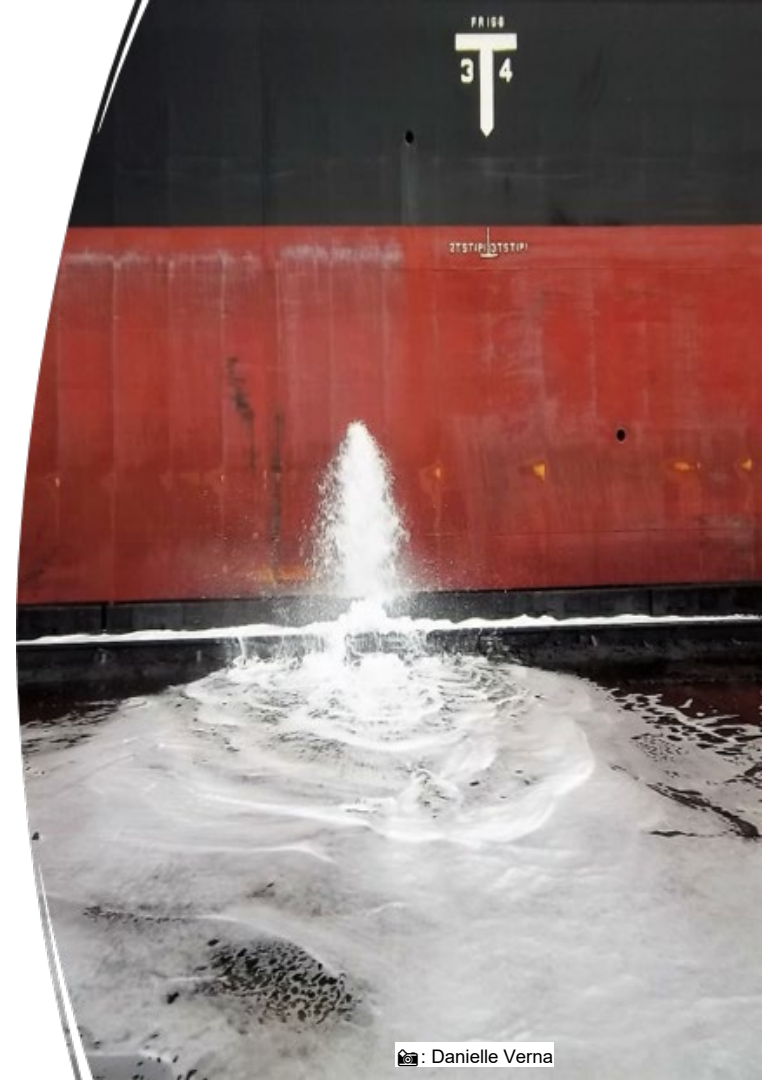
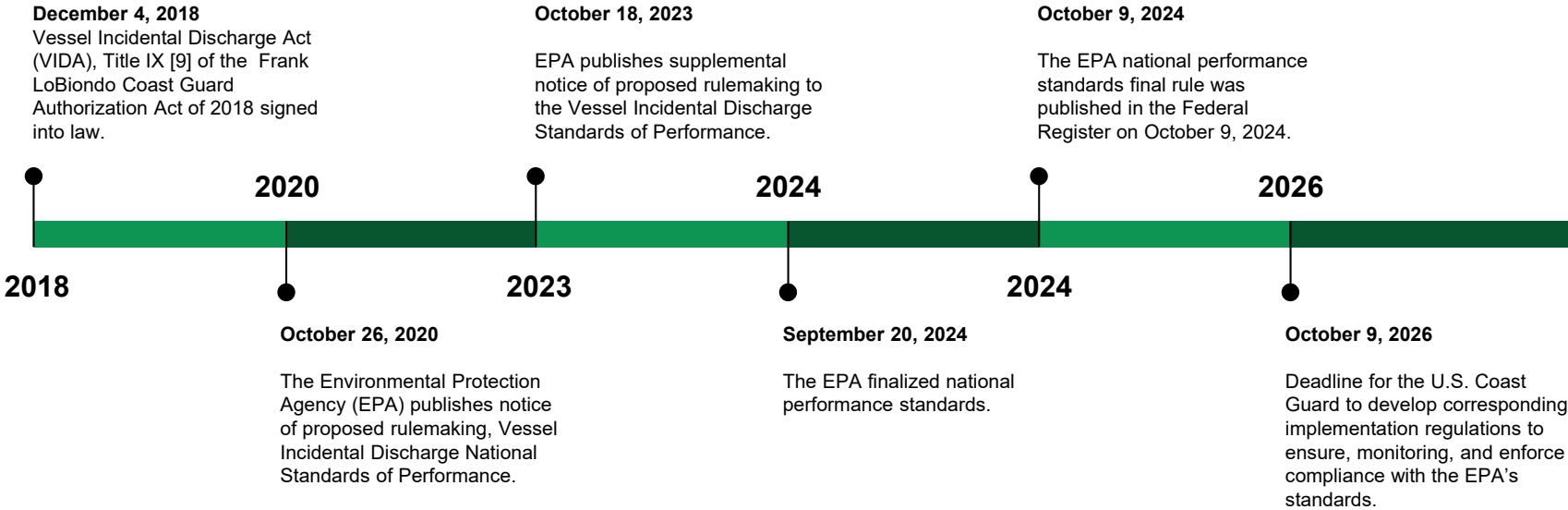


