NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
FACT SHEET

Permittee and Mailing Address: MYD Samoa, Inc.
P.O. Box 7684
Pago Pago, Tutuila
American Samoa 96799

Permitted Facility and Address: MYD Samoa, Inc.
Village of Satala
American Samoa 96799

Contact Person: Mr. Robert Wiehe
Owner
(684) 644-4123

NPDES Permit No.: AS0020036

PART I - STATUS OF PERMIT

MYD Samoa, Inc. (hereinafter, the "permittee") has applied for a National Pollutant Discharge Elimination System ("NPDES") permit pursuant to United States Environmental Protection Agency ("EPA") regulations set forth in Title 40, Code of Federal Regulations ("CFR"), Part 122.21, for the discharge of treated effluent from its ship repair facility to Pago Pago Harbor in American Samoa. These regulations require any person who discharges or proposes to discharge pollutants from a point source into waters of the United States to submit a complete application for a NPDES permit, including renewal of a permit. In accordance with 40 CFR 122.21(e), on October 5, 2007, the permittee submitted a complete application for renewal of its NPDES permit. The permittee is currently discharging to Pago Pago Harbor under the NPDES permit number AS0020036, which became effective on January 7, 2003, and expired on February 8, 2008. In the absence of a valid permit, the facility has been subject to an EPA administrative order since September 19, 2008.

The facility is nominally the property of the American Samoa government, leased to Southwest Marine of Samoa, Inc. and sub-leased and operated by the permitee since 2007. The effective date of the transfer of control was August 1, 2007. In the reissuance of the 2003 permit, EPA exercised its discretionary authority to classify the facility as a major discharger due to the potential for toxic materials to enter the storm water. Due to continuing problems with the compliance of the MYD Samoa shipyard facility with its existing NPDES permit, the facility remains classified as a major discharger.

PART II – SUMMARY OF SIGNIFICANT CHANGES FROM PREVIOUS PERMIT

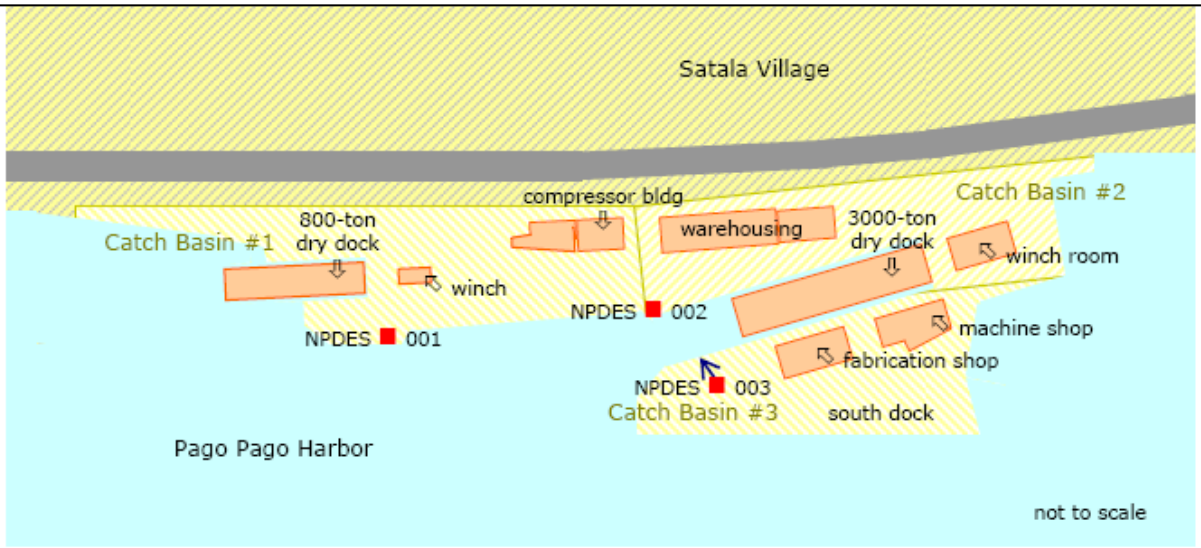
1. This permit specifically limits discharges of industrial wastewater from the facility in addition to the storm water limits imposed in previous permits. Only specified types of low-concern wastewater may be allowed to enter the harbor from the marine railway; other shipyard activities must direct their wastewater through the oil/water separator sumps.
2. The effluent limits and monitoring requirements for the three permitted discharge points have been made identical, and recalculated using current American Samoa water quality criteria.
3. A requirement for daily visual monitoring for oil sheen or foam at the discharge points has been added to the permit.
4. The monitoring frequencies for some parameters have been changed from the previous permit.
5. The permitee is required to implement several specific Best Management Practices (BMPs) as part of the permit conditions, and to develop and submit a BMP Plan to EPA within 60 days of the issuance of the permit.
6. Provisions for electronic submission of required regular Discharge Monitoring Reports (DMRs) have been added to the permit.
7. The permitee is required to develop a Quality Assurance Manual for sample collection at the facility and laboratory analysis and submit it to EPA within 60 days of the issuance of the permit.
8. The permitee is required to perform a Priority Toxic Pollutants Scan during the second and fourth year of the five-year permit term.
9. The permitee is required to develop/update a Storm Water Pollution Prevention Plan (SWPPP) for the facility and submit it to EPA within 60 days of the issuance of this permit.
10. The permitee is required to implement a Pollution Minimization Plan for Mercury and Total Polychlorinated Byphenyls (“PCBs “), in compliance with the 2007 Pago Pago Harbor Mercury and PCB TMDL.

PART III - DESCRIPTION OF FACILITY

The permittee operates a shipyard (the “facility”) that is located in the village of Satala, adjacent to inner Pago Pago Harbor on the island of Tutuila in the Territory of American Samoa. The permittee provides maintenance to vessels such as purse seiners, longliners, and passenger vessels. Vessels range in size from large vessels of 200 to 250 feet for U.S. purse seiners to smaller vessels of 80 feet to 180 feet for foreign longliners. The facility also provides maintenance to small ferries, tug boats, landing crafts, small island freighters, and other non-military vessels. Under the former owner, the facility received and stored waste oil from various businesses throughout the island. In 2003 and 2005, EPA issued enforcement orders to Southwest Marine of Samoa, Inc. to clean up the facility and prevent oil releases. The oil releases were attributed to insufficient storage and management of waste oil. Under the new ownership, the facility no longer accepts waste oil. See Part V of this fact sheet for further discussion of the facility’s compliance history.

The facility is composed of a decommissioned 800 ton marine railway, an active 3,000 ton marine railway, the surrounding storage and work areas (largely paved) which are divided into three catchment basins, and several specialized shops for vessel maintenance. Maintenance areas include workshops for carpentry, welding, machining, electrical, and painting. The railways, also referred to as drydocks, consist of a set of railroad tracks, set on pilings, extending from the shore into the waters of Pago Pago Harbor. A wooden platform (i.e., docking cradle) rides on railroad car wheels and is used to move vessels to and from the water. Vessels are docked and undocked on the active railway with the assistance of tugs and positioned on the blocks by manually shifting the vessel with the use of line handlers. Divers in the water assist to ensure that each vessel is properly positioned on the hauling blocks. Once a vessel has been brought into drydock for maintenance, the permittee conducts routine maintenance activities such as performing voyage repairs, grit blasting, painting, fitting, washing, hydroblasting to remove marine encrustations, and associated industrial activities such as fabricating and welding.

Figure 1.
MYD Samoa Shipyard – Layout map with major structures and existing NPDES discharge points indicated.



The previous permit covered storm water discharges from the facility. During inspections of the facility, EPA has observed discharges of industrial wastewater to both the drainage sump catch basins and directly to the Harbor from the active marine railway. The catch basins have only basic oil/water separators for treatment, which are not adequate for treating the industrial wastewaters, and the direct discharge from the marine railway is entirely untreated. Because adequate treatment facilities are not available for wastewaters from the activities described above, the industrial wastewater discharges permissible under the new permit are limited to the discharge of both low-pressure vessel wash water (not including dock or parts wash water) and hydroblasting tailwaters from work being conducted at the active 3000-ton marine railway (dry dock), and hose cleaning and hydrotest waters entering the three drainage sumps. Other types of industrial wastewaters must be captured on-site or, if the Discharger receives permission from the American Samoa Power Authority (ASPA), routed to the ASPA domestic sewer system once

appropriate industrial pretreatment provisions are put in place. Additionally, the new permit imposes specific Best Management Practices ("BMPs") for the facility which the permitee is required to implement.

PART IV - DESCRIPTION OF DISCHARGE AND RECEIVING WATER

Because of the nature of vessel maintenance and repair activities, there are a number of pathways by which pollutants and wastes from the above activities could be discharged to the Harbor. The MYD Samoa, Inc. facility is located on and adjacent to Pago Pago Harbor, and many of the facility activities (including storage) are conducted outdoors in a climate where rain is frequent. Discharges from the facility are characterized as both industrial wastewater and storm water associated with industrial activity (40 CFR 122.26(b)(14)).

During facility operations, the permittee discharges to Pago Pago Harbor at the discharge points indicated on Figure 1, above, and detailed in **Table 1** below. Effluent from Discharge Point numbers NPDES 001, 002 and 003 from the facility include industrial wastewater (non-storm water) and storm water runoff from their three respective catchment areas: Catch Basin numbers 1, 2 and 3. Each catchment area consists of workshops and impervious surfaces (i.e., concrete) that promote runoff conditions. No treatment beyond basic oil/water separation is conducted on effluent from the catch basins.

