



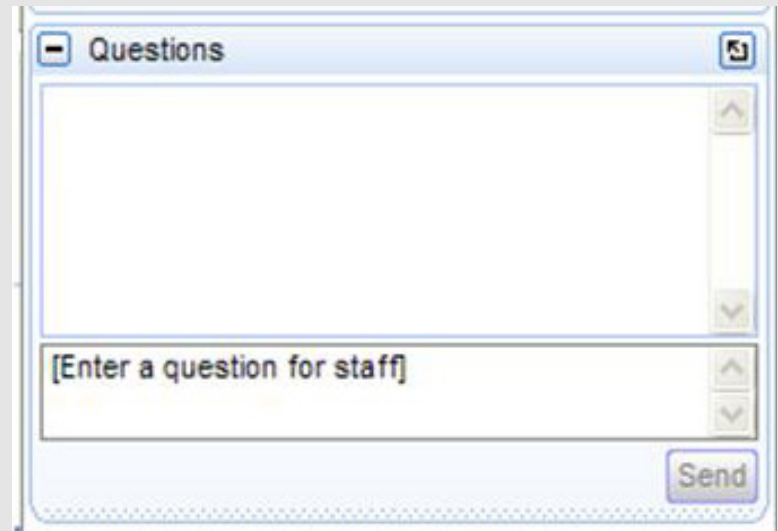
EPA Vessel Incidental Discharge National Standards of Performance

Virtual Public Meetings

November 9, 10, and 17, 2020

Meeting Logistics

- Attendees phone lines are muted to preserve audio quality.
- Submit a question via the Questions box on your GoTo control panel. →
- We will answer questions during several Q&A breaks throughout the presentation.



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Disclaimer

The following EPA presentation is solely intended to provide information to the public on the recently proposed Vessel Incidental Discharge National Standards of Performance. This presentation does not represent final agency decisions regarding the proposed standards and does not create any rights or obligations.



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Outline

- 2018 Vessel Incidental Discharge Act (VIDA) Overview
- EPA Proposed National Standards of Performance
 - Scope
 - General and Specific Discharge Standards, Including for Specific Waterbodies
 - Changes from the 2013 VGP and U.S. Coast Guard Regulations
 - State Procedures
- Stakeholder Engagement Opportunities
 - Virtual Public Meetings
 - Submitting Formal Comments



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Vessel Incidental Discharge Act Overview

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
- U.S. Coast Guard shall develop corresponding implementing regulations to ensure, monitor, and enforce compliance with the new EPA standards
- 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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Submitting Comments

Submitting Official Public Comments:

- Comments due **no later than November 25, 2020**
- Instructions on <https://www.regulations.gov> for comment submission
 - Access docket ID: EPA-HQ-OW-2019-0482 for VIDA proposed standards

Primary Focus of Public Meetings: Provide an overview of the proposed standards and the public comment submission process.

- Questions submitted during today's public meeting should be geared toward helping you prepare and submit official public comments.
- This meeting is not a platform for submitting official comments on the proposed rule. Please direct formal comments to the docket.



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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.

The EPA Proposed National Standards of Performance

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Baseline for EPA Standards under VIDA

- 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 consultation with the USCG and U.S. State governors



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Overview of Proposed EPA Standards

- Will apply to approximately 82,000 international and domestic 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:
 - Self-monitoring, self-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
- Does **NOT** apply to sewage unless mixed with graywater. Regulatory requirements for sewage remain unchanged and unaffected by VIDA
- Specifies that the proposed standards would not apply if compliance with these standards would compromise the safety of life at sea



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Break for Questions

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Subpart B - General Discharge Standards

40 CFR §§ 139.4 – 139.6

- General Operation and Maintenance
- Biofouling Management
- Oil Management



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Subpart B - General Discharge Standards

40 CFR §§ 139.4 – 139.6

Proposed requirements are similar to existing requirements with a few notable exceptions:

- **General Operation and Maintenance (§ 139.4)**
 - Would include environmentally acceptable lubricant (EAL) requirements for oil-to-sea interfaces unless technically infeasible
- **Oil Management (§ 139.6)**

Proposed requirement is largely new:

- **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 are Substantially Similar to the 2013 VGP

