

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)

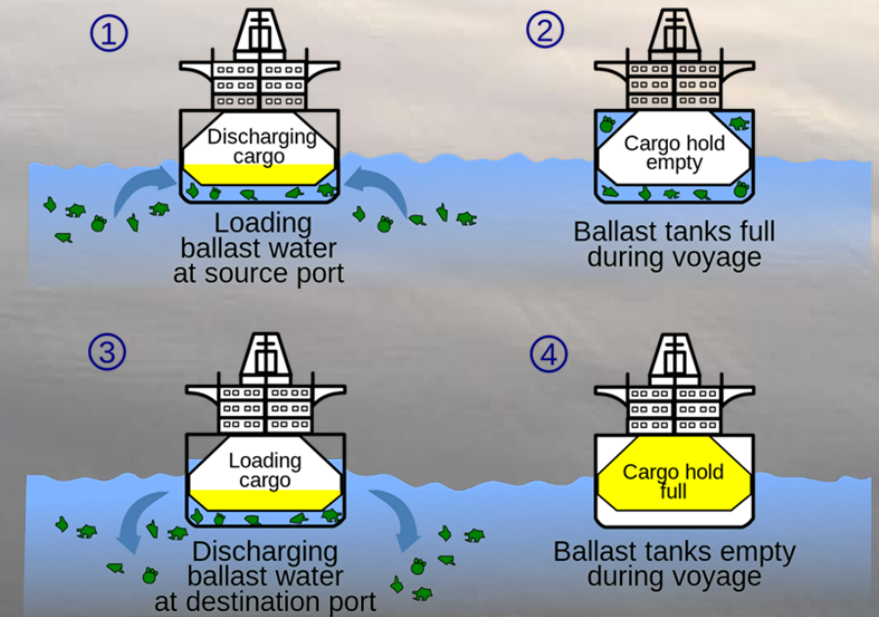
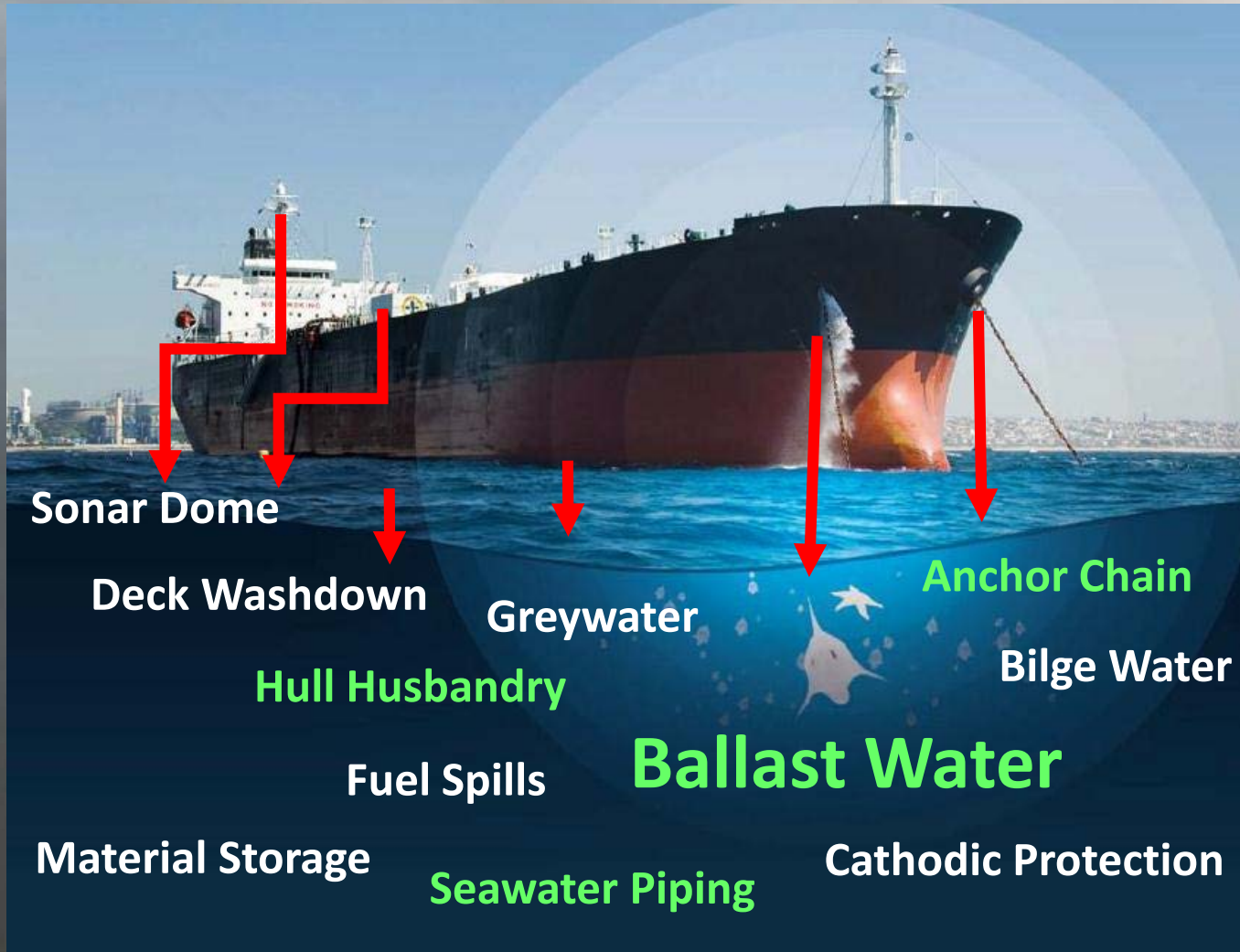
- **Passed Senate:** Nov. 14 (94-6 vote)
- **Passed House:** Nov. 27 (agreed to by voice vote w/o objection)
- **President Signed into Law:** Dec. 4

