

# USA-EPA Vessel General Permit Implementation

## 1. Background to Vessel General Permit Developments

On June 17, 2008, the U.S. Environmental Protection Agency ("EPA") issued a Notice of proposed permit issuance for two general permits to cover discharges incidental to the normal operation of commercial and recreational vessels under the Clean Water Act ("CWA"). The National pollutant Discharge Elimination System ("NPDES") has been established under the CWA since 1972 to govern the discharges of pollutants into U.S. navigable waters (**within 3 nautical Miles from shore**). Under that program currently EPA has been forced to stop the exemption of the discharges "incidental to the normal operation of a vessel."

## 2. Vessel General Permit Requirements

The Vessel General Permit ("VGP") requirements under the NPDES program, would affect any vessel above **300 gross registered tons or more than 79 feet length or with ballast water capacity in excess of 8 cubic meters** (2113 gallons). Furthermore despite the final postponement of the VGP requirements EPA has made it clear that the final date for implementation will be **December 19<sup>th</sup>, 2008**.

### 2.1 Effluents affected by the Vessel General Permit

The VGP rules the discharge of following 28 **kinds of potential pollutants**:

- |  |   |
|--|---|
| 1. Deck Wash down and Runoff                       | 16. Motor Gasoline and Compensating Discharge   |
| 2. Bilge water                                     | 17. Non-Oily Machinery Wastewater   |
| 3. Discharges of Ballast Water                     | 18. Refrigeration and Air Condensate Discharge  |
| 4. Anti-Fouling Hull Coatings                      | 19. Rudder Bearing Lubrication Discharge  |
| 5. Aqueous Film Forming Foam (AFFF)                | 20. Seawater Cooling Overboard Discharge<br>(including non-contact engine cooling water;<br>hydraulic system cooling water, refrigeration<br>cooling water) |
| 6. Boiler/Economizer Blow down                     | 21. Seawater Piping Bio fouling Prevention  |
| 7. Cathodic Protection                             | 22. Small Boat Engine Wet Exhaust   |
| 8. Chain Locker Effluent                           | 23. Sonar Dome Discharge  |
| 9. Controllable Pitch Propeller Hydraulic<br>Fluid | 24. Stern Tube Oily Discharge   |
| 10. Distillation and Reverse Osmosis Brine         | 25. Underwater Ship Husbandry Discharges  |
| 11. Elevator Pit Effluent                          | 26. Well deck Discharges  |
| 12. Fire main Systems                              | 27. Gray water Mixed with Sewage from Vessels   |
| 13. Freshwater Lay-up                              | 28. Exhaust Gas Scrubber Wash water Discharge   |
| 14. Gas Turbine Wash Water                         |   |
| 15. Gray water                                     |   |

Note that **certain discharges covered under other regimes will not be covered under the VGP**, including, but not limited to, sewage, garbage, photo processing effluent, effluent from dry cleaning operations, and discharges of medical waste.

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## 2.2 Compliance Issues

Vessel owners and operators must be cognizant of the fact that, once the VGP is issued, EPA will be the agency primarily charged with making the determination of whether a permit condition has been violated. **It is unclear at this time how EPA and the Coast Guard will coordinate enforcement activities.** It is also unclear whether the general permit recordkeeping requirements will apply when the vessel is operating outside the three mile limit. **Violations of a permit could result in an administrative or civil penalty, and a knowing or negligent violation could constitute a criminal offence under the CWA.** Potential violations could include not only effluent limit exceedances, but also a failure to maintain the required records and conduct the required inspections and monitoring. **In particular, under the CWA, knowingly falsifying, tampering with, or rendering inaccurate any monitoring device or method required to be maintained under the General Permit can constitute a separate criminal offence.**

## 2.3 Coverage required in order to operate under the VGP requirements

To obtain **VGP permit coverage, the vessel owner/operator would be required to submit a Notice of Intent ("NOI") to be covered.** The NOI must be submitted between six and nine months after the VGP's issuance date. Prior to NOI submission, however, qualifying vessels will be deemed automatically authorized to discharge under the VGP. Under no circumstances, however, will this automatic authorization extend beyond nine months. For vessels delivered up to nine months after the VGP's issuance date, the vessel will receive permit coverage on the date that EPA receives the NOI. Vessels delivered after that date will receive permit coverage 30 days after EPA receives the NOI. Vessels less than 300 gross tons with no more than eight cubic meters of ballast water will not be required to submit an NOI and will be automatically authorized to discharge according to the VGP requirements.

