The Vessel Incidental Discharge Act

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Vessel Incidental Discharge Act: VIDA

“Frank LoBiondo Coast Guard Authorization Act of 2018”
(S.140, Title IX)

- Passed Senate: Nov. 14 (94-6 vote)
- Passed House: Nov. 27 (agreed to by voice vote w/o objection)
- President Signed into Law: Dec. 4
Vessel Incidental Discharge Act: VIDA

A review:

• What are Discharges Incidental to the Normal Operation of a Vessel (DINOV)?

• A brief history of ballast water and DINOV

• Key provisions of VIDA

• Next steps: Implementation
VIDA: DINOV Defined

Not Covered:
• Sewage
• Garbage
• Major spills/accidents
EPA lists 31 technology-based and specific discharge categories of effluent limits including:

<table>
<thead>
<tr>
<th>Material storage</th>
<th>Toxic and hazardous materials</th>
<th>Fuel spills/overflows</th>
<th>Discharges of oil &amp; oily mixtures</th>
<th>Deck washdown</th>
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</thead>
<tbody>
<tr>
<td>Bilgewater/oily water separator</td>
<td>Ballast water</td>
<td>Anti-fouling hull coatings</td>
<td>Aqueous film forming foam</td>
<td>Boiler/economizer blowdown</td>
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<td>Cathodic protection</td>
<td>Chain locker</td>
<td>Propeller/thruster fluid</td>
<td>Distillation and reverse osmosis brine</td>
<td>Elevator pit</td>
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<td>Firemain systems</td>
<td>Freshwater layup</td>
<td>Gas turbine washwater</td>
<td>Graywater</td>
<td>Motor gasoline and compensating discharge</td>
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<td>Non-oily machinery wastewater</td>
<td>Refrigeration and air condensate discharge</td>
<td>Seawater/engine/hydraulic/refrigeration cooling water</td>
<td>Seawater piping biofouling prevention</td>
<td>Boat engine wet exhaust</td>
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<td>Sonar dome discharge</td>
<td>Underwater ship husbandry and fouling</td>
<td>Weldeck discharges</td>
<td>Graywater mixed with sewage</td>
<td>Exhaust scrubber washwater</td>
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<td>Fish hold</td>
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Blue cells are USCG regulatory overlap
## VIDA: A Brief History of Time

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<tbody>
<tr>
<td>States</td>
<td></td>
<td></td>
<td></td>
<td>2000: WA, CA, HI BWM programs</td>
<td>2008: VGP 401 Certification 26 States, 2 Tribes; 11 w/BWM provisions; 3 &gt; IMO BWDS</td>
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<tr>
<td>Year / Authority</td>
<td>2010-14</td>
<td>2015-19</td>
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<td><strong>IMO</strong></td>
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<td>2016: IMO BWM Convention Ratified 2017: IMO BWM Convention In Effect</td>
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<td><strong>States</strong></td>
<td>2013: VGP 401 Certification (25 States, 0 Tribes; 17 w/BWM provisions; 1 &gt; IMO BWDS)</td>
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<td><strong>USCG</strong></td>
<td>2013: USCG BWDS/ Timeline</td>
<td>2017: 1st BWMS type-approved by USCG (now @ 15)</td>
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<td><strong>EPA</strong></td>
<td>2013: EPA VGP reissued – including BWDS/ Timeline</td>
<td>2018: sVGP moratorium expired; VGP “Administratively Continued”; sVGP repealed</td>
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VIDA: Provisions

- **EPA/USCG/States:** No DINOV changes/preemption until new federal standards/requirements “final, effective, and enforceable” **EXCEPT**
  - Paragraphs 6(B) *Empty Ballast Tanks*, 10(C) *Min. Pacific Region Req.*, and 10(D) *Low Salinity Ballast Tanks*

- **EPA:** Federal lead in establishing water quality standards for DINOV under Sec. 312 of CWA (eliminates NPDES permit requirements)

- **USCG:** Federal lead on monitoring, inspection, and enforcement of DINOV standards

- **State Preemption:** Cannot have a more stringent standards/requirements
VIDA: Provisions (cont.)

- **State Authorities Retained:**
  - Enforcement of federal standards/requirements
  - Pacific Coast ballast water exchange and other key regional provisions
  - Ability to issue DINOV management fees (with new cap)
  - Regulation of small commercial (<79ft) and fishing vessels (except by NPDES permit)

- **State Authorities Gained:**
  - Consultation required during EPA and USCG establishment of standards/requirements
  - State petition for higher federal standards/requirements
  - Improved dissemination of NBIC ballast water reporting data and annual reports
  - Working group formed to develop real-time ballast water data sharing
VIDA: Provisions (cont.)

• Coastal AIS Mitigation Grant:
  o Administration – National Fish and Wildlife Foundation
  o $5M Subject to appropriation (25% match requirement)
  o $? Sec. 312(p) (VIDA) penalties
  o AIS in coastal zone or EEZ
  o Eligibility – States, local gov’t, Tribes, NGOs, academia
  o Use –
    ▪ Support ballast water and other AIS management program activities
    ▪ Restore habitat impacted by AIS
    ▪ Develop ballast water treatment technologies
    ▪ Develop mitigation measures to protect natural and living cultural resources from AIS impacts
    ▪ Develop infrastructure AIS mitigation measures

WDFW Pleus
VIDA: Next Steps

Short-Term Implementation (in consultation with BWWG & as resources allow):

• EPA & USGC develop consultation/working relationship
• EPA & States establish consultation process & timeline for developing/issuing DINOV standards
• USCG & States establish consultation process & timeline for developing vessel requirements/enforcement procedures
• EPA/USCG/States develop state petition process
• Congress appropriates funds for Coastal AIS Mitigation Grant program
VIDA: Next Steps (cont.)

Short-Term Implementation (in consultation with BWWG & as resources allow):

• WDFW conduct rulemaking to be consistent with VIDA provisions now in effect (incl. paragraphs 6(B) *Empty Ballast Tanks*, 10(C) *Min. Pacific Region Req.*, and 10(D) *Low Salinity Ballast Tanks*)

• WDFW conduct rulemaking to align with current federal requirements (as necessary during estimated 4 year full-VIDA implementation interim including setting BWDS and timeline)

• WDFW/Ecology develop 2021-23 biennium legislation

• WDFW/Ecology/USCG develop MOA for cooperative enforcement
VIDA: Next Steps (cont.)

Short-Term Implementation (in consultation with BWWG & as resources allow):

- EPA/State consultation on “[ANS] Emergencies and Further Protection of Water Quality” provision
- Assess purpose/need to participate in development of “Intergovernmental Response Framework”
- WDFW/NBIC “Work Group” consultation on real-time dissemination of BWMRs to States
VIDA: Questions?

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