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APPROVED
DEC 18 1974

ACTION

THE WHITE HOUSE
WASHINGTON

Last Day: December 21

December 16, 1974

Filed 12/19
Tab 1 FS 12/19

MEMORANDUM FOR THE PRESIDENT
FROM: KEN *COLE*
SUBJECT: Enrolled Bill S. 1353 - Vessel Tonnage Deductions for Waste Materials

Attached for your consideration is S. 1353, sponsored by Senator Magnuson, which amends present vessel tonnage measurement laws to allow spaces used in collecting, processing or carrying shipboard-generated waste materials to be deducted from gross tonnage in calculating net tonnage.

OMB recommends approval and provides you with additional background information in its enrolled bill report at Tab A.

Bill Timmons and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign S. 1353 (Tab B)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APPROVED
DEC 18 1974

DEC 13 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1353 - Vessel tonnage deductions
for waste materials
Sponsor - Sen. Magnuson (D) Washington

Last Day for Action

December 21, 1974 - Saturday

Purpose

Amends present vessel tonnage measurement laws to allow spaces used for waste materials on vessels to be deducted from gross tonnage in determining net tonnage for computing duties and taxes.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of Transportation	Approval
Environmental Protection Agency	Approval
Department of State	Approval (Informally)

Discussion

At present, the net tonnage of a vessel is used to compute taxes and duties on the vessel as well as charges for services provided, for port facilities, harbor fees, and canal tolls. As a result, there is an economic disincentive to including in net tonnage any space in a vessel which is not revenue producing.

In June of 1967, amendments to the 1954 International Convention for the Prevention of Pollution of the Sea by Oil came into effect. These amendments greatly increased the number of areas of the oceans in which the discharge of waste is prohibited. Thus, the waste has to be retained on board

ships in spaces that could otherwise be used for cargo. This space is presently not deductible in the computation of net tonnage.

The enrolled bill would amend present law to allow spaces used in collecting, processing or carrying shipboard-generated waste materials to be deducted from gross tonnage in calculating net tonnage.

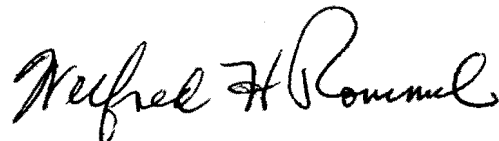
The enrolled bill is substantially identical to a draft bill that the Department of Transportation transmitted to Congress in February 1973. It differs in two respects. First, the list of deductible spaces is expanded to include other forms of waste now required to be stored consistent with the concept that non-revenue earning spaces should be exempted in computing net tonnage. Second, there are technical amendments unrelated to the substantive portions of the bill. Both provisions are acceptable to DOT and consistent with the DOT draft bill initially submitted.

The House Committee on Merchant Marine and Fisheries in its report on the bill stated:

"...This legislation will provide an additional incentive for shipowners and operators to cooperate in international and domestic efforts to prevent pollution of the seas."

The Department of Transportation in its views letter on the enrolled bill states that:

"A slight loss of Federal revenue will result from enactment of this legislation due to the non-taxability of the additional spaces allowed to be deducted from net tonnage under the bill. In our opinion, this loss in Federal revenue will be insignificant when compared with the increased protection to the marine environment that the legislation encourages."



Assistant Director for
Legislative Reference

Enclosures

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 13 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1353 - Vessel tonnage deductions
for waste materials.
Sponsor - Sen. Magnuson (D) Washington

Last Day for Action

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Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of Transportation	Approval
Environmental Protection Agency	Approval
Department of State	Approval (Informal)

Discussion

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In June of 1967, amendments to the 1954 International Convention for the Prevention of Pollution of the Sea by Oil came into effect. These amendments greatly increased the number of areas of the oceans in which the discharge of waste is prohibited. Thus, the waste has to be retained on board

To:-
Karen Kendrick
12-13-74
11:45 a.m.

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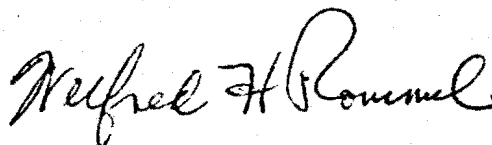
The enrolled bill is substantially identical to a draft bill that the Department of Transportation transmitted to Congress in February 1973. It differs in two respects. First, the list of deductible spaces is expanded to include other forms of waste now required to be stored consistent with the concept that non-revenue earning spaces should be exempted in computing net tonnage. Second, there are technical amendments unrelated to the substantive portions of the bill. Both provisions are acceptable to DOT and consistent with the DOT draft bill initially submitted.

