

S 373

Vessel Incidental Discharge Act

Congress: 114 (2015–2017, Ended)

Chamber: Senate

Policy Area: Transportation and Public Works

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Sponsor

Name: Sen. Rubio, Marco [R-FL]

Party: Republican • **State:** FL • **Chamber:** Senate

Cosponsors (27 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Nelson, Bill [D-FL]	D · FL		Feb 4, 2015
Sen. Thune, John [R-SD]	R · SD		Feb 4, 2015
Sen. Vitter, David [R-LA]	R · LA		Feb 9, 2015
Sen. Ayotte, Kelly [R-NH]	R · NH		Feb 10, 2015
Sen. Blunt, Roy [R-MO]	R · MO		Feb 10, 2015
Sen. Boozman, John [R-AR]	R · AR		Feb 10, 2015
Sen. Capito, Shelley Moore [R-WV]	R · WV		Feb 10, 2015
Sen. Isakson, Johnny [R-GA]	R · GA		Feb 11, 2015
Sen. Manchin, Joe, III [D-WV]	D · WV		Feb 11, 2015
Sen. Cochran, Thad [R-MS]	R · MS		Feb 12, 2015
Sen. Cassidy, Bill [R-LA]	R · LA		Feb 24, 2015
Sen. Coons, Christopher A. [D-DE]	D · DE		Feb 24, 2015
Sen. Shelby, Richard C. [R-AL]	R · AL		Feb 24, 2015
Sen. McCaskill, Claire [D-MO]	D · MO		Feb 25, 2015
Sen. Schatz, Brian [D-HI]	D · HI		Feb 25, 2015
Sen. Shaheen, Jeanne [D-NH]	D · NH		Feb 25, 2015
Sen. Sullivan, Dan [R-AK]	R · AK		Feb 25, 2015
Sen. Wicker, Roger F. [R-MS]	R · MS		Feb 25, 2015
Sen. Casey, Robert P., Jr. [D-PA]	D · PA		Feb 27, 2015
Sen. Collins, Susan M. [R-ME]	R · ME		Mar 3, 2015
Sen. Cornyn, John [R-TX]	R · TX		Mar 3, 2015
Sen. Inhofe, James M. [R-OK]	R · OK		Mar 10, 2015
Sen. Graham, Lindsey [R-SC]	R · SC		Apr 29, 2015
Sen. Risch, James E. [R-ID]	R · ID		May 7, 2015
Sen. Hirono, Mazie K. [D-HI]	D · HI		May 11, 2015
Sen. Crapo, Mike [R-ID]	R · ID		Dec 1, 2015
Sen. Toomey, Patrick [R-PA]	R · PA		Mar 15, 2016

Committee Activity

Committee	Chamber	Activity	Date
Commerce, Science, and Transportation Committee	Senate	Reported By	Jul 29, 2015

Subjects & Policy Tags

Policy Area:

Transportation and Public Works

Related Bills

Bill	Relationship	Last Action
114 HR 4909	Related bill	May 26, 2016: Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 502.
114 HR 980	Related bill	Feb 17, 2015: Referred to the Subcommittee on Coast Guard and Maritime Transportation.

Vessel Incidental Discharge Act

(Sec. 4) This bill requires the Coast Guard to establish and implement enforceable uniform national standards and requirements for the regulation of discharges incidental to the normal operation of a vessel into navigable waters. Those standards and requirements must: (1) be based on the best available technology economically achievable, and (2) supersede any permitting requirement or prohibition on discharges incidental to the normal operation of a vessel under any other provision of law.

States may enforce the uniform national standards and requirements.

(Sec. 5) The Coast Guard's existing rule for ballast water discharges incidental to the normal operation of a vessel are adopted until those performance standards are revised or a more stringent state standard is adopted. Ballast water is water taken aboard a vessel to control stability or during the operation of a vessel's ballast water treatment technology. "Treatment technology" means any mechanical, physical, chemical, or biological process used to remove, render harmless, or avoid the uptake or discharge of aquatic nuisance species within ballast water.

