

behalf of the gentleman from Virginia [Mr. BLILEY]. That bill will be called up under the Corrections Calendar later today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. OBERSTAR. Reserving the right to object, Mr. Speaker, I do so for the purpose of inquiring of the gentleman from North Carolina for what purpose he makes this unanimous-consent request.

Mr. BURR. Mr. Speaker, if the gentleman will yield, to offer an amendment in the nature of a substitute on behalf of the gentleman from Virginia [Mr. BLILEY].

Mr. OBERSTAR. Mr. Speaker, the concern that I have is that this procedure violates the rules of Corrections Day. Under the rules, the bill called up, "shall not be subject to amendment, except those amendments recommended by the primary committee of jurisdiction, or those offered by the Chairman of the primary committee," and it does not say, or his designee.

Mr. BURR. If the gentleman will continue to yield, I recognize the gentleman's concern. The gentleman from Virginia [Mr. BLILEY] has been unavoidably detained, and we have an amendment in the nature of a substitute that has been worked out between the Committee on Commerce, the Committee on Transportation and Infrastructure, and the Committee on Agriculture. Because of the nature of the issue that we are talking about, I hope the gentleman will understand, and to bring some common sense to this one thing, I would hope that we could proceed with it.

Mr. OBERSTAR. Mr. Speaker, I shall not object, but I reserved the right in order to point out the flaw of the process. The process of Corrections Day is a real shortcut of the legislative process that we have followed in this House for well over 100 years, and the Suspension Calendar was the appropriate means for bringing legislation to the floor. Even the rules that the majority have adopted do not provide them the flexibility that they now seek through a unanimous-consent request, and that is my concern. I will withdraw my reservation, but I did so in order to point out the flaws of the process.

Mr. BURR. I thank the gentleman.

Mr. OBERSTAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar.

The Clerk will call the bill on the Corrections Calendar.

EDIBLE OIL REGULATORY REFORM ACT

The Clerk called the bill (H.R. 436) to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes.

The Clerk read the bill, as follows:

H.R. 436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DIFFERENTIATION AMONG FATS, OILS, AND GREASES.

(a) IN GENERAL.—In issuing or enforcing any regulation or establishing any interpretation or guideline relating to a fat, oil, or grease under any Federal law, the head of any Federal agency shall differentiate between—

(1)(A) animal fats and oils and greases, and fish and marine mammal oils, within the meaning of paragraph (2) of section 61(a) of title 13, United States Code; or

(B) oils of vegetable origin, including oils from the seeds, nuts, and kernels referred to in paragraph (1)(A) of such section; and

(2) other oils and greases, including petroleum.

(b) CONSIDERATIONS.—In differentiating between the class of fats, oils, and greases described in subsection (a)(1) and the class of oils and greases described in subsection (a)(2), the head of the Federal agency shall consider differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the Chair recognizes the gentleman from North Carolina [Mr. BURR].

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BURR OF NORTH CAROLINA

Mr. BURR. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BURR of North Carolina in lieu of the Committee on Commerce amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edible Oil Regulatory Reform Act".

SEC. 2. DIFFERENTIATION AMONG FATS, OILS, AND GREASES.

(a) IN GENERAL.—Except as provided in subsection (c), in issuing or enforcing any regulation or establishing any interpretation or guideline relating to a fat, oil, or grease under any Federal law, the head of any Federal agency shall—

(1) differentiate between and establish separate classes for—

(A) animal fats and oils and greases, and fish and marine mammal oils, within the meaning of paragraph (2) of section 61(a) of title 13, United States Code, and oils of vegetable origin, including oils from the seeds, nuts, and kernels referred to in paragraph (1)(A) of such section; and

(B) other oils and greases, including petroleum; and

(2) apply different standards to different classes of fats and oils as provided in subsection in subsection (B).

(b) CONSIDERATIONS.—In differentiating between the class of fats, oils, and greases described in subsection (a)(1)(A) and the class of oils and greases described in subsection

(a)(1)(B), the head of the Federal agency shall consider differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(c) EXCEPTION.—The requirements of this Act shall not apply to the Food and Drug Administration and the Food Safety and Inspection Service.

(d) FINANCIAL RESPONSIBILITY.—

(1) Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel carrying oil in bulk as cargo or cargo residue (except a tank vessel on which the only oil carried is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act)".

(2) Section 1016(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2176(a)) is amended in the first sentence by striking "in the case of a tank vessel, the responsible party could be subject under section 1004(a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004(a)(2) or (d)" and inserting "the responsible party could be subjected under section 1004(a) or (d) of this Act".

Mr. BURR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. BURR] and the gentleman from Minnesota [Mr. OBERSTAR] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BURR asked and was given permission to revise and extend his remarks.)

Mr. BURR. Mr. Speaker, I rise in strong support of H.R. 436, the Edible Oils Regulation Reform Act. This legislation will correct an unintended and burdensome problem created by certain Federal regulations, and so it is very fitting that this legislation is being considered today on the new House corrections calendar.

As my colleagues are aware, there are several environmental laws that contain definitions of the term "oil". While the legislative history of each statute indicates that it was the intent of Congress that the term "oil" referred to petroleum and petroleum-related products, the definitions are fairly broad and Federal regulators have taken the view that the term must be interpreted to include all types of oil, including vegetable oils and animal fats.

□ 1415

As my colleagues from other committees will describe in greater detail, this has meant that regulations written for the transportation and handling of petroleum have also been applied to transportation and handling of vegetable oils and animal fats. These same

problems potentially arise when it comes to the storage and disposal of oils.

The legislation before us today would solve this problem by directing Federal agencies with regulatory responsibilities to do one simple thing: to differentiate between animal fats or vegetable oils and other types of oils and greases, including petroleum, when they write regulations. This simple correction will prevent unjustified and burdensome regulations from being imposed on animal fats and vegetable oils, which clearly do not present the same environmental risks as other types of oil and greases, including petroleum.

I want to point out that this legislation has been endorsed by three separate committees. It has been reported twice by the Committee on Transportation and Infrastructure, once by the Committee on Agriculture, and once by the Committee on Commerce. It is good legislation that makes common sense, Mr. Speaker.

The amendment I offer today on behalf of the Committee on Commerce makes several refinements to the bill as recorded by the Committee on Commerce and includes important provisions from other versions of the bill.

The first refinement is to make clear that the requirements of the bill do not apply to the Food and Drug Administration and the Food Safety and Inspection Service. The problems identified by this legislation have not arisen under the Federal Food, Drug and Cosmetic Act or statutes administered by the FDA or the FSIS. Rather, they have arisen under traditional environmental statutes, such as the Oil Pollution Act and other hazardous waste laws.

When the bill came before the Committee on Commerce, a concern was expressed that it was not clear on how the requirement to differentiate between different classes of oil might affect FDA's product approvals and other regulatory activities, so the committee attempted to exempt the FDA from the scope of the bill. The amendment today makes that exemption explicit and, with the concurrence of the House Committee on Agriculture, also exempts the Food Safety and Inspection Service, which conducts business similar to the FDA's.

The amendment also clarifies that the differentiation required by the bill is between animal fats or vegetable oils and other types of oil and grease, including petroleum. It is not the intent of the amendment to require the heads of Federal agencies to differentiate among different types of animal fats and vegetable oils.

Finally, the amendment includes important provisions on financial responsibility under the Oil Pollution Act which were included in the versions of the bills adopted by the Committee on Transportation and Infrastructure and the Committee on Agriculture.

In closing, I want to commend my colleagues, the gentleman from Illinois

[Mr. EWING], and the gentlewoman from Missouri [Ms. DANNER], for introducing this legislation and for working hard to move it through the process. I also want to commend Speaker GINGRICH and Committee on Rules Chairman SOLOMON for putting in place these corrections day that allows us to make commonsense changes to Federal regulations.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have just seen in my reservation how flawed this process is even as a process, and I object to it more as process than substance, although the substance is also of concern and I will address that in a moment.

The suspension calendar is truly the more appropriate means of addressing noncontroversial issues on which there is a general agreement, in fact an overwhelming consensus. But this process of corrections day is just fraught with danger and fraught with opportunity for special interests.

