



Vessel Incidental Discharge Act (VIDA)

The U.S. Regulatory Framework for
Discharges from Commercial
Vessels

Disclaimer

The following EPA presentation is intended to provide information to the public on the recently enacted Vessel Incidental Discharge Act (VIDA) and currently in-force statutes, permits, and regulations. Neither the slide presentation nor the corresponding remarks represent final agency decisions regarding the implementation of VIDA.



Federalism Consultation

- **Objective:** Provide state and local government officials and representatives an opportunity to consult and provide *early* and *meaningful* input into EPA actions and decisions.
- **Consultation Period:** July 9, 2019 – September 9, 2019
- **Key State Interests:**
 - Vessels covered under VIDA regularly operate in state waters
 - Upon completion of USCG implementing regulations, VIDA requirements will preempt state and local law



Overview

- Vessel Regulatory History
- Vessel Incidental Discharge Act (VIDA)
- Interim Requirements (~2019 to 2022)
- Future Requirements and Programs
- Key State Provisions
- Questions



Vessel Regulatory History

- Numerous federal, state and local requirements regulate discharges from vessels.
- EPA's **Vessel General Permit** (vessels > 79 ft) and the **small Vessel General Permit** (vessels < 79 ft) (under Clean Water Act section 402)
- The U.S. Coast Guard's (USCG) Ballast Water Discharge Standard and a type approval program for Ballast Water Management Systems (BWMS)(National Invasive Species Act)



The Vessel Incidental Discharge Act (VIDA)



Introduction

- December 4, 2018: The **Vessel Incidental Discharge Act (VIDA)** is enacted and changes the U.S. framework for regulating incidental discharges from commercial vessels.
- VIDA passed to streamline the patchwork of federal, state, and local requirements for the commercial vessel community.



Highlights

- Applies to waters of the U.S. and waters of the contiguous zone; specific requirements in certain waters (e.g., Great Lakes)
- Maintains existing vessel discharge requirements for most vessels (EPA 2013 VGP and the USCG ballast water regulations)
- Authorizes EPA and the USCG to develop new vessel discharge regulations
- Establishes enhanced and regional ballast water requirements to address invasive species
- Requires the USCG to consider ballast water test methods based on organism viability



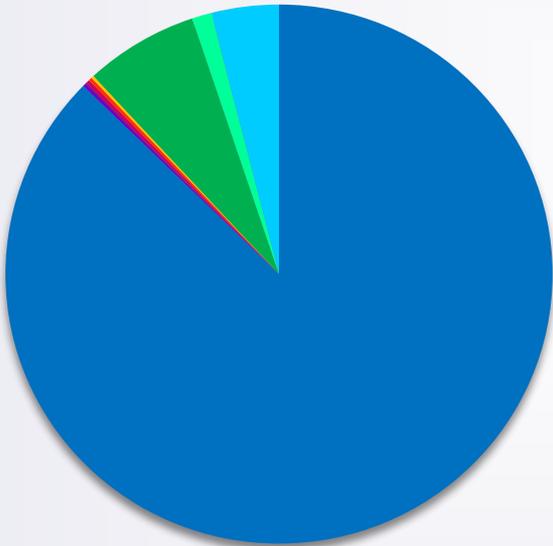
Types of Incidental Discharges

- Anti-Fouling Hull Coatings and Leachate
- Aqueous Film Forming Foam
- Ballast Water
- Bilgewater/Oily Water Separator Effluent
- Boat Engine Wet Exhaust
- Boiler/Economizer Blowdown
- Cathodic Protection
- Chain Locker Effluent
- Deck Washdown and Runoff
- Distillation and Reverse Osmosis Brine
- Elevator Pit Effluent
- Exhaust Gas Cleaning System Washwater
- Firemain Systems
- Fish Hold Effluent
- Freshwater Layup
- Gas Turbine Washwater
- Graywater
- Hull Fouling and Cleaning
- Inert Gas Scrubber Washwater
- Motor Gasoline Compensating Discharge
- Non-Oily Machinery Wastewater
- Oil-to-Sea Interfaces
- Pool or Spa Water
- Refrigeration and A/C Condensate
- Seawater Cooling Overboard Discharge
- Seawater Piping Biofouling Prevention
- Sonar Dome Discharge
- Well Deck Discharges



Vessel Universe

US-Flagged Vessels (~34,000)



- Barges
- Bulk Carriers
- Cargo Ships
- Container Ships
- Tankers
- ROROs
- Tugs/Tows
- Passenger
- Other

Foreign-Flagged Vessels (~18,000)



- Barges
- Bulk Carriers
- Cargo Ships
- Container Ships
- Tankers
- ROROs
- Tugs/Tows
- Passenger
- Other

Source: VGP eNOI System (2018)



Interim Requirements

(4 Dec 2018 to ~2022)

- **For large commercial vessels, except for fishing vessels:** The provisions of the EPA 2013 VGP, the USCG ballast water regulations, and state and local government requirements remain in force and effect, until the future regulations are enforceable.
- **For small commercial vessels and fishing vessels of any size:** Only the ballast water provisions of the EPA 2013 VGP, the USCG regulations, and state and local government requirements remain in force and effect until the future regulations are enforceable.



