

STATEMENT OF THE HONORABLE LANGHORNE M. BOND, ADMINISTRATOR
OF THE FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE
COMMITTEE ON GOVERNMENT OPERATIONS, SUBCOMMITTEE ON
GOVERNMENT ACTIVITIES AND TRANSPORTATION, CONCERNING DAMAGE
TOLERANCE ASSESSMENT. OCTOBER 9, 1979.

Mr. Chairman and Members of the Subcommittee:

You have asked me to appear before you today to discuss the FAA's ongoing damage tolerance assessment of the DC-10 pylon as well as our efforts to review the certification process generally.

Let me first touch on the certification process. As you are aware, Secretary Goldschmidt has announced that he will create a Blue Ribbon Panel to carefully study the FAA's safety processes. A major facet of the Panel's effort will be to focus specifically upon the FAA's certification process in order to recommend ways that it might be improved. I assure you the Panel will receive the FAA's full cooperation in every respect.

I want to further assure you, Mr. Chairman, that I do not plan to await the outcome of the Blue Ribbon Panel to make changes which I feel are necessary. In that context, I would like to touch upon two changes which will be made to strengthen the certification process.

like, and to foster a climate in which employees selected for the Program will maintain a continuing awareness of significant technological advances and techniques. Through this Program, the expertise which is developed will be made available to headquarters as well as to other regions for special projects, such as the development of new certification regulations, or for certification assistance. Specialists selected for this Program will also be available to provide training to other FAA employees. We expect the Program to prove beneficial to us in developing and maintaining a cadre of individuals with a high degree of expertise in critical phases of airworthiness.

The Subcommittee is aware of the FAA's program involving the assistance of the Transportation Systems Center to develop a comprehensive safety analysis and reporting system. We expect this effort to provide us with an enhanced capability for data collection, review, and dissemination, and, to the extent improvements are realized, the continuous airworthiness component of our certification process will benefit.

I would like to turn briefly now to the subject of damage-tolerance assessment. Damage-tolerance is a recently

failure. Each evaluation must include the typical loading spectra, temperatures, and humidities expected in service; and the identification and analysis of principal structural elements, and design detail points, the failure of which could cause catastrophic failure. The section further requires that, based on the required evaluations, inspections or other procedures must be established to prevent catastrophic failure and included in the maintenance manual which must be developed by the manufacturer.

The specific damage-tolerance evaluation requirements are detailed. Among other things, they require that a damage tolerance evaluation include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. This determination must be made by analysis, supported by test evidence, and, if available, service experience. The evaluation must incorporate repeated load and static analyses supported by test evidence. A residual strength evaluation, consistent with initial detectability and subsequent growth of damage under repeated loads, must show that the remaining structure is able to withstand loads under a variety of conditions.

As is easy to recognize, the subject of damage-tolerance is complex. To provide you with further information on the

provide a basis for determining inspection intervals and procedures for the various structural elements of the pylon.

Since the Subcommittee has received a copy of the work program that is being followed by the Damage-Tolerance Assessment Team, I won't go into detail concerning the effort except to assure you that it is receiving a high priority within the FAA.

We will be pleased to respond to any questions you may have at this time.

Oct. 9, 1977

Mr. Chairman and Members of the Subcommittee: I am Rear Admiral Wayne E. Caldwell, Chief, Office of Marine Environment and Systems.

Today I am accompanied by

I am pleased to be invited to these oversight hearings to express the interests of the Department of Transportation, including the Coast Guard, in the Coastal Zone Management Program.

The objective behind the program - to preserve, protect, and develop the natural resources of the Coastal Zone - is very commendable. Many of the mission areas of the Department of Transportation include this same objective. Therefore, we are extremely interested in your oversight hearings. The major topics which you intend to examine during these hearings are very important to the Department of Transportation and our agencies. ~

Most of the Coast Guard's activities take place in the Coastal Zones of the participating states and territories and many of the other Department of Transportation's missions in highway, rail, air, pipeline, and urban transportation are accomplished in these vital areas.

Today, I would like to discuss certain of these mission areas in relation to the Coastal Zone Management Act, as amended. The accomplishment of these missions would be enhanced if some specific clarifications in the Act were made. I shall attempt to point out several examples where, in our view, sections of the well founded Act might be clarified. These

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clarifications could well lead to improved administration of the Act. At times, this lack of the clear intent of the Congress has allowed varying interpretations to be made by different interests.

As I stated earlier, most of the Coast Guard's activities take place in the coastal zone of the participating states and territories. These activities include the accomplishment of our legislated mandates in a number of marine related activities including search and rescue, merchant marine safety, recreational boating safety, port safety, marine environmental protection, aids-to-navigation, bridge administration, vessel traffic services and maritime law enforcement. These missions are accomplished by our Coast Guard multimission floating units, aircraft, and shore stations generally physically located in the coastal zone. We consider that the timely accomplishment of these missions is in the national interest and, to a great extent, serve to fulfill the objective of the Coastal Zone Program.

