



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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

March 18, 2022

Jill Hunsaker Ryan
Executive Director
Colorado Department of Public Health and Environment
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Shaun McGrath
Director of Environmental Programs
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 McGrath:

The Environmental Protection Agency (EPA) and the State of Colorado share the important goal of working toward achieving environmental justice and equity throughout the state and country. EPA recognizes that there are no easy fixes to the environmental injustices suffered by many communities of color and low-income communities, and that achieving justice will take sustained and concerted effort. EPA also recognizes that with the passage of Environmental Justice Act (HB21-1266), the State of Colorado is among the leaders in state legislative efforts to address environmental justice. As Colorado takes steps to advance environmental justice, compliance with the nation's civil rights laws is also key to addressing historical and systemic barriers facing communities of color and other underserved and environmentally overburdened communities.

EPA's External Civil Rights Compliance Office (ECRCO) has committed to taking steps to ensure that recipients of EPA federal financial assistance such as the Colorado Department of Public Health and Environment (CDPHE) understand their obligations under the federal civil rights laws and EPA's implementing regulation and are in full compliance with those provisions. One of ECRCO's responsibilities is to conduct periodic compliance reviews of recipients of EPA financial assistance in accordance with the EPA's nondiscrimination regulation at 40 C.F.R. Parts 5 and 7, specifically, 40 C.F.R. Section 7.115(a). These reviews are an opportunity for EPA to provide compliance assistance to States and other recipient agencies.

As we discussed with Director McGrath on January 11, 2022, ECRCO will be conducting a compliance review of CDPHE as part of ECRCO's national responsibilities. ECRCO is interested in working with CDPHE to ensure that CDPHE's methods of administering its air program, including impacts of the air program in North Denver, comport with civil rights legal requirements.¹ In addition, ECRCO will work with CDPHE to ensure it has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7, including policies and procedures to ensure meaningful access for persons with limited English proficiency and persons with disabilities and a public participation program that is consistent with civil rights laws.²

Prior to finalizing the scope of this review, ECRCO intends to engage community members, including representatives of the North Denver community, to hear their perspectives on the environment, human health and equity as they relate to civil rights compliance. Once the scope of our review has been finalized, we will reach back out to you to discuss next steps and request any relevant data and information, as needed. We anticipate continuing our engagement with the community as well during the review.

ECRCO recognizes CDPHE's demonstrated leadership on environmental justice efforts and looks forward to working collaboratively with CDPHE as it further develops its environmental justice program to ensure civil rights compliance is also an integral part of the program from the beginning. Upon completion of the review, it is our hope that CDPHE will serve as a national example of civil rights best practices in ensuring and demonstrating that CDPHE program decisions are fully compliant with federal civil rights laws.

As ECRCO informs all recipients, 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 requirements that we enforce. See 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO.

¹ See EPA's Title VI Regulation at 40 C.F.R. § § 7.30, 7.35.

² See Title VI, 42 U.S.C. 2000(d) *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974) (finding that the government properly required language services to be provided under a recipient's Title VI obligations not to discriminate based on national origin); 40 C.F.R. § § 7.30, 7.35. See also U.S. EPA, Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004) (available at https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_lep_guidance_for_epa_recipients_2004.06.25.pdf); U.S. EPA, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 FR 14207 (March 21, 2006) (available at https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf); U.S. EPA, Procedural Safeguards Checklist for Recipients, at https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf (rev. Jan. 2020) (which provides a more detailed explanation of nondiscrimination obligations and best practices); U.S. EPA, Disability Nondiscrimination Plan Sample, at https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf. (2017).

We look forward to working collaboratively with CDPHE and appreciate your attention to this matter. If you have any questions, please feel free to contact me at 202-564-9649, or at dorka.lilian@epa.gov, or Anhthu Hoang, ECRCO's Acting Deputy Director at 202-564-4174, by email at hoang.anhthu@epa.gov.

Sincerely,



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