



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX – PACIFIC SOUTHWEST REGION
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San Francisco, CA 94105-3901**

Sherri Eng, Director
Navy Region Hawaii
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JBPHH, Hawaii 96860-5101
Sent via email only sherri.r.eng.civ@us.navy.mil

RE: Notice of Intent to Seek Federal Facilities Compliance Agreement for Clean Water Act Violations with the Department of Navy, Navy Region Hawaii (NRH)

Dear Director Eng:

The U.S. Environmental Protection Agency, Region 9 (EPA) seeks to enter into a Federal Facilities Compliance Agreement (FFCA) with the Department of the Navy, Navy Region Hawaii (NRH or Permittee) pursuant to the Clean Water Act (CWA), 33 U.S.C. §§ 1251-1387 and Executive Order No. 12088. The FFCA would ensure that NRH achieves and maintains full compliance with all applicable federal, state, and local laws and regulations governing the discharge of pollutants into waters of the United States from the Joint Base Pearl Harbor-Hickam (JBPHH) Small Separate Storm Sewer System (Small MS4 or MS4) located on the island of Oahu, Hawaii. The Permittee is authorized to discharge from the Small MS4 under National Pollutant Discharge Elimination System (NPDES) Permit No. HI S000257¹ (Permit) issued by the Hawaii Department of Health (DOH) in compliance with Section 402(p) of the CWA and Hawaii Revised Statutes, Chapter 342D and Hawaii Administrative Rules, Chapters 11-54 and 11-55.

EPA is seeking this FFCA after finding NPDES Permit violations by NRH in its implementation of the Illicit Discharge Detection and Elimination (IDDE) Program, the Construction Site Runoff Program, and the Post-Construction Storm Water Management in New Development and Redevelopment Program all under Part D of the Permit. These violations are documented in an Audit Report detailing the observations of EPA and DOH from August 9 through August 11, 2021, of NRH's implementation of certain Permit requirements at the Facility.

Specifically, as detailed in the Audit Report, EPA found the NRH IDDE Program is inadequate as NRH failed to sufficiently: 1) Explain the process for detecting and eliminating illicit connections and illegal discharges into the MS4 from residential areas; 2) Require and document approval for a connection to the MS4; 3) Maintain a database of all approved connections to the MS4; 4) Create a current and accurate geographic information system (GIS) map; 5) Provide comprehensive documentation that outfall inspections are conducted during wet weather events; 6) Create a process for designating priority areas for screening for illicit discharges; 7) Maintain an illicit discharge monitoring and

¹ In addition to the Small MS4 owned and operated by the Permittee, the Permit also authorizes discharges from various Navy industrial facilities within Joint Base Pearl Harbor-Hickam, which collectively makes up the Facility. The FFCA addresses compliance for discharges of storm water runoff from the non-industrial portions of the Facility such as administrative buildings, roads, parking lots, and other municipal type discharges, that are subject to federal regulation under small MS4 requirements consistent with CWA Sections 402(p)(3) and (6) and 40 C.F.R. §§ 122.26(b) and (d)(2)(iv).

tracking database to track outfall and collection system inspections and illicit discharges and spills; 8) Create a standardized process or documentation method to ensure all complaints are responded to as soon as practicable but within 12 hours of receiving the complaint; 9) Develop and implement a formal spill prevention and response program; 10) Develop or implement a program to facilitate the proper management and disposal or recycling of used oil, vehicle fluids, toxic materials, and other household hazardous wastes; 11) Follow standardized enforcement procedures for responding to or correcting illicit discharges and ensure the elimination of all identified illicit discharges; and 12) Provide annual training to staff responsible for identifying and eliminating illicit connections, illegal discharges, and spills to the MS4.

EPA also found NRH in violation of the Construction Site Runoff Program Permit requirements by failing to consistently track information for construction sites and failing to implement policies for enforcement and penalties for those in noncompliance with the requirements for the construction site management program. NRH also failed to develop or implement an Emergency Response Plan (ERP) and failed to provide annual training on erosion and sediment control Best Management Practices (BMPs) to facility personnel and contractors with responsibilities directly related to construction stormwater and conducting plan reviews.

Additionally, EPA found NRH violated the Permit's Post-Construction Storm Water Management in New Development and Redevelopment Program requirements by failing to implement and enforce a Post-Construction Stormwater Management program to address stormwater runoff from all projects that result in a land disturbance of one acre or more and smaller projects that have the potential to discharge pollutants to the MS4. NRH also failed to review and approve project designs that included Low Impact Development (LID) BMPs and failed to review and approve project designs before implementation. NRH failed to ensure that permanent controls are in place to prevent or minimize water quality impacts to the maximum extent possible (MEP) at projects of any size that have the potential to impact water quality and failed to update and maintain a BMP, Operation and Maintenance, and Inspection Database and to create a process to ensure the proper operation and maintenance of all post construction BMPs. Similarly, NRH failed to provide education and outreach materials for the parties with project design and construction stormwater responsibilities on the selection design, installation, operation and maintenance of stormwater BMPs, structural controls, post construction BMPs, and LID practices. Finally, NRH failed to provide annual training to permittee personnel and contractors responsible for inspecting permanent post-construction BMPs and LID practices.

NRH is required to be in compliance with its NPDES Permit, which will require the development of a GIS-based asset management system, an outfall field screening plan, and Facility-specific construction and post-construction storm water control manuals, as well as conducting training and outreach, storm sewer system inspections, post-construction BMP inspections, retrofits of certain completed projects, and long-term operation and maintenance of post-construction BMPs. EPA is willing to work with NRH to ensure timely and consistent compliance. To do so, EPA seeks to enter into an FFCA with NRH that outlines the steps necessary to meet legal requirements and avoid further non-compliance. By this letter, EPA is transmitting a draft FFCA for your prompt review. After NRH has had a month to review the draft FFCA, EPA proposes that we meet the week of April 21, 2025, to discuss the terms and answer any questions.

If you have any immediate questions regarding this draft FFCA, please contact Andrew Zellinger at (415) 972-3093 or by email at Zellinger.andrew@epa.gov, or have your counsel contact Sara

Goldsmith in our Office of Regional Counsel at (415) 972-3931 or by email at Goldsmith.Sara@epa.gov. My staff will be in touch soon to schedule a convenient time to meet next month.

We acknowledge that NRH has made significant efforts to return to compliance with the Permit and we are available to discuss which Permit violations may have been addressed by NRH actions taken after EPA issued the Audit Report in November 2021. We appreciate your cooperation and prompt attention to this matter.

Sincerely,

**JAMES
MARINCOLA**

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Date: 2025.03.21 15:43:41
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Jamie Marincola
Stormwater, Wetlands, and Oil Supervisor
Enforcement and Compliance Assurance Division

Enclosure:
Draft FFCA

cc: *(sent via email only)*
Bobbie Teixeira, Hawaii Department of Health, Clean Water Branch