



MEMORANDUM OF UNDERSTANDING BETWEEN THE

U.S. ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE
AND THE

U.S. COAST GUARD,
OFFICE OF MARINE SAFETY, SECURITY AND STEWARDSHIP

For Collaboration on
Compliance Assistance, Compliance Monitoring, and Enforcement of
Vessel General Permit Requirements on Vessels

I. PURPOSE/OBJECTIVES/ GOALS

The purpose of this Memorandum of Understanding (MOU) is to establish cooperation and coordination between the United States Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) for implementing and enforcing the Vessel General Permit (VGP) requirements on vessels. EPA issued the VGP on December 18, 2008, 73 FR 79473, December 29, 2008 and February 12, 2009, 74 FR 7042 (for Alaska and Hawaii), pursuant to Clean Water Act (CWA) authority under the National Pollutant Discharge Elimination System (NPDES) program. VGP implementation will benefit from collaboration on compliance monitoring and enforcement of the VGP and compliance assistance efforts for the industry.

This MOU authorizes EPA and the USCG (Agencies) to utilize each other's expertise to further the goals and objectives of the VGP. By leveraging the strengths of the Agencies regarding technology, science, regulations and policy, compliance and enforcement, and knowledge of vessels, and by integrating activities, collaborative projects may be initiated which are of mutual interest.

Sharing of information, expertise, and technical assistance for VGP implementation is intended to reduce redundancy in government oversight of vessel activities and increase the effectiveness of each Agency's ability to accomplish its mission. The collaborative efforts initiated pursuant to this MOU are intended to be mutually beneficial and to enhance environmental protection.

II. BACKGROUND

The VGP was issued in response to a District Court ruling that vacated, as of February 6, 2009, a long-standing EPA regulation that excluded discharges incidental to the normal operation of a vessel from the need to obtain an NPDES permit. As a result, all such discharges are prohibited

unless authorized by an NPDES permit. Section 301 of the CWA prohibits the discharge of any pollutant from a point source into waters of the United States, including the contiguous zone or ocean, unless otherwise authorized under the CWA, such as in a permit issued under EPA's NPDES program. Certain discharges are not subject to the NPDES permit requirement because they are authorized under other statutory provisions. Sewage from vessels, for example, is regulated pursuant to a separate program and is not addressed in NPDES permits. However, unlike the discharge of other pollutants, discharges incidental to the normal operation of a vessel do not require an NPDES permit when discharged into the waters of the contiguous zone or ocean.

The VGP applies to specific discharges, which are identified in the VGP, that are incidental to the normal operation of a vessel and are discharged from non-recreational vessels of 79 feet or greater in length. In addition, the ballast water discharge provisions apply to any non-recreational vessel of less than 79 feet or commercial fishing vessel of any size discharging ballast water. If a vessel is greater than or equal to 300 gross tons or has the capacity to hold or discharge more than 8 cubic meters (2113 gallons) of ballast water, the owner/operator must submit a Notice of Intent (NOI) to be covered under the permit in accordance with the requirements of Part 10 of the VGP.

The VGP incorporates the USCG's mandatory ballast water management and exchange standards, adds additional ballast water management practices and provides effluent limits for other types of discharges including, but not limited to, deck runoff, bilge water, gray water, anti-fouling hull coatings and other discharge types. The VGP also establishes specific corrective actions, inspection and monitoring requirements, as well as recordkeeping and reporting requirements.

III. STATUTORY AUTHORITY

Section 501 of the CWA, 33 U.S.C. § 1361, authorizes the Administrator of EPA, with the consent of the head of any other agency of the United States, to utilize such officers and employees of such an agency as may be found necessary to assist in carrying out the purpose of the CWA.

14 U.S.C. § 141 authorizes the USCG to utilize its personnel and facilities to assist any federal agency, such as EPA, to perform any activity for which such personnel and facilities are especially qualified.

14 U.S.C. § 93(a)(20) authorizes the Commandant of the USCG to enter into cooperative agreements with other Federal agencies.

Section 104 of the CWA, 33 U.S.C. § 1254, instructs the Administrator of EPA to, among other things, cooperate with other Federal, State and local agencies to conduct and promote the coordination and acceleration of investigations, training, demonstrations, surveys and studies relating to the causes, effects, extent, prevention, reduction, and elimination of pollution.

EPA issued the VGP pursuant to authority in the CWA section 402, 33 U.S.C. 1342.

Sections 308 and 309 of the CWA, 33 U.S.C. §§ 1318 & 1319, authorize EPA to obtain information and investigate noncompliance with permits issued pursuant to this authority, to enforce against violations of such permits and take action to require a violator to return to compliance.

IV. ARTICLES OF AGREEMENT

A. Interagency Coordination

The USCG and EPA, respectively, agree to cooperate on requests by the other Agency for available information, documents or testimony that may be useful in carrying out its responsibilities regarding vessel discharges under the VGP.