Proposed Standards that are substantially similar to the requirements of the 2013 VGP:

- Boilers
- Cathodic Protection
- Chain Lockers
- Decks
- Elevator Pits
- Fire Protection Equipment
- Gas Turbines
- Inert Gas Systems
- Motor Gasoline and Compensating Systems
- Non-oily Machinery
- Pools and Spas
- Refrigeration and Air Conditioning
- Sonar Domes



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Proposed Standards are Slightly Modified from the 2013 VGP

Standards that are generally consistent with, but slightly modified from, the 2013 VGP:

- **Bilges (§ 139.11)**

- Would largely remove specific requirements from bilgewater section to eliminate redundancy with similar general O&M and oil management requirements
- Would no longer prohibit vessels 400 gross tonnage and above from discharging treated bilgewater within 1 NM of shore

- **Desalination and Purification Systems (§ 139.16)**

- Would expand requirements to include other types of water purification than just distillation and reverse osmosis
- Would shift focus from keeping brine away from other materials to prohibiting use of toxic or hazardous materials for cleaning



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Example for Boilers of Comparison of 2013 VGP and Proposed VIDA Standards

2013 VGP for Boilers/Economizers

- Minimize the discharge in port if chemicals or other additives are used.
- For vessels > 400 gross tons which leave the territorial sea at least once per week, discharges are prohibited unless:
 - Vessel in subject waters longer than blowdown cycle;
 - Blowdown needed before entering drydock; or
 - For safety purposes.
- Discharges are prohibited in Appendix G waters except for safety purposes.
- Should discharge as far from shore as practicable.

Proposed VIDA Standard for Boilers

139.12(a): The requirements in paragraphs (b) and (c) of this section apply to discharges resulting from boiler blowdown.

(b) The discharge from boiler blowdown must be minimized when in port.

(c) Additional standards applicable to discharges from boilers when a vessel is operating in federally-protected waters are contained in § 139.40(d).

...

139.40(d): *Boilers*. **The discharge of boiler blowdown into federally-protected waters is prohibited.**

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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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)
- VIDA mandate excludes from ballast tank standards:
 - (1) a 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) a vessel in the National Defense Reserve Fleet scheduled for disposal, if the vessel does not have an operable BWMS



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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
- Would expand the requirement that any sea chest screen must be maintained and fully intact from just Lakers (in the 2013 VGP) to all vessels



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Proposed Changes from the 2013 VGP Are More Substantial

Exhaust Gas Emission Control Systems (§ 139.18)

- Would require discharge to have a pH of no less than 6.5 as measured at the vessel's overboard discharge point (as opposed to a pH of 6 in the 2013 VGP) or require that the discharge have a minimum pH of 6.5 at 4m from the overboard discharge point with the ship stationary
- Would allow the pH numeric standard to be exceeded for up to 15 minutes in any 12-hour period



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Proposed Changes from the 2013 VGP Are More Substantial

Exhaust Gas Emission Control Systems (§ 139.18)

- Would exclude discharges of exhaust gas recirculation (EGR) bleed-off water from vessels that are underway and operating on fuel that meets the emissions requirements for sulfur starting in 2020 as specified in MARPOL Annex VI from meeting the discharge standards (i.e., pH, PAHs, turbidity, and nitrates)
- Would prohibit discharge of EGR bleed-off water retained onboard in a holding tank that does not meet the discharge requirements in this section



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Proposed Changes from the 2013 VGP Are More Substantial

Graywater Systems (§ 139.21)

- Would prohibit discharge of graywater within 3 nm from shore from vessels that voyage at least 3 nm from shore and have remaining available graywater storage capacity, unless the discharge meets the numeric discharge requirements
- Would extend prohibition of untreated graywater within 1 nm to all vessels that voyage at least 1 nm from shore but not beyond 3 nm (as opposed to just from vessels greater than 400 gross tons that regularly travel more than 1 nm from shore and have the capacity to store graywater in the 2013 VGP)



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Proposed Changes from the 2013 VGP Are More Substantial

Graywater Systems (§ 139.21)

- Would require new large ferries (authorized to carry 250 or more people) and new build vessels of 400 gross tonnage and above to meet the discharge standard (or not discharge)
- Would no longer include speed requirements for discharge while "underway"



