



July 13, 2016

The Honorable Mitch McConnell
Senate Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Harry Reid
Senate Democratic Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker of the House of Representatives
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John McCain
Chairman, Committee on Armed Services
U.S. Senate
228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Mac Thornberry
Chairman, Committee on Armed Services
U.S. House of Representatives
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jack Reed
Ranking Member, Committee on Armed Services
U.S. House of Representatives
228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Adam Smith
Ranking Member, Committee on Armed Services
U.S. House of Representatives
2216 Rayburn House Office Building
Washington, D.C. 20515

RE: Opposition to the Vessel Incidental Discharge Act

Dear Congressional and Armed Services Committee Leaders:

We write to express our strong opposition to the Vessel Incidental Discharge Act (VIDA), and specifically request it be excluded from the 2017 National Defense Authorization bill, by the eventual conference committee. As Governors who rely on the National Guard in times of state emergencies, the Defense Authorization bill is too important for non-germane provisions that impede on states' rights, and that warrant veto threats from the Administration.

We concur with the letter sent by multiple states' Attorneys General, on May 9, 2016¹, which stated that this VIDA legislation will dramatically weaken or remove existing laws that protect our nation's waters against the continual threat of aquatic invasive species and water pollution introduced by commercial and recreational vessels. In addition to the points by the Attorneys General, we add the following concerns:

¹ Attached

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- *VIDA is not germane to national security.* We concur that incidental discharges from non-military vessels are an environmental issue and are not germane to inclusion in a federal National Defense Authorization Act.
- *VIDA preempts state authority.* We do not support preemption of state authorities that limit states' ability to protect state waters from harmful invasive species and water pollution. Many states have active invasive species and water quality management programs that are tailored to unique regional and local conditions. VIDA prohibits states from enforcing existing and adopting new laws and would only allow states to enforce existing federal laws on large vessels.
- *In place of effective state standards, VIDA sets an insufficient national standard or no standard at all.* Many states support an exemption under the U.S. Environmental Protection Agency's (EPA) Small Vessel General Permit requirements (sVGP). However, VIDA goes too far by fully exempting over 21 million sVGP vessels from the existing body of federal and state invasive species and water pollution laws that apply to 31 categories of incidental discharges, most of which predate EPA's 2008 and 2013 Vessel General Permits.
- *VIDA's significant negative impacts extend far beyond ballast water.* Passing of VIDA will mean discharges that include toxic copper and zinc leachates from anti-fouling paints, invasive species from biofouling, greywater, and an unknown number of chemical pollutants under the broad definition of "any other pollutant associated with the operation of a marine propulsion system, shipboard maneuvering system, habitability system, or installed major equipment, or from a protective, preservative, or absorptive application to the hull of a vessel."

The economic and regulatory issues faced by the shipping industry are of great interest to our states. However, VIDA does not provide a reasonable balance between the economic benefits of the shipping industry and the significant environmental, economic, and human health costs states face from infested and polluted waters.

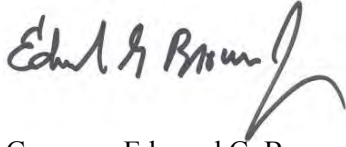
To summarize, VIDA's overly broad attempt to simplify the current regulatory system for vessel discharges would dramatically increase the risk of introducing and spreading invasive species and water pollution, by removing states' authority to regulate their own waters and by minimizing the scope of pollution controls. While we support opportunities to improve the current federal regulatory regimes separately overseen by the Coast Guard and EPA for ballast water and other incidental vessel discharges, legislation that affects federalism principles should only be developed in partnership with the states.

States should not lose the ability to exercise their traditional state authorities over this problem to protect our unique resources. This can be done without causing costs or confusion disproportionate to the cost of the risks associated with the unintentional spread of aquatic invasive species and water pollution.

Thank you for your consideration of our concerns.

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Sincerely,



Governor Edmund G. Brown
State of California



Governor John Hickenlooper
State of Colorado



Governor Mark Dayton
State of Minnesota



Governor Steve Bullock
State of Montana



Governor Andrew Cuomo
State of New York



Governor Kate Brown
State of Oregon



Governor Jay Inslee
State of Washington

CC: The Honorable John Thune, Chairman, U.S. Senate Committee on Commerce, Science & Transportation
The Honorable Bill Nelson, Ranking Member, U.S. Senate Committee on Commerce, Science & Transportation
The Honorable James Inhofe, Chairman, U.S. Senate Committee on Environment & Public Works
The Honorable Barbara Boxer, Ranking Member, U.S. Senate Committee on Environment & Public Works
The Honorable Bill Shuster, Chairman, U.S. House of Representatives Committee on Transportation & Infrastructure
The Honorable Peter DeFazio, Ranking Member, U.S. House of Representatives Committee on Transportation & Infrastructure
The Honorable Gina McCarthy, Administrator, U.S. Environmental Protection Agency
Admiral Paul F. Zukunft, Commandant, U.S. Coast Guard