Effluent and runoff from the active 3000-ton dry dock is released directly into the Harbor without treatment due to the absence of any means for capturing and treating the discharge, a problem common to marine railway type dry docks (see EPA 2003, page 3). The draft permit establishes BMP requirements to mitigate direct discharges to Pago Pago Harbor from the operating 3000-ton marine railway.

Table 1. Location of Discharge Points for the MYD Samoa, Inc. facility.

Discharge Point	Receiving Water for the Discharge	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Discharge Point Description (sampling point)
NPDES-001	Pago Pago Harbor	Industrial Wastewater and Storm Water	14º16' 17"S	170º41' 33"W	Outlet of the oil/water separator serving Catch Basin #1 (area surrounding the 800 ton drydock and compressor building)
NPDES-002	Pago Pago Harbor	Industrial Wastewater and Storm Water	14º16' 17"S	170º41' 30"W	Outlet of the oil/water separator serving Catch Basin #2 (area surrounding the North side of the 3000 ton drydock and warehouses)

Discharge Point	Receiving Water for the Discharge	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Discharge Point Description (sampling point)
NPDES-003	Pago Pago Harbor	Industrial Wastewater and Storm Water	14º16' 18"S	170º41' 29"W	Outlet of the oil/water separator serving Catch Basin #3 (area South of the 3000 ton drydock and containing the machine shop and fabrication shop)

Catch Basin No. 1 encompasses a drainage area of 123,448 square feet that drains to Discharge Point No. 001. Catch Basin No. 2 encompasses a drainage area of 90,826 square feet that drains to Discharge Point No. 002. Catch Basin No. 3 encompasses a drainage area of 83,791 square feet that drains to Discharge Point No. 003. Discharges of non-storm water that occur during dry weather periods can consist of pollutants from facility activities that generate wastewater, such as vessel washing. Storm water discharges can consist of pollutants from normal facility operations such as grit blasting and spray painting that accumulate on facility surfaces and are then washed into the Harbor during storm events. Discharges from the facility discharge points can also consist of mixtures of both storm water and non-storm water.

Industrial wastewater and storm water runoff can also occur from activities conducted on the marine railways. The two marine railways allow vessels to be drawn up and out of the water to be worked on in dry dock conditions. Low-pressure blasting is frequently used to remove marine life from the vessel exterior, and for stripping of marine paints prior to repainting. Both low-pressure water blasting and dry sandblasting (using copper-slag grit) are conducted on the railway decks. Copper-slag grit is a blasting media commonly used by shipyards. It is derived from the smelting of copper ore and is an aluminum-silicate mineral retaining trace amounts of various metals, including copper. In the virgin state it is generally considered to have a low toxicity. Because most marine paints contain antifoulants to retard the growth of marine life, used copper-slag grit from depainting operations may contain additional toxicants (EPA 2003).

Discharges from the two marine railways do not drain into the catchment areas, but enter the Harbor directly. Storm water that washes over the railways during storm events also flows directly into the Harbor and may be contaminated with residual spent blasting grit and dry paint chips. The existing NPDES permit describes attempts by the previous owner to control sandblast grit and dry paint chips and impede wastewater from the railways from entering the Harbor. However, the use of screens and other devices have proven unsatisfactory due to various problems, including predominate onshore winds that blow over the screens. See Part V of this fact sheet for additional discussion of issues with blast-grit release.

Operations at this facility are intermittent in nature and, therefore, discharge is not continuous. Discharges from Catch Basins Nos, 1, 2 and 3 are treated by oil-water separators before being released to the Harbor. **Table 2** and **Table 3** provide a summary of effluent limitations contained in the existing permit for each discharge point. Effluent monitoring data was not

available for review due to the permitee's poor compliance with monitoring requirements (see Part V of this fact sheet).

Table 2. Summary of Existing Effluent Limitations for Discharge Points NPDES 001 and NPDES 003 for the MYD Samoa, Inc. Facility.

Parameter	Units	Existing Effluent Limitations	
		Average Monthly	Maximum Daily
Flow Rate	MGD[1]	Monitoring Only	
pH	Std. Units	6.0[2]	8.6[3]
Total Suspended Solids	lbs/day	Monitoring Only	
Oil and Grease	mg/l	--	20
Arsenic III	µg/l	--	69
Chromium VI	µg/l	--	1,100
Copper	µg/l	--	2.9
Lead	µg/l	--	220
Mercury	µg/l	--	2.1
Tributyltin	µg/l	--	0.422
Zinc	µg/l	--	95
Benzene	µg/l	--	5,100
Ethylbenzene	µg/l	--	430
Toluene	µg/l	--	6,300

[1]MGD means Million Gallons per Day; [2]Instantaneous minimum; [3]Instantaneous maximum

Table 3. Summary of Existing Effluent Limitations for Discharge Point NPDES 002 for the MYD Samoa, Inc. Facility.

Parameter	Units	Existing Effluent Limitations	
		Average Monthly	Maximum Daily
Flow Rate	MGD[1]	Monitoring Only	
pH	Std. Units	6.0[2]	8.6[3]
Oil and Grease	mg/l	--	20

[1]MGD means million gallons per day; [2]Instantaneous minimum; [3]Instantaneous maximum

In accordance with the Clean Water Act, American Samoa has adopted water quality standards for marine waters to protect the designated uses of surface waters of the U.S, based on the level of protection required for each water. Pago Pago Harbor is a near-shore territorial water of American Samoa and is classified as an embayment that consists of Inner, Middle and Outer Harbors, with fringing reefs throughout Middle and Outer Harbor areas. The entire Harbor is approximately three miles long with the entrance facing to the south and depths ranging from 60 to over 200 feet. American Samoa water quality standards ("ASWQS") state that "Pago Pago Harbor has been designated by the American Samoa Government to be developed into a transshipment center for the South Pacific. Recognizing its unique position as an embayment where water quality has been degraded from the natural condition, the EQC [Environmental Quality Commission] has established a separate set of standards for Pago Pago Harbor." These standards identify the protected uses for Pago Pago Harbor and include the following [ASWQS 2005 revision, §24.0205(e)(1)]:

- recreational and subsistence fishing;
- boat-launching ramps and designated mooring areas;
- subsistence food gathering, e.g. shellfish harvesting;
- aesthetic enjoyment;
- whole and limited body-contact recreation, e.g., swimming, snorkeling, and scuba diving;
- support and propagation of marine life;
- industrial water supply;
- mari-culture development;
- normal harbor activities, e.g., ship movements, docking, loading and unloading, marine railways and floating drydocks; and
- scientific investigations.

To protect these uses, ASWQS also establish prohibited uses that include but are not limited to the following [*ibid.*]:

- dumping or discharge of solids waste;
- animal pens over or within 50 feet of any shoreline;
- dredging and filling activities; except as approved by the Environmental Quality Commission ("EQC");
- toxic, hazardous and radioactive waste discharges; and
- discharge of oil sludge, oil refuse, fuel oil, or bilge water, or any other wastewater from any vessel or unpermitted shoreside facility.

PART V- HISTORY OF NONCOMPLIANCE WITH THE PERMIT

On September 16, 1983, EPA issued a NPDES permit to the Marine Railway Authority of the American Samoa Government for the discharge of runoff from the Authority's shipyard in Satala Village, American Samoa. This permit was based on a set of 8 Best Management Practices (BMPs) and additional reporting requirements, and came into effect on September 23, 1983. Shipyard operator Southwest Marine (headquartered in San Diego) assumed control of the

facility through its subsidiary Southwest Marine of Samoa (SWM-Samoa), with the lease of the facility beginning on May 1, 1985. This transfer of ownership did not alter the expiration date of the permit, which had been set as September 22, 1988. EPA Region IX standard permit conditions specify that the permitee should submit an application for permit renewal not less than 180 days prior to the expiration of the permit, or in this case by March 22, 1988. Despite receiving letters from EPA dated January 13, 1988 and April 27, 1988, Southwest Marine of Samoa did not submit a timely and complete reapplication by the expiration of the permit on September 22, 1988,

Beginning around this time, EPA inspections began to document chronic non-compliance with BMPs, including those intended to prevent the direct release of spent grit-blasting material and other potential sources of pollutants to the harbor. The following is an extended excerpt from the fact sheet for the most recent (2003) permit:

> The types of work performed on a ship, which has been removed from the water, can be a source of both air and water pollution. The two greatest potential sources of discharge are abrasive blasting and the coating of the ship's surfaces. Of significance, but usually of lesser importance, is the discharge of contaminated fluids from a vessel under repair. These potential discharges could consist of bilge water, ballast water, tank cleaning residuals, grey water or black water.
>
> There are several potential pathways which exist that could allow the pollutants to reach a receiving media. Dust from abrasive blasting can be discharged directly to the air where it may settle on the water or land. The same pathway exists for overspray from marine coating operations. Abrasive blast material, if allowed to accumulate on the cradle or area around the drydock, can be washed in to the waters by rain fall or other waste water discharges. Fluid discharges from ships could flow directly from the drydock into the receiving waters.
>
> Discharges of contaminated grit blast and oversprays of paint are more difficult to control on marine railways than other types of drydocks. These difficulties are inherent in the dock design, which is essentially an inclined ramp into the receiving waters. A drydock containment system must allow for maximum flexibility in the type and size of ship be accommodated in the dock. The containment system must be able to adequately withstand the typical climatic conditions and production process to which it is subjected.
>
> Many U.S. shipyards have been struggling to develop a cost effective solution to this problem. No one solution has obtained general acceptance as of yet. Many shipyards have simply stopped marine railway operations altogether, as the cost of retro-fitting and/or operation of effective containment was prohibitive.
>
> The previous permit prohibits release of any grit blast material into Pago Pago Harbor. This permit also includes this prohibition. As the inspection reports point out, the facility has not been in compliance with this requirement and must enhance the containment structures in order to prevent emissions.
>
> SWM-Samoa, uses "copper slag" exclusively for abrasive blasting purposes. This is the same material used by shipyards in California. It is derived from the smelting of

copper ore and is an aluminum-silicate mineral with trace amounts various metals. In the virgin state it should never fail the TLCP test [a standard toxicity test used for solid wastes], and would only very rarely fail the California TTLC test.
…
The releases of spent grit-blast material are of even more concern since EPA has learned the results of recent TCLP testing performed on the spent grit. Two of the three samples failed the regulatory TCLP level for lead of 5.0 mg/l. (The levels are 7.17 mg/l, 5.38 mg/l, and 3.58 mg/l). Because of this, the facility could possibly be classified a "large" hazardous waste generator (1000 kg/month, or more) and be required to comply with all applicable federal hazardous waste management rules. (It is important to note that the levels and types of metals in the spent grit blast will vary depending on the type of paint used on the ship which has been grit-blasted.).

