



EPA Vessel Incidental Discharge National Standards of Performance

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The Vessel Incidental Discharge Act: Overview

- The **Vessel Incidental Discharge Act (VIDA)** was enacted on December 4, 2018 and changes the U.S. framework for regulating incidental discharges from commercial vessels by adding a new subsection (p) to Section 312 of the Clean Water Act (CWA)
- VIDA streamlines the patchwork of federal, state, and local requirements for the commercial vessel community
- VIDA requires EPA and the U.S. Coast Guard (USCG) to develop new regulations that will replace the existing Vessel General Permit (VGP) requirements and the USCG ballast water management regulations
- VIDA excludes small vessels and fishing vessels of all sizes from regulation of incidental discharges under CWA Section 312, except ballast water



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EPA and USCG Roles for Developing the New CWA 312 Regulations

- EPA shall develop regulations establishing national standards of performance within two years
- U.S. Coast Guard shall develop corresponding implementing regulations to ensure, monitor, and enforce compliance with the new EPA standards within two years thereafter
- EPA and the U.S. Coast Guard shall review the VIDA regulations every five years and update, as necessary



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Interim Requirements (4 Dec 2018 to ~2022)

- The final EPA national standards of performance developed pursuant to VIDA will be effective only after corresponding U.S. Coast Guard implementing regulations are final, effective, and enforceable. Until then:
 - **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.
 - **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.



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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 139

[EPA-HQ-OW-2019-0482; FRL-10015-54-OW]

RIN 2040-AF92

Vessel Incidental Discharge National Standards of Performance

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

EPA's Proposed Vessel Incidental Discharge National Standards of Performance

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Baseline for EPA Standards under VIDA

- Generally, at least as stringent as the 2013 VGP
- Technology-based
- Numeric, best management practices, or a combination
- May distinguish between vessel class, type, size, and age
- Developed in consultation with USCG and U.S. states



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Overview of Proposed EPA Standards

- Will apply to approximately 66,000 U.S.-flagged and 16,000 foreign-flagged vessels
- Proposed standards are drafted to enhance clarity, implementation, and enforceability of similar VGP requirements
- Proposed standards reflect changes to the VGP requirements where new information and technology is demonstrated to be available and achievable
- Pursuant to VIDA, proposed standards are technology-based only (the VGP includes a combination of technology-based and water quality-based standards)
- Proposed standards do not address:
 - Monitoring, inspection, reporting, recordkeeping, corrective action, and training and education (to be established by USCG)
 - State-specific requirements



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Framework for Proposed EPA Discharge Standards – New CFR Part - 40 CFR Part 139

- Subpart A – Scope
- Subpart B – General Standards for Discharges Incidental to the Normal Operation of a Vessel
- Subpart C – Standards for Specific Discharges Incidental to the Normal Operation of a Vessel
- Subpart D – Special Area Requirements
- Subpart E - Procedures for States to Request Changes to Standards, Regulations, or Policy Promulgated by the Administrator
- Appendix A to Part 139 – Federally-Protected Waters



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Subpart A - Scope

40 CFR §§ 139.1 – 139.3

- Proposed standards applicable to:
 - Discharges incidental to the normal operation of commercial vessels, excluding fishing vessels (≥ 79 ft. in length)
 - Discharges incidental to the normal operation of other non-recreational, non-Armed Forces vessels (e.g., research and emergency rescue vessels, ≥ 79 ft. in length)
 - Ballast water from small commercial vessels (< 79 ft. in length) and fishing vessels of all sizes
- Applicable in waters of the United States and waters of the contiguous zone (under the CWA: out to 12 miles from shore)



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Subpart A - Scope

40 CFR §§ 139.1 – 139.3

- Definitions are included in the proposed rule for 60 terms, most of which are taken directly or adapted from existing statutes, regulations, and permits
- Specifies that the proposed standards would not apply if compliance with these standards would compromise the safety of life at sea
- Specifies that the proposed standards do not affect, supersede, or relieve the master of any otherwise applicable requirements or prohibitions associated with a vessel's right to innocent passage as provided for under customary international law.



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Subpart B - General Discharge Standards

40 CFR §§ 139.4 – 139.6

- **General Operation and Maintenance (§ 139.4)**
- **Oil Management (§ 139.6)**
- **Biofouling Management (§ 139.5)**
 - Would require a vessel-specific biofouling management plan to be developed and followed with a goal to prevent macrofouling, thereby minimizing the potential for the introduction and spread of ANS



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Subpart C – 20 Discharge-Specific Standards

40 CFR §§ 139.10 – 139.29

- **Ballast Tanks**
 - Bilges
 - Boilers
 - Cathodic Protection
 - Chain Lockers
 - Decks
 - Desalination and Purification Systems
 - Elevator Pits
 - Exhaust Gas Emission Control Systems
 - Fire Protection Equipment
 - Gas Turbines
 - Graywater Systems
 - Hulls and Associated Niche Areas
 - Inert Gas Systems
 - Motor Gasoline and Compensating Systems
 - Non-oily Machinery
 - Pools and Spas
 - Refrigeration and Air Conditioning
 - Seawater Piping
 - Sonar Domes
- Proposing to Exclude:*
- Fish Hold Effluent
 - Boat Engine Wet Exhaust

* VIDA excludes small vessels and fishing vessels of all sizes from further federal regulation of incidental discharges, except ballast water. Therefore, EPA does not believe that these VGP discharges fall under the scope of VIDA.



