

port authority, the fire department, the state police, the Coast Guard, the Corps of Engineers, and, in a few instances, the Federal Water Pollution Control Administration.

Usually, a harbor pollution abatement committee is formed—with both industry and government members—to assess local needs and devise a procedural plan. The oil companies and other industries underwrite the cost of most—and in some cases all—of the emergency equipment purchased, such as floating booms, skimming devices, or pumping equipment.

Lines of communication are set up, and the duties and responsibilities of each of the government agencies and industries are defined. Usually, the local port authority or fire department assumes responsibility for storage and deployment of equipment and the oil companies agree to remove the oil once it has been contained.

There were only a handful of these cooperative programs just a year ago. But right now more than 25 programs are either in effect or being organized. Eventually, we would hope to have an active program at every major harbor in the nation, but there is one serious stumbling-block—and one that the Congress could help to remove.

"GOOD SAMARITAN" PROVISION

Although our enthusiasm to get more of these programs underway is very strong, a question has been raised concerning the possibility of liability to third parties for accidents during a cooperative cleanup operation. Because of this question, some companies have been reluctant to agree to lend manpower assistance in cleaning up a spill for which somebody else's vessel is responsible.

One way to resolve this problem would be to incorporate an appropriate Good Samaritan clause in the legislation now before the Committee. Under such a clause, any person who voluntarily assisted a vessel owner or operator in cleaning up spilled oil would be relieved of liability for civil damages except in cases of willful or wanton misconduct. If such a provision is adopted, I am confident the response of the petroleum industry will be both positive and prompt.

OTHER PROVISIONS OF S. 2760

I would now like to comment on several provisions of S. 2760. As Mr. Checket indicated in his statement, the bill contains a number of provisions—in addition to Section 19(e)—that are of concern to us.

First of all, we fully support the criminal provision of S. 2760, Section 19(c), as applied to vessels. There is, however, one foreseeable problem in its application, as well as in the application of the civil-penalty provision, Section 19(d).

Both provisions prescribe penalties for discharges of oil, but, as "oil" and "discharge" are defined, severe federal penalties could be exacted even for a very minor, harmless discharge. Clearly this does not reflect the true intent of the bill. Therefore, we urge that the definition of "oil" in Section 19(a) be modified slightly to read:

"Oil means substantial floating oil of any kind or in any form, including, but not limited to, fuel oil, sludge, oil refuse, and oil mixed with other matter."

This definition would give both the potential polluter and the on-the-scene enforcement officer some guidance, in interpreting the statute, as to what conduct is intended to be prohibited.

Also, in Section 19(c), the criminal provision would apply only to the owner or operator of a vessel or shore installation, or to their employees. But it is conceivable that others—such as vandals or saboteurs—might also be guilty of willful act. Thus, we urge that the words "or any other person" be added to this subsection—and, of course, that the reference to shore installations be deleted.

I will not comment in detail on Section 19(e) or the overall question of liability for costs of oil removal, since Mr. Checket has already done so. I would like to point out, however, that S. 2760 contains no definition of "remove" or "removal" and thus provides no guidance as to what is expected.

Because actual physical removal is often impractical, a literal interpretation of the term "removal" would be unreasonable in many cases. Therefore, we urge that a definition of the term be included in the bill, and we suggest the following language: "‘remove’ or ‘removal’ means the taking of all appropriate