



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C. 20460

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

May 26, 2023

**In Reply Refer to:**

EPA Complaint No: 04R-23-R9

Vanessa Delgado, Chair  
Governing Board  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765  
E-mail: [vdelgado@aqmd.gov](mailto:vdelgado@aqmd.gov)

**RE: REJECTION WITHOUT PREJUDICE OF ADMINISTRATIVE COMPLAINT**

Dear Chair Delgado:

This letter regards U.S. Environmental Protection Agency (EPA) Complaint No. 04R-23-R9 which was filed on behalf of the (b)(6) Privacy, (b)(7)(C) Enf. Privacy Communities for a Better Environment, (b)(6) Privacy, (b)(7)(C) Enf. Privacy, and Sierra Club (Complainants) with the Office of External Civil Rights Compliance (OECRC)<sup>1</sup> on March 6, 2023. The complaint alleges that South Coast Air Quality Management District's ("SCAQMD" or "Recipient") policies and practices discriminate against Black and Latinx communities, living adjacent to major stationary sources<sup>2</sup> in the South Coast Air Basin ("South Coast"), on the basis of race, color, and national origin, in violation of 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. Part 7. Specifically, the initial complaint alleges that SCAQMD's fee equivalency program, known as Rule 317, which is implemented as an alternative to the fee requirement under Section 185 of the Clean Air Act (CAA), does not limit emissions of ozone precursors—nitrous oxides (NO<sub>x</sub>) and volatile organic compounds (VOC)—and disproportionately impacts communities of color throughout the South Coast by perpetuating poor air quality<sup>3</sup> and exacerbating negative health outcomes.<sup>4</sup> For the reasons described below, OECRC is rejecting the complaint without prejudice and administratively closing this matter.

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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). 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 accomplishes this in accordance with the procedures described in the Case Resolution Manual.

<sup>2</sup> For the purpose of section 185 of the Clean Air Act, a "major stationary source" is one that emits at least 25 tons per year of VOC or NO<sub>x</sub> in a severe ozone nonattainment area, or 10 tons per year in an extreme nonattainment area. See CAA sections 182(d), (e), and 185(a).

<sup>3</sup> As cited in the Earthjustice & CBE Title VI Complaint Against SCAQMD to EPA, March 6, 2023, page 2.

<sup>4</sup> *Id.*

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 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.

In general, OECRC will accept, reject, or refer a complaint after considering jurisdictional factors discussed above. However, if OECRC obtains information leading OECRC to conclude that an investigation is unjustified for prudential reasons, OECRC may reject the complaint.

In an effort to clarify the complaint and determine jurisdiction, OECRC reviewed the complaint, conducted three Microsoft Teams meetings with the Complainants to discuss their allegations on March 27, 2023, April 4, 2023, and April 18, 2023, and examined all documents that Complainants provided subsequent to those calls. Over the course of these meetings and in the supplemental materials provided, the Complainant's allegations changed such that it presently is unclear which acts by the Recipient the Complainants request OECRC investigate.

OECRC has determined, as a prudential matter, that the complaint lacks sufficient clarity to proceed with an investigation of alleged timely acts of discrimination (acts that occurred within 180 days of the complaint) that, if true, may violate EPA's nondiscrimination regulation.<sup>5</sup> As a result, OECRC is rejecting this complaint without prejudice. A rejection without prejudice allows the Complainants to re-file the complaint within 180 days of a subsequent act or event that raises an allegation of discrimination.<sup>6</sup>

The EPA's nondiscrimination 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 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 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 Suong Vong, Case Manager, at (202) 564-0392, by email at [vong.suong@epa.gov](mailto:vong.suong@epa.gov).

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<sup>5</sup> See 40 C.F.R. § 7.120(b)(2); Case Resolution Manual (CRM) at, Sections 1.5 and 1.8.

<sup>6</sup> See CRM at Sections 1.8.

Sincerely,

ANHTHU  
HOANG

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Date: 2023.05.26  
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Anhthu Hoang  
Acting Director  
Office of External Civil Rights Compliance  
Office of Environmental Justice and External Civil Rights

cc: Ariadne Goerke  
Deputy Associate General Counsel  
Civil Rights & Finance Law Office  
U.S. EPA

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