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Proposed Changes from the 2013 VGP Are More Substantial

Hulls and Associated Niche Areas (§ 139.22)

- Would prohibit application of cybutryne on vessel hulls and niches and require removal or sealing of any coatings containing cybutryne after implementation date
- Would prohibit cleaning hull with a biofouling exceeding a fouling rating of FR-20 unless the fouling is local in origin and cleaning does not result in a plume or cloud of paint, or an in-water cleaning and capture system (according to certain listed specifications) is used
- Would prohibit in-water cleaning on sections of biocidal antifouling coating that shows excessive cleaning actions or blistering
- Would prohibit the discharge from in-water cleaning of vessel hulls and niche areas into federally-protected waters



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Proposed Changes from the 2013 VGP Are More Substantial

Seawater Piping (§ 139.28)

- Would require seawater piping systems that accumulate macrofouling to be fitted with marine growth prevention systems (MGPS)
- Would require the use of reactive measures to manage macrofouling of seawater piping. Specifically, if macrofouling ($FR > 20$) is identified in seawater piping systems despite preventative measures, reactive measures to manage the macrofouling must be used
- Would prohibit discharges resulting from such reactive measures while in port
- Would prohibit the discharge of chemical dosing into federally-protected waters



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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 add prohibitions for discharges from chain lockers, decks, hulls and associated niche areas, and seawater piping
- Would reference the list of areas with federally-protected waters as Appendix A to Part 139



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Subpart E: State Procedures

40 CFR § § 139.50 – 139.52

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

- Establish different discharge standards, including enhanced Great Lakes requirements
- Issue emergency orders
- Establish no-discharge zones (NDZs)



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A landscape photograph showing a wide river in the foreground. In the background, there are several tall industrial smokestacks or chimneys rising from a wooded area. The sky is clear and blue. The text "Break for Questions" is overlaid on a blue banner at the bottom of the image.

Break for Questions

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Stakeholder Engagement Opportunities

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>



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Online Resources: EPA Webpages

- **Commercial Vessel Discharge Standards page:**
<https://www.epa.gov/vessels-marinas-and-ports/commercial-vessel-discharge-standards>
- **Vessel Incidental Discharge Act:**
<https://www.epa.gov/vessels-marinas-and-ports/vessel-incident-discharge-act-vida>
- **Stakeholder Engagement Opportunities:**
<https://www.epa.gov/vessels-marinas-and-ports/vessel-incident-discharge-act-vida-engagement-opportunities>
- **Background Presentation on Proposed Standards (Available from EPA's VIDA Stakeholder Engagement webpage):**
<https://www.epa.gov/vessels-marinas-and-ports/vessel-incident-discharge-act-vida-stakeholder-engagement-opportunities>



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Additional Stakeholder Engagement Opportunities

Public Meeting Dates:

- November 9, 2020 (2:00 PM – 4:00 PM EST)
- November 10, 2020 (10:00 AM – 12:00 PM EST)
- November 17, 2020 (12:00 PM – 2:00 PM EST)

Submitting Official Public Comments:

- Comment period: comments due *no later than November 25, 2020*
- Visit <https://www.regulations.gov>; access docket ID: EPA-HQ-OW-2019-0482
- Instructions on <https://www.regulations.gov> for comment submission



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Requests for Public Input on Specific Topics

- 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 additional discharge-specific requirements in those waters
- Details on the use of non-fluorinated foams for firefighting certification, inspection, testing, training, and maintenance
- Procedures for state petitions to EPA for more stringent requirements, such as for emergency orders and no-discharge zones



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Tips for Preparing Official Comments

- Include the docket ID number and other identifying information of the proposed rule
- Outline comments according to proposed rule outline
- Explain why you agree or disagree with the proposed language
- Include any scientific, technical, or economic data to support your comment
- Suggest alternative language, provide examples
- Pay attention to requests in the proposed rule for public input on specific topics

<https://www.epa.gov/dockets/commenting-epa-dockets>



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A landscape photograph showing a wide river in the foreground. In the background, there is a line of trees and a hill. On the right side of the hill, several tall industrial smokestacks are visible against a clear blue sky. The water in the river reflects the sky and the smokestacks.

Break for Questions

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