Future Requirements and Programs



Federal Regulations

- VIDA requires EPA and the USCG to develop **two federal rules** to address commercial vessel discharges:
 1. EPA to develop regulations establishing national discharge standards of performance within two years of enactment of VIDA; and
 2. The USCG to develop corresponding implementing, monitoring, and enforcement regulations two years thereafter.



EPA Discharge Standards

- Generally at least as stringent as the existing 2013 EPA VGP requirements
- Technology-based
- Numeric, best management practices, or a combination of both
- May distinguish between class, type, size, and age of vessels
- Developed in concurrence with the USCG and in consultation with interested governors



USCG Implementing Regulations

- Generally, at least as stringent as EPA's 2013 VGP and USCG ballast water requirements
- Address inspections, monitoring, reporting, sampling, and recordkeeping
- May address the design, construction, testing, approval, installation, and use of devices to achieve the EPA standards
- Developed in consultation with interested governors
- Generally preempt adoption or enforcement of other state or local regulations for incidental discharges from vessels covered under VIDA



Enforcement

- EPA, the USCG, and U.S. states will have enforcement authority (under CWA Section 309).
- USCG will have primary responsibility for enforcing regulations consistent with the discharge standards established by EPA.
- Enforcement is to be consistent with new USCG inspection, monitoring, data management, and enforcement procedures.
- VIDA authorizes citizen suits under certain circumstances.



Key State Provisions



Petitions for Modifications

- Allows governors of states (or a designee) to submit to the Administrator or the Secretary a petition to review any standard of performance, regulation, or policy if there exists new information that could reasonably result in a change to:
 - the standard of performance, regulation, or policy; or
 - a determination on which the standards of performance, regulation or policy was based
- The Administrator or Secretary, as applicable, shall grant or deny the petition within 1 year.



Petitions for Orders

- Allows governors of states (or a designee) to submit to the Administrator or the Secretary a petition to issue an order to use an emergency best management practice for any region or category of vessels:
 - to reduce the risk of introduction or establishment of an aquatic nuisance species
 - to mitigate the adverse effects of a discharge that contributes to a violation of water quality requirements under CWA section 303
- The Administrator, in concurrence with the Secretary, shall grant or deny the petition within 180 days.



Applications for No-Discharge Zones

- Allows states to apply to EPA to prohibit one or more types of discharge, whether treated or not treated, into certain waters
- The Administrator, in concurrence with the Secretary, shall by regulation prohibit the discharge from a vessel of one or more discharges upon determination that:
 - the prohibition would protect and enhance the quality of the specified waters;
 - adequate facilities for the safe and sanitary removal and treatment of the discharge are reasonably available for the affected water and vessels; and
 - the discharge can be safely collected and stored.
 - *Additional limitations are included for ballast water.*
- The Administrator shall approve or disapprove an application within 90 days.



Petitions for Great Lakes

- The governor of a Great Lakes State (or a State designee) may submit a petition to propose that the other governors of Great Lakes States endorse an enhanced standard of performance or other requirement with respect to any of the incidental discharges subject to regulation under VIDA that occur within the Great Lakes System.
 - Petitions shall be submitted to the Great Lakes Commission, the governor of each Great Lakes State, and the Director of the Great Lakes National Program Office for review and endorsement.
 - Governors endorsing proposed requirements and standards of performance may jointly submit to the Administrator and the Secretary for approval each proposed standard or requirement.
- The Administrator and the Secretary shall approve or disapprove within 180 days of receipt.



Coastal Aquatic Invasive Species (AIS) Mitigation Grant Program

- **Purpose:** Award grants to improve understanding and support the prevention, mitigation, and restoration of areas affected by aquatic invasive species
- **Eligibility:** States, local governments, tribes, non-governmental organizations, and institutions of higher education
- **Funding:** Up to \$5 million/ fiscal year + penalties for CWA 312(p) violations
- **Matching requirement:** Matching funds of no less than 25% to carry out the activities funded



Great Lakes and Lake Champlain Invasive Species Program

- **Purpose:** Monitoring and responding to AIS; type approval of ballast water management systems for vessels operating solely within the region
- **Requirement:** Collaboration with Federal, state, local and tribal agencies
- **Appropriations:** Up to \$50 million/fiscal year from 2019 - 2023



Comment Submission

At any point during the Federalism Consultation Process (July 9 – September 9, 2019), states or local governments may submit comments or questions to:

Email:

- Katherine Weiler at Weiler.Katherine@epa.gov
- Andrew Hanson at Hanson.Andrew@epa.gov



Questions?