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Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: ⁷⁷⁷~~774~~

Date: December 13, 1974

Time: 12:00 noon

FOR ACTION: Geoff Shepard *defu*
 Mike Duval *O.k.*
 Bill Timmons *O.k.*
 Phil Areeda *O.k.*

cc (for information): Warren Hendriks
 Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 18

Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 1353 - Vessel Tonnage Deductions
 for Waste Materials

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
 For the President

Date: December 13, 1974

Time: 12:00 noon

FOR ACTION: Geoff Shepard
 Mike Duval ✓
 Bill Timmons
 Phil Areeda

cc (for information): Warren Hendriks
 Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 18

Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 1353 - Vessel Tonnage Deductions
 for Waste Materials

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

OK

Mike Duval

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
 For the President



Date: December 13, 1974

Time: 12:00 noon

FOR ACTION: Geoff Shepard
Mike Duval
Bill Timmons
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 18

Time: 2:00 p.m.

SUBJECT: Enrolled Bill S. 1353 - Vessel Tonnage Deductions
for Waste Materials

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

*Sign
P. Areeda*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE
WASHINGTON

December 16, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS
FROM: WILLIAM E. TIMMONS *td*
SUBJECT: Action Memorandum - Log No. 777
Enrolled Bill S. 1353 - Vessel Tonnage
Deductions for Waste Materials

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



**GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

DEC 9 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning S. 1353, an enrolled enactment

"To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials."

S. 1353 would amend the present vessel admeasurement laws to allow as deductions from gross tonnage, in calculating net register tonnage, the cubic space filled by waste treatment devices and holding tanks. This would be in accord with the intent of the tonnage laws, which is to tax only usable cargo space, and would provide an incentive to shipowners and operators to cooperate in the program to prevent the pollution of the seas. Further, such a provision is in accord with international tonnage measurement practices.

This Department recommends approval by the President of S. 1353.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,

Karl E. Bakke

General Counsel



ASSISTANT SECRETARY

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

DEC 9 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

Reference is made to your request for the comments of the Department of Transportation concerning S. 1353, an enrolled bill

"To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials."

The enrolled bill is part of the legislative program of the Department of Transportation. It amends section 77 of title 46, United States Code, to permit the deduction from the gross tonnage of a vessel, in determining net tonnage, certain spaces used for the carriage of slop oil mixture, tank cleaning or bilge residue, or other waste materials, including sewage, garbage, galley wastes, or trash, and machinery used exclusively to separate, clarify, purify, or process slop oil mixture or other waste materials.

In May and June of 1967, certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, came into effect. These amendments greatly increased the number of areas and zones in which the discharge of oil and oily mixture is prohibited. The effect of these prohibitions is to require shipowners to retain slop oil on board vessels in spaces which would otherwise be available for the carriage of cargo. Also, recent anti-pollution statutes and regulations show a growing trend toward vessel holding tanks for the on-board retention of sewage and other wastes. The enrolled bill, by omitting from net tonnage those spaces which are not revenue producing because they are reserved for the carriage of certain waste materials, affords an additional incentive for shipowners and operators to participate more fully in the world-wide effort to reduce the pollution of the seas.

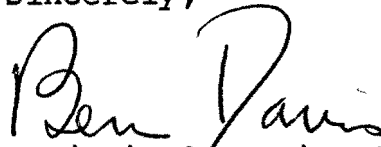
The enrolled bill differs in two respects from the legislative proposal originally submitted by this Department. During its consideration by the Senate, the list of deductible spaces was expanded to include those used to hold additional forms of liquid wastes and some forms of solid waste, such as garbage and trash. These amendments are consistent with the general concept of the tonnage laws that non-revenue earning spaces should be excluded from the computation of net tonnage. This Department is in agreement with the Senate amendments.

During its consideration of the bill, the House of Representatives made technical amendments, at our request, unrelated to the substance of the bill.

A slight loss of Federal revenue will result from enactment of this legislation due to the non-taxability of the additional spaces allowed to be deducted from net tonnage under the bill. In our opinion, this loss in Federal revenue will be insignificant when compared with the increased protection to the marine environment that the legislation encourages.

The Department of Transportation recommends that the President sign the enrolled bill.

Sincerely,



Benjamin O. Davis, Jr.
Assistant Secretary for Environment,
Safety, and Consumer Affairs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 11 1974

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Ash:

This is in response to your request of December 6, 1974 for the Environmental Protection Agency's views and comments on S. 1353, an enrolled bill to permit the deduction from gross tonnage in determining net tonnage of those spaces on board vessels used for waste materials.

A new section would be added to 46 U.S.C. 77, to provide that space occupied by machinery used to separate, clarify, or purify a ship's slop oil mixture, tank-cleaning residue, or other waste materials including sewage, and space occupied by tanks used to carry such materials, could be deducted from gross tonnage. Maximum space deductions would be established by the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency. This procedure would also be used to define the materials which would be covered, to define the manner in which spaces would be used and marked, and to take any other actions that might be necessary to carry out the provisions of the new subsection.

