



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D C. 20460

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

April 10, 2023

**In Reply Refer To:**

EPA Complaint Nos. 02DAr-22-R3 and 04Dr-22-R3

Richard Negrin  
Acting Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17101  
rnegrin@pa.gov

**Re: Rejection of Complaints 02DAr-22-R3 and 04Dr-22-R3**

Dear Secretary Negrin:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of External Civil Rights Compliance (OECRC),<sup>1</sup> has completed its jurisdictional review of two complaints you filed against the Pennsylvania Department of Environmental Protection (DEP). Both complaints were received by OECRC on December 20, 2021. OECRC is rejecting these complaints and administratively closing the complaints as of the date of this letter.

Complaint No. 02DAr-22-R3 alleges that DEP's administration of the Oil and Gas Act program<sup>2</sup> subjected two senior citizen landowners of North Branch Township, in Wyoming County, PA (Wyoming Complainants) to discrimination on the basis of disability and age in violation of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq., and EPA's nondiscrimination regulation, 40 C.F.R. Part 7. The Wyoming Complainants also allege that DEP retaliated against them after they filed their investigation request.

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<sup>1</sup> 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.

<sup>2</sup> See: 58 Pa C.S. § 3218 and implementing regulations at 25 Pa Code § 78a.51:

<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/025/chapter78a/s78a.51.html> at 25 Pa Code §§ 78a.51(b) (1)-(5) for the filing requirements. See 25 Pa Code §78a.51(c) for DEP's response requirements.

Pursuant to the Age Discrimination Act, Complainants have a right to file a civil action following the exhaustion of administrative remedies.<sup>3</sup> Under 40 C.F.R. 7.175 (a)(1), “administrative remedies are exhausted” if 180 days have elapsed since the complainant filed the complaint and EPA has made no finding with regard to the complaint.<sup>4</sup>

Complaint No. 04Dr-22-R3 (Susquehanna Complaint) alleges that DEP’s administration of the Oil and Gas Act program<sup>5</sup> subjected three disabled landowners of Bridgewater Township in Susquehanna County, PA (Susquehanna Complainants) to discrimination in violation of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 and EPA’s nondiscrimination regulation, 40 C.F.R. Part 7. The Susquehanna Complainants also allege that that DEP retaliated against them after they filed their investigation request.

Pursuant to EPA’s nondiscrimination regulation, OECRC conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 Code of Federal Regulation (C.F.R.) § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA’s nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA’s nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

OECRC cannot accept these complaints for investigation because they do not meet the jurisdictional requirements described in EPA’s nondiscrimination regulation. Although the complaints are filed in writing and DEP is a recipient of EPA financial assistance, they do not identify a discriminatory act that occurred within 180 days of filing the complaint that, if true, would violate Section 504 of the Rehabilitation Act or the Age Discrimination Act.

EPA’s regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they either have taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100.

If you have questions about this letter, please feel free to contact me at (202) 809-3297, by email at [hoang.anhthu@epa.gov](mailto:hoang.anhthu@epa.gov), or Jonathan Stein, Case Manager, at (202) 564-2088, by email at [stein.jonathan@epa.gov](mailto:stein.jonathan@epa.gov).

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<sup>3</sup> *See* Age Discrimination Act: <https://www.dol.gov/agencies/oasam/regulatory/statutes/age-discrimination-act>. Under Section 6104(f), “With respect to actions brought for relief based on an alleged violation of the provisions of this chapter, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.”

<sup>4</sup> EPA is also providing notice of the following from 40 C.F.R. 7.175(a) and (b) (*see* <https://www.govinfo.gov/content/pkg/CFR-2014-title40-vol1/pdf/CFR-2014-title40-vol1-part7.pdf>).

<sup>5</sup> *Id.*

Sincerely,

ANHTHU  
HOANG

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ANHTHU HOANG  
Date: 2023.04.08  
20:00:37 -04'00'

Anhthu Hoang, Acting Director  
Office of External Civil Rights Compliance  
Office of Environmental Justice & External Civil Rights

cc: Ariadne Goerke  
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