Within two years, the Coast Guard must establish best management practices for discharges incidental to the normal operation of a vessel other than ballast water.

By January 1, 2020, the Coast Guard must complete a feasibility review to determine whether revising ballast water performance standards will result in a scientifically demonstrable and substantial reduction in the risk of introduction or establishment of aquatic nuisance species. By January 1, 2022, the Coast Guard must issue a final rule that adopts a more stringent ballast water performance standard with certain numeric discharge limits, unless the feasibility review determines that the more stringent standard is not attainable. Further revisions to the performance standards are to be considered every 10 years.

A revised ballast water performance standard applies to a vessel beginning on the date of the first dry-docking of the vessel on or after January 1, 2022, but not later than December 31, 2024.

If the Coast Guard determines on the basis of the feasibility review and after an opportunity for a public hearing that no ballast water treatment technology can be certified to comply with that revised performance standard, the Coast Guard must require the use of the treatment technology that achieves the performance levels of the best treatment technology available. If ballast water treatment technology exists that exceeds the revised performance standard with respect to a class of vessels, the Coast Guard must revise the standard for that class to incorporate the higher performance standard.

The Coast Guard may establish a deadline for a vessel (or a class, type, or size of vessel) to comply with a revised performance standard. The bill establishes a process for owners or operators of vessels to petition the Coast Guard for an extension of compliance deadlines.

In the case of a vessel that enters the Great Lakes through the St. Lawrence River after operating outside the exclusive economic zone of the United States, the Coast Guard must establish a requirement that the vessel conduct saltwater flushing of all ballast water tanks onboard prior to entry.

(Sec 6) The bill establishes a certification requirement for ballast water treatment technology. Beginning one year after the issuance of the requirements for protocols for certifying those technologies, a manufacturer of a treatment technology

may only sell, deliver, or import treatment technology that is certified by the Coast Guard, unless: (1) the technology is being evaluated under the Coast Guard Shipboard Technology Evaluation Program, or (2) the technology has been certified by a foreign entity and the certification demonstrates performance and safety of the treatment technology equivalent to the requirements of this bill. The Coast Guard may not approve a technology if it uses a biocide or generates a biocide that is a pesticide.

The Environmental Protection Agency (EPA) must issue requirements for land-based and shipboard testing protocols or criteria for certifying the performance of each ballast water treatment technology, and certifying laboratories to evaluate such treatment technologies.

(Sec. 7) The bill makes permanent the current permit moratorium for small vessels that is due to expire in December 2017. Exemptions from the performance standards are established, including vessels that operate in limited areas, such as the Great Lakes.

(Sec. 8) The Coast Guard may promulgate regulations establishing compliance programs as alternatives to ballast water management regulations for small vessels with maximum ballast water capacities of less than eight cubic meters, vessels with less than three years of remaining useful life, or vessels that discharge ballast water into a facility that meet certain standards promulgated by EPA. Within a year, the EPA must promulgate standards for facilities that receive ballast water.

(Sec. 9) The bill allows an interested person to file a petition for review of a final regulation promulgated under this Act. A petition must be filed not later than 120 days after notice of promulgation appears in the Federal Register, with an exception for petitions based solely on grounds arising after the filing deadline.

(Sec. 10) The bill establishes a petition process for a state seeking to enforce a state or local statute or regulation related to ballast water discharges incidental to the normal operation of a vessel that is more stringent than federal performance standards.

(Sec. 11) The bill, if enacted, is given exclusive statutory authority for federal regulation of discharges incidental to the normal operation of a vessel to which the bill applies.

Actions Timeline

- **Jul 29, 2015:** Committee on Commerce, Science, and Transportation. Reported by Senator Thune with an amendment in the nature of a substitute. With written report No. 114-96.
- **Jul 29, 2015:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 171.
- **Feb 26, 2015:** Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Feb 4, 2015:** Introduced in Senate
- **Feb 4, 2015:** Read twice and referred to the Committee on Commerce, Science, and Transportation.