Further, the amendment will not affect the "deadweight tonnage" upon which liability under the oil-spill provisions of domestic legislation is determined. It would result in a reduction of a vessel's liability under the 1969 International Convention on Civil Liability for Oil Pollution Damage (because the basis for determining that liability is "net tonnage"). We do not see this as a serious problem, however, especially in light of the fact that this Agency will have a role in defining the materials and maximum deductions that will be permitted.

The Environmental Protection Agency supports this legislation and recommends it to the President for signature. The provisions of the bill would afford an additional incentive for shipowners and operators to cooperate in the prevention of pollution of the seas, by omitting from taxable tonnage, spaces which would not be revenue producing because they would be reserved for the carriage of slop oil and other waste materials.

Sincerely yours,

John Deaules, Deputy
for
Russell E. Train
Administrator

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503





DEPARTMENT OF STATE

Washington, D.C. 20520

DEC 12 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

In his communication of December 6, 1974 Mr. W.H. Rommel requested our views and recommendations regarding S. 1353, a bill "To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials". You may wish to review our letters of April 2, 1974 and May 22, 1973 to Mr. Rommel on this subject.

As a result of OMB's response to my letter of April 2, I informed Mrs. Sullivan, Chairman of the Committee on Merchant Marine and Fisheries on April 26, 1974 that the Department supported S.1353. The Department of State continues to support the enactment of this bill.

Cordially,

A handwritten signature in cursive script that reads "Linwood Holton".
Linwood Holton

Assistant Secretary for
Congressional Relations

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 77

Date: December 13, 1974

Time: 12:00 noon

FOR ACTION: Geoff Shepard
Mike Duval
Bill Timmons
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 18

Time: 2:00 p.m.

SUBJECT:

Enrolled Bill S. 1353 - Vessel Tonnage Deductions
for Waste Materials

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

*Defer to Duval
H.C.S.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

TONNAGE DEDUCTIONS

MARCH 12, 1974.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 1353]

The Committee on Commerce, to which was referred the bill (S. 1353), to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 1, line 5, strike out the word "paragraph", after the word "new" insert "subsection".

One page 1, line 7, strike out the word "or", after the word "purify" insert ", or process", and after the word "mixture" insert a comma.

On page 1, line 8, strike out the first word "or", after the word "residue" insert ", bilge residue,".

On page 1, line 9, after the word "sewage," insert "garbage, galley wastes, or trash", insert a comma following the word "tank", strike out the word "or" preceding the word "tanks", and after the word "tanks" insert ", or collection area".

On page 1, line 10, after the word "carriage" insert "or collection".

PURPOSE OF THE LEGISLATION

The purpose of S. 1353 is to amend the present vessel admeasurement laws to allow as deductions from gross tonnage, in determining net or register tonnage, certain non-revenue earning spaces which are used in collecting, processing or carrying shipboard-generated waste materials. Net or register tonnage is used to compute some tonnage duties and taxes, as well as for assessing dues and charges for various services provided to a vessel, such as for port facilities, harbor fees, and canal tolls.

BACKGROUND

Gross tonnage is a measure of a vessel's entire internal capacity expressed in tons of 100 cubic feet. Net tonnage is the tonnage of a ship remaining after certain deductions have been made from the gross tonnage, also expressed in tons of 100 cubic feet. In other words, net tonnage is a measure of a vessel's earning capacity, that is its cargo and passenger carrying space.

Under existing law, gross tonnage is measured by determining the volume of space within the vessel's hull, bounded at the top by the under surface of the upper deck, at the bottom by the bottom frames or floors, and at the sides by the lines of the inner surfaces of the side frames. Also included in gross tonnage are various closed-in above deck structures which contain spaces available for cargo, stores, or the berthing or accommodation of passengers.

Net tonnage is determined by deducting those spaces authorized by law from gross tonnage. Current law, section 4153 of the Revised Statutes (46 U.S.C. 77) authorizes the deduction of spaces used exclusively for the crew; for the master; for working the helm or the capstan; for keeping the charts, signals, or other instruments of navigation; for the boatswain's stores; for the propelling machinery, the donkey engine and the boiler; and in the case of a ship propelled wholly by sails, space for storing the sails. Although some of the deducted spaces are capable of being used as revenue earning spaces, the important consideration is that they are not so used.

On October 25, 1967, the Intergovernmental Maritime Consultative Organization (IMCO), by Resolution A.115(v), recommended that space occupied by machinery used exclusively to separate, clarify, or purify a ship's own slop oil mixture or tank cleaning residue, or space occupied by a tank or tanks used exclusively for the carriage of slop oil mixture or residue, be deducted when determining net tonnage. The Committee has no knowledge that any nation has as yet incorporated this IMCO recommendation into its domestic law.

