

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

IN THE MATTER OF:)	Docket No. CWA-309(a)-14-001
)	
Guam Industrial Services, Inc.)	
(d/b/a "Guam Shipyard"))	
)	ADMINISTRATIVE ORDER
Respondent.)	
)	
Proceedings pursuant to section 309(a) of the)	
Clean Water Act, 33 U.S.C. § 1319(a).)	

STATUTORY AUTHORITY

The following findings of violation and administrative order (Order) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to section 309(a) of the Clean Water Act (CWA or "the Act"), 33 U.S.C. § 1319(a), which authority has been delegated by the Administrator and the Regional Administrator of EPA Region 9 to the Director of the Enforcement Division of EPA Region 9.

FINDINGS OF VIOLATION

The Director of the Enforcement Division of EPA Region 9 finds that Guam Industrial Services, Inc., doing business as Guam Shipyard, violated the National Pollutant Discharge Elimination System (NPDES) general permit number GUR050000 for stormwater discharges from industrial activity, also referred to as the Multi-Sector General Permit (MSGP), and section 301(a) of the Act, 33 U.S.C. § 1311(a). This finding is made on the basis of the following findings:

Statutory and Regulatory Background

1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person from a point source into waters of the United States except in compliance with, among other things, a NPDES permit issued in accordance with section 402 of the Act, 33 U.S.C. § 1342.
2. Section 502(5) of the Act, 33 U.S.C. § 1362(5), defines "person" to mean an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.
3. Section 502(6) of the Act, 33 U.S.C. § 1362(6), defines "pollutant" to include, among other things, sewage, garbage, sewage sludge, rock, sand, chemical wastes, biological materials, dredged spoil, solid waste, incinerator residue, munitions, radioactive materials, heat, wrecked or discarded equipment, cellar dirt, and industrial waste discharged into water.

4. Section 502(12) of the Act, 33 U.S.C. § 1362(12), defines the term “discharge of pollutants” to mean any addition of any pollutant to navigable waters from any point source.
5. Section 502(7) of the Act, 33 U.S.C. § 1362(7), defines the term “navigable waters” to mean the waters of the United States, including the territorial seas.
6. Section 502(14) of the Act, 33 U.S.C. § 1362(14), defines “point source” to mean any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel, or other floating craft, from which pollutants are or may be discharged.
7. Pursuant to section 402(p) of the Act, 33 U.S.C. § 1342(p), discharges of stormwater associated with industrial activity must be authorized by a NPDES permit.
8. Pursuant to sections 308 and 402(p) of the Act, 33 U.S.C. §§ 1318 and 1342(p), EPA promulgated regulations relating to the control of stormwater at 40 C.F.R. § 122.26.
9. 40 C.F.R. 122.26(b)(14)(ii) defines “stormwater discharge associated with industrial activity” to include, among other things, facilities classified as Standard Industrial Classification (SIC) code 3731. SIC code 3731 generally covers industrial activities associated with “Ship Building and Repair.”

NPDES Permit

10. On September 29, 2008, EPA issued the most recent version of the MSGP (hereinafter referred to as the “2008 MSGP”), which was effective on the date of issuance, 73 Fed. Reg. 65672 (September 29, 2008). The 2008 MSGP replaced the prior versions from 1995 and 2000. Like the 1995 and 2000 MSGPs, the 2008 MSGP covers stormwater discharges associated with industrial activities in the Territory of Guam. Facilities in the Territory of Guam requiring coverage under the 2008 MSGP were required to develop a stormwater pollution prevention plan (SWPPP) and file a Notice of Intent (NOI) to be covered under the 2008 MSGP.
11. The 2008 MSGP expired at midnight on September 29, 2013. EPA has not yet issued a new permit to replace the 2008 MSGP. Facilities that obtained coverage under the 2008 MSGP prior to its expiration were automatically provided an administrative continuance of permit coverage, which will remain in effect until a new MSGP is issued. Those facilities already covered under the 2008 MSGP are not required to submit a new NOI for permit coverage until the MSGP is reissued, and must continue to comply with all of the requirements in the 2008 MSGP, including requirements for monitoring and reporting.
12. Part 2 of the 2008 MSGP (“Control Measures and Effluent Limits”) requires the permittee to select, design, install, and implement control measures and best management practices (BMPs) to minimize the discharge of pollutants in stormwater.
13. Part 4.1.1 of the 2008 MSGP (“Routine Facility Inspection Procedures”) requires that, at least once per quarter, the permittee must conduct routine facility inspections of all areas of the facility where industrial materials or activities are exposed to stormwater.

