

Vessel Incidental Discharge Act

Public Law 115-282-Dec.4, 2018

**Vessel Incidental Discharge Act
Update 2019**

**The Northeast Aquatic Nuisance Species Panel and
Mid-Atlantic Panel on Aquatic Invasive Species Joint Meeting
December 10, 2019**

**Five Rivers Environmental Education Center
Delmar, NY**



Vessel Incidental Discharge Act (VIDA)

OVERVIEW

- **Title IX under Frank Lobiando Coast Guard Authorization Act of 2018**
- **VIDA Regulates 26 Discharges Incidental to the Operation of Commercial Vessels**
- **EPA Currently Developing New Ballast Water Discharge Performance Standards**
- **USCG will Develop New BW Regulations Based on the EPA Standards**

Vessel Incidental Discharge Act (VIDA)

VIDA AND THE CLEAN WATER ACT

- VIDA streamlines patchwork of federal, state, and local regulation of discharges incidental to the operation of commercial vessels (i.e. VGP = state regulation)
- VIDA amends Clean Water Act (CWA) § 312 with new subsection (p), titled, *“Uniform National Standards for Discharges Incidental to Normal Operation of Vessels”*

Vessel Incidental Discharge Act (VIDA)

VIDA AND THE CLEAN WATER ACT

- **Uniform National Standards are generally required to be at least as stringent as the requirements in the EPA 2013 Vessel General Permit (VGP)**
- **VGP and current USCG ballast water regulations remain in effect until new USCG regulations are final and enforceable**

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VIDA AND THE CLEAN WATER ACT

- EPA Proposed Performance Standards Reportedly to be Released January 2020
- USCG Implementation, Compliance, Enforcement Regulations Scheduled for Release by end of 2022

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VIDA AND THE CLEAN WATER ACT

- USCG regulations address the design, construction, testing, approval, installation, and use of devices to achieve the EPA national standards
- VIDA authorizes the EPA, USCG, and states to enforce requirements and provides authority for citizens to file suit under CWA authority
- New CWA 312(p) regulations will generally preempt adoption or enforcement of any other federal, state, or local regulation of incidental discharges from vessels regulated under VIDA

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VIDA AND THE CLEAN WATER ACT

- EPA required to develop national standards of performance in consultation with interested state Governors.
- States are authorized to petition the EPA and the USCG to review any national standards of performance or implementing regulations.
- When USCG regulations finalized, states can apply to the EPA to establish a no-discharge zone for one or more discharge from vessels regulated under VIDA.

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RHODE ISLAND WATER QUALITY CERTIFICATE

- **Rhode Island WQC establishes conditions more stringent than VGP**
 - Ballast water exchange required even with on-board treatment systems
 - Bilge water must be discharged prior to entering RI waters
 - BW treated by on-board systems must be sampled/analyzed at least annually
 - Graywater discharge must meet RI WQ regulations prohibiting further degradation of impaired waters

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VIDA AND THE CLEAN WATER ACT

- USCG to establish intergovernmental response framework for AIS risks; EPA to establish corresponding risk assessment and response framework
- EPA Great Lakes National Program Office to establish and oversee a Great Lakes and Lake Champlain Invasive Species Program in consultation with other federal agencies
- Secretary of Commerce and the National Fish and Wildlife Foundation to establish and oversee a Coastal Aquatic Invasive Species Mitigation Grant Program.

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COASTAL AQUATIC INVASIVE SPECIES MITIGATION GRANT PROGRAM AND MITIGATION FUND

- **Coastal Aquatic Invasive Species Mitigation Grant Program and Mitigation Fund**
 - Funds equal to fines under Sec.312 (p) of the CWA during previous fiscal year
 - Additional authorization of \$5,000,000 each fiscal year
- **Purpose of Mitigation Grant Program and Fund**
 - Implement programs, including permissible state ballast water inspection programs, to prevent, detect, control, mitigate, and eradicate AIS in the coastal zone or EEZ

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EPA/USCG PUBLIC ENGAGEMENT

- EPA and USCG hosted webinars in Spring and Summer of 2019 and plan another after the proposed EPA rule is published in January 2020...stay tuned
- EPA has a VIDA webpage accessible via its Vessels, Marinas, and Ports homepage:
<https://www.epa.gov/vessels-marinas-and-ports>
- USCG has a VIDA webpage I found via a Google search using the term “uscg vida”

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GOVERNORS INPUT PROCESS

- EPA/USCG letters to Governors solicit state input to rulemaking process
- Several states did not respond; USCG presently identifying state contacts

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GOVERNORS INPUT PROCESS

Working Groups Being Formed Around Eight VIDA Requirements:

- 1) State Enforcement Representative
- 2) Regulatory Representative
- 3) Reporting Data Representative
- 4) Vessel AIS Representative
- 5) Intergovernmental Response Framework Representative
- 6) Federal Petition Representative
- 7) National Ballast Information Clearinghouse Representative
- 8) Great Lakes Representative

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GOVERNORS INPUT PROCESS

USCG Contact:

- Mr. John Morris, Program Manager, Environmental Standards Division
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EPA Contact:

- Ms. Juliette Chausson, Office of Wetlands, Oceans, and Watersheds
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The Regional Panels of the Aquatic Nuisance Species Task Force

