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The following additional information may be relevant to your response to question 5:

The 1979 Coast Guard proposal for existing single hulled barges contained a clear exception for, among other things, single hulled barges with independent cargo tanks:

"Single hull tank barges that are more than twenty years old would not be certificated for the carriage of oil after 1985. Exceptions would be made as follows:

1. Barges that have been constructed with . . . independent cargo tanks would continue in normal, unrestricted operations until the vessel is no longer serviceable." 44 Fed. Reg. 34444



# DRAFT

## Talking Points

- o The President owned an interest in Hollywood LPG No. 2, limited partnership which owned four tank barges, from 1978 to April 1989. The four tank barges are single- and double-hulled barges with independent cargo tanks.
- o In June 1979 the Carter Administration Coast Guard proposes double hull requirements for all new tank barges and the phase out of existing single hull barges.
- o The proposal does not cover single hull barges with independent cargo tanks, which "would continue in normal unrestricted operations until the vessel is no longer serviceable."
- o In March 1980 the Carter Administration calls for an independent NAS study of its proposal because of strong industry opposition. The proposals are put on hold pending the results of the NAS study. A committee is formed to undertake the study and it includes the President of Hollywood Marine.
- o In March 1981 the Vice President announces the Task Force on Regulatory Relief's first set of regulatory relief projects. The announcement does not include the Coast Guard double hull proposal.
- o In June 1981 the NAS committee concludes that the earlier proposal is too costly a solution, given the benefits, to the problem of oil spills by tank barges on the inland waterways.
- o In August 1981 the Task Force takes up the issue of Coast Guard regulations for new vessel construction. The double hulling proposal is included for consideration.
- o In March 1982 the Coast Guard formally withdraws the June 1979 NPRM and ANPRM.
- o In August 1982 and again in August 1983, the Task Force cites the Coast Guard action as one of its "Regulatory Achievements."
- o In April 1989 Hollywood LPG No. 2 is placed in the President's blind trust and he is legally blinded with respect to the assets. (The timing is actually unrelated to the Exxon Valdez accident, which occurred two weeks earlier.)
- o The Administration and Congress agree to the phase out of all single hulled tank barges by 2015. The Administration position is more costly to industry than Congress's. Further research needs to be done to determine whether the phase out would affect single hull barges with independent cargo tanks.

## CHRONOLOGY

1978 -- GB invests in Hollywood LPG No. 2, a limited partnership which owns four inland barges for the transport of liquified petroleum gas. The managing partner of the partnership is Hollywood Marine, Inc. It manages several other limited partnerships that lease inland barges for the transport of oil and oil products in Louisiana and Texas.

Two of the partnership's barges are double hull barges with independent cylindrical cargo tanks; the other two barges are single hull barges with independent cylindrical cargo tanks.

According to Houston Marine, the single-hulled barges with cylindrical tanks are better than double-hulled barges; the double-hulled barges with cylindrical tanks are effectively "triple-hulled." Because their cargo is gaseous, this type of barge is not responsible for oil spills.

June 1979 -- The Coast Guard announces an NPRM that would require all new barges to be double hulled. The Coast Guard also puts out an ANPRM that asks for comments that would help it formulate a rule for phasing out single-hulled tankers.

The ANPRM contains a proposal for the phase out of existing single hull barges. "Single hull tank barges that are more than twenty years old would not be certificated for the carriage of oil after 1985. Exceptions would be made as follows:

1. Barges that have been constructed with . . . independent cargo tanks would continue in normal, unrestricted operations until the vessel is no longer serviceable." 44 Fed. Reg. 34444

Thus, none of the Hollywood LPG No. 2 barges would have been affected by the Coast Guard proposal.

March 1980 -- The Carter Administration defers further consideration of the June 1979 NPRM and ANPRM. It announces the formation of an independent committee under the auspices of the National Academy of Sciences/National Research Council to study its earlier proposal. The study is scheduled to be completed in January 1981. The committee includes Hollywood Marine President Berton Lawrence.

The Federal Register announcement makes clear that the earlier proposal for the phase out of single hull barges was not a final proposal but was only meant " . . . to stimulate public participation in finding an acceptable solution for existing tank barges."

November 1980 -- GB is elected President. According to Common Cause Magazine, \$5000 of his approximately \$36,000 in 1980 income comes from Hollywood LPG No. 2.



January 28, 1981 -- OGE certifies the qualified blind trust established by GB. All assets placed in the trust are automatically "blinded," and GB cannot legally receive reports on sales or purchases of assets in the trust.

Hollywood LPG No. 2 is not placed in the trust. (Although not GB's lawyer in 1981, Terri Lacy believes that the limited partnership was not placed in the blind trust because of the diversification requirements for this type of blind trust.)

March 1981 -- The Vice President's Task Force on Regulatory Reform announces that it will review a number of agency regulatory proposals, but does not -- as suggested by the WSJ -- decide to review the Coast Guard rule at this time.

June 1981 -- The NAS study is completed, and concludes that the Coast Guard double hull proposal is overbroad to deal with the problem of oil spills by inland barges.

August 1981 -- The Task Force announces that it will consider Coast Guard standards for new vessel construction. Included within the planned review are the Coast Guard proposed double hull requirements.

March 1982 -- The Coast Guard withdraws its earlier NPRM and ANPRM, citing economic and other issues discussed in the now completed NAS study.

According to apparently erroneous information supplied by the Wall Street Journal, the withdrawal is based in part on a National Academy of Sciences study that the Task Force "required" the Coast Guard to commission. The Wall Street Journal also claims that the NAS panel that produced the study included the president of Hollywood Marine.

August 1982 -- The Vice President issues a press release that announces the Coast Guard's March 28, 1982 action as one of the Task Force's "achievements."

August 1983 -- The Coast Guard's March 28, 1982 action is again cited as one of the Task Force's achievements in a report on Task Force progress entitled "Reagan Administration Regulatory Achievements."

November 1988 -- GB is elected President.

January 1989 -- GB's attorney begins to undertake the task of transferring all GB assets to the blind trust but becomes ill. He dies without recovering and without being able to finish the transfer of assets to the blind trust.

Late March 1989 -- The Exxon Valdez accident takes place in Prince William Sound, Alaska.

DRAFT

April 1989 -- GB places Hollywood LPG No. 2 in his qualified blind trust. OGE approves this action. From this date on, GB is legally "blinded" with respect to Hollywood LPG No. 2.

May 1989 -- The Bush Administration proposes oil spill legislation that addresses liability and compensation issues. The Administration bill takes no position on vessel standards issues, such as whether double hulls should be required for any type of vessel.

1989-90 -- The House and Senate pass separate versions of oil spill legislation. The House and Senate pass separate versions of oil spill legislation. The House bill, passed in November 1989, would require double hulls for all newly built tank vessels and for all existing vessels within 15 years. The Senate bill, passed in February 1990, would not require double hulls for existing vessels but would require double hulls for newly built vessels, subject to some Secretarial discretion. The Senate and House appoint a conference committee to resolve differences between the bills.

April-May 1990 -- In conference, the House offers a compromise exempting existing inland waterway barges entirely from the double hull requirement. (Inland waterway barges have an average life of 50 years; oceangoing vessels only 19 years.)

In a May 9, 1990 letter to Rep. Walter Jones, Chair of the Conference Committee, Secretary Skinner states that the Department "would support a double-hull requirement beginning in the year 2015" for existing inland waterway barges. The Administration position is more costly for barge owners than the Senate passed bill, a proposed industry conference compromise, or the House conference offer.

1990 -- The President signs the legislation. The legislation does not require inland waterway vessels to be double-hulled until 2015, but requires oceangoing vessels to be double hulled by the year 2000. According to the Wall Street Journal reporter, this legislation affects two of the vessels owned by Hollywood LPG No. 2, which are single-hulled.





U.S. Department of  
Transportation  
Office of the Secretary  
of Transportation

# Memorandum

CC: / Tom DeRuy

Subject: Oil Pollution Legislation  
House Conferees Agreement on  
Double Hull Offer to Senate

From: Jane DeCell  
C-40

To: The General Counsel

Date: May 17, 1990

Reply to  
Attn. of: Ext. 64687

The House Conferees on Title IV of the Oil Pollution Act of 1989 met this afternoon to finalize a House offer to the Senate on double hulls. The House Conferees rejected both the Administration's and industry's proposals and accepted a "modified straight line" phase-out of single-skin tankers as follows:

| <u>YEAR</u> | <u>VESSEL AGE</u> |
|-------------|-------------------|
| 1995        | 40                |
| 1996        | 38                |
| 1997        | 36                |
| 1998        | 34                |
| 1999        | 32                |
| 2000        | 30                |
| 2001        | 29                |
| 2002        | 28                |
| 2003        | 27                |
| 2004        | 26                |
| 2005        | 25                |

### New Construction

All new construction would be required to have double hulls.

### Exemptions and Extensions

Oil skimmers would be exempt from double hull requirements. Vessels servicing the Louisiana Offshore Oil Port, vessels lightering sixty miles offshore and inland barges would be exempt until 2015. After 2015, inland barges must be equipped with a double containment system at least as effective as a double hull.

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Secretarial Report to Congress

The Secretary is required to report to Congress on alternative operational and structural features for tank vessels.

Title XI Loan Guarantees

A new Title XI program is created to guarantee mortgages on vessels phased out by the double hull requirement. It would provide financial support to vessels converted or rebuilt with double hulls, requiring certain criteria to be met, such as a twenty-five year useful life for reconstructed vessels. The guarantees would be available on a tonnage system based on tonnage lost due to the double hull requirement.

The following House Conferees attended: Jones, Studts, Borski, Young, Davis, Laughlin, Tauzin, Carper, Hughes, Stangeland, Oberstar and Nowak.

Background

On May 9th, Secretary Skinner transmitted a modified Administration position on double hulls to the Conferees. In that letter, the Administration called for double hulls on all new construction, phase-out of twenty-five year old single-skin vessels in the year 2000, including lightering vessels, and phase-out of single-skin vessels servicing the Louisiana Offshore Oil Port, operating on the Great Lakes and inland barges in 2015.

Earlier, the Administration's position called for double hulls on new construction unless the Secretary determines that the requirement would not enhance safety or environmental protection, tied to findings in a National Academy of Sciences report due out December, 1990 and had been silent on phase-out of the existing fleet.

The tank and barge industries (particularly Maritrans), which had supported the Administration's first position, have been very vocal in opposing the modified Administration position. Oil refiners dependent on oil from lightering vessels, such as Chevron, have also been quite vocal in their opposition to our position.



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Attached is a comparison of the four phase-out options considered by the Conferees. Essentially, the difference in the four proposals is that the Administration and the straight line proposal phase out 25 year old vessels in 2000 while the industry and modified straight line proposals phase out 25 year old vessels in 2005.

C-40's Recommendation

That DOT generally support the House offer, except for the Title XI provision, as a reasonable approach while noting that it is less environmentally protective than our modified Administration position.

That MARAD analyze and prepare a draft DOT position on the Title XI provision, for clearance by OST early next week. The House staff is drafting a final offer, based on the agreement reached today. We expect to see proposed statutory language on Monday.

## AGE OF SINGLE HULL VESSELS RETIRED

Modified  
STRAIGHT LINE

| YEAR | ADMINISTRATION | INDUSTRY | STRAIGHT LINE | Modified<br>STRAIGHT LINE |
|------|----------------|----------|---------------|---------------------------|
| 1995 |                |          | 40            | 40                        |
| 1996 |                | 41       | 37            | 38                        |
| 1997 |                | 42       | 34            | 36                        |
| 1998 |                | 43       | 31            | 34                        |
| 1999 |                | 44       | 28            | 32                        |
| 2000 | 25             | 40       | 25            | 30                        |
| 2001 | 25             | 40       | 25            | 29                        |
| 2002 | 25             | 40       | 25            | 28                        |
| 2003 | 25             | 40       | 25            | 27                        |
| 2004 | 25             | 40       | 25            | 26                        |
| 2005 | 25             | 25       | 25            | 25                        |
| 2006 | 25             | 25       | 25            | 25                        |
| 2007 | 25             | 25       | 25            | 25                        |
| 2008 | 25             | 25       | 25            | 25                        |
| 2009 | 25             | 25       | 25            | 25                        |
| 2010 | 25             | 25       | 25            | 25                        |
| 2011 | 25             | 25       | 25            | 25                        |
| 2012 | 25             | 25       | 25            | 25                        |
| 2013 | 25             | 25       | 25            | 25                        |
| 2014 | 25             | 25       | 25            | 25                        |



*James Corrado*

SUBSTITUTE FOR HOUSE BILL (H.R. 1465)

Sections 4118, 4119

Sec. 4118. NEW TANK VESSEL CONSTRUCTION

(a) CRUDE OIL TANK VESSEL DOUBLE HULLS. -- Section 3705 of title 46, United States Code, is amended --

(1) in the heading by striking "tankers" and inserting in lieu thereof "tank vessel";

(2) by striking subsection (a)(1) and redesignating subsections "(2)" and "(3)" as "(1)" and "(2)";

(3) by redesignating subsections "(a)" through "(e)" as "(b)" through "(f)";

(4) by adding a new subsection (a) to read as follows:

"(a) A new crude oil tank vessel of any size shall be constructed with a double hull."

(b) PRODUCT TANK VESSEL DOUBLE HULLS. -- Section 3706 of title 46, United States Code, is amended --

(1) in the heading by striking "carrier" and inserting in lieu thereof "tank vessel";

(2) by striking subsection "(a)" and inserting in lieu thereof the following:

"(a) A new tank vessel engaged in the trade of carrying oil other than crude oil shall be constructed with a double hull."

(c) CLERICAL AMENDMENT. -- The table of sections for chapter 37 of title 46, United States Code, is amended --

## Proposed Vessel Hull Construction Provision

## Sec. 4118 ESTABLISHMENT OF TANK VESSEL REQUIREMENTS.

(a) HULL CONSTRUCTION REQUIREMENTS. -- Chapter 37 of title 46, United States Code, is amended by inserting the following new section after section 3706:

"Sec. 3706a. Hull Construction Requirements For Tank Vessels

"(a) (1) A tank vessel for which a construction contract for building or a major conversion was entered into after the date of enactment of this section shall be equipped with a double hull.

" (2) A vessel for which a construction or a major conversion contract for use as a tank vessel was entered into after the date of enactment of this section shall be equipped with a double hull.

"(b) Tank vessels 35 years old or older on December 31, 1990 are prohibited from operating as tank vessels in waters of the United States exclusive economic zone after December 31, 1995.

"(c) Tank vessels less than 35 years old but 30 years or older on December 31, 1990 are prohibited from operating as tank vessels in waters of the United States exclusive economic zone after December 31, 1999.

"(d) Tank vessels less than 30 years old but 25 years or older on December 31, 1990 are prohibited from operating as tank vessels in waters of the United States exclusive economic zone after reaching 40 years of age.

"(e) Tank vessels less than 25 years old but 11 years old or older on December 31, 1990 are prohibited from operating as tank vessels in waters of the United States exclusive economic zone: (1) if a tanker, on or after January 1, 2005, except that such a tanker equipped with double bottom or sides may so operate until January 1, 2005 or 30 years of age, whichever is later; and (2) if a non-self propelled vessel, on or after January 1, 2010.

"(f) Tank vessels less than 11 years old on December 31, 1990 are prohibited from operating as tankers in waters of the United States exclusive economic zone: (1) if a tanker, after reaching 25 years of age, except that such a tanker equipped with double bottom or sides may so operate until 30 years of age; and (2) if a non-self propelled vessel, after reaching 30 years of age, except that such a non-self propelled vessel equipped with double bottom or sides may so operate until 35 years of age.

"(g) The requirements of subsections (a) through (f) of this section shall not apply to vessels when engaged in unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (including traveling to and from a deepwater port) until after January 1, 2015, or to vessels when engaged in transshipping or lightering operations more than 60 miles from the territorial sea baseline of the United States (including traveling to and from the site of transshipping or lightering, but only to the extent such travel is in water more than 60 miles from the territorial sea baseline) until after January 1, 2015, or to vessels originally equipped with a double hull. The requirements of subsections (b) through (f) shall not apply to non-self propelled vessels operating within the Boundary Line.



*Jane DeCell*

### Double Hulls Requirement

The most recent Senate offer on the double hulls issue reflects the views of Senator Stevens, according to Senate staff. The proposal would require that the Secretary issue a rule within one year of passage of the Act. The rule would apply to all vessels that transfer oil in bulk in the waters of the U.S. or engage in lightering or transshipping in the Exclusive Economic Zone.

The rule would have to require double hulls or other structural and operational features which, based on recommendations of the National Academy of Sciences, would provide greater environmental protection than double hulls. The requirements would apply to all new tank vessels and to existing vessels on a tight schedule. Existing vessels calling at a deepwater port (LOOP) would be exempt for 20 years. The schedule for application to existing vessels is based on vessel age and size, with, for example, vessels of over 200,000 dwt and built before 1973 having to meet the standard by Dec. 31, 1991.

Although we have not completed a definitive estimate of the cost of these requirements, we know they would impose a tremendous burden on the shipping industry and on U.S. consumers. A very preliminary estimate by MARAD indicates that for the U.S. flag tanker fleet, some 42 vessels with nearly 6 million dwt capacity would have to be scrapped by 1997. An additional 85 tankers (in total more than half of the U.S. fleet) would likely be scrapped by the year 2004.

Because of a declining shipping market in the domestic oil trade, it is unlikely that much of this capacity would be replaced. It is noteworthy that some of our most modern and safest tankers, with segregated ballast tanks and other features, would likely be laid up by 1994, under this provision. Because of the costs and technical problems, MARAD and Coast Guard do not expect that any appreciable number of these tankers would (or could) be retrofitted with double hulls.

With respect to the Alaska trade, a minimum number of vessels would probably be found to serve the demand. However, there is a good chance that these would be smaller tankers. This would mean more tanker trips (and thus a higher likelihood of accidents and spills) and higher costs. MARAD tentatively estimates oil transportation costs to rise by about 25-30 percent because of double hulls. This could substantially reduce Alaska's oil revenues, since their royalties are based on wellhead price after the cost of transportation is deducted.

With respect to oil imports, we would expect that much crude oil entering the U.S. would be transshipped via Caribbean and South and Central American ports. Much of the oil might be refined at the time of transshipment, reducing revenues to American firms. A small dedicated fleet of double hull tankers would shuttle the crude or product into U.S. ports. Again, transportation costs, ultimately paid by the U.S. consumer, would rise by 10-25 percent.

We believe we need more flexibility in the double hull requirements. First, we need more time for study and rulemaking. Second, we should be allowed to take economic considerations, not only environmental protection, into account. Third, as a minimum, we should be able to specify alternatives to double hulls that provide equal or greater protection. Fourth, if the requirements must be made applicable to existing tankers, which we do not accept, the phase-in schedule should begin later and be more flexible. A schedule more like that in the House bill (double bottoms after seven years, double hulls after fifteen) would be much less disruptive and much less costly to U.S. consumers.

We would, of course, be pleased to work with Sen. Stevens and his staff to try to address these concerns.

