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THE WHITE HOUSE

FACT SHEET

Comprehensive Oil Pollution Liability  
and Compensation Act of 1975

The President is today transmitting legislation to Congress which would: (1) establish a domestic fund to cover claims for oil spill damages, (2) create a uniform nationwide system of strict liability for oil spill damages and settlement of claims, and (3) implement two international conventions dealing with oil pollution caused by tankers on the high seas.

BACKGROUND

Three major changes in the way oil is produced and transported may increase the possibility of oil spills affecting seacoasts, bays and harbors:

- The beginning of tanker shipments between the terminal of the Trans-Alaskan Pipeline at Valdez, Alaska, and the West Coast.
- Construction of deep water ports to accommodate supertankers.
- Expansion of drilling in the Outer Continental Shelf.

Existing and prospective legal arrangements designed to provide compensation to parties damaged by a spill include two international conventions and three Federal laws, all of which limit the liability of certain polluters and establish separate funds to pay clean-up costs and damages not paid by the polluter. In addition, various State laws provide differing degrees of liability and compensation for offshore drilling operations and for vessels within their coastal waters.

These arrangements provide a patchwork of differing and sometimes conflicting compensation for damages; just as significantly, various types of discharges of oil and various types of damages are not covered, resulting in a situation in which a damaged party may find recovery impossible; further, a number of compensation funds, each based on a tax on oil, have been established or proposed, resulting in an unnecessary burden on consumers and the oil industry.

A. OBJECTIVES OF THE PRESIDENT'S PROPOSAL

1. Insure that any damaged party (including individuals or governments) will be compensated regardless of the source of the oil spill.
2. Clearly fix responsibility and liability for an oil spill and the appropriate producing or transporting company.

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To meet these objectives, this legislation specifies the types of damages that would be recognized and the procedures to be followed in obtaining recovery. A claimant could recover from a discharger, but if the amount of the claim exceeded the discharger's liability, or if the discharger were not known, the claimant could be paid from a fund of up to \$200 million which is derived from a tax of one to three cents on each barrel of oil produced or transported on or near navigable waters.

From the standpoint of the barge, tanker, pipeline or drilling platform owner, the proposal establishes the basis for liability and limits it to specific maximum amounts. Penalties in the form of interest payments and fines would be imposed on dischargers who fail to accept responsibility for prompt settlement of claims in cases where liability is later found to exist.

The claims settlement system and the fund would be administered by the Department of Transportation.

### International Conventions

The two international conventions deal with the liability of tanker owners for damages caused within the territorial sea of any Nation which is a party to the conventions. They were negotiated under the auspices of the International Maritime Consultative Organization, a specialized agency of the United Nations, in 1969 and 1971. The two conventions were submitted for advice and consent of the Senate in 1970 and 1972, respectively.

The 1969 convention, signed but not yet ratified by the United States, enters into force on June 19 without the U.S. as a party. The President's statement calls on the Senate to give its advice and consent to the two conventions.

### B. SPECIFICS OF THE PRESIDENT'S PROPOSAL

The Proposed Legislation:

1. Establishes a domestic fund.
  - Having a \$200 million ceiling.
  - Financed by a fee not to exceed 3¢ per barrel on certain oil, the amount of the fee to be at the discretion of the Secretary of Transportation.

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2. Provides specific damages recoverable by broad classes of claimants.
  - Damages recoverable:
    - oil removal costs;
    - injury to or loss of use of real or personal property;
    - injury to or loss of use of natural resources;
    - loss of earnings,
    - loss of tax revenue for up to one year.
  - Claimants eligible to file:
    - any agency of the U.S. Government, for oil removal cost;
    - the President, or any Governor, as trustee for natural resources;
    - any U.S. citizen who incurs removal costs, damages to property or significant economic loss because of an oil spill;
    - any State or political subdivision for loss of up to one year's tax revenue;
    - certain foreign claimants in limited situations.
3. Establishes strict liability for the discharger with varying limits and limited defenses.
  - Limits of liability:
    - vessels and ships -- the lesser of the \$150 per gross ton or \$20,000,000;
    - onshore or offshore facility -- not to exceed \$50,000,000, to be determined by the Secretary of Transportation;
    - in cases of gross negligence or willful misconduct, liability would be unlimited.
  - Discharger's defenses:
    - act of war, civil war, or insurrection,
    - act of God,
    - any combination thereof.

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4. Sets up a uniform system of claims settlement and appeal, using procedures established by the Secretary of Transportation.
  - Secretary formally designates discharger, if known.
  - Claimant files initial claim against designated discharger.
    - discharger has 90 days to make settlement; or
    - he can deny designation.
  - If settlement is not obtained from designated discharger, claimant may:
    - sue discharger in U.S. District Court; or
    - file claim against fund.
  - If no discharger is designated or claim falls within scope of 1969 or 1971 international conventions, claimant files against fund:
    - fund has 90 days to make settlement;
    - failure to settle claim in requested amount can be appealed administratively;
    - in some cases, appeal may be made to U.S. District Court.
5. Allows fund to subrogate claims.
  - Fund collects from discharger if found liable:
    - the damages paid;
    - administrative cost of claims settlement; and
    - interest.
  - Fund collects all claims payments damages from any liable third party.
  - Fund collects all claims payments under international conventions.
6. Repeals existing Federal liability statutes and funds.
  - Federal Water Pollution Control Act \$35 million fund, as it relates to oil spills.
  - Trans-Alaskan Pipeline Act liability and \$100 million fund.
  - Deepwater Ports Act liability and \$100 million fund.
7. Preempts any State funds and laws for areas covered by this proposal.

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C. SPECIFICS OF THE INTERNATIONAL CONVENTIONS

1. Implements International Convention on Civil Liability for Oil Pollution Damage.
  - Signed by almost 40 countries, including the United States, at Brussels on November 29, 1969.
  - Enters into force without the U.S. as a party on June 19.
  - Establishes strict liability for tanker owners for damages caused within the territory or territorial sea of a contracting party.
  - Limits the shipowners' liability under most circumstances to not more than \$15 million. However, in cases where damages result from the actual fault of the owner, there is no limitation of liability.
  - Provides a clear legal remedy for oil pollution damage in many cases where U.S. Courts would otherwise not be able to acquire jurisdiction over a discharger.
  
2. Implements International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.
  - Concluded at Brussels on December 18, 1971, as a companion to the 1969 convention.
  - Limited to Nations which are also parties to the 1969 convention.
  - Not yet ratified by the United States, or by a sufficient number of Nations to bring into force.
  - Establishes an international fund -- paid for by charges on oil received within a Party Nation.
  - The international fund can be sued in the courts of Nations Parties to the Convention, and will provide compensation in cases where there is no shipowner liability under the 1969 convention or damage exceeds limits in the 1969 convention.
  - The total amount of compensation available under the 1969 and 1971 conventions can be up to \$32,400,000 per incident, and may be further increased up to \$64,800,000 by the Fund Assembly, a body created by the convention.

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