

State Water Resources Control Board

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ENCLOSURE 1

**ORDER FOR CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION (CERTIFICATION)
FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Small VESSEL GENERAL PERMIT**

Project: Small Vessel General Permit (sVGP) (Project)

Applicant: Mr. David Smith
USEPA, Region 9
75 Hawthorne Street
Mail Code: WTR-5
San Francisco, CA 94105

This Order responds to your request, received on December 8, 2011, on behalf of USEPA for a water quality certification for the subject project. The 2013 sVGP authorizes discharges incidental to the normal operation of non-military and non-recreational vessels less than 79 feet in length. A Congressional moratorium (initiated by Public Law 110-299 and then extended by Public Law 111-215) exempts all incidental discharges, with the exception of ballast water, from commercial fishing vessels and non-recreational, non-military vessels less than 79 feet in length from having to obtain a Clean Water Act permit until December 18, 2013. The 2013 sVGP provides permit coverage for vessels that fall into this category after that date.

ACTION

	Order for Standard Certification		Order for Denial of Certification
X	Order for Technically Conditioned Certification		Order for Waiver of Waste Discharge Requirements

AUTHORIZATION:

This Certification conditionally certifies the sVGP, based on the proposed sVGP issued by USEPA on December 8, 2011 in Federal Register Volume 76, Number 236 that regulates nine broad categories of small vessel discharges by setting non-numeric effluent limits including Best Management Practices (BMP).

The effluent limits are organized into management groups instead of having specific effluent limitations to each discharge type. Management groups including: 1) general requirements, 2) fuel management, 3) engine and oil control, 4) solid and liquid waste management, 5) deck washdown and runoff and above water line hull cleaning, 6) vessel hull maintenance, 7) graywater management, 8) fish hold effluent management, 9) ballast water management, 10) seawater cooling overboard discharge, and 11) compliance with other statutes and regulations. Nine specific discharge types are covered in the eleven management groups (see Table 1).

Table 1: Vessel Waste Discharges Eligible for Coverage Under the sVGP

No.	Discharge	No.	Discharge
1	Anti-Foulant Hull Coating leachate	5	Graywater
2	Bilge water	6	Non-Contact Engine Cooling Water
3	Deck Runoff	7	Packing Gland Effluent
4	Fish Hold Effluent	8	Underwater Hull Husbandry
		9	Ballast Water

The permit includes, in the management groups, non-numeric effluent limits in the form of BMPs to help minimize the amount of any discharge produced, and to reduce the likelihood of that discharge entering a waterbody. Even though a vessel may not produce all of these discharges, a vessel owner or operator is responsible for meeting the applicable effluent limitations and conditions for every listed waste type that the vessel discharges. The sVGP includes effluent limitations to control a variety of pollutants, which have been classified into seven types (see Table 2).

Table 2: Types of Pollutants Regulated by the VGP

Pollutant Groups	Examples
Aquatic Nuisance Species (a.k.a., aquatic invasive species, or nonindigenous aquatic species)	Non-native Jellyfish, Zebra Mussels, Asian Clams, etc.
Most Conventional Pollutants	Biochemical Oxygen Demand, Oil and Grease, pH, Total Suspended Solids, etc.
Metals	Iron, Nickel, Zinc, Copper, Bronze, Silver, etc.
Nutrients	Phosphorous and Nitrogen
Pathogens	E. Coli and Fecal Coliform
Other Toxic Pollutants	Anti-foulants, rust inhibitors, epoxy coating materials, etc.
Non-Conventional Pollutants with Toxic Effects	Phthalates, Phenol, Tetrachloroethylene, Chlorine Residual, Chlorides, etc.

The sVGP's effluent limitations are intended to control these pollutants, which are potentially constituents of industrial waste, chemical waste, or garbage discharged from vessels.

The sVGP establishes that all point source discharges must meet technology-based effluent limitations. Water quality-based effluent limitations are required where the technology-based limitations are not sufficient to meet applicable water quality standards. Certain discharge

types would be limited or prohibited in waters protected for conservation purposes (for example, national marine sanctuaries and national parks). The permit also establishes specific corrective actions as well as inspections, monitoring record keeping, and reporting requirements. The sVGP will cover discharges from small vessels, less than 79 feet, excluding military and recreational vessels, into waters of the U.S. in all states and territories.

The sVGP will not require the vessel owner or operator to submit a Notice of Intent (NOI) to receive permit coverage. Instead, Vessel owner/operators must complete the VGP Permit Authorization and Record of Inspection (PARI) form, which records that the small vessel owner/operator has read, and agrees to the terms of the sVGP.