J. Canny  
3/20/90  
(202) 366 4540



| Name of Vessel                                                  | DMT     | Year Built | House Draft I   |                   | Senate Draft I  |                   | House Draft II  |                   | Age |
|-----------------------------------------------------------------|---------|------------|-----------------|-------------------|-----------------|-------------------|-----------------|-------------------|-----|
|                                                                 |         |            | Conversion Date | Age at Conversion | Conversion Date | Age at Conversion | Conversion Date | Age at Conversion |     |
| OMI Columbia <sup>1</sup>                                       | 136,507 | 1974       | 2010            | 36                | 1998            | 24                | 1999            | 25                | 31  |
| OMI Dynachem <sup>2</sup>                                       | 50,852  | 1981       | 2015            | 34                | 2005            | 24                | 2006            | 25                | 25  |
| OMI Hudson <sup>2</sup>                                         | 50,852  | 1981       | 2015            | 34                | 2005            | 24                | 2006            | 25                | 25  |
| OMI Champion                                                    | 37,874  | 1969       | 2005            | 36                | 2001            | 31                | 1997            | 28                | 36  |
| OMI Mabash                                                      | 37,853  | 1969       | 2005            | 36                | 2001            | 31                | 1997            | 28                | 36  |
| OMI Willamette                                                  | 37,853  | 1969       | 2005            | 36                | 2001            | 31                | 1997            | 28                | 36  |
| OMI Charger                                                     | 37,807  | 1969       | 2005            | 36                | 2001            | 31                | 1997            | 28                | 36  |
| OMI Leader                                                      | 37,807  | 1969       | 2005            | 36                | 2001            | 31                | 1997            | 28                | 36  |
| Patriot                                                         | 35,100  | 1976       | 2010            | 34                | 2004            | 28                | 2001            | 25                | 36  |
| Ranger                                                          | 35,100  | 1976       | 2010            | 34                | 2004            | 28                | 2001            | 25                | 36  |
| Courier                                                         | 35,100  | 1977       | 2010            | 33                | 2004            | 27                | 2002            | 25                | 29  |
| Rover                                                           | 35,100  | 1977       | 2010            | 33                | 2004            | 27                | 2002            | 25                | 28  |
| Settebello <sup>3</sup>                                         | 317,352 | 1983       | 2015            | 32                | 1995            | 12                | 2008            | 25                | 25  |
| Czantorria <sup>3</sup>                                         | 43,800  | 1975       | 2010            | 35                | 2000            | 25                | 2000            | 25                | 25  |
| Sokolica <sup>3</sup>                                           | 143,800 | 1975       | 2010            | 35                | 2000            | 25                | 2000            | 25                | 30  |
| Colorado <sup>3</sup>                                           | 85,280  | 1980       | 2010            | 30                | 2000            | 25                | 2005            | 25                | 25  |
| Ocean Spirit <sup>3</sup>                                       | 60,421  | 1982       | 2015            | 32                | 2005            | 23                | 2007            | 25                | 25  |
| Elbe <sup>3</sup>                                               | 66,800  | 1984       | 2015            | 31                | 2005            | 21                | 2009            | 25                | 25  |
| Panda <sup>3</sup>                                              | 65,000  | 1987       | 2015            | 28                | 2005            | 18                | 2012            | 25                | 25  |
| Nile <sup>3</sup>                                               | 64,716  | 1981       | 2015            | 34                | 2005            | 24                | 2006            | 25                | 25  |
| Volga <sup>3</sup>                                              | 64,652  | 1981       | 2015            | 34                | 2005            | 24                | 2006            | 25                | 25  |
| Pagoda <sup>3</sup>                                             | 29,525  | 1988       | 2015            | 27                | 2005            | 17                | 2013            | 25                | 25  |
| Paulina <sup>3</sup>                                            | 29,519  | 1984       | 2015            | 31                | 2005            | 21                | 2009            | 25                | 25  |
| Patricia <sup>3</sup>                                           | 29,506  | 1984       | 2015            | 31                | 2005            | 21                | 2009            | 25                | 25  |
| Ebro <sup>3</sup>                                               | 70,747  | 1978       | 2010            | 32                | 2005            | 27                | 2003            | 25                | 27  |
| Mundogas Orinoco <sup>3</sup>                                   | 49,785  | 1973       | 2010            | 37                | 2003            | 30                | 1998            | 25                | 32  |
| General <sup>3</sup>                                            | 49,094  | 1975       | 2010            | 35                | 2003            | 28                | 2000            | 25                | 30  |
| 1 OMI Columbia                                                  | 136,507 | 1983       | 2015            | 32                | 2000            | 17                | 2008            | 25                | 25  |
| Rebuilt Under Wrecked Vessel Provision (See Attached Amendment) |         |            |                 |                   |                 |                   |                 |                   |     |

2 Class II Chemical Carrier - double bottom

3 International Fleet

H.R. 1465

Short Title/Table of Contents

S. 686

Sec. 1. Sec. 2

Senate Offer to House

House

No Comparable Provision

Sec. 3. Findings

Senate

TITLE I - OIL POLLUTION LIABILITY  
AND COMPENSATION

## TITLE I

Sec. 1001. Definitions

Sec. 1017

HouseSenate

act of God  
claim  
claimant  
damages  
deepwater port  
discharge  
exclusive economic zone  
Fund  
gross ton  
incident  
Indian Tribe  
mobile offshore drilling unit  
national contingency plan  
natural resources  
permittee  
tank vessel  
United States and State

barrel  
contiguous zone  
environment  
foreign offshore unit  
guarantor  
lessee  
liable or liability  
navigable waters  
offshore facility  
oil  
onshore facility  
OCS facility  
owner or operator  
person  
public vessel  
remove or removal  
territorial sea  
vessel

removal costs

Senate; plus "including costs incurred under subsections  
(c), (d), (e) and (l) of section 311, etc."



H.R. 1465S. 686Senate Offer to House

## Sec. 1002. Elements of liability.

Liability Sec. 1002(a) and (b)(1)

Sec. 102(a)(1)

Senate

Damages Sec. 1002(b)(2)

Sec. 102(a)(2)

House; except strike paragraph (C) and Insert in lieu thereof 102(a)(2)(D).

Excluded Discharges Sec. 1002(c)

No comparable provision

House

Liability of Third Parties Sec. 1002(d)

Sec. 102(b)(2)

Senate

## Sec. 1003. Defenses to liability.

Sec. 102(b)(1)

Senate

## Sec. 1004(a),(b). Limits on liability.

Sec. 102(c)

Senate

Exceptions Sec. 1004(c)

Sec. 102(c)(2),(3)

House; except strike "was proximately caused by" and insert "resulted from"; insert "standard or" before "regulation"; strike (3); and add Senate 102(c)(3).

Adjusting Limits of

Sec. 102(c)(4),(5),(6)

House; plus Senate 102(c)(4)(B), 102(c)(5), and 102(c)(6).

## Sec. 1005. Interest Section.

No Comparable Provision

Senate

## Sec. 1006. Natural Resources.

Sec. 102(d)

House; except 1006(g), and amend Sec. 1006(a) by striking "under this section" and inserting "under this Act" and by inserting in paragraph (2) "within such State or"; amend Sec. 1006(d)(1) by adding:

"(C) the reasonable costs of assessing the injury, destruction or loss of the damaged natural resources."

and delete references to "rehabilitation" and "rehabilitating"

## Sec. 1007. Recovery by foreign claimants.

Sec. 102(e)

Senate

## Sec. 1008. Recovery by responsible party or cargo owner.

No Comparable Provision

Senate

Sec. 1009. Contribution Section.

No Comparable Provision

Senate

Sec. 1010. Indemnification agreements.

Sec. 102(f)

House

Sec. 1011. Consultation on removal actions.

Sec. 106(d)

Senate

Sec. 1012. Uses of the Fund.

Sec. 103

Uses. Sec. 1012(a)

Sec. 103(a)

House - (2), (4)  
Senate - (1), (2), (4), (5), (6), (7), (8), (9), (10)Defense to Liability for the  
Fund. Sec. 1012(b)

Sec. 103(f)

Senate

Officials Who May Obligate the  
Fund. Sec. 1012(c)

Sec. 103(c)

House - Delete reference to CG.

Obligation of Fund by State.  
Sec. 1012(d), (e)

Sec. 103(d)

House - Incorporate Senate "agreement" language.

Rights of Subrogation. Sec. 1012(f)

Sec. 103(e)(1)

Senate

Audit. Sec. 1012(g)

Sec. 103(g)

House

Period of Limitation of Claims.  
Sec. 1012(h)

Sec. 103(h)

House - Delete "three years", insert "six years";  
add Sec. 103(h)(3) from S. 686Limitation on Payment for Same  
Costs. Sec. 1012(i)

Sec. 103(i)

House

Obligation in Accordance with  
Plan. Sec. 1012(j)

Sec. 103(j), (k)

House; plus Sec. 103(k) from S. 686

Sec. 1013. Claims Procedure.

Sec. 103(c)(4)(A), (D)

House; delete references to cargo owner, insert at end of  
Sec. 1013(c):

"No claim against the Fund may be approved or  
certified during the pendency of an action by the  
claimant in court to recover costs which are the  
subject of the claim."



H.R. 1465

S. 686

Senate Offer to House

Sec. 1014. Designation and Advertisement.

Sec. 103(c)(4)(B), (C)

House

Sec. 1015. Subrogation.

Sec. 103(e)(2)

House; strike "under this Act" in subsection (a) and insert "under any other law".

Sec. 1016. Financial Responsibility.

Sec. 104

Vessels. Sec. 1016(a)

Sec. 104(a)(1)

House; replace "Secretary" with "President".

Cargo. Sec. 1016(b)

No comparable provision.

Senate

Sanctions. Sec. 1016(c)

Sec. 104(a)(2), (3), (4)

House; delete references to cargo.

Offshore Facilities. Sec. 1016(d)

Sec. 104(b)

Senate

Methods of Financial  
Responsibility. Sec. 1016(e)

Sec. 104(c)

House; replace "Secretary" with "President".

Claims Against Gurantor. Sec. 1016(f)

Sec. 104(d)

House; delete (2)

Limitation on Gurantor's  
Liability. Sec. 1016(g)

Sec. 104(e)

Senate

Civil Penalty. Sec. 1016(h)

Sec. 104(f)

House; replace "Secretary" with "President".

Continuation of Regulations.  
Sec. 1016(i)

Sec. 104(g)

House

Sec. 1017. Litigation, Jurisdiction and  
Venue.

Sec. 105

Senate; plus 1017(d)

Sec. 1018. Relationship to other Law.

Sec. 106

Senate; except (c)

Sec. 1019. State Financial Responsibility.

Sec. 106(c)

House

H.R. 1465

Sec. 1020. Effective Date.

S. 686

No Comparable Provision

Senate Offer to House

House

TITLE II - CONFORMING AMENDMENTS

Sec. 2001. Intervention on High Seas.

Sec. 402

House

Sec. 2002. Federal Water Pollution  
Control Act.

Sec. 403

Senate

Sec. 2003. Deepwater Port Act.

Sec. 404

Senate; plus delete remaining subsections of 33 U.S.C. 1517

Sec. 2004. Outer Continental Shelf  
Lands Act.

Sec. 405

House

Sec. 2005. Effective Date.

No Comparable Provision

House

TITLE III - PROTOCOLS

No Comparable Provision

Senate

Sec. 3001. Definitions.

No Comparable Provision

"

Sec. 3002. Applicability of Conventions.

No Comparable Provision

"

Sec. 3003. Recognition of International  
Fund.

No Comparable Provision

"

H.R. 1465

Sec. 3004. Action in United States  
Courts.

S. 686

No Comparable Provision

Senate Offer to House

"

Sec. 3005. Contribution to International  
Fund.

No Comparable Provision

"

Sec. 3006. Recognition of Foreign  
Judgments.

No Comparable Provision

"

Sec. 3007. Convention Financial  
Responsibility.

No Comparable Provision

"

Sec. 3008. Regulations.

No Comparable Provision

"

Sec. 3009. Negotiations with Canada  
concerning tug escorts in Puget Sound.

No Comparable Provision

"

TITLE IV - PREVENTION AND REMOVAL

Sec. 4001. Definitions.

Sec. 301

Senate

SUBTITLE A - PREVENTION

Sec. 4101. Review of alcohol and drug  
abuse and other matters in issuing  
licenses, certificates of registry,  
and merchant mariners' documents.

Sec. 304(a)

House; with minor changes



H.R. 1465

Sec. 4102. Term of certificates of registry and merchant mariners' documents.

S. 686

Sec. 304, Sec. 305

Senate Offer to House

House; with changes to (b) and new effective date in (c)

Sec. 4103. Suspension and revocation of licenses, certificates of registry, and merchant mariners' documents for alcohol and drug abuse.

Sec. 304, Sec. 305

House; Sec. 4103(a) lines 9 - 18, (b) and (c); and add Secs. 303(c) and 305 of S. 686

Sec. 4104. Removal of master or individual in charge.

Sec. 304

Senate; Sec. 304(b)

Sec. 4105. Access to National Driver Register.

Sec. 303(a)

House Sec. 4105(b); plus Sec. 303(a) of S. 686

Sec. 4106. Manning standards for foreign tank vessels.

No Comparable Provision

Senate

Sec. 4107. Vessel traffic service systems.

Sec. 306(a), Sec. 307,  
Sec. 306(b). User Fees

House Sec. 4107(a) lines 16 - 18 with changes; Sec. 4107(c); plus modification of Sec. 306(b) of S. 686

Sec. 4108. State authority to require State pilotage for tankers.

Sec. 302

House; Sec. 4108(a) with change; plus Sec. 302(c) of S. 686

No Comparable Provision

Sec. 312(a)  
Penalties.

Senate

H.R. 1465

S. 686

Senate Offer to House

Sec. 4109. Great Lakes Pilotage.

No Comparable Provision

Senate

Sec. 4110. Periodic gauging of plating thickness of commercial vessels.

No Comparable Provision

Senate

No Comparable Provision

Sec. 311. Authority of Secretary in U.S. Waters

Senate

Sec. 4111. Overfill and tank level or pressure monitoring devices.

No Comparable Provision

Senate

Sec. 4112. Study on tanker navigation safety standards.

See: Sec. 308 on page CRS-54

Combine Studies (but no double hull study)

Sec. 4113. Dredge Modification Study.

No Comparable Provision

Senate

Sec. 4114. Use of liners.

No Comparable Provision

Senate

Sec. 4115. United States-Canada Great Lakes oil spill cooperation.

Sec. 603

House

Sec. 4116. United States-Canada Lake Champlain oil spill.

No Comparable Provision

House

Sec. 4117. Tank Vessel Manning.

No Comparable Provision

Senate

H.R. 1465

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Senate Offer to House

Sec. 4118. Establishment of double hull requirement for tank vessels.

Sec. 308

Senate

Sec. 4119. Self-propelled tank vessel minimum standards.

Sec. 308

Senate

SUBTITLE B - REMOVAL

Title II, generally

Sec. 4201. Federal Removal Authority.

Sec. 201, Sec. 202

Senate

Sec. 4202. Contingency Plans.

Sec. 204

Senate

Sec. 4203. Strike Teams.

Sec. 203

Senate

Sec. 4204. Coast Guard Vessel Design.

No Comparable Provision

Senate

Sec. 4205. Removal Resource Inventory.

Sec. 202(B)

Senate



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Senate Offer to House

SUBTITLE C - MISCELLANEOUS

Sec. 4301. Increased Penalties.

Failure to Report. Sec. 4301(a)

No Comparable Provision

No Comparable Provision

Administrative Penalties. Sec. 4301(b)

Civil Penalties. Sec. 4301(c)

National Contingency Plan. Sec. 4301(d)

No Comparable Provision

Other Penalties. Sec. 4301(e)-(r)

Sec. 206

Sec. 206(f)

Inspection and Entry. Sec. 206(a)

Criminal Penalties. Sec. 206(b)

Sec. 206(c)

Sec. 206(d)

No Comparable Provision

Environmental Effects. Sec. 206(e)

No Comparable Provision

House

Senate

Senate

Senate

Senate; plus paragraph (3) of Sec. 4301(c).

House

Senate

House

Sec. 4302. Deposit of certain penalties  
into Oil Spill Liability Trust Fund.

Sec. 206(q)

Senate

Sec. 4303. Hazardous Substances.

No Comparable Provision

House

Sec. 4304. Consideration of Discharges.

No Comparable Provision

No Comparable Provision

No Comparable Provision

No Comparable Provision

No Comparable Provision

User Fees. Sec. 207, Sec. 313

Impact on Other Law. Sec. 310

Authority of Secretary in U.S. Waters.  
Sec. 311

Penalties. Sec. 312

Senate

Senate

Senate

Senate

Senate

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Senate Offer to House

TITLE V - PRINCE WILLIAM SOUND OIL SPILL  
REMOVAL

|                                                  |                                      |                                          |
|--------------------------------------------------|--------------------------------------|------------------------------------------|
| Sec. 5001. Short title.                          | No Comparable Provision              | Senate                                   |
| Sec. 5002. Definitions.                          | No Comparable Provision              | House definition of Prince William Sound |
| Sec. 5003. Tank Vessel Requirements.             | No Comparable Provision              | House                                    |
| No Comparable Provision                          | Pilotage at Port of Valdez. Sec. 351 | House                                    |
| No Comparable Provision                          | Sec. 352. Bligh Island Light         | Senate                                   |
| Sec. 5004. Vessel Traffic Service System.        | Sec. 352, Sec. 353                   | Senate                                   |
| Sec. 5005. Equipment and Personnel Requirements. | No Comparable Provision              | Senate                                   |
| Sec. 5006. Use of Local Services.                | No Comparable Provision              | Senate (See Sec. 103(k) pg. 54)          |
| Sec. 5007. Authority of State of Alaska.         | No Comparable Provision              | Senate                                   |
| Sec. 5008. Environmental Assessments.            | No Comparable Provision              | Senate                                   |

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Senate Offer to House

Sec. 5009. Report.

No Comparable Provision

Senate

No Comparable Provision

Sec. 354. Oil Spill Recovery Institute

Senate

No Comparable Provision

Sec. 355. Radio on Mississippi River.

Senate

No Comparable Provision

Sec. 356. Funding of Alaska Program  
and Oil Spill Institute

Senate

TITLE VI - MISCELLANEOUS

Sec. 6001. Statutory Waivers.

No Comparable Provision

Senate

Sec. 6002. Savings Clause.

No Comparable Provision

Senate

Sec. 6003. Annual Appropriations.

No Comparable Provision

Senate

Sec. 6004. Drug-Free Workplace  
Requirements.

No Comparable Provision

Senate

TITLE VII - RESEARCH AND DEVELOPMENT

Sec. 7001. Oil Pollution Research and  
Development Program.

Sec. 205., Sec. 309.

Senate



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Senate Offer to House

TITLE VIII - TRANS-ALASKA PIPELINE SYSTEM

Sec. 8001. Short Title.

No Comparable Provision

Senate

Sec. 8002. References to Trans-Alaska Pipeline Authorization Act.

No Comparable Provision

Senate

SUBTITLE A - IMPROVEMENTS TO TRANS-ALASKA PIPELINE SYSTEM

Sec. 8101. Liability within the State of Alaska and Cleanup Efforts.

Sec. 401(a)

Senate; plus Sec. 8101 (c)(3)

Sec. 8102. Trans-Alaska Pipeline Liability Fund.

Sec. 401(b)

Senate; delete Sec. 401(b)(2); modify to (1) have outstanding claims settled by TAPS; (2) have immediate transfer of amounts not potentially needed to cover outstanding claims; (3) payment of valid claims, including \$14 Million.

Officers or Trustees. Sec. 8102(e)

Sec. 401(c)

House

Sec. 8103. Presidential Task Force.

TITLE V - Oversight and Monitoring  
Secs. 501 - 516.

Senate; with modifications, including Presidential audit of TAPS

SUBTITLE B - PENALTIES

Sec. 8201. Authority of the Secretary of the Interior to Impose Penalties on Outer Continental Shelf Facilities.

Sec. 601

House; plus "coastal or human environment"

Sec. 8202. Trans-Alaska Pipeline System Civil Penalties.

No Comparable Provision

Senate

H.R. 1465

S. 686

Senate Offer to House

SUBTITLE C - PROVISIONS APPLICABLE  
TO ALASKA NATIVES

Sec. 8301. Land Conveyances.

No Comparable Provision

House

Sec. 8302. Impact of Potential Spills  
in the Arctic Ocean on Alaska  
Natives.

Sec. 604. Agreement Between the United  
States and Canada for Potential Oil Spills  
in the Arctic Ocean and International  
Contingency Plans.

Senate

No Comparable Provision

Sec. 602. Cooperative Development of  
Common Hydrocarbon Bearing Areas

Senate

As passed The House  
11-9-89

101ST CONGRESS  
1ST SESSION

## H. R. 1465

### AN ACT

To establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the “Oil  
5 Pollution Act of 1989”.