EPA and the USCG agree to communicate regularly to ensure the joint activities are conducted as expeditiously and as efficiently as possible and to resolve questions or issues in a timely manner. The Agencies agree that representatives from their respective headquarters offices should meet at least annually in order to, among other things, confirm effective progress in implementation of this MOU, resolve any concerns that have arisen since the previous meeting, and maintain continuity in communications between the Agencies. EPA Regions and USCG Districts and/or Sectors are also encouraged to meet regularly with their counterparts to coordinate efforts and share information.

Each Agency will make available to the other current lists of points of contact on the VGP. The list will include the title, office name, current address and phone number for points of contact at headquarters offices and in each EPA Region and USCG District. The current list is attached as Appendix I to this MOU. The Agencies agree to promptly inform each other when changes are made to the titles, offices, addresses and phone numbers. The Agencies agree to inform each other of the name of the designated point of contact, to the extent practicable.

EPA is responsible for interpretations of the VGP and the terms of the VGP. EPA intends to provide guidance and technical information to assist with VGP implementation.

B. Information Sharing and Data Tracking

The USCG and EPA agree to work jointly and cooperatively to develop reporting forms, USCG job aids, instructions for filling out job aids or other training materials, annual reports on compliance monitoring and resulting enforcement, and materials for industry including fact sheets and compliance assistance materials.

EPA and the USCG agree to assist each other with reports on vessel exams, deficiencies found and yearly numbers of exams, ideas to improve the compliance policy and guidance documents for vessels, and methods to notify the vessel owners of deficiencies and violations.

The USCG and EPA agree to provide technical expertise and support the exchange of information that each Agency maintains in data bases, information systems, clearing houses and other means that are not available to the other Agency, as necessary and appropriate and in accordance with the Freedom of Information Act (5 U.S.C. § 552), the Privacy Act (5 U.S.C. § 552a) and each Agency's Public Affairs Office.

EPA and the USCG agree to share information, including any information regarding vessel owners or operators, any samples and testing results, photographs, and inspection or screening logs, that may be useful in carrying out their respective responsibilities regarding vessel discharges under the VGP.

C. Training

EPA and the USCG intend to develop and make available training materials (web based, CD-rom, etc.) on the VGP compliance for Agency staff who will be involved in VGP implementation. The Agencies will also work together to identify available training materials that may help to ensure the personal safety of EPA inspectors and enforcement officers who may board vessels to verify compliance with the VGP.

D. Compliance Monitoring

EPA and the USCG agree to work together to develop job aids, Navigation and Vessel Inspection Circulars, and other documents to assist inspectors with identification of deficiencies of the VGP requirements.

The USCG agrees to incorporate a component into its existing inspection and Port State Control exam protocols and procedures that verify vessel compliance with safety, security, and pollution prevention regulations to assist with the verification of compliance of the VGP for domestic and foreign vessels. The scope of USCG inspections may be identified in USCG policy and guidance and associated checklists/job aids. The inspections may include review of inspection records, visual inspections, evaluation of compliance with effluent limits and taking samples. The USCG agrees to notify EPA when it identifies deficiencies.

The USCG and EPA agree to explore electronic methods to track deficiencies and share this information.

EPA and USCG retain the right to conduct compliance and enforcement inspections as each is authorized by law. EPA and the USCG agree to facilitate joint inspection efforts as appropriate.

E. Addressing Deficiencies and Enforcement

EPA intends to develop, with assistance from the USCG as appropriate, informal enforcement documents for the VGP, including letters or notices of deficiency or notices of violation. EPA or the USCG may use these documents to inform a vessel owner/operator of deficiencies of the VGP and encourage the owner/operator to address the identified problems. The USCG should

also inform the vessel owner/operator that it informs EPA of deficiencies and any actions taken or planned by the vessel operator to correct those deficiencies and that further enforcement action may be taken. EPA's enforcement authority under the CWA to address VGP violations and unauthorized discharges includes administrative orders, administrative penalties, and judicial action.

F. Compliance Assistance/Outreach

EPA and the USCG will work together to develop and disseminate outreach materials to inform the public of the existence of the VGP and its requirements, and to assist in compliance outreach.

The USCG and EPA intend to develop schedules and protocols for distribution of these materials on board vessels, at ports, and through other means of outreach to the regulated community and other members of the public.

EPA will make information on VGP compliance available to EPA and USCG inspectors and enforcement officers and will also post information on the VGP on EPA's website (currently at www.epa.gov/npdes/vessels). The USCG may post publicly available information on its website and may develop links from its website to information on EPA's website.

EPA and the USCG agree that handling complex inquiries from the public through a single repository will ensure national consistency on VGP interpretation and implementation. EPA has established a general email box at commercialvesselpermit@epa.gov to provide a central address for complex questions on the VGP. The Agencies agree to work together to develop a process to streamline handling of public inquiries to provide responses as promptly and accurately as possible. Initially, inquiries should be forwarded to this email box for development of a response, unless the inquiry has been previously raised and a response already developed. The USCG and EPA agree to work together to develop additional procedures, as needed, to handle inquiries on the VGP or other NPDES requirements.