It was conceived as a means of correcting regulations that had become too burdensome or making adjustments in law that, relatively minor in their application, have become too burdensome. Process-wise, it was also intended to protect the rights of the committee system.

But the way it has worked out, the Committee on Transportation and Infrastructure, which is the committee of primary jurisdiction, it is our committee that has handled the Clean Water Act, it is our committee that has twice reported this language in two different bills, in slightly different form but twice reported to this House and it has passed this House. But in the rush to deal with an issue that on its face is relatively noncontroversial, the majority has bypassed the Committee on Transportation and Infrastructure, causing it to waive its referral rights, and proceed to get a bill to the floor to justify this process.

If a special interest has a problem, they have an interest, all they need to do is get someone in the majority to pay attention to them, craft a bill, get it introduced, maybe drag along one from our side, and then ram it through in this process. There is no urgency to this legislation to justify the trampling of the legislative process as we have seen it.

We dealt with this issue appropriately in the Committee on Transportation and Infrastructure, in the Clean Water Act amendments that we passed earlier this year. We addressed it later in the Coast Guard authorization bill, which was an appropriate place. Again it went to this body and again the issue passed.

The regulations DOT issued which caused the concern, caused that language to be included in two bills, have been withdrawn. Why do we have to have a bill on the House floor under this extraordinary procedure to address

the issue that is frankly not much of an issue?

The substance of the issue is within the ambit of the Oil Pollution Act of 1990. That bill defined oil as including oil of any kind or form. At the time we debated that legislation in committee and on the floor, it was clearly understood that the definition would include vegetable oils and animal fats.

In the course of implementation of the Oil Pollution Act, there has been an increasing desire on the part of a number of interests to have edible oils treated differently from oils that are derived from petroleum. The snack food industry in particular has been very interested in this issue and been very vocal on this issue.

Edible oils, to be sure, do not pose the same toxic threat to the environment as petroleum oils do, but they are not without harm to the environment. Edible oils may be the same type as you put on a salad, but a spill of 10,000 gallons or more can be very toxic to birds, to aquatic animals.

We need look only to the mid-1960's in my own State of Minnesota when a soybean containment tank burst at very, very low temperatures, subzero temperatures, 30, 40 below zero. The soybean oil spilled out into the Minnesota River, where it could not be reclaimed at those very low temperatures in mid-February. It remained there until the spring when the migratory waterfowl, notably ducks, got into it and got fouled and we lost tens of thousands of migratory birds.

Edible oils are high in biological oxygen demand. They can and in this case did result in fish kill. They resulted in bird kills. They are appropriate, therefore, edible oils, for regulation with respect to their effect upon or potential effect upon the environment.

That is why the legislation that we passed in the House addressed this issue, to keep a containment process, to keep the management of edible oils within the ambit of government regulation, not exclude them, but to treat them with the proper concern and respect that ought to be considered.

There is one shortcoming. If you are going to do this process, then you really ought to be fair to all industries, and there is the issue of silicone fluids. The bill that we are considering today applies to all laws but does not include silicone fluids.

In the course of discussion of this issue in our committee deliberations, we included silicone fluids. That leveled the playing field. But the present bill does not include silicone fluids.

Again, the process, had this been brought to the floor as a freestanding bill on the Union Calendar, would have been open to amendment. If it were brought on the Suspension Calendar, it would have been subject to a higher level of consideration, where a Member with concern over this issue could have insisted that his or her concerns be reflected in the final version of the bill considered on the floor.

That is, both on process and on substance, sort of the essence of the concern that I have. I will address further concerns later.

Mr. Speaker, I reserve the balance of my time.

Mr. BURR. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I would like to take this time to thank chairmen BLILEY, SHUSTER, and ROBERTS as well as Mr. EWING and Ms. DANNER for their hard work to get this bill to the floor so soon. It took a great deal of teamwork on their part. With Many other issues pressing for attention it has not been easy for them to take the time to work on this little bill. Despite the fact this is a small matter, the chairmen recognized the need to move without delay.

H.R. 436 is a perfect example of why we need the corrections process. Who could have predicted during the rush to respond to the *Valdez* accident that we would inadvertently impact consumers and farmers the way we did by not clearly defining the word oil? It is clearly a silly idea to regulative vegetable oil in the same manner as petroleum oil, but congress did it. Not intentionally mind you, but through a lack of precision in the original bill. Now we have the chance to correct the problem.

This little bill has huge ramifications for the shipping industry, farmers, and thousands of other Americans who deal with this commodity on a daily basis. I am very happy that through the corrections process we can give these Americans much needed relief.

I know that all my colleagues can see the need for this fix, and hope Members will vote accordingly.

Mr. BURR. Mr. Speaker, I yield 12 minutes to the gentleman from Illinois [Mr. EWING], and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. EWING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my appreciation to the Committee on Commerce, the Committee on Transportation and Infrastructure, and the Committee on Agriculture and their chairman for helping, along with the gentlewoman from Nevada [Mrs. VUCANOVICH], for her efforts, and the counsel that deals with the correction calendar, for bringing this bill to the floor.

□ 1430

Today the U.S. House of Representatives has an opportunity to remedy one of the unnecessary, illogical Federal regulations that led to the creation of Corrections Day. H.R. 436, the Edible Oil Regulatory Reform Act, which I introduced earlier this year along with

the gentlewoman from Missouri [Ms. DANNER], will restore common sense to the Federal regulatory process by requiring Federal agencies to recognize the obvious difference between edible oils and toxic oils when issuing and promulgating regulations. The Edible Oils Regulatory Reform Act, H.R. 436, the oils are nontoxic, natural products, like cooking and salad oils, which many of us eat every day. There are unnecessarily stringent regulations that force producers, shippers, and manufacturers to comply with costly and counterproductive requirements without providing any additional measure of protection to the environment of enhancing the health and safety of our citizens.

Simply stated, H.R. 436 will require Federal agencies to differentiate between edible oils and petroleum-based oils when promulgating regulations under the Oil Pollution Act of 1990. This commonsense legislation does not change or weaken the underlying principles or the Oil Protection Act of 1990 or other related statutes, like the Clean Water Act. It seems clear to everyone except Federal regulators that the Oil Pollution Act was designed to reduce the risk of, improve the response to, and minimize the impact catastrophic oil spills like the one in Prince William Sound, Alaska, not to regulate edible agricultural products.

In fact, vegetable oils have been used to help clean up beaches fouled with petroleum, and vegetable oils are being explored as a substitute lubricant for machinery in environmentally sensitive areas. This not only demonstrates the significant difference between the vegetable oils and petroleum oils, it highlights the fact that animal fats and vegetable oils do not pose the same risks to human health and environment and should not be treated the same.

The version of H.R. 436 before the House today is slightly different from the introduced version. The modifications add a financial responsibility section to the bill which conforms the text of H.R. 436 with similar legislation introduced in the U.S. Senate. This noncontroversial language was accepted by the U.S. Coast Guard and approved by the House as part of H.R. 1361, the Coast Guard Authorization Act for Fiscal Year 1996. The financial responsibility relief provided in this section applies only to exclusive shippers of those nontoxic oils, and it brings industry, insurance and bonding requirements back into line with the value of the product. Like the rest of H.R. 436, nothing in this section exempts edible oils from all regulatory requirements.

The net effect will be to place transporters of edible oils on a par with other shippers of nontoxic products, and it will allow the U.S. agricultural oils to be more competitive in world markets.

In addition, in H.R. 1361, the House also adopts the edible oil differentia-

tion language contained in H.R. 436 as part of H.R. 961, the Clean Water Act Amendment of 1995. Although the House has already acted twice on this issue in the 104th Congress, H.R. 436 should be adopted as a standalone measure because similar language was adopted twice in the House and once in the Senate during the 103rd Congress only to see the underlying bill die at the end of 1994.

I know of no objection to the substance of H.R. 436 from any Member of this body or from the administration. H.R. 436 passed on a unanimous vote in both the Committee on Commerce and the Committee on Agriculture. It has also passed the Committee on Transportation and Infrastructure.