6 (b) **TABLE OF CONTENTS.**—The contents of this Act  
7 are as follows:



1 SEC. 4118. ESTABLISHMENT OF DOUBLE HULL REQUIREMENT  
2 FOR TANK VESSELS.

3 (a) IN GENERAL.—Section 3708 of title 46, United  
4 States Code, relating to self-propelled tank vessel minimum  
5 standards, is amended—

6 (1) in the heading by striking “Self-propelled tank  
7 vessel” and inserting in lieu thereof “Tank vessel”;

8 (2) by designating the existing text of such section  
9 as subsection (b); and

10 (3) by inserting before subsection (b) (as designat-  
11 ed by paragraph (2)) the following:

12 “(a) A tank vessel shall be equipped with a double hull  
13 which satisfies the criteria for a segregated ballast tank set  
14 forth in Appendix C to part 157 of title 33, Code of Federal  
15 Regulations (as in effect on June 1, 1989).”.

16 (b) CLERICAL AMENDMENT.—The table of sections for  
17 chapter 37 of title 46, United States Code, is amended by  
18 striking the item relating to section 3708 and inserting in lieu  
19 thereof the following:

“3708. Tank vessel minimum standards.”.

20 (c) APPLICATION.—Section 3708(a) of title 46, United  
21 States Code, as added by this section, shall apply—

22 (1) after the date of the enactment of this Act to  
23 all tank vessels for which construction is begun after  
24 that date of enactment; and

(2) after the date which is 15 years after the date of the enactment of this Act to all other tank vessels.

**SEC. 4119. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.**

(a) **DOUBLE BOTTOMS.**—Section 3708 of title 46, United States Code, is amended—

(1) by inserting “(b)” before “A self-propelled”; and

(2) by inserting after the section heading the following new subsection:

“(a) A self-propelled tank vessel of at least 20,000 deadweight tons shall be equipped with a double bottom.”.

(b) **INSTALLATION.**—Section 3704 of title 46, United States Code, relating to coastwise trade vessels, is amended by striking “tank,” and inserting “tank, double bottom,”.

(c) **APPLICABILITY.**—The amendments made by subsections (a) and (b) shall apply—

(1) after the date of the enactment of this Act, to any self-propelled tank vessel the construction of which is begun after such date of enactment; and

(2) after the last day of the 7-year period beginning on such date of enactment to any self-propelled tank vessel the construction of which is begun on or before such date of enactment.

November 7, 1989

POSSIBLE AMENDMENTS

TO

H.R. 3394

OIL POLLUTION ACT OF 1989

| <u>SPONSOR</u>                | <u>DESCRIPTION</u>                                                                                                      | <u>DOT POSITION</u> |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------|
| CARDIN                        | Overfill monitoring devices                                                                                             | Oppose              |
| CARDIN                        | Gauging of Plating Thickness                                                                                            | Oppose              |
| CARPER                        | Location of regional strike teams                                                                                       | No Objection        |
| CHANDLER                      | Tug escorts for tankers in Puget Sound/Strait of Juan de Fuca                                                           | Oppose              |
| CHANDLER                      | Negotiations with Canada on tug escorts                                                                                 | No Objection        |
| DAVIS                         | Survey of U.S.-Canada Great Lakes Contingency Plans                                                                     | No Position         |
| DAVIS                         | No Preemption Substitute to Miller-Studds                                                                               | Oppose              |
| FRENZEL                       | Uses of Fund subject to appropriations                                                                                  | Support             |
| GALLO                         | Double Bottoms-New Construction Retrofit existing within 15 years                                                       | Oppose              |
| HENRY                         | Clear chain of authority for rapid response time                                                                        | No objection        |
| HUGHES/<br>CARPER/<br>SHUMWAY | Perfecting amendment if no preemption amendment passes/<br>State cannot set liability limits higher than Federal regime | Support             |



|                            |                                                                                                                                                                                                                                                                                                                                                            |              |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| JONES/<br>STUDDS/<br>DAVIS | Auto-pilot manning requirements                                                                                                                                                                                                                                                                                                                            | No Objection |
| JONES                      | \$30 million available for Section 311(c)(1) FWPCA, available to President without further appropriation                                                                                                                                                                                                                                                   | No Position  |
| JONES/<br>DAVIS            | Substitute amendment to Gallo's double-hull amendment                                                                                                                                                                                                                                                                                                      | Support      |
| JONES                      | Technical and Noncontroversial                                                                                                                                                                                                                                                                                                                             | No Objection |
| MCDERMOTT<br>to GALLO      | Double Hulls on Alaskan trade tankers in Puget Sound                                                                                                                                                                                                                                                                                                       | Oppose       |
| MILLER/<br>STUDDS          | En Bloc-Preserving State Law <ul style="list-style-type: none"> <li>o No preemption of State Law</li> <li>o No preemption of State financial responsibility requirements</li> <li>o No preemption of State courts</li> <li>o President and Governor must concur on completion of removal</li> <li>o Removal standards consistent with State law</li> </ul> | Oppose       |
| MILLER or<br>LEVINE        | Citizen suits against Federal officials to compel Clean Water Act enforcement                                                                                                                                                                                                                                                                              | Oppose       |
| MILLER                     | Lower standard for piercing cap on liability from gross to simple negligence                                                                                                                                                                                                                                                                               | Oppose(Veto) |
| PELOSI                     | Stronger response for fish and wildlife to National Cont. Plan                                                                                                                                                                                                                                                                                             | No Objection |
| RICHARDSON                 | 95% separation (oil from water) goal from new technology                                                                                                                                                                                                                                                                                                   | No Objection |
| RICHARDSON                 | CG skimmers to operate in 20 knot winds and eight foot seas                                                                                                                                                                                                                                                                                                | Oppose       |
| RINALDO                    | No preemption of State law (Identical to Senate language)                                                                                                                                                                                                                                                                                                  | Oppose       |
| ROUKEMA                    | Sense of Congress that Navy should update research (OHMSETT) in N.J.                                                                                                                                                                                                                                                                                       | No Position  |
| SAXTON                     | 5-Hour Response to Spills                                                                                                                                                                                                                                                                                                                                  | No Objection |

|                          |                                                                                                                                                                   |              |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| SCHEUTTE                 | Resolution for President to submit proposals to prevent and clean up spills                                                                                       | No Objection |
| SHUMWAY                  | Perfecting amendment if no preemption amendment passes/<br>Claimant must elect state or Federal court--not both                                                   | Support      |
| SIKORSKI                 | Affirmative requirement for Federal approval of contingency plans                                                                                                 | Oppose       |
| SMITH (Vermont)          | Lake Champlain contingency plans                                                                                                                                  | No Posiiton  |
| STUDDS                   | Changes standard for recovering removal costs from Fund from consistent to reasonably consistent with National Cont. Plan                                         | No objection |
| STUDDS                   | Modify liability limit for Deep Water Ports by removing some DOT authority and requiring certain findings; removing authority to lower limit of vessels using DWP | Oppose       |
| STUDDS                   | Eliminate liability limit ratchet for facilities                                                                                                                  | Oppose       |
| STUDDS                   | Removing defenses to liability for failure to report or clean up                                                                                                  | No Position  |
| STUDDS                   | Revolving Fund for natural resource damages for use by trustees                                                                                                   | No Position  |
| STUDDS                   | Coastal Defense Fund - 3¢ OCS fee                                                                                                                                 | Oppose       |
| TORRICELLI<br>(To GALLO) | Double Bottoms within 5 years<br>Double Hulls within 15 years                                                                                                     | Oppose       |
| TRAFICANT                | Controlled substances                                                                                                                                             | No Position  |
| TAUZIN                   | Require barges delivering oil from lightering vessel to show that lightering vessel met financial responsibility requirements                                     | Support      |
| YOUNG                    | Recovery for increased costs for municipalities who provided oil spill response                                                                                   | Support      |
| YOUNG                    | Require use of local contractors                                                                                                                                  | No Objection |
| YOUNG                    | Citizen Advisory Commission                                                                                                                                       | No Position  |

## SUBSTITUTE TO GALLO AMENDMENT REQUIRING DOUBLE HULLS

Title IV is amended by adding the following new section:

"Section 4113. Double Hulls or Double Bottoms.

"(a) Before one year after the date of enactment of this Act, the Secretary shall require tank vessels of at least 20,000 gross tons to be equipped with double hulls or double bottoms unless the Secretary determines that --

"(1) the requirement will not enhance tank vessel navigation safety;

"(2) the requirement will not enhance protection of the environment; or

"(3) an equal or greater benefit to navigation safety and protection of the environment will be achieved by other construction designs.

"(b) If the Secretary requires double hulls or double bottoms under subsection (a) of this section, the Secretary shall--

"(1) require that construction design for all tank vessels not later than ten years after the date of enactment of this Act; and

"(2) present a proposal for worldwide adoption of that construction design to the International Maritime Organization."



## TALKING POINTS

### OIL POLLUTION LEGISLATION

#### AMENDMENTS

Wednesday, the House of Representatives resumes debate on the oil spill legislation. I am calling to alert you to three issues of serious concern to the Administration.

#### NO PREEMPTION AMENDMENTS

- o Representatives Miller and Studds will be offering amendments to strike the limited preemption of State law in H.R. 1465.

- o The Administration opposes these amendments because they threaten implementation of the oil spill treaties (International Protocols).

- o These treaties give the United States up to \$260 million per spill, enough to clean up 98% of all oil spills, at a cost to the United States of \$8 million per year, paid by the oil companies. They also provide enforceability of judgments abroad and give us an enhanced negotiating position on a broad range of international environmental maritime issues.

- o I urge you to vote against Miller-Studds and similar no preemption amendments or substitutes.

#### SIMPLE NEGLIGENCE AMENDMENT

- o Representative Miller (D-CA) will be offering an amendment to lower the standard for unlimited liability from the traditional standard of gross negligence to one of simple or unintentional negligence.

- o The Administration vehemently opposes this amendment because it undermines the whole structure of the bill.

- o Since some degree of unintentional negligence would be present in practically any spill (such as a navigational chart a week out of date), the amendment exposes all operators to unlimited liability.

- o Operators cannot purchase insurance to cover unlimited liability.

o The amendment encourages the shift of oil transport to single-ship foreign operators without assets in the United States while at the same time destroying all prospects for ratifying the oil spill treaties that permit us to reach the assets of foreign operators in their home countries.

o Senator Mitchell, the strongest proponent of this legislation in the Senate, opposed a similar amendment when offered at Full Committee markup on S. 686.

o I strongly urge you to vote against the Miller amendment. In fact, I would recommend that the President veto this legislation if this amendment was included in the final package.

#### DOUBLE HULLS AND DOUBLE BOTTOMS

o Representatives Gallo and Torricelli and perhaps others will be offering amendments mandating double hulls or double bottoms on oil tankers.

o The Coast Guard currently has a study underway to determine the safety and efficacy of double hulls and double bottoms. The Administration opposes any amendment mandating the use of double hulls or bottoms until the study is completed.

o I understand that members from the Merchant Marine and Fisheries Committee (Jones and Davis) are planning to offer an alternative amendment that would permit the Coast Guard to conclude its study and then only mandate the use of double hulls or double bottoms if navigational safety and environmental protection are assured. The Administration supports the substitute amendment.



#### 4. MANDATING DOUBLE HULLS/DOUBLE BOTTOMS

##### **BACKGROUND:**

##### SENATE: OIL TANKER CONSTRUCTION AND SIZE, TITLE III, SEC. 308

The Senate bill requires mandating double hulls/bottoms on new tank vessels, unless the Secretary of Transportation determines that it is not in the best interest of the health, welfare or environment.

##### HOUSE: ESTABLISHMENT OF DOUBLE HULL REQUIREMENT FOR TANK VESSELS AND SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS, TITLE IV, SECS. 4118 AND 4119

The House bill would require that all new tank vessels (including barges) have double hulls; and existing tank vessels are required to have double hulls within 15 years. Tank ships (not barge) must have double bottoms within 7 years.

##### ADMINISTRATION POSITION: PAGE 36-7 OF THE DOT/USCG ANALYSIS

The Administration supports the Senate language.

##### **STRATEGY:**

CURRENT SITUATION: Both the House and Senate want to mandate double hulls or double bottoms on all new construction of tank vessels. There is still a question on whether or not new barges should be included.

The real question is what to do with the existing fleet. According to staff on both sides, they expect either a phase-out program (to get rid of the older vessels) or a retrofit requirement.

This is turning out to be the most heavily lobbied issue on the Hill with the environmentalists and ship builders supporting a retrofit requirement and the oil companies, ship owners, and foreign embassies opposing such a mandate.

Our best bet is to give the Conferees technical advice so we can tell them what is impossible. Also, the Secretary wants to inform the Hill of the cost of the retrofit requirement, as well as his safety concerns. We will be sending this economic analysis to the Hill at a future date.

##### DOT/USCG SUPPORT: ENERGY, COMMERCE, MARAD, INTERIOR



DOUBLE HULLS/DOUBLE BOTTOMS

SENATE

| <u>Support</u>     | <u>Lean Yes</u>             | <u>?</u>                                                                     | <u>Lean No</u>                                 | <u>Oppose</u> |
|--------------------|-----------------------------|------------------------------------------------------------------------------|------------------------------------------------|---------------|
| Breaux<br>Hollings | Stevens<br>Baucus<br>Inouye | Mitchell<br>Chafee<br>Warner<br>Jeffords<br>Humphrey<br>Danforth<br>Packwood | Kerry<br>Moynihan<br>Lautenberg<br>Durenberger | Burdick       |
| -----<br>2         | -----<br>3                  | -----<br>7                                                                   | -----<br>4                                     | -----<br>1    |

Administration Position: The Administration supports the Senate language (Section 308) mandating double hulls/bottoms on new construction unless the Secretary of Transportation determines they are not in the best interest of safety or the environment. The Senate bill does speak to retrofit and we have no stated position on retrofit.

Support = Support Administration  
Oppose = Oppose Administration

DOUBLE HULLS/DOUBLE BOTTOMS

HOUSE

| <u>Support</u>                | <u>Lean Yes</u>                                    | <u>?</u>                                                 | <u>Lean No</u> | <u>Oppose</u>    |
|-------------------------------|----------------------------------------------------|----------------------------------------------------------|----------------|------------------|
| Davis<br>Tauzin<br>Stangeland | Young<br>Lent<br>Jones<br>Shuster<br>Hammerschmidt | Carper<br>Anderson<br>Roe<br>Mineta<br>Oberstar<br>Nowak |                | Studds<br>Hughes |
| -----<br>3                    | -----<br>5                                         | -----<br>6                                               | -----<br>0     | -----<br>2       |

Administration Position: The Administration supports the Senate language (Section 308) mandating double hulls/bottoms on new construction unless the Secretary of Transportation determines they are not in the best interest of safety or the environment. The Senate bill does not speak to retrofit and we have no stated position on retrofit.

Support = Support Administration  
Oppose = Oppose Administration

August 31, 1989

**OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD SUPPORT**

| <b>Provision</b>                                                                                                                                                                   | <b>House Bills<br/>(H.R. 1465--Merc. Marine)<br/>(H.R. 3027--Public Works)</b>                         | <b>Senate Bill<br/>(S. 686)</b>                                                                   | <b>Proposed<br/>Administration's Position</b>                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LIABILITY AND COMPENSATION ISSUES</b>                                                                                                                                           |                                                                                                        |                                                                                                   |                                                                                                                                                                                          |
| o Implementation of International Protocols setting up an international oil pollution liability and compensation scheme. Will require ratification of the Protocols by the Senate. | In Both House bills.                                                                                   | Not in Senate Bill.                                                                               | Support. State Department has been working for ratification for several years. Provides U.S. with protection from foreign tanker spills and the establishment of a comprehensive regime. |
| o Establishment of an Oil Pollution Liability Trust Fund financed by a per barrel tax paid by the oil industry.                                                                    | Presumed to be 3 cents<br>In Both House bills.                                                         | Presumed to be 3 cents.                                                                           | Support, if either a 3 cents tax through 1991, or a 1.3 cents tax for five years is included. Collections cannot exceed \$300 million consistent with the existing IRS tax code.         |
| o Extension of the collection of a tax for a five-year period consistent with the original intent of Congress when tax was established.                                            | Not in House Bills.                                                                                    | Reference to 5 year collection is implied.                                                        | Support only if tax remains at 1.3 cents per barrel over the five year period.                                                                                                           |
| o Uses of the fund for the following only: removal, rehabilitation and replacement of damaged resources damage assessment, administrative costs related to spill response,         | In both House bills.<br>Also include economic damages and prevention costs to be paid out of the Fund. | In Senate bill.<br>Also include economic damages and prevention costs to be paid out of the Fund. | Support use of the Fund except for economic damages and prevention costs.                                                                                                                |



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**OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD SUPPORT**

| <b>Provision</b>                                                                                          | <b>House Bills<br/>(H.R. 1465--Merc. Marine)<br/>(H.R. 3027--Public Works)</b>                                                                           | <b>Senate Bill<br/>(S. 686)</b> | <b>Proposed<br/>Administration's Position</b>                                   |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------|
| special costs of needed personnel and equipment, and U.S. payments to the International Fund.             |                                                                                                                                                          |                                 |                                                                                 |
| o Preemption of existing State liability laws to the extent needed to ratify the International Protocols. | In both House bills.                                                                                                                                     | Not In Senate bill.             | Support preemption to the extent necessary to ratify the Protocols.             |
| o Presidential waiver of per incident cap as needed.                                                      | In House Public Works bill. Not in House Merchant Marine bill.                                                                                           | Not In Senate bill.             | Support. Would provide additional protection if needed for catastrophic spills. |
| o Penalties of up to \$10 million for destruction of natural resources.                                   | Not In House Merchant Marine bill.<br>Public Works bill penalties of 50% of tanker and facility liability (\$36 million and \$19 million, respectively.) | Not in Senate bill.             | Support penalties (house bill provision would probably not be objectionable).   |

**PREVENTION ISSUES**

(Note: House Merchant Marine does not currently have a prevention title in its bill. However, they are

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OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD SUPPORT

| Provision                                                                                                                                                                                                                                      | House Bills<br>(H.R. 1465--Merc. Marine)<br>(H.R. 3027--Public Works)                              | Senate Bill<br>(S. 686)                                                                       | Proposed<br>Administration's Position                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| working on one. House references below refer to Public Works bill.                                                                                                                                                                             |                                                                                                    |                                                                                               |                                                                                                                                                                                             |
| o Federal government will assume supervisory oversight of cleanup operations                                                                                                                                                                   | House bill allows for but does not require Federalization.                                         | Senate bill requires Federalization of small spills and direction of removal in large spills. | Support oversight of cleanup by Coast Guard. Federalization of all spills could be expensive and could result in disincentives to industry.                                                 |
| o Establishment of contingency plans for the maximum probable spill to be determined by the Secretary of Transportation. Plans to be reviewed by the Coast Guard and paid for through user fees. Coast Guard would direct port response bills. | House bill requires Coast Guard to "approve" rather than review plans.                             | Senate bill requires Coast Guard to "approve" rather than review plans.                       | Support review of plans by the Coast Guard. Approval could result in blame on the Coast Guard and hence the Federal Government if plans proved inadequate. Should be paid for by user fees. |
| o Maintenance of a national inventory of oil spill equipment and contractors to assist in cleanup efforts.                                                                                                                                     | House bill establishes a National Response Center to maintain an inventory of emergency equipment. | Not in Senate bill.                                                                           | Support the maintenance of inventory at the two existing Emergency Response Centers. Costs associated with the maintenance of such a list to be paid for through user fees.                 |

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**OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD SUPPORT**

| <u>Provision</u>                                                                                                                                         | <u>House Bills<br/>(H.R. 1465--Merc. Marine)<br/>(H.R. 3027--Public Works)</u> | <u>Senate Bill<br/>(S. 686)</u>                                                                                           | <u>Proposed<br/>Administration's Position</u>                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| o Study to review the need for Vessel Traffic Systems.                                                                                                   | In House bill.                                                                 | In Senate bill. Also authorizes users.                                                                                    | Support a study of the issue, but not mandated VTS's.          |
| o Study to review need for double hulls.                                                                                                                 | Not in House bill.                                                             | Senate bill requires a rulemaking to require double hulls unless the DOT Secretary determines it will not enhance safety. | Support a study of the issue.                                  |
| <b>PREVENTION -- VESSEL PERSONNEL RELATED</b>                                                                                                            |                                                                                |                                                                                                                           |                                                                |
| o Procedures that will allow for the relief of a ships captain in the event he is intoxicated as a result of drug or alcohol abuse.                      | House bill has similar provisions.                                             | Senate bill has similar provisions and requirements on position fixing every 6 minutes.                                   | Support appropriate steps to relieve Captain for intoxication. |
| o Coast Guard access to the National Driver Registry to determine whether a person seeking a pilots liscense has a history of drug and/or alcohol abuse. | In House Bill.                                                                 | In Senate bill.                                                                                                           | Support. FAA currently has this access.                        |
| o Review of Mariners certificates and                                                                                                                    | House bill covers                                                              | Senate bill covers                                                                                                        | Support review and check for                                   |