14. Part 4.2.1 of the 2008 MSGP (“Quarterly Visual Assessment Procedures”) requires that the permittee must collect a stormwater sample from each outfall and conduct a visual assessment of each of these samples at least once each quarter for the entire permit term.
15. Part 5.1.2 of the 2008 MSGP (“Site Description”) requires that the SWPPP include, among other things, a description of the direction of stormwater flows at the site.
16. Part 5.1.3.3 of the 2008 MSGP (“Spills and Leaks”) requires the permittee to document all significant spills and leaks of oil or toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance, in the 3 years prior to the date the permittee prepares or amends the SWPPP.
17. Part 6.2.1 of the 2008 MSGP (“Benchmark Monitoring”) requires certain industrial sectors to monitor stormwater discharges for specified pollutant benchmark concentrations. Benchmark monitoring data are primarily used to determine the overall effectiveness of pollutant control measures.
18. Part 6.2.1.1 of the 2008 MSGP (“Applicability of Benchmark Monitoring”) provides that a permittee subject to benchmark monitoring requirements must monitor for any benchmark parameters specified for the industrial sector(s), both primary industrial activity and any co-located industrial activities, applicable to the permittee’s discharge.
19. Part 6.2.1.2 of the 2008 MSGP (“Benchmark Monitoring Schedule”) provides that benchmark monitoring must be conducted quarterly in the first 4 full quarters of permit coverage commencing no earlier than April 1, 2009.
20. Part 6.2.4.1 of the 2008 MSGP (“Permittees Required to Monitor Discharges to Impaired Waters”) requires that if the permittee discharges to an impaired water, the permittee must monitor for all pollutants for which the waterbody is impaired and for which a standard analytical method exists, see e.g., 40 C.F.R. Part 136.
21. Part 8.K of the 2008 MSGP (“Sector K – Hazardous Waste Treatment, Storage or Disposal Facilities”) provides sector-specific requirements associated with industrial activity from facilities that treat, store, or dispose of hazardous wastes. These sector-specific requirements are in addition to any requirements specified elsewhere in the 2008 MSGP.
22. Part 8.K.5 (“Sector-Specific Benchmarks”) and Table 8.K-1 of the 2008 MSGP identify pollutant benchmark concentrations that apply to Sector K dischargers, including pollutant benchmark concentrations for the following pollutant parameters: magnesium, cadmium, selenium, and silver.
23. Part 8.R of the 2008 MSGP (“Sector R - Ship and Boat Building and Repair Yards”) provides sector-specific requirements associated with ship repair facilities. These sector-specific requirements are in addition to any requirements specified elsewhere in the 2008 MSGP.
24. Part 8.R.3 (“Additional Technology-Based Effluent Limits”) of the 2008 MSGP, which provides for additional technology based effluent limits for Sector R dischargers (“Ship and Boat Building and Repair Yards”), requires permittees to minimize the potential for spent abrasives, paint

chips, and overspray to discharge into the receiving water or the storm sewer systems by implementing good-housekeeping BMPs, and also requires permittees to, when necessary, regularly clean stormwater conveyances of deposits of abrasive blasting debris and paint chips. See 2008 MSGP at Part 8.R.3.1.2 (“Blasting and Painting Area”).

25. Part 8.R.3.2 of the 2008 MSGP (“Employee Training”) requires Sector R dischargers (“Ship and Boat Building and Repair Yards”) to incorporate into their employee training programs the following activities (as applicable): used oil and spent solvent management, disposal of spent abrasives and vessel wastewaters, spill prevention and control, fueling procedures, general good housekeeping practices, painting and blasting procedures, and used battery management.
26. Part 8.R.4.1 of the 2008 MSGP (“Drainage Area Site Map”) requires Sector R dischargers (“Ship and Boat Building and Repair Yards”) to document in their SWPPPs where any of the following may be exposed to precipitation or surface runoff: fueling; engine maintenance or repair; vessel maintenance or repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading and unloading areas; treatment, storage, and waste disposal areas; liquid storage tanks; liquid storage areas (e.g., paint, solvents, resins); and material storage areas (e.g., blasting media, aluminum, steel, scrap iron).
27. Part 8.R.5 of the 2008 MSGP (“Additional Inspection Requirements”) requires Sector R dischargers (“Ship and Boat Building and Repair Yards”) to include the following in all quarterly routine facility inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; drydock area; and general yard area.