On June 23, 1969, the U.S. signed the International Convention on Tonnage Measurement of Ships, 1969. The Senate has not yet given its advice and consent to this Convention. S. 1353, as amended, is compatible with this Convention. The spaces proposed for deduction in the bill, as amended, would be excluded in determining net tonnage under the terms of the Convention.

The bill provides that maximum space deductions would be established by regulations to be issued by the Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency. This procedure would also be used to define the materials to be covered and the manner in which the spaces shall be used and marked.

By Executive Communication dated February 27, 1973, the Secretary of the Department of Transportation recommended legislation to amend section 77 of title 46, United States Code to permit the deduction from gross tonnage in determining net tonnage of those spaces on board vessels used for waste materials. The legislation transmitted by the Secretary was introduced in the Senate on March 22, 1973, as S. 1353.

On August 2, 1973, the Committee gave public notice that it was considering S. 1353 and invited interested parties to submit written statements on the bill by September 17, 1973. The submissions made were given thorough consideration by the Committee and resulted in the amendments made by the Committee.

NEED FOR THE LEGISLATION

Commencing with the implementation of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, restrictions on disposal of oil and oily mixture have greatly increased. The 1954 Convention, subsequent amendments thereto and other pollution control measures have made it necessary or desirable that vessels be equipped with sewage treatment plants, oil/water separators, and holding tanks for oil, oily water, sewage and other wastes.

Enactment of S. 1353, as amended, will add to the current list of deductible spaces, those spaces dedicated to the collection, processing or carrying of a vessel's own waste material. Since some tonnage taxes and other charges are based on a vessel's net tonnage, inclusion of space within a vessel which is not revenue-producing carries with it an additional economic penalty beyond an increase in normal operating costs. This legislation will provide an additional incentive for shipowners and operators to cooperate in international and domestic efforts to prevent pollution of the seas.

Although the International Convention on Tonnage Measurement of Ships, 1969, will allow the exclusion of these spaces in determining net tonnage, this legislation is still needed in that the Convention is not likely to come into force before 1976. Also, under the terms of the Convention, many vessels which are measured before the date it comes into force will retain those tonnages for twelve years after that date. Thus, enactment of S. 1353, as amended, will enable owners who convert spaces into these non-revenue earning uses on existing vessels to obtain for those vessels benefits which would otherwise accrue only to ships measured under the Convention.

EXPLANATION OF AMENDMENTS

The amendments expand slightly the deductible spaces to ensure that the legislation remains relevant to foreseeable regulations governing waste materials. With the current international and domestic trends toward the onboard retention of wastes, these amendments appear appropriate. Additionally, these amendments are consistent with the concept of tonnage laws which exclude non-revenue earning space from the net tonnage. The Department of Transportation has indicated that it favors these amendments.

CONCLUSION

The Committee ordered the legislation favorably reported with amendments. Its enactment will be economically beneficial to U.S.-flag shipowners and operators and will encourage rapid compliance with new requirements directed toward reducing marine pollution.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that there will be no additional costs incurred by the Government as a result of the enactment of this legislation.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SECTION 4153 OF THE REVISED STATUTES, AS AMENDED (46 U.S.C. 77)

* * * * *

(e) *Space occupied by machinery used exclusively to separate, clarify, purify, or process, a ship's own slop oil mixture, tank-cleaning residue, bilge residue, or other waste materials, including sewage, garbage, galley wastes, or trash and space occupied by any tank, tanks, or collection area used exclusively for the carriage or collection of such slop oil mixture, tank-cleaning residue, or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder. The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency, shall issue regulations to define the slop oil mixtures, cleaning residue, and waste materials, establish the maximum deductions which may be made, define the manner in which the spaces shall be used and marked, and as necessary otherwise to carry out the provisions of this subsection.*

~~[(e)]~~ (f).
~~[(f)]~~ (g).
~~[(g)]~~ (h).
~~[(h)]~~ (i).
~~[(i)]~~ (j).

AGENCY COMMENTS

The departmental reports are as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
 Washington, D.C., November 26, 1973.

HON. WARREN G. MAGNUSON,
 Chairman, Committee on Commerce,
 U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to your request for comments on S. 1353, a bill which would permit the deduction from gross tonnage in determining net tonnage of those spaces on board vessels used for waste materials.

A new section would be added to 46 USC 77, to provide that space occupied by machinery used to separate, clarify, or purify a ship's slop oil mixture, tank-cleaning residue, or other waste materials in-

cluding sewage, and space occupied by tanks used to carry such materials, could be deducted from gross tonnage. Maximum space deductions would be established by the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency. This procedure would also be used to define the materials which would be covered, to define the manner in which spaces would be used and marked, and to take any other actions that might be necessary to carry out the provisions of the new subsection.