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**OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD SUPPORT**

| <b>Provision</b>                                                                                                                                                           | <b>House Bills<br/>(H.R. 1465--Merc. Marine)<br/>(H.R. 3027--Public Works)</b> | <b>Senate Bill<br/>(S. 686)</b>          | <b>Proposed<br/>Administration's Position</b>                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| liscenses periodically to ensure that alcohol and drug related problems have not occurred.                                                                                 | alcohol abuse only.                                                            | alcohol and drug abuse.                  | alcohol and drug abuse incidents. Funded through user fees.                                                                |
| o Drug Testing Rule that would cover preemployment, random testing (for drugs only), postcasualty, and for cause.                                                          | Not in House bill.                                                             | Senate bill covers alcohol testing only. | Support testing for both drugs and alcohol. Random testing for drugs only.                                                 |
| o Coordination of Governmentwide Research and Development programs to address issues related to the discharge and containment, recovery and cleanup, worker training, etc. | In House bill.                                                                 | Not in Senate bill.                      | Support coordination of R&D programs between EPA, NOAA, Energy and Coast Guard, but not the establishment of new programs. |

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OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD OPPOSE

| Provision                                                                                                                    | House Bills<br>(H.R. 1465--Marine Marine)<br>(H.R. 3027--Public Works) | Senate Bill<br>(S. 686) | Proposed<br>Administration's Position                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LIABILITY AND COMPENSATION ISSUES</b>                                                                                     |                                                                        |                         |                                                                                                                                                                                                                                |
| o Provisions that would prevent the United States from ratifying the International Protocols.                                | House bill supports ratification.                                      | In Senate Bill.         | Oppose. Would prevent the U.S. from adequate protection from foreign tanker spills and would prevent the establishment of a comprehensive regime to deal with potential oil spill liability and compensation issues.           |
| o Uses of the Oil Pollution Liability Trust Fund for payment of economic damages to third parties or prevention initiatives. | In House Bill.                                                         | In Senate bill.         | Oppose. Fund could easily be depleted if payment of economic damages is allowed. This position is consistent with our hazardous pollution statutes in CERCLA where payment of economic damages to third parties is prohibited. |
| o Requirement of Federalization of all spills.                                                                               | Not in House Bill.                                                     | In Senate bill.         | Oppose. Would require additional funding for Federal efforts. This would provide a disincentive for private industry to take responsibility for cleanup                                                                        |

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OIL POLLUTION LEGISLATION PROVISIONS  
THE ADMINISTRATION WOULD OPPOSE

| Provision                                                                                                                 | House Bills<br>(H.R. 1465--Marine)<br>(H.R. 3027--Public Works) | Senate Bill<br>(S. 686)                                                       | Proposed<br>Administration's Position                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| o Strike and Response Teams<br>financed by the fund.                                                                      | Not in House bill.                                              | In Senate bill.                                                               | efforts. To the extent cleanup<br>efforts are inadequate, leaves<br>the Federal government<br>(i.e., the Coast Guard)<br>open to criticism.<br><br>Oppose. Should be provided<br>and funded by industry with<br>Federal oversight. Inappropriate<br>use of the fund which could<br>result in its depletion.                                       |
| o Extension of the tax and<br>raising of the tax to 3 cents<br>per barrel. Collection amounts<br>exceeding \$300 million. | Not in House bill<br>although 3 cent tax<br>is presumed.        | 5-year collection of<br>the tax is referred to.<br>3 cent tax is<br>presumed. | Oppose. Extension of the<br>tax and raising existing<br>tax to 3 cents per barrel<br>would not pass the "duck"<br>test. Current tax in<br>IRS code allows for a<br>cap on collections of<br>\$300 million dollars.<br>This cap can be reached<br>through either a 1.3 cent<br>tax for 5 years, or a<br>3 cents tax through<br>1991, but not both. |



Oil Pollution Act  
(H.R. 3394)Miller-StuddsH.R. 1465 as  
reportedLiability Limits:

## Tankers

greater of \$1200  
per gross ton or  
\$10 million  
(shipowner pays 1st  
\$600/ton, cargo  
owner pays next  
\$600/ton)

greater of \$1000  
per gross ton or  
\$10 million

greater of \$500  
per gross ton or  
\$5 million, not  
to exceed \$60  
million

## Inland Barges

greater of \$1200  
per gross ton or  
\$10 million (if  
more than 3000  
gross tons) or \$2  
million (if less  
than 3000 gross  
tons) (shipowner  
pays 1st \$600/ton,  
cargo owner pays  
next \$600/ton)

greater of \$1000  
per gross ton or \$1  
million

greater of \$300  
per gross ton or  
\$500,000

## Other vessels

greater of \$600 per  
gross ton or  
\$500,000

greater of \$500 per  
gross ton or  
\$500,000

greater of \$300  
per gross ton or  
\$500,000

Offshore  
Facilities

\$75 million plus  
unlimited removal  
costs

same

\$75 million

Other facilities  
(Including  
Deepwater ports)

\$350 million  
(Secretary can  
"ratchet" down to  
\$8 million for  
onshore; down to  
\$50 million for  
deepwater port, and  
can reduce  
liability for  
vessel calling at  
deepwater port)

\$350 million  
(Secretary can  
"ratchet" down  
to \$8 million  
for onshore)

\$75 million  
(Secretary can  
"ratchet" down to  
\$8 million for  
onshore facility  
or deepwater port)

Secondary Cargo  
Liability

Cargo owner has  
secondary liability  
(up to \$600/gross  
ton) after  
responsible party  
and before Fund

if responsible  
party cannot limit  
liability, oil  
owner is  
responsible for  
uncompensated  
claims

no provision

Criteria for  
Breaking  
Liability Limits

gross negligence,  
willful misconduct,  
violation of  
federal safety,  
construction or  
operating standard

negligence,  
violation of  
federal safety,  
construction or  
operating standard

gross negligence,  
willful  
misconduct, or a  
violation within  
the privity or  
knowledge of the  
responsible party

|                                                                             | <u>Oil Pollution Act</u><br><u>(H.R. 3394)</u>                                                          | <u>Miller-Studds</u> | <u>H.R. 1465 as</u><br><u>reported</u>                                                                                         |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <u>Preemption of</u><br><u>state laws</u>                                   | no preemption of<br>state funds,<br>preempts state<br>liability and<br>financial<br>responsibility laws | no preemption        | allow state funds<br>to pay cleanup but<br>not damages;<br>preempts state<br>liability and<br>financial<br>responsibility laws |
| <u>Scope of Damages</u>                                                     | no time limit on<br>damages from lost<br>taxes, royalties,<br>rents, etc.                               | same                 | one year limit                                                                                                                 |
|                                                                             | no percentage<br>threshold to<br>recover damages to<br>profits or earning<br>capacity                   | same                 | claimant must<br>derive 25% of<br>annual or seasonal<br>income from the<br>damaged property<br>or natural<br>resources         |
| <u>Per Incident Cap</u>                                                     | no cap                                                                                                  | same                 | \$1 billion                                                                                                                    |
| <u>Period Until</u><br><u>Claims Can Be</u><br><u>Filed Against Fund</u>    | 90 days                                                                                                 | same                 | 180 days                                                                                                                       |
| <u>Compatible with</u><br><u>International Oil</u><br><u>Spill Treaties</u> | yes                                                                                                     | no                   | yes                                                                                                                            |

SIGNIFICANT DIFFERENCES BETWEEN H.R. 1465  
AS REPORTED BY THE  
COMMITTEE ON MERCHANT MARINE AND FISHERIES (OLD)  
AND THE COMPOSITE TEXT INTRODUCED AS H.R. 3394 (NEW)

TITLE I - OIL POLLUTION LIABILITY AND COMPENSATION

NEW: Section 1002 imposes new secondary liability requirement on owner of the oil.

OLD: No comparable position.

NEW: Section 1002(a)(2)(d) permits governments to recover lost revenues (taxes, royalties, rents, etc.) with no time limit.

OLD: Recovery limited to one year.

NEW: Section 1002(a)(2)(E) permits claimant to recover lost profits and earning capacity without any percentage threshold.

OLD: Required claimant to derive 25% of annual or seasonal income from the damaged resources or property.

NEW: Section 1003(b) permits a responsible party to defend against a claim to the extent that the incident is caused by the negligence of the claimant (comparative negligence).

OLD: Permitted a complete defense if the incident was caused by the gross negligence or willful misconduct of the claimant.

NEW: Tanker liability limits are greater of \$1200 per gross ton or \$10 million (Section 1004(A)).

OLD: Greater of \$500 per gross ton or \$5 million, not to exceed \$60 million.

NEW: Liability limits for inland barges are greater of \$1200 per gross ton or \$10 million (if more than 3000 gross tons) or \$2 million (if less than 3000 gross tons).

OLD: Greater of \$300 per gross ton or \$500,000.

NEW: Liability limit for other vessels are greater of \$600 per gross ton or \$500,000.

OLD: Greater of \$300 per gross ton or \$500,000.

NEW: Liability limit for offshore facilities are \$75 million plus unlimited removal costs.

OLD: \$75 million.

NEW: Liability limits for other facilities including deepwater ports are \$350 million; Secretary can



-- 2 --

"ratchet" down to \$8 million for onshore, down to \$50 million for deepwater ports and can reduce liability for vessels calling at deepwater port.

OLD: \$75 million; Secretary can "ratchet" down to \$8 million for onshore facility or deepwater port.

NEW: Section 1002(b) sets the secondary liability on the cargo owner of oil on the vessel for up to \$600 per gross ton to be paid after the vessel operator pays the first \$600 per gross ton of the liability limit set in Section 1002(a).

OLD: No comparable provision.

NEW: Section 1006(d) sets the measure of damages for injury to natural resources as the cost of restoring, rehabilitating, replacing or acquiring the equivalent of the damaged natural resources plus the diminution in value of those resources pending restoration.

OLD: Used the standard of lost interim public use value instead of diminution in value

NEW: Section 1013(c) permits the claimant to seek compensation from the fund in 90 days if otherwise uncompensated.

OLD: Had 180 days.

NEW: Section 1016 requires cargo owner as well as vessel owner or operator to maintain financial responsibility (insurance).

OLD: Requirement applied only to vessel owner or operator.

NEW: Section 1016(d) requires financial responsibility of \$150 million for offshore facilities except that deepwater ports must have financial responsibility for their maximum liability (between \$50 and \$350 million).

OLD: \$75 million for all offshore facilities.

NEW: Section 1018 preempts state liability laws but not state oil spill funds.

OLD: Preempted state liability laws and state liability funds used to compensate parties for damages if the funds were financed by a tax directed at the same individuals who contribute to the Comprehensive Federal Fund.

#### TITLE IV - PREVENTION AND REMOVAL

NEW: Section 4205 requires maintenance of a computer inventory of all oil spill removal resources nationwide.

OLD: No comparable provision.

-- 3 --

NEW: Section 4303 makes clear that this Title does not affect other laws, including CERCLA, regarding hazardous substances.

OLD: No comparable provision.

TITLE VII - RESEARCH AND DEVELOPMENT

NEW: This title is the product of the Science, Space and Technology Committee.

OLD: Had more modest research and development provisions.

TITLE VIII - PROVISIONS APPLICABLE TO ALASKA OIL

NEW: The President shall study and recommend to Congress on the final disposition of the unexpended balance (after payment of outstanding claims) in the Trans Alaska Pipeline Liability Fund.

OLD: Provided a rebate to the companies who paid into the fund after satisfaction of outstanding claims.

Jane B. DeCell

Marked up to Reflect Senate  
passage 8-4-89

Calendar No. 181

101ST CONGRESS  
1ST SESSION

**S. 686**

[Report No. 101-94]

To consolidate and improve Federal laws providing compensation and establishing liability for oilspills.

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**IN THE SENATE OF THE UNITED STATES**

APRIL 4, (legislative day, JANUARY 3), 1989

Mr. MITCHELL (for himself, Mr. Baucus, Mr. LAUTENBERG, Mr. BIDEN, Mr. KENNEDY, Mr. ADAMS, Mr. LEVIN, Mr. FOWLER, Mr. CRANSTON, and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 28, 1989

Reported, under authority of the order of the Senate of July 27 (legislative day, January 3), 1989, by Mr. BURDICK, with amendments  
[Omit the part struck through and insert the part printed in *italic*]

---

**A BILL**

To consolidate and improve Federal laws providing compensation and establishing liability for oilspills.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 *That this Act may be cited as the "Oil Pollution Liability and*
- 4 *Compensation Act of 1989".*



1 (c) LIMITATION.--Notwithstanding any other law, except  
2 as provided in section 203, the Secretary shall not  
3 construct, improve, expand, or operate any new VTS system,  
4 unless funds for such construction, improvement, expansion,  
5 or operation of the new VTS system were obligated on or  
6 before the date of enactment of this Act, until the Secretary  
7 has complied with subsection (a).

8 POSITION-REPORTING AND IDENTIFICATION EQUIPMENT

9 SEC. 106. The Secretary shall, within one year after  
10 the date of enactment of this Act, complete a rulemaking  
11 proceeding to determine whether to require that electronic  
12 means of vessel position-reporting and identification be  
13 carried on board affected oil tankers. Among other matters,  
14 the proceeding shall--

15 (1) evaluate whether such electronic means shall be  
16 required only for tankers above a specific size; and

17 (2) consider the minimum standards suitable for  
18 such equipment.

19 OIL TANKER CONSTRUCTION AND SIZE

20 SEC. 107.(a) REQUIREMENT FOR DOUBLE HULLS OR DOUBLE  
21 BOTTOMS.--(1) The Secretary shall within one year after the  
22 date of enactment of this Act complete a rulemaking  
23 proceeding to require that all affected oil tankers which are  
24 newly constructed be equipped with double hulls and double  
25 bottoms, except to the extent the Secretary determines that

1 either or both of such requirements will not enhance oil  
2 tanker navigation safety, including protection of the  
3 environment, or that an equal or greater benefit to such oil  
4 tanker navigation safety will be achieved by other structural  
5 requirements.

6 (2) The Secretary may require other structural or  
7 navigational features that the Secretary determines will  
8 enhance such oil tanker navigation safety.

9 (b) REPORT ON TANKER SIZE.--The Secretary shall, within  
10 one year after the date of enactment of this Act, submit to  
11 the Committee on Commerce, Science, and Transportation of the  
12 Senate and the Committee on Merchant Marine and Fisheries of  
13 the House of Representatives a report describing the size,  
14 cargo capacity, and flag-nation of affected oil tankers,  
15 specifying changes in such size and cargo capacity over the  
16 past 20 years, evaluating the extent to which the risks or  
17 difficulties associated with oil tanker navigation, vessel  
18 traffic control, accidents, oil spills, and the containment  
19 and cleanup of such spills are influenced by or related to an  
20 increase in such size and cargo capacity, and containing a  
21 specific recommendation as to whether limitations on such  
22 size or cargo capacity should be imposed to minimize such  
23 risks and difficulties. The report shall also contain a  
24 recommendation for such legislation as the Secretary  
25 determines necessary.



1 (2) list all contractors and other persons  
2 qualified in the containment or cleanup of oil spills in  
3 the marine environment and specify for each such person  
4 the number of personnel and their skills, the nature and  
5 capabilities of available equipment, the name of the  
6 principal officer, the name and phone number of an  
7 individual with emergency response authority, and such  
8 other information as the Secretary considers necessary.

9 (c) EFFORTS TO OBTAIN INFORMATION.--The Secretary shall  
10 make diligent efforts to obtain the information described in  
11 subsection (b) on equipment and personnel available in the  
12 United States and worldwide.

13 (d) ANNUAL REPORT BY CONTRACTORS.--The Secretary shall  
14 require that any person with which the Coast Guard contracts  
15 for the containment or cleanup of an oil spill in the marine  
16 environment shall have annually submitted a report to the  
17 Coast Guard containing the information described in  
18 subsection (b).

19 NATIONAL COUNCIL ON OIL SPILL TECHNOLOGY

20 RESEARCH AND DEVELOPMENT

21 SEC. 110.(a) ESTABLISHMENT OF COUNCIL.--The Secretary  
22 shall establish a National Council on Oil Spill Technology  
23 Research and Development (hereafter in this section referred  
24 to as the "Council").



*James Caruso*

## SUBSTITUTE FOR HOUSE BILL (H.R. 1465)

## Sections 4118, 4119

## Sec. 4118. NEW TANK VESSEL CONSTRUCTION

(a) CRUDE OIL TANK VESSEL DOUBLE HULLS. -- Section 3705 of title 46, United States Code, is amended --

(1) in the heading by striking "tankers" and inserting in lieu thereof "tank vessel";

(2) by striking subsection (a)(1) and redesignating subsections "(2)" and "(3)" as "(1)" and "(2)";

(3) by redesignating subsections "(a)" through "(e)" as "(b)" through "(f)";

(4) by adding a new subsection (a) to read as follows:

"(a) A new crude oil tank vessel of any size shall be constructed with a double hull."

(b) PRODUCT TANK VESSEL DOUBLE HULLS. -- Section 3706 of title 46, United States Code, is amended --

(1) in the heading by striking "carrier" and inserting in lieu thereof "tank vessel";

(2) by striking subsection "(a)" and inserting in lieu thereof the following:

"(a) A new tank vessel engaged in the trade of carrying oil other than crude oil shall be constructed with a double hull."

(c) CLERICAL AMENDMENT. -- The table of sections for chapter 37 of title 46, United States Code, is amended --

## EFFECTS OF TEN (10) PAGE SENATE DBL HULL IMPLEMENTATION SCHEME

FOR FOREIGN FLAG SHIPS (Certificated for oil; excludes about 600 ships in chemical service)

| <u>Last Year</u> | <u># Retired</u> | <u>Avg Retire Age</u> | <u>Size (KDWT)</u> | <u>Notes</u>                    |
|------------------|------------------|-----------------------|--------------------|---------------------------------|
| 1991             | <u>59</u><br>2   | 17<br>48              | +200<br>31         | TIMBO, SASSTOWN (LI Flag w/STE) |
| 1992             | <u>71</u>        | 17                    | +200               |                                 |
| 1993             | 18               | 16                    | +200               | ESSO ATLANTIC & PACIFIC         |
| 1994             | 4                | 14                    | +200               |                                 |
| 1995             | 8                | <u>8</u>              | +200               | (3) ONLY 6 YEARS                |
| 1996             | 27               | 21                    | 150-200            |                                 |
| 1997             | 8                | <u>10</u>             | 150-200            |                                 |
| 1998             | <u>130</u>       | 24                    | 100-150            |                                 |
| 1999             | 27<br>1          | 23<br>40              | 100-150<br>10-100  |                                 |
| 2000             | <u>63</u><br>6   | 18<br>37              | 100-150<br>10-100  | (4) ONLY 11 YRS                 |
| 2001             | 47               | 32                    | 10-100             |                                 |
| 2002             | 36               | 30                    | 10-100             |                                 |
| 2003             | <u>162</u>       | 28                    | 10-100             |                                 |
| 2004             | <u>62</u>        | 26                    | 10-100             |                                 |
| 2005             | <u>363</u>       | 20                    | 10-100             |                                 |
| Total            | 1094             |                       |                    |                                 |

3273v, rev 23MAR90



U.S. Department of  
Transportation

# News:

Office of the Assistant Secretary for Public Affairs  
Washington D.C. 20590

FOR IMMEDIATE RELEASE  
Thursday, May 11, 1989

DOT 50-89  
Contact: Roslyn Kaiser  
Tel.: (202) 366-5571

## SKINNER TESTIFIES ON ADMINISTRATION'S OIL POLLUTION LIABILITY LEGISLATION

Secretary of Transportation Samuel K. Skinner today submitted to Congress proposed Administration legislation that would set up a comprehensive liability and compensation system for oil pollution damage caused by spills from tankers and other sources. Skinner said, "The bill dramatically enhances our ability to compensate victims of major oil spills and to restore our fragile environment."