SUMMARY

Mr. Speaker, Congress has enacted two principal statutes that address the discharge of "oil" into the nation's waters—the FWPCA and OPA 90. Due to the statutes' broad definition of oil and lacking clear congressional direction on differentiation, regulatory agencies generally have proposed or issued rules that will regulate animal fats and vegetable oils to the same degree as toxic oils, for example, petroleum oils, without regard for the significant differences between them, in spite of scientific and other data justifying differentiation. These statutes, however, give the agencies broad regulatory discretion so that differentiation can be accomplished without compromising any of the objectives or principles of the statutes. As these rules will impose costly, inappropriate, and often counterproductive requirements, the animal fat and vegetable oil industry has been working towards the development of regulations that differentiate animal fat and vegetable oils from toxic oils to avoid the imposition of costly requirements intended for petroleum-based and other oils that are inappropriate for animal fats and vegetable oils.

Thus, a legislative change is needed to provide direction to regulatory agencies by requiring them to differentiate between nontoxic animal fats and vegetable oils, on the one hand, and all other oils, including toxic petroleum and nonpetroleum oils, on the other hand, when promulgating oil pollution prevention and response regulations. This can be done without an amendment to these statutes that would change or alter the principles contained in them. In particular, agencies: First, should provide a category for animal fats and vegetable oils separate and apart from all other oils; and second, should differentiate these oils from other oils based on a recognition of their distinct properties.

BACKGROUND

On August 18, 1990, the U.S. Congress, in direct response to several catastrophic U.S. petroleum oilspills, including the *Exxon Valdez* spill, enacted the Oil Pollution Act of 1990 [OPA 90] to reduce the risk of oilspills, improve facility and vessel oilspill response capabilities, and minimize the impact of oilspills on the environment. In enacting OPA 90, Congress amended the Federal Water Pollution Control Act to impose certain requirements on the owners and operators of vessels carrying "oil" and on facilities posing a risk of "substantial" harm or "significant and substantial harm" to the environment, including requiring owners and operators to prepare and submit response plans to various federal agencies by

February 18, 1993, for review and approval, or stop handling oil. Other requirements affecting the handling and transportation of oil were also enacted.

Although petroleum oil has been the focus of Congress' attention during the enactment of OPA 90, the law's applicability was not limited to petroleum oil and, as a result, it applies to all oils, including animal fats and vegetable oils. Since enactment, various Federal agencies have issued proposed or interim final rules implementing OPA 90 requirements, which include FWPCA provisions. The principal federal agencies and what they are responsible for regulating are as follows:

U.S. Coast Guard [USCG]: vessels and marine-transportation-related [MTR] onshore facilities, including any piping or structures used for the transfer of oil to or from a vessel.

DOT Research and Special Programs Administration [RSPA]: tank trucks and railroad tank cars carrying oil.

U.S. Environmental Protection Agency: large non-transportation-related onshore facilities handling, storing, or transferring oil; and, the National Contingency Plan [NCP].

DOI Minerals Management Service [MMS]: offshore facilities, including any facility on or over U.S. navigable waters.

National Oceanic and Atmospheric Administration [NOAA]: natural resource damage assessment [NRDA] regulations.

Federal natural resource trustees having an interest in these rules include the Departments of Agriculture, Commerce, and Interior.

ISSUE

The animal fat and vegetable oil industry handles, ships, and stores over 25 billion pounds of animal fats and vegetable oils annually in the United States. These agricultural substances are essential components of food products produced in the United States. Industry is concerned that some of the regulations being developed will regulate animal fats and vegetable oils to the same degree or in the same manner as petroleum oils, in spite of information collected to date that suggests that different or less stringent regulations are appropriate. For example, a June 28, 1993 report by ENVIRON Corporation, "Environmental Effects of Releases of Animal Fats and Vegetable Oils to Waterways" and an associated Aqua Survey, Inc., study on the aquatic toxicity of petroleum oil and of animal fats and vegetable oils found that, unlike petroleum oils, the presence of animal fats and vegetable oils in the environment does not cause significant or substantial harm. That study reached the following conclusions with respect to the effects of potential discharges of animal fats and vegetable oils:

They are non-toxic to the environment.

They are essential components to human and wildlife diets.

They are readily biodegradable.

They are not persistent in the environment.

They have a high Biological Oxygen Demand [BOD], which could result in oxygen deprivation where there is a large spill in a confined body of water that has low flow and dilution.

They can coat aquatic biota and foul wildlife—for example, matting of fur or feathers, which may lead to hypothermia.

The animal fat and vegetable oil industry continues to seek data regarding the impact of animal fats and vegetable oils on the environment that will offer new insights to the appropriate

regulation of these materials. On the basis of scientific data available to date, however, the only potential environmental harm that may result from spills of these products is the result of potential physical effects of spills of liquids in large quantities. Those potential physical effects consist of: First, the fouling of aquatic biota and wildlife that are exposed to the liquid products in high concentrations; and, second, the potential oxygen deprivation from the biodegradation of high concentrations of liquid substances in confined and slow-flowing bodies of water. Fouling is not an issue, however, in the case of substances that are solids or congeal in the temperature conditions of the natural environment. In fact, that vegetable-based oils do not pose the same risk to the environment is illustrated by the fact that soybean-based solvents have been used to clean up petroleum oil spills. Soybean oil ester, through a process called CytoSol™, was used to clean-up fuel oil spilled during the *Morris J. Berman* spill in Puerto Rico. A NOAA marine biologist recognized the use of CytoSol™ as a logical application of two environmentally promising technologies. "Illinois Soybean Farmer," (March/April 1994).

Moreover, the likelihood that an animal fat or vegetable oil spill of such magnitude will occur is extremely small. The industry's spill prevention efforts have resulted in an excellent environmental record for these products. For example, a review of the data recorded and compiled by the Coast Guard reveals that, from 1986 to 1992, animal fats and vegetable oils together accounted for only about 0.4 percent of the oil spill incidents in and around U.S. waters—both in terms of incidents and their volume. Less than half of those spills were in water. Further, these spills were generally very small. Only 13 of those spills were greater than 1,000 gallons. Put another way, only about 0.02 percent of all oil spill incidents in and around U.S. waters over the last seven years were spills of animal fats or vegetable oils greater than 1,000 gallons.

Furthermore, equipment and techniques used to respond to petroleum oil spills often will aggravate rather than mitigate the environmental impact if used for animal fats and vegetable oils. Attempts to remove the small quantities of animal fats and vegetable oils present in a typical spill would in most cases cause more environmental harm than would the presence of those products in the environment alone. For example, in comments filed on RSPA Docket Nos. HM-214 and PC-1, dated June 3, 1993, the Department of the Interior recommended the establishment of response plan requirements for animal fats and vegetable oils comparable to those for other oils. This recommendation was based on anecdotal data derived from a discharge of butter from a U.S. Government warehouse into Shoal Creek, MD. DOI conceded, however, that the principal adverse environmental effects of the Shoal Creek incident were caused by the removal efforts themselves.

In addition to the differences noted above between animal fats and vegetable oils and petroleum oils, the animal fat and vegetable oil industry is significantly different from the petroleum industry in other ways warranting disparate regulatory treatment. For example, there are notable differences in the vessel characteristics and transfer operations involving animal fats and vegetable oils and those involving petroleum oils. Vessels carrying petroleum

oils can exceed 500,000 deadweight tons—the *Exxon Valdez* was over 213,000 deadweight tons. In contrast, vegetable oils typically are carried on small parcel tankers ranging from 30,000 to 45,000 deadweight tons. Further, differences exist in the size of the tanks carrying these two kinds of products. Large tankers carrying petroleum oil may have 10 large center tanks and about 15 wing tanks with individual tank capacities reaching approximately 592,000 tons or 177,500,000 gallons of oil. Parcel tankers carrying vegetable oil typically have about 30 to 35 cargo tanks that range from 1,000 to 3,500 tons capacity each. With regard to transfer operations, the typical amount of vegetable oil loaded or offloaded during a transfer ranges from 500 to 5,000 tons. In contrast, a tanker carrying petroleum commonly loads or offloads its entire cargo during one transfer operation.

