

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
BISHOP OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10  
MINUTES

**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.

