



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C. 20460

Office of Environmental Justice and External Civil Rights
Office of External Civil Rights Compliance

February 22, 2023

In Reply Refer to:

EPA File No: 01R-22-R1

Gary Moran
Acting Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Second Floor
Boston, MA 02108
gary.moran@mass.gov

RE: Informal Resolution/Tolling of Preliminary Findings Timeframe

Dear Acting Commissioner Moran:

This letter concerns EPA Complaint No. 01R-22-R1, which was accepted for investigation against the Massachusetts Department of Environmental Protection (MassDEP) on December 5, 2022. The Office of External Civil Rights Compliance (OECRC)¹ is required by regulation to seek cooperation with Recipients in securing compliance with 40 C.F.R. Parts 5 and 7 through informal and voluntary means.² OECRC representatives described the process of developing and executing an Informal Resolution Agreement (IRA) to MassDEP's General Counsel on December 13, 2022. On December 19, 2022, MassDEP's General Counsel informed OECRC that MassDEP agrees to engage in negotiations toward the execution of an IRA. Subsequently, OECRC received a formal correspondence from Commissioner Martin Suuberg on December 30, 2022, affirming MassDEP's agreement to initiate the IRA process. OECRC, therefore, has suspended its 180-day timeframe for issuing Preliminary Findings (40 C.F.R. § 7.115(c)(1)) for the duration of the IRA process. OECRC will ensure that this process occurs without undue delay.

The goal of the IRA negotiation process is to reach an agreement between MassDEP and OECRC that resolves the issues accepted for investigation. If MassDEP and OECRC fail to reach an informal resolution agreement, OECRC will notify you and the Complainant of that fact and resume the process for issuing preliminary findings.³ To facilitate the informal resolution

¹ On September 24, 2022, EPA announced the establishment of the Office of Environmental Justice and External Civil Rights (OEJECR) into which ECRCO was reorganized and renamed the Office of External Civil Rights Compliance (OECRC). OECRC continues to enforce and ensure compliance with federal civil rights laws which prohibit discrimination by applicants for and recipients of federal financial assistance from EPA.

² See 40 C.F.R. § 7.105 (EPA "shall seek the cooperation of applicants and recipients in securing compliance with" 40 C.F.R. Part 7); and 7.120(d)(2) (EPA "shall attempt to resolve complaints informally whenever possible.").

³ See 40 C.F.R. § 7.115(c). In the event OECRC and TCEQ cannot reach an Informal Resolution Agreement, OECRC will resume the process for issuing preliminary findings within 180 days of the start of the investigation – excluding the period spent in the informal resolution agreement process.

agreement process, we will continue to engage with MassDEP, as well as the Complainant, to gather the necessary facts and information, including requesting your assistance in accessing pertinent records, arranging interviews of witnesses. Engagement during the IRA negotiation process may also include EPA facilitated meetings between MassDEP and the complainant.

If you have questions about this letter, please feel free to contact me by email at hoang.anhthu@epa.gov, or Suong Vong, Case Manager, at vong.suong@epa.gov.

Sincerely,

ANHTHU
HOANG

Digitally signed by
ANHTHU HOANG
Date: 2023.02.18
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Anhthu Hoang, Acting Director
Office of External Civil Rights Compliance
Office of Environmental Justice and External Civil Rights

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