G. Support Agreements

EPA and the USCG may develop Support Agreements, as needed, to assist with implementation of this MOU and accomplish tasks in accordance with this MOU. Support Agreements are detailed agreements that are negotiated by the USCG and EPA to work on specific issues under this MOU (Support Agreements). Support Agreements may contain specific roles, responsibilities and time lines that further define the activities or aspects described in this MOU, including sharing of information, compliance monitoring, compliance assistance, notification procedures, data collection and handling, identifying and addressing deficiencies, facilitating enforcement, and training. Support Agreements may provide additional guidance or protocols on any aspect of this MOU. Support Agreements may also include interagency agreements, contracts, and assistance agreements between USCG and EPA.

In addition to Headquarters Support Agreements, EPA Regions and USCG Districts may also develop Support Agreements to establish coordination and assistance efforts.

Regional/District/Local Support Agreements must be approved at EPA at a level no lower than the Branch Chief responsible for VGP compliance and enforcement in the appropriate region or

at Headquarters. For the USCG, Regional/District/Local Support Agreements must be approved at a level no lower than the USCG Sector Commander.

The USCG and EPA will, where appropriate, reference this MOU in any Support Agreement, amendments or letters of agreement that implement this MOU.

V. DEFINITIONS

For purposes of this MOU, the following definitions apply. Terms not defined here shall have the meaning provided in the VGP, 40 CFR Part 122, and the CWA.

Job Aid: A listing of items that may be examined as part of a VGP inspection.

Deficiency: A potential violation of the VGP.

Vessel General Permit (VGP): A permit issued by EPA pursuant to the CWA and 40 CFR Section 122.28 that became effective on February 6, 2009 and any subsequent EPA permits that modify, replace, or reissue that one.

VI. LIMITATIONS

A. EPA and the USCG agree that this MOU does not affect their existing authorities under any laws.

B. As required by the Anti Deficiency Act, 31 U.S.C. §§ 1341 and 1342, all commitments made by the USCG and EPA in this MOU are subject to the availability of appropriated funds and each Agency's budget priorities. Nothing in this MOU, in and of itself, obligates EPA or the USCG to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, Support Agreement, or other financial obligation. Furthermore, nothing in the MOU exempts the Agencies from following their respective, as well as the other Agency's, policies governing competition of assistance agreements or contracts. Except as otherwise agreed to in advance in an interagency agreement (IA), the USCG and EPA agree not to submit a claim for compensation for services rendered to each other or any other Federal agency for activities either Agency undertakes in carrying out this MOU.

C. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving transfers, reimbursement or contribution of funds between the Agencies related to this MOU will be handled in accordance with applicable laws, regulations, and procedures and will be subject to separate subsidiary agreements that will be effected in writing by representative of both Agencies.

D. The cooperative measures set forth in this MOU are intended exclusively for the guidance of Federal government personnel. These policies and procedures may be superseded, modified, or terminated at any time without public notice. EPA and the USCG reserve the right to change the terms of this MOU without prior public notice.

E. This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the USCG or EPA, their officers or employees, or any other person. This MOU does not direct or apply to any person outside of EPA and the USCG.

F. Except as provided in Section VIII, "Intellectual property," this MOU is not legally binding.

VII. PROPRIETARY AND CONFIDENTIAL INFORMATION

To carry out the joint work resulting from this MOU, the Agencies may need to disclose proprietary or confidential information to one another. For the purpose of this MOU, "proprietary or confidential information" is defined as information that an affected business claims to be business confidential or that is otherwise requested to be protected under applicable law and regulation. Effluent data is not "proprietary or confidential information." Each of the Agencies agrees to clearly identify in writing any proprietary or confidential information that was initially disclosed verbally. The Agencies agree not to disclose or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary or confidential information except as such information that may be subject to disclosure under the Freedom of Information Act (5 USC § 552) and EPA regulations at 40 CFR Part 2, or as otherwise authorized by law and regulation. Decisions on disclosure of proprietary or confidential information to the public under the Freedom of Information Act shall be made by the Agency to whom the information was originally submitted, consistent with applicable regulations.

VIII. INTELLECTUAL PROPERTY

The USCG and EPA patent and intellectual property policies shall apply to any work performed hereunder and appropriate patent and intellectual property provisions shall be included in any agreement entered into in order to implement a Support Agreement accepted under this MOU. Rights to inventions made by Federal employees shall be determined by the employee's Agency. Rights in inventions and other intellectual property of technology vendors and contractors, subcontractors and cooperators shall be governed by provisions of their respective agreements with the USCG or EPA.

IX. DISPUTE RESOLUTION

It is the intent of the Agencies to resolve disagreements arising under this MOU or amendments and/or revisions to it, at the lowest appropriate level. However, if the Agencies are unable to resolve disagreements at the level of each party's point of contact, it is the Agencies' intent to state each Agency's position in writing and present it to the other Agency's Director or equivalent level for consideration and/or resolution.

X. EFFECTIVE DATE

This MOU is effective on the date of the last signature by the Agencies and shall remain effective from the signature date unless terminated in accordance with the terms set forth herein.

XI. MODIFICATION

This MOU may be modified at any time upon mutual written consent of the Agencies. Upon request by either Agency, Support Agreements will be reviewed by the appropriate headquarters office responsible for enforcement, compliance assistance or compliance monitoring policy to assure that they continue to reflect the appropriate understandings and procedures to provide for current needs and capabilities to carry out the responsibilities and roles set forth in this MOU.