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: DINO V Defined



Not Covered:

- Sewage
- Garbage
- Major spills/accidents



VIDA: DINOV Defined (cont.)

EPA lists 31 technology-based and specific discharge categories of effluent limits including:

Material storage	Toxic and hazardous materials	Fuel spills/overflows	Discharges of oil & oily mixtures	Deck washdown
Bilgewater/oily water separator	Ballast water	Anti-fouling hull coatings	Aqueous film forming foam	Boiler/economizer blowdown
Cathodic protection	Chain locker	Propeller/thruster fluid	Distillation and reverse osmosis brine	Elevator pit
Firemain systems	Freshwater layup	Gas turbine washwater	Graywater	Motor gasoline and compensating discharge
Non-oily machinery wastewater	Refrigeration and air condensate discharge	Seawater/engine/hydraulic/refrigeration cooling water	Seawater piping biofouling prevention	Boat engine wet exhaust
Sonar dome discharge	Underwater ship husbandry and fouling	Welldeck discharges	Graywater mixed with sewage	Exhaust scrubber washwater
Fish hold				

Blue cells are USCG regulatory overlap

WDFW Pleus



VIDA: A Brief History of Time

Year / Authority	1970-89	1990-94	1995-99	2000-04	2005-09
IMO		1991: IMO BW and Sediment Guidelines		2004: IMO BWM Convention	
States				2000: WA, CA, HI BWM programs 2001: OR BWM program	2008: VGP 401 Certification 26 States, 2 Tribes; 11 w/BWM provisions; 3 > IMO BWDS
USCG		1993: USCG BWM Great Lakes (BWE-V)	1999: USCG BWM National (BWE-V)	2004: USCG BWM National (BWE-M)	
EPA	1973: EPA exempts DINOv from NPDES permits		1999: Incidental discharge petition to EPA	2003: EPA denies petition; Lawsuit filed	2008: EPA DINOv Ruling & Appeal Denied 2008: EPA VGP Issued – no BWDS/timeline
Congress	1988: Zebra Mussels in GL	1990: NANPCA 1991-92: Cholera in Gulf states	1996: NISA		2005: S.363 2007: S.1578; HR.2830



VIDA: A Brief History of Time

Year / Authority	2010-14	2015-19
IMO		2016: IMO BWM Convention Ratified 2017: IMO BWM Convention In Effect
States	2013: VGP 401 Certification (25 States, 0 Tribes; 17 w/BWM provisions; 1 > IMO BWDS)	
USCG	2013: USCG BWDS/ Timeline	2017: 1 st BWMS type-approved by USCG (now @ 15)
EPA	2013: EPA VGP reissued – including BWDS/ Timeline	2018: sVGP moratorium expired; VGP “Administratively Continued”; sVGP repealed
Congress	2011: HR.2840; HR 2838 2012: S.3570; S.3332 2013: H.R.3464 2014: S.2094; HR.5609 (7)	2015: S.373; HR.980 2016: HR.4990 NDAA; 7+ Amendment versions 2017: S.168; H.R. 1154; S.1129; S.140 2018: S.1129 4+ Amendment versions; EPW 3+ versions; S.140 Passed (23+)



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 DINO V 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:**

- Administration – National Fish and Wildlife Foundation
- \$5M Subject to appropriation (25% match requirement)
- \$? Sec. 312(p) (VIDA) penalties
- AIS in coastal zone or EEZ
- Eligibility – States, local gov't, Tribes, NGOs, academia
- 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



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 BWVG & 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 BWVG & 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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