

## Support S.168 The Commercial Vessel Incidental Discharge Act (CVIDA)

**CVIDA is urgently needed to prevent disruption of maritime commerce and the maritime workforce, which serve such key U.S. industries as energy, agriculture, and manufacturing by transporting raw materials, commodities, and finished consumer products.**

S.168, introduced by Sens. Roger Wicker (R-MS) and Bob Casey (D-PA), and soon to be introduced in the House by Reps. Duncan Hunter (R-CA) and Elijah Cummings (D-MD), is bipartisan legislation to help the U.S. maritime industry avoid a nightmare of conflicting federal and state regulations, as well as to head off a potentially expensive mandate on America's ports.

When federal regulation makes sense, Congress should enact a single, nationwide approach to provide certainty for businesses and to keep interstate commerce moving. CVIDA does that by consolidating commercial vessel ballast water discharge regulations under the U.S. Coast Guard—eliminating a confusing system administered by two federal agencies and 25 states. At the same time, the bill would also enact a responsible, long-term policy to ensure the health of America's waterways.

CVIDA would correct a problem created when the Ninth Circuit Court of Appeals expanded an EPA pollution program to include ballast water and other vessel discharges. While the resulting Vessel General Permit (VGP) program essentially mirrors Coast Guard standards, it unfortunately allows states to add their own patchwork of requirements on top of federal standards. As a result, commercial vessel operators are now subject to more than 150 distinct regulatory requirements imposed by two federal agencies and more than two dozen states—some of which are impossible to meet with any existing technology.

Since ballast water equipment manufacturers only receive Coast Guard certification, their systems meet a federal discharge standard, but not additional state requirements. Commercial vessel operators will spend millions of dollars installing onboard equipment to comply with Coast Guard requirements, but will still be at risk of fines and penalties for violating state requirements they can't meet. This problem threatens to tie up vessels over permitting problems, and to raise the overall cost of doing business—both of which could have a negative impact on maritime workers.

As a result of a recent decision by the 2<sup>nd</sup> Circuit Court of Appeals to remand VGP, CVIDA has become an urgent priority. The Court directs EPA to take a

number of new factors into account as it develops the next version of VGP, including on-shore ballast water pumpout facilities. Aside from the impracticality of such a system for large commercial vessels, an on-shore pumpout requirement would be a cost-prohibitive mandate for thousands of large and small U.S. ports and marine terminals.

## **CVIDA will help the economy**

- Regulatory certainty facilitates the flow of interstate commerce—but conflicting interstate regulations impede business. CVIDA would establish a clear, nationwide approach to regulation that would enhance maritime commerce for the future.
- A court order now puts EPA in the position of requiring U.S. ports to install onshore pumpout facilities. This threatens to drain the resources of port authorities by forcing them to divert critical infrastructure improvement funds. CVIDA would prevent this scenario from happening by establishing a single, national system administered by the U.S Coast Guard that is focused on continuous improvement in shipboard technology.
- U.S. maritime workers deliver operational excellence that keeps our waterways safe and clean. CVIDA helps workers by eliminating the confusing patchwork system of regulations that makes compliance a nightmare. The single, nationwide system created by CVIDA preserves the high standard of care for the waterways—and harmonizes the rules of the road for all of our nation’s waterways.

## **CVIDA will help the environment**

- CVIDA retains the current federal ballast water discharge standard, which the EPA’s Science Advisory Board deemed the most stringent currently achievable.
- CVIDA uses risk-based science to develop future ballast water discharge standards.
- CVIDA requires the Coast Guard to determine whether ballast water systems developed to meet future discharge standards actually work in the commercial shipboard environment.

- CVIDA provides greater protection for the Great Lakes and St. Lawrence River than current federal regulations by requiring commercial vessels entering that system from the Atlantic Ocean to continue to exchange ballast water at sea even after they install a Coast Guard type-approved ballast water management system.

[Please contact Geoff Gosselin at the House Transportation and Infrastructure Committee (225-\_\_\_\_) or Lucinda Lessley at the House Oversight and Government Reform Committee (225-\_\_\_\_) if you are interested in cosponsoring CVIDA.]