

Federal Vessel Incidental Discharge Act

Presented at the
Columbia River Basin Team Meeting

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Ballast Water History

Year & Authority	1985-89	1990-94	1995-99	2000-04	2005-09	2010-14	2015-19
IMO & Pacific State BWM Regulation		1997: IMO BWM Guidelines		2000: WA, CA, HI 2001: OR 2004: IMO Convention			2017: IMO Convention In Effect Nov (30 states/35% tonnage 2016)
USCG BWM Regulation		1993: USCG BWM GL (BWE-V)	1999: USCG BWM Nat (BWE-V)	2004: USCG BWM Nat (BWE-M)		2013: USCG BWDS/ Timeline	2017: 1 st BWMS type-approved by USCG?
EPA VIDM Regulation	1973: EPA exempts VIDM from NPDES permits		1999: Petition to EPA	2003: Lawsuit filed	2008: EPA VIDM Ruling & Appeal 2008: CBA & sVGP moratorium	2013: VGP BWDS/ Timeline	2018: VGP (anticipated)
Congress	1988: Zebra Mussels in GL	1990: NANPCA 1991-92: Cholera in Gulf states	1996: NISA		2005: S.363 2007: S.1578; HR.2830	2011: HR.2840; HR 2838 2012: S.3570; S.3332 HR.2838 & 2013: H.R.3464 2014: S.2094; HR.5609	2015: S.373; HR.980 2016: HR.4990 NDAA; 7+ Amendment versions

VIDA: Definitions

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(7) DISCHARGE INCIDENTAL TO THE NORMAL OPERATION OF A COMMERCIAL VESSEL.—

(A) **IN GENERAL.**—The term “discharge incidental to the normal operation of a commercial vessel” means—

(i) a discharge into navigable waters of the United States from a commercial vessel of—

36 discharge effluent streams

VIDA: Incidental Discharges

Ballast water	Boiler or economizer blowdown	Freshwater layup effluent	Sonar dome effluent	Installed major equipment	Non-oily machinery wastewater
Graywater	Byproducts from cathodic protection	Gas turbine wash water	Exhaust gas scrubber washwater	A protective, preservative, or absorptive application to the hull of a vessel	Underwater ship husbandry effluent
Bilge water	Controllable pitch propeller and thruster hydraulic fluid	Motor gasoline and compensating effluent	Stern tube packing gland effluent	Weather deck runoff	Welldeck effluent
Cooling water	Distillation and reverse osmosis brine	Refrigeration and air condensate effluent	Marine propulsion system	Deck wash	Fish hold and fish hold cleaning effluent
Oil water separator effluent	Elevator pit effluent	Seawater pumping biofouling prevention substances	Shipboard maneuvering system	Aqueous film forming foam effluent	Any effluent from a properly functioning marine engine
Anti-fouling hull coating leachate	Firemain system effluent	Boat engine wet exhaust	Habitability system	Chain locker effluent	A pollutant in connection with the testing, maint., or repair of a system, equip., or engine

VIDA: State Rights

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SEC. 3610. STATE ENFORCEMENT.

The Secretary **may** enter into an agreement with the Governor of a State to allow the State to enforce the provisions of this title, **as the Secretary considers appropriate.**

SEC. 3611. EFFECT ON STATE AUTHORITY.

(a) **IN GENERAL.**—Except as provided in subsection (b) and as necessary to implement an agreement entered into under section 3610, **no State or political subdivision thereof may adopt or enforce any statute, regulation, or other requirement** of the State or political subdivision with respect to—

- (1) a discharge into navigable waters of the United States from a commercial vessel of ballast water; or
- (2) a discharge incidental to the normal operation of a commercial vessel.

VIDA: Exemptions

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(c) APPLICATION TO CERTAIN VESSELS.—

(1) APPLICATION OF FEDERAL WATER POLLUTION CONTROL ACT.—No permit shall be required under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) or prohibition enforced under any other provision of law for, nor shall any best management practice regarding a discharge incidental to the normal operation of a commercial vessel under this title apply to, a discharge incidental to the normal operation of a commercial vessel if the commercial vessel is—

- (A) less than 79 feet in length; or
- (B) a fishing vessel, including a fish processing vessel and a fish tender vessel (as such terms are defined in section 2101 of title 46, United States Code).

VIDA: Basic Provisions

All 2015 and 2016 Versions

Regulatory Agency	VIDA Vessel Category					
	Commercial ≥ 79ft	Commercial < 79ft	Fishing (any size)	Recreational (any size)	Research (incl. nat. res.)	Other
USCG	Full Authority	Exempt	Exempt	Exempt	Exempt	Exempt
EPA	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt
States	Enforce USCG Only	Exempt	Exempt	Exempt	Exempt	Exempt

Blue text categories removed from current Senate Commerce Committee Discussion Draft

VIDA: Opposition Letters

State	Governors	AGOs	Regional Groups	Agencies	Other
Alaska	I	R			Oceana; Longliners
Arizona	R	R			
California	D	D			
Colorado	D	R			
Hawaii	D	D			
Idaho	R	R			Tribes
Illinois	R				
Indiana	R				
Maine	R				
Michigan	R	R	GLC		
Minnesota	D	D	GLC		
Montana	D	R			
New York	D	D			
Ohio	R	R	GLC		
Oregon	D	D			Tribes
Pennsylvania	D	D	GLC		
Rhode Island	D	D			
Utah	R	R			
Washington	D	D			Tribes
Wisconsin	R	R	GLC		

Western Governors Association Letter
19 States + 3 Flag island territories

Other AFWA; ECOS; AFS; ACWA; ASWM; NASBLA; NEMWI; Environ Caucus of 89 groups

VIDA: Next Steps

- React/oppose next VIDA proposed by industry
- Propose “redline” of most recent industry VIDA version
- Create democratic forum for collaborative legislation – ground>up
- Propose alternative compromise
 - Try to hit middle target with real compromises

Thank You

Questions?

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