



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D C. 20460

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

December 22, 2022

In Reply Refer To:

EPA File No. 01CR-22-R8

Jill Hunsaker Ryan
Executive Director
Colorado Department of Public Health and Environment
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Trisha Oeth
Director, Environmental Health and Protection
Colorado Department of Public Health and Environment
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Re: Review of Civil Rights Compliance – EPA No. 01CR-22-R8

Dear Executive Director Ryan and Director Oeth:

On March 18, 2022, EPA’s Office of External Civil Rights Compliance (OECRC)¹ issued a letter to the Colorado Department of Public Health and Environment (CDPHE) notifying CDPHE of OECRC’s intent to conduct a compliance review to ensure that CDPHE’s methods of administering its Clean Air Act program comply with federal civil rights laws. OECRC also explained that, as part of its national responsibilities, OECRC conducts periodic compliance reviews of the programs and activities of recipients of EPA financial assistance in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.* (Title VI), and EPA’s nondiscrimination regulation, at 40 C.F.R. Parts 5 and 7, specifically, 40 C.F.R. Section 7.115. OECRC further stated its intention to engage with members of the North Denver community and other members of the public to hear their perspectives on environmental, human health and

¹ On September 24, 2022, EPA announced the establishment of the [Office of Environmental Justice and External Civil Rights](#) (OEJECR). The new Office includes the External Civil Rights Compliance Office, which was 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 EPA financial assistance. OECRC carries out this responsibility in accordance with the procedures described in the [Case Resolution Manual](#).

equity issues to inform the scope of the civil rights compliance review.

OECRC has now completed that initial community engagement and other preliminary information-gathering. Based on information gathered to date, the scope of OECRC's review will focus on CDPHE's criteria and methods of administering its Clean Air Act Title V operating permit program and Title I minor New Source Review (NSR) program, specifically focusing on whether CDPHE's combined permit program and related approaches to regulating air emissions, comply with Title VI and EPA's implementing regulation at 40 C.F.R. Part 7.

Additionally, OECRC will also review whether CDPHE has and is implementing the procedural safeguards that all recipients of federal assistance must have in place, in accordance with 40 C.F.R. Parts 5 and 7, to comply with their general nondiscrimination obligations. These obligations also include specific policies and procedures to ensure meaningful access to CDPHE's services, programs, and activities for individuals with limited English proficiency (LEP) and individuals with disabilities, and a public participation policy and process that is consistent, including as implemented, with the federal civil rights laws.

The initiation of a compliance review on the issues set forth above is not a decision on the merits. OECRC is a neutral factfinder and will continue to gather relevant information, discuss the matter further with you, engage with communities as appropriate, and determine next steps. As part of the fact-finding for compliance reviews, OECRC requests data and information from recipients and may also conduct an on-site review. *See* 40 C.F.R. § 7.115(a). Additionally, CDPHE will have an opportunity to make a written submission responding to, rebutting, or denying any preliminary findings and/or recommendations made pursuant to 40 C.F.R. § 7.115(c). 40 C.F.R. § 7.115(b)(2).

Please note that EPA's nondiscrimination regulation provides that OECRC shall seek the cooperation of recipients in securing compliance with the requirements of the federal nondiscrimination statutes and EPA's implementing regulations, including through informal resolution. *See* 40 C.F.R. § 7.105. Generally, the fact-finding and resolution options and procedures identified in EPA's nondiscrimination regulation and OECRC's Case Resolution Manual (CRM)² will be utilized for the compliance review process. I invite you to review OECRC's Case Resolution Manual for a more detailed explanation of OECRC's resolution process available at https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

Based on recent conversations between EPA and CDPHE, OECRC recognizes CDPHE's interest and commitment to working with EPA to ensure civil rights compliance as it further develops its environmental justice program and looks forward to working collaboratively with CDPHE during this compliance review. OECRC will contact CDPHE within 10 days of the date of this letter to discuss the compliance review in more detail.

The EPA regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have either taken action or participated in an action to secure rights protected by the civil rights

² https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

requirements that we enforce. See 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with OECRC.

If you have any questions, please feel free to contact me at (212) 637-5033 or by email at hoang.anhthu@epa.gov or Katelyn Liesner, Case Manager, at (202) 564-2035 or by email at liesner.katelyn@epa.gov.

Sincerely,

Anhthu Hoang
Acting Director
Office of External Civil Rights Compliance
Office of Environmental Justice and
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cc: Ariadne Goerke
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