

FEDERAL PREEMPTION OF FIELD

We have one further important suggestion. S. 2760 should "preempt the field" by providing that no other Federal statutes shall be construed as including within their terms a discharge of oil and that no State or local government or administrative agency may impose on any vessel owner or operator any requirement, penalty, or liability with respect to cleanup of any discharge of oil into or on the territorial seas or navigable waters of the United States.

"GOOD SAMARITAN" PROVISION

As will be noted by Mr. Gammelgard, voluntary cooperative programs to prevent and clean up oil spills have been hampered in the past by fear of liability for civil damages to third parties. There are times when the swift assistance of someone with appropriate equipment at or near the scene of an accident could help to prevent the spread of an oil spill, and thus minimize potential damage. I should therefore like to join Mr. Gammelgard in urging that a good samaritan provision, along the lines of the one he will suggest, be incorporated in this bill.

We do have a few thoughts in connection with other portions of the bill. However, as Mr. Gammelgard will discuss these in detail, I will merely state here that we support his recommendations.

Before concluding my statement, I should like to briefly summarize the major points of my testimony:

One, the petroleum industry shares the concern of the public and of public officials over the problem of oil pollution. We fully support responsive and effective legislation to help solve this problem.

Two, we believe that section 19(e) as written does not adequately protect the public interest, since it overlooks the question of financial capability.

Three, we urge amendments incorporating this concept of financial capability which, in its simplest form, means the insurability of the cost of removal of a spill.

We urge further amendment of the bill to provide that liability for the costs of removing a spill is subject to a realistic limitation unrelated to existing limitation of liability statutes.

We believe the bill should be changed to excuse the innocent party from liability for the cost of removing a spill and hold the negligent party who caused the spill liable for the costs.

We also suggest an amendment stipulating that, whenever it appears that a vessel discharged oil requiring removal, the Secretary of the Interior shall presume the shipowner or operator to be at fault until lack of fault has been established.

We would like to see a provision in the bill specifically permitting a shipowner to recover his costs in removing an oil spill from a third party whose negligence is proved to have caused the spill.

We believe this bill should "preempt the field," precluding State or other Federal action with regard to discharge of oil by vessels.

And, finally, we urge the adoption of a good samaritan provision to encourage the development of voluntary mutual assistance programs to combat oil spills.