The higher levels of metals in the grit blast is partly caused by the much higher efficiency with which SWM-Samoa blasts its vessels. Their production rate usage of abrasive blast material per square foot of surface is approximately half that of U.S. shipyards, in part due to the cost of shipping new copper-slag grit to American Samoa from the mainland. This has the positive result of reducing the amount of the waste generated by half. However it also results in a higher level of contamination of the waste abrasive blast that is generated. (One sample of spent grit blast also had a very high level of tributyltin: 264 mg/kg).

SWM-Samoa were required to completely contain all the blasting media through the use of curtains and flooring. They are/were then supposed to immediately gather all the spent grit material and store it in its original shipping containers, DOT approved two ton sacks. The sacks are then supposed to be stored under cover to prevent any contact with storm water until the sacks are removed for proper disposal or reuse. In practice, SWM Samoa has not always operated in this fashion. Below are excerpts of inspection reports from 1986 to 1997:

> April 14, 1986
> *The sandblasting materials are removed from the cradle and are stored in the yard. Mr. Condem informed us that the materials would not affect the water. To guarantee this, Marine Railway will send a sand materials outside for testing.*
>
> January 12, 1987
> *It was noted during our inspection that slag from the sand blasting operation was ending up in the water. It also appeared that the excess slag on the floor of the slipway was not being removed before the dock is lowered. We have also received complaints about drifting paint and sand blasting debris from the adjacent residents.*
>
> October 23, 1987
> *Several recurring problems have been noted at this facility. This includes lack of control over sandblasting wastes from entering the harbor...Potential for receiving water contamination continues to exist in this area due to sandblasting and paint chips. The dry dock has openings in the surface that allow the escape of these materials to the water...the lack of curtains allows the wastes to be dispersed over a wide area including the harbor.*

November 16, 1987

The sandblasting materials and paint stains continue to produce a threat to the water. The sand materials were seen on the floor of the dry dock and openings on the wooden deck and still have not been repaired.

February 22, 1988

Still no curtains installed to mitigate the blasting materials from entering water and atmosphere...sandblasting and other non-floatable materials continued to be a potential source for receiving water contamination. Blasting materials were seen on the wooden floor.

August 30 ,1990

Staff from ASPA Satala Power Plant contacted my office regarding dispersion of fine grey dust/particulate matter over the Caterpillars. The exhaust manifold and turbocharger were reported to become cherry red as the air filter was clogged. Investigation revealed the source of the particulate matter to be your facility when particles from ship repair were blown off.

December 13, 1990

Sandblasting materials were noticed on both docks and the facility BMP appears does not effectively implemented and enforced.

July 30, 1991

Sandblast materials were noticed piled on the floor of the drydock, and some sandblast materials appeared to have escaped through openings in the dock. More sandblast materials are stockpiled on the ground of the area.

August, September, October, 1991 Inspection checklist

Is spent sandblasting abrasive escaping from the shipways?; *Through holes or openings on the drydock, especially on the 800-ton drydock.*

December 2, 1991 Inspection Checklist

Is spent sandblasting abrasive escaping from the shipways?: *"Yes; because of openings in both slipways to the receiving water."*

March 4, 1992 Inspection Checklist

Is spent sandblasting abrasive escaping from the shipways? Yes, *through openings on the drydock.*

June 10, 1992 Inspection Checklist

Openings in the drydock are still present and continue to provide entrance for wastes into the water.

October 14, 1992

Used sand for sandblasting are stored in sandbags. Also plywoods were noticed in place on the dry dock to minimize escape. Tremendous efforts taken by SWM to keep area clean.

May 25 ,1993

Adjacent to the 800-ton drydock and the fence are bags containing waste grits (approximately 50 or more). SWM has strived tremendously to upgrade its conditions...But yet there is still more to be dealt with.

May 27, 1994

Used blasting grit is not stored well...There were many bags of used grit stored on site...Some of them had been sitting long enough to sprout plants. The bags were not covered and several were split or tipped, allowing grit to spill out. There was evidence of grit washing into the ocean nearby...There was still an accumulation of grit on the dock floor. As well, there are gaps and cracks on the dock floor that will allow grit to enter the water. Grit was also present on hard surfaces throughout the site and there was little evidence of seeping in areas like the concrete dock.

Another problem SWM Samoa has had is finding viable disposal options. Previously SWM-Samoa disposed of some of the abrasive in the island's sanitary land fill. This option is no longer feasible as the land fill operators have rejected the material because of operational difficulties at the land fill. There are no permitted hazardous waste land fills on America Samoa.

May 5, 1995

There is grit mixed with dirt around both of the docks. ...blasting had taken place on Tuesday on Friday sweeping had not been completed and spent grit was on the dock...The deterioration or lack of paving is contributing to erosion and loss of grit around the site.

As the reports point out, the problems extend beyond poor housekeeping practices. SWM has been investigating appropriate methods of disposing or reusing the spent grit. SWM-Samoa had identified a reuse for the spent abrasive as a replacement for aggregate in concrete and, with the approval of ASEPA, transported around 300 tons to Pacific Industrial Engineering (PIE) yard in Tafuna in November of 1994. However, due to the size of the grit particles, PIE has reservations regarding its appropriateness for use in concrete. Thus, the contractor has yet to use it and is not accepting more at this time.

On September 21, 1994, EPA officials met with Mr. Dana Austin from Southwest Marine Corporate Division, San Diego. EPA received a commitment from Mr. Austin that SWM will work with all due diligence to correct the problems. A progress report of this effort was submitted by SWM on November 16, 1994. EPA has drafted permit requirements to ensure that this effort will continue.

A new application and plans for bringing the facility into compliance, including paving of the shipyard to discontinue the practice of working over bare soil, led EPA to issue a new permit which became effective on April 15, 1997, with an expiration date of April 14, 2002. Operations to pave the shipyard with concrete were to begin in 1998 and be completed within 24 months. The paving of the site was to contribute significantly to control of polluted storm water runoff, in part by

ensuring that storm water would flow through a constructed oil-water separator before discharge. However,

> One problem that has not, to EPA's knowledge, been addressed is that the soil on-site is saturated with Total Petroleum Hydrocarbons (TPH). Storm water runoff from the facility causes a visible sheen on the receiving water approximately 20 yards in radius from the facility. The source of the oil/fuel is probably from two sources: improper fuel storage and disposal practices by facility and runoff from Satala power plant across the street.
> The facility has significant erosion problems because it is largely unpaved. However, because of the saturated soil, the solution to the erosion problem is not clear. By paving over the soil with concrete, future soil remediation becomes extremely difficult.

As part of the 1997 permit, EPA identified two additional discharge points beyond the one initially reported, and instituted numeric effluent limitations to track and control pollution. As of April, 1998, Southwest Marine's yards in California were absorbed by the Carlyle Group, and SWM of Samoa was no longer part of the larger Southwest Marine organization. Nonetheless, Southwest Marine of Samoa made an effort to comply with the new monitoring requirements and effluent limitations, The limited monitoring data received showed exceedences of limits for certain constituents of antifoulant marine paints, namely tributyl-tin and copper, as well as exceedences for zinc. SWM-Samoa attributed these exceedences, respectively, to leaching from contaminated sediment (having phased out tributyl-tin prior to issuance of the permit) and to the combined contributions of copper-slag blasting grit and copper-containing marine paint. An application for permit renewal was due on October 16, 2001, but Southwest Marine of Samoa was again late in applying for renewal of its NPDES permit for discharge of storm water to Pago Pago Harbor. EPA received a complete application on August 30, 2002.

Mr. Peter Peshut of American Samoa Enviromental Protection Agency (ASEPA) informed EPA on December 3, 2002, that the spent grit was being used in the concrete applied to pave the SWM yard, but that the yard at that time was only approximately 60% paved, indicating that SWM and SWM-Samoa had not completed the paving on the agreed schedule, although there had been some progress in implementing this method of grit disposal.

EPA prepared and issued a renewed permit which became effective on January 7, 2003, and expired on February 8, 2008. US EPA enforcement orders, issued in 2003 and 2005 against Southwest Marine of Samoa, required the prevention of oil releases from waste oil storage and the clean-up of the facility; the facility also reached an agreement with EPA to no longer accept waste oil from ships.

Effective August 1, 2007, SWM-Samoa sub-leased the facility to MYD Samoa Shipyard, which became the responsible party for compliance. The effective date

of the transfer of control was August 1, 2007; shortly thereafter MYD Samoa submitted an application for permit reissuance.

