



# U.S. EPA Vessel Incidental Discharge Update

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# 2018 Vessel Incidental Discharge Act (VIDA)

## EPA

Promulgate technology-based **national standards of performance** that are at least as stringent as the VGP, with limited exceptions

## USCG

Develop regulations to **ensure, monitor, and enforce compliance** with EPA's standards and USCG requirements

## Interim Requirements

Requirements from 2013 VGP, USCG ballast water regulations, and state/local government apply to:

- **Large commercial vessels ( $\geq 79$  feet in length)**
- **Small vessels (<79 feet in length) and fishing vessels of any size - Ballast water only**

## States

Once EPA and USCG regulations are final, effective, and enforceable, states are **preempted** from **adopting or enforcing more stringent requirements** except through one of several petition options established in the VIDA

# EPA's 2020 Proposed Rule

## General Standards

*Applicable to all discharges*

- General operation and maintenance
- Biofouling management
- Oil Management

## Applications & Petitions

*Procedural requirements for states seeking to petition EPA*

- Issue an emergency order or review any standard of performance, regulation, or policy.
- Request enhanced Great Lakes System requirements.
- Apply for a no-discharge zone.

## Specific Standards

- **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

*\*Addressed in Supplemental Notice*

# Rulemaking: Supplemental Notice, Published Oct. 18, 2023

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In consideration of input from states, tribes, and other stakeholders, EPA developed the **Supplemental Notice of Proposed Rulemaking (SNPRM)** to provide an opportunity for comment on:

- **New data:** EPA obtained USCG ballast water management system (BWMS) type-approval data to evaluate best available technology economically achievable (BAT).
- **Supplementary Regulatory Options Being Considered:**
  1. Ballast water – Best management practices (BMPs) for ballast water uptake.
  2. Ballast water discharges from vessels that operate exclusively on the Great Lakes – Equipment standard for New Lakers.
  3. Hulls and associated niche areas – clarification of applicability and cleaning requirements.
  4. Graywater – expanded exemption from numeric standard for certain vessels.

<https://www.epa.gov/vessels-marinas-and-ports/commercial-vessel-discharge-standards>

# SNPRM: Numeric Ballast Water Discharge Standard Analysis

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**2020 Proposed Rule:** Continue existing numeric discharge standards.

## Data Collection:

- Requested significant amount of BWMS type-approval data from the U.S. Coast Guard.
  - Portions of type-approval data/process are proprietary/business confidential.

## Data Analysis

- Validated and performed statistical analysis, and a sensitivity analysis, of data to determine whether a more stringent discharge standard is demonstrated to be best available technology economically achievable (BAT).
- Determined existing numeric discharge standards, as proposed, are appropriate as a uniform national discharge standard – (i.e., lower standard not BAT).



# SNPRM: Ballast Water – Best Management Practices for Uptake

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**2020 Proposed Rule:** Rejected uptake BMPs based on EPA and USCG's understanding that such measures are not practical to implement and enforce as individual standards because the specified conditions (e.g., dredging, darkness) are usually beyond the control of the vessel operator.

**Supplemental Notice of Proposed Rulemaking:** Would require vessel operators to address and identify uptake practices as part of their ballast water management plan.

# SNPRM: Lakers – Vessels Operating Exclusively on the Great Lakes

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**2020 Proposed Rule:** Exempted all Lakers, regardless of when they were built, from the numeric ballast water discharge standard but continued to require these vessels to implement certain best management practices.

## **Supplemental Notice of Proposed Rulemaking:**

- Would require a *New Laker* to install, operate, and maintain a USCG type-approved ballast water management system (but not have to meet the numeric discharge standard).
- A *New Laker* is a vessel that is 3,000 gross tons (GT) and above that operates exclusively on the Great Lakes and that is constructed after the effective date of USCG's VIDA regulations.

## **Great Lakes and Lake Champlain Invasive Species Program:**

- As required by VIDA, EPA has initiated a research and development plan with the goal of addressing the challenges of ballast water management for Lakers.

# SNPRM: Hulls and Associated Niche Areas

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**2020 Proposed Rule:** Specific in-water hull and niche cleaning actions; use of U.S. Navy fouling rating, in-water cleaning with capture (IWCC) and in-water cleaning without capture.

## **Supplemental Notice of Proposed Rulemaking:**

- Clarification that rule would include any incidental discharge (both active and passive) of biofouling organisms from vessel equipment and systems.
- Management objective to minimize macrofouling; minimize damage to anti-fouling coating, minimize release of biocides, and follow coating manufacturers' instructions and any applicable pesticide label.
- Would remove reference to U.S. Navy Fouling Rating, "plume or cloud of paint," and biofouling that is "local in origin."
- Would prohibit discharges from in-water cleaning of macrofouling. Cleaning of macrofouling with capture device could be covered under existing permit program).



# SNPRM: Graywater

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**2020 Proposed Rule:** Among other graywater requirements, EPA proposed that graywater discharges from certain vessels, including any new vessel of 400 GT and above, would be prohibited unless the discharge meets numeric discharge standards for fecal coliform, biochemical oxygen demand, suspended solids, pH, and residual chlorine.

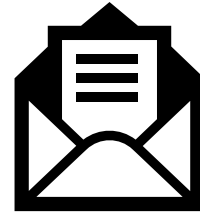
**Supplemental Notice of Proposed Rulemaking:** Consider exempting from the numeric discharge standards any new vessel of 400 GT and above that is certificated to carry fewer than 15 persons and provides overnight accommodations to those persons.

# VIDA Rulemaking Schedule



Publication of Proposed Rule  
26 October 2020

Comment Review and  
Stakeholder Re-engagement



Publication of SNPRM  
18 October 2023

Comments due:  
**18 December 2023**  
*(60-day comment period)*

Two public meetings:  
November 8<sup>th</sup> (4 pm - EST)  
November 16<sup>th</sup> (9 am - EST)



Final Rule Signature

Fall 2024

Five-Year Review

<https://www.epa.gov/vessels-marinas-and-ports/commercial-vessel-discharge-standards>

# Intergovernmental Response Framework

- Under VIDA, EPA and USCG are charged with establishing a risk assessment and response framework for ANS risks from vessels subject to VIDA ballast water and incidental discharge requirements.
- EPA is in the process of developing a workplan for the development of this framework.