

**AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 2838
OFFERED BY MR. BISHOP OF NEW YORK**

Page 95, after line 14, insert the following:

1 “(7) STATE OPERATIONAL REQUIREMENTS.—
2 “(A) IN GENERAL.—If any State deter-
3 mines that the protection and enhancement of
4 the quality of waters within the State require
5 greater environmental protection than would be
6 achieved through the application of a standard
7 specified under subsection (c) or established
8 under subsection (d), the State may impose
9 operational requirements that are more protec-
10 tive than such standards, except that a State
11 operational requirement imposed under this
12 paragraph may not—
13 “(i) require the installation of a bal-
14 last water treatment technology that dif-
15 fers from that required by the standard
16 specified under subsection (c) or estab-
17 lished under subsection (d); or
18 “(ii) apply until the Administrator
19 and the Secretary determine that the wa-

1 ters of the State require greater environ-
2 mental protection and such greater envi-
3 ronmental protection can be achieved by
4 the State operational requirement.

5 “(B) FACTORS FOR DETERMINATION.—

6 “(i) DETERMINATIONS BY ADMINIS-
7 TRATOR.—In making the determination
8 under subparagraph (A)(ii), the Adminis-
9 trator shall consider—

10 “(I) whether the receiving waters
11 have been afforded special protection
12 under Federal or State law;

13 “(II) the benefits to human
14 health, welfare, or the environment of
15 the additional protection for the re-
16 ceiving waters;

17 “(III) the reduction in risk to
18 human health, welfare, or the environ-
19 ment resulting from the additional
20 protection;

21 “(IV) the propagule pressure to
22 be addressed by the additional protec-
23 tion;

24 “(V) applicable Federal and
25 State law;

1 “(VI) applicable international
2 standards; and

3 “(VII) the costs and benefits of
4 providing the additional protection.

5 “(ii) DETERMINATIONS BY SEC-
6 RETARY.—In making the determination
7 under subparagraph (A)(ii) the Secretary
8 shall consider—

9 “(I) the effect that the use of the
10 State operational requirement for ad-
11 ditional protection would have on the
12 operation, operational capability, and
13 safety of the crew and vessel;

14 “(II) the potential impacts on
15 shipping, trade, and other uses of the
16 aquatic environment;

17 “(III) applicable Federal and
18 State law;

19 “(IV) applicable international
20 standards; and

21 “(V) the costs and benefits of
22 providing the additional protection.

23 “(C) DEADLINE.—Upon application of the
24 State, the Administrator and the Secretary

1 shall make the determination within 180 days
2 of the date of the completed application.

3 “(D) APPROVAL OF STATE OPERATIONAL
4 REQUIREMENTS.—

5 “(i) IN GENERAL.—If the Adminis-
6 trator and the Secretary determine upon
7 application by a State that the protection
8 and enhancement of the quality of waters
9 within that State require more environ-
10 mental protection and that such greater
11 protection can be achieved by the oper-
12 ational requirement, the Administrator and
13 the Secretary shall approve the application
14 for the State operational requirement.

15 “(ii) LIMITATION.—The Adminis-
16 trator and the Secretary may not approve
17 a State operational requirement if the re-
18 quirement—

19 “(I) would have an unreasonable
20 impact on the use of traditional ship-
21 ping lanes; or

22 “(II) would prohibit the dis-
23 charge of ballast water in all the wa-
24 ters of the State.

1 “(iii) REGULATIONS.—Following the
2 approval of a State operational require-
3 ment by the Administrator and the Sec-
4 retary under this paragraph, the Secretary
5 shall by regulation implement the State
6 operational requirement for the waters of
7 the State.