EPA had received little of the required monitoring information from the facility during the 2003-2008 term of the permit, and conducted an in-person inspection of the facility on April 1, 2008, in part to ensure classification in the proper federal category and fulfillment of federal self-monitoring requirements. The findings of this inspection, as detailed in the May 29, 2008 inspection report, included:

- Compliance currently depends solely on source controls since all shipyard generated wastewaters discharge to the harbor without treatment. There were significant and wide-spread shortcomings. Compliance will require upgraded treatment, implementation of additional BMPs, and a stand-by alternative to harbor discharge.
- Blasting grit and paint chip debris were deposited on the dry dock and piers, exposed to contact with storm water drainage. Temporary planking, curtains, and sweeping captured debris but do not prevent significant losses through gaps in the deck and past uncurbed piers.
- Numerous shipyard sources of contamination were exposed to contact with storm water drainage. Consequently, oily drainage into and out of one of the catch basin sumps resulted in an oily sheen on the harbor around the sump outfall.
- There are no current self-monitoring results as [were] required by the NPDES permit.

In order to ensure compliance with the measures required under the Clean Water Act and the American Samoa Water Quality Standards for the protection of Pago Pago Harbor, EPA issued an administrative order to MYD Samoa on September 19, 2008. This order stipulated a schedule for the permitee to take several corrective actions, including submission of engineering plans to correct structural discharge problems and implementation of those plans within 7 months' time, as well as a year of more detailed self-monitoring and data submission.

On March 11, 2009, 50 days prior to the required implementation date for the engineering controls, EPA summarized a number of MYD's responses into a letter identifying which elements of the administrative order had been addressed or would be addressed by MYD's proposals. EPA then re-inspected the facility on April 27 and 30, 2009. The inspector's September 29, 2009 inspection report found significant improvements in some BMPs (notably sweeping of dry dock decks and piers), but also noted continuing failure to submit self-monitoring data.

On that same date, September 29 2009, a magnitude 8.1 earthquake 125 miles Southwest of Tutuila Island (the largest island of American Samoa) produced a tsunami that caused extensive damage and loss of life in the region, including inner Pago Pago Harbor where the MYD facility is located. In the intervening nine months, news reports and photographic documentation by ASEPA staff and federal emergency responders repeatedly confirm that damage to the facility was

limited and that it has resumed operation, with BMP compliance apparently reverting to the state predating the 2008 EPA inspection. However, MYD has not responded or replied to EPA's repeated communications since the tsunami.

The failure to submit self-monitoring data under the previous permit and administrative order, particularly after the transfer of operations to MYD Samoa in 2007, has led to a lack of meaningful effluent monitoring data on which to base the limits in this permit. Consequently, permit limits have been developed based on available water quality criteria as described in Part VI below. The requirements of EPA's administrative order also remain in effect through the issuance of this permit.

PART VI- DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

The Clean Water Act ("CWA") requires point source dischargers to control the amount of pollutants that are discharged to waters of the United States. The control of pollutants is established through effluent limitations and other requirements in NPDES permits. When determining effluent limitations, EPA must consider limitations based on the technology used to treat the pollutant(s) (i.e., technology-based effluent limits) and limitations that are protective of water quality standards (i.e., water quality-based effluent limits).

As MYD Samoa lacks on-site treatment capability beyond the oil-water separators for each drainage catchment, and lacks non-domestic connections to the ASPA sewer system, pollution prevention must be the effective means of preventing the discharge of pollutants to Pago Pago harbor. In accordance with 40 CFR 122.44(k), compliance with the effluent limitations will be founded on implementation of the site-specific Best Management Practices ("BMPs") incorporated into part III B of the permit (see also part X.A of this Fact Sheet). Should EPA find that the BMPs prove insufficient for the protection of water quality, the permit may be re-opened and further effluent limitations incorporated into the permit.

Table 4 provides a summary of the existing and proposed effluent limitations for the discharges from MYD Shipyard, the derivations of which are detailed further below.

A. Applicable Technology-based Effluent Limitations

1. **Oil and Grease**. In accordance with 40 CFR 125.3, technology-based effluent limitations are proposed for oil and grease based on Best Professional Judgment ("BPJ") since oil and grease are common components of oily wastewater. Section 402(a)(1) of the CWA provides for the establishment of BPJ limits in cases where federally promulgated Effluent Limitation Guidelines are not available, or do not regulate, a particular pollutant of concern. **Table 5** provides a summary of proposed technology-based effluent limitations for Discharge Point Nos. 001, 002, and 003. Based on BPJ, EPA proposes a MDL and AML of 15 and 10 mg/l, respectively, for oil and grease for Discharge Point Nos. 001, 002, and 003.

In addition, based on BPJ, the permit requires more frequent (daily) visual monitoring for sheen and foam at the 3 discharge points, and logging (visible sheen/foam or no visible sheen/foam) of the results for each point.

Table 5. Summary of Proposed Technology-based Effluent Limitations for Discharge Points No. 001, 002, and 003 for the MYD Samoa, Inc. facility.

Parameter	Units	Effluent Limitations	
		Average Monthly	Maximum Daily
Oil and Grease	mg/l	10	15
Visible Sheen and Foam		Daily Visual Monitoring and Logging	

2. **Compliance with Federal Anti-Backsliding Regulations and American Samoa Antidegradation Policy for Proposed Technology-based Effluent Limitations**. The renewal or reissuance of an existing NPDES permit that contains technology-based effluent limits based on BPJ that are less stringent than those established in the previous permit is prohibited, except as provided in 40 CFR 122.44(k)(l)(i). This is referred to as "anti-backsliding." The draft permit establishes more stringent technology-based effluent limitations for oil and grease. Therefore, federal anti-backsliding regulations and American Samoa's antidegradation policy are consistent with this proposed change.

B. **Water Quality-Based Effluent Limitations**

Pursuant to 40 CFR 122.44(d)(1), water quality-based effluent limitations, or WQBELS, are required in NPDES permits when the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above any water quality standard. Applicable water quality standards are established in the 2005 Revision of ASWQS (Administrative Rule No. 006-2005), which incorporated section 304(a) federal water quality criteria. Revisions to these standards were adopted by the American Samoa Environmental Protection Agency ("ASEPA") on January 18, 2006. These standards were subsequently approved by EPA.

When determining whether an effluent discharge causes, has the reasonable potential to cause, or contributes to an excursion above narrative or numeric criteria within State (or Territory) water quality standards, the permitting authority uses procedures which account for existing controls on point and nonpoint sources of pollution, and the variability of the pollutant or parameter in the effluent, the sensitivity of species to toxicity testing, and, where appropriate, dilution of the effluent in the receiving water (40 CFR 122.44(d)). As describe in EPA's Technical Support Document for Water Quality-based Toxics Control (hereinafter, EPA's TSD; EPA/505/2-9-001), when determining whether or not a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a numeric or narrative water quality criterion for individual toxicants, EPA can use a variety of factors and information where facility-specific effluent monitoring data are unavailable. Due to the unavailability of effluent monitoring data for

review, EPA has evaluated the reasonable potential for individual toxicants to cause or contribute to an excursion of water quality standards based on the type of industry, history of compliance problems and toxic impact, and type of receiving water and designated use (section 3.2 of EPA's TSD).

The existing permit establishes WQBELs for toxic pollutants using a permit limit derivation procedure which directly implements the acute waste load allocation ("WLA") as a Maximum Daily Limit ("MDL"). EPA discourages the use of this approach because it fails to take effluent variability into account. Specifically, the normal variation of effluent composition leaves a significant possibility that the WLA and WQS (which are set to protect the environment) could be exceeded even if the facility meets an MDL that was set in this way (section 5.3 of EPA's TSD). Rather, EPA recommends the use of a permit limit derivation procedure where the acute, chronic, and human health WLAs are statistically translated into an MDL based on whichever of the three WLAs is most stringent (section 5 of EPA's TSD). Note that in the case of Pago Pago Harbor, which is not designated as having a beneficial use of municipal supply, but is designated for fishing, shellfish harvesting, and mariculture (a form of aquaculture), that the applicable human health WLA is that for consumption of organisms which reside in the water, not direct ingestion of the water itself.

As described in section 5.2.2 of EPA's TSD, WQBELs for NPDES dischargers are established based on the need to maintain effluent quality for a pollutant at a level that will comply with water quality standards even during critical ("worst case") conditions in the receiving water. This level is determined by the most stringent WLA for the particular pollutant. The WLA, in turn, dictates the necessary treatment performance level which must be achieved for the pollutant, through the calculation of a long-term average ("LTA") to ensure that the WLA is met under critical conditions over a long-term period.

Section 24.0207 of ASWQS provides for the application of alternate standards within an area surrounding the discharge point, or zone of mixing, when it is not feasible to achieve an effluent quality that meets water quality standards at the point of discharge (i.e., end of the pipe). **No mixing zones have been authorized for this discharge.**

Effluent Limit Derivations

1. **Total Arsenic**. In 2004, Pago Pago Harbor was listed on the section 303(d) of the CWA's list of impaired waterbodies in American Samoa as a result of arsenic contamination in fish. Currently, no Total Maximum Daily Limitation ("TMDL") has been established for point sources of arsenic in the Harbor. A reasonable potential for the presence of arsenic in the discharge is assumed since a limit was developed for the previous permit and it is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for arsenic. ASWQS provide water quality criteria for arsenic for the protection of aquatic life and human health. The CMC and CCC for total arsenic are 69

Table 4. Proposed effluent limitations, monitoring requirements, and sample type for each pollutant or parameter for Discharge Outfall NPDES 001, NPDES 002, and NPDES 003 for the MYD Samoa, Inc. Facility.