Numerous multimodal transportation requirements exist in the coastal zone. As specifically related to the movement of energy products from a refinery, transfer, or storage facility, we have the Coast Guard involved in the waterborne transportation considerations. DOT has both the Federal Highway Administration and the Federal Railway Administration dealing with the transport over land to market as well as bringing in to the facility the necessary equipment and personnel to operate it. The Materials Transportation Bureau of the DOT Research and Special Programs Administration will be concerned with any required pipeline corridor and

related pipeline safety requirements. In the Great Lakes area, the St. Lawrence Seaway Development Corporation's program may be involved. In view of the President's energy concerns, it is expected that the Department will be very much involved with energy facility siting in the coastal zone in conjunction with the other concerned federal, state and local agencies.

The development of ports and port planning is not unlike that of energy facility siting. The commodity may be different but the same problems still apply - how do we get the product to the port from its source and how do we get it from the port to the consumer. Here again, a multimodal transportation effort is required in the coastal zone and throughout the country while adhering to the environmental standards in effect.

We consider that these examples of transportation related activities are in the national interest. I have attached a copy of the Department of Transportation's statement entitled "National Transportation Interest in the Coastal Zone" to my prepared remarks. That statement, prepared August 29, 1975, was forwarded to the state coastal zone agencies through the DOT Regional Secretarial Representatives and generally reflects our continuing views on the "national interest" relationship. Clarification of the congressional intent in the national interest area (Section 306(c)(8) of Public Law 92-583) would minimize differing interpretations.

In addition to the "national interest" area, there have been widely differing interpretations of the consistency requirements of the

Act as applied to federal assistance programs. In our case highway projects would be included. Section 307(c)(3)(A) of the Act states "no license or permit shall be granted by the federal agency until the state or its designated agency has concurred with the applicant certification...", clearly requiring a state determination of consistency before federal agency approval.

But, unlike Section 307(c)(3)(A), Section 307(d) requires "state and local governments submitting applications for federal assistance programs affecting the Coastal Zone shall indicate the views of the appropriate state or local agency..." (emphasis added) and that the "federal agency shall not approve proposed projects that are inconsistent..."

DOT has viewed this as a clear distinction between Section 307(c)(3)(A) and Section 307(d) with respect to whether the state or the federal agency makes a final consistency determination that is, for licenses and permits, the state makes the final consistency determination and for federal assistance programs, the federal agency makes the final consistency determination. The Department of Commerce has a different interpretation which is that the state makes the final consistency determination under both Section 307(c)(3)(A) and Section 307(d) (reference 15 CFR 930.90). The Department of Transportation would like clarification of the congressional intent as to who makes the final consistency determinations for federal assistance programs to state and local governments.

With relationship to the licenses and permits addressed in Section 307(c)(3)(A) which affect land or water use, the Coast Guard's position

is that only "site specific" licenses and permits rather than the complete gamut of same are subject to this consistency requirement and in turn have listed three, Bridge and Causeway Permits, 33 USC 401, 491 and 525, Deepwater Port Development, 33 USC 1501 et seq. and Private Aids-to-Navigation 14 USC 83.

DOT fully supports the opinion of the Assistant Attorney General on the issue of excluded lands, and recommends that a determination be made ^{that} those lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government, its officers or agents are excluded from the coastal management zone.

The Department of Transportation, including its operating administrations, has developed detailed instructions to all of our field offices concerning the Act after consultation with the National Ocean^s and Atmospheric Administration of the Department of Commerce, which is responsible for the administration of the Act. These instructions establish the DOT procedures to be used by our regional commanders and administrators to fulfill our responsibilities under the Act.

Our procedures are rather straight forward:

- early contact with the appropriate state agency officials responsible for the development and maintenance of the state's coastal zone program,
- information exchange concerning state's program goals and objectives and description of existing and planned federal agency activities occurring in the defined coastal zone.

-- discussions concerning any differing views relative to extent of excluded federal lands, federal consistency, and federal permit coverage. Where possible, our regional officials attempt to resolve any identified areas of concern at the lowest possible level. Where unresolved issues are identified, resolution is sought at the next higher level.

When the state's formal coastal zone program application is received for review, the DOT Regional Secretarial Representative is responsible for preparing the Department's formal comments.

I recognize that the administration of the Act is an extremely difficult responsibility, made especially so because of the differing state laws involved. Each state, in developing its applicable laws for coastal zone program purposes, has to take into consideration all its other state responsibilities as well as the federal Act. The resulting authorities, while similar, vary considerably and may be based on differing interpretations. In developing regulations concerning state applications and maintenance requirements as well as federal consistency, NOAA has attempted to adequately treat the many variables, but serious areas of concern as previously stated have developed over interpretations of the Act. Federal agencies, including the Department of Transportation, have attempted and continue to attempt to resolve these varying interpretations. Over time, I feel that most differences will be resolved without the requirement for further congressional clarification.

In summary, Mr. Chairman, I would appreciate your favorable consideration of the Department of Transportation's request for clarification of the congressional intent in the national interest area and final consistency determinations for federal assistance programs to state and local governments and the recommendation on excluded lands.