XII. TERMINATION

Either Agency may terminate its participation in this MOU at any time by providing written notice to the other Agency at least 90 days in advance of the desired termination date.

If termination occurs, work under any active Support Agreement will be completed in accordance with the terms of the Support Agreement up to the end of the fiscal year in which the termination occurs.

APPROVED BY:

For U.S. Coast Guard

For U.S. Environmental Protection Agency

By: _____
Kevin S. Cook
RADM, U. S. Coast Guard
Director of Prevention Policy

By: _____
Cynthia Giles
Assistant Administrator
Enforcement and Compliance Assurance

Date: _____

Date: _____

ATTACHMENT I

Contacts

The USCG and EPA contact offices are:

USCG:

For the USCG VGP Program Manager:

Commandant
United States Coast Guard
2100 Second Street, S.W. STOP 7581
Washington, DC 20593-7581
Office of Vessel Activities (CG-543)
Phone #(202) 372-1220 (direct)
Phone #(202) 372-1251 (main)
CG543@uscg.mil

EPA

For Compliance Monitoring, Compliance Assistance, and Data Issues:

United States Environmental Protection Agency
Water Branch
Monitoring, Assistance, and Media Programs Division
Office of Compliance (2223A)
1200 Pennsylvania Ave NW
Washington DC 20460
Phone #(202) 564-2300

For Enforcement Issues:

United States Environmental Protection Agency
Water Enforcement Division (2243A)
Office of Civil Enforcement
1200 Pennsylvania Ave NW
Washington DC 20460
Phone #(202) 564-2240

EPA Regional Offices - VGP Enforcement/ Compliance Contact List

[Region 1](#) – Boston (serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

Office of Environmental Stewardship
EPA New England Headquarters
5 Post Office Square
Boston, MA 02109-3912
617-918-1850

[Region 2](#) – New York (serving New Jersey, New York, Puerto Rico, and the U.S. Virgin Islands)

Division of Enforcement and Compliance Assistance
EPA Regional Office
290 Broadway
New York, NY 10007-1866
212-637-4268

[Region 3](#) – Philadelphia (serving Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia)

Water Protection Division
EPA Region 3 Regional Office
1650 Arch Street
Philadelphia, PA 19103-2029
215- 814-2097

[Region 4](#) – Atlanta (serving Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

Water Protection Division
US EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
404-562-9756

[Region 5](#) – Chicago (serving Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin)

Water Division
US EPA Region 5
Ralph Metcalfe Federal Building
77 West Jackson Blvd.
Chicago, IL 60604

312-886-0148

[Region 6](#) – Dallas (serving Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

Compliance Assistance and Enforcement Division
EPA Region 6 Main Office:
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202
214-665-6579

[Region 7](#) - Kansas City (serving Iowa, Kansas, Missouri, and Nebraska)

Water Enforcement
US EPA, Region 7
901 N 5th Street
Kansas City, KS 66101
913- 551-7354

[Region 8](#) – Denver (serving Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)

Office of Enforcement, Compliance and Environmental Justice
US EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
303-312-6393

[Region 9](#) - San Francisco (serving Arizona, California, Hawaii, Nevada, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Marshall Islands, and Republic of Palau)

Water Division
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA, 94105
415-972-357

[Region 10](#) – Seattle (serving Alaska, Idaho, Oregon, and Washington)

Office of Compliance and Enforcement
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
206-553-1146

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W. STOP 7581
Washington, DC 20593-7581
Staff Symbol: CG-543
Phone: (202) 372-1212
Fax: (202) 372-1918
Email: CG543@uscg.mil

16711/
CG-543 Policy Letter 11-01

From: E. P. Christensen, CAPT
COMDT (CG-543)

FEB 11 2011

To: Distribution

Subj: GUIDELINES FOR COAST GUARD EVALUATIONS OF COMPLIANCE WITH
THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S (EPA) VESSEL
GENERAL PERMIT (VGP) FOR DISCHARGES INCIDENTAL TO THE NORMAL
OPERATION OF VESSELS

1. Purpose. To provide guidance to assist Coast Guard personnel to evaluate compliance with the provisions of the EPA's VGP, for U.S. and foreign-flagged vessels subject to the VGP and operating in the waters of the United States, as defined by 40 CFR 122.2.
2. Directives Affected. None.
3. Action. Sector Commanders/Officers in Charge, Marine Inspection (OCMIs) must direct their staffs to use the guidance in enclosure (1) during U.S. flag vessel inspections and foreign Port State Control (PSC) examinations respectively, to ensure all U.S. inspected vessels and all foreign-flag vessels operating in waters of the United States that are subject to the VGP comply with the provisions of the VGP. OCMIs should bring this policy to the attention of appropriate individuals in the marine industry.
4. Background.
 - a. The EPA issued the VGP on December 18, 2008 to regulate discharges incidental to the normal operation of a vessel under the Clean Water Act (CWA), which prohibits the discharge of any pollutant to waters of the United States from any point source without a National Pollutant Discharge Elimination System (NPDES) permit. The permit became effective on December 19, 2008.
 - b. The EPA established and implemented the VGP in response to a District Court ruling that vacates, as of February 6, 2009, a long-standing EPA regulation that excludes discharges incidental to the normal operation of a vessel from the need to obtain an NPDES permit. As a result, most vessels operating in US waters must have some form of NPDES permit coverage or else they will be discharging, and consequently operating, illegally in the waters of the United States.

