

# Updated U.S. Regulatory Framework for Ballast Water Discharges from Commercial Vessels

Great Lakes Panel on Aquatic Nuisance Species Meeting

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# 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 remarks of the speaker represent final agency decisions regarding implementation of VIDA. Specific questions related to the content of this presentation should be referred to the appropriate Agency.



# Vessel Incidental Discharge Act (VIDA)

- The **Vessel Incidental Discharge Act (VIDA)** is a new law enacted on December 4, 2018 that changes the U.S. framework for regulating incidental discharges from commercial vessels.
- Congress passed VIDA in an effort to help streamline the patchwork of federal, state, and local requirements for the commercial vessel community.



# Highlights

- Maintains existing vessel discharge requirements established through the EPA 2013 VGP and the U.S. Coast Guard (USCG) ballast water regulations for most vessels
- 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



# Scope of Activities Covered Under VIDA

- **Discharges (~ 30)**
  - Any discharge incidental to the normal operation of vessel
  - EPA intends to mirror the 2013 VGP discharges when developing future regulations
  - Does not apply to sewage discharges that are not commingled
- **Vessels (~ 70,000)**
  - All large non-military, non-recreational vessels, except fishing vessels
  - Small vessels and fishing vessels (ballast water only)
- **Waters**
  - Waters of the U.S. and waters of the contiguous zone
  - Specific requirements in certain waters (e.g., Great Lakes)



# 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 Federal Regulations

- VIDA requires EPA and the USCG to develop two future federal regulations to address commercial vessel discharges:
  1. The EPA to develop national standards of performance by December 2020; and
  2. The USCG to develop corresponding implementing, monitoring, and enforcement regulations two years thereafter.



# Discharge Standards (EPA)

- Generally at least as stringent as the existing 2013 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





# Enhanced Ballast Water Requirements

- Establishes exchange and flushing requirements for empty ballast tanks. *CWA §312(p)(6)(B)*
- Specifies that, conditionally, a vessel need only meet standards applicable at time of Ballast Water Management System installation. *CWA §312(p)(6)(C)*
- Establishes permanent ballast exchange plus treatment for vessels entering the St. Lawrence Seaway via the mouth of the St. Lawrence River. *CWA §312(p)(10)(A)*



# Implementing Regulations (USCG)

- At least as stringent as the existing VGP and Nonindigenous Aquatic Nuisance Prevention and Control Act (NANPCA) requirements in most cases.
- Developed in coordination with the Governors of the States.
- Shall address inspections, monitoring, reporting, sampling, and recordkeeping.
- May address the design, construction, testing, approval, installation, and use of devices to achieve the EPA national standards of performance.
- When final, effective, and enforceable, they will generally preempt adoption or enforcement of any other federal, state, or local regulation of incidental discharges from vessels regulated 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.
- State enforcement is to be consistent with new USCG inspection, monitoring, data management, and enforcement procedures.
- VIDA authorizes citizen suits under certain circumstances.



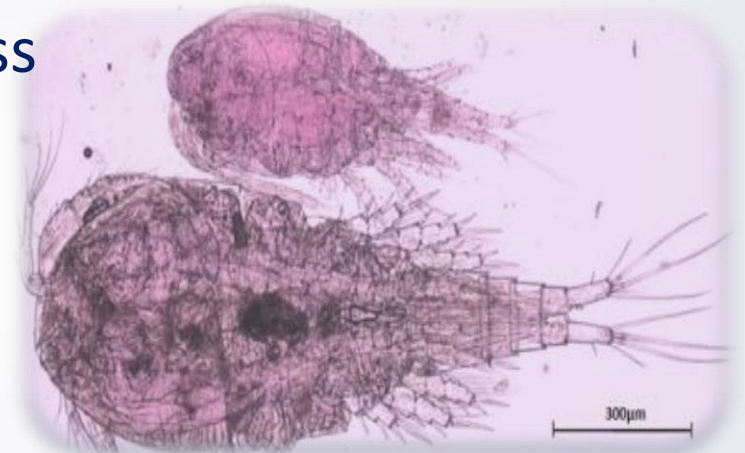
# State Provisions

- Allows Governors to petition EPA and the USCG to establish Emergency Orders for Invasive Species and Water Quality Concerns. *CWA §312(p)(7)(A)(i)*
- Allows Governors to petition EPA to modify standards. *CWA §312(p)(7)(A)(ii)*
- Allows states to apply for no-discharge zones for any of the applicable VIDA discharges. *CWA §312(p)(10)(D)*
- Establishes an enhanced Great Lakes regulatory process for Governors to develop more stringent requirements for discharges in the Lakes. *CWA §312(p)(10)(B)*



# Invasive Species Prevention Programs

- EPA and USCG Intergovernmental Response Frameworks to address risks from vessel discharges
- Coastal Aquatic Invasive Species Mitigation Grant Program
- Great Lakes and Lake Champlain Invasive Species Program



Non-native invertebrate zooplankton species found in the western basin of Lake Erie. Credit: Joe Connolly, Cornell University

# Engagement Opportunities

- ★ **New Web Pages**
- ★ **Webinars**
- ★ **Public Listening Session**

**Upcoming:** May 29-30 at U.S. Merchant Marine Academy in Kings Point, NY

**Registration:** <https://projects.erg.com/conferences/epa/register-vida.asp>

- ★ **Notice of Proposed Rulemakings**



# Contact Information

- **EPA**

- EPA Vessels, Marinas, and Ports Homepage
- Email: [VGP@epa.gov](mailto:VGP@epa.gov)

- **USCG**

- USCG Operating and Environmental Standards Homepage
- USCG Marine Safety Center Homepage
- Email: [Environmental\\_Standards@uscg.mil](mailto:Environmental_Standards@uscg.mil)