Guam Shipyard

28. Guam Shipyard is a company registered to do business in the Guam Territory.
29. Guam Shipyard operates a ship repair facility (Facility) at Point Orote, Guam, near the entrance to Apra Harbor. The Facility covers approximately 100 acres at Point Orote. Guam Shipyard conducts metal fabrication, welding of various metals, engine servicing, electrical repair, pipe formulating, hydroblasting and vessel painting.
30. Guam Shipyard leases the site from the United States Naval Facilities Engineering Command (Navy). The original lease with the Navy expired in September 2012, and Guam Shipyard has been in a month-to-month tenancy since then.
31. Guam Shipyard’s industrial activities at the Facility generate a number of sources of pollutants, including pollutants associated with sandblasting grit, such as copper, zinc, and suspended solids.
32. Guam Shipyard’s Facility contains on-site drains that collect and channel surface water runoff to stormwater inlets that discharge to Apra Harbor.
33. Apra Harbor flows into, and is tidally influenced by, the Pacific Ocean.
34. Apra Harbor is listed as impaired for polychlorinated biphenyls (PCBs) in EPA’s 2006 and 2008 303(d) Lists.

35. Guam Shipyard submitted an NOI for coverage under the 2008 MSGP on November 5, 2009 as a Sector K and R industrial activity, and coverage under the 2008 MSGP was effective on December 5, 2009.
36. On January 10, 2010, Guam Shipyard conducted benchmark stormwater sampling which showed levels of magnesium, cadmium, selenium, and silver above EPA's benchmark levels specified in Part 8.K.5 ("Sector-Specific Benchmarks") and Table 8.K-1 of the 2008 MSGP.
37. The National Oceanic & Atmospheric (NOAA) Guam International Airport weather station, located approximately 9.77 miles from the Facility, recorded at least 647 24-hour rain events resulting in an excess of 0.1 inches of rainfall at the Facility from December 5, 2009 through October 31, 2013. 208 of the 647 rain events exceeded 0.5 inches of rainfall. Rainfall events that exceed 0.1 inches are generally considered likely to generate storm water runoff at industrial facilities. See 55 Fed. Reg. 47990, 48018 ("[NPDES] Permit Application Regulations for Storm Water Discharges" (Final Rule)).
38. On July 18-19, 2013, EPA, accompanied by representatives from the Guam Environmental Protection Agency (Guam EPA), the U.S. Coast Guard, and Guam Shipyard, conducted an inspection of the Facility to determine compliance with the terms and conditions of the 2008 MSGP. A copy of the inspection report is attached. EPA's inspection findings relevant to this Order are provided below:

INSPECTION FINDINGS

Failure to Implement Adequate Control Measures and BMPs

39. Guam Shipyard violated Part 2 of the 2008 MSGP ("Control Measures and Effluent Limits") by failing to select, design, install, and implement structural controls and BMPs necessary to prevent and minimize the discharge of pollutants. EPA observed during its July 18-19, 2013 inspection that Guam Shipyard had failed to:
 - a. Protect storm drain inlets with filter fabric, straw waddles, or other BMPs (see e.g., Inspection Report photos IMGP 3392, 3395);
 - b. Install perimeter controls, i.e., berms, straw wattles, or silt fencing, to control the discharge of pollutants in stormwater runoff from numerous stockpiles of sandblasting grit, metal shavings, and other pollutant sources stored in outdoor areas of the Facility near storm drain inlets (see e.g., Inspection Report photos IMGP 3414, 3416 and 3425);
 - c. Cover or install secondary containment around multiple open containers of used oil and other pollutants stored in outdoor areas (see e.g., Inspection Report photos IMGP 3371, 3424, 3425, and P7180067 and P7180108); and
 - d. Shut secondary containment valves left in the open position at the Facility's used oil lot and its "less than 90 day hazardous waste storage area" (see e.g., Inspection Report photos IMGP3364 and 3367), which when left open would allow any spilled materials and/or contaminated stormwater runoff to discharge to Apra Harbor through scuppers located along the harbor's edge.

