



November 2, 2011

Dear Representatives:

Lake Superior is a national treasure containing 10 percent of the world's fresh water. **We write to express our opposition to bill H.R. 2840, the Commercial Vessel Discharges Reform Act of 2011, recently passed by the House Committee on Transportation and Infrastructure.** If this measure is brought before the full House without significant amendments to address the concerns listed below, the undersigned organizations strongly urge you to vote against it because it will set back progress made in the fight against invasive species and increase the risk of further harm to Lake Superior and ultimately, as demonstrated by zebra mussels, all of Minnesota's inland waters.

We appreciate the Committee's attention to a critical problem in our Nation's aquatic ecosystems: aquatic invasive species and pathogens that are introduced and spread through ballast water discharges. As you may know, counteracting the effects of these species now costs residents in the Great Lakes region hundreds of millions of dollars each year. Once introduced, these species and their effects are expected to be with us forever. In the past 30 years, more than 180 aquatic invasive species have entered the Great Lakes and a new one is expected about every eight months. In spite of Lake Superior's distance from the St. Lawrence Seaway, 69 of these harmful species are found here – more than 30 of which are directly attributed to ballast water.

We agree that a single, effective federal standard is needed. Nevertheless, as currently drafted, the bill is unacceptable because it would eliminate multiple tools used by both Federal and State officials to effectively control the introduction of aquatic invasive species from vessels' ballast water.

We object to the provisions in the bill which would:

**Preempt states' authority to adopt discharge standards, including standards that are more stringent than the minimum standards in the bill.** After decades of delay and inaction at the federal level, numerous states found it necessary to act on their own to protect their resources. While we seek a single national standard that will adequately protect the region's resources, individual states must retain their right to set more effective standards on their own if they conclude that additional measures are necessary to protect the waters within their borders. In Minnesota, every species introduced to Lake Superior puts all our lakes and rivers at risk as demonstrated by the current spread of zebra mussels.

**Remove important requirements under the Clean Water Act (CWA) restricting the release of ballast water into navigable waters, 33 U.S.C. §1342 and providing for public participation, 33 U.S.C. §1251(e).** The Clean Water Act is the nation's most effective tool for eliminating discharge of pollution to our waters and the basis for current state activities to protect their waters. We want to emphasize our opposition to provisions in the bill which severely undermine public participation. Currently, the public is ensured a voice in water quality standards, the issuance of permits, and the revision of technology standards. In its current form, H.R. 2840 eliminates all these avenues of public participation.

**Repeal portions of the Non-indigenous Aquatic Nuisance Prevention and Control Act (NANPCA) that establish a Task Force to prevent the spread of non-indigenous nuisance species.**

**Use water quality standards that are weaker than the most protective state standard currently in place.** States have adopted a range of different standards, from the minimal International Maritime Organization (“IMO”) standard to the most protective “California” standard which currently allows for the fewest live organisms is ballast water discharge and aims for a long term goal of “zero viable organisms.” H.R. 2840 sets the bar at the IMO standard which is not protective enough of Great Lakes waters. Invasive species are reproducing organisms that are never diluted or eliminated once they are established. There is no reason to settle for the minimum IMO standards established in 2007. As of September 2011, California reports that 10 treatment systems have demonstrated the potential to comply with their performance standards, an increase of two since their 2010 report and an increase of eight since 2009. These systems were developed since California set their standards and experience clearly demonstrates that high standards are achievable and result in further technological innovation. We reject any argument for a final standard that is less stringent than the California standard. We cannot sell our water resources short by relying on a lax standard that sets the bar too low and fails to consider the demonstrated value of setting high standards for resource protection and technological innovation.

**Set a glacial timeline for implementation that includes loopholes.** We have known that ballast water is responsible for introducing AIS for more than 40 years and they will cost residents of the Great Lakes region hundreds of millions of dollars each year forever. We cannot afford continued inaction that puts the Great Lakes at further risk with unnecessarily long implementation timelines, or timelines with loopholes and escape clauses that render them meaningless. New invasive species are introduced and spread in the Great Lakes every year. The timeline for compliance with a national standard should be at least as stringent as the 2016 timeline established by Minnesota.

**Apply unequal standards for oceangoing and “laker” vessels.** Vessels that only operate within the Great Lakes (“lakers”) play a significant role in spreading invasive species within the Great Lakes. The Minnesota Pollution Control Agency determined that laker vessels are likely to spread invasive species into some waters, such as Lake Superior, years or decades earlier than they would otherwise spread. If laker vessels are not held to the same standards as oceangoing vessels Lake Superior will not be protected from the spread of many invasive species already found in the lower Great Lakes. Zebra mussels and round gobies were most likely brought to Lake Superior by laker vessels. The port of Duluth-Superior receives more than 5 billion gallons of ballast water discharge each year – more than any other port in the Great Lakes – while an additional almost 2 billion gallons are discharged at Two Harbors. About 95% of this ballast water is from laker vessels.

Individually and in combination, the above provisions result in a bill that severely curtails, rather than advances, efforts to curb invasive species and their costly effects.

Federal permits, state requirements, public participation and the NANPCA provide essential tools for preventing the spread of water-borne invasive species currently in the United States that cost tax payers hundreds of millions of dollars each year. We urge you not to replace them with a weaker federal program that inadequately protects our waters. We reject the false choice between having a healthy shipping industry and significantly reducing the risks of introducing and spreading invasive species in the Great Lakes. **In the interest of the public and for protection of our state waters, please strongly oppose the legislation as it moves forward.**

Thank you for considering our views on this important issue.

Sincerely,



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cc: Minnesota Congressional Delegation