Parameter	Units	Existing Permit Effluent Limitations		Draft Permit Effluent Limitations		Monitoring Requirements	
		Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Monitoring Frequency[1]	Sample Type
Flow Rate	MGD	Monitoring Only		Monitoring Only		Continuous	Estimated
Visible Sheen and Foam		-	-	Monitoring & logging		Daily	Visual Logging
pH	std. units	6.5[2]	8.6[3]	6.5[4]	8.6[5]	Monthly	Grab
Total Suspended Solids	mg/l	Monitoring Only		Monitoring Only		Monthly	Grab
Turbidity	NTU	-	-	-	0.75	Monthly	Grab
Oil and Grease	mg/l	-	20	10	15	Monthly	Grab
Arsenic (Total Recoverable)	µg/l	-	69	0.14	0.37	Quarterly	Grab
Mercury (Total Recoverable)	µg/l	-	2.1	0.0425	-	Quarterly	Grab
Total Polychlorinated Biphenyls	µg/l	-	-	0.0000544	-	Quarterly	Grab
Chromium VI (Total Recoverable)	µg/l	-	1,100	41	82	Quarterly	Grab
Copper (Total Recoverable)	µg/l	-	2.9	2.4	2.9	Quarterly	Grab
Lead (Total Recoverable)	µg/l	-	220	6.6	13.3	Quarterly	Grab
Zinc (Total Recoverable)	µg/l	-	95	45	90	Quarterly	Grab
Tributyltin (Total Recoverable)	µg/l	-	0.422	0.006	0.012	Quarterly	Grab
Benzene	µg/l	-	5,100	51	103	Quarterly	Grab
Ethylbenzene	µg/l	-	430	-	430	Quarterly	Grab
Toluene	µg/l	-	6,300	-	6300	Quarterly	Grab

Parameter	Units	Existing Permit Effluent Limitations		Draft Permit Effluent Limitations		Monitoring Requirements	
		Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Monitoring Frequency[1]	Sample Type
Xylene	µg/l	-	-	10,000	20,100	Quarterly	Grab

[1]The previous permit allowed for a reduced (annual) monitoring frequency for the parameters chromium VI, copper, lead, mercury, tributyltin, zinc, arsenic, benzene, ethylbenzene and toluene following 4 quarterly monitoring reports showing compliance with the effluent limitation for that parameter. Due to the lack of monitoring by the Discharger and the resulting lack of meaningful long-term data for comparison, the new permit requires more frequent (quarterly) monitoring. [2]This pH limit was expressed as a daily minimum [3]This pH limit was expressed as a daily maximum
[4]Instantaneous Minimum [5]Instantaneous Maximum

and 36 µg/l, respectively. The criterion for human health (organism only) is 0.14 µg/l. Section 24.0206(g)(3) of ASWQS states that for "all embayments", which includes Pago Pago Harbor (§24.0204(e)), the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health criteria for consumption of organisms. The more stringent of the criteria for arsenic is the human health criterion. **Table 6** provides a summary of the derivation of the effluent limitation for total arsenic. In accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 0.37 and 0.14 µg/l, respectively, for total arsenic.

Table 6. WQBEL calculations for arsenic

Description	**Aquatic Life Protection**		**Human Health Protection**
	Acute	**Chronic**	**Organism Only**
Criterion, µg/l	69	36	0.14
WLA, µg/l	69	36	0.14
WLA Multiplier (99th%)	0.321	0.527	-
LTA, µg/l	22.15	18.972	-
LTA_{MDL} Multiplier (99th%)	-	-	-
AML = WLA (Total Recoverable) for Human Health, µg/l	-	-	0.14
AML Multiplier (95th%)	-	-	2.62
MDL (Total Recoverable) , µg/l	-	-	0.37

2. **Mercury**. The draft permit proposes an effluent limit for mercury since the shipyard facility has been recognized as a source of mercury entering into Pago Pago Harbor, indicating a reasonable potential for the presence of this pollutant in the discharge. In 2004, Pago Pago Harbor was listed on the section 303(d) of the CWA's list of impaired waterbodies in American Samoa as a result of mercury contamination in fish. On February 22, 2007, EPA approved a total TMDL for mercury into the Harbor that included a waste load allocation for Southwest Marine of Samoa, Inc.'s shipyard facility. Since August 2007, the shipyard facility has been operated by the permittee. Therefore, as specified in EPA's report, Total Maximum Daily Loads for Mercury and PCBs, and Arsenic Analysis for Pago Pago Inner Harbor, Territory of American Samoa (January 2007), EPA has applied a waste load allocation of 0.0425 µg/l as a average monthly limitation. **Table 7** provides a summary of the derivation of the effluent limitation for mercury. In addition, as part of the waste load allocation, a pollutant minimization plan is required, as described in the draft permit (see Part X.D of this Fact Sheet).

Table 7. WQBEL calculations for mercury

Description	Organism Only
Human Health Criterion, µg/l	0.05
TMDL 15% Margin of Safety, µg/l	0.0075
TMDL WLA $_{\text{Criterion - Margin of Safety}}$, µg/l	0.0425
TMDL AML, µg/l	0.0425

3. **Total Polychlorinated Biphenyls**. The draft permit proposes an effluent limit for total polychlorinated biphenyls ("PCBs") since the shipyard facility has been recognized as a source of PCBs entering into Pago Pago Harbor, indicating a reasonable potential for the presence of this pollutant in the discharge. In 2004, Pago Pago Harbor was listed on the section 303(d) of the CWA's list of impaired waterbodies in American Samoa as a result of total polychlorinated biphenyl ("PCBs") contamination in fish. On February 22, 2007, EPA approved a TMDL for PCBs into the Harbor that included a waste load allocation for Southwest Marine of Samoa, Inc.'s shipyard facility. Since August 2007, the shipyard facility has been operated by the permittee. Therefore, as specified in EPA's report, Total Maximum Daily Loads for Mercury and PCBs, and Arsenic Analysis for Pago Pago Inner Harbor, Territory of American Samoa (January 2007), EPA has applied a monthly waste load allocation of 0.000054 µg/l as a average monthly effluent limitation. In addition, as part of the waste load allocation, a pollutant minimization plan is required, as described in the draft permit (see Part X.D of this Fact Sheet). **Table 8** provides a summary of the derivation of the effluent limitation for total PCBs.

Table 8. WQBEL calculations for Total Polychlorinated Biphenyls

Description	Organism Only
Human Health Criterion, µg/l	0.000064
TMDL 15% Margin of Safety, µg/l	$9.6x10^{-6}$
TMDL WLA $_{\text{Criterion - Margin of Safety}}$, µg/l	0.0000544
TMDL AML, µg/l	0.0000544

4. **Chromium VI**. A reasonable potential for the presence of chromium VI in the discharge is assumed since a limit was developed for the previous permit and it is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for chromium VI. ASWQS provide acute and chronic criteria for chromium VI for the protection of aquatic life. The CMC and CCC for chromium VI is 1,100 and 50 µg/l, respectively. Section 24.0206(g)(3) of ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in EPA's 2002 or the most recent version. In the absence of human health criteria for chromium VI, the more stringent of the criteria for chromium VI is the aquatic life criteria. **Table 9** provides a summary of the derivation of the effluent limitation for chromium VI. In accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 82 and 41 µg/l, respectively, for

chromium VI.
At the permitee's request, the permit also allows for compliance with the chromium VI effluent limits to be tested based on monitoring and sampling data for total chromium. This is in response to the severe difficulty encountered in shipping samples from American Samoa to an accredited testing laboratory within the 24-hour holding time allowable for the Chromium VI test. As the Total Chromium test methodology will result in measured values at least as great as those for Chromium VI, this flexibility will not reduce the stringency of the permit. Precedent for providing this monitoring option for ocean discharges is found in the California Ocean Plan of 2005, Table B note (a).

Table 9. WQBEL calculations for chromium VI

Description	Acute	Chronic
Aquatic Life Criteria, µg/l	1,100	50
WLA, µg/l	1,100	50
WLA Multiplier (99^{th}%)	0.321	0.527
LTA, µg/l	353.1	26.35
LTA_{MDL} Multiplier (99^{th}%)	-	3.11
MDL (Total Recoverable), µg/l	-	82
LTA_{AML} Multiplier (95^{th}%)	-	1.55
AML (Total Recoverable), µg/l	-	41

5. **Copper**. A reasonable potential for the presence of copper in the discharge is assumed since a limit was developed for the previous permit and it is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for copper. The previous permit established an MDL of 2.9 µg/l for copper and the permitee has not provided a rationale for the raising of this limit, therefore the MDL for copper remains capped at 2.9 µg/l.
ASWQS provide acute and chronic criteria for copper for the protection of aquatic life. The CMC and CCC for copper are 4.8 and 3.1 µg/l, respectively. Section 24.0206(g)(3) of ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. In the absence of human health criteria for copper, the more stringent of the criterion for copper is the acute aquatic life criterion. **Table 10** provides a summary of the derivation of the effluent limitation for copper. Because the calculated MDL exceeds the MDL established in the previous permit, the lower MDL of 2.9 takes precedence. Thus, in accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 2.9 and 2.4 µg/l, respectively, for copper.