- c. The VGP applies to discharges incidental to the normal operation of all non-recreational vessels of 79 feet or greater in length. In addition, the ballast water discharge provisions also apply to any non-recreational vessel of less than 79 feet or commercial fishing vessel of any size discharging ballast water.
- d. The VGP covers 26 different types of discharges, many of which have not previously been covered by U.S. regulations. For ballast water discharges, the VGP incorporates the Coast Guard's mandatory ballast water management standards and has several additional mandatory management requirements. The VGP also has additional requirements for eight vessel types such as large and medium-sized cruise vessels and oil tankers. Under the CWA, discharges of pollutants from vessels that are not covered by the VGP are unlawful unless they are separately covered under another CWA permit or are exempt from permitting requirements (for example, sewage from vessels, incidental discharges from a vessel of the armed forces, or discharges in compliance with the instructions of a federal on-scene coordinator).
- e. The VGP requires vessel owners/operators to perform training, inspections, monitoring, and reporting, and take assessments and corrective actions as necessary. It also requires vessel owners or operators to submit a Notice of Intent (NOI) to receive permit coverage and submit a one-time permit report between 30 and 36 months after obtaining permit coverage.
- f. The EPA has posted electronic copies of the VGP and other related information, including VGP Fact Sheets, on the EPA's NPDES – Vessel Discharges webpage at www.epa.gov/npdes/vessels.

5. Discussion.

- a. The VGP is an EPA permitting program under the CWA. The EPA developed and manages the VGP, and has the primary federal responsibility for enforcing its provisions. The Coast Guard's role up to this point of time has been focused on education and outreach.
- b. Noting that since the provisions provided in the VGP require vessel operators to utilize best practices in the management of shipboard discharges incidental to the normal operation of the vessel in order to protect the marine environment, the Coast Guard shares a mutual interest in ensuring vessels comply with VGP provisions. Therefore, in fulfilling its role as the nation's lead maritime law enforcement agency and to carry out its mission of environmental stewardship, it is in the interest of the Coast Guard to assist the EPA in the detection and reporting of VGP deficiencies onboard vessels.
- c. To facilitate this mutual interest, the Coast Guard and the EPA have signed a Memorandum of Understanding (MOU) regarding matters related to the VGP (USCG/EPA VGP MOU).

- d. The USCG/EPA VGP MOU established cooperative relationships, roles and responsibilities between the Coast Guard and the EPA in the implementation of the VGP compliance and enforcement. It established that Coast Guard and EPA cooperation in sharing information, expertise, and technical assistance for VGP implementation reduces redundancy in government oversight of vessel activities and increases the effectiveness of each Agency's ability to accomplish its mission to enhance environmental protection.
 - e. Under the USCG/EPA VGP MOU, the Coast Guard's main role will be to assist the EPA with examining compliance with basic provisions of the VGP¹ during routine inspections onboard U.S. vessels and during Port State Control exams on foreign vessels. The Coast Guard will report detected VGP deficiencies to the EPA. The EPA retains full responsibility and enforcement authority under the CWA to address VGP violations and unauthorized discharges, which includes issuance of administrative orders, administrative penalties, and judicial action. Additional assistance and cooperation between the Coast Guard and EPA may be established through support agreements under the MOU.
 - f. This policy has been developed by the Coast Guard, in consultation with the EPA, to assist Coast Guard staff in the preparation for and the execution of VGP compliance monitoring inspections and exams. Vessel owners and/or operators are responsible for compliance with all aspects of the VGP and any other CWA requirements. Vessels may be subject to inspection to verify compliance with any and all legal requirements. The inspection guidelines (VGP Job Aid) provided in enclosure (1) represent the minimum items that the Marine Inspectors (MI) and PSC Officers should examine during VGP compliance exams. The MI/PSC Officers are not limited in the depth and scope of the examination. The Coast Guard and EPA may assess program execution and shipboard performance and adjust the VGP Job Aid as appropriate.
 - g. Implementation of VGP compliance exams and follow-up activities during routine vessel inspections and Port State Control exams will require additional time to complete vessel inspections and exams. However, as the VGP compliance component of an inspection and exam is incorporated and consistent with normal Coast Guard vessel exam procedures and routines, we expect this additional effort to be manageable.
6. Procedure.
- a. Implementation. Effective 30 days after the promulgation of this policy, Sector Commanders / OCMI's staff should use the VGP Job Aid provided in enclosure (1) in the implementation and execution of Coast Guard VGP compliance activities during routine vessel inspections and Port State Control exams. In the period prior to this implementation date, Coast Guard MIs and PSC Officers must continue education and outreach efforts to the marine industry and communicate the upcoming VGP verification

¹ The Coast Guard will not check vessel compliance with the State and Indian Country Lands specific requirements contained in Section 6 of the VGP.

exams under this policy and the VGP Job Aid.