I would again like to thank the Subcommittee for the opportunity to discuss the interests of the Department of Transportation and the Coast Guard in the Coastal Zone Management Program. I would be happy to answer any questions you or the other members may have at this time.

Attachment: "National Transportation Interest
in the Coastal Zone" dated August 29, 1975.



OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

August 29, 1975

NATIONAL TRANSPORTATION INTEREST
IN THE COASTAL ZONE

The development of a balanced national transportation system, including well articulated and integrated surface, air, water, and subsurface modes, is a primary element of the national interest. Transportation corridors, inland and coastal ports, and transportation support facilities are necessary adjuncts to such a system. When essential in the national interest, the construction, maintenance and improvement of present and future transportation systems on and under the surface of the land, on and under those waters subject to the jurisdiction of the United States, and in the air, shall predominate over less essential interests.

The national transportation interest is applicable in the coastal zone. It finds expression in the body of Federal laws, regulations and the related programs that influence, shape and support the development and functioning of the nation's transportation system. Basic to this body of law is the Congressional Declaration of Purpose in the Department of Transportation Act (49 USC 1651):

"The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources."

The body of Federal transportation law (see attachment) provides for both direct Federal actions and Federal programs of assistance to State and local government.

Attachment

Direct programs include deepwater port regulatory programs and maritime safety and navigation programs administered by the United States Coast Guard; air traffic control and air navigation programs administered by the Federal Aviation Administration; road construction programs in Federal lands administered by the Federal Highway Administration; rail safety regulations administered by the Federal Railroad Administration; pipeline safety regulations administered by the Materials Transportation Bureau; and operation of the St. Lawrence Seaway by the St. Lawrence Seaway Development Corporation. The national interest in the coastal zone is based on the body of law governing these programs. Each of these direct Federal transportation programs has some impact on at least some portion of the coastal zone. Coastal zone management programs should include explicit acknowledgment of and adherence to existing and future national interest in each of these direct transportation programs.

Federal assistance programs include Federal grants and loans to State and local government for airport construction, highway construction, railroad financial aid, urban mass transportation construction and operation, and for highway traffic safety. States and localities are involved in these assistance programs, not as mere instruments of Federal action, but as policy centers in their own right, with wide latitude to shape the transportation systems to serve local needs. But Federal statutes governing these assistance programs include constraints reflecting the national interest, such as protection of parklands, and reduction of air and noise pollution. In varying degrees, all Federal transportation assistance programs entail the weighing of national and State-local interests. Coastal zone management programs should reflect coordination with and consideration of transportation facilities and programs developed and planned with Federal assistance by State and local government.

In the application of direct Federal transportation programs and Federal transportation assistance programs, it is in the national interest to provide fast, safe, efficient, and convenient access via one or more modes of transportation (e.g., airway, highway, railway, waterway, bicycle, pedestrian) for the movement of people, goods, and services to, from, along, and through the coastal zone for purposes including, but not limited to the following:

- a. providing for the national defense (e.g., access to military installations)

b. maintaining the public safety and welfare (e.g., hurricane evacuation routes)

c. managing public lands in the coastal zone (e.g., access to wildlife sanctuaries)

d. providing for public recreation (e.g., beach access)

e. facilitating interstate and international commerce (e.g., access to seaports)

f. developing and using natural resources in the coastal zone and the outer continental shelf (e.g., oil, fisheries).

The national interest related to the different and varying conditions that exist in the coastal zones of the several coastal States will be more specifically addressed as each coastal State consults with the Regional Representative of the Secretary of Transportation during the development of their respective coastal zone programs.

ATTACHMENT

The body of Federal law governing transportation programs with existing or potential impact on the coastal zone, and administered in whole or in part by the U.S. Department of Transportation includes, but is not limited to:

- Department of Transportation Act (49 USC 1651, et seq.)
- Federal Aviation Administration Act of 1958, as amended (49 USC 1301, et seq.)
- Airport and Airways Development Act (49 USC 1701, et seq.)
- Title 23, USC, "Highways," Section 101, et seq.
- Urban Mass Transportation Act (49 USC 1601, et seq.)
- Railway Safety Act of 1970 (45 USC 421)
- Regional Rail Reorganization Act of 1973 (P.L. 93-236)
- Water Resources Planning Act (42 USC 1962)
- Federal Water Pollution Control Act Amendments of 1972 (33 USC 1151)
- Ports and Waterways Safety Act of 1972 (33 USC 1221-1227, 46 USC 391a)
- Deepwater Port Act of 1974 (33 USC 1501)
- Outer Continental Shelf Act (43 USC 1331-1343)
- Marine Protection, Research and Sanctuaries Act of 1972 (16 USC 1431, 33 USC 1401)
- Coast Guard, Primary Duties (14 USC 2)
- National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 USC 1381, et seq.)
- Highway Safety Act of 1966, as amended (23 USC 401, et seq.)
- Saint Lawrence Seaway Development Corporation Act of 1954, as amended (33 USC 981, et seq.)
- Natural Gas Pipeline Safety Act (49 USC 1671, et seq.)
- Transportation of Explosives Act (18 USC 831-835)
- Hazardous Materials Transportation Act (49 USC 1801-1811)