Table 10. WQBEL calculations for copper

Description	Acute	Chronic
Aquatic Life Criterion, µg/l	4.8	3.1

WLA, µg/l	4.8	3.1
WLA Multiplier (99th%)	0.321	0.527
LTA, µg/l	1.54	1.6337
LTA_{MDL} Multiplier (99th%)	3.11	-
MDL (Total Recoverable), µg/l	4.8	-
LTA_{AML} Multiplier (95th%)	1.55	-
AML (Total Recoverable), µg/l	2.4	-

6. **Lead**. A reasonable potential for the presence of lead in the discharge is assumed since a limit was developed for the previous permit and it is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for lead. ASWQS provide acute and chronic criteria for lead for the protection of aquatic life. The CMC and CCC for lead is 210 and 8.1 µg/l, respectively. Section 24.0206(g)(3) of ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in EPA 2002. In the absence of human health criteria for lead, the more stringent of the criteria for lead is the aquatic life criteria. **Table 11** provides a summary of the derivation of the effluent limitation for lead. In accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 13.3 and 6.6 µg/l, respectively, for lead.

Table 11. WQBEL calculations for lead

Description	**Acute**	**Chronic**
Aquatic Life Criterion, µg/l	210	8.1
WLA, µg/l	210	8.1
WLA Multiplier (99th%)	0.321	0.527
LTA, µg/l	67.41	4.2687
LTA_{MDL} Multiplier (99th%)	-	3.11
MDL (Total Recoverable), µg/l	-	13.3
LTA_{AML} Multiplier (95th%)	-	1.55
AML (Total Recoverable), µg/l	-	6.6

7. **Zinc**. A reasonable potential for the presence of zinc in the discharge is assumed since a limit was developed for the previous permit and it is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for zinc. ASWQS provide water quality criteria for zinc for the protection of aquatic life and human health. The CMC and CCC for zinc is 90 and 81 µg/l, respectively. The criterion for human health (organism only) is 26,000 µg/l. Section 24.0206(g)(3) of ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. The more stringent of the criteria for zinc is the acute aquatic life criteria. **Table 12** provides a summary of the

derivation of the effluent limitation for zinc. In accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 90 and 45 µg/l for zinc.

Table 12. WQBEL calculations for zinc

	Aquatic Life Protection		Human Health Protection
	Acute	**Chronic**	**Organism Only**
Criterion, µg/l	90	81	26,000
WLA, µg/l	90	81	26,000
WLA Multiplier (99th%)	0.321	0.527	-
LTA, µg/l	28.89	42.687	26,000
LTA_{MDL} Multiplier (99th%)	3.11	-	-
MDL (Total Recoverable), µg/l	90	-	-
LTA_{AML} Multiplier (95th%)	1.55	-	-
AML (Total Recoverable), µg/l	45	-	-

8. **Tributyl-tin**. A reasonable potential for the presence of tributyl-tin in the discharge is assumed since a limit was developed for the previous permit and it is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for tributyl-tin. EPA has noted the permitee's agreement not to grit-blast or service vessels using tributyl-tin coatings. The limits and monitoring requirements for this pollutant have been retained in light of the unprotected storage of potentially contaminated site sediment on facility grounds after the September 29, 2009 tsunami (as documented in photos by LCDR Matt Vojick of ASEPA) and continuing concern over the facility's compliance record and poor monitoring.
ASWQS provide acute and chronic criteria for tributyltin for the protection of aquatic life. The CMC and CCC for tributyltin is 0.42 and 0.0074 µg/l, respectively. Section 24.0206(g)(3) of ASWQS state that for all embayments, such as
Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. ASWQS provide acute and chronic criteria for tributyltin for the protection of aquatic life. There are no ASWQS or federal criteria for tributyltin for the protection of human health. **Table 13** provides a summary of the derivation of the effluent limitation for tributyltin. In accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 0.012 and 0.006 µg/, respectively, for tributyltin.

Table 13. WQBEL calculations for tributyltin

Description	**Acute**	**Chronic**
Aquatic Life Criterion, µg/l	0.42	0.0074
WLA, µg/l	0.42	0.0074
WLA Multiplier (99th%)	0.321	0.527

LTA, µg/l	0.135	0.003899
LTA_{MDL} Multiplier (99^{th}%)	-	3.11
MDL, µg/l	-	0.012
LTA_{AML} Multiplier (95^{th}%)		1.55
AML, µg/l	-	0.006

9. **Benzene**. A reasonable potential for the presence of benzene in the discharge is assumed since a limit was developed for the previous permit, and because it is a common component of gasoline and other petroleum products and is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for benzene. ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. ASWQS provide criteria for benzene for the protection of human health. There are no ASWQS or federal criteria for benzene for the protection of aquatic life. The human health criterion for benzene (organism only) is 51ug/l. **Table 14** provides a summary of the derivation of the effluent limitation for benzene. In accordance with section 5 of EPA's TSD, EPA proposes a MDL and AML of 51 and 103 µg/l, respectively, for benzene.

Table 14. WQBEL calculations for benzene

Description	**Organism Only**
Human Health Criterion, µg/l	51
WLA, µg/l	51
AML = WLA, µg/l	51
AML Multiplier (95^{th}%)	2.01
MDL, µg/l	103

10. **Ethylbenzene**. A reasonable potential for the presence of ethylbenzene in the discharge is assumed since a limit was developed for the previous permit, and because it is a common component of gasoline and other petroleum products and is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for ethylbenzene. The previous permit established an MDL of 430 µg/l for ethylbenzene and the permitee has not provided a rationale for the raising of this limit, therefore the MDL for ethylbenzene remains capped at 430 µg/l. ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. ASWQS provide criteria for ethylbenzene for the protection of human health. There are no ASWQS or federal criteria for ethylbenzene for the protection of aquatic life. The human health criterion for ethylbenzene (organism only) is 2,100 µg/l. **Table 15** provides a summary of the

derivation of the effluent limitation for ethylbenzene. Because the calculated AML and MDL exceed the existing limit for ethylbenzene, the limit of 430 µg/l takes precedence as described above. In accordance with section 5.4.4 of EPA's TSD, EPA proposes a MDL of 430 µg/l, for ethylbenzene.

Table 15. WQBEL calculations for ethylbenzene

Description	Organism Only
Human Health Criterion, µg/l	2,100
WLA, µg/l	2,100
AML = WLA, µg/l	2,100
AML Multiplier (95th%)	2.01
MDL, µg/l	4,221

11. **Toluene**. A reasonable potential for the presence of toluene in the discharge is assumed since a limit was developed for the previous permit, and because it is a common component of gasoline and other petroleum products and is known to be present in discharges from other similar Ship Building and Repairing facilities; therefore the new permit proposes an effluent limit for toluene. The previous permit established an MDL of 6300 µg/l for toluene and the permitee has not provided a rationale for the raising of this limit, therefore the MDL for toluene remains capped at 6300 µg/l. ASWQS state that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. ASWQS provide criteria for toluene for the protection of human health. There are no ASWQS or federal criteria for toluene for the protection of aquatic life. The human health criterion for toluene (organism only) is 15,000 µg/l. **Table 16** provides a summary of the derivation of the effluent limitation for toluene. Because the calculated AML and MDL exceed the existing limit for ethylbenzene, the limit of 6300 µg/l takes precedence as described above. In accordance with section 5.4.4 of EPA's TSD, EPA proposes an MDL of 6,300 µg/l for toluene.

Table 16. WQBEL calculations for toluene

Description	Organism Only
Human Health Criterion, µg/l	15,000
WLA, µg/l	15,000
AML = WLA, µg/l	15,000
AML Multiplier (95th%)	2.01
MDL, µg/l	30,150

12. **Xylene**. The draft permit proposes an effluent limit for xylene since it is a common component of gasoline and other petroleum products and is known to be present in discharges from other similar Ship Building and Repairing facilities. ASWQS state

that for all embayments, such as Pago Pago Harbor, the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in the most recent version of EPA's National Recommended Water Quality Criteria. There are no established ASWQS or federal criteria for xylene. However, based on a review of water quality criteria for xylene established in various state permitting programs, in the permit writer's best professional judgement a human health criterion (organism only) of 10,000 µg/l is representative of the current state of the science.. **Table 17** provides a summary of the derivation of the effluent limitation for xylene. In accordance with section 5.4.4 of EPA's TSD, EPA proposes a MDL and AML of 30,150 and 15,000 µg/l, respectively, for toluene.

Table 17. WQBEL calculations for xylene

Description	Organism Only
Human Health Criterion, µg/l	10,000
WLA, µg/l	10,000
AML = WLA, µg/l	10,000
AML Multiplier (95th%)	2.01
MDL, µg/l	20,100

13. **Compliance with Federal Anti-Backsliding Provisions and American Samoa's Antidegradation Policy for Proposed WQBELS**. Section 402(o) of the CWA prohibits the renewal or reissuance of an NPDES permit that contains WQBELs less stringent than those established in the previous permit, except as provided in the statute. This is referred to as "anti-backsliding." The draft permit establishes no numeric WQBELs less stringent than those established in the existing permit, Therefore, this proposed permit is consistent with federal anti-backsliding regulations and American Samoa's antidegradation policy..

PART VII - DETERMINATION OF NARRATIVE WATER QUALITY-BASED EFFLUENT LIMITS

Section 24.0206 of ASWQS contain narrative water quality standards that apply to all territorial waters including but not limited to fresh surface waters, ground waters, embayments, open coastal waters, and oceanic waters of the Territory.

