



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

April 14, 2022

Rear Admiral Timothy J. Kott  
Joint Base Pearl Harbor Hickam  
Commander, Navy Region Hawaii  
850 Ticonderoga St, Ste. 110  
Pearl Harbor, HI 96860-5101  
[timothy.j.kott@navy.mil](mailto:timothy.j.kott@navy.mil)

RE: Joint Base Pearl Harbor-Hickam – Facility Response Plan Significant and Substantial Harm Determination

Dear Admiral Kott,

During the week of February 28, 2022, the U.S. Environmental Protection Agency (EPA) Region 9 conducted an inspection at the Joint Base Pearl Harbor-Hickam (JBPHH) facility (Facility) to determine the Navy's compliance with Section 311 of the Clean Water Act (CWA), 33 U.S.C. § 1321, and the Spill Prevention, Control, and Countermeasure and Facility Response Plan (FRP) requirements in Title 40 of the Code of Federal Regulations, Part 112, also known as the Oil Pollution Prevention (OPP) regulations.

As part of the inspection, EPA requested, and the Navy submitted, a copy of the FRP for the JBPHH Facility. The FRP required information is contained in the broader Integrated Contingency Plan, dated August 2018. The ICP lacks the required certification that documents and ensures, by contract or other approved means, the availability of personnel and equipment necessary to respond, to the maximum extent practicable, to a worst-case discharge or a substantial threat of such a discharge as required by 40 C.F.R. §§ 112.20 -112.21 and Appendix F. The certification is necessary for continued operation of the JBPHH Facility pending EPA approval of the FRP. *See* 33 U.S.C. § 1321(j)(5)(G). Accordingly, the Navy must submit a signed and certified response plan cover sheet to EPA as quickly as possible, but no later than April 29, 2022.

EPA must approve the FRP for the JBPHH Facility because it has determined the JBPHH Facility could reasonably be expected to cause "significant and substantial harm to the environment by discharging oil into or upon navigable waters or adjoining shorelines," pursuant to 40 C.F.R. § 112.20(c) and the criteria outlined in 40 C.F.R. § 112.20(f)(3). *See* 40 C.F.R. § 112.20(c)(3). The basis for this determination is that the JBPHH Facility conducts over-water transfers to or from vessels and there is an aggregate oil storage capacity of 42,000 gallons or more at the JBPHH Facility. 40 C.F.R. § 112.20(f)(1)(i); *see also* 59 Fed Reg. 34070, 34081 (July 1, 1994).

EPA is currently reviewing the Navy's FRP and will communicate any compliance concerns identified to the Navy. Please note that EPA will not provide final approval of the Navy's FRP until all compliance concerns are resolved.

All submittals should be sent directly to Mr. Ben Castellana at [castellana.ben@epa.gov](mailto:castellana.ben@epa.gov), with a copy to Mr. Pete Reich at [reich.peter@epa.gov](mailto:reich.peter@epa.gov).

If you have any questions concerning this letter, please contact Ben Castellana at (562) 305-0694, or Pete Reich at (415) 972-3052.

Sincerely,

Michael Montgomery, Director  
Superfund and Emergency Management Division

cc: Kathleen Ho, Deputy Director, Hawaii Department of Health  
Karnig Ohannessian, U.S. Navy