Testifying before the House Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries, Skinner said, "This proposed bill is in accord with the President's commitment to protect the environment. It assures adequate funding to clean up any future oil spill, to restore damaged natural resources, and provide compensation to damaged parties."

According to Skinner, the Comprehensive Oil Pollution Liability and Compensation Act of 1989 would consolidate existing programs into a uniform system that would eliminate gaps and inconsistencies in coverage. It would apply to oil spills from ocean-going tankers and from barges operating on inland waterways. Spills from on-shore facilities, such as oil terminals, and from outer continental shelf oil platforms would also be covered.

In the event of an oil spill, the first level of responsibility would be the vessel or facility owner. Tanker owners would be liable for cleanup costs and damages of \$500 per gross ton, with a minimum of \$5 million and a maximum of \$78 million. Outer continental shelf operators are included for a maximum liability of \$75 million. Deepwater ports are included as well.

To cover cleanup costs and damages in excess of the spiller's liability limits, an Oil Pollution Liability Trust Fund would be established. This fund would be financed by a fee of 1.3 cents per barrel on domestic as well as imported oil. Collection of this fee is already authorized under provisions of the 1986 Omnibus Budget Reconciliation Act, and the Administration bill would simply extend collection of the fee for a total of five years after the effective date of the bill.

-more-



Total payments from the fund would usually be limited to \$500 million per incident. However, the President could waive that limitation if warranted in any particular case. The bill would become effective 30 days after passage by the Congress; the program would be administered by the Coast Guard.

The Administration bill would also provide for U.S. implementation of two international Protocols that establish a similar liability and compensation system worldwide. The Protocols were negotiated in 1984 with strong U.S. influence and were submitted by President Reagan to the Senate in 1985 for advice and consent to ratification. The Protocols offer important protection for U.S. citizens against spills from foreign tankers.

The Administration bill differs from other bills which have been proposed in the House in several significant ways. First, it provides a higher level of vessel liability — \$78 million. It provides for the payment above \$500 million per incident if determined necessary by the President. It also preserves the right of damaged parties to sue under state law for economic losses above the spillers' liability limits, establishes improved enforcement provisions under the Clean Water Act, and authorizes a civil penalty up to \$10 million where natural resources are destroyed and cannot be restored or replaced.

"I look forward to working with Congress to obtain early action on this important legislation," Skinner said.

#####

August 1989

**DRAFT**

-1-

OMNIBUS OIL POLLUTION LIABILITY, COMPENSATION, PREVENTION AND RESPONSE LEGISLATIONADMINISTRATION  
(S. 1066, H.R. 2325)SENATE  
(S. 686)HOUSE  
(H.R. 1465, H.R. 3027)  
MM&F PW&TLIABILITY AND COMPENSATIONLimits of Liability

|                                         |                        |                                  |                                                                       |
|-----------------------------------------|------------------------|----------------------------------|-----------------------------------------------------------------------|
| ° Tankers                               | \$500 per ton to \$78M | \$1,000 per ton                  | H.R. 1465 \$500 per ton to \$60M<br>H.R. 3027 \$500 per ton to \$150M |
| ° Other Vessels                         | \$300 per ton          | \$600 per ton                    | \$300 per ton                                                         |
| ° Inland Oil Barges                     | same as other vessels  | same as tankers                  | same as other vessels                                                 |
| ° Deepwater Ports                       | \$75M                  | \$350M                           | \$75M                                                                 |
| ° OCS Facilities                        | \$75M                  | \$75M (unlimited<br>for cleanup) | \$75M                                                                 |
| ° Other Onshore/<br>Offshore Facilities | \$75M                  | \$350M                           | \$75M                                                                 |
| ° Trans Alaska Pipeline                 | \$75M                  | \$350M                           | \$75M                                                                 |

State Preemption

|                                   |                          |    |     |
|-----------------------------------|--------------------------|----|-----|
| ° Funds                           | No                       | No | No  |
| ° Civil and<br>Criminal Penalties | No                       | No | No  |
| ° Liability,<br>including Limits  | Yes (for Protocols only) | no | Yes |
| <u>Implements Protocols</u>       | Yes                      | No | Yes |

Fund Limit

(Per Incident Cap)

\$500M plus waiver

\$1 Billion

H.R. 1465 \$1 Billion  
H.R. 3027 \$1 Billion plus waiver

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|                                              | <u>ADMINISTRATION</u><br>(S. 1066, H.R. 2325)                                                               | <u>SENATE</u><br>(S. 686)                                                                             | <u>HOUSE</u><br>(H.R. 1465, H.R. 3027)<br>H&F PW&T                                                          |
|----------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| <u>Waiver</u><br>(Per Incident Cap)          | Yes                                                                                                         | No                                                                                                    | H.R. 1465 No<br>H.R. 3027 Yes                                                                               |
| <u>Fee-on-Oil Rate</u><br>(Finances Fund)    | 1.3¢                                                                                                        | 3¢ presumed                                                                                           | 3¢ presumed                                                                                                 |
| <u>Extends Collection of Fee</u>             | Yes                                                                                                         | No, but 5-year<br>collection referred to                                                              | No                                                                                                          |
| <u>Qualified Authorizing<br/>Legislation</u> | Yes                                                                                                         | silent                                                                                                | silent                                                                                                      |
| <u>Direct Draw</u>                           | \$50,000                                                                                                    | \$250,000                                                                                             | \$250,000                                                                                                   |
| <u>IAPAA Rebate</u>                          | No - fenced off                                                                                             | No - merged into new Fund                                                                             | No - merged into new Fund                                                                                   |
| <u>Penalties</u>                             |                                                                                                             |                                                                                                       |                                                                                                             |
| • Per Day                                    | \$25,000 per day                                                                                            | \$25,000 per day                                                                                      | H.R. 1465 - \$25,000 per day                                                                                |
| • Per Barrel                                 | No                                                                                                          | \$1,000 per barrel                                                                                    | No                                                                                                          |
| • Destroyed Resource                         | \$10M maximum                                                                                               | No                                                                                                    | H.R. 3027 - \$1M or 1/4 \$ Liability<br>(tankers -\$75M max.)<br>(facilities -\$37.5M max.)                 |
| <u>Liability</u>                             | joint, several and strict<br>pierce - willful misconduct<br>- gross negligence<br>owners - requires privity | joint, several and strict<br>pierce - willful misconduct<br>- gross negligence<br>owners - no privity | joint, several and strict<br>pierce - willful misconduct<br>- gross negligence<br>owners - requires privity |



**DRAFT**

ADMINISTRATION  
(S. 1066, H.R. 2325)

SENATE  
(S. 686)

HOUSE  
(H.R. 1465, H.R. 3027)  
M&P PW&T

Uses of the Fund

|                                           |     |     |                                     |
|-------------------------------------------|-----|-----|-------------------------------------|
| • Economic Damages                        | No  | Yes | Yes (25% threshold<br>for earnings) |
| • Removal, Rehabilitation,<br>Replacement | Yes | Yes | Yes                                 |
| • Assessment                              | Yes | Yes | Yes                                 |
| • Administration                          | Yes | Yes | Yes                                 |
| • Personnel and Equipment                 | Yes | Yes | Yes                                 |
| • Prevention                              | No  | Yes | Yes                                 |
| • Payments to Inter-<br>national Fund     | Yes | No  | Yes                                 |

ADMINISTRATION

SENATE  
(S. 686)

HOUSE  
(H.R. 3027)

**DRAFT**

\*PREVENTION

Federalization

|                   |                                          |                                                          |                                  |
|-------------------|------------------------------------------|----------------------------------------------------------|----------------------------------|
| ° Marine Disaster | Prefer "assume<br>supervisory oversight" | "shall coordinate<br>and direct removal"                 | "May assume direction & control" |
| ° Ordinary spills | Prefer "assume<br>supervisory oversight" | "shall remove unless<br>spiller will remove<br>promptly" | "May assume direction & control" |
| ° Order Authority | Support                                  | yes                                                      | yes                              |

Contingency Plans

|                                              |                       |     |     |
|----------------------------------------------|-----------------------|-----|-----|
| ° Mandatory for<br>maximum probable<br>spill | Support               | yes | yes |
| ° CG review required                         | Support               | yes | yes |
| ° CG Approval required                       | Prefer<br>review only | yes | yes |
| ° Authorizes user fees                       | Support               | yes | yes |

|                                |              |     |     |
|--------------------------------|--------------|-----|-----|
| <u>CG Equipment Inspection</u> | No objection | yes | yes |
|--------------------------------|--------------|-----|-----|

|                                                |              |     |     |
|------------------------------------------------|--------------|-----|-----|
| <u>Equipment Tests and Drills<br/>Required</u> | No objection | yes | yes |
|------------------------------------------------|--------------|-----|-----|

|                                           |                                                                                      |                                                                            |
|-------------------------------------------|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <u>Equipment/contractor<br/>inventory</u> | Support maintaining<br>national inventory of<br>oil spill equipment &<br>contractors | yes -<br>National Response<br>Center to maintain<br>inventory of emergency |
|-------------------------------------------|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------|

\*NOTE: No Administration Prevention title but positions above reflect DOT's preferences.  
and response resources

|                         | <u>ADMINISTRATION</u>          | <u>SENATE</u><br>(S. 686)                                                                                                                 | <u>HOUSE</u><br>(H.R. 3027)              |
|-------------------------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| <u>Response Teams</u>   | Prefer Discretionary increase  | Shall establish strike force in addition to regional response teams (at least 8), financed by fund                                        | Silent                                   |
| <u>VTS</u>              | Prefer Study Support user fees | Study Authorizes user fees for VTS users.<br><br>VTS Valdez new equipment & positive control report                                       | Study Authorizes user fees for VTS users |
| <u>Double Hulle</u>     | Prefer Study                   | Rulemaking to require double hulls/bottoms or oil tankers unless Secretary determines will not enhance safety<br><br>Study on tanker size | No                                       |
| <u>Bligh Reef light</u> | No objection                   | Yes                                                                                                                                       | No                                       |
| <u>Tug Escorts</u>      | Prefer study                   | Prince William Sound only                                                                                                                 | Study                                    |
| <u>Pilotage</u>         | Prefer report                  | Rulemaking for Valdez                                                                                                                     | No                                       |

DEPT



|                                             | <u>ADMINISTRATION</u>           | <u>SENATE</u><br>(S. 686)                                                                                                                          | <u>HOUSE</u><br>(H.R. 3027)                                                                    |
|---------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| <u>Crew/Manning</u>                         | Support yes-relief<br>of Master | yes - 4 on deck (deck<br>officer lookout<br>plus helmsman and<br>mate)<br>-2 first class<br>pilots on board<br>-position fixing<br>every 6 minutes | yes -relief<br>of Master.<br>Must make<br>recommendations<br>for tanker<br>crew sizes          |
| <u>Liners</u>                               | No objection                    | No                                                                                                                                                 | Study of need<br>for liners for<br>onshore facilities<br>(KPA)                                 |
| <u>Dredges</u>                              | No objection                    | No                                                                                                                                                 | Study to determine<br>if dredges could be<br>modified for oil spill<br>response (Corps of Eng) |
| <u>Tanker Free Zones</u>                    | No objection                    | No                                                                                                                                                 | Study                                                                                          |
| <u>Alcohol/Drugs</u>                        |                                 |                                                                                                                                                    |                                                                                                |
| o NDR Access                                | DOT bill<br>(H.R. 2688)         | Yes                                                                                                                                                | Yes                                                                                            |
| o License Review,<br>Mariners certificate's | DOT bill<br>(H.R. 2685)         | Yes (Drugs<br>and Alcohol)                                                                                                                         | Yes (Alcohol only)                                                                             |
| <u>Testing Rule</u>                         | No objection to:                | Yes-Alcohol                                                                                                                                        | No                                                                                             |
| - Pre-employment                            | Both                            | Alcohol                                                                                                                                            |                                                                                                |
| - Random                                    | Drugs                           | Alcohol                                                                                                                                            |                                                                                                |
| - Post-Casualty                             | Both                            | Alcohol                                                                                                                                            |                                                                                                |
| - For-cause                                 | Both                            | Alcohol                                                                                                                                            |                                                                                                |

|                                                          | <u>ADMINISTRATION</u> | <u>SENATE</u><br>(S. 686)                                                                                                           | <u>HOUSE</u><br>(H.R. 3027)                                                                                                                                                        |
|----------------------------------------------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Research and Development</u>                          | No objection          | \$25 Million for program to be established by the President:<br>-prevention<br>-response<br>-containment<br>recovery<br>-mitigation | DOT directed to study tank and vessel size, double hull, and ballast sides. DOT and EPA to study spill technology.                                                                 |
| <u>HAZMAT Council</u>                                    | Support               | No                                                                                                                                  | President to establish R&D Program or:<br>-discharge containment<br>-recovery and cleanup<br>-protect public health<br>-worker training<br>-long-term effects<br>-personnel safety |
| <u>Spill Technology Council</u>                          | No objection          | Yes                                                                                                                                 | No                                                                                                                                                                                 |
| <u>Position-Reporting and Identification Equipment</u>   | No objection to study | Study                                                                                                                               | No                                                                                                                                                                                 |
| <u>Prince William Sound Oil Spill Recovery Institute</u> | No objection          | Yes                                                                                                                                 | No                                                                                                                                                                                 |
| <u>Mississippi River Radio Communications</u>            | No objection to study | Rulemaking to Require                                                                                                               | No                                                                                                                                                                                 |

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OMNIBUS OILSPILL - KEY ISSUES

|                                               | <u>ADMINISTRATION</u>                 | <u>SENATE</u>                                                            | <u>HOUSE</u>                             |
|-----------------------------------------------|---------------------------------------|--------------------------------------------------------------------------|------------------------------------------|
| <u>Liability and Compensation</u>             | (S.1066, H.R. 2325)                   | (S.686)                                                                  | (H.R. 1465, H.R. 3027)                   |
| o Financing Rate/<br>fee-on-oil per<br>barrel | 1.3c                                  | 3c (presumed)                                                            | 3c (presumed)                            |
| o Payment of Economic<br>Damages from Fund    | No                                    | Yes                                                                      | Yes                                      |
| o Implements Protocols                        | Yes                                   | No                                                                       | Yes                                      |
| <u>*Prevention</u>                            |                                       |                                                                          |                                          |
| o NDR Access                                  | (H.R. 2688)                           | Yes                                                                      | Yes                                      |
| o Mariner License<br>Review                   | (H.R. 2685)                           | Yes                                                                      | Yes                                      |
| o Federalization                              | Support<br>"supervisory<br>oversight" | large- "shall coordinate<br>and direct"                                  | "may assume<br>direction<br>and control" |
|                                               |                                       | small- "shall remove unless<br>spiller will remove<br>promptly/properly" |                                          |
| o Contingency Plans                           | Support review                        | review & approval                                                        | review & approval                        |
| o VTS<br>(Vessel Traffic<br>Services)         | Support Study                         | Study                                                                    | Study                                    |
| o Authorizes user<br>fees                     | Support                               | yes                                                                      | yes                                      |

\* NOTE: No Administration Prevention title but positions above reflect DOT's preferences.



Feb 11 1989

OIL POLLUTION ACT OF 1989

H.R. 1465

S. 686

DOT PREFERENCE

TITLE I

DEFINITIONS

Sec. 1001

Sec. 101

Prefer Senate definition of Facility owners/operators because consistent with Clean Water Act

LIABILITY PROVISIONS

Sec. 1002(a)(1)  
Sec. 1002(a)(2)

Sec. 102(a)

Prefer House provision because it owner of cargo secondarily liable for removal costs and damages.

DAMAGES

Sec. 1002(b)(1)  
Sec. 1002(b)(2)

Sec. 102(a) & 101(21)  
Sec. 102(a)(2)

Prefer Senate provision because House requires cleanup to be consistent with state law as well as NCP.

THIRD PARTY LIABILITY

Sec. 1002(d)

Sec. 102(b)(1)(C) & 2

Prefer Senate version because specifies payment to United States its removal costs and damages.

DEFENSES TO LIABILITY

Sec. 1003

Sec. 102(b)(1)  
Sec. 103(f)

Prefer Senate provision because House version requires tanker owners to have tug escorts in Puget Sound or lose liability limits.

### LIMITS ON LIABILITY

|           |             |                                                                        |
|-----------|-------------|------------------------------------------------------------------------|
| Sec. 1004 | Sec. 102(c) | Prefer House version which apportions 50% of liability to cargo owner. |
|-----------|-------------|------------------------------------------------------------------------|

### EXCEPTION TO LIABILITY LIMITS

|           |             |                                                                                                                                        |
|-----------|-------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Sec. 1004 | Sec. 102(c) | Prefer House version because Senate provision removes liability limits for violation of state or standard as well as Federal standard. |
|-----------|-------------|----------------------------------------------------------------------------------------------------------------------------------------|

### ADJUSTMENTS TO LIABILITY LIMITS

|              |                                        |                                                                                                              |
|--------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Sec. 1004(d) | Sec. 102(c)(4)(A)<br>Sec. 102(c)(4)(B) | Prefer Senate version because allows liability limits to be adjusted every three years to reflect inflation. |
|--------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------|

### INTEREST ON CLAIMS

|           |                |                                                                                       |
|-----------|----------------|---------------------------------------------------------------------------------------|
| Sec. 1005 | Sec. 102(c)(1) | Prefer House version because gives claimant 30 days to pay without interest accruing. |
|-----------|----------------|---------------------------------------------------------------------------------------|

### NATURAL RESOURCE DAMAGES

|           |          |                                                                                         |
|-----------|----------|-----------------------------------------------------------------------------------------|
| Sec. 1006 | Sec. 102 | Prefer House version because expressly prohibits double recovery for natural resources. |
|-----------|----------|-----------------------------------------------------------------------------------------|

### SPECIAL PENALTIES FOR NATURAL RESOURCE DAMAGES

|              |              |                                                                                            |
|--------------|--------------|--------------------------------------------------------------------------------------------|
| Sec. 1006(g) | No Provision | Prefer House. The Administration's bill had a similar provision with a much lower penalty. |
|--------------|--------------|--------------------------------------------------------------------------------------------|

RECOVERY BY RESPONSIBLE PARTY OR CARGO OWNER

|           |                                     |                                                                                                         |
|-----------|-------------------------------------|---------------------------------------------------------------------------------------------------------|
| Sec. 1008 | Sec. 103(e)(2)<br>Sec. 102(c)(6)(D) | Prefer Senate version because includes recoveries from state court in total to satisfy liability limit. |
|-----------|-------------------------------------|---------------------------------------------------------------------------------------------------------|

CONTRIBUTION

|           |                |                                                                          |
|-----------|----------------|--------------------------------------------------------------------------|
| Sec. 1009 | Sec. 105(g)(3) | Prefer House version because specifies cause of action for contribution. |
|-----------|----------------|--------------------------------------------------------------------------|

INDEMNIFICATION AGREEMENTS

|           |                |       |
|-----------|----------------|-------|
| Sec. 1010 | Sec. 102(f)(1) | Same. |
|-----------|----------------|-------|

CONSULTATION ON REMOVAL ACTIONS

|           |                       |                                                                                                         |
|-----------|-----------------------|---------------------------------------------------------------------------------------------------------|
| Sec. 1011 | Sec. 106(d) & Title V | Prefer House version because Federal Government may cease cleanup when Federal standards are satisfied. |
|-----------|-----------------------|---------------------------------------------------------------------------------------------------------|

USES OF THE FUND

|           |             |                                                                                                              |
|-----------|-------------|--------------------------------------------------------------------------------------------------------------|
| Sec. 1012 | Sec. 103(a) | Prefer House version because it specifically states funding of strike teams is tied to amounts appropriated. |
|-----------|-------------|--------------------------------------------------------------------------------------------------------------|

