

State Water Resources Control Board

DRAFT DRAFT

ENCLOSURE 1

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

Project: Vessel General Permit (VGP) (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 VGP is a Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit that authorizes, on a nationwide basis, discharges incidental to the normal operation of non-military and non-recreational vessels greater than or equal to 79 feet in length. The 2013 VGP replaces the 2008 VGP, which expires in December 2013.

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 VGP, based on the proposed VGP issued by USEPA on December 8, 2011 in Federal Register Volume 76, Number 236 that regulates the discharge of 27 vessel discharge streams by establishing effluent limitations including Best Management Practices (BMPs).

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

No.	Discharge	No.	Discharge
1	Deck Runoff and Above Water Line Hull Cleaning	15	Graywater
2	Bilgewater/Oily Water Separator Effluent	16	Motor Gasoline and Compensating Discharge
3	Ballast Water	17	Non-Oily Machinery Wastewater
4	Anti-Fouling Leachate From Anti-Fouling Hull Coatings/Hull Coating Leachate	18	Refrigeration and Air Condensate Discharge
5	Aqueous Film Forming Foam (AFFF)		
6	Boiler/Economizer Blowdown	19	Seawater Cooling Overboard Discharge
7	Cathodic Protection	20	Seawater Piping Biofouling Prevention
8	Chain Locker Effluent	21	Boat Engine Wet Exhaust
9	Controllable Pitch Propeller and Thruster Hydraulic Fluid and other Oil Sea Interfaces	22	Sonar Dome Discharge
10	Distillation and Reverse Osmosis Brine	23	Underwater Ship Husbandry
11	Elevator Pit Effluent	24	Welldeck Discharges
12	Firemain Systems	25	Graywater Mixed With Sewage
13	Freshwater Layup	26	Exhaust Gas Scrubber Washwater Discharge
14	Gas Turbine Wash Water	27	Fish Hold Effluent

For each discharge type, the permit establishes effluent limitations pertaining to the constituents found in the effluent. The permit also establishes BMPs designed to decrease the volume of constituents entering the waste stream. 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 VGP includes effluent limitations to control a variety of pollutants, which have been classified into seven types:

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 VGP contains effluent limitations to control these pollutants which are potentially constituents of industrial waste, chemical waste, or garbage discharged from vessels.

The VGP also establishes technology-based requirements for certain discharges from specific classes of vessels. Further, it provides water quality-based effluent limitations that incorporate requirements for impaired water bodies. Under the VGP, certain discharge types are limited or prohibited in waters protected for conservation purposes (for example, national marine sanctuaries and national parks). The VGP also establishes specific corrective actions as well as inspections, monitoring, record keeping, and reporting requirements. The VGP covers vessel discharges into waters of the U.S. in all states and territories.

The VGP also requires submission of a Notice of Intent (NOI) for vessels that are 300 tons or greater or have a ballast water capacity of at least eight cubic meters. All other vessels covered by the VGP would not have to submit an NOI.

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. The VGP is only applicable to discharges incidental to the normal operation of non-military/non-recreational vessels engaged in transportation. Vessels in the U.S. Department of Transportation's Maritime Administration fleet, including but not limited to those located in Suisun Bay, do not qualify and must not be covered by the VGP. All vessels authorized under this permit that are more than 300 gross tons or have a capacity of 8 cubic meters (2,113 gallons) or more of ballast water that enter California waters must also submit an

NOI to USEPA. USEPA must provide the State Water Board access to its database to get information on vessels that have submitted NOIs.

