

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

75 Hawthorne Street
San Francisco, California 94105

IN THE MATTER OF:

) Docket No. SDWA-UIC-AOC-09-2017-0002

County of Hawai'i

**EPA'S RESPONSES
TO PUBLIC COMMENTS**

I. SUMMARY

On July 21, 2022, the U.S. Environmental Protection Agency (“EPA”) Region IX proposed issuance of a revised administrative order on consent (“Proposed Order”) pursuant to Section 1423(c) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2(c), to the County of Hawai'i (“COH”) for violating the SDWA’s Underground Injection Control (“UIC”) Program prohibition of Large Capacity Cesspools (“LCCs”) set forth at 40 C.F.R. § 144.88. COH currently owns and/or operates five LCCs in violation of that prohibition, which required all LCCs to be closed by April 5, 2005. The Proposed Order requires COH to come into compliance with SDWA by closing the LCCs and evaluating feasible alternatives that will ensure proper treatment for the wastewater streams currently being disposed of at the LCCs.

EPA provided the public with an opportunity to comment on the Proposed Order, the terms of which were agreed upon by EPA and COH, in accordance with Section 1423(c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). The public comment period on the Proposed Order began on Thursday, July 21, 2022 and closed on Monday, August 22, 2022. EPA announced the public comment period through a public notice published on the EPA Region IX website.¹ The public notice stated that “persons wishing to comment upon the Proposed Order are invited to submit comments by mail or e-mail to the EPA Region IX Enforcement and Compliance Assurance Division, to the attention of Jelani Shareem, Enforcement Officer . . . within 30 days of the date of this public notice.” The public notice also stated that “[a]ll comments received within this 30-day period will be considered prior to the issuance of a Final Order.”

During the comment period, EPA received comments by email from one individual. EPA is responding to the comments from the individual, designated by the individual’s initials:

1. S.H., resident, Kailua-Kona

¹ A version is available at: <https://www.epa.gov/publicnotices/proposed-revision-2017-administrative-order-consent-county-hawaii-docket-no-sdwa-uic> (last visited August 17, 2020).

EPA’s response to the comments on the Proposed Order received by the EPA Region IX Enforcement and Compliance Assurance Division pursuant to the July 21, 2022 public notice are set forth in the following section.

II. EPA’S RESPONSE TO PUBLIC COMMENTS RECEIVED IN RESPONSE TO JULY 21, 2022 PUBLIC NOTICE

1. S.H.

S.H. is a resident of Kailua-Kona and provided his comments to EPA via e-mail dated Monday, August 15, 2022.

Comment 1

Commenter suggests COH investigate cost effective wastewater technologies that would provide significant cost savings to COH and the communities.

Response 1

The UIC Program regulations required closure of all LCCs by April 5, 2005, and Respondent failed to meet this deadline for the two LCCs currently serving the Community of Pāhala and the three LCCs currently serving the Community of Nā’ālehu. The Proposed Order has a schedule for closure of the LCCs, which is what is necessary for Respondent to come into compliance with the UIC requirements. However, the Proposed Order also has a process for the selection of replacement wastewater systems for the LCCs, a necessity given the number of residences currently serviced by the illegal LCCs.

As part of the closure of the LCCs, the Proposed Order requires COH to evaluate the feasibility of alternatives that would provide wastewater treatment to at least 368 properties. The alternatives to be evaluated include, but are not limited to, package plants and new collection systems, package plants connected to the existing collection systems, a maintenance contract model individual wastewater system program and an operating permit model individual wastewater system program for both communities.

In addition, the Proposed Order also requires COH to conduct public outreach efforts that will provide the public with multiple opportunities to provide input on other alternatives that COH should consider evaluating.

The ultimate selection of the appropriate replacement system will be the decision of COH, based upon the feasibility analysis, environmental review, comments from the public, and other factors. As such, the comment is not relevant to the fundamental focus of the Proposed Order, closure of the LCCs, and can be raised again during COH’s public comment period on the potential alternative replacement wastewater systems.

Comment 2

Commenter suggests COH consider low pressure sewer lines rather than gravity lines to reduce trenching costs.

Response 2

As discussed above, the Proposed Order requires the COH to come into compliance with the SDWA by closing the LCCs currently serving the communities of Pāhala and

Nā‘ālehu. The Proposed Order requires COH to evaluate the feasibility of multiple collection system options, including but not limited to package plants connected to new collection systems, and package plants connected to the existing collection systems. As such, the comment is not relevant to the fundamental focus of the Proposed Order, which is closure of the LCCs, and can be raised again during COH’s public comment period on the potential alternative replacement wastewater systems.

Comment 3

As a means to reduce cost and create a revenue stream to better support operations and maintenance, Commenter suggests COH evaluate the feasibility of extending service to homeowners on private cesspools in addition to those presently connected to the gang cesspools.

Response 3

As discussed above, the Proposed Order requires the COH to come into compliance with the SDWA by closing the LCCs currently serving the communities of Pāhala and Nā‘ālehu. In order to close the LCCs, the Proposed Order requires COH to evaluate the feasibility of a variety of alternatives that would provide wastewater treatment to at least 368 properties, therefore the comment is simply a restatement of what is already required by the Proposed Order.

Comment 4

Commenter urges consideration of water recycling and other obligations under the Clean Water Act, Public Trust Doctrine, and State water code.

Response 4

As discussed above, in order to close the LCCs the Proposed Order requires COH to evaluate the feasibility of a variety of alternatives that would provide wastewater treatment to at least 368 properties. The Proposed Order also requires COH to conduct public outreach efforts that will provide the public with multiple opportunities to provide input on other alternatives that COH should consider evaluating.

III. Revisions to Proposed Order

EPA has considered the comments submitted and has determined for the reasons set forth herein that none of the comments support revisions to the Proposed Order. The views expressed in the comments are not inconsistent with the Proposed Order and the comments contain details that can be raised during COH’s initial public outreach proceedings. Since the comments received do not raise issues that require revisions to the Proposed Order, EPA will be issuing the revised administrative order on consent as proposed.