LIMIT ON FUND LIABILITY

|              |             |                                                                             |
|--------------|-------------|-----------------------------------------------------------------------------|
| No Provision | Sec. 103(b) | Prefer Senate version limiting per incident Fund liability to \$ 1 Billion. |
|--------------|-------------|-----------------------------------------------------------------------------|

LIMIT ON ADVANCES

|              |                   |                                                                   |
|--------------|-------------------|-------------------------------------------------------------------|
| No Provision | Sec. 103(c)(3)(A) | Prefer Senate version, which permits advances up to \$ 1 Billion. |
|--------------|-------------------|-------------------------------------------------------------------|



CLAIMS PROCEDURE

|           |                   |                                                                                                                              |
|-----------|-------------------|------------------------------------------------------------------------------------------------------------------------------|
| Sec. 1013 | Sec. 103(c)(4)(D) | Prefer Senate version because a six month period before presentation of claim to Fund is preferable to a three month period. |
|-----------|-------------------|------------------------------------------------------------------------------------------------------------------------------|

DESIGNATION AND ADVERTISEMENT

|           |                |                                                                                          |
|-----------|----------------|------------------------------------------------------------------------------------------|
| Sec. 1014 | Sec. 103(c)(4) | Essentially same. House has Secretary designate responsible party; Senate has President. |
|-----------|----------------|------------------------------------------------------------------------------------------|

SUBROGATION

|           |             |                                                                                                       |
|-----------|-------------|-------------------------------------------------------------------------------------------------------|
| Sec. 1015 | Sec. 103(e) | Prefer Senate version, which permits recovery of litigation costs without regard to liability limits. |
|-----------|-------------|-------------------------------------------------------------------------------------------------------|

FINANCIAL RESPONSIBILITY

|           |          |                                                                                        |
|-----------|----------|----------------------------------------------------------------------------------------|
| Sec. 1016 | Sec. 104 | Prefer House version because it also imposes financial responsibility on cargo owners. |
|-----------|----------|----------------------------------------------------------------------------------------|

PREEMPTION

|           |          |       |
|-----------|----------|-------|
| Sec. 1018 | Sec. 106 | Same. |
|-----------|----------|-------|

VESSEL OWNER'S LIMITATION UNDER ACT OF MARCH 3, 1981

|              |                            |       |
|--------------|----------------------------|-------|
| Sec. 1018(c) | Sec. 102(g)<br>Sec. 106(e) | Same. |
|--------------|----------------------------|-------|

STATE REQUIREMENTS REGARDING FINANCIAL RESPONSIBILITY

|           |             |                                                                                                                              |
|-----------|-------------|------------------------------------------------------------------------------------------------------------------------------|
| Sec. 1019 | Sec. 106(c) | Prefer House version because states enforce requirements for evidence of financial responsibility higher than Federal level. |
|-----------|-------------|------------------------------------------------------------------------------------------------------------------------------|

EFFECT ON MARITIME AND ADMIRALTY LAW

Sec. 6002

Sec. 102(g)

Prefer House version  
because it explicitly  
states Act does not  
affect jurisdiction of  
U.S. courts or maritime  
or admiralty law.

EFFECTIVE DATE

General Language

No Provision

Prefer House language  
which ties payments  
from Fund to tax code,  
26 USC 4611(f)(2)

POWERS

H.R. 1465

Short Title/Table  
of Contents

S. 686

Sec. 1. Sec. 2

House Offer to Senate 2-28-90

Agree

Senate Offer to House 3-13-90

Agreement reached - House

No Comparable Provision

Sec. 3. Findings

House

Agree

TITLE I - OIL POLLUTION  
LIABILITY AND COMPENSATION

TITLE I

Sec. 1001. Definitions

Sec. 1017

House plus Senate definitions for:

barrel  
contiguous zone  
liable or liability  
offshore facility  
onshore facility  
vessel

House

Senate

|                      |                  |
|----------------------|------------------|
| act of God           | foreign offshore |
| claim                | unit             |
| claimant             | liable or        |
| damages              | liability        |
| deepwater port       | OCS facility     |
| discharge            |                  |
| exclusive economic   |                  |
| zone                 |                  |
| Fund                 |                  |
| gross ton            |                  |
| guarantor            |                  |
| incident             |                  |
| Indian Tribe         |                  |
| lessee               |                  |
| mobile offshore      |                  |
| drilling unit        |                  |
| national contingency |                  |
| plan                 |                  |
| natural resources    |                  |
| permittee            |                  |
| responsible party    |                  |
| tank vessel          |                  |
| United States and    |                  |
| State                |                  |

Other definitions

(See Attachment #1)



H.R. 1465

S. 686

House Offer to Senate 2-28-90

Senate Offer to House 3-13-90

Sec. 1002. Elements of liability.

Liability Sec. 1002(a) and (b)(1)

Sec. 102(a)(1)

House

(See attachment #2)

Damages Sec. 1002(b)(2)

Sec. 102(a)(2)

House, with Senate proviso "without regard to the ownership or management of such resources" on subsistence use.

House; except strike paragraph (C) and insert in lieu thereof 102(a)(2)(D) and clarify that Trustees can exercise "joint management or control".

Excluded Discharges Sec. 1002(c)

No Comparable Provision

Agree

Agreement reached--House

Liability of Third Parties Sec. 1002(d)

Sec. 102(b)(2)

House with insertion of "or the cargo owner" after "responsible party" page 21, line 16.

(See Attachment #3)

Sec. 1003. Defenses to liability.

Sec. 102(b)(1)

House  
Agree with Senate on deletion of 1003(d).

(See Attachment #4)

Sec. 1004. Limits on liability.

Sec. 102(c)

(a) General Rule

Sec. 102(c)(1)

House

Agree--House; except substitute Sec. 102(c)(1)(A) for Sec. 1004(a)(1)

(b)(1) Division of Responsibility

No Comparable Provision

House

Senate

(b)(2) MODU Discharges

No Comparable Provision

House

Agree--House

(c) Exceptions

Sec. 102(c)(2) and (3)

House, except 1004(c)(3)

Agree; with addition of Sec. 102(c)(3)

Adjusting Limits of Liability. Sec. 1004(d)

Sec. 102(c)(4),(5),(6)

House

Agree; with addition of Sec. 102(c)(4)(B); and on line 4, insert "other than the Trans-Alaska Pipeline," after "onshore facility."; Sec. 102(c)(5) combined with CWA civil penalty authority.

Sec. 1005. Interest Section.

No Comparable Provision

House; plus add Senate Sec. 102(c)(1) [pg. 25, lines 19-21], as House Sec. 1004(a)(5).

Agree

H.R. 1465

S. 686

House Offer to Senate 2-28-90

Senate Offer to House 3-13-90

|                                                          |                         |                                                                                                                                             |                                                                                                     |
|----------------------------------------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Sec. 1006. Natural Resources.                            | Sec. 102(d)             | Keep 1006(g), disagree with insertion of "within such State or"                                                                             | Agree to delete "within such State or" Sec. 1006(g) incorporated in CMA civil penalties provisions. |
| Sec. 1007. Recovery by foreign                           | Sec. 102(e)             | Senate; with addition of Sec. 1007(d)                                                                                                       | Agree                                                                                               |
| Sec. 1008. Recovery by responsible party or cargo owner. | No Comparable Provision | House                                                                                                                                       | Agree--House; delete references to cargo owner                                                      |
| Sec. 1009. Contribution Section.                         | No Comparable Provision | House                                                                                                                                       | Agree--House                                                                                        |
| Sec. 1010. Indemnification agreements.                   | Sec. 102(f)             | Agree                                                                                                                                       | Agreement reached--House                                                                            |
| Sec. 1011. Consultation on removal actions.              | Sec. 106(d)             | House; coupled with House definition on "removal costs" and House language in Sec. 1002(b)(1). [Explanation to follow.]                     | Agree on Sec. 1011 with Senate proposal on "removal costs" and Sec. 102(a)(1).                      |
| Sec. 1012. Uses of the Fund.                             | Sec. 103                |                                                                                                                                             |                                                                                                     |
| Uses. Sec. 1012(a)                                       | Sec. 103(a)             | Senate offer: House - (2),(4), Senate - (1),(2)(4),(5),(6),(7),(8),(9),(10)                                                                 | House - (2),(4); Senate - (1),(2),(4),(5),(6),(7),(8),(9),(10)                                      |
| No Comparable Provision                                  | Sec. 103(b) Limit       |                                                                                                                                             | Deferred                                                                                            |
| Defense to Liability for the Fund. Sec. 1012(b)          | Sec. 103(f)             | Agree, add "removal" at end of line 4, pg. 49, delete "gross" on line 6, [confirm 1003], add ", removal costs" after "discharge" on line 5. | Senate; add "removal at end of line 4, pg. 49, add ",removal costs" after "discharge" on line 5.    |
| Officials Who May Obligate the Fund. Sec. 1012(c)        | Sec. 103(c)             | Agree                                                                                                                                       | Agreement reached previously--House with deletion of CG                                             |
| Obligation of Fund by State. Sec. 1012(d),(e)            | Sec. 103(d)             | House with Senate Agreement language, pg. 50, line 22 through pg. 51, line 11.                                                              | Agree                                                                                               |

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|                                                       |                         |                                                                                                                                                                                                                       |                                                                                                             |
|-------------------------------------------------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| Rights of Subrogation.<br>Sec. 1012(f)                | Sec. 103(e)(1)          | House                                                                                                                                                                                                                 | Agree                                                                                                       |
| Audit. Sec. 1012(g)                                   | Sec. 103(g)             | Agree                                                                                                                                                                                                                 | Agreement reached--House                                                                                    |
| Period of Limitation of<br>Claims. Sec. 1012(h)       | Sec. 103(h)             | House; with addition of Sec. 103(h)(3)                                                                                                                                                                                | Senate                                                                                                      |
| Limitation on Payment for<br>Same Costs. Sec. 1012(i) | Sec. 103(i)             | Agree                                                                                                                                                                                                                 | Agreement reached--House.                                                                                   |
| Obligation in Accordance<br>with Plan. Sec. 1012(j)   | Sec. 103(j),(k)         | Agree                                                                                                                                                                                                                 | Agreement reached--House; plus<br>Sec. 103(k)                                                               |
| Sec. 1013. Claims Procedure.                          | Sec. 103(c)(4)(A),(D)   | House; insert at end of Sec. 1013(c):<br>"No claim against the Fund may be approved<br>approved during the pendency of an action by<br>the claimant in court to recover costs which<br>are the subject of the claim." | Agree; but delete references to<br>cargo owner                                                              |
| Sec. 1014. Designation and<br>Advertisement.          | Sec. 103(c)(4)(B),(C)   | Agree                                                                                                                                                                                                                 | Agreement reached--House                                                                                    |
| Sec. 1015. Subrogation.                               | Sec. 103(e)(2)          | Agree                                                                                                                                                                                                                 | Agreement reached--House; strike "under<br>this Act" in subsection (a) and insert<br>"under any other law". |
| Sec. 1016. Financial<br>Responsibility.               | Sec. 104                |                                                                                                                                                                                                                       |                                                                                                             |
| Vessels. Sec. 1016(a)                                 | Sec. 104(a)(1)          | House                                                                                                                                                                                                                 | Agree--House                                                                                                |
| Cargo. Sec. 1016(b)                                   | No Comparable Provision | House                                                                                                                                                                                                                 | Senate                                                                                                      |
| Sanctions. Sec. 1016(c)                               | Sec. 104(a)(2),(3),(4)  | House                                                                                                                                                                                                                 | House; delete references to cargo.                                                                          |
| Offshore Facilities.<br>Sec. 1016(d)                  | Sec. 104(b)             | House                                                                                                                                                                                                                 | Agree--House                                                                                                |
| Methods of Financial<br>Responsibility. Sec. 1016(e)  | Sec. 104(c)             | House                                                                                                                                                                                                                 | House; replace "Secretary" with<br>"President"                                                              |



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|                                                     |                         |                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Claims Against Gurantor.<br>Sec. 1016(f)            | Sec. 104(d)             | House; replace (2) with:<br>"(2) any defenses allowed under subsection<br>(e) above" | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Limitation on Gurantor's<br>Liability. Sec. 1016(g) | Sec. 104(e)             | House                                                                                | House                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Civil Penalty. Sec. 1016(h)                         | Sec. 104(f)             | House                                                                                | House; replace "Secretary" with<br>"President"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Continuation of Regulations.<br>Sec. 1016(i)        | Sec. 104(g)             | Agree                                                                                | Agreement reached--House                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Unified Certificate.<br>Sec. 1016(j)                | No Comparable Provision | House                                                                                | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Sec. 1017. Litigation,<br>Jurisdiction and Venue.   | Sec. 105                | Senate (a) and (d), House (b) melded with<br>Senate (c), House (c), (d) and (e).     | Senate; plus Administration's savings<br>clause; substitute Sec. 1017(e)(1), as<br>amended by Administration, for<br>Sec. 105(g)(1); and add the following<br>paragraph to Sec. 105(b):<br>"(2) Compliance. -- Review of actions by any<br>Federal official where there is alleged to<br>be a failure of that official to perform a<br>duty under section 1006 of this Act that is<br>not discretionary with that official may be<br>had by any person in the district court in<br>which the person resides or in which the<br>alleged damage to natural resources<br>occurred. The court may award costs of<br>litigation (including reasonable attorney<br>and expert witness fees) to any prevailing<br>or substantially prevailing party. Nothing<br>in this paragraph shall restrict any right<br>which any person may have to seek relief<br>under any other provision of law." |
| Sec. 1018. Relationship to<br>other Law.            | Sec. 106                | Agree, but for Senate 106(d). [In 1011 of<br>House bill.]                            | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Sec. 1019. State Financial<br>Responsibility.       | Sec. 106(c)             | Agree                                                                                | Agreement reached--House                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Sec. 1020. Effective Date.                          | No Comparable Provision | Agree                                                                                | Agree; strike "the date of enactment of this<br>Act" and insert "January 1, 1990".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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TITLE II - CONFORMING AMENDMENTS

|                                                 |                         |                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sec. 2001. Intervention on High Seas.           | Sec. 402                | Agree                                                                                                                                                                                                          | Agreement Reached                                                                                                                                                                                                                                                                                    |
| Sec. 2002. Federal Water Pollution Control Act. | Sec. 403                |                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                      |
| Sec. 2002 (1)(A)                                | No Comparable Provision | House - change by inserting "(including fish and wildlife)" after "conservation"                                                                                                                               | Agree                                                                                                                                                                                                                                                                                                |
| Sec. 2002 (1)(B)                                |                         | House                                                                                                                                                                                                          | Agree                                                                                                                                                                                                                                                                                                |
| Sec. 2002 (1)(C)                                |                         | House                                                                                                                                                                                                          | Agree; strike "reasonable"                                                                                                                                                                                                                                                                           |
| Sec. 2002 (1)(D)                                | No Comparable Provision | House - only lines 11 through "discharge" on line 23, page 74, with some modifications. Combine with Sec. 202 of Senate bill. Delete "rehabilitation" on line 22, page 74. Balance as a statement of managers. | Agree                                                                                                                                                                                                                                                                                                |
| Sec. 2002 (2)                                   | Sec. 403(a)             | Agree                                                                                                                                                                                                          | Agreement reached--Senate                                                                                                                                                                                                                                                                            |
| Sec. 2002 (3)                                   | No Comparable Provision | House                                                                                                                                                                                                          | Combined with CWA civil penalty authority.                                                                                                                                                                                                                                                           |
| Sec. 2002 (4)                                   | Sec. 403(b)             | House                                                                                                                                                                                                          | House; before the period insert ", except that natural resource damage assessment regulations promulgated under Sec. 311(f) of the Federal Water Pollution Control Act shall apply to any such discharges pending the entry into force of such regulations promulgated under Sec. 1006 of this Act". |
| Sec. 2002 (5)-(9)                               | Secs. 403(c)-(g)        | Agree                                                                                                                                                                                                          | Agreement reached--Senate                                                                                                                                                                                                                                                                            |
| Sec. 2003. Deepwater Port Act.                  | Sec. 404                | Deferred                                                                                                                                                                                                       | Senate; plus delete remaining subsections of 33 U.S.C. 1517.                                                                                                                                                                                                                                         |
| Sec. 2004. Outer Continental Shelf Lands Act.   | Sec. 405                | Agree                                                                                                                                                                                                          | Agreement reached--House                                                                                                                                                                                                                                                                             |
| Sec. 2005. Effective Date.                      | No Comparable Provision | Agree                                                                                                                                                                                                          | Agreement reached--House                                                                                                                                                                                                                                                                             |

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TITLE III - PROTOCOLS

No Comparable Provision

House

Senate; except Sec. 3009 (below)

Sec. 3009. Negotiations with Canada concerning tug escorts in Puget Sound.

No Comparable Provision

House

Agree-House

TITLE IV - PREVENTION AND REMOVAL

Sec. 4001. Definitions

Sec. 301

House

SUBTITLE A - PREVENTION

Sec. 4101. Review of alcohol and drug abuse and other matters in issuing licenses, certificates of registry, and merchant mariners' documents.

Sec. 304(a)

Agree

Agreement reached--House with changes  
(See Attachment #11)

Sec. 4102. Term of certificates of registry and merchant mariners' documents.

No Comparable Provision

House

(See Attachment #11)

Sec. 4103. Suspension and revocation of licenses, certificates of registry, and merchant mariners' documents for alcohol and drug abuse.

Sec. 303(c), Sec. 304(a),  
Sec. 305

House

(See Attachment #11)

Sec. 4104. Removal of master or individual in charge.

No Comparable Provision

House

(See Attachment #11)



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|-------------------------------------------------------------------------|--------------------------------------------------|--------------------------------------|--------------------------------------|
| No Comparable Provision                                                 | Sec. 304(b)                                      | House                                | (See Attachment #11)                 |
| Sec. 4105. Access to National Driver Register.                          | Sec. 303(a)                                      | House                                | (See Attachment #11)                 |
| Sec. 4106. Manning standards for foreign tank vessels.                  | No Comparable Provision                          | House                                | Senate                               |
| Sec. 4107. Vessel traffic service systems.                              | Sec. 306(a), Sec. 307, Sec. 306(b). User Fees    | House                                | (See Attachment #11)                 |
| Sec. 4108. State authority to require State pilotage for tankers.       | Sec. 302                                         | House                                | (See Attachment #11)                 |
| No Comparable Provision                                                 | Sec. 312(a) Penalties.                           | House                                | Senate                               |
| Sec. 4109. Great Lakes Pilotage.                                        | No Comparable Provision                          | House                                | Senate                               |
| Sec. 4110. Periodic gauging of plating thickness of commercial vessels. | No Comparable Provision                          | House                                | Senate                               |
| No Comparable Provision                                                 | Sec. 311. Authority of Secretary in U.S. Waters. | House                                | Agree                                |
| Sec. 4111. Overfill and tank level or pressure monitoring devices.      | No Comparable Provision                          | House                                | Senate                               |

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Sec. 4112. Study on tanker navigation safety standards.

See: Sec. 308 on page CRS-54

Agree

Agreement reached--combined  
(See Attachment #11)

Sec. 4113. Dredge Modification Study.

No Comparable Provision

House

Agree

Sec. 4114. Use of liners.

No Comparable Provision

House; with modifications.

Senate

Sec. 4115. United States-Canada Great Lakes oil spill cooperation.

Sec. 603

Agree

Agreement reached--House

Sec. 4116. United States-Canada Lake Champlain oil spill.

No Comparable Provision

Agree

Agreement reached--House

Sec. 4117. Tank Vessel Manning.

No Comparable Provision

House

(See Attachment #11)

Sec. 4118. Establishment of double hull requirement for tank vessels.

Sec. 308

New proposal under development

(See Attachment #11)

Sec. 4119. Self-propelled tank vessel minimum standards.

Sec. 308

New proposal under development

(See Attachment #11)

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SUBTITLE B - REMOVAL

Title II, generally

Sec. 4201. Federal Removal

Sec. 201, Sec. 202

(a) Removal

Sec. 201

New proposal with Presidential determination.