40. Guam Shipyard violated Part 2 (“Control Measures and Effluent Limits”) and Part 8.R.3 (“Additional Technology Based Effluent Limits [for Sector R Industries]”) of the 2008 MSGP by failing to select, design, install, and implement non-structural controls and BMPs necessary to prevent and minimize the discharge of pollutants. EPA observed during its July 18-19, 2013 inspection that Guam Shipyard had failed to:

- e. Sweep or otherwise prevent the accumulation of metal shavings and sandblasting grit throughout the outdoor areas of the Facility (see e.g., Inspection Report photos IMG P 3392, 3393, 3395, and 3425);
- f. Address oil staining and spills observed in multiple outdoor locations of the Facility (see e.g., Inspection Report photo P7180067); and
- g. Maintain an adequately stocked spill kit at the Facility’s used oil lot. EPA inspectors observed that it was completely empty of spill response equipment (see Inspection Report at Storm Water Controls, Spill Response).

Failure to Develop and Implement an Adequate Stormwater Pollution Prevention Plan

41. Guam Shipyard violated Part 5.1.2 of the 2008 MSGP (“Site Description”) by failing to describe the direction of stormwater flows to the Facility’s outfalls located in the sandblasting waste storage area, hazardous waste storage area, as well as other areas of the Facility (see Inspection Report at SWPPP Review).

42. Guam Shipyard violated Part 5.1.3.3 of the 2008 MSGP (“Spills and Leaks”) by failing to include a list of previous oil spills and leaks in the SWPPP. EPA observed several unaddressed spills in multiple outdoor locations of the Facility during its July 18-19, 2013 inspection (see Inspection Report at SWPPP Review and Stormwater Controls).

43. Guam Shipyard violated Part 8.R.4.1 (“Drainage Area Site Map”) by failing to document in its SWPPP where stockpiles of sandblasting materials and metal scrap were located throughout the Facility in outside areas exposed to precipitation or surface runoff (see Inspection Report at SWPPP Review, Site Map and Narrative).

Failure to Conduct Routine Quarterly Site Inspections

44. Guam Shipyard violated Part 4.1.1 of the 2008 MSGP by failing to conduct routine quarterly Facility inspections of all areas of the Facility where industrial materials or activities are exposed to stormwater, or to document its inspection findings. During EPA’s July 18-19, 2013 inspection, the Guam Shipyard representative could not provide documentation of any routine Facility inspections to EPA’s inspector (see Inspection Report at Monitoring).

45. Guam Shipyard violated Part 8.R.5 of the 2008 MSGP (“Additional Inspection Requirements [for Sector R Industries]”) by not inspecting, during the routine quarterly Facility inspections required by Part 4.1.1 of the 2008 MSGP, the following areas: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; and general yard area (see Inspection Report at Monitoring).

Failure to Comply with Stormwater Monitoring Requirements

46. Guam Shipyard violated Part 4.2.1 of the 2008 MSGP by failing to collect a stormwater sample from each outfall and to conduct a visual assessment of each of these samples at least once each quarter. During EPA's July 18, 2013 inspection, Guam Shipyard representatives could not locate stormwater sampling equipment nor provide a recent stormwater monitoring report to EPA's inspector (see Inspection Report at Monitoring).
47. Guam Shipyard violated Part 6.2.1 of the 2008 MSGP of the 2008 MSGP by failing to adequately conduct quarterly benchmark monitoring of the pollutants specified in Part 8.K.5 ("Sector-Specific Benchmarks") and Table 8.K-1, to determine the overall effectiveness of the pollutant control measures at the Facility. With the exception of two samples of stormwater collected on January 10, 2010, Guam Shipyard could not provide EPA's inspector with any other benchmark monitoring reports (see Inspection Report at Monitoring).
48. Guam Shipyard violated Part 6.2.4.1 of the 2008 MSGP by failing to conduct impaired waters monitoring. Guam Shipyard's November 5, 2009 Notice of Intent failed to identify that the facility discharged into an impaired water. Guam Shipyard staff could not provide EPA's inspector with any record of sampling or analysis to demonstrate that impaired waters monitoring had been conducted from 2008 through 2013.