Similarly, facilities that handle or store animal fats and vegetable oils do not share the same characteristics as petroleum refineries and other facilities. Facilities that handle animal fats and vegetable oils are generally located in or near areas in which agricultural raw materials—for example, oilseeds, oil bearing plants, and animals—are available. Consequently, unlike petroleum oil facilities, many are found in the Midwestern United States relatively far removed from the regional oil spill response centers which have evolved over the years and which are principally dedicated to petroleum oil spills.

In addition to the need for differentiation, there is also a need for financial responsibility regulations under OPA 90 that reflect the actual risk associated with spills of animal fats and vegetable oils. Under current financial responsibility rules, which were intended to address the problem of petroleum oil pollution from tankers and handling facilities, are not limited to tank vessels carrying petroleum oil, but unfortunately apply to all tank vessels regardless of the cargo carried. Specifically, the definition of tank vessel is not cargo linked; therefore, by operation of law, every tank vessel, regardless of its cargo, has the same liability and financial responsibility requirement as a petroleum oil tanker. Other vessels, on the other hand, are subject to half the limitation amounts applicable to tank vessels.

The higher amounts applicable to tankers reflect the fact that the risks of pollution related to enormous quantities of petroleum oil carried on tankers as cargo vastly outweigh the potential harm from other vessels whose spills of petroleum oil are limited to bunker fuel or lubricating oil used in the propulsion and other mechanical systems of the ship. However, considering the animal fat and vegetable oil industry's excellent spill prevention record and the significantly lower risk of environmental harm posed by a spill of these nontoxic, readily biodegradable agricultural products, the risk of harm presented by vessels carrying animal fats and vegetable oils is similar to that of other non-petroleum-carrying vessels and the liabilities and financial responsibility amounts should be placed at the appropriate level.

DIFFERENTIATED RULES NEEDED

Unfortunately, there has been an overabundance of supposition and anecdotal data cited to date to give support to treating these nontoxic substances in the same manner as

petroleum oils. Reliance upon such information underscores the dangers of imposing regulatory requirements on the industry in a manner not specifically mandated by Congress and without adequate scientific foundation. In fact, no documented scientific data support treating these nontoxic animal fats and vegetable oils in the same manner as petroleum.

To the contrary, the significant differences between animal fats and vegetable oils and other oils, warrant regulation of these substances in a different manner. Identical requirements would represent a misapplication of limited industry resources. In addition, requiring tank vessels whose only oil cargo is animal fat or vegetable oil to provide the same amount of financial responsibility as tank vessels carrying petroleum oil fails to recognize the risk of harm presented by these vessels and imposes an unnecessary burden on owners and operators.

Unfortunately, agencies have been attempting to achieve differentiation through vague regulatory language that requires further administrative or judicial interpretation to decipher and through discussions in the preambles to regulations published in the Federal Register. These techniques are examples of regulations that are not clear on their face and in need of revision. Not only should available scientific information be used to differentiate, but so should basic common sense. Many existing regulatory regimes go into detail to create separate categories for classes or types of oils—petroleum, edible, et cetera. Thus proven scientific and regulatory structures already exist that could form the basis of or model for a similar approach for regulations issued to implement the pollution prevention statutes.

Differentiation in rules is also warranted in view of President Clinton's Executive Order on Regulatory Planning and Review enunciates, and requires agencies to adhere to, certain principles of regulation. Executive Order No. 12,866, 58 Fed. Reg. 51,735, 51,736 (1993). Among those principles are the following:

In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.

Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative of its other regulations or those of other Federal agencies.

Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities, including small communities and governmental entities, consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

CONCLUSION

The animal fat and vegetable oil industry continues to seek data to better understand

the environmental risks associated with the transportation, handling, and storage of animal fats and vegetable oils. On the basis of scientific data currently available, however, there is no rational basis for regulating nontoxic animal fats and vegetable oils in the same manner as petroleum oils. In fact, it is very likely that imposing certain regulatory requirements on animal fats and vegetable oils based solely on requirements developed for the petroleum oil, for example, removal and response strategies and techniques, could lead to greater damage to the environment than the actual impact of a discharge of these substances themselves. Moreover, these requirements would add to the cost of these agricultural products. A category for animal fats and vegetable oil should be implemented that is separate and distinct from all other oils, including petroleum oil. In addition, regulations should take into account the differences in the physical, chemical, biological, and other properties, and the environmental effects of these oils. Further, regulatory principles should be followed which clearly permit regulatory regimes to reflect the economic impact on the industry regulated.

In fact, judging from the bipartisan mix of cosponsorship, H.R. 436 enjoys broad support and is absolutely not controversial.

Again, Mr. Speaker, I want to thank the gentlewoman from Missouri [Ms. DANNER] for her assistance and leadership as well as the chairman, the gentleman from Kansas [Mr. ROBERTS], the chairman, the gentleman from Virginia [Mr. BLILEY], the chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the Correction Day task force for their input and cooperation on this issue.

It is time to finally solve the problem. I believe that it is the delay in passage of legislation such as this, as we did in the 103d Congress and the 104th Congress, that is the irritation among our constituents for nonaction. It is time that we pass this bill and made it law.

Mr. Speaker, I urge my colleagues on both sides of the aisle to support H.R. 436.

Mr. Speaker, I yield the remainder of my time to the gentleman from Texas [Mr. DE LA GARZA].

(Mr. DE LA GARZA asked and was given permission to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding, and I thank the manager of the bill.

Mr. Speaker, I am pleased to join my colleagues in supporting and bringing to the floor H.R. 436, the Edible Oil Regulatory Reform Act. H.R. 436 would require Federal agencies to differentiate between edible oils, animal fat and vegetable oil, and petroleum-based oil products when issuing regulations under Federal laws that deal with a fat, grease or oil.

Mr. EWING, Ms. DANNER, and the cosponsors of the bill are to be congratulated for once again attempting to correct the oversight contained in the Oil Pollution Act of 1990. The work of our former colleague, new Secretary Jill

Long Thompson should also not be overlooked as similar legislation passed the House twice last year under her leadership, only to die in the Senate.

The substitute language adopted in the Agriculture Committee has the broad intent of covering all Federal law and also contains specific changes to the Oil Pollution Act of 1990 to ensure that animal fat and vegetable oil are classified separately from petroleum-based products based on differences in physical, chemical, biological or other properties.

The substitute being offered here on the floor would exempt the Food Safety and Inspection Service as well as the Food and Drug Administration from the provisions of this bill, which causes the Agriculture Committee some concern because we only saw the language yesterday, but for the sake of moving this important piece of legislation, we do not intend to object to the exemption. We will work with our colleagues in the other body should any concerns be brought to our attention in regard to this particular provision.

The Oil Pollution Act was passed in response to the *Exxon Valdez* oilspill in Prince William Sound. It contained specific requirements on the handling and transportation of oil, but Congress did not differentiate between the various types of oil in the legislative language. Studies to date show the only potential environmental harm from animal fat or vegetable oil spills to be the physical effects of a spill of liquid in large quantities.

This legislation would require that the liability for a tank vessel carrying animal fat or vegetable oil would be limited to the greater of \$600 per gross ton of the tank vessel, or \$500,000 under the Oil Pollution Act.

I am also pleased that report language was added to address concerns expressed by the fledgling biodiesel industry to ensure that their products would be included under this legislation as long as they do not contain petroleum or toxic additives. Biodiesel products include such things as greases, hydraulic fluid or solvents that are much friendlier to the environment than traditional petroleum-based products.

There is language in H.R. 961, the House-passed version of Clean Water Act amendments, which would require differentiation among animal fat and vegetable oils in all water pollution laws.

H.R. 436 has bipartisan support with 80 sponsors here in the House and a broad list of outside groups who have also supported its passage. I encourage my colleagues to support its passage.

Mr. EWING. Mr. Speaker, I yield 3 minutes to the gentlewoman from Missouri [Ms. DANNER].

(Ms. DANNER asked and was given permission to revise and extend her remarks.)