To comply with the public notice requirements of section 3858, Title 23, of the California Code of Regulations (CCR Title 23), which governs the State's Certification Program, a Public Notice of Application for Water Quality Certification for the subject project was posted on the State Water Board's Web site on March 28, 2012.

STANDARD CONDITIONS:

1. This Certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, CCR Title 23.
2. This Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR Title 23, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Certification is conditioned upon total payment of any fee required under Chapter 28, CCR Title 23 and owed by the applicant.

ADDITIONAL CONDITIONS:

1. All discharges of fish hold effluent, graywater, ballast water, and underwater hull husbandry are prohibited in State Water Quality Protection Areas as defined in the Public Resources Code (PRC) 36700-36900 and the California Ocean Plan.
2. If the ballast water receives chlorination treatment, the discharge to the Ocean must not exceed a maximum level of 8 micrograms per liter ($\mu\text{g/L}$) of total residual chlorine, and if the discharge is to bays and inland waters, then it must not exceed a maximum level of 20 $\mu\text{g/L}$ of total residual chlorine.
3. Vessel discharges must comply with all statewide water quality control plans and policies, and regional water quality control plans (Basin Plans). Attachment 4 lists the effluent

limitations based on narrative water quality objectives that must be met in the receiving water.

4. None of the discharges covered by the sVGP may contain hazardous waste as defined under California law, as well as hazardous substances listed in Attachment 2 of this document. The following other wastes are prohibited from discharge: sewage sludge, used or spent oil, garbage or trash (including plastic).
5. Owners or operators of vessels subject to the sVGP shall comply with California Fish and Game Code section 2301, regarding dreissenid mussels (e.g. quagga and zebra mussels). Owners or operators shall submit to inspections by the Department of Fish and Game at launch ramps or at other locations around the state to prevent the transportation of the dreissenid mussels from bodies of water. If owners or operators of vessels discover dreissenid mussels within California waterbodies then that discovery shall be immediately reported to the Department of Fish and Game.
6. There must be no oily sheen from any discharge, and oil and grease must not exceed 15 milligrams per liter (mg/L) from any discharge.
7. Detergents must not be used to disperse hydrocarbon sheens in any waste streams. To ensure this practice is implemented for all state waters, and additionally to protect drinking water sources in the Sacramento and San Joaquin Delta, methylene blue active substances (MBAS) should not exceed 0.5 mg/L in all waterbodies.
8. This Certification includes Attachments 1-4. Following is a description of these attachments:
 - Attachment 1 – Signatory Requirements
 - Attachment 2 – List of Chemical Names and Common Names for Hazardous Wastes and Hazardous Materials, Title 22, Chapter 11, Appendix X, California Code of Regulations
 - Attachment 4 – Effluent Limitations Based on Narrative Objectives in the California Ocean Plan and Basin Plans

ADMINISTRATIVE CONDITIONS:

1. This Certification shall expire five (5) years from the date of issuance.
2. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to USEPA, if the State Water Board determines that the project fails to comply with any of the terms or conditions of this Certification.
3. This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification.

4. USEPA shall notify the State Water Board within 24 hours of any noncompliance that may impact the beneficial uses of waters of the State. The notification shall include the volume and type of materials discharged and recovered, measures used to stop and contain the discharge, and measures implemented to prevent future discharges.
5. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, processes, or sanctions as provided for under State law.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION

Based on a review of the project information submitted to date, State Water Resources Control Board (State Water Board) staff determined that this project is categorically exempt from California Environmental Quality Act review (California Code of Regulations, Title 14, section 15308 - Actions Taken by Regulatory Agencies for Protection of the Environment) and has filed a Notice of Exemption for this project.

STATE WATER BOARD CONTACT PERSONS:

If you have any questions or comments, please contact Mr. Bill Orme, Chief of our Water Quality Certification Unit, at (916) 341-5464 (borme@waterboards.ca.gov), or Dr. Maria de la Paz Carpio-Obeso, Chief of our Ocean Standards Unit, at (916) 341-5858 (mcarpio-obeso@waterboards.ca.gov).

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that discharges as described in the sVGP comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) if all of the conditions listed in this Certification are met. These discharges are also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes this Certification to serve as Waste Discharge Requirements pursuant to the California Water Code section 13000 et seq.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the sVGP, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and the Regional Water Quality Control Board Water Quality Control Plans.

Thomas Howard, Executive Director
State Water Resources Control Board

Date

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