- b. VGP Deficiencies. MI/PSC Officers must take the following action upon discovering any VGP deficiencies as guided by the VGP Job Aid provided in enclosure (1) as well as any other observed VGP deficiencies:
 - i. Encourage vessel operators to correct VGP deficiencies by the conclusion of the vessel inspection / PSC exam, if feasible, i.e. "corrected on the spot."
 - ii. Inform the vessel's master/person-in-charge of all detected deficiencies, including those "corrected on the spot", and record the findings using routine deficiency reporting documents, such as the CG-835 or PSC Form B, as appropriate.
 - iii. Inform the vessel's master/person-in-charge that the Coast Guard will report the VGP related deficiencies to the EPA, as well as any actions by the vessel taken or planned to address them, and that EPA's enforcement authority under the CWA to address VGP violations and unauthorized discharges includes administrative orders, administrative penalties, and judicial action.
- c. MISLE - Documenting and Reporting. As soon as practicable, but in all cases not later than close of business the following day of the exam, the MI/PSC Officers should enter the VGP related deficiency in the Coast Guard's MISLE database under the associated inspection activities' "Inspection Results":
 - i. VGP deficiencies are found under the System "Operations/Management", Subsystem "EPA Vessel General Permit" and associated Components by VGP reference/cite.
 - ii. When entering VGP deficiencies, the MI/PSC Officer should ensure that the following information is provided within the "Details" block:
 - (1) MI/PSC Boarding Officer's name, phone number and e-mail.
 - (2) MI/PSC Boarding Officer's unit's name and state.
 - (3) A brief description regarding the VGP deficiency, including a description of the MI/PSC Officer's observations and findings, if the vessel corrected the deficiency by the conclusion of the exam, and description of any documentary evidence or pictures obtained or viewed.
 - (4) In cases where VGP deficiencies are also deficiencies under Coast Guard regulations, as discussed in section 6.d below, provide a brief statement that indicates any concurrent Coast Guard enforcement action and what steps, if any, the Coast Guard has taken to address the deficiency. For example, if a ship fails to maintain ballast water records under Coast Guard regulations in 33 CFR part

151, this is also a VGP deficiency under VGP section 2.2.3. If the Coast Guard takes enforcement action, then that action should be described – i.e. the Coast Guard issued a requirement for the vessel to maintain ballast water records in accordance with the operative section of 33 CFR part 151.

iii. Under the “Requirement/Resolution” section, enter the following:

- (1) Due Date: select the date of the VGP verification exam and select “To the satisfaction of the certificate issuing authority” option.
- (2) If the VGP deficiency was resolved or corrected by the conclusion of the vessel exam:
 - (a) Place a check-mark in the “Resolved/Corrected” block.
 - (b) Select the date of the VGP verification exam.
 - (c) Enter the details of the resolution in the “Resolution” block.

iv. No further reporting action is necessary, but MI/PSC Officers must make themselves available to assist the EPA with additional information and supporting documentation upon request by the EPA.

d. Coast Guard Pollution Prevention Regulations. The USCG/EPA VGP MOU does not affect the Coast Guard’s existing authorities under any laws. Therefore, in cases where VGP deficiencies are also deficiencies under Coast Guard regulations, such as ballast water and oil pollution prevention regulations, MI/PSC Officers must report the VGP deficiency to the EPA as discussed above, as well as concurrently process the deficiency under applicable Coast Guard regulations and enforcement policy. As discussed in section 6.b.iii above, EPA’s enforcement authority under the CWA to address VGP violations and unauthorized discharges includes administrative orders, administrative penalties, and judicial action.

7. Disclaimer. While the guidance contained in this document may assist the industry, public, Coast Guard, and other Federal and State regulators in applying statutory and regulatory requirements, the guidance is not a substitute for applicable legal requirements nor is it a regulation itself. It is not intended to nor does it impose legally binding requirements on any party. This guidance does not create any right or benefit, substantive or procedural, enforceable by law or equity, by any person against the Coast Guard, EPA, their officers or employees, or any other person. This guidance may be superseded, modified, or terminated at any time without prior notice.

8. Additional Information and Changes.

- a. This policy, the USCG/EPA VGP MOU, and additional information pertaining to the VGP including links to the EPA’s VGP web page is available on the Coast Guard’s VGP information page on Homeport at <http://homeport.uscg.mil> by selecting the following

Subj: GUIDELINES FOR ENSURING COMPLIANCE WITH
THE U.S EPA'S VGP

16711/
CG-543 Policy Letter
11-01

tabs: Missions > Domestic Vessels > Domestic Vessels General > EPA Vessel General Permit (VGP).

- b. Interested parties may suggest improvements to this policy by writing to the Coast Guard's VGP Program Manager listed under Contact Information on the VGP information page on Homeport or via e-mail at CG543@uscg.mil.

