



**DECEMBER 23, 2008**

**CIRCULAR NO. 29/08**

**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

**US ENVIRONMENTAL PROTECTION AGENCY (EPA): VESSEL GENERAL PERMIT (VGP) REQUIREMENTS—AN UPDATE**

Members have earlier been informed (by Circular No. 23/08 of November 21, 2008) that, from December 19, 2008, all commercial vessels of a length of 79 feet (24.08 meters) or more which have discharges of pollutants incidental to their normal operation, including but not limited to ballast water discharges, into the three mile territorial sea of the United States or into its inland waters, will become subject to the EPA final Vessel General Permit (VGP) requirements and will ultimately need individual permit coverage.

The balance of this communication updates the content of the original Circular on this issue.

**Latest Developments**

The EPA was granted an extension to February 6, 2009 as the effective compliance date of the new regulations. This means that the current exemption for vessel discharges remains in place until February 6, 2009.

On December 19, 2008, the EPA issued the final VGP requirements and, although the implementation date has been extended, Members whose vessels will be calling at US ports are strongly recommended to ensure compliance with the requirements found in the finalized EPA VGP as soon as practicable and before February 6, 2009. Details regarding compliance are found below.

**General Information**

As previously advised, to obtain permit authorization, the owner or operator of a vessel that is either 300 or more gross tons or has the capacity to hold or discharge more than 8 cubic meters (2113 gallons) of ballast water is required to submit a Notice of Intent (NOI) to receive permit coverage from June 19, 2009 but no later than September 19, 2009.

Until September 19, 2009 these vessels will automatically be authorized upon permit issuance to discharge according to the VGP requirements. For vessels that were delivered to the owner or operator on or before September 19, 2009, the vessel will receive permit coverage on the date that the EPA receives the complete NOI. New vessels that are delivered after September 19, 2009 will receive permit coverage 30 days after the EPA receives the complete NOI.

Vessels that are less than 300 gross tons or are able to carry or discharge no more than 8 cubic meters of ballast water capacity are not required to submit a NOI and will automatically be authorized to discharge according to the VGP requirements.



The electronic NOI filing system is expected to be operational by late spring 2009. In addition, the EPA will require a one-time permit report containing additional vessel information for each vessel between 30 and 36 months after obtaining coverage under the VGP.

Failure to meet any requirement of the VGP will constitute an enforceable permit violation. The EPA has included reporting requirements in the VGP that ensure that the EPA, and other parties as necessary, are made aware of potential permit violations. It is highlighted that all vessels equipped with ballast tanks that operate in waters of the United States must continue to meet the reporting requirements of 33 CFR 151.2041 and recordkeeping requirements of 33 CFR 151.2045 regarding ballast water discharges. The VGP details other spills and unauthorized discharges which must be reported to the EPA within 24 hours of becoming aware of the discharge should it endanger health or the environment. Otherwise, under the VGP, vessel owners/operators must report all incidents of non-compliance with the permit at least once a year to the appropriate EPA regional office.

The EPA may not issue a permit authorizing discharges in the waters of a state until that state has granted certification under Clean Water Act (CWA) or has waived its right to certify. As of the issuance date of the permit, the States of Alaska and Hawaii have not yet granted, denied, or waived certifications pursuant to the CWA. Therefore the permit does not yet provide coverage in these jurisdictions. The EPA will announce the availability of coverage under the VGP discharges in these jurisdictions as soon as it receives the appropriate certifications or waivers. It should be understood that compliance with discharge standards in individual states will be mandated in this manner, in addition to federal standards.

### **Summary of Significant Changes from Proposed VGP to Final VGP**

The final VGP addresses 26 vessel discharge streams by establishing effluent limits, including Best Management Practices (BMPs), to control the discharge of the waste streams and constituents found in those waste streams, a list of these are contained in the Annex to this Circular. For each discharge type, among other things, the final permit establishes effluent limits pertaining to the constituents found in the effluent, including BMPs designed to decrease the amount of constituents entering the waste stream.

The final VGP differs from the proposed permit in several ways. These changes include modifying the graywater discharge requirements for existing medium cruise ships unable to voyage more than 1 nautical mile (nm) from shore, adding requirements for the discharge of pool and spa water from cruise ships, prohibiting the discharge of tetrachloroethylene degreasers, expanding the prohibition against discharge of Tributyltin to a prohibition against discharge of any organotin compounds, and the addition of whole effluent toxicity testing to the requirements for vessels employing a ballast water treatment system which discharge certain biocides. Other changes made include combining three discharge categories into a new category that includes all oil to sea interfaces, modifying discharges and limits for large ferries, and additional clarifications added to several cruise ship discharges.

The VGP also requires routine self-inspection and monitoring of all areas of the vessel that the permit addresses. The routine self-inspection must be documented in the ship's logbook. Analytical monitoring is required for certain types of vessels. The VGP also requires comprehensive annual vessel inspections, to ensure even the hard-to-reach areas of the vessel are inspected for permit compliance.



The permit imposes additional requirements for 8 specific types of vessels which have unique characteristics resulting in discharges not shared by other types of vessels. These vessel types are medium cruise ships, large cruise ships, large ferries, barges, oil or petroleum tankers, research vessels, rescue boats, and vessels employing experimental ballast water treatment systems.

Further information on the VGP requirements, including the final VGP can be accessed at: [http://cfpub.epa.gov/npdes/home.cfm?program\\_id=350](http://cfpub.epa.gov/npdes/home.cfm?program_id=350)

For additional information in elaboration of the above and the attached, please refer to the American Club website at [www.american-club.com](http://www.american-club.com) or contact George Tsimis, Senior Vice President of Claims at Tel: +1 212 847 4501, Fax: +1 212 847 4599 [george.tsimis@american-club.com](mailto:george.tsimis@american-club.com) or Dr. William Moore, Senior Vice President of Risk Control for the Shipowners Claims Bureau, Inc. at Tel: +1 212 847 4542, Fax: +1 212 847 4596 or [william.moore@american-club.com](mailto:william.moore@american-club.com).

Yours faithfully,

  
Joseph E. M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
**THE AMERICAN CLUB**

*All clubs in the International Group of P&I Clubs have issued similar Circulars.*

## ANNEX

### Discharge types eligible for coverage under the VGP

- Deck washdown and runoff and above water line hull cleaning;
- Bilge water;
- Ballast water;
- Anti-fouling leachate from antifouling hull coatings;
- Aqueous film forming foam (AFFF);
- Boiler/economizer blowdown;
- Cathodic protection;
- Chain locker effluent;
- Controllable pitch propeller hydraulic fluid and thruster hydraulic fluid and other oil sea interfaces including lubrication discharges from paddle wheel propulsion, stern tubes, thruster bearings, stabilizers, rudder bearings, azimuth thrusters, and propulsion pod lubrication;
- Distillation and reverse osmosis brine;
- Elevator pit effluent;
- Firemain systems;
- Freshwater layup;
- Gas turbine wash water;
- Graywater;
- Motor gasoline and compensating discharge;
- Non-oily machinery wastewater;
- Refrigeration and air condensate discharge;
- Seawater cooling overboard discharge (including non-contact engine cooling water, hydraulic system cooling water, refrigeration cooling water);
- Seawater piping biofouling prevention;
- Small boat engine wet exhaust;
- Sonar dome discharge;
- Underwater ship husbandry discharges;
- Welldeck discharges;
- Graywater mixed with sewage from vessels; and
- Exhaust gas scrubber wash water discharge.