The Environmental Protection Agency has no objection to the enactment of this Administration-sponsored bill. The amendment will not affect the "deadweight tonnage" upon which liability under the oil-spill provisions of domestic legislation is reckoned. It would result in a reduction of a vessel's liability under the 1969 International Convention on Civil Liability for Oil Pollution Damage (because the basis for determining that liability is "net tonnage"). We do not see this as a serious problem, however, especially in light of the fact that this Agency will have a role in defining the materials and maximum deductions that will be permitted.

The Office of Management and Budget advises that enactment of this bill would be in accord with the President's program.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., October 29, 1973.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to S. 1353, a bill to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

The amount of the net register tonnage of a vessel is used to compute some taxes on the vessel as well as the charges for many services provided to the vessel. As a consequence, the inclusion of space within a vessel which is not revenue producing carries with it an additional economy penalty beyond an increase in normal operating costs.

Recent pollution control measures and procedures have made it necessary or desirable that vessels install sewage treatment plants, oil/water separators and holding tanks for oil, oily water, sewage and other wastes. Such installations require the use of significant amounts of space aboard vessels which might otherwise be used for the carriage of cargo. This space is presently included in the computation of net register tonnage.

S. 1353 would amend the present admeasurement laws to allow as deductions from gross tonnage, in calculating net register tonnage, the cubic space filled by waste treatment devices and holding tanks. This would be in accord with the intent of the tonnage laws, which is to tax only usable cargo space, and would provide an incentive to shipowners and operators to cooperate in the program to prevent the pollution of

the seas. Further, such a provision is in accord with international tonnage measurement practices. As a consequence, the Department recommends favorable consideration of the bill.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

○

DEDUCTION FROM GROSS TONNAGE

SEPTEMBER 30, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany S. 1353]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (S. 1353) to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 1, line 4, strike the word "subsection" and insert in lieu thereof the word "paragraph".

On page 1, line 5, strike the word "subsection:" and insert in lieu thereof the word "paragraph:".

On page 2, line 11, strike the word "subsection." and insert in lieu thereof the word "paragraph.".

On page 2, line 14, strike the word "subsections" and insert in lieu thereof the word "paragraphs".

PURPOSE OF THE LEGISLATION

S. 1353 will amend section 77 of title 46, United States Code, to permit the deduction from gross tonnage of a vessel, in determining net tonnage, of certain spaces used for carriage of slop oil mixture or other waste materials.

The provisions of the proposed bill would afford an additional incentive for shipowners and operators to cooperate in the prevention of pollution of the seas, by omitting from the taxable net tonnage, spaces which would not be revenue producing because they would be reserved for the carriage of slop oil and other waste materials.

Specifically, this amendment to the present vessel admeasurement laws will allow as deductions from gross tonnage, in determining net or register tonnage, certain non-revenue earning spaces which are used in collecting, processing, or carrying shipboard-generated waste materials. Net or register tonnage is used to compute some tonnage

duties and taxes, as well as for assessing dues and charges for various services provided to a vessel, such as for port facilities, harbor fees, and canal tolls.

BACKGROUND

Gross tonnage is a measure of a vessel's entire internal capacity expressed in tons of 100 cubic feet. Net tonnage is the tonnage of a ship remaining after certain deductions have been made from the gross tonnage, also expressed in tons of 100 cubic feet. In other words, net tonnage is a measure of a vessel's earning capacity; that is, its cargo and passenger carrying space.

Under existing law, gross tonnage is measured by determining the volume of space within the vessel's hull, bounded at the top by the under surface of the upper deck, at the bottom by the bottom frames or floors, and at the sides by the lines of the inner surfaces of the side frames. Also included in gross tonnage are various closed-in above deck structures which contain spaces available for cargo, stores, or the berthing or accommodation of passengers.

Net tonnage is determined by deducting those spaces authorized by law from gross tonnage. Current law, section 4153 of the Revised Statutes (46 U.S.C. 77), authorizes the deduction of spaces used exclusively for the crew; for the master, for working the helm or the capstan; for keeping the charts, signals, or other instruments of navigation; for the boatswain's stores; for the propelling machinery, the donkey engine and the boiler; and, in the case of a ship propelled wholly by sails, space for storing the sails. Although some of the deducted spaces are capable of being used as revenue earning spaces, the important consideration is that they are not so used.

Legislation of this type was introduced in the 89th Congress. The Congress decided however, that since the entire problem of tonnage measurement was under consideration by the Intergovernmental Maritime Consultative Organization on an international basis, such legislation was premature and should await action by that organization.