Sec. 4201(a); but amend proposed CWA  
Sec. 311(c)(1)(C)(1) as follows:

"No person shall be liable for removal costs or damages under this Act or the Oil Pollution Act of 1989 as a result of actions taken or omitted in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or at the direction of an on-scene coordinator appointed under such plan, with respect to an incident creating a danger to public health or welfare or the environment as a result of any discharge of oil or the substantial threat thereof."

and with insertion of "or with respect to any removal activities in connection with such discharge" at the end of Sec. 1018(a)(1)(A); and

Attachment #5 in lieu of Sec. 201(b).

(b) Conforming Amendments

No Comparable Provision

Agree; with additional subsection--  
"(c) Section 311(o)(2) is amended by inserting "or with respect to any removal activities in connection with such discharge" before the period."

(See Attachment #6)

No Comparable Provision

Sec. 202

New Proposal

Sec. 4202. Contingency Plans.

Sec. 204

House/Senate combination

(See Attachment #7)

Sec. 4203. Strike Teams.

Sec. 203

Senate provision with changes.

Senate; with response centers for Great Lakes and Hawaii; and with further discussion to clarify scope and number of centers.

Sec. 4204. Coast Guard Vessel Design.

No Comparable Provision

House

Agree



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Sec. 4205. Removal Resource

Sec. 202(8)

Senate proposal with domestic inventory added.

Agree--(See Attachment #6)

SUBTITLE C - MISCELLANEOUS

Sec. 4301. Increased Penalties.

Sec. 206

Failure to Report.  
Sec. 4301(a)

Sec. 206(f)

Agree

Agreement reached--House

No Comparable Provision

Inspection and Entry.  
Sec. 206(a)

House

(See Attachment #8)

No Comparable Provision

Criminal Penalties.  
Sec. 206(b)

House

" "

Administrative Penalties.  
Sec. 4301(b)

Sec. 206(c)

House

" "

Civil Penalties. Sec. 4301(c)

Sec. 206(d)

House

" "

National Contingency Plan.  
Sec. 4301(d)

No Comparable Provision

Agree

Agreement reached--House

No Comparable Provision

Environmental Effects.  
Sec. 206(e)

Senate

Agreement reached--Senate

Other Penalties. Sec.  
4301(e)-(r)

No Comparable Provision

Agree

Agreement reached--House

Sec. 4302. Deposit of certain  
penalties into Oil Spill  
Liability Trust Fund.

Sec. 206(g)

House--Agree

Agree--House

Sec. 4303. Hazardous Substances. No Comparable Provision

Agree

Agreement reached--House

Sec. 4304. Consideration of  
Discharges.

No Comparable Provision

House, move to strike team section.

Agree

No Comparable Provision

User Fees. Sec. 207,  
Sec. 313

House

Senate; Sec. 313 included in Sec. 4112  
(See Attachment #11)

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|-----------------------------------------------------|-------------------------------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------|
| No Comparable Provision                             | Impact on Other Law.<br>Sec. 310                      | House                                | Agree                                                                                            |
| No Comparable Provision                             | Authority of Secretary<br>in U.S. Waters.<br>Sec. 311 | House                                | Agree                                                                                            |
| No Comparable Provision                             | Penalties. Sec. 312                                   | Deferred                             | Senate; see Sec. 4120<br>(See Attachment #11)                                                    |
| TITLE V - PRINCE WILLIAM SOUND<br>OIL SPILL REMOVAL |                                                       |                                      |                                                                                                  |
| Sec. 5001. Short title.                             | No Comparable Provision                               | Agree                                | Agreement reached--Senate "Title V -<br>Prince William Sound Provisions"<br>(See Attachment #12) |
| Sec. 5002. Definitions.                             | No Comparable Provision                               | Deferred                             | (See Attachment #12)                                                                             |
| Sec. 5003. Tank Vessel<br>Requirements.             | Pilotage at Port of Valdez.<br>Sec. 351               | Agree                                | Agreement reached--(See Attachment #12)                                                          |
| No Comparable Provision                             | Sec. 352. Bligh Island<br>Light                       | Agree                                | Agreement reached--(See Attachment #12)                                                          |
| Sec. 5004. Vessel Traffic<br>Service System.        | Sec. 353                                              | Agree                                | Agreement reached--(See Attachment #12)                                                          |
| Sec. 5005. Equipment and<br>Personnel Requirements. | No Comparable Provision                               | House; with modifications.           | Defer                                                                                            |
| Sec. 5006. Use of Local<br>Services.                | No Comparable Provision                               | Agree                                | Agreement reached--Senate<br>(See Attachment #12)                                                |

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Sec. 5007. Authority of State of Alaska.

No Comparable Provision

Agree with report language.

(See Attachment #12)

Sec. 5008. Environmental Assessments.

No Comparable Provision

House

(See Attachment #12)

Sec. 5009. Report.

No Comparable Provision

Agree

Agreement reached--(See Attachment #12)

No Comparable Provision

Sec. 354. Oil Spill Recovery Institute

House, depending on resolution of Title VII

(See Attachment #12)

No Comparable Provision

Sec. 355. Radio on Mississippi River.

House

(See Attachment #12)

No Comparable Provision

Sec. 356. Funding of Alaska Program and Oil Spill Institute.

House, depending on resolution of Title VII

(See Attachment #12)

No Comparable Provision

Sec. 506. Scientific Committee for Environmental Monitoring.

House, depending on resolution of Title VII

(See Attachment #12)

**TITLE VI - MISCELLANEOUS**

Sec. 6001. Statutory Waivers.

No Comparable Provision

House with modifications.

Senate

Sec. 6002. Savings Clause.

Sec. 102(g)

House

Senate



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Sec. 6003. Annual Appropriations.

No Comparable Provision

House

Defer

Sec. 6004. Drug-Free Workplace Requirements.

No Comparable Provision

Agree

Agreement Reached

TITLE VII - RESEARCH AND DEVELOPMENT

Sec. 7001. Oil Pollution Research and Development Program.

Sec. 205., Sec. 309.

House

(See Attachment #13)

TITLE VIII - TRANS-ALASKA PIPELINE SYSTEM

Sec. 8001. Short Title.

No Comparable Provision

House

Agree

Sec. 8002. References to Trans-Alaska Pipeline Authorization Act.

No Comparable Provision

House

Senate

SUBTITLE A - IMPROVEMENTS TO TRANS-ALASKA PIPELINE SYSTEM

Sec. 8101. Liability within the State of Alaska and Cleanup Efforts.

Sec. 401(a)

House

Senate; plus Sec. 8101(c)(3) and with clarification that TAPAA will continue to apply to spills not covered by the Oil Pollution Liability Act of 1989.

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Sec. 8102. Trans-Alaska Pipeline Liability Fund.

Sec. 401(b).(c)

(a) Termination of certain provisions

Sec. 401(b)(1).(2)

House

(See Attachment #9)

(b) Cause of accident

No Comparable Provision

House

Agree--House

(c) Damages

Sec. 401(b)(3)

House

Agree--House

(d) Payment of Claims by Fund

No Comparable Provision

House

Agree--House; but on lines 2 & 3, pg. 198, strike ", subject to the limit on liability of the owner and operator under this Act", and on line 7, pg. 198, insert "and, in the discretion of the court, penalties" after "fees".

(e) Officers or Trustees

Sec. 401(c)

House

Agreement reached--House

(f) Trans-Alaska Pipeline System

No Comparable Provision

House

Senate

Sec. 8103. Presidential Task Force.

TITLE V - Oversight and Monitoring. Secs. 501-516.

House

(See Attachment #10)

SUBTITLE B - PENALTIES

Sec. 8201. Authority of the Secretary of the Interior to Impose Penalties on Outer Continental Shelf Facilities.

Sec. 601

Agree

Agreement Reached

Sec. 8202. Trans-Alaska Pipeline System Civil Penalties.

No Comparable Provision

House

Senate

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SUBTITLE C - PROVISIONS  
APPLICABLE TO ALASKA NATIVES.

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Sec. 8301. Land Conveyances.

Sec. 102(h)

Agree

Agreement Reached

Sec. 8302. Impact of Potential  
Spills in the Arctic Ocean on  
Alaskan Natives.

Sec. 604. Agreement Between  
the United States and  
Canada for Potential Oil  
Spills in the Arctic Ocean  
and International  
Contingency Plans.

Agree, with modifications to include the  
Secretary of the Interior, the Secretary of  
Transportation, and the Governor of Alaska.

Agreement Reached

No Comparable Provision

Sec. 602. Cooperative  
Development of Common  
Hydrocarbon Bearing Areas.

House

Senate

#11

March 14, 1990

SUBTITLE A, TITLE IV, H.R. 1465

**SEC. 4101. REVIEW OF ALCOHOL AND DRUG ABUSE AND OTHER MATTERS  
IN ISSUING LICENSES, CERTIFICATES OF REGISTRY,  
AND MERCHANT MARINERS' DOCUMENTS.**

(a) LICENSES AND CERTIFICATES OF REGISTRY.--Section 7101 of title 46, United States Code, is amended by adding at the end the following:

"(g) The Secretary may not issue a license or certificate of registry under this section unless an individual applying for the license or certificate makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), such information contained in the National Driver Register regarding the motor vehicle driving record of that individual as the Secretary determines appropriate.

"(h) The Secretary shall review the criminal record of each individual who applies for a license under this section.

"(i) The Secretary shall establish programs for testing each individual applying for issuance or renewal of a license or certificate of registry under this chapter for use, in violation of law or Federal regulation, of alcohol or a dangerous drug."



1 (b) ~~MERCHANT MARINERS'~~ DOCUMENTS.--Section 7302 of title  
2 46, United States Code, is amended by adding at the end the  
3 following:

4 "(c) The Secretary may not issue a merchant mariner's  
5 document under this chapter unless the individual applying  
6 for the document makes available to the Secretary, under  
7 section 206(b)(7) of the National Driver Register Act of 1982  
8 (23 U.S.C. 401 note), such information contained in the  
9 National Driver Register regarding the motor vehicle driving  
10 record of that individual as the Secretary determines  
11 appropriate.

12 "(d) The Secretary shall establish programs for testing  
13 each individual applying for issuance or renewal of a  
14 merchant mariner's document under this chapter for the use,  
15 in violation of law or Federal regulation, of alcohol or a  
16 dangerous drug."

17 (c) INFORMATION ON INDIVIDUAL'S ALCOHOL  
18 REHABILITATION.--The Secretary shall conduct a rulemaking  
19 proceeding to determine whether to require that the Coast  
20 Guard be informed, on a confidential basis, whenever an  
21 individual who has applied for or received a license or  
22 merchant mariner's document to perform safety sensitive  
23 functions (as determined by the Secretary) on a vessel is  
24 undergoing treatment in an alcohol rehabilitation program.  
25 The proceeding shall consider, among other matters--

1       (1) which categories of individuals shall be  
2       subject to such information on their treatment in an  
3       alcohol rehabilitation program; and

4       (2) which persons, including such individuals, the  
5       owners and operators of vessels, and organizations  
6       representing masters, pilots, and others licensed or  
7       documented to perform such safety sensitive functions,  
8       shall provide such information.

9       **SEC. 4102. TERM OF CERTIFICATES OF REGISTRY AND MERCHANT**  
10       **MARINERS' DOCUMENTS.**

11       (a) CERTIFICATES OF REGISTRY.--Section 7107 of title 46,  
12       United States Code, is amended by striking "is not limited in  
13       duration." and inserting "is valid for 5 years, and may be  
14       renewed for additional 5-year periods.".

15       (b) MERCHANT MARINERS' DOCUMENTS.--Section 7302 of title  
16       46, United States Code, is amended by adding at the end the  
17       following:

18       "(e) A merchant mariner's document issued under this  
19       chapter is valid for 5 years, and may be renewed for  
20       additional 5-year periods.".

21       (c) EFFECTIVE DATE.--The amendments made by subsections  
22       (a) and (b) of this section are effective July 1, 1990.

23       (d) TERMINATION OF EXISTING CERTIFICATES AND  
24       DOCUMENTS.--A certificate of registry and a merchant

1 mariner's document issued before July 1, 1990, shall  
2 terminate on the day it would have expired if--

3 (1) subsections (a) and (b) were in effect on the  
4 date it was issued; and

5 (2) it was renewed at the end of each 5-year period  
6 under section 7101 or section 7302(d).

7 (e) CRIMINAL RECORD REVIEW IN LICENSE RENEWALS.--Section  
8 7109 of title 46, United States Code, as amended by  
9 designating the existing text as subsection (a) and adding at  
10 the end the following:

11 "(b) The Secretary shall review the criminal record of  
12 each holder of a license issued under this part who applies  
13 for renewal of that license under this section."

14 SEC. 4103. SUSPENSION AND REVOCATION OF LICENSES,

15 CERTIFICATES OF REGISTRY, AND MERCHANT  
16 MARINERS' DOCUMENTS FOR ALCOHOL AND DRUG  
17 ABUSE.

18 (a) AVAILABILITY OF INFORMATION IN NATIONAL DRIVER  
19 REGISTER.--

20 (1) IN GENERAL.--Section 7702 of title 46, United  
21 States Code, is amended by adding at the end the  
22 following:

23 "(c)(1) The Secretary shall establish programs for  
24 employer testing of persons holding a license, certificate of  
25 registry, or merchant mariner's document for use, in



1 violation of law or Federal regulation, of alcohol or a  
2 dangerous drug. Programs shall include preemployment,  
3 periodic, random, reasonable cause, and post accident  
4 testing.

5 "(d)(1) The Secretary shall temporarily suspend and take  
6 possession of the holder's license, certificate, or document  
7 if--

8 "(A) that individual performs a safety sensitive  
9 function on a vessel as determined by the Secretary; and

10 "(B) there is probable cause to believe that the  
11 holder--

12 "(i) has performed the safety sensitive  
13 function in violation of law or Federal regulation  
14 regarding use of alcohol or a dangerous drug;

15 "(ii) has been convicted of an offense that  
16 would prevent the issuance or renewal of a license,  
17 certificate, or document;

18 "(iii) has been denied a motor vehicle license  
19 by a State for cause within the 5-year period  
20 immediately before the temporary suspension;

21 "(iv) has had any cancellation, revocation, or  
22 suspension of a motor vehicle operator's license by  
23 a State for cause within such 5-year period; or

24 "(v) has been convicted within such 5-year  
25 period of an offense described under section



1           205(a)(3)(A) or (B) of the National Driver Register  
2           Act of 1982.

3           "(2) If a license, certificate, or document is  
4 temporarily suspended under this section, an expedited  
5 hearing under subsection (a) of this section shall be held  
6 within 15 days after the temporary suspension."

7           (2) DEFINITION OF DANGEROUS DRUG.--

8           (A) Section 2101 of title 46, United States  
9 Code, is amended by inserting, immediately after  
10 paragraph (8), the following new paragraph:

11           "(8a) 'dangerous drug' means a narcotic drug,  
12 controlled substance, or marijuana (as defined in  
13 section 102 of the Comprehensive Drug Abuse and Control  
14 Act of 1970 (21 U.S.C. 802))."

15           (B) Sections 7503(a) and 7704(a) of title 46,  
16 United States Code, are repealed.

17           (3) RULEMAKING PROCEEDING.--Not later than 90 days  
18 after the date of enactment of this Act, the Commandant  
19 shall initiate a rulemaking proceeding to require that  
20 each individual who has applied for or received a  
21 merchant mariner's document under section 7302 of title  
22 46, United States Code, a license or certificate of  
23 registry under section 7101 of title 46, United States  
24 Code, or a renewal of such merchant mariner's document,  
25 license, or certificate of registry shall--

1 (A) request the chief driver licensing  
2 official of each State in which such individual has  
3 within five years applied for or held a motor  
4 vehicle operator's license to provide to the  
5 Commandant such information as the Commandant may  
6 determine appropriate with respect to such  
7 individual's driving record; and

8 (B) make the request authorized in section  
9 206(b)(7) of the National Driver Register Act of  
10 1982 (23 U.S.C. 401 note) for the transmittal to  
11 the Commandant of such information as the  
12 Commandant may determine appropriate.

13 The rulemaking proceeding shall be completed not later  
14 than 180 days after the date of enactment of this Act.

15 (b) BASES FOR SUSPENSION OR REVOCATION.--Section 7703 of  
16 title 46, United States Code, is amended to read as follows:

17 **"s7703. Bases for suspension or revocation**

18 "A license, certificate of registry, or merchant  
19 mariner's document issued by the Secretary may be suspended  
20 or revoked if the holder--

21 "(1) when acting under the authority of that  
22 license, certificate, or document--

23 "(A) has violated or fails to comply with this  
24 subtitle, a regulation prescribed under this  
25 subtitle, or any other law or regulation intended

1       to promote marine safety or to protect navigable  
2       waters; or

3               "(B) has committed an act of incompetence,  
4       misconduct, or negligence;

5               "(2) is convicted of an offense that would prevent  
6       the issuance or renewal of a license, certificate of  
7       registry, or merchant mariner's document;

8               "(3) is denied a motor vehicle license by a State  
9       for cause within the 5-year period immediately before  
10      the suspension or revocation;

11              "(4) has any cancellation, revocation, or  
12      suspension of a motor vehicle operator's license by a  
13      State for cause within such 5-year period; or

14              "(5) is convicted of an offense described in  
15      section 205(a)(3)(A) or (B) of the National Driver  
16      Register Act of 1982 (23 U.S.C. 401 note) within such  
17      5-year period."

18      (c) TERMINATION OF REVOCATION.--Section 7701(c) of title  
19      46, United States Code, is amended to read as follows:

20              "(c) When a license, certificate of registry, or  
21      merchant mariner's document has been revoked under this  
22      chapter, the former holder may be issued a new license,  
23      certificate of registry, or merchant mariner's document only  
24      after--



1       "(1) the Secretary decides, under regulations  
2       prescribed by the Secretary, that the issuance is  
3       compatible with the requirement of good discipline and  
4       safety at sea; and

5       "(2) the former holder provides satisfactory proof  
6       that the bases for revocation are no longer valid."

7       **SEC. 4104. REMOVAL OF MASTER OR INDIVIDUAL IN CHARGE.**

8       Section 8101 of title 46, United States Code, is amended  
9       by adding at the end the following:

10       "(i) Whenever the 2 next most senior licensed officers  
11       on a vessel reasonably believe that the master or individual  
12       in charge of the vessel is under the influence of alcohol or  
13       a dangerous drug and is incapable of commanding the vessel,  
14       the next most senior licensed officer shall--

15       "(1) temporarily relieve the master or individual  
16       in charge;

17       "(2) temporarily take command of the vessel;

18       "(3) immediately enter the details of the incident  
19       in the vessel log; and

20       "(4) report those details to the Secretary--

21       "(A) by the most expeditious means available;  
22       and

23       "(B) in written form transmitted within 12  
24       hours after the vessel arrives at its next port."

25       **SEC. 4105. ACCESS TO NATIONAL DRIVER REGISTER.**



1 (a) ACCESS TO REGISTER.--Section 206(b) of the National  
2 Driver Register Act of 1982 (23 U.S.C. 401 note) is amended--

3 (1) by redesignating paragraph (5) (as so  
4 designated by section 4(b)(1) of the Rail Safety  
5 Improvement Act of 1988) as paragraph (6); and

6 (2) by adding at the end the following new  
7 paragraph:

8 "(7) Any individual who has applied for or received a  
9 merchant mariner's document under section 7302 of title 46,  
10 United States Code, a license or certificate of registry  
11 under section 7101 of title 46, United States Code, or a  
12 renewal of such merchant mariner's document, license, or  
13 certificate of registry may request the chief driver  
14 licensing official of a State to transmit information  
15 regarding the individual under subsection (a) of this section  
16 to the Commandant of the Coast Guard. The Commandant may  
17 receive such information and shall, prior to using such  
18 information in any adverse action regarding the merchant  
19 mariner's document, license, or certificate of registry of  
20 the individual, make such information available to the  
21 individual for review and written comment. The Commandant  
22 shall not otherwise divulge or use such information, except  
23 to verify information required to be reported to the  
24 Commandant by an individual applying for such a merchant  
25 mariner's document, license, certificate of registry, or

1 renewal and to evaluate whether the individual meets the  
2 minimum standards required in order to receive such a  
3 merchant mariner's document, license, certificate, or  
4 renewal. There shall be no access to information in the  
5 Register under this paragraph if such information was entered  
6 in the Register more than 5 years before the date of such  
7 request, unless such information relates to revocations or  
8 suspensions which are still in effect on the date of the  
9 request. Information submitted to the Register by States  
10 under the Act of July 14, 1960 (74 Stat. 526), or under this  
11 title shall be subject to access for the purpose of this  
12 paragraph during the transition to the Register described  
13 under section 203(c) of this title."

