimbursed for its removal and cleanup costs. We support a system that would shift responsibility for these expenses from the taxpayer to the polluter.

With respect to financing the trust fund, we continue to support the "user fee" concept rather than financing from general revenues. A fee of no more than 1.3 cents per barrel would be collected on all crude oil

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"received" at U.S. refineries, crude oil "exported" from the U.S., petroleum products, and "imported" crude oil. This very modest fee would generate sufficient funds -- about \$74 million per year based on our 1985 oil consumption level -- to cover long term fund obligations. This could be achieved by transferring the monies in the pollution funds currently managed by the Coast Guard as well as the Trans Alaska Pipeline Fund, into the new trust fund. In addition we would support terminating collections when the fund's assets reached \$300 million.

With respect to liability, we believe that the new regime should cover vessels and outer continental shelf and deepwater port facilities. Facilities onshore and in state waters should be left to state laws. We believe the new oil spill legislation should merge duplicative state systems into the federal system. However, states with existing oil spill funds should have a reasonable time to adjust to the new system. On the other hand, states should be able to maintain funds which finance the purchase or prepositioning of cleanup and removal equipment and other preparations for removal of oil spills. Where states initiate emergency cleanup efforts, monies from the federal trust fund can, and should be made immediately available to cover the costs of such removal efforts. In addition, states would not be prevented from using general revenues or other revenue sources not based on a fee on oil to maintain their cleanup, response and damage funds.

A major concern of ours is that the trust fund must be liable only for oil spill removal costs and for clearly identifiable damages. The fund should not be open to theoretical or speculative claims. The fund should be liable for costs to replace or restore personal or real property and the costs to a state or the federal government for the actual replacement or restoration of natural resources, once claimants have exhausted all reasonable remedies against responsible parties. Its liability should not include lost profits or taxes or the value of natural resources which are destroyed but cannot be restored. We also support a \$200 million cap per oil spill incident. That amount would cover the cost of any spill that has occurred thus far, worldwide.

As to the limits of liability, those presently recommended by the House of Representatives (Title IV of H.R. 2005), except in one area of concern, have our full support. We have not yet rationalized why the limit of liability from an inland oil barge (only \$150,000 in the House Bill) should be less than that for tankers (\$3 million or \$420 per ton). We also strongly believe that adequate limits of liability and financial responsibility requirements, backed by a viable fund, are preferable to unlimited liability with uncertainty of resolution.

This brings me to a point which is of critical importance. We strongly support the 1984 Protocols to the 1969 Civil Liability and 1971 Fund Conventions (CLC and Fund) relating to seagoing tanker oil pollution damage

liability. These Protocols were adopted at the 1984 International Maritime Organization (I.M.O.) Diplomatic Conference convened to update the conventions.

This is an international problem requiring an international solution. The regime established by the Protocols creates a clear, internationally recognized standard of liability for tanker owners. Jurisdiction is clearly established in the courts of the country where damage occurs and the shipowner's liability is backed by an internationally enforced compulsory insurance system. A judgment rendered in courts of a nation having jurisdiction under the Civil Liability Convention will be honored in the court of another country which is party to the convention.

I believe the Protocols offer excellent insurance to the United States with respect to oil pollution from foreign flag tankers. As I pointed out earlier, our response and prevention efforts are among the best in the world. However, as our recent spill history indicates, we can expect occasional spills of oil from both U.S. and foreign flag vessels. When fully implemented, the Protocols would provide the level of protection needed in the event of a spill like the "AMOCO CADIZ" (the largest tanker spill in history), where the damage may reach \$190 million.

The U.S. must take the leadership in adopting the IMO Protocols. You will recall that members of this committee provided a list of your concerns to be addressed at the IMO Conference. I visited with IMO Secretary General Srivastava during the Diplomatic Conference to place emphasis on the improvements you desired. We were instrumental in meeting almost all of your goals. We obtained every objective except non-persistent oil coverage, because of the concern over the impracticalities of collections. At that conference I was impressed with the world maritime community's interest in seeing the U.S. as a full partner in the CLC and Fund regime. They look to the U.S. for leadership, and any comprehensive U.S. oil spill regime must include implementation on the international regimes established by the Protocols. Their ratification should proceed without delay. As you are aware, President Reagan transmitted the 1984 Protocols to CLC and Fund to the Senate for its advice and consent last November. I will be testifying before the Senate Foreign Relations Committee on May 15 regarding the ratification of the Protocols.

We recognize the need for the interim voluntary system for oil spill liability and compensation that is currently being provided by tanker owners and oil interests, Tovalop and Cristal. Pending the coming into force of the Protocols, we would hope for a similar system which offers equitable distribution of costs and contains, as nearly as possible, provisions compatible with, and benefits to U.S. citizens the same as, those offered by the Protocols. However, we do not see a voluntary system as a solution to the long term problem -- because they are subject to termination at any time.

In fact, recent developments have placed the future of Tovalop and Cristal in question. The intended replacement regime has failed to attract the necessary participation to bring it into force.

Last December, the House of Representatives passed comprehensive oil spill liability and compensation legislation that includes the key features I have noted. We support the approach taken in this legislation, although we do oppose compensation of speculative damages such as lost wages or taxes.

Now, I would like to turn to the oil pollution liability and compensation legislation that has been developed by this Committee, S. 2340. While it does consolidate the existing patchwork of federal oil spill legislation and establish a federal fund to compensate the victims of oil pollution, it does not contain a number of elements I consider essential:

- \* Implementation of the 1984 Protocols to the CLC and Fund;
- \* Creation of a financing mechanism;
- \* Compensation for the victims of pollution damage only for removal and cleanup, property damage, natural resource restoration or replacement and administrative costs; and
- \* Merging duplicative state regimes into the federal system, after an appropriate transition period.

Therefore, major changes to this legislation would be necessary before we could support it. We will work with you in any way we can to resolve these points and move forward together to enact this key environmental initiative.

In conclusion, I would like to stress the need for maintaining the broad support among affected interests. Only with the combined support of the oil and shipping industries, the states, and environmental interests can we hope to achieve a viable and comprehensive oil pollution liability and compensation regime which truly serves the overall public interest.

It is time to afford the American public the benefits of a comprehensive oil spill liability and compensation system that includes the 1984 Protocols to the CLC and Fund. The U.S. has the opportunity to take the leadership in ratifying these Protocols. The cause is just. The time is now. I look forward to working with you, to promptly resolving any remaining details. This concludes my summary. I am submitting my formal statement for the record. I will be pleased to respond to any questions you may have.

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