On October 25, 1967, IMCO, by Resolution A. 115(v), recommended that space occupied by machinery used exclusively to separate, clarify, or purify a ship's own slop oil mixture or tank cleaning residue, or space occupied by a tank or tanks used exclusively for the carriage of slop oil mixture or residue, be deducted when determining net tonnage. The Committee has no knowledge that any nation has as yet incorporated this IMCO recommendation into its domestic law.

On June 23, 1969, the United States signed the International Convention on Tonnage Measurement of Ships, 1969. The Senate has not yet given its advice and consent to this Convention. S. 1353, as amended, is compatible with this Convention. The spaces proposed for deduction in the bill, as amended, would be excluded in determining net tonnage under the terms of the Convention.

The bill provides that maximum space deductions would be established by regulations to be issued by the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency. This procedure would also be used to define the materials to be covered and the manner in which the spaces shall be used and marked.

By Executive Communication dated February 27, 1973, the Secretary of the Department of Transportation recommended legislation

to amend section 77 of title 46, United States Code, to permit the deduction from gross tonnage in determining net tonnage of those spaces on board vessels used for waste materials. The legislation transmitted by the Secretary was introduced in the House of Representatives on April 19, 1973, as H.R. 7269.

The Senate passed an identical bill, S. 1353, with amendments requested by the American Institute of Merchant Shipping (AIMS) on March 13, 1974. The AIMS amendments expand slightly the deductible spaces to ensure that the legislation remains relevant to foreseeable regulations governing waste materials. With the current international and domestic trends toward the onboard retention of wastes, these amendments were deemed appropriate. Additionally, these amendments are consistent with the concept of tonnage laws which exclude non-revenue earning space from the net tonnage. The Coast Guard and the Department of Transportation testified in favor of these amendments and recommended minor technical amendments.

The Committee held hearings on H.R. 7269 and S. 1353 on July 18, 1974. There was no opposition to the proposal, and supporting testimony was received from the Coast Guard and AIMS for the Senate-passed bill, S. 1353, with minor technical amendments.

NEED FOR THE LEGISLATION

The enactment of this bill will, according to the Coast Guard, be economically beneficial to United States-flag shipowners and operators and this will encourage rapid compliance with new requirements directed toward reducing marine pollution.

In testifying to the loss of tonnage taxes to the government, the Coast Guard witness, Rear Admiral Edward D. Scheiderer, supplied the following statement to the Coast Guard Subcommittee:

“. . . the United States Customs Service advised us that revenue from tonnage duties in 1973 were \$9.4 million collected from vessels of all nationalities calling at United States ports. Since the bill would affect the net tonnage only of United States vessels, we doubt if the loss in tonnage taxes would be as much as \$90,000 in a year.”

With the implementation of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, restrictions on disposal of oil and oily mixture have greatly increased. The 1954 Convention, with its subsequent amendments, the recently negotiated International Convention for the Prevention of Pollution from Ships, 1973, and other pollution control measures have made it necessary or desirable that vessels be equipped with sewage treatment plants, oil/water separators, and holding tanks for oil, oily water, sewage, and other wastes.

Enactment of S. 1353 as amended will add to the current list of deductible spaces those spaces dedicated to the collection, processing, or carrying of a vessel's own waste material. Since some tonnage taxes and other charges are based on a vessel's net tonnage, inclusion of space within a vessel which is not revenue-producing carries with it an additional economic penalty beyond an increase in normal operating costs. This legislation will provide an additional incentive for

shipowners and operators to cooperate in international and domestic efforts to prevent pollution of the seas.

Although the International Convention on Tonnage Measurement of Ships, 1969, will allow the exclusion of these spaces in determining net tonnage, this legislation is still needed in that the Convention is not likely to come into force before 1976. Also, under the terms of the Convention, many vessels which are measured before the date it comes into force will retain those tonnages for twelve years after that date. Thus, enactment of S. 1353 as amended will enable owners who convert spaces into these non-revenue earning uses on existing vessels to obtain for those vessels benefits which would otherwise accrue only to ships measured under the Convention.

COMMITTEE ACTION AND CONCLUSION

During the Full Committee mark-up session, a question was raised as to whether the legislation would discriminate against ocean-going tugs and barges. The Coast Guard advised the Committee that the legislation applies to all vessels documented in the United States, which would include both barges and tugs if they contain the characteristics enumerated in the amendment.

Further concern was expressed over the potential loss of revenue to local port authorities as the result of the passage of this legislation. The Coast Guard advised, however, that the amendment in no way detracts from the capability of such authorities from maintaining current levels of revenue collection.

The Committee ordered the legislation, S. 1353, as amended favorably reported.

COST OF THE LEGISLATION

Pursuant to Clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that there will be no additional costs incurred by the Government as a result of the enactment of this legislation.