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Enclosures: (1) Coast Guard VGP Job Aid

Distribution: All Area/District (p) offices
All Sectors/MSUs/MSDs

EPA Vessel General Permit (VGP) - USCG Job Aid

This enclosure is intended to be used as a Job Aid by Coast Guard Marine Inspectors (MI) and Port State Control (PSC) Officers during inspections of U.S. flag vessels and during PSC examinations to assist in verifying that a vessel is in compliance with the specified EPA VGP. This Job Aid contains a list of minimum items that MI and PSC Officers should examine. The depth and scope of the examination must be determined by the MI and PSC Officers based on the condition of the vessel, operation of its systems, and the competency of the vessel's crew.

The EPA VGP addresses many of the same water pollution prevention items that the Coast Guard currently examines during vessel compliance examinations. This Job Aid addresses the key or "first tier" inspection items currently not covered by Coast Guard vessel inspection regulations or policy. Coast Guard personnel will perform these checks in addition to the current pollution prevention inspections/examinations covered in the applicable CG-840 books.

All deficiencies, even if corrected while onboard, shall be documented within MISLE as discussed in Section 6 of the cover letter to this policy. MISLE documentation will then be sent to the EPA via generated CGBI Cube reports.

Note: Citations to the VGP sections are given as references for the specific requirements and legal authorities.

Record Keeping

VGP Requirement	Cite	Finding	Action	Comment
Are the vessel master and senior crew aware of the VGP?	Vessel General Permit	Yes	No action required.	
		No	Inform the master/crew that they must obtain and read the VGP. Provide the master/crew with a copy of the EPA VGP Fact Sheet.	
If the vessel is greater than or equal to 300 gross tons or has the capacity to hold or discharge 8 cubic meters (2113 gallons) of ballast water, has the vessel submitted a Notice of Intent (NOI)?	VGP Part 1.5.1.1; Part 10 - Appendix E –Notice of Intent (NOI)	Yes	No action required.	
		No	Advise the master/crew they must submit an NOI to EPA. Provide the master/crew with a copy of the EPA VGP Fact Sheet.	The EPA has posted all vessel NOIs submitted by vessel owners and operators. You can use this public EPA web page to search, sort, and view these NOIs: http://cfpub.epa.gov/npdes/vessels/vesselsnoiseisearch.cfm . EPA strongly encourages vessel owners to prepare and submit the NOI using EPA's Electronic Notice of Intent (eNOI) system: www.epa.gov/npdes/vessels/eNOI/ .
Record of routine visual inspections	VGP Parts 4.1.1, 4.1.1.1, and 4.2, #4	Yes	No action required.	

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
Record of annual inspections (effective after December 19, 2010). Record of VGP drydock inspection if last drydocking was conducted after Feb. 6, 2009.	VGP Parts 4.1.3 and 4.2, #6 VGP Part 4.1.4	No	Advise the master/crew they must complete visual inspections at least once per week or per voyage, whichever is more frequent; unless they engage in multiple voyages per day, in which case a daily inspection is required. They must also have a comprehensive inspection annually and record all results in the vessel's recordkeeping documentation. Additionally, a drydock report is required per section 4.1.4 of the VGP.	The VGP section on recordkeeping is about 1 page and may be appended / inserted within routine vessel logbooks. If records are not on the vessel, advise that they must be on the vessel or accessible by the vessel (unalterable electronic records from a central exchange).
Documentation of Corrective Action Assessments: does the vessel maintain records of completed actions	VGP Parts 3, 4.2 para. 3,	Yes	No action required.	
		No	Advise the master/crew they must conduct a corrective action assessment including a description of identified deficiencies, an explanation of the cause and the corrective action to be taken and a schedule to complete such action.	If records are not on the vessel advise that they must be on the vessel.
Ballast Water Management Plans: For vessels with ballast water	VGP Parts 2.2.3.2, 4.3	Yes	No action required.	
		No	Advise the master/crew that they must have a Ballast Water	The vessel may demonstrate compliance using the Ballast

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
<p>tanks, plan adequately lays out a ballast water management strategy specifically for the vessel.</p> <p>Plan must be in accordance with 33 C.F.R. 151 and section 4.3 of the VGP.</p>			<p>Management Plan which lays out the ballast water management strategy and which complies with section 4.3 of the VGP.</p> <p>Personnel who actively take part in the management of ballast discharge must understand and follow the plan.</p>	<p>Water Management Plan required in 33 CFR 151.2035.</p> <p>Violation of VGP is also violation of Coast Guard Ballast Water requirements found in 33 CFR 151 Subpart D.</p>
<p>Ballast Water Records:</p> <p>If applicable, has the vessel maintained records of conducting ballast water exchange, near shore ballast water exchange, and saltwater flushing?</p> <p>For those vessels which periodically enter as NOBOBs, and which do not report salt water flushing to the NBIC, they must have records of salt water flushing onboard.</p>	VGP Parts 2.2.3.5, 2.2.3.6, 2.2.3.7, 2.2.3.8, and 2.2.3.9	<p>Yes</p> <p>No</p>	<p>No action required.</p> <p>Advise the master/crew that they must maintain records of conducting ballast water exchanges and saltwater flushing.</p>	<p>Note under 33 CFR Part 151, the vessel must conduct ballast water exchange (if carrying ballast) or saltwater flushing (if NOBOB) if it comes from outside 200 nm from shore, is engaged in Pacific near shore voyages (sail through more than one COTP zone and travel 50 nm from shore) or enters the Great Lakes from outside the US EEZ.</p>
Bilgewater Discharges:	VGP Part 2.2.2; 4.2, #8	Yes	No action required	