2. All discharges are prohibited in State Water Quality Protection Areas as defined in the Public Resources Code (PRC) Section 36700-36900 and the California Ocean Plan, except those discharges that occur in transit associated with vessel traffic separation lanes.
3. 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 the discharge to inland waters, bays, and freshwaters must not exceed a maximum level of $20\mu\text{g/L}$ of total residual chlorine.
4. Large Passenger vessels and Cruise ships graywater discharges are prohibited in State waters. Graywater discharges from oceangoing vessels that weigh 300 gross tons or more are also prohibited if such vessels have sufficient holding capacity. Any co-mingling of black water (sewage) and graywater waste streams will be considered graywater for purposes of these conditions.
5. Vessel discharges must be in accordance with the requirements of PRC section 72400 et seq. None of the 27 discharges covered by the VGP 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), photo-developing wastes, dry cleaning wastes, noxious liquid substance residues, and medical wastes. The vessel owner or operator, upon entering State waters, must submit a certification letter to the State Water Board, Division of Water Quality, NPDES Unit, stating that hazardous wastes as defined under California law, and prohibited wastes, will not be discharged.
6. Owners or operators of vessels subject to the VGP 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 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.
7. Vessel discharges must comply with California State Lands Commission (SLC) requirements for ballast water discharges and hull fouling to control and prevent the introduction of nonindigenous species, found in PRC 71200 et seq. and CCR Title 2, Division 3, Chapter 1, Articles 4.5 through 4.8.
8. Propeller cleaning is allowed until the biofouling management regulations for vessels are adopted by the SLC and become effective. After the SLC biofouling management regulations become effective, propeller cleaning is allowed as specified in regulations. All other in-water hull cleaning is prohibited unless conducted using the best available technologies economically feasible, as determined by the State Water Board in consultation

with SLC staff. This prohibition includes underwater ship husbandry discharges (Discharge #23).

9. 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.
10. 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, such as sources in the Sacramento and San Joaquin Delta, methylene blue active substances (MBAS) should not exceed 0.5 mg/L in all waterbodies.
- 11.

The SLC's jurisdiction lies over vessels that are 300 Gross registered tons and above that carry or are capable of carrying ballast water. Vessels entering the State of California that fall in within this description shall complete the SLC forms online via the corresponding websites or by using the forms listed in Attachment 3, and submit them to the California State Lands Commission, Marine Facilities Division, 200 Ocean Gate, Suite 900, Long Beach, CA 90802:

- **3.1- SLC Ballast Water Reporting Form**

Upon departure from each port or place in California waters.

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/BWReportingForm.pdf

- **3.2- SLC Ballast Water Treatment Technology Annual Reporting Form**

Must be submitted annually by vessels that have a ballast water treatment system installed and have or will be discharging treated ballast water in waters of the state. Must be submitted within 60 days of receiving a written or electronic request from the SLC.

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/TrtFormAnnual_9Nov2010.pdf

- **3.3- SLC Ballast Water Treatment Supplemental Reporting Form**

To be submitted upon departure by vessels from each port or place of call in California only if ballast water was treated and ballast water was discharged into California Waters.

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/TrtSupplementalForm_9Nov2010.pdf

- **3.4– SLC Marine Invasive Species Program Hull Husbandry Reporting Form**
Submit annually according to California Code of Regulations Title 2, Division 3, Chapter 1, Article 4.8.

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/HullReportingForm_2009.pdf

12. Vessel discharges must comply with all statewide water quality control plans and regional water quality control plans (Basin Plans). Attachment 4 lists the effluent limitations based on the narrative water quality objectives that must be met in the receiving water.
13. A monitoring study must be conducted in order to provide to the State Water Board adequate representative characterization of the vessel discharges to determine compliance with the California Ocean Plan numeric objectives, the Basin Plan numeric objectives, and the California Toxics Rule criteria. One of two options, either an individual monitoring program, or participation in a collaborative regional or group monitoring program, must be selected for compliance. See Attachment 5 for more information on these two options. The vessel owner or operator that will be coming to California must inform the State Water Board within three months of the effective date of the 2013 VGP, of its selection of one of the two monitoring options.
14. This Certification includes Attachments 1-5. 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 3 – SLC Vessel Reporting Forms
 - Attachment 4 – Effluent Limitations Based on Narrative Objectives in the California Ocean Plan and Basin Plans
 - Attachment 5 – Monitoring and Reporting

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 VGP 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 VGP, 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