DEPARTMENTAL REPORTS

S. 1353 (H.R. 7269) was the subject of an Executive Communication (No. 515) from the Secretary of Transportation. The text follows herewith. There also follows the text of reports from the Departments of Commerce, and State and the Environmental Protection Agency:

[EXEC. COMM. No. 515]

THE SECRETARY OF TRANSPORTATION.

Washington, D.C., February 27, 1973.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill "To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials."

The proposed bill would amend Section 77 of Title 46, United States Code, to permit the deduction from gross tonnage of a vessel, in determining net tonnage, of certain spaces used for carriage of slop oil mixture or other waste materials, including sewage, and machinery used exclusively to separate, clarify or purify slop oil mixture or sewage.

In May and June of 1967, certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, came into effect. These amendments greatly increased the number of areas and zones in which the discharge of oil and oily mixture is prohibited. Thus, shipowners now find it necessary to retain slop oil on board vessels in spaces which would otherwise be available for the carriage of cargo. In similar vein, recent and anticipated anti-pollution statutes and regulations indicate a growing trend toward vessel holding tanks for the retention of sewage and other liquid wastes. The provisions of the proposed bill would afford an additional incentive for, an encourage cooperative efforts on the part of, shipowners and operators in behalf of the program for prevention of pollution of the seas, by omitting from the taxable net tonnage spaces which would not be revenue producing because they would be reserved for the carriage of slop oil and other waste materials.

A similar bill, H.R. 11533, but not including the sewage aspect, was introduced in the 89th Congress, First Session. It was subsequently decided, however, that since the entire problem of tonnage measurement was under consideration by the Intergovernmental Maritime Consultative Organization (IMCO) on an international basis, the proposal in H.R. 11533 should not be dealt with on a unilateral basis by the United States but should be referred to IMCO for consideration and action.

The United States presented a proposal containing the provisions of H.R. 11533 to IMCO in September 1966. This proposal was approved by the IMCO Subcommittees on Tonnage Measurement and Oil Pollution and the Maritime Safety Committee, and finally by the IMCO Assembly at its Fifth Session in October 1967. Accordingly, it was determined appropriate to proceed with domestic legislation and this Department proposed it in the 91st Congress (H.R. 6970 and S. 1239) and in the 92nd Congress (S. 3989). The proposals were not the subject of Congressional action in either instance. The current proposal is similar to that introduced in the 92nd Congress, S. 3989 in that it includes sewage or other waste materials spaces as within the admeasurement deduction, and provides for consultation with the Administrator of the Environmental Protection Agency in the issuance of regulations.

It would be appreciated if you would lay this proposal before the House of Representatives. A similar proposal has been submitted to the President of the Senate.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

GENERAL COUNCIL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., May 28, 1974.

HON. LEONOR K. SULLIVAN,
*Chairman, Committee on Merchant Marine and Fisheries, House of
Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in reply to your request for the views of this Department with respect to S. 1353, an act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

The amount of the net register tonnage of a vessel is used to compute some taxes on the vessel as well as the charges for many services provided to the vessel. As a consequence, the inclusion of space within a vessel which is not revenue producing carries with it an additional economic penalty beyond an increase in normal operating costs.

Recent pollution control measures and procedures have made it necessary or desirable that vessels install sewage treatment plants, oil/water separators and holding tanks for oil, oily water, sewage and other wastes. Such installations require the use of significant amounts of space aboard vessels which might otherwise be used for the carriage of cargo. This space is presently included in the computation of net register tonnage.

S. 1353 would amend the present admeasurement laws to allow as deductions from gross tonnage, in calculating net register tonnage, the cubic space filled by waste treatment devices and holding tanks. This would be in accord with the intent of the tonnage laws, which is to tax only usable cargo space, and would provide an incentive to ship-owners and operators to cooperate in the program to prevent the pollution of the seas. Further, such a provision is in accord with international tonnage measurement practices. As a consequence, the Department recommends favorable consideration of the act.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

DEPARTMENT OF STATE,
Washington, D.C., April 26, 1974.

HON. LEONOR K. SULLIVAN,
*Chairman, Committee on Merchant Marine and Fisheries, House of
Representatives.*

DEAR MRS. SULLIVAN: The Secretary has asked me to reply to your letter of April 25, 1973 requesting comment on S. 1353, a bill "To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials."

The Department notes that S. 1353 would amend Section 4153 of the Revised Statutes (46 U.S.C. 77) by inserting, following subsection (d), paragraph (e), which would allow the deduction from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials, viz., "Space occupied by machinery used exclu-

sively to separate, clarify, or purify a ship's own slop oil mixture or tank-cleaning residue or other waste materials, including sewage, and space occupied by any tank or tanks used exclusively for the carriage of such slop oil mixture, tank-cleaning residue, or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder." The proposed amendment would also grant the United States Coast Guard authority for implementing these regulations.