14 (b) CONFORMING AMENDMENTS.--

15 (1) Chapter 75 of title 46, United States Code, is  
16 amended by adding at the end the following:

17 "s7505. Review of information in National Driver Register

18 "The Secretary shall make information received from the  
19 National Driver Register under section 206(b)(7) of the  
20 National Driver Register Act of 1982 (23 U.S.C. 401 note)  
21 available to an individual for review and written comment  
22 before denying, suspending, revoking, or taking any other  
23 action relating to a license, certificate of registry, or  
24 merchant mariner's document authorized to be issued under  
25 this part, based on that information."

1       (2) Section 2302(c) of title 46, United States  
2       Code, is amended by striking "intoxicated" and inserting  
3       in lieu thereof "under the influence of alcohol or a  
4       dangerous drug".

5       (c) CLERICAL AMENDMENT.--The analysis for chapter 75 of  
6       title 46, United States Code, is amended by adding at the end  
7       the following:

8       "7505. Review of information in National Driver Register.".

9       SEC. 4106. [DELETE]

10      SEC. 4107. VESSEL TRAFFIC SERVICE SYSTEMS.

11      (a) IN GENERAL.--Section 4(a) of the Ports and Waterways  
12      Safety Act (33 U.S.C. 1223(a)) is amended--

13           (1) by striking "Secretary may--" and inserting in  
14           lieu thereof "Secretary--";

15           (2) in paragraph (1) by striking "establish,  
16           operate, and maintain" and inserting in lieu thereof  
17           "may construct, operate, maintain, improve, or expand";

18           (3) in paragraph (2) by striking "require" and  
19           inserting in lieu thereof "shall require appropriate";

20           (4) in paragraph (3) by inserting "may" immediately  
21           before "require";

22           (5) in paragraph (4) by inserting "may" immediately  
23           before "control"; and

24           (6) in paragraph (5) by inserting "may" immediately  
25           before "require".



1 (b) DIRECTION OF VESSEL MOVEMENT.--

2 (1) STUDY.--The Secretary shall conduct a study--

3 (A) of whether the Secretary should be given  
4 ..additional authority to direct the movement of  
5 vessels upon navigable waters and should exercise  
6 such authority; and

7 (B) to determine and prioritize the United  
8 States ports and channels that are in need of new,  
9 expanded, or improved vessel traffic service  
10 systems by evaluating--

11 (i) the nature, volume, and frequency of  
12 vessel traffic;

13 (ii) the risks of collisions, spills, and  
14 damages associated with that traffic;

15 (iii) the impact of installation,  
16 expansion, or improvement of a vessel traffic  
17 service system; and

18 (iv) all other relevant costs and data.

19 (2) REPORT.--Not later than 1 year after the date  
20 of enactment of this Act, the Secretary shall submit to  
21 the Committee on Commerce, Science, and Transportation  
22 of the Senate and Committee on Merchant Marine and  
23 Fisheries of the House of Representatives a report on  
24 the results of the study conducted under paragraph (1)



1 together with recommendations for implementing the  
2 results of that study.

3 SEC. 4108. PILOTAGE.

4 (a) PILOT REQUIRED.--Section 8502(g) of title 46, United  
5 States Code, is amended to read as follows:

6 "(g) The Secretary shall designate by regulation the  
7 areas of the approaches to and waters of Prince William  
8 Sound, Alaska, on which a vessel subject to this section is  
9 not required to be under the direction and control of a pilot  
10 licensed under section 7101 of this title. In any area of  
11 Prince William Sound where a vessel subject to this section  
12 is required to be under the direction and control of a pilot,  
13 licensed under section 7101 of this title, the pilot shall  
14 not be a member of the crew of such vessel when navigating  
15 waters between 60 49' North latitude and the Port of Valdez,  
16 Alaska."

17 (b) SECOND PERSON REQUIRED.--Section 8502 of title 46,  
18 United States Code, is amended by adding at the end the  
19 following new subsection:

20 "(h) The Secretary shall designate by regulation waters  
21 on which tanker over 1600 gross tons subject to this section  
22 shall have on the bridge a person licensed to direct and  
23 control such vessel under section 7101(c)(1) of this title  
24 who is separate and distinct from the pilot required under  
25 subsection (a) of this section."

1 SECS. 4109-4111. [DELETE]

2 SEC. 4112. STUDY ON TANKER NAVIGATION SAFETY STANDARDS.

3 (a) IN GENERAL.--Not later than one year after the date  
4 of enactment of this Act, the Secretary shall conduct a study  
5 to determine whether existing laws and regulations are  
6 adequate to ensure the safe navigation of vessels  
7 transporting oil and hazardous substances on the navigable  
8 waters and the exclusive economic zone.

9 (b) STUDY.--In conducting the study required under  
10 subsection (a), the Secretary shall--

11 (1) determine appropriate crew sizes on tankers;

12 (2) evaluate the adequacy of qualifications and  
13 training of crewmembers on tankers;

14 (3) evaluate the ability of crewmembers on tankers  
15 to take emergency actions to prevent or remove a  
16 discharge of oil or hazardous substance from their  
17 tankers;

18 (4) evaluate the adequacy of navigation equipment  
19 and systems on tankers (including sonar, electronic  
20 chart display, and satellite technology);

21 (5) evaluate the adequacy of navigation procedures  
22 under different operating conditions, including such  
23 variables as speed, daylight, ice, tides, weather, and  
24 other conditions;

1       (6) evaluate whether areas of the navigable waters  
2       and the exclusive economic zone should be designated as  
3       zones where the movement of tankers should be limited or  
4       prohibited;

5       (7) evaluate whether inspection standards are  
6       adequate, including standards for vessel plate gauging;

7       (8) review and incorporate the results of past  
8       studies, including studies conducted by the Coast Guard  
9       and the Office of Technology Assessment;

10       (9) evaluate the use of computer simulator courses  
11       for training bridge officers and pilots of vessels  
12       transporting oil or hazardous substances on the  
13       navigable waters and in the exclusive economic zone, and  
14       determine the feasibility and practicability of  
15       mandating such training;

16       (10) evaluate and test electronic means of vessel  
17       position-reporting and identification, consider the  
18       minimum standards suitable for such equipment, and  
19       determine whether to require that such devices be  
20       carried on board tankers;

21       (11) evaluate the size, cargo capacity, and  
22       flag-nation of tankers transporting oil or hazardous  
23       substances on the navigable waters and in the exclusive  
24       economic zone, specifying changes in such size and cargo  
25       capacity over the past 20 years, evaluating the extent



1 to which the risks or difficulties associated with  
2 tanker navigation, vessel traffic control, accidents,  
3 oil spills, and the containment and cleanup of such  
4 spills are influenced by or related to an increase in  
5 tanker size and cargo capacity;

6 (12) evaluate the adequacy of current pilotage  
7 regulations in minimizing the risk of oil spills, and  
8 determine whether additional pilotage or other  
9 requirements are warranted for any area of the navigable  
10 waters (which determination shall, at a minimum, include  
11 consideration of regions adjacent to vessel traffic  
12 lanes that present risks of grounding, accident, or  
13 collisions, the type of cargo transported, the volume  
14 and the nature of vessel traffic, and the sensitivity of  
15 the environment); and

16 (13) determine the need, if any, to impose fees  
17 upon owners or operators of tank vessels or other  
18 persons in amounts sufficient to offset the additional  
19 costs of implementing this Act, taking into account, at  
20 a minimum, the desirability and feasibility of assessing  
21 and collecting such fees and the adequacy of existing  
22 authority for doing so.

23 (c) REPORT.--Upon completion of the study required under  
24 subsection (a), the Secretary shall submit to the Committee  
25 on Commerce, Science, and Transportation of the Senate and



1 the Committee on Merchant Marine and Fisheries of the House  
2 of Representatives a report on the results of that study,  
3 along with any recommendations for legislative or other  
4 action that the Secretary considers necessary.

5 SEC. 4113.. [HOUSE]

6 SEC. 4114. [DELETE]

7 SECS. 4115-4116. [HOUSE]

8 SEC. 4117. TANK VESSEL MANNING.

9 (a) RULEMAKING.--In order to protect life, property, and  
10 the environment, the Secretary shall initiate a rulemaking  
11 proceeding within 60 days after the date of enactment of this  
12 Act to--

13 (1) define the conditions under, and designate the  
14 navigable waters of the United States upon, which tank  
15 vessels subject to section 3703 of title 46, United  
16 States Code, may not operate with the auto-pilot engaged  
17 or with an unattended engine room; and

18 (2) prescribe maximum allowable work periods under  
19 section 9102 of title 46, United States Code, for  
20 licensed or documented individuals on tank vessels both  
21 underway and in port.

22 (b) [DELETE]

23 (c) through (e) [HOUSE]

24 SEC. 4118. TUG ESCORTS.

1       -- (2) other structural and operational features that  
2       the Secretary, based on recommendations by the National  
3       Academy of Sciences, determines will provide protection  
4       to the environment that is greater than that provided by  
5       double hulls.

6       (c) COMPLIANCE DEADLINES.--

7               (1) A tank vessel to which this section applies,  
8       for which the keel was laid on or after the date of  
9       enactment of this Act--

10               (A) shall, prior to the issuance of the final  
11       rule required under subsection (b), be prohibited  
12       from service as a tank vessel unless such vessel is--  
13       equipped with a double hull; and

14               (B) shall, on and after the date of such  
15       issuance, be prohibited from service as a tank  
16       vessel unless such vessel meets the requirements of  
17       such final rule.

18               (2) A tank vessel to which this section applies,  
19       for which the keel was laid prior to the date of  
20       enactment of this Act, shall be prohibited from service  
21       as a tank vessel unless such vessel meets the  
22       requirements of the final rule issued under subsection  
23       (b), pursuant to paragraph (3) and the following  
24       conditions:

1 (A) A vessel shall meet such requirements on  
2 and after December 31, 1991, if the vessel (i) is  
3 200,000 deadweight tons or more and its keel was  
4 laid prior to January 1, 1973, or (ii) is 10,000  
5 deadweight tons or more but less than 100,000  
6 deadweight tons and its keel was laid prior to  
7 January 1, 1951.

8 (B) A vessel shall meet such requirements on  
9 and after December 31, 1992, if the vessel is  
10 200,000 deadweight tons or more and its keel was  
11 laid during the two-year period beginning on  
12 January 1, 1973.

13 (C) A vessel shall meet such requirements on  
14 and after December 31, 1993, if the vessel is  
15 200,000 deadweight tons or more and its keel was  
16 laid during the two-year period beginning on  
17 January 1, 1975.

18 (D) A vessel shall meet such requirements on  
19 and after December 31, 1994, if the vessel is  
20 200,000 deadweight tons or more and its keel was  
21 laid during the three-year period beginning on  
22 January 1, 1977.

23 (E) A vessel shall meet such requirements on  
24 and after December 31, 1995, if the vessel (i) is  
25 200,000 deadweight tons or more and its keel was



1       laid on or after January 1, 1980, but prior to such  
2       date of enactment or (ii) is 10,000 deadweight tons  
3       or more but less than 100,000 deadweight tons and  
4       its keel was laid during the four-year period  
5       beginning on January 1, 1951.

6               (F) A vessel shall meet such requirements on  
7       and after December 31, 1996, if the vessel is  
8       150,000 deadweight tons or more but less than  
9       200,000 deadweight tons and its keel was laid prior  
10      to January 1, 1979.

11              (G) A vessel shall meet such requirements on  
12      and after December 31, 1997, if the vessel (i) is  
13      150,000 deadweight tons or more but less than  
14      200,000 deadweight tons and its keel was laid on or  
15      after January 1, 1979 but prior to such date of  
16      enactment or (ii) is 10,000 deadweight tons or more  
17      but less than 100,000 deadweight tons and its keel  
18      was laid during the one-year period beginning on  
19      January 1, 1955.

20              (H) A vessel shall meet such requirements on  
21      and after December 31, 1998, if the vessel (i) is  
22      100,000 deadweight tons or more but less than  
23      150,000 deadweight tons and its keel was laid prior  
24      to January 1, 1974, or (ii) is 10,000 deadweight  
25      tons or more but less than 100,000 deadweight tons

1 and its keel was laid during the one-year period  
2 beginning on January 1, 1956.

3 (I) A vessel shall meet such requirements on  
4 and after December 31, 1999, if the vessel (i) is  
5 100,000 deadweight tons or more but less than  
6 150,000 deadweight tons and its keel was laid  
7 during the one-year period beginning on January 1,  
8 1974, or (ii) is 10,000 deadweight tons or more but  
9 less than 100,000 deadweight tons and its keel was  
10 laid during the three-year period beginning on  
11 January 1, 1957.

12 (J) A vessel shall meet such requirements on-  
13 and after December 31, 2000, if the vessel (ii) is  
14 100,000 deadweight tons or more but less than  
15 150,000 deadweight tons and its keel was laid on or  
16 after January 1, 1975, but prior to such date of  
17 enactment or (ii) is 10,000 deadweight tons or more  
18 but less than 100,000 deadweight tons and its keel  
19 was laid during the three-year period beginning on  
20 January 1, 1960.

21 (K) A vessel shall meet such requirements on  
22 and after December 31, 2001, if the vessel is  
23 10,000 deadweight tons or more but less than  
24 100,000 deadweight tons and its keel was laid

1 during the seven-year period beginning on January  
2 1, 1963.

3 (L) A vessel shall meet such requirements on  
4 and after December 31, 2002, if the vessel is  
5 10,000 deadweight tons or more but less than  
6 100,000 deadweight tons and its keel was laid  
7 during the two-year period beginning on January 1,  
8 1970.

9 (M) A vessel shall meet such requirements on  
10 and after December 31, 2003, if the vessel is  
11 10,000 deadweight tons or more but less than  
12 100,000 deadweight tons and its keel was laid  
13 during the four-year period beginning on January 1,  
14 1972.

15 (N) A vessel shall meet such requirements on  
16 and after December 31, 2004, if the vessel is  
17 10,000 deadweight tons or more but less than  
18 100,000 deadweight tons and its keel was laid  
19 during the two-year period beginning on January 1,  
20 1976.

21 (O) A vessel shall meet such requirements on  
22 and after December 31, 2005, if the vessel is  
23 10,000 deadweight tons or more but less than  
24 100,000 deadweight tons and its keel was laid on or



1       -after January 1, 1978, but prior to such date of  
2       a enactment.

3               (P) A vessel that is less than 10,000  
4       deadweight tons shall meet such requirements--

5               (i) on and after December 31, 1996, if  
6       the keel was laid before January 1, 1955;

7               (ii) on and after December 31, 1997, if  
8       the keel was laid during the one-year period  
9       beginning on January 1, 1956;

10              (iii) on and after December 31, 1998, if  
11       the keel was laid during the one-year period  
12       beginning on January 1, 1957;

13              (iv) on and after December 31, 1999, if  
14       the keel was laid during the one-year period  
15       beginning on January 1, 1958;

16              (v) on and after December 31, 2000, if  
17       the keel was laid during the one-year period  
18       beginning on January 1, 1959;

19              (vi) on and after December 31, 2001, if  
20       the keel was laid during the one-year period  
21       beginning on January 1, 1960;

22              (vii) on and after December 31, 2002, if  
23       the keel was laid during the one-year period  
24       beginning on January 1, 1961;

1 (viii) on and after December 31, 2003, if  
2 the keel was laid during the one-year period  
3 beginning on January 1, 1962;

4 (ix) on and after December 31, 2004, if  
5 the keel was laid during the one-year period  
6 beginning on January 1, 1963;

7 (x) on and after December 31, 2005, if  
8 the keel was laid during the one-year period  
9 beginning on January 1, 1964;

10 (xi) on and after December 31, 2006, if  
11 the keel was laid during the one-year period  
12 beginning on January 1, 1965;

13 (xii) on and after December 31, 2007, if  
14 the keel was laid during the one-year period  
15 beginning on January 1, 1966;

16 (xiii) on and after December 31, 2008, if  
17 the keel was laid during the one-year period  
18 beginning on January 1, 1967;

19 (ix) on and after December 31, 2009, if  
20 the keel was laid during the one-year period  
21 beginning on January 1, 1968;

22 (x) on and after December 31, 2010, if  
23 the keel was laid during the one-year period  
24 beginning on January 1, 1969; and

(xi) on and after December 31, 2011, if the keel was laid on or after January 1, 1970, and prior to such date of enactment.

(3) Notwithstanding the provisions of paragraph (2), a tank vessel for which the keel was laid prior to the date of enactment of this Act may, during the 20-year period beginning on the date of enactment of this Act, unload oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), whether or not the vessel meets the requirements of the final rule issued under subsection (b).

(4) The deadline under paragraph (2) for meeting the requirements of the final rule issued under subsection (b) applicable to any vessel of 150,000 deadweight tons or more may be extended by two additional years if the owner of such vessel can demonstrate to the satisfaction of the Secretary of Transportation that such owner has entered into a valid and enforceable contract prior to January 1, 1995, to construct a vessel which meets such requirements.

(5) Beginning on the date of enactment of this Act, any single-hull tank vessel over 200,000 deadweight tons that transits the inland waters of the United States must be escorted by twice the number of towing vessels



1 (as defined under section 2101 of title 46, United  
2 States Code) as are required by regulation for tank  
3 vessels of similar tonnage in those waters. In no case  
4 shall tank vessels covered by this paragraph transit  
5 inland waters without the escort of at least one towing  
6 vessel.

7 (d) DETERMINATION OF TONNAGE.--For purposes of this  
8 section, the deadweight tonnage of a vessel shall be (1) its  
9 deadweight tonnage on the date of enactment of this Act or  
10 (2) its increased deadweight tonnage if the vessel has been  
11 enlarged as a result of reconstruction, retrofitting, or  
12 repair after such date of enactment.

13 (e) REVIEW AND ASSESSMENT.--

14 (1) The Secretary of Transportation shall within 18  
15 months after the date of enactment of this Act, and  
16 periodically thereafter, review recommendations from the  
17 National Academy of Sciences and other sources on  
18 methods for further increasing the environmental and  
19 operational safety of tank vessels and report the  
20 results of that review to the Committee on Commerce,  
21 Science, and Transportation of the Senate and the  
22 Committee on Merchant Marine and Fisheries of the House  
23 of Representatives.

24 (2) Within five years after the date of enactment  
25 of this Act, the Secretary shall--

1 (A) assess the impact of this section on the  
2 safety of the environment and the economic  
3 viability and operational makeup of the maritime  
4 oil transportation industry; and

5 (B) report to the Committee on Commerce,  
6 Science, and Transportation of the Senate and the  
7 Committee on Merchant Marine and Fisheries of the  
8 House of Representatives on the results of that  
9 assessment, along with any recommendations for  
10 legislative or other action.

11 **SEC. 4120. PENALTIES**

12 (a) CIVIL PENALTIES.--A person violating this title or a  
13 regulation issued under this title is liable to the United  
14 States for a civil penalty of not more than \$25,000. Each  
15 day of a continuing violation is a separate violation.

16 (b) LIABILITY IN REM.--Each vessel that is operated in  
17 violation of this title or a regulation issued under this  
18 title is liable in rem for a civil penalty as prescribed in  
19 subsection (a) of this section.

20 (c) CRIMINAL PENALTIES.--A person willfully and  
21 knowingly violating this title or a regulation issued under  
22 this title shall be fined not more than \$50,000, imprisoned  
23 for not more than five years, or both.

1 (d) JURISDICTION.--The district courts of the United  
2 States have jurisdiction to restrain a violation of this  
3 title or a regulation issued under this title.