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
<p>If the vessel measures 150 GT or more (tank vessels) or measures 400 GT or more (other vessels), is it maintaining records of its bilge water discharges?</p> <p>If the vessel measures 150 GT or more (tank vessels) or measures 400 GT or more (other vessels), and regularly sails outside the territorial sea, is it not discharging within 1 nm of shore or within National Parks, Marine Sanctuaries, etc., listed in Part 12 of the VGP?</p>	and #9; 12	No records	Advise the master/crew to begin maintaining records.	Violation of VGP is also violation of Coast Guard Oil Pollution Prevention requirements found in 33 CFR 151 Subpart A.
		No, discharging within 1 nm of shore or within waters listed in VGP Part 12.	Advise the master/crew that if technologically feasible or if not necessary to maintain the safety and stability of the ship, to hold bilgewater onboard or discharge to a shore side facility.	

Deck/Topside Walk

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
<p>Is the state of deck and work areas housekeeping adequate?</p> <p>Deck is free of clutter, garbage, fuel/oil spills?</p> <p>Are spill rails and drip pans in place and utilized?</p>	VGP Parts 2.1 and 2.2.1	Yes	No action required.	
		No	Advise the master/crew that they must maintain proper housekeeping onboard the vessel - contain garbage, secure containers in proper storage, prevent oil and fuel spills, and use containers or rails to contain oil.	Evidence of poor housekeeping can trigger need to look for other areas of lack of good practice.

Large and Medium Cruise Vessels

“Large Cruise Ships” are that provide overnight accommodations (has onboard sleeping facilities) to passengers authorized to carry 500 people or more for hire. VGP 5.1. “Medium Cruise Ships” are vessels that provide overnight accommodations (have onboard sleeping facilities) to passengers authorized to carry between 100-499 people for hire. VGP 5.2

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
For untreated graywater:	VGP Parts 5.1.2.1 and	Yes	No action required.	

Enclosure (1) to CG-543 Policy Letter 11-01

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
Does the vessel have records estimating discharges of untreated graywater including date location and volume, speed of vessel?	5.2.2.1	No	Advise the master/crew that they must maintain records of estimating discharges of untreated graywater including date, location, volume, and vessel speed.	
For untreated graywater: For large and medium cruise vessels which sail outside 1 nm, was graywater only discharged outside 1 nm while sailing at least 6 knots or outside 3 nm (regardless of speed) and not in nutrient impaired waters such as	VGP Parts 5.1.1.1.1 and 5.2.1.1.1	Yes	No action required.	

Enclosure (1) to CG-543 Policy Letter 11-01

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
the Chesapeake Bay?		No	Advise the master/crew that graywater must be treated or discharged consistent with Parts 5.1 and 5.2 of the VGP.	
For treated graywater:		Yes	No action needed.	

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
<p>For large and medium cruise vessels, did the vessel maintain records of date, location and volume of treated graywater discharged?</p> <p>Did the vessel conduct monitoring and assure that graywater discharged is below limits in Part 5.1.1.1.2 or 5.2.1.1.2 of the VGP, as applicable?</p>	<p>VGP Parts</p> <p>Large cruise vessels: 5.1.1.1, 5.1.2.2, and 5.1.2.2.5.</p> <p>Medium cruise vessels: 5.2.1.1.1, 5.1.2.2., and 5.2.2.2.5.</p>	No	<p>Advise the master/crew that they must maintain records of date, location and volume of treated graywater. If they are discharging treated graywater in waters of the US; remind them they must conduct monitoring. Monitoring records must also include who did the analysis, date and results. The vessel must maintain one sample per quarter (four per year) and records of the sampling and testing results must be retained onboard for a period of 3 years in the vessel's recordkeeping documentation</p>	
For treated graywater:		Yes	No action needed.	

<u>VGP Requirement</u>	<u>Cite</u>	<u>Finding</u>	<u>Action</u>	<u>Comment</u>
<p>If swimming pools or spas are on board large or medium cruise vessels and the pool or spa water is discharged into the territorial sea:</p> <p>Is there a record onboard of the testing of swimming pool water before discharge to assure it meets limits of 50 micrograms per liter for brominated discharge and 10 ug/L for Chlorine?</p> <p>Is there a record of the location of the discharge, the estimated volume of the discharge, and the concentration of chlorine or bromine (as applicable)?</p>	<p>Large cruise vessels: VGP 5.1.2.3</p> <p>Medium cruise vessels: 5.2.2.3</p>	No	Advise the master/crew that there must be a record of testing of swimming pool water before discharge to assure it meets limits of 50 micrograms per liter for brominated discharge and 10 ug/L for Chlorine.	Swimming pool discharges are unlikely; however the inspector should check records to ensure that any such discharges, if they exist, comply with the VGP.