The Department of State supports S. 1353 in that it will codify as national law a position the United States Government has advocated in the Intergovernmental Maritime Consultative Organization. On October 25, 1967 Resolution A. 115 (v), sponsored by the United States, was adopted at the Fifth IMCO Assembly meeting. This resolution (complete text enclosed) which concerns a "recommendation on the treatment of spaces on board ships for the separation, clarification or purification, and the carriage of slop oil, has the same objective as S. 1353, i.e. the deduction of certain spaces from gross tonnage in determining net tonnage. However, S. 1353 slightly expands the scope of the IMCO resolution in that it includes deduction for space occupied by machinery used exclusively for "other waste materials," i.e. sewage equipment, in addition to "machinery used to separate, clarify, or purify a ship's own slop oil mixture or tank-cleaning residue." Adoption of S. 1353 would nevertheless be consistent with present United States foreign policy, as stated in IMCO, in that we have used this broader language in discussions relating to the IMCO international Conference on Marine Pollution which was held last October in London.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

LINWOOD HOLTON,
*Assistant Secretary
for Congressional Relations.*

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., July 15, 1974.

HON. LEONOR K. SULLIVAN,
*Chairman, Committee on Merchant Marine and Fisheries, House of
Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: I am writing in response to your telephone request of July 9, 1974, for comments on H.R. 7269, a bill which would permit the deduction from gross tonnage in determining net tonnage of those spaces on board vessels used for waste materials.

A new section would be added to 46 U.S.C. 77, to provide that space occupied by machinery used to separate, clarify, or purify a ship's slop oil mixture, tank-cleaning residue, or other waste materials including sewage, and space occupied by tanks used to carry such materials, could be deducted from gross tonnage. Maximum space deductions would be established by the Secretary of the Department in which the Coast Guard is operating, in consultation with the Administrator of the Environmental Protection Agency. This procedure would also

be used to define the materials which would be covered, to define the manner in which spaces would be used and marked, and to take any other actions that might be necessary to carry out the provisions of the new subsection.

The Environmental Protection Agency has no objection to the enactment of H.R. 7269. The amendment will not affect the "deadweight tonnage" upon which liability under the oilspill provisions of domestic legislation is reckoned. It would result in a reduction of a vessel's liability under the 1969 International Convention on Civil Liability for Oil Pollution Damage (because the basis for determining that liability is "net tonnage"). We do not see this as a serious problem, however, especially in light of the fact that this Agency will have a role in defining the materials and maximum deductions that will be permitted.

The Office of Management and Budget advises that enactment of this bill would be in accord with the President's program.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SECTION 4153 OF THE REVISED STATUTES, AS AMENDED

(46 U.S.C. 77)

* * * * *

(e) Space occupied by machinery used exclusively to separate, clarify, purify, or process, a ship's own slop oil mixture, tank-cleaning residue, bilge residue, or other waste materials, including sewage, garbage, galley wastes, or trash and space occupied by any tank, tanks, or collection area used exclusively for the carriage or collection of such slop oil mixture, tank-cleaning residue, or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder. The Secretary of the department in which the Coast Guard is operating in consultation with the Administrator of the Environmental Protection Agency, shall issue regulations to define the slop oil mixtures, cleaning residue, and waste materials, establish the maximum deductions which may be made, define the manner in which the spaces shall be used and marked, and as necessary otherwise to carry out the provisions of this paragraph.

[(e)] (f).
[(f)] (g).
[(g)] (h).
[(h)] (i).
[(i)] (j).



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4153 of the Revised Statutes (46 U.S.C. 77) is amended by inserting following paragraph (d) the following new paragraph:

"(e) Space occupied by machinery used exclusively to separate, clarify, purify, or process, a ship's own slop oil mixture, tank-cleaning residue, bilge residue, or other waste materials, including sewage garbage, galley wastes, or trash and space occupied by any tank, tanks, or collection area used exclusively for the carriage or collection of such slop oil mixture, tank-cleaning residue, or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder. The Secretary of the department in which the Coast Guard is operating in consultation with the Administrator of the Environmental Protection Agency, shall issue regulations to define the slop oil mixtures, cleaning residue, and waste materials, establish the maximum deductions which may be made, define the manner in which the spaces shall be used and marked, and as necessary otherwise to carry out the provisions of this paragraph."

SEC. 2. Section 4153 of the Revised Statutes (46 U.S.C. 77) is further amended by redesignating existing paragraphs (e) through (i) as (f) through (j).

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 10, 1974

Dear Mr. Director:

The following bill was received at the White House on December 10th:

S. 1353

Please let the President have reports and recommendations as to the approval of this bill as soon as possible.

Sincerely,

**Robert D. Linder
Chief Executive Clerk**

**The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.**