

Vessel Incidental Discharge Act (VIDA)

Vessel Incidental Discharge Act Update 2018

**The Northeast Aquatic Nuisance Species Panel
Spring Meeting
April 12-13, 2018**

**Lake Champlain Basin Program
Grande Isle, VT**

Vessel Incidental Discharge Act (VIDA)

Nonindigenous Aquatic Nuisance Protection and Control Act of 1990 and Ballast Water Regulation

- **Purpose:** Prevent the introduction and spread of nonindigenous species into waters of the United States through ballast water management and other measures
- **Federal / State partnership:** Authorizes states to adopt and enforce control measures for aquatic nuisance species

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Clean Water Act and Ballast Water Regulation

- **U.S. Ninth Circuit Court of Appeals rules EPA must regulate ballast water under CWA**
 - Northwest Environmental Advocates v. EPA, 1999
- **EPA drafts Small Vessel General Permit (sVGP) and Vessel General Permit (VGP) in 2012**
 - Draft VGP promotes on-board treatment systems
- **EPA promulgates sVGP and VGP in 2013**
 - States authorized to regulate ballast water discharges via NPDES permits

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State of Rhode Island Vessel General Permit and Ballast Water Regulation

- **Rhode Island WQC establishes conditions more stringent than draft VGP**
 - Ballast water exchange required even with on-board treatment systems
 - Bilge water must be discharged prior to entering RI waters
 - Ballast water treated by on-board systems must be sampled/analyzed at least annually
 - Graywater discharges may not further degrade impaired waters

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Vessel Incidental Discharge Act The Problem

- **VIDA becomes sole law governing all discharges from vessels**
 - “Notwithstanding any other provision of law, this title shall be the exclusive statutory authority for regulation by the Federal Government of discharges, incidental to the normal operation of a vessel to which this title applies”
- **VIDA preempts EPA Clean Water Act authority to regulate ballast water discharges**
 - VIDA assigns ballast water management authority to USCG with EPA advisory
- **VIDA preempts Nonindigenous Aquatic Nuisance Prevention and Control Act**
 - VIDA eliminates state authority to “adopt or enforce control measures for aquatic nuisance species”

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Vessel Incidental Discharge Act History

- **First introduced in 2005; Senate and/or House bills since 2011**
- **Senate Bill S. 2829 Passed in 2016**
 - Amends Maritime Administration Authorization and Enhancement Act of 2017
 - Intent to amend National Defense Authorization Act – considered “must pass” legislation
- **House Bill H.R. 4909 Passed in 2016**
 - Amends National Defense Authorization Act of 2017
 - Provides critical leverage during conference committee with Senate

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Vessel Incidental Discharge Act Today

- **National Defense Authorization Act**
 - Senator McCain opposes environmental riders to NDAA
- **USCG Authorization Act**
 - Failed; national attention on VIDA makes it controversial and harder to pass
- **Omnibus Bill 2018**
 - VIDA had been included but without notice was found to be absent upon the bill's passage
- **Senate Environment and Public Works Committee**
 - May be an avenue to draft an alternate VIDA