State Views on Vessel Incidental Discharge Act (VIDA) Implementation



Process



Reiterating Environmental Protection Agency (EPA) Concerns

1. EPA failed to adequately analyze best available technology to set minimum standards.
2. EPA's regulations are less stringent than the existing 2013 Vessel General Permit, which weakens protections.
3. EPA is regulating biofouling as incidental discharge which is beyond the intent of VIDA.
4. EPA fails to protect U.S. waters through chemical contamination resulting from in-water cleaning.

California State Lands Commission * California State Water Resources Control Board *
Oregon Department of Environmental Quality * Washington Department of Fish and Wildlife

December 14, 2023

Mr. Jack Faulk
Oceans and Coastal Management Branch (45041)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460
faulk.jack@epa.gov

Subject: Vessel Incidental Discharge National Standards of Performance [Docket No. EPA-HQ-OW-2019-0482]

Dear Mr. Faulk:

Please accept these comments to the U.S. Environmental Protection Agency (USEPA) on behalf of the undersigned State Agencies and Departments (collectively "States") in response to the Supplemental Notice to the proposed Vessel Incidental Discharge National Standards of Performance (Docket No. EPA-HQ-OW-2019-0482) [hereafter "Supplemental Notice"] pursuant to 33 U.S.C. section 1322. While each of the undersigned States does not necessarily have authority over every pollutant discussed in this letter, all are responsible for protecting State waters from harm through the implementation of discharge standards that protect state waters and are committed to preserving authorities reserved by Congress for States to act in the best interests of their states. To that end, the States will continue to work cooperatively and collaboratively with USEPA staff to ensure the final regulations are founded on the best available information and data.

The States have four major concerns regarding the Supplemental Notice. Those concerns are:

Reiterating Environmental Protection Agency (EPA) Concerns



August 28, 2023

Radhika Fox
Assistant Administrator, Office of Water
U.S. Environmental Protection Agency 1200 Pennsylvania Avenue NW
Washington, DC 20460
Fox.Radhika@epa.gov

Subject: States' expectations for the U.S. Environmental Protection Agency's Vessel Incidental Discharge Act Supplemental Notice

Dear Assistant Administrator Fox,

The undersigned State Agencies and Departments (collectively "States") write to formally express our expectations for the processes surrounding the upcoming release of a Supplemental Notice to the Vessel Incidental Discharge Act proposed regulations.

In alignment with the state (as codified under 33 U.S.C. 1903) following three primary ex-

1. A review and comment period of only 30 days to revise VIDA regulations in holiday. Such a short period of time to revise regulations collaboratively to a period of at least 60 days is not intended

2. Meetings between before and during Congress intended

Developed by
Jennifer Lucchesi
Jennifer Lucchesi, Executive Officer
California State Lands Commission

Developed by
James Cliff
James Cliff, Deputy Director
Michigan Department of Environment, Great Lakes, and Energy

Developed by
Melinda Bankley
Melinda Bankley, Assistant Director
Ohio Department of Natural Resources

Developed by
Jeffrey Willis
Jeffrey Willis, Executive Director
Rhode Island Coastal Resources Management Council

Developed by
Steven Little
Steven Little, Deputy Secretary
Wisconsin Department of Natural Resources

Developed by
Dawn N.S. Chang
Dawn N.S. Chang, Chairperson
Hawaii State Department of Land and Natural Resources

Developed by
Dana Vanderbosch
Dana Vanderbosch, Assistant Commissioner for Water Policy and Agriculture
Minnesota Pollution Control Agency

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Leah K. Feldon
Leah K. Feldon, Director
Oregon Department of Environmental Quality

Developed by
Kelly Susewind
Kelly Susewind, Director
Washington Department of Fish & Wildlife



STATE OF WASHINGTON
OFFICE OF GOVERNOR JAY INSLEE

December 14, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Wheeler:

I write to formally object to the proposed Vessel Incidental Discharge National Standards of Performance (Docket Number EPA-HQ-OW-2019-0482), pursuant to Clean Water Act 312(p)(4)(iii), "National Standards of Performance for Marine Pollution Control Devices and Water Quality Orders – Consultation With Governors."