Ms. DANNER. Mr. Speaker, in the wake of the *Exxon Valdez* oilspill, the Congress passed legislation known as the Oil Pollution Act of 1990. This law created important environmental regulations aimed at reducing the risk of oil spills.

But while the Oil Pollution Act was designed to prevent environmental

harm from petroleum oil spills, it was applied by many Federal agencies to animal fats and vegetable oils.

The result of these errant regulations are lower profits for producers in the agricultural sector, higher costs to shippers and users of vegetable oils, and in the final analysis, higher costs for virtually all processed food items we consume.

Because of the sweeping definitions in the Oil Pollution Act of 1990, Federal agencies have failed to make the sensible, logical, and obvious distinctions between toxic and edible oils.

Now it is necessary for Congress to direct the Federal agencies to start regulating those oils separately. The Edible Oil Regulatory Reform Act is intended to stop Government from regulating these oils in the same manner as petroleum.

Federal agencies must consider differences in the physical, biological, chemical makeup of the oils and the possible effects of spills on the environment.

Mr. Speaker, laws and regulations must have purpose. They should meet the simple standard of either protecting the public good from realistic threats or generally improving people's lives. Above all, our laws must be reasonable.

Congress wisely started the corrections day process so we could more easily repeal regulations that fail this elementary standard.

I think the vast majority of Americans would agree that regulating corn oil, for example, and petroleum in identical fashion is by no means reasonable.

In fact, this legislation enjoys support from both Republicans and Democrats, producers and consumers, and the administration and Congress. I'm pleased to be a part of this truly non-partisan effort.

I would like to extend appreciation to the Members who worked on this legislation, particularly my friend from Illinois, TOM EWING, who has been instrumental in bringing this legislation to the floor.

Americans have repeatedly called upon Members of Congress to eliminate burdensome Federal regulations and work together to make a real difference in people's lives. Today we are answering that call.

Mr. Speaker, I have some additional information I would like to include as part of the RECORD at this point.

REQUIREMENT FOR DIFFERENTIATION BETWEEN ANIMAL FATS AND VEGETABLE OILS AND OTHER OILS UNDER CERTAIN REGULATIONS

SUMMARY

Congress has enacted two principal statutes that address the discharged of "oil" into the nation's waters—the FWPCA and OPA 90. Due to the statutes' broad definition of oil and lacking clear Congressional direction on differentiation, regulatory agencies generally have proposed or issued rules that will regulate animal fats and vegetable oils to the same degree as toxic oils (e.g., petroleum oils) without regard for the significant differences between them, in spite of sci-

entific and other data justifying differentiation. These statutes, however, give the agencies broad regulatory discretion so that differentiation can be accomplished without compromising any of the objectives or principles of the statutes. As these rules will impose costly, inappropriate, and often counterproductive requirements, the animal fat and vegetable oil industry has been working towards the development of regulations that differentiate animal fat and vegetable oils from toxic oils to avoid the imposition of costly requirements intended for petroleum-based and other oils that are inappropriate for animal fats and vegetable oils.

Thus, a legislative change is needed to provide direction to regulatory agencies by requiring them to differentiate between non-toxic animal fats and vegetable oils, on the one hand, and all other oils, including toxic petroleum and non-petroleum oils, on the other hand, when promulgating oil pollution prevention and response regulations. This can be done without an amendment to these statutes that would change or alter the principles contained in them. In particular, agencies (1) should provide a category for animal fats and vegetable oils separate and apart from all other oils and (2) should differentiate these oils from other oils based on a recognition of their distinct properties.

BACKGROUND

On August 18, 1990, the U.S. Congress, in direct response to several catastrophic U.S. petroleum oil spills, including the EXXON VALDEZ spill, enacted the Oil Pollution Act of 1990 (OPA 90) to reduce the risk of oil spills, improve facility and vessel oil spill response capabilities, and minimize the impact of oil spills on the environment. In enacting OPA 90, Congress amended the Federal Water Pollution Control Act to impose certain requirements on the owners and operators of vessels carrying "oil" and on facilities posing a risk of "substantial" harm or "significant and substantial harm" to the environment, including requiring owners and operators to prepare and submit response plans to various federal agencies by February 18, 1993, for review and approval, or stop handling oil. Other requirements affecting the handling and transportation of oil were also enacted.

Although petroleum oil has been the focus of Congress' attention during the enactment of OPA 90, the law's applicability was not limited to petroleum oil and, as a result, it applies to all oils, including animal fats and vegetable oils. Since enactment, various federal agencies have issued proposed or interim final rules implementing OPA 90 requirements (which include FWPCA provisions). The principal federal agencies and what they are responsible for regulating are as follows:

U.S. Coast Guard (USCG): vessels and marine-transportation-related (MTR) onshore facilities, including any piping or structures used for the transfer of oil to or from a vessel.

DOT Research and Special Programs Administration (RSPA): tank trucks and railroad tank cars carrying oil.

U.S. Environmental Protection Agency: large non-transportation-related onshore facilities handling, storing, or transferring oil; and, the National Contingency Plan (NCP).

DOI Minerals Management Service (MMS): offshore facilities including any facility on or over U.S. navigable waters.

National Oceanic and Atmospheric Administration (NOAA): natural resource damage assessment (NRDA) regulations.

Federal natural resource trustees having an interest in these rules include the Departments of Agriculture, Commerce, and Interior.

The animal fat and vegetable oil industry handles, ships, and stores over 25 billion pounds of animal fats and vegetable oils annually in the United States. These agricultural substances are essential components of food products produced in the United States. Industry is concerned that some of the regulations being developed will regulate animal fats and vegetable oils to the same degree or in the same manner as petroleum oils, in spite of information collected to date that suggests that different or less stringent regulations are appropriate. For example, a June 28, 1993 report by ENVIRON Corporation, "Environmental Effects of Releases of Animal Fats and Vegetable Oils to Waterways" and an associated Aqua Survey, Inc. study on the aquatic toxicity of petroleum oil and of animal fats and vegetable oils found that, unlike petroleum oils, the presence of animal fats and vegetable oils in the environment does not cause significant or substantial harm. That study reached the following conclusions with respect to the effects of potential discharges of animal fats and vegetable oils:

They are non-toxic to the environment.

They are essential components to human and wildlife diets.

They are readily biodegradable.

They are not persistent in the environment.

They have a high Biological Oxygen Demand (BOD), which could result in oxygen deprivation where there is a large spill in a confined body of water that has low flow and dilution.

They can coat aquatic biota and foul wildlife (e.g., matting of fur or feathers, which may lead to hypothermia).

The animal fat and vegetable oil industry continues to seek data regarding the impact of animal fats and vegetable oils on the environment that will offer new insights to the appropriate regulation of these materials. On the basis of scientific data available to date, however, the only potential environmental harm that may result from spills of these products is the result of potential physical effects of spills of liquids in large quantities. Those potential physical effects consist of (1) the fouling of aquatic biota and wildlife that are exposed to the liquid products in high concentrations; and, (2) the potential oxygen deprivation from the biodegradation of high concentrations of liquid substances in confined and slow-flowing bodies of water. Fouling is not an issue, however, in the case of substances that are solids or congeal in the temperature conditions of the natural environment. In fact, that vegetable-based oils do not pose the same risk to the environment is illustrated by the fact that soybean-based solvents have been used to clean up petroleum oil spills. Soybean oil ester, through a process called CytoSol™, was used to clean-up fuel oil spilled during the MORRIS J. BERMAN spill in Puerto Rico. A NOAA marine biologist recognized the use of CytoSol™ as a "logical application of two environmentally promising technologies." Illinois Soybean Farmer, p. 12 (March/April 1994).

Moreover, the likelihood that an animal fat or vegetable oil spill of such magnitude will occur is extremely small. The industry's spill prevention efforts have resulted in an excellent environmental record for these products. For example, a review of the data recorded and compiled by the Coast Guard reveals that, from 1986 to 1992, animal fats and vegetable oils together accounted for only about 0.4 percent of the oil spill incidents in and around U.S. waters (both in terms of incidents and their volume). Less than half of those spills were in water. Further, these spills were generally very small.