Failure to Train

49. The Training section of the Inspection Report describes how Guam Shipyard failed to adequately train its employees with regard to compliance with MSGP requirements, in violation of Part 8.R.3.2 of the 2008 MSGP ("Employee Training"), which requires Sector R dischargers ("Ship and Boat Building and Repair Yards") to incorporate into its employee training program the following activities (as applicable): used oil management, spent solvent management, disposal of spent abrasives, disposal of vessel wastewaters, spill prevention and control, fueling procedures, general good housekeeping practices, painting and blasting procedures, and used battery management. Additionally, Part 2.1.2.9 of the MSGP requires training for all employees who are responsible for implementing MSGP compliance activities, e.g., inspectors, maintenance personnel, and members of the Facility's "Pollution Prevention Team."

CONCLUSIONS

50. Guam Shipyard is a corporation and therefore a person within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5), and thus subject to the provisions of the Act, 33 U.S.C. § 1251 et seq.
51. Guam Shipyard's ship repair activities are classified under SIC Major Group 373, specifically, SIC Code 3731 (Ship Building and Repair), and are thus subject to the requirements of 40 C.F.R. § 122.26(b)(14)(ii) and the MSGP.
52. Sandblasting grit, zinc, copper, and suspended solids are "pollutants" as defined by section 502(6) of the CWA, 33 U.S.C. § 1362(6).

53. The stormwater inlets at the Facility that discharge to Apra Harbor are “point sources” as defined by section 502(14) of the Act, 33 U.S.C. § 1362(14).
54. Stormwater runoff from the Facility that discharges to Apra Harbor is “stormwater discharge associated with an industrial activity” as defined by 40 C.F.R. § 122.26(b)(14)(ii).
55. Apra Harbor and the Pacific Ocean are each “navigable waters” as defined by section 502(7) of the Act, 33 U.S.C. § 1362(7), and “waters of the United States” as defined in EPA’s implementing regulations at 40 C.F.R. § 122.2.
56. The rainfall events described above in paragraph 37 likely resulted in the discharge of stormwater associated with industrial activity at the Facility to Apra Harbor.
57. Based on the foregoing, EPA finds Guam Shipyard violated section 301(a) of the Act, 33 U.S.C. § 1311(a), by discharging pollutants in stormwater during rain events into waters of the United States while failing to comply with the MSGP.

ORDER FOR COMPLIANCE

Considering the foregoing Findings of Violations and the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to its authorities under section 309 of the Act, 33 U.S.C. § 1319, EPA hereby orders Guam Shipyard to comply with the following requirements:

58. Immediately upon receipt of this Order, Guam Shipyard must take all necessary measures to fully and properly comply with all terms and conditions of the 2008 MSGP, including:
 - a. Stormwater sampling during the next measurable storm event from each outfall and a visual assessment of the sampling pursuant to Part 4.2.1 (“Quarterly Visual Assessment Procedures”) of the 2008 MSGP; and
 - b. Stormwater sampling during the next measurable storm event of the pollutant parameters provided in Part 8.K.5 (“Sector-Specific Benchmarks”) and Table 8.K-1 of the MSGP, as required by section 6 of the MSGP.
59. Stormwater sampling required under paragraph 58.a and b. above must include samples taken from the area of the Facility that drains through Outfall 11 (see Inspection Report photo IMGP 3399). As noted in the Inspection Report and shown in photo IMGP3400, Outfall 11 was broken approximately 15 feet inland from its discharge point to Apra Harbor. Guam Shipyard must ensure that it obtains a representative sample of the stormwater that discharges from Outfall 11, which may require that Guam Shipyard repairs Outfall 11 or otherwise gain access to Outfall 11 at a point where a representative stormwater sample may be taken.
60. The results of the visual assessment of sampling required under paragraph 58.a must be submitted to EPA no later than 7 days (email date or postmark date) from the date sampling is performed.
61. The results of the storm water sampling required under paragraph 58.b must be submitted to EPA no later than 30 days (email date or postmark date) from the date sampling is performed.

