



November 2, 2011

THE  
ENVIRONMENTAL  
COUNCIL OF  
THE STATES

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PAST PRESIDENT

R. Steven Brown  
Executive Director

The Honorable Frank LoBiondo  
Chairman  
Subcommittee on Coast Guard and Maritime Transportation  
2427 Rayburn House Office Building  
Washington, DC 20515

The Honorable Rick Larsen  
Ranking Member  
Subcommittee on Coast Guard and Maritime Transportation  
108 Cannon House Office Building  
Washington, DC 20515

The Honorable Bob Gibbs  
Chairman  
Subcommittee on Water Resources and Environment  
329 Cannon House Office Building  
Washington, DC 20515

The Honorable Tim Bishop  
Ranking Member  
Subcommittee on Water Resources and Environment  
306 Cannon House Office Building  
Washington, DC 20515

Dear Congressmen:

I am writing on behalf of the members of the Environmental Council of the States, the state and territorial environmental agencies, about H.R. 2840, and an amendment to it offered by Congressman Bishop.

Our understanding is that the bill seeks to address the regulation of ship ballast waters in order to suppress the spread of exotic species, and that it pre-empts any state regulatory approaches.

With respect to the direction of the bill, ECOS could agree that:

- 1) national standards can help to achieve a level playing field for compliance;
- 2) the states have a diversity of experience and varying desire for federal regulation in this area;
- 3) the states have a role in developing additional requirements based on state-specific conditions, and as a backstop to federal standards that are not yet proven.

ECOS has long held that "expansion of environmental authority to the states is to be supported, while preemption of state authority is to be opposed." The bill as drafted preempts state authority not only for ballast discharges, but also for many other types of vessel discharges. ECOS also "affirms its support for the concept of flexibility, i.e., that the function of the federal environmental agency is, working with states, to set goals for environmental accomplishment and that, to the maximum extent possible, the means of achieving those goals should be left to the states; this is particularly important in the development of new programs which will impact both states and U.S. EPA." [See our resolution entitled *Environmental Federalism* at [www.ecos.org](http://www.ecos.org) .]

We also encourage Congress to ensure that the United States Coast Guard and the United States Environmental Protection Agency have the resources they need to enforce the act, should it become law.

It seems to us that the amendment offered by Congressman Bishop addresses some of our concerns, and that the bill would be improved by its inclusion, although several of our other concerns would remain.

Regards,

A handwritten signature in black ink, appearing to read "R. Steven Brown". The signature is fluid and cursive, with the first name "R. Steven" and the last name "Brown" clearly distinguishable.

R. Steven Brown