The EPA proposed standards fail to protect Washington's environment and the health of our communities. In direct violation of its congressional mandate, EPA failed to consult meaningfully with states prior to promulgating the proposal. The EPA's standards do not meet the technology-based standards, or best available science, as required under the Vessel Incidental Discharge Act (VIDA).

This reckless proposal will impede Washington's ability to protect our waters against pollution and the spread of aquatic nuisance species. Our state agencies work with many partners, including federal, local, tribal, and non-governmental entities to prevent and manage these risks. A key component of prevention is addressing pathways of introduction. Ballast water discharges and biofouling are significant pathways of introduction in marine, estuarine and freshwater ecosystems. Failure to prevent these impacts could cost Washington residents hundreds of millions of dollars per year for aquatic nuisance species alone and put Washington's 3,500 miles of shoreline, 19 deep-water ports, 8,000 lakes and 70,000 miles of streams at risk, including connected waters such as the Columbia River, which can further impact our state and Canadian neighbors. This is unacceptable.

Enclosed, please find comprehensive comments to these proposed standards submitted to EPA by the Washington State Department of Ecology and Department of Fish and Wildlife. They outline the scientific, technical, and operational factors that form the basis of my objection, and are hereby incorporated as part of this objection. Before finalizing any standards, in accordance with the federal statute under VIDA, I expect EPA to provide a written response to each of the objections raised in the enclosure, consistent with the explanation requirements under the law.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CALIFORNIA STATE LANDS
COMMISSION,

Petitioner, Case No. 25-1049

v.

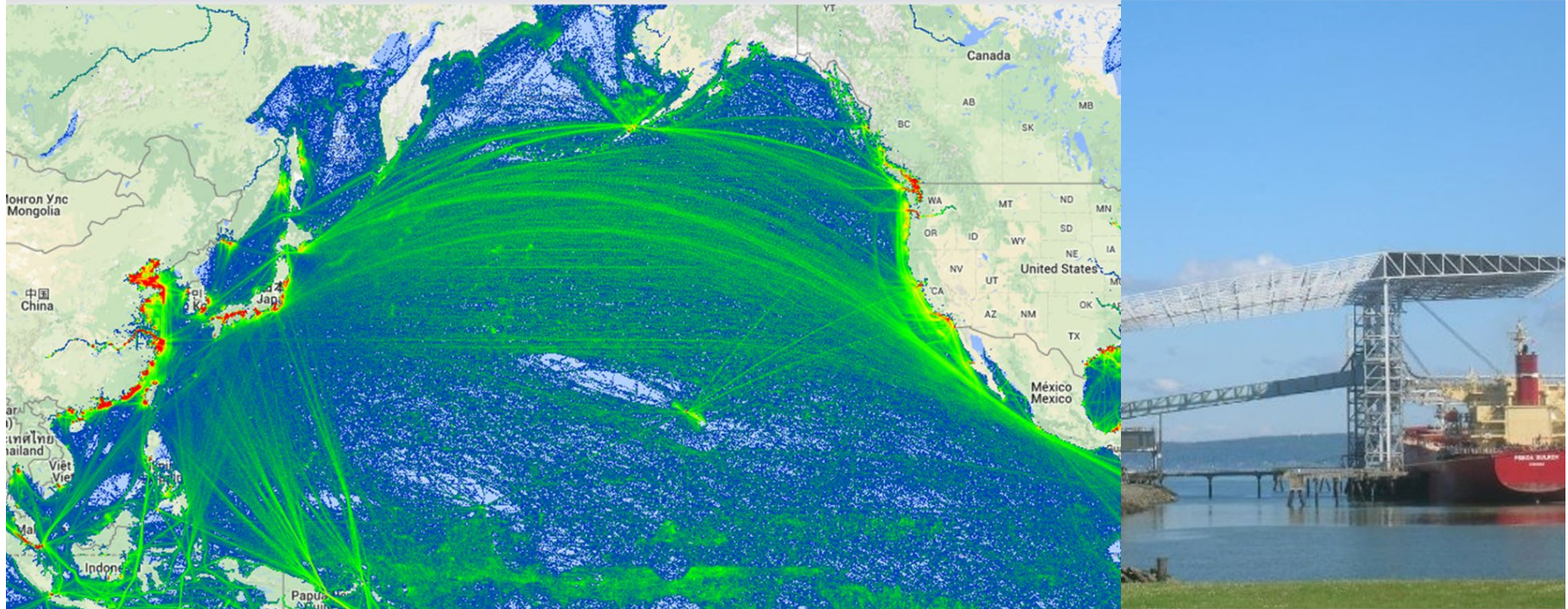
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY and LEE ZELDIN in
his official capacity as Administrator of the
United States Environmental Protection Agency,

Respondents.