62. Within 7 days of the receipt of this Order, Guam Shipyard must implement temporary pollutant controls (e.g., cover and berm) to prevent the discharge of pollutants in stormwater from at least the following pollutant sources observed by EPA during its July 18-19, 2013 inspection:
- a. Various 55-gallon drums filled with used oil and bagged material shown in Inspection Report photos IMGP 3371 and 3372;
 - b. Stockpiles of sandblasting grit shown in Inspection Report photo IMGP 3389;
 - c. Stockpiles of sandblasting grit, scrap metal, and miscellaneous debris shown in Inspection Report photos IMGP 3415-3423, 3425; and
 - d. Exposed pollutant sources located in the Facility's used oil lot and its "less than 90 day hazardous waste storage area," both of which had drainage valves left in the open position during the inspection.
63. Within 14 days of receiving this Order, Guam Shipyard must submit to EPA a written plan (the "Compliance Plan") for EPA's approval that describes the steps Guam Shipyard will take to comply with the MSGP, including the measures taken to permanently eliminate or otherwise appropriately address the stormwater discharges from at a minimum the pollutant sources identified in paragraph 62 of this Order. No later than 15 days from EPA's approval of the Compliance Plan, Guam Shipyard must implement and complete all activities identified under the Compliance Plan.
64. Within 14 days of the receipt of this Order, Guam Shipyard must adequately stock the spill kit at the Facility's used oil lot.
65. Within 21 days of the receipt of this Order, Guam Shipyard must submit a report to EPA providing photographic evidence of Guam Shipyard's temporary efforts to prevent the discharge of pollutants associated with the pollutant sources discussed in paragraph 62 above.
66. Within 30 days of the receipt of this Order, Guam Shipyard must submit a revised and complete SWPPP that incorporates the pollutant controls installed pursuant to paragraph 62 above, and which also includes:
- a. A SWPPP site map indicating where material storage areas (e.g., blasting media, aluminum, steel, scrap iron) may be exposed to precipitation or surface runoff at the Facility, and the controls to be implemented; and
 - b. Incorporates an employee training program for the following activities (as applicable): used oil management, spent solvent management, disposal of spent abrasives, disposal of vessel wastewaters, spill prevention and control, fueling procedures, general good housekeeping practices, painting and blasting procedures, and used battery management.
67. Within 30 days of the receipt of this Order, Guam Shipyard must conduct a quarterly routine Facility inspection of its pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; and general yard area.
68. All reports submitted pursuant to this Order must be signed by a principal executive officer, ranking elected official, or duly authorized representative of Guam Shipyard as specified by 40 C.F.R. § 122.22(b)(2) and must include the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

69. All submissions requested by this Order must be mailed to the following address:

Rick Sakow, Inspector
Enforcement Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (ENF 2-2)
San Francisco, CA 94105
Email: sakow.rick@epa.gov

70. This Order is binding upon Guam Shipyard and its officers, directors, agents, employees, heirs, successors, and assigns.

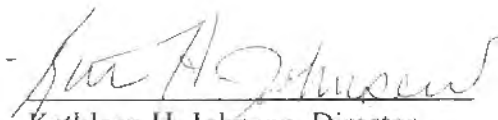
71. This Order is not a permit under the Act, and does not waive or modify Guam Shipyard's obligation and responsibility to ascertain and comply with all applicable federal, state, or local laws, regulations, ordinances, permits, or licenses.

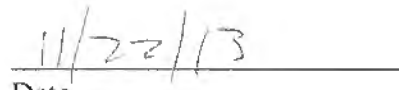
72. This Order is not to be deemed an election by EPA to forgo any remedies available under the law, including without limitation any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act. EPA reserves all rights and remedies, legal and equitable, available to enforce any violations cited in this Order and to enforce this Order.

73. Sections 309(a), (b), (d) and (g) of the Act, 33 U.S.C. §§ 1319(a), (b), (d) and (g), provide administrative and/or judicial relief for failure to comply with the Act. In addition, section 309(c) of the Act, 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the Act and for knowingly making false statements.

74. Guam Shipyard may seek federal judicial review of this Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

75. This Order is effective on the date it is received by Guam Shipyard.


Kathleen H. Johnson, Director
Enforcement Division


Date