Only 13 of those spills were greater than 1,000 gallons. Put another way, only about 0.02 percent of all oil spill incidents in and around U.S. waters over the last seven years were spills of animal fats or vegetable oils greater than 1,000 gallons.

Furthermore, equipment and techniques used to respond to petroleum oil spills often will aggravate rather than mitigate the environmental impact if used for animal fats and vegetable oils. Attempts to remove the small quantities of animal fats and vegetable oils present in a typical spill would in most cases cause more environmental harm than would the presence of those products in the environment alone. For example, in comments filed on RSPA Docket Nos. HM-214 and PC-1, dated June 3, 1993, the Department of Interior recommended the establishment of response plan requirements for animal fats and vegetable oils comparable to those for other oils. This recommendation was based on anecdotal data derived from a discharge of butter from a U.S. government warehouse into Shoal Creek, Maryland. DOI conceded, however, that the principal adverse environmental effects of the Shoal Creek incident were caused by the removal efforts themselves.

In addition to the differences noted above between animal fats and vegetable oils and petroleum oils, the animal fat and vegetable oil industry is significantly different from the petroleum industry in other ways warranting disparate regulatory treatment. For example, there are notable differences in the vessel characteristics and transfer operations involving animal fats and vegetable oils and those involving petroleum oils. Vessels carrying petroleum oils can exceed 500,000 deadweight tons (the EXXON VALDEZ was over 213,000 deadweight tons). In contrast, vegetable oils typically are carried on small parcel tankers ranging from 30,000 to 45,000 deadweight tons. Further, differences exist in the size of the tanks carrying these two kinds of products. Large tankers carrying petroleum oil may have 10 large center tanks and about 15 wing tanks with individual tank capacities reaching approximately 592,000 tons or 177,500,000 gallons of oil. Parcel tankers carrying vegetable oil typically have about 30 to 35 cargo tanks that range from 1,000 to 3,500 tons capacity each. With regard to transfer operations, the typical amount of vegetable oil loaded or offloaded during a transfer ranges from 500 to 5,000 tons. In contrast, a tanker carrying petroleum commonly loads or offloads its entire cargo during one transfer operation.

Similarly, facilities that handle or store animal fats and vegetable oils do not share the same characteristics as petroleum refineries and other facilities. Facilities that handle animal fats and vegetable oils are generally located in or near areas in which agricultural raw materials (e.g., oilseeds, oil bearing plants, and animals) are available. Consequently, unlike petroleum oil facilities, many are found in the Midwestern United States relatively far removed from the regional oil spill response centers which have evolved over the years and which are principally dedicated to petroleum oil spills.

In addition to the need for differentiation, there is also a need for financial responsibility regulations under OPA 90 that reflect the actual risk associated with spills of animal fats and vegetable oils. Under current financial responsibility rules, which were intended to address the problem of petroleum oil pollution from tankers and handling facilities, are not limited to tank vessels carrying petroleum oil, but unfortunately apply to all tank vessels regardless of the cargo carried. Specifically, the definition of tank vessel is not cargo linked; therefore, by operation of law, every tank vessel, regardless of

its cargo, has the same liability and financial responsibility requirement as a petroleum oil tanker. Other vessels, on the other hand, are subject to half the limitation amounts applicable to tank vessels.

The higher amounts applicable to tankers reflect the fact that the risks of pollution related to enormous quantities of petroleum oil carried on tankers as cargo vastly outweigh the potential harm from other vessels whose spills of petroleum oil are limited to bunker fuel or lubricating oil used in the propulsion and other mechanical systems of the ship. However, considering the animal fat and vegetable oil industry's excellent spill prevention record and the significantly lower risk of environmental harm posed by a spill of these non-toxic, readily-biodegradable agricultural products, the risk of harm presented by vessels carrying animal fats and vegetable oils is similar to that of other non-petroleum-carrying vessels and the liabilities and financial responsibility amounts should be placed at the appropriate level.

DIFFERENTIATED RULES NEEDED

Unfortunately, there has been an overabundance of supposition and anecdotal data cited to date to give support to treating these non-toxic substances in the same manner as petroleum oils. Reliance upon such information underscores the dangers of imposing regulatory requirements on the industry in a manner not specifically mandated by Congress and without adequate scientific foundation. In fact, no documented scientific data support treating these non-toxic animal fats and vegetable oils in the same manner as petroleum.

To the contrary, the significant differences between animal fats and vegetable oils and other oils, warrant regulation of these substances in a different manner. Identical requirements would represent a misapplication of limited industry resources. In addition, requiring tank vessels whose only oil cargo is animal fat or vegetable oil to provide the same amount of financial responsibility as tank vessels carrying petroleum oil fails to recognize the risk of harm presented by these vessels and imposes an unnecessary burden on owners and operators.

Unfortunately, agencies have been attempting to achieve differentiation through vague regulatory language that requires further administrative or judicial interpretation to decipher and through discussions in the preambles to regulations published in the Federal Register. These techniques are examples of regulations that are not clear on their face and in need of revision. Not only should available scientific information be used to differentiate, but so should basic common sense. Many existing regulatory regimes go into detail to create separate categories for classes or types of oils (petroleum, edible, etc.). Thus proven scientific and regulatory structures already exist that could form the basis of or model for a similar approach for regulations issued to implement the pollution prevention statutes.

Differentiation in rules is also warranted in view of President Clinton's Executive Order on Regulatory Planning and Review enunciates, and requires agencies to adhere to, certain principles of regulation. Exec. Order No. 12,866, 58 Fed. Reg. 51,735, 51,736 (1993). Among those principles are the following:

In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information con-

cerning the need for, and consequences of, the intended regulation.

Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative of its other regulations or those of other Federal agencies.

Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

CONCLUSION

The animal fat and vegetable oil industry continues to seek data to better understand the environmental risks associated with the transportation, handling, and storage of animal fats and vegetable oils. On the basis of scientific data currently available, however, there is no rational basis for regulating nontoxic animal fats and vegetable oils in the same manner as petroleum oils. In fact, it is very likely that imposing certain regulatory requirements on animal fats and vegetable oils based solely on requirements developed for the petroleum oil (e.g. removal and response strategies and techniques) could lead to greater damage to the environment than the actual impact of a discharge of these substances themselves. Moreover, these requirements would add to the cost of these agricultural products. A category for animal fats and vegetable oil should be implemented that is separate and distinct from all other oils, including petroleum oil. In addition, regulations should take into account the differences in the physical, chemical, biological, and other properties, and the environmental effects of these oils. Further, regulatory principles should be followed which clearly permit regulatory regimes to reflect the economic impact on the industry regulated.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 10, 1995.

STATEMENT OF ADMINISTRATION POLICY

H.R. 436—Differentiate Between Petroleum and Animal and Vegetable Oils (Ewing (R) IL and 83 cosponsors)

The Administration has no objection to House passage of H.R. 436.

Mr. EWING. Mr. Speaker, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 7½ minutes.

Mr. Speaker, under the amendment, there are separate requirements. There is a requirement for separate regulations for edible and nonedible oils under any Federal law.

I would like to inquire of the gentleman from North Carolina: What laws have been researched to determine the application of this language? Could the gentleman tell us which laws specifically are affected?

Mr. BURR. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from North Carolina.

Mr. BURR. Mr. Speaker, I thank the gentleman for yielding.

Those pertinent to the transportation and handling of oil have been

looked at as it relates to this bill, and disposal, excuse me.

Mr. OBERSTAR. Is that the only Federal law? It says "any Federal law."

Mr. BURR. As it relates to this amendment, sir, the transportation, the disposal has been looked at relative to the change for edible oils. The two committees of jurisdiction have also looked at it.

Mr. OBERSTAR. I submit there are more laws that would be affected by this provision. The oil pollution law, for example, has two applications to the Clean Water Act and to the transportation of oils. So we are talking about the Coast Guard. We are talking about rail. We are talking about pipeline transportation. Is that what the gentleman has in mind?

Mr. BURR. If the gentleman will yield further, I would remind the gentleman that this amendment deals with the differentiation. There is no exemption, exclusion. It deals with the differentiation.