The draft permit proposes the following narrative water quality-based effluent limits in the receiving water of Pago Pago Harbor based on narrative ASWQS:

A. The discharge shall be substantially free from materials attributable to sewage, industrial wastes, or other activities of man that will produce objectionable color, odor, or taste, either of itself or in combinations, or in the biota;

B. The discharge shall be substantially free from visible floating materials, grease, oil, scum, foam, and other floating material attributable to sewage, industrial wastes, or other activities of man;

C. The discharge shall be substantially free from materials attributable to sewage, industrial wastes, or other activities of man that will produce visible turbidity or settle to form objectionable deposits;

D. The discharge shall be substantially free from substances and conditions or combinations thereof attributable to sewage, industrial wastes, or other activities of man which may be toxic to humans, other animals, plants, and aquatic life or produce undesirable aquatic life;

E. The discharge shall not cause the temperature in the receiving water deviate more than 1.5 degrees Fahrenheit from conditions which would occur naturally and shall not fluctuate more than 1 degree Fahrenheit on an hourly basis or exceed 85 degrees Fahrenheit due to the influence of other than natural causes;

F. The discharge shall not cause the concentration of toxic pollutants in the receiving water to exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in EPA 2002 or the more recent version;

G. The discharge shall not cause the turbidity in the receiving water to exceed 0.75 Nephelometric Units;

H. The discharge shall not cause the light penetration depth to be less than 65.0 feet. The light penetration depth in Pago Pago Harbor shall be 65.0 feet, which shall be exceeded fifty percent of the time;

I. The discharge shall not cause the concentration of dissolved oxygen to be less than 70 percent of saturation or less than 5.0 mg/l. If the natural level of dissolved oxygen is less than 5.0 mg/l, the natural level shall become the standard;

J. The discharge shall not cause the water column concentration of mercury to exceed 0.05 µg/l;

K. The discharge shall not cause the total phosphorus concentration in the receiving water beyond the boundary of the zone of mixing to exceed 30.0 µg/l as P;

L. The discharge shall not cause the total nitrogen concentration in the receiving water beyond the boundary of the zone of mixing to exceed 200.0 µg/l as N; and

M. The discharge shall not cause the concentration of chlorophyll-*a* to exceed 1.0 µg/l.

PART VIII - MONITORING AND REPORTING REQUIREMENTS

The permit requires the permittee to continue to monitor the effluent for pollutants or parameters with technology-based effluent limits (i.e., oil and grease) and water quality-based effluent limits (i.e., pH, total mercury, etc.) for the duration of the permit term.

A. **Effluent Monitoring and Reporting**

The draft permit requires the permittee to conduct effluent monitoring to evaluate compliance with the permit conditions. The permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the permit. All monitoring data shall be reported on DMR forms and submitted quarterly, as specified in the permit.

B. **Priority Toxic Pollutants Scan**

The draft permit requires the permittee to conduct a Priority Toxic Pollutants scan during the second and fourth year of the five-year permit term to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The permittee shall perform all effluent sampling and analyses for the priority toxic pollutants scan in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the permit. The method quantitation limit should be lower than the most stringent applicable water quality criterion. If such method is not available, then the method with the lowest quantitation limit shall be used. 40 CFR 131.36 provides a complete list of Priority Toxic Pollutants.

C. **Twenty-Four Hour Reporting of Noncompliance**

In accordance with 40 CFR 122.41(l)(6), the permittee is required to report within 24 hours any noncompliance which may endanger human health or the environment, including:

a. Any unanticipated bypass which exceeds any effluent limit in the permit, specifically any violation of the maximum daily effluent limit for a toxic pollutant, hazardous substance, or pollutant specifically identified as the method to control a toxic pollutant or hazardous substance (see 40 CFR 122.44(g)).
b. Any upset which exceeds any effluent limit in the permit.
c. Violation of a maximum daily discharge limit for any of the pollutants listed by the director in the permit to be reported within 24 hours (see 40 CFR 122.44(g)).

PART IX - STANDARD CONDITIONS

A. **Reopener Provisions**

In accordance with 40 CFR 122 and 124, the permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards or TMDLs; or to address new information

indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

In particular, MYD Samoa's problematic compliance record for implementing BMPs and meeting other requirements of the September 19, 2008 Administrative Order has led EPA to include a specific reopening clause in this permit. Should the BMP-based measures for pollution prevention specified in the permit (Part III, section B) fail to be implemented properly, or should the measures specified prove insufficient for limiting the discharge of pollutants from shipyard operations to levels that would be protective of water quality in Pago Pago Harbor, EPA retains the authority to re-open the permit and incorporate additional protections.

B. **Standard Provisions**

The draft permit requires the permittee to comply with EPA Region IX Standard Federal NPDES Permit Conditions, dated July 3, 2002.

PART X - SPECIAL CONDITIONS

A. **Specific BMP Requirements**

As MYD Samoa lacks on-site treatment capability beyond the oil-water separators for each drainage catchment, and lacks non-domestic connections to the ASPA sewer system, pollution prevention must be the primary means of preventing the discharge of pollutants to Pago Pago Harbor. The site-specific BMPs (Best Management Practices) incorporated into part III B of the permit were developed by EPA during follow-up for the September 19, 2008 EPA Administrative Order to MYD Samoa.

The first six facility-wide BMPs specified for Shipyard Operations (Table 3 in the draft permit, items S1 through S6) were developed to address specific procedural and structural shortcomings at MYD Samoa by EPA field inspector Greg Arthur during enforcement of the 2008 Administrative Order, and have been revised and expanded for this permit in response to continuing compliance problems. Shipyard Operations BMP number S7, relating to debris from the September 29, 2009 tsunami event in American Samoa, was developed in response to photographic evidence collected in March 2010 by Lt. Commander Matt Vojik, P.E., of the U.S. Public Health Service, currently serving as Technical Services Manager of American Samoa EPA. LCDR Vojik's photographs show that 6 months after the tsunami, significant unprotected and uncontained piles of sediment and debris remain on site from the post-Tsunami clearing of the 3000-ton marine railway. Sediment at the MYD Samoa Shipyard site is known to have been contaminated with oil in the decades the shipyard was in operation before being paved [see EPA 1997, page 4]. Consequently, both the washing of such sediment from the bank into the Harbor during the tsunami, and subsequent storage of such potentially contaminated sediment where it is exposed to storm water, may be significant sources of contamination.

Specific BMP requirements have been added to the draft permit to address uncontrolled discharges from the active 3000-ton marine railway. The permit also requires good housekeeping in the vicinity of, and prohibits discharges from, the inactive 800-ton marine railway. The BMPs for the active 3000-ton Marine Railway are based on similar requirements and best practices developed for non-railway drydocks at the U.S. Navy shipyard facility in Pearl Harbor, Hawaii. These BMPs are detailed in PHNSY Instruction 5090.5 (21 Aug. 2002) and designed to facilitate compliance with NPDES Permit HI0110230, Pearl Harbor Naval Shipyard.

B. **Development and Implementation of Best Management Practices Plan**

Pursuant to section 304(e) of the CWA and 40 CFR 122.44(k)(4), EPA may impose Best Management Practices ("BMPs") which are "reasonably necessary…to carry out the purposes of the Act." The pollution prevention requirements or BMPs proposed in the draft permit operate as technology-based limitations on effluent discharges that reflect the application of Best Available Technology and Best Control Technology. The draft permit requires the permittee to develop (or update) and implement a BMP Plan with appropriate pollution prevention measures or BMPs designed to prevent pollutants from entering Pago Pago Harbor while performing normal processing operations at the facility.

C. **Development and Implementation of Storm Water Pollution Prevention Plan**

In accordance with section 304(e) of the CWA and 40 CFR 122.44(k)(2), the permittee shall develop and implement a Storm Water Pollution Prevention Plan ("SWPPP") that is consistent with Sector R, Ship and Boat Building and Repairing Yards, of the Final Reissuance of the NPDES Storm Water Multi-Sector General Permit ("MSGP") for Industrial Activities (Federal Register, Vol. 65, No. 210, October 30, 2000). The draft permit requires the permittee to develop (or update) and implement a SWPPP with appropriate pollution prevention measures or BMPs designed to prevent pollutants related to storm water from entering Pago Pago Harbor.

D. **Development and Implementation of Pollutant Minimization Plan for Mercury and Total PCBs**

In accordance with section 304(e) of the CWA and 40 CFR 122.44(k)(4), the permittee shall develop and implement a Pollutant Minimization Plan that is consistent with EPA's report, Total Maximum Daily Loads for Mercury and PCBs, and Arsenic Analysis for Pago Pago Harbor, Territory of American Samoa (January 2007). The permittee is required to prepare and implement a Pollutant Minimization Plan that describes BMPs or pollutant prevention measures for the control of mercury and PCBs. A Pollutant Minimization Plan for mercury and PCBs may be combined with a BMP Plan and SWPPP Plan that were described previously so as long as the control of mercury and PCB pollution is addressed. The permittee shall make every effort to identify the sources of these pollutants within the facility and develop a plan to minimize their entry into the

facility's wastewater and subsequent discharge to the receiving water. The goal of the Pollutant Minimization Plan shall be to reduce the loading of mercury and PCBs from the facility.

E. **Receiving Water and Sediment Monitoring**

This permit does not require ambient water column or sediment monitoring at this time. Most shipyard permits do require sediment monitoring. However, in this case EPA has decided to wait until federal or local sediment criteria is adopted or until a harbor wide water quality study can be undertaken. At that time, this permit may be reopened for the imposition of ambient water and/or sediment monitoring requirements. High levels of metals (copper, arsenic, lead) have previously been found in sediment, fish tissue and the water column offshore of the railway as reported in:

Draft Report for Human Health Risk Assessment for Consumption of Fish and Shellfish Contaminated with Heavy Metals and Organochlorine Compounds in American Samoa, February 1994, and *A Preliminary Toxicity Study of Water, Sediment and Fish Tissues from Inner Pago Pago Harbor in American Samoa*, 1991.