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Proposed Standards Contain More Substantial Changes from the 2013 VGP

Proposed standards that contain more substantial changes from the 2013 VGP include:

- Ballast Tanks
- Exhaust Gas Emission Control Systems
- Graywater Systems
- Hulls and Associated Niche Areas
- Seawater Piping



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Ballast Tanks

40 CFR § 139.10

- (a) Applicability
- (b) Exclusions
- (c) Best Management Practices
- (d) Discharge Standard
 - (3) Exemptions
- (e) Exchange and Flushing
- (f) Vessels Entering the Great Lakes
- (g) Pacific Waters
- (h) Federally-Protected Waters



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Proposed Changes from the 2013 VGP Are More Substantial

Ballast Tanks (§ 139.10)

- Incorporate VIDA-mandated requirements (e.g., general ballast water exchange and saltwater flushing requirements, minimum Great Lakes requirements, and minimum Pacific Region requirements, including for low-salinity ballast water)
- Proposed standards would:
 - (1) Exclude from entirety of ballast water standard - any vessel that continuously takes on and discharges ballast water in a flow-through system, if the Administrator determines that system cannot materially contribute to the spread or introduction of ANS
 - (2) Exclude from exchange/flushing requirements - any existing vessel with design limitations that prevent a ballast water exchange or saltwater flush from being conducted



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Proposed Changes from the 2013 VGP Are More Substantial

Ballast Tanks (§ 139.10)

- Would remove Best Management Practice (BMP) requirement to minimize or avoid uptake of ballast water in certain areas and situations (such as, near sewage outfalls, near dredging, in darkness, where infestations or populations of harmful organisms and pathogens are known to exist)
- Would no longer exclude unmanned, unpowered seagoing barges and barges that are part of integrated units from needing to meet the ballast water discharge standard
- Would extend the exemption for meeting ballast water numeric discharge standards from Lakers built prior to January 1, 2009 (in the 2013 VGP) to all vessels operating exclusively on the Great Lakes regardless of build year



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Subpart D: Special Area Requirements

40 CFR § 139.40

“Federally-Protected Waters” proposed standards (§ 139.40)

- Would consolidate specific discharge requirements for these waters in one section
- Would reference the list of areas with federally-protected waters as Appendix A to Part 139
- Would require operators to avoid uptake or discharge of ballast water in these waters



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Subpart E: State Procedures

40 CFR § § 139.50 – 139.52

Proposed procedural requirements for VIDA-specific U.S. state petitions/applications to EPA to:

- Establish different discharge standards
 - Based on new information
- Establish enhanced Great Lakes requirements
 - U.S. States work together to develop requirements
 - EPA and Coast Guard have little more than administrative role
- Issue emergency orders
 - Would require use of additional best management practices
- Establish no-discharge zones (NDZs)
 - Could apply for 1 or more discharge types in some/all waters of the State



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General State Authorities (Post Final USCG Regulations)

- Generally, preempt adoption or enforcement of more stringent U.S. state or interstate regulations for incidental discharges from vessels covered under VIDA regulations
- EPA, the USCG, and U.S. states can have enforcement authority of the federal requirements established under VIDA
- U.S. states authority over large vessels and ballast from small and fishing vessels, includes:
 - Inspection authority
 - Civil or criminal actions
 - Identical or lesser State regulations (non-Clean Water Act permitting)
 - Fees (for States that had fees pre-enactment)



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Requests for Public Input

- Procedures for state petitions to EPA for more stringent requirements, such as for emergency orders and no-discharge zones
- How best to define areas with coral reefs and the public availability of navigational charts for identifying such areas
- Potential treatment and reporting requirements for vessels with ballast water operating either exclusively or primarily on the Great Lakes
- Use of a static list of federally-protected waters consistent with the approach used in the VGP and the revised discharge-specific requirements in those waters



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Online Resources: EPA Webpages

Vessels, Marinas and Ports

Vessel Discharges



- [Sewage and no-discharge zones](#)
- [Commercial vessels](#)
- [Recreational vessels](#)
- [Vessels of the Armed Forces](#)

Marine Engines



- [Overview of emissions regulations](#)
- [Certification and compliance](#)
- [Certification data](#)

Marinas



- [Nonpoint source pollution resources](#)
- [Spill prevention and control](#)

Ports



- [Ports Initiative](#)
- [Clean diesel](#)
- [Grant-funded port projects](#)
- [Dredged material](#)

News and Updates

On October 5, 2020, EPA Administrator Andrew Wheeler signed the [proposed rule](#) for national standards to reduce the environmental impact of discharges, such as ballast water, that are incidental to the normal operation of commercial vessels. When finalized, this new rule will streamline the current patchwork of federal, state, and local requirements that apply to the commercial vessel community and better protect our nation's waters. [Learn more about the EPA proposed standards.](#)

<https://www.epa.gov/vessels-marinas-and-ports>