



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Transmitted via Certified Mail, Electronic Mail to basil.seggos@dec.ny.gov and
Facsimile to 518-402-9016

April 22, 2016

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

Certified Mail#: 7015 1520 0002 0019 2373

In Reply Refer to:

25TA-16-R2

Basil Seggos, Acting Commissioner
New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233-1011

Re: Technical Assistance Regarding NYSDEC's Compliance with EPA's Administrative Program Requirements, 40 C.F.R. Part 7

Dear Commissioner Seggos:

This letter is issued to New York State Department of Environmental Conservation (NYSDEC) in conjunction with the Letter of Closure of Administrative Complaint to NYSDEC, dated April 22, 2016 ("Letter of Closure"). The Letter of Closure relates to OCR's inquiry into the administrative complaint submitted to the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) by United States Congressman José E. Serrano on behalf of his constituents in the South Bronx area of New York City, dated May 26, 1998, supplemented on December 23, 1998, and on May 16, 1999 ("Administrative Complaint"). See EPA OCR File Number 10R-98-R2.

As stated in the Letter of Closure, EPA closed the referenced Administrative Complaint with no determination of discrimination in violation of Title VI of the Civil Rights Act of 1964, based on the issues addressed specifically in the Letter. Our determination is not intended and should not be construed to cover any other issues that may exist and are not specifically addressed in the Letter of Closure. In addition to closing the Administrative Complaint, we noted OCR's willingness to provide technical assistance regarding recipients' compliance with federal non-discrimination obligations.

In particular, EPA's non-discrimination regulations, at 40 C.F.R. Part 7, contain important fundamental elements that are legally required of a recipient's non-discrimination program. Recipients must:

- Designate at least one person to coordinate efforts to comply with federal non-discrimination laws and regulations.¹
- Adopt grievance procedures that assure the prompt and fair resolution of complaints alleging discrimination violations.²
- Provide initial and continuing notice of non-discrimination. At a minimum, this notice must be posted in a prominent place in the recipient's office.³
- Collect, maintain,⁴ and provide to OCR and the public, upon request, compliance information,⁵ including providing assistance in obtaining information that is in the possession of other agencies, institutions, or persons not under the recipients' control (including, for example, information in the hands of subrecipients).⁶
- Self-evaluate administrative policies and practices within the recipients' program to consider whether such policies and practices involve disability discrimination.⁷
- Prohibit intimidation and retaliation.⁸

Discrimination complaints and violations of non-discrimination laws and regulations can be based entirely on a recipient's failure to abide by these administrative requirements and the procedural aspects of the recipient's program, including providing meaningful access to its programs and activities for limited-English proficient (LEP) individuals and individuals with disabilities.

During its inquiry into the Administrative Complaint, OCR identified potential concerns regarding NYSDEC's compliance with one or more of the administrative program requirements of the EPA non-discrimination regulations outlined above. We would like the opportunity to discuss this matter with you further, answer any questions you may have and provide NYSDEC technical assistance with respect to NYSDEC's non-discrimination program and its compliance with federal non-discrimination laws and regulations. In addition, we would like to agree upon a

¹ 40 C.F.R. § 7.85(g): "If the recipient employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under this part."

² 40 C.F.R. § 7.90(a). This legal requirement applies to recipients with 15 or more full-time employees. *Id.* at § 7.90(b).

³ 40 C.F.R. § 7.95 (a).

⁴ 40 C.F.R. § 7.85(e).

⁵ 40 C.F.R. §§ 7.85(a), (b), (f)(1), (2) and (3).

⁶ 40 C.F.R. § 7.85(f)(3).

⁷ 40 C.F.R. § 7.85(c).

⁸ 40 C.F.R. § 7.100.

timeline by when NYSDEC will take any actions needed to address any deficiencies in NYSDEC's compliance with EPA's non-discrimination administrative requirements.

Please contact me at 202-564-5757 by Friday, May 6, 2016, to schedule a teleconference to discuss this matter. If no reply is received by then, Kurt Temple, who serves as my Senior Advisor on External Compliance, will contact you to arrange a mutually-agreeable date and time to meet. If you would like to designate someone to handle coordination of our meeting, please provide that individual's name, title and contact information. OCR appreciates your cooperation, and my staff and I look forward to working with you.

Sincerely,



Velveta Golightly-Howell
Director
Office of Civil Rights

cc: Catherine McCabe,
Deputy Regional Administrator
U.S. EPA Region 2

Richard Manna
Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 2

Elise Packard
Associate General Counsel
Civil Rights and Finance Law Office