



REGION 9 ADMINISTRATOR

SAN FRANCISCO, CA 94105

December 12, 2024

Via email only

Community Representation Initiative Members
Honolulu, Hawaii

Re: Denial of the Community Representation Initiative December 2, 2024 Letter
Requesting Amendment 1 to the 2023 Administrative Consent Order

Dear Community Representation Initiative Members:

Thank you for your December 2, 2024 Letter regarding Amendment 1 to the 2023 Administrative Consent Order (2023 ACO). The Environmental Protection Agency (EPA) Region 9 greatly values the input of the Community Representation Initiative (CRI) members on the work being implemented by the Navy and the Defense Logistics Agency (DLA) pursuant to the 2023 ACO with oversight by EPA Region 9.

The CRI was created in response to comments on the 2023 ACO to facilitate communication with a consistent and focused group of individuals to talk through any challenges and provide input on 2023 ACO decisions in a productive setting. The CRI meetings have made valuable contributions regarding defueling, closure, and drinking water work being conducted pursuant to the 2023 ACO. I, and the EPA Region 9 Red Hill Team, greatly appreciate and support the CRI and would like for it to continue in a productive and constructive manner.

Section 22.(b) of the 2023 ACO does not require EPA, the Navy, or DLA to seek public comments on Amendment Number 1 under the 2023 ACO and EPA is not willing to do so in response to the CRI's December 2, 2024 Letter.

The December 2, 2024 Letter claims that EPA violated various provisions of the Administrative Procedure Act (APA) with Amendment Number 1 of the 2023 ACO. The Letter also requests that EPA "cease and desist from promulgating the rule changes" in Amendment Number 1.

The procedures and protocols for conducting the community meetings with the CRI and the Community Engagement Plan pursuant to the 2023 ACO are not rules under the APA nor are they are subject to the APA requirements for notice and comment rulemaking. Amendment Number 1 is final,

did not require a new public comment period pursuant to Section 22.(b.) of the ACO, and is not a rulemaking subject to the APA. If the CRI members are not willing to participate in the CRI meetings pursuant to the procedures and protocols in the Ground Rules, then the Navy and DLA do not have to attend future CRI meetings.

The December 2, 2024 Letter was not a petition for rulemaking under the APA, 5 U.S.C. 553(e). This response is not final agency action on an APA petition. This response does not prevent the CRI members from filing a separate petition for rule making under the APA.

Thank you for discussing your concerns with us and your willingness to participate in this month's CRI Meeting in accordance with the Ground Rules. I hope that the CRI members will continue to have CRI Meetings with the Navy, DLA, and EPA pursuant to the 2023 ACO.

Sincerely,

Aceves,
Martha

Digitally signed by
Aceves, Martha
Date: 2024.12.12
17:55:39 -08'00'

Martha Guzman
Regional Administrator

cc: Karnig H. Ohannessian, U.S. Department of Defense
Brad Bunn, Defense Logistics Agency