Mr. OBERSTAR. I understand that. But what I am trying to get at is the scope of this provision. I think it should be clear on the record what it is, which laws are being affected by this process we are engaged in here.

Mr. BURR. If the gentleman will yield further, three committees have looked at this issue.

Mr. OBERSTAR. That is not my question. I did not ask how many committees. I asked how many laws. The gentleman does not have a catalogue of laws affected by this provision?

Mr. BURR. If the gentleman will yield further, the gentleman is asking me for statutory jurisdiction of each of these committees of which I am not a member. I would suggest it does affect the Oil Pollution Act, which we are here to address, and certainly it does make common sense for us to address a differentiation between vegetable oils and petroleum-based products.

Mr. OBERSTAR. Reclaiming my time, it is not the differentiation that concerns me. It is to be clear about the scope of impact of this legislation. I would suggest that when the gentleman asks unanimous consent for leave for Members to submit additional comments for the RECORD, that he or the committee chairman submit for the RECORD the list of those laws that will be affected by this legislation so that the public, in evaluating, and other Members, in evaluating this legislation would know which laws specifically are affected by that very broad language.

□ 1445

Mr. BURR. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from North Carolina.

Mr. BURR. Mr. Speaker, I would certainly request of the Committee on Commerce for that listing and also make the request of the other two committees.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from North Carolina. I think that would be very important and very useful.

When the Committee on Transportation and Infrastructure, Mr. Speaker, considered this legislation, we considered specific laws. The bill before us is a broad sweep and says all laws. It just sort of cast a wide net out upon the waters and said anything that we did not think of specifically, we just cast this language out. That is, I suggest, not very appropriate legislation, it is not very carefully crafted legislation, and it is again a reason for being concerned with this process.

I am a very strong believer in processes protecting rights of individuals and rights of the Members of this body, protecting rights of various interests and the broad public interest, and I think this process here is truly a disservice to that process.

Mr. BURR. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from North Carolina.

Mr. BURR. Is the gentleman suggesting that we only use common sense in some cases?

I hear the gentleman's concern with process, but I would question that the gentleman is more concerned with process than outcome, and, in fact, the common sense comes into play, and the majority of Americans say there should be a differentiation between the two.

Mr. OBERSTAR. Reclaiming my time, the issue again, I state very clearly, is not differentiation. The issue I am raising here is what are the laws under which differentiation is to take place. There is no listing. There is a broad, sweeping grant of authority, and that is the matter that concerns me.

Yes, there should be a differentiation. But under which laws? How broadly? How narrowly? How specifically is this language to be drawn? How specifically is it to be targeted?

As my colleagues know, we did that in the Committee on Transportation and Infrastructure. We were very careful about it. This bill is just a broad, sweeping generalization. I do not think it is appropriate to do that. We must be more specific about the laws that are going to be affected.

Now, as to the matter of differentiation, that is a matter of substantive debate, and we could have a discussion on whether the edible oil industry is appropriate in their concern that the oil they produce should not be considered in the same breath with the toxic effects of certain petroleum or petroleum derivatives, and that is an entirely different matter.

But, as I said in my opening remarks, we have had our own experience in Minnesota where with the soybean oil spill there were toxic effects. Nontoxic substances in high amounts can have toxic effects. They ought to be considered separately and appropriately.

In addition, just because one industry or one sector says we do not want to be included with everybody else that has toxic oils, and ours are not from one standpoint, is no reason to bring a special bill to the House floor for a special purpose. We had the opportunity to consider this issue when the House took up the Clean Water Act. The degree of specificity provided in that legislation, in both the Oil Pollution Act and the Clean Water Act, where relief was provided, did not raise any kind of debate, did not ask for any kind of consideration, and I do not think it is appropriate, and that is the basis of my objection.

The matter of differentiation, simply because it has taken a long time for the appropriate agency of Government to issue regulations under previously existing laws, is no reason to bring a special bill to the House floor. It is difficult, going back to the gentleman's point about differentiation, it is difficult to know whether such differentiation is appropriate when we do not know specifically in this bill the laws to which that differentiation should be applied.

Mr. BURR. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from North Carolina.

Mr. BURR. In fact, in the bill itself I think the gentleman would see that what we have done is we have allowed the heads of Federal agencies to consider differences in physical, chemical, biological, and other properties, and the environmental effects of the classes. To some degree we have empowered the heads of these agencies to make the determination in the best interests of this country. I do not think the gentleman would disagree with that interest.

Mr. OBERSTAR. I just say that when language in a bill says any Federal law, it is incumbent upon the author of such language to be specific, to say what those laws are. I do not think that we should ask the public to accept something so broad and sweeping they have no idea of what its implications and what its applications are.

Mr. Speaker, I reserve the balance of my time.

Mr. BURR. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BURR] for yielding this time to me. I compliment the gentleman from North Carolina [Mr. BURR], the gentleman from Virginia [Mr. BLILEY], the gentleman from Illinois [Mr. EWING], and the gentlewoman from Missouri [Ms. DANNER] for their hard work on this bill, and I rise in strong support of H.R. 436, the Edible Oil Regulatory Reform Act. This common-sense, risk-based approach to regulation embodies what the Speaker had in mind when he established the Corrections Day Calendar. This well-crafted, noncontroversial bill simply requires

Federal agencies to differentiate between animal fats and vegetable oils on the one hand and petroleum-based on the other.

The Clean Water Act and the Oil Pollution Act of 1990 are the two primary statutes addressing discharge of oil into the Nation's waters impacted by this bill and to a lesser extent the Hazardous Materials Transportation Act. Due to these statutes' broad definitions of oil and the lack of explicit guidance from Congress, the regulatory agencies have not adequately differentiated between animal fats and vegetable oils and other oils, including petroleum. Regulations that do not make these commonsense differentiations could impose costly, unnecessary burdens on handlers, transporters, and others involved in the edible oil industry.

The animal fat and vegetable oil industry handles, ships, and stores over 25 billion pounds of product annually in the United States. These agricultural substances are essential components to our Nation's economy and diet.

The record is filled with documented examples and justifications for treating animal fat and vegetable oil differently from other types of oil. For example, these edible oils simply do not present the same type of risk to the environment that other oils do.

When Congress enacted the Oil Pollution Act of 1990, it did not intend to apply the same response planning, liability, financial responsibility, and cleanup requirements to edible oils to the same extent as to crude oil and petroleum-based substances.

Comparable versions of H.R. 436 have already passed the House in two bills this year: H.R. 1361, the Coast Guard authorization bill for fiscal year 1996 and H.R. 961, the clean water amendments of 1995.

Both versions moved through the Transportation and Infrastructure Committee, the committee on which I served which the gentleman from Pennsylvania [Mr. SHUSTER] chairs, the committee with jurisdiction over the Oil Pollution Act and the Clean Water Act. The committee has an extensive record of testimony and other data affirming the need for the legislation.

The bill before us combines the views of the three committees involved: the Committee on Commerce, the Committee on Agriculture, and the Committee on Transportation and Infrastructure.

It includes a broad mandate for commonsense: generally all Federal agencies are required to differentiate between animal fat and vegetable oils on the one hand and petroleum-based oils on the other.

It includes provisions to take into account the special nature of food and drug regulations that do not relate to environmental discharge.

H.R. 436 is an important, non-controversial solution to a regulatory situation that needs correction, and I urge my colleagues to support the bill.

Mr. BURR. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BURR] for yielding this time to me, and I especially want to thank the chairman of the subcommittee, the gentleman from Illinois [Mr. EWING], and the gentlewoman from Missouri [Ms. DANNER], for putting this excellent bill forward. I am very, very proud to be a cosponsor.

