



U.S. Department
of Transportation
**Maritime
Administration**

1200 New Jersey Avenue, S.E.
Washington, DC 20590

June 11, 2012

(Via e-mail)
Bill Orme
California Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: Modification of California's Clean Water Act Section 401 Water Quality
Certification to the 2013 VGP

Dear Mr. Orme,

This letter is written regarding California's 401 Certification of the Environmental Protection Agency's draft 2013 Vessel General Permit (2013 VGP). Specifically, the Maritime Administration (MarAd) requests that the second sentence in paragraph 1 under Additional Conditions, which states, "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," be deleted from the certification of the 2013 VGP.

This sentence prohibits permit coverage for the numerous operating vessels owned by MarAd, including the GOLDEN BEAR, the school training ship provided by this Agency for the use by the California Maritime Academy, and the 16 or more Ready Reserve Force vessels outported and operating in California's waters some of which are also sometimes berthed at the Suisun Bay Reserve Fleet (SBRF). The Ready Reserve Force vessels are vital to both the military and financial security of our nation. Failure to delete this sentence from the 401 certification will jeopardize these vital operations, as MarAd will be unable to operate its vessels in California waters.

This same sentence had been included in California's original 401 Certification to the 2008 VGP. Following discussions between the State and MarAd, the State had agreed to, and did in fact, delete this sentence from the 401 Certification of the 2008 VGP. A copy of the correspondence dated February 19, 2009, documenting the discussion and agreement to remove the sentence is included with the email transmitting this letter. (CA 401 cert letter).

It was understood that the intent of the State in including the sentence excluding only MarAd vessels from coverage was to prevent permit coverage for discharges from those non-operating vessels owned by MarAd that are located in the SBRF under the VGP so that those non-operating vessels would obtain a State Permit. However, both the 2008 VGP and the draft 2013 VGP are already restricted to only cover “discharges incidental to the normal operation of a vessel,” and do not apply to “any vessel when it is operating in a capacity other than as a means of transportation.” See VGP, sections 1.2.1 & 1.2.3.1. Thus, MarAd’s non-operating vessels, regardless of their location, are already excluded from coverage under the VGP.

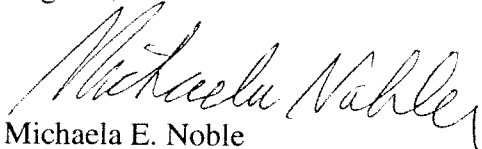
Furthermore, MarAd has obtained, and is in compliance with, California’s General Permit to Discharge Storm Water Associated with Industrial Activity to cover the activities of the non-operating vessels in the SBRF. A copy of the State Water Resources Control Board Receipt and Approval of MarAd’s Notice of Intent to comply with that permit is also attached to the email transmitting this letter. (NOI – Approval of SWPPP).

Deletion of this sentence is necessary to provide coverage under the VGP to MarAd’s operating vessels. MarAd’s operating vessels are used as a means of transportation and discharges from its operating vessels are incidental to the normal operation of a vessel. The discharges from MarAd’s operating vessels are not substantially different from and are the same or similar to discharges from other vessels operating in California’s waters. MarAd therefore knows of no legal basis for prohibiting coverage under the VGP for MarAd’s operating vessels.

The deletion of the subject sentence from California’s 401 Certification would have no bearing on the non-operating vessels in MarAd’s fleet, as those vessels are already excluded from coverage under the VGP and are regulated under a State Permit. The deletion of this sentence however, allows the coverage and control intended by the VGP, and by California’s other 401 Certification requirements, over discharges incidental to the operation of MarAd’s operating vessels.

Therefore, MarAd respectfully requests that the second sentence in paragraph 1 under Additional Conditions of California’s 401 Certification of the 2013 VGP again be deleted.

Regards,



Michaela E. Noble
Senior Environmental Attorney

Cc: EPA