PETITION FOR REVIEW

Perspectives

- California - Oregon - Washington



U.S. Coast Guard Questions and Comments in Summary

Not seeking answers today

Overview of conversations we have initiated with USCG in scheduled VIDA coordination meetings and comments - on the public docket

Coming to agreements will be complex and nuanced

U.S. Coast Guard Questions and Comments in Summary

Vessel Targeting Procedures

Emphasis on compliance with reporting rather than environmental risk (for ballast water)

Requesting clarity on quantitative scale for boarding priority levels

Key questions:

1. Will State entities be expected to use the same targeting procedures as the USCG or is it expected that we will continue to select vessels based on our own established criteria?

U.S. Coast Guard Questions and Comments in Summary

Exam Recording Procedures

Seeking clarity on what level of electronic data recording capability USCG is expecting for state programs

- Concerns about safety on tankers

U.S. Coast Guard Questions and Comments in Summary

Enforcement Procedures

Lacking clarity on Methods for Coordination of Enforcement

- A. Joint Enforcement with Federal Standards
- B. State Enforcement under State Law
- C. Federal Enforcement (No State Program)

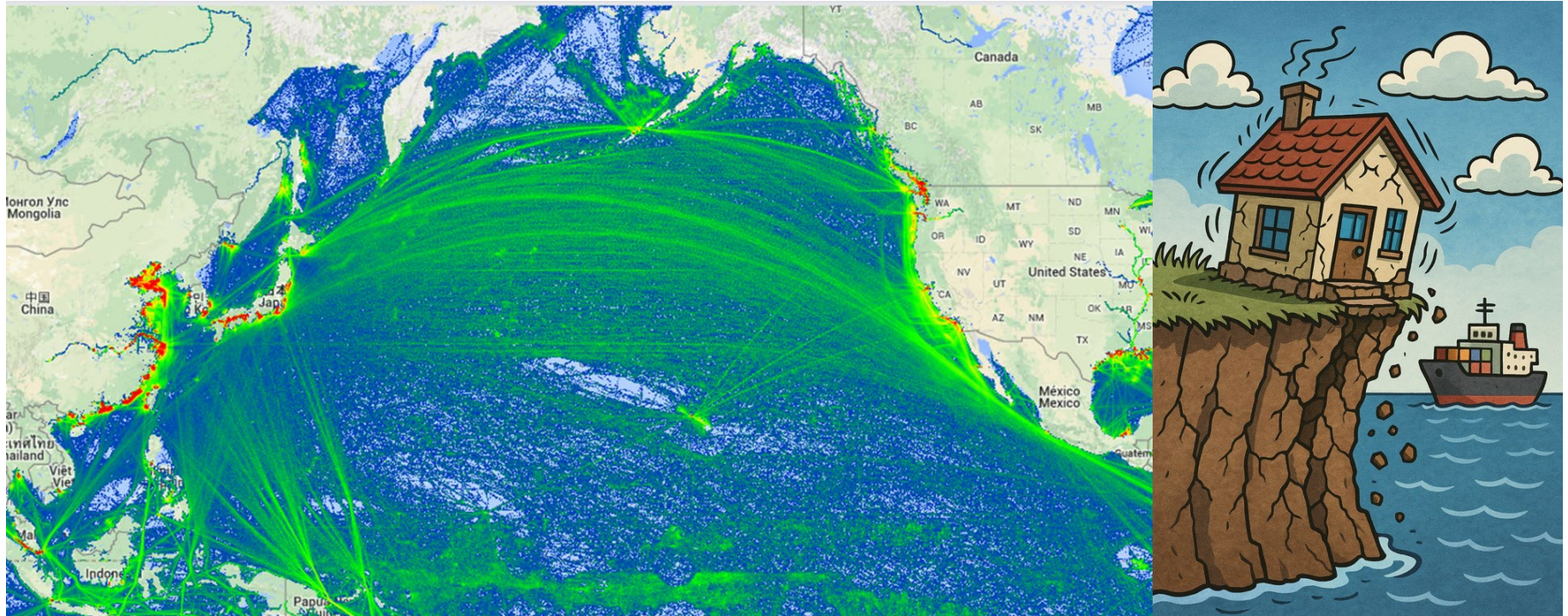
Requesting Memorandum of Understanding/Agreement for Option 2, separating State Coordination Enforcement Procedures for clarity on roles and responsibilities.

Key Questions:

1. Which entity receives civil penalties?
2. Are states limited to federal district court to pursue civil penalties?

Perspectives

- California - Oregon - Washington



Discussion