## 3. Implementation of the VGP in real life

The proposed VGP sets forth **various monitoring, inspection, and recording procedures.** Vessels will be required to conduct and log routine self-inspections and monitoring of all areas of the vessel that the permit encompasses every watch, week, month and quarter. The VGP will also require vessels to conduct an annual comprehensive inspection designed to ensure that hard-to-reach areas of the vessel are also inspected for permit compliance. Vessels in dry dock will be subjected to a dry dock inspection and reports. Furthermore there are several actions required in case of non compliance and record keeping.

### 3.1 Documentation of Requirements

In order to properly implement the VGP requirements any vessel should be supplied with a set of procedures and guidance on how to implement record keeping. There are currently two (2) options available

- Develop a Stand Alone Manual / Document to gather ALL VGP related requirements, or
- Integrate the VGP requirements within your own SMS

The **best way to do it is develop a Stand Alone Document** (unless your vessel is calling frequently to US waters and/or you are operating an ISO 14001 compliant system) **for the following reasons:**

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1. Many vessels are calling to **US only 1-2 times per annum**, so these requirements will affect them for a very limited period of time (provided NOI / NOT are submitted in due time to hedge liability issues – unknown at the moment)
2. On the occasion that VGP requirements integrated to SMS these requirements will be a **MANDATORY internal process for compliance WORLDWIDE** and will be subject to ALL internal procedures **including Auditing and Management Review** (VGP requirements are not making any reference to Audit or Management review items)
3. Many requirements of the VGP are totally **new to the SMS or handled differently** (e.g. Corrective Action Procedures are handled differently in the VGP compared with the SMS requirements)
4. Integration of VGP requirements will mean the **addition of more than 50-100 pages** to the existing SMS making the **existing SMS less flexible**, set aside the fact that in case of integration there will be the need to refer to VGP specific items (specific waters, addresses etc.)

## 3.2 Inspections, Monitoring and Record Keeping

Under the VGP requirements vessel staff should ensure that several **inspections/checks and monitoring** are properly carried out

- o Every Watch
- o Every Week
- o Every Quarter
- o Every Year
- o On every Drydock

VGP implementation requires **recording requirements for a period of three (3) years**. It is obvious that in a great extend several reporting and record keeping requirements are covered within the existing SMS. As a result every effort should be made in order to keep references to the existing record keeping system when developing your VGP related Documentation.

## 3.3 Training Requirements

There are two requirements for training in the existing VGP requirements

1. All managers have to **train their senior sea going staff to Ballast Management procedures and Practices** (VGP para 2.2.3.1)
2. **Tanker Operators** in addition to the above should provide crew with **Shipboard Environmental Procedures Training** in line with the VGP requirements as a minimum (VGP para 5.5.4)

## 4. Best Practice Guidance

The implication of the proposed VGP remains huge despite the postponement until December 19, 2008. The maritime industry is generally unfamiliar with compliance and documentation requirements established by EPA for CWA general permits. In addition, it is unclear how EPA and the Coast Guard will enforce the general permit. Accordingly, vessel managers/operators should use this additional time to review the various types of discharges that are proposed to be covered under the VGP and use this additional time to train staff who will have responsibility for managing these regulated discharges and maintaining the required paperwork to document compliance. **Since the final VGP is not expected to**

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be significantly different than what was initially proposed, a proactive approach will be a benefit in the long run.

## 5. How IBS may help

IBS provides a **vast array of products and services** in order to properly implement the VGP requirements or tune and upgrade your existing operation to Best Practice standards as follows:

### Consulting & Documentation Development

- Development of Vessel General Permit (VGP) Vessel Specific Manuals
- Revision of your existing SMS to properly integrate VGP requirements
- Tuning of your EMS/ISO 14001 system to VGP Requirements
- Revise / Update your Vessel Specific Ballast Management Plan(s)

### Computer Based Training CD for Crew

- Computer Based Training (CBT) for Crew Ballast Management Training (1 1/2 hours application)

### Training Provided to IBS' Training Center (DNV/LLOYD's Certified)

- Vessel General Permit Implementation Workshop (how to properly implement VGP requirements, for office staff)
- Vessel staff VGP Training (Environmental Training Required for Tanker Operators in line with VGP requirements)

## Disclaimer

The purpose of this paper is identifying selected developments and analyse Best Practices and guidelines that may be of interest. The information contained herein may be abridged and/or summarized from various sources, the accuracy and completeness of which cannot be assured. This paper should not be construed as consulting or any other form of advice or opinion, and is not a substitute for any kind of consulting or any other kind of service.

## About IBS

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IBS is operating a **DNV MTC Certified Training Center** and a **LLOYDS ISO 9001 certified** management system