F. **Spill Prevention, Control, and Countermeasure (SPCC) Plan**
Facilities that store oil, including waste oil, are required under 40 CFR §112.3 and §112.7 to develop a Spill Prevention Control and Countermeasure Plan. As the permitee agreed, in response to EPA's 2003 and 2005 enforcement orders, no longer to accept waste oil or store oil on site, the permitee is not required to develop an SPCC plan at this time.

PART XI - OTHER CONSIDERATIONS UNDER FEDERAL LAW

A. **Threatened and Endangered Species**

Section 7 of the Endangered Species Act of 1973 (16 U.S.C. § 1536) requires federal agencies to ensure that any action authorized, funded, or carried out by the federal agency does not jeopardize the continued existence of a listed or candidate species, or result in the destruction or adverse modification of its habitat. Pago Pago Harbor is considered an embayment that is generally used for recreational and subsistence fishing, boating and mooring activities, aesthetic enjoyment, support and propagation of marine life, industrial water supply, etc. On December 10, 2007, EPA requested informal consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (collectively referred to as "the Services") to identify any federally listed, proposed and candidate endangered or threatened species and designated and proposed critical habitats that occur in Pago Pago Harbor or in the vicinity of the effluent discharge. As specified in **Table 19**, the U.S. Fish and Wildlife Service and National Marine Fisheries Service provided a list of endangered and threatened species under their jurisdiction that may be present in the vicinity of the effluent discharged to Pago Pago Harbor. No additional marine species are proposed or are candidates for listing at this time, and no critical habitat has

been designated or proposed for any marine protected species around Tutuila, American Samoa.

Table 19. - List of endangered or threatened species that may occur near the discharge outfalls from the MYD Samoa, Inc. facility.

ESA Endangered or Threatened Species	Activity
Endangered humpback whale *(Megaptera novaeangliae)*	Feeding/Swimming
Endangered hawksbill turtle *(Eretmochelys imbricata)*	Feeding/Swimming
Threatened green sea turtle (*Chelonia mydas*)	Feeding/Swimming

The effluent discharged from the facility is characterized as storm water associated with industrial activity. EPA believes that the technology and water quality-based effluent limits in the draft permit will not affect the humpback whale (*Megaptera novaeangliae*), hawksbill turtle (*Eretmochelys imbricate*), or green sea turtle (*Chelonia mydas*). According to the National Marine Fisheries Service, humpback whales only occasionally enter Pago Pago Harbor, and only during their annual migration into the region from June to December, with peak abundances in September and October. EPA believes that the proposed effluent limitations and permit conditions also will not affect the availability or distribution of prey species or produce undesirable aquatic life within Pago Pago Harbor that may directly impact the humpback whale, hawksbill or green sea turtle. As previously described, technology-based effluent limitations are based on BPJ and numerical and narrative water quality-based effluent limitations proposed in the draft permit are based on ASWQS for the protection of aquatic life uses; and in some cases more stringent criteria for the protection of human health. Therefore, EPA has determined that reissuance of the NPDES permit for the MYD Samoa, Inc. facility will not affect listed species, such as humpback whales or hawksbill and green sea turtles, or critical habitat.

EPA provided the Services with copies of this fact sheet and the draft permit during the public notice period. No additional comments were received from the Services regarding this determination prior to issuance of the final permit.

B. **Coastal Zones**

The Coastal Zone Management Act ("CZMA") requires that Federal activities and licenses, including Federally permitted activities, must be consistent with an approved state Coastal Management Plan (CZMA Sections 307(c)(1) through (3)). Section 307(c) of the CZMA and implementing regulations at 40 CFR 930 prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State (or Territory) Coastal Zone Management program, and the State (or Territory) or its designated agency concurs with the certification. On June 17, 2010, the American Samoa Coastal Zone Management Program granted general concurrence with EPA NPDES permit renewal actions.

C. **Essential Fish Habitat**

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act ("MSA") set forth a number of new mandates for the National Marine Fisheries Service, regional fishery management councils and other federal agencies to identify and protect important marine and anadromous fish species and habitat. The MSA requires Federal agencies to make a determination on Federal actions that may adversely impact Essential Fish Habitat ("EFH"). The Pago Pago Harbor contains EFH that includes coral reef ecosystems and habitats for precious corals, crustaceans, and the production of eggs and larvae of tropical fish species (NOAA 2007). Since effluent limitations in the permit are based on BPJ and water quality standards, EPA has determined that there will be no adverse impacts to the marine environment, including EFH and sensitive marine species and habitats from the issuance of the MYD Samoa, Inc. NPDES permit. On May 15, 2007, EPA requested a general concurrence from the National Marine Fisheries Service for EPA NPDES permitting activities in the Pacific Islands and is currently awaiting a response.

EPA provided the National Marine Fisheries Service with copies of this fact sheet and the draft permit during the public notice period. No comments were received from the National Marine Fisheries Service regarding the above determination prior to issuance of the final permit.

D. **Impact to National Historic Properties**

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effect of their undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. Pursuant to the NHPA and 36 CFR § 800.3(a)(1), USEPA is making a determination that issuing this proposed NPDES permit does not have the potential to affect any historic properties or cultural properties. As a result, Section 106 does not require USEPA to undertake additional consulting on this permit issuance.

PART XII - ADMINISTRATIVE INFORMATION

A. **Public Notice**

In accordance with 40 CFR 124.10, the EPA Director shall give public notice that a proposed permit has been prepared under 40 CFR 124.6(d) by mailing a copy of the notice to the permit applicant and other federal and state agencies, and through publication of a notice in a daily or weekly newspaper within the area affected by the facility. The public notice shall allow at least 30 days for public comment on the draft permit.

B. **Public Comment Period**

In accordance with 40 CFR 124.11 and 12, during the public comment period, any interested person may submit written comments on the proposed permit and may request a public hearing, if no hearing has already been scheduled. A request for public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. In accordance with 40 CFR 124.13, all persons must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period.

Comments must be submitted either in person or mailed to:

Pacific Islands Office (CED-6)
EPA Region IX
75 Hawthorne Street
San Francisco, California 94105

Director
ASEPA
P.O. Box PPA
Pago Pago, American Samoa 96799

Interested persons may obtain further information, including copies of the permit application, fact sheet, and proposed permit, by contacting Mr. Carl Goldstein at the EPA Region IX address listed above. Copies of the Administrative Record (other than those which EPA Region IX maintains as confidential) are available for public inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (excluding federal holidays).

C. **Public Hearing**

In accordance with 40 CFR 124.12, the EPA Director shall hold a public hearing whenever she finds, on the basis of requests, a significant degree of public interest in the draft permit. The Director may also hold a public hearing when, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of such hearing shall be given as specified in 40 CFR 124.10. At this time, no public hearing has been scheduled on this permitting action.

D. **Territorial Certification**

In accordance with 40 CFR 124.53, under section 401 of the CWA, EPA may not issue a permit until certification is granted or waived in accordance with that section by the State or Territory in which the discharge originates. Territorial certification under section 401 of the CWA shall be in writing and shall include the conditions necessary to assure compliance with referenced applicable provisions of sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of Territory law. On [DATE],

ASEPA certified that the permittee's discharge was found to be consistent with the protected uses of Pago Pago Harbor, as stated in ASWQS and the CWA. Further, ASEPA determined that there is reasonable assurance that the discharge will not cause violations of ASWQS.

PART XIII - REFERENCES

American Samoa Water Quality Standards, 2005 revision, American Samoa Government Administrative Rule No. 006-2005, Section 24.0201 through Section 24.0211.

Best Management Practices Guidance Document for the Shipbuilding and Repair Industry. Task #N1-89-3. NASSCO, San Diego, CA: January 1992.

California Ocean Plan, State Water Resources Control Board of California, California Environmental Protection Agency, 2005; accessed May 2010 at http://www.swrcb.ca.gov/water_issues/programs/ocean/docs/oplans/oceanplan2005.pdf

Department of the Navy, Pearl Harbor NSY and IMF Instruction 5090.5A, dated 21 August 2002

EPA, 1990. NPDES Permit Rating Worksheet. Prepared by EPA, Office of Water Enforcement and Permits, July 1 1990,

EPA. 1991a. Technical Support Document for Water Quality-based Toxics Control. Prepared by EPA, Office of Water Enforcement and Permits, March 1991. EPA/505/2-90-001.

EPA 1991b Guides to Pollution Prevention -- The Marine Maintenance and Repair Industry. EPA/625/7-91/015, Washington, DC: October 1991.

EPA, 1997, NPDES inspection report for Southwest Marine of Samoa, Inc, NPDES Permit AS00200036, prepared by inspector Mike Lee. February 10, 1997.

EPA. 2003. Fact Sheet for Southwest Marine of Samoa, Inc. for reissuance of NPDES Permit No. AS0020036. Prepared by EPA Region IX.

EPA, 2008a, NPDES permit HI0110230, U.S. Department of the Navy Pearl Harbor Naval Shipyard and Intermediate Maintenance Facility, issued March 25, 2008

EPA, 2008b. Multi-Sector General Permit for Stormwater Dischargers Associated With Industrial Activity (MSGP), Part 8, subpart R: Ship and Boat Building and Repair Yards. Prepared by EPA, Office of Wastewater Management, issued September 2008. Accessed May 2010 at http://cfpub.epa.gov/npdes/stormwater/msgp.cfm

EPA, 2008c, Finding of Violation and Administrative Order to MYD Samoa, Inc, EPA Docket no. CWA-309(a)-08-040, September 19, 2008

NOAA. 2007. Letter from National Oceanic Atmospheric Administration, National Marine Fisheries Service, to EPA Region IX, dated March 15, 2007.