



## US EPA proposes new vessel discharge standards

*Updated 17 November 2020*

When the Vessel Incidental Discharge Act was signed into US law in December 2018, the US Environmental Protection Agency was given two years to develop new national discharge standards for vessels that are at least as stringent as the discharge requirements established in its 2013 Vessel General Permit scheme.

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We refer to our alert “ [US EPA delays introduction of new VGP requirements](#) ” of 11 December 2018.

On 26 October 2020, the US Environmental Protection Agency’s (EPA) [proposed rulemaking](#) to set national standards of performance for incidental discharges from commercial vessels as required under the Vessel Incidental Discharge Act (VIDA) was published in the [Federal Register](#) . The proposed rule details specific discharge standards that would apply to 20 different types of vessel equipment and systems, as well as general discharge standards that would apply more broadly to all types of incidental vessel discharges. Once 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 marine waters* ” says the EPA.

## **General scope**

In accordance with VIDA, the new standards are being developed to replace the 2013 Vessel General Permit (VGP) scheme and like the VGP, the proposed rule primarily targets non-military and non-recreational vessels 79 feet in length and above. However, where the scope of the VGP applies to discharges into the ‘waters of the United States’, which refers to the three-mile limit, the proposed rule would equally apply to discharges into the waters of the contiguous zone.

## **New discharge standards**

The general discharge standards are divided into three categories: (1) General Operation and Maintenance, (2) Biofouling Management, and (3) Oil Management. These standards are preventative in nature and require best management practices to minimize the introduction of pollutants into the discharges, as well as the volume of discharges.

With respect to the 20 specific discharge standards, down from 27 covered by the current VGP requirements, it is important to note that the EPA has not significantly reduced the number of discharges covered. Instead, the proposed rule consolidates or renames the VGP requirements to “ *improve clarity, enhance enforceability and implementation, or incorporate new information and technology.*” The EPA further explains that the similarities and differences between the requirements in the proposed discharge standards and the requirements in the VGP can be sorted into three distinct groups:

Discharge standards largely the same as the VGP

Discharge standards consistent with but slightly modified from the VGP

Discharge standards significantly modified from the 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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- Bilges
  - Desalination and purification systems
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- Ballast tanks
  - Exhaust gas emission control systems
  - Graywater
  - Hulls and associated niche areas
  - Seawater piping

## **Required actions**

No action from ship operators is needed at this time. However, we encourage Members and clients to review the proposed rule, consider how it will impact operations of their vessels, and provide detailed comments to the EPA. We also draw your attention to

[ECM%20Client%20Alert%2017-2020\\_VIDA\\_EPA%20Proposed%20Rule.pdf](#) which clarifies some of the new requirements that may be of particular interest to ship operators, such as oil-to-sea interfaces, ballast water management, exhaust gas scrubbers, cathodic protection, graywater, and biofouling. The alert also notes that, for the purpose of the proposed rule, the EPA has confirmed that the US contiguous zone extends to 12 miles from the coastline.

The proposed rule is available in the [Federal Register](#) under Docket No. EPA-HQ-OW-2019-0482 and comments must be provided by 25 November 2020. Members and clients would recall that VIDA requires the EPA to develop new national standards of performance for commercial vessel discharges and the US Coast Guard (USCG) to develop corresponding implementing regulations. Hence, these new discharge standards will not come into effect until the USCG finalizes its process, which is not expected until 2022. In the interim, the [2013 VGP](#) will remain in effect.