The second revision is in the definition of the word "oil". The changes in this definition were necessitated by the addition of "shore installation". The revision makes it clear that the bill would cover discharge wastes that include oil, or oily mixtures.

9. Sec. 19(e) provides that the owner or operator involved in a discharge shall remove the discharged oil immediately. If the owner or operator fails to do so, the Secretary may arrange for its removal and such owner or operator will be liable for the full actual costs of cleanup. The cost of removal is in addition to any penalties prescribed in Sec. 19. The only exception to this cleanup liability is where the spill was due to "an act of God".

10. Authorizes appropriations to a revolving fund to enable the Secretary to finance cleanup measures.

11. Under subsection (g) the Commandant of the Coast Guard may suspend or revoke licenses issued to the master or any other officer of the vessel found violating provisions of Sec. 19(b).

12. Subsection (h) provides for the issuance of regulations by the Secretary of the Interior which (1) set out method and procedure for removing oil from the navigable waters, (2) facilitate enforcement of the section, and (3) will assist in preventing pollution of the navigable waters. He may also issue regulations which authorize the discharge of oil under certain circumstances.

Turning now to the bill itself, section 19(a) of the Federal Water Pollution Control Act, as amended by H.R. 14000, contains a number of definitions of terms employed in the statute.

PROHIBITION AND PENALTY PROVISIONS UNCLEAR

Subsection 19(b) would make it unlawful to discharge or permit the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines of the United States except (1) in case of emergency imperiling life or property, (2) unavoidable accident, collision, or stranding, or (3) as otherwise permitted by regulations prescribed by the Secretary of the Interior.

Since the bill uses the terms "*unavoidable* accident, collision, or stranding", the logical presumption is that some degree of fault would have to be shown for a violation to be proved. Yet, in Senate Report No. 917, accompanying S. 2760, there appears the following explanation of the language of section 19(b):

"The bill would make it unlawful for anyone to idscharge oil into the waters covered b ythe bill or upon the adjoining shorelines of the United States and Puerto Rico, Guam, American Samoa, and the Virgin Islands, *regardless of fault*. The amended 1924 act now prohibits only grossly negligent and willful discharges of oil. The bill, like the 1924 act, recognizes that there are exceptions to this general prohibition which should be recognized in applying a criminal statute. These are cases of emergency where life or property are involved, other than the property of the vessel or shore installation, or cases of unavoidable accident, collision, or stranding. Thus, the test under the bill is whether the vessel or shore installation discharged the oil and, if it did, whether the discharge was excusable under one of these exceptions. If the discharge did not come under one of the exceptions, then the discharge is unlawful." (Emphasis supplied.)

The best that can be said for section 19(b) as it now reads is that its meaning is not clear. It could be construed as rendering any spilling of oil "unlawful" unless the owner or operator can establish that the spill was due to "an emergency imperiling life or property, or unavoidable accident, collision, or stranding, and except as otherwise permitted by regulations prescribed by the Secretary * * *." In other words, the burden of proof would shift to the owner or operator to prove he was not in violation.

Subsection (c) would make it a crime, subject to the imposition of a fine or imprisonment, or both, whenever the provisions of such subsection (b) are willfully violated. And subsection (d) would impose a civil penalty of not more than $10,000 for violations of subsection (b). Said subsection (d) also would authorize denial of clearance of a vessel liable for the civil penalty until the penalty is paid or its payment guaranteed. Furthermore, an unpaid penalty would constitute a lien on the vessel. Thus, both the criminal provisions of subsection 19(c) and the civil penalty provisions of subsection 19(d) are tied to the language of subsection 19(b).

Of course, subsection 19(c) does contain the word "wilfully" and the Senate Report says, "The bill and the 1924 act would require that this penalty only