Mr. Speaker, as a member of both the Committee on Agriculture and the Committee on Transportation and Infrastructure, this particular bill has great significance to me, and I am very, very proud once again to be a cosponsor. One of the reasons that last year I ran for Congress as a farmer and a small business person myself was because of the sometimes outrageous regulations that are placed on farmers and small business people seeing the direct effect of what those regulations have on people who are working very, very hard every day, striving to improve the lives for themselves and for their children. That is one reason that I am so supportive also of Correction Days, because it does give us an opportunity to right some of these wrongs which have been put on the American public and which have no benefit to the American people, but cause great restrictions as far as common sense in the business and workplace. My district in northwest Iowa produces a tremendous amount of soybeans. We have the largest soybean crush in the United States, any district in the United States. We produce more soybean oil than any other district, and that is why I am so proud that H.R. 436 simply requires, once and for all, for Federal agencies to tell the difference between what is a nontoxic vegetable oil or animal fats and petroleum-based oils when writing regulations, and we should keep in mind that this does not exempt vegetable oils or animal fats from regulations and spill plans. The oils covered by this bill are nontoxic, edible, natural, and biodegradable, and I think the folks at home should realize when they are cooking every day the oil that they get out of the bottle that they are frying their food in, this is what we are talking about. This is not the sludge or the crude from the *Exxon Valdez* or something like this. These are edible oils that are used every day in the kitchen in our homes and we eat every day. This should be very, very non-controversial.

I think this bill symbolizes the commonsense reforms to the environmental regulations of the Republican Congress that we are trying to put forth today. This bill removes unnecessary costs of burdensome shipping standards which should not apply to nontoxic products such as vegetable oils and animal fats.

This type of regulation in the past is part of the absurdity that we have had in our regulatory parts of this Government, and it is really hard for me to believe that it takes an act of Congress to state that vegetable oil is not toxic

and should not be held to the same standard as crude oil. American farmers have suffered from increased shipping rates and loss of foreign markets due to these crazy regulations, and I ask for everyone to support 436, which is common sense. It brings back some sanity to this Government.

□ 1500

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to observe that for all the hoopla over Corrections Day created by the majority, that in 10 months we have considered San Diego sewage and edible oils, one of which is being resolved by the Environmental Protection Agency on its own, and the other of which is being resolved by the Department of Transportation, and regulations that agency has issued, which is part of two other bills which have passed the House. This is a large waste of the body's time and a process that is inappropriate for the consideration of such subjects.

Mr. Speaker, I yield back the balance of my time.

Mr. BURR. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would make this comment to my colleague, that in my 9 short months here in Washington, I have learned that sometimes a little nudge is what is needed to get the process started. I hope this nudge of Corrections Day will enable us to eliminate those things that to the American people are common sense, that we should change and clarify.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EWING].

The SPEAKER pro tempore (Mr. EVERETT). The gentleman from Illinois [Mr. EWING] will close debate.

Mr. EWING. Mr. Speaker, I thank the gentleman for yielding time to me, and for giving me the opportunity to close on this bill.

Mr. Speaker, it is so simple, we should not have to be here. Yet we are here today because it has not been done. That is what the American people are unhappy about: Two Congresses, multiple bills, and we still have the regulatory rock around our necks. It is hard on agriculture, it does not hurt the environment, and yet, it even increases costs to consumers across this country.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I would like to point out to the gentleman that the process has worked as far as the substance of the gentleman's issue is concerned. This body has acted in last Congress and this Congress. It is the other body that has not acted. I suggest the gentleman direct his anger to the other body.

Mr. EWING. Mr. Speaker, I would ask the gentleman, then, why the objection to do it? We need to do it, get it out

there is an individual bill so it will not die as part of some other legislation. The people of this country cannot understand how we can be so bureaucratic. It is time for a change. The Corrections Day Calendar is a good calendar, and I would certainly encourage people of get behind this bill. Let us show the American people we do care about what they are concerned about, that we do care and that we can make government effective, efficient, and responsible.

Mr. SMITH of New Jersey. Mr. Speaker, I want to express my strong support for two bills we are considering today, both of which were introduced by my good friend and colleague Representative HUTCHINSON.

H.R. 1384 makes an important contribution to veterans health care by helping ensure that the VA health care system can retain the best health personnel. Unfortunately, existing VA regulations actually create a disincentive for many health care professionals to work in the VA health care system.

By restricting nurses, physician assistants, and dental auxiliaries from obtaining additional work outside the VA, we are forcing these personnel to make a choice between remaining in the VA, or leaving the system altogether. Many of these employees feel that they must obtain income from secondary sources in order to support their families and make ends meet. They should be allowed to do so, while still serving the VA. We should not risk losing talented people in the VA health care system simply because of an outdated regulation that no longer serves a useful purpose.

Mr. Speaker, I also want to urge my colleagues to support H.R. 1536, which will extend the VA's authority to use local salary data to determine the salary levels of nurse anesthetists. This provision is necessary to ensure that nurse anesthetists are fairly compensated for their services, in the same manner that compensation for regular nurses is determined through the Veterans Affairs Nurse Pay Act of 1990.

As a member of the Veterans' Subcommittee on Hospitals and Health Care, I was pleased to support both of these bills at both the subcommittee and the full committee level. I want to thank Chairman HUTCHINSON for his diligent work on these legislative initiatives, and urge all my colleagues to give their full support to these two measures.

Mr. BURR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina [Mr. BURR].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BURR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 436, EDIBLE OIL REGULATORY REFORM ACT

Mr. BURR. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make technical and conforming changes to H.R. 436, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXEMPTING CERTAIN FULL-TIME HEALTH CARE PROFESSIONALS OF THE DEPARTMENT OF VETERANS AFFAIRS FROM RESTRICTIONS ON REMUNERATED OUTSIDE PROFESSIONAL ACTIVITIES

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1384), to amend title 38, United States Code, to exempt certain full-time health care professionals of the Department of Veterans Affairs from restrictions on remunerated outside professional activities, as amended.

The Clerk read as follows:

H.R. 1384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEPARTMENT OF VETERANS AFFAIRS PERSONNEL ADMINISTRATION.

(a) EXEMPTION OF CERTAIN HEALTH-CARE PROFESSIONALS FROM RESTRICTIONS ON REMUNERATED OUTSIDE PROFESSIONAL ACTIVITIES.—Section 7423 of title 38, United States Code, is amended—

(1) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (1), (2), (3), (4), and (5), respectively;

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

“(c)(1) An employee of the Veterans Health Administration who is covered by subsection (a) (other than a registered nurse, a physician's assistant, or an expanded-duty dental auxiliary) may not assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Department facility.

“(2) The limitation in paragraph (1) shall not apply in a case in which the employee, upon request and with the approval of the Under Secretary for Health, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available. The

approval of the Under Secretary may not be for a period in excess of 180 days, which may be extended by the Under Secretary for additional periods of not to exceed 180 days.”.

(b) CROSS REFERENCE AMENDMENTS.—Subsection (d) of such section, as redesignated by subsection (a)(2), is amended—

(1) in the matter preceding paragraph (1), by striking out “subsection (b)(6)” and inserting in lieu thereof “subsection (b)(5)”; and

(2) in paragraph (2), by striking out “paragraph (1)(B)” and inserting in lieu thereof “section 7421(b) of this title”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Mississippi [Mr. MONTGOMERY] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1384.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

Mr. STUMP. Mr. Speaker, H.R. 1384 would exempt VA professional nurses, physicians' assistants, and expanded-duty dental auxiliaries from restrictions regarding outside professional activities for remuneration.

Mr. Speaker, the CBO has stated H.R. 1384 would have no significant impact on the Federal budget. I would like to express my appreciation to the gentleman from Mississippi, SONNY MONTGOMERY, ranking member of the full committee, the gentleman from Arizona, TIM HUTCHINSON, chairman of the Subcommittee on Hospitals and Health Care, as well as the gentleman from Texas, CHET EDWARDS, who is the ranking member of the subcommittee, for their support of the bill.

Mr. Speaker, in addition to thanking the gentleman from Mississippi [Mr. MONTGOMERY] for his work on this bill, I would like to be one of the first Members on this floor today to say how much I regret his decision to retire from the House at the end of this term. The gentleman from Mississippi has been a great friend for many years, and we have worked on many issues over those years. I just want him to know that I will miss both his friendship and his counsel. There will, of course, be many occasions over the next 14 months to more properly express our appreciation for his outstanding service in this House, but I would like him to know that I both regret his decision, but also wish him the very best in his future endeavors.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON], chairman of the Subcommittee on Hospitals and