



## OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

### INFORMAL RESOLUTION AGREEMENT

between the

**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY**

and the

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**EPA COMPLAINT NO. 02RNO-22-R5**

#### I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (“Title VI”) and other federal nondiscrimination laws, and United States Environmental Protection Agency’s (“EPA”) implementing regulation at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance.<sup>1</sup>
- B. The Michigan Department of Environment, Great Lakes, and Energy (“EGLE”) receives federal financial assistance from the EPA. As a term and condition, EGLE agreed to comply with federal nondiscrimination laws, including Title VI, and all applicable civil rights regulations.<sup>2</sup> EGLE also provided assurance that it would “fully comply with all applicable civil rights statutes and EPA regulations.”<sup>3</sup> Therefore, EGLE must assure nondiscrimination in programs and activities pursuant to the provisions

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<sup>1</sup>Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 *et seq.*; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

<sup>2</sup>See Term and Condition 36, Civil Rights Obligations at [https://www.epa.gov/sites/production/files/2019-09/documents/fy\\_2020\\_epa\\_general\\_terms\\_and\\_conditions\\_effective\\_october\\_1\\_2019.pdf](https://www.epa.gov/sites/production/files/2019-09/documents/fy_2020_epa_general_terms_and_conditions_effective_october_1_2019.pdf).

<sup>3</sup>See *generally*, EPA Form 4700-4, Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance at [https://www.epa.gov/sites/default/files/2015-05/documents/epa\\_form\\_4700\\_4.pdf](https://www.epa.gov/sites/default/files/2015-05/documents/epa_form_4700_4.pdf).

of Title VI, the other federal non-discrimination laws, and the EPA's implementing regulation.

- C. On November 8, 2021, the EPA's Office of External Civil Rights Compliance (OECRC)<sup>4</sup> received Complaint No. 02RNO-22-R5, which alleged discrimination by EGLE on the basis of race, color and national origin in violation of Title VI.
- D. On March 11, 2022, EPA accepted the complaint for investigation. On October 6, 2022, EPA modified the issues originally accepted for investigation to include one issue:
  - 1. Whether EGLE's criteria and methods of administering its air permit program, including its exercise of authority under Rule 228, has the intent and/or effect of subjecting persons to discrimination the basis of race, color, and national origin in violation of Title VI and EPA's implementing regulation at 40 C.F.R. Part 7.
- E. During the course of the EPA's investigation of EPA Complaint No. 02RNO-22-R5, on April 8, 2022, EGLE agreed to engage in the voluntary Informal Resolution Agreement (Agreement) process in order to resolve the complaint. This Agreement does not constitute an admission by EGLE of a violation of, or a finding of compliance or noncompliance by the EPA with, Title VI or 40 C.F.R. Parts 5 and 7. EGLE is in no way compelled to enter this Agreement but does so voluntarily.
- F. This Agreement is entered into by EGLE and EPA. This Agreement serves to resolve the issue accepted for investigation on October 6, 2022. As such, subject to EGLE's good faith implementation of this Agreement, EPA is closing its investigation of this Complaint and will not issue preliminary findings.
- G. This Agreement is entered into pursuant to the authority granted to the EPA under the federal non-discrimination laws, including Title VI, and the EPA's implementing regulation found at 40 C.F.R. Part 7, and resolves the Complaint.
- H. EGLE is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and other federal non-discrimination laws and the EPA regulation at 40 C.F.R. Parts 5 and 7. The activities detailed in Section III of this Agreement are in furtherance of this ongoing commitment.

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<sup>4</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 these goals in accordance with the procedures described in its [Case Resolution Manual](#).

## **II. BACKGROUND**

- A. On October 30, 2020, EGLE issued a Permit to Install (PTI), identified as PTI No. 14-19A, to the FCA US, LLC (“Stellantis Complex”)<sup>5</sup> for modifications to a previously permitted automotive assembly line (PTI No. 14-19, issued in 2019) to be located at the Mack Assembly Plant at 4000 Saint Jean Street, Detroit, Michigan. As part of its application for PTI No. 14-19A, the Stellantis Complex proposed an increase of 382.1 tons per year (tpy) in Volatile Organic Compound (VOC) emissions at the Mack Assembly Plant.
- B. On May 12, 2021, EGLE issued PTI No. 33-20 to the Stellantis Complex for installation of a new tutone automotive coating line, relocation of the rapid repair operations and various refurbishments to existing equipment at the Jefferson North Assembly Plant (JNAP) located at 2101 Conner Avenue, Detroit, Michigan (State Registration Number N2155). As part of the permit application review process for PTI No. 33-20, EGLE held three virtual informational meetings on August 25, 2020, September 9, 2020, and March 16, 2021; two virtual public hearings on September 9, 2020, and March 16, 2021; and two public comment periods from August 5, 2020 to September 18, 2020 and from February 10, 2021 to March 22, 2021.
- C. The Stellantis plant manager requested to void the PTI No. 33-20 on May 11, 2022. In response to the request, EGLE voided PTI No. 33-20 for the JNAP at the Stellantis Complex on August 2, 2022. EGLE confirmed that the Stellantis Complex would be required to submit a new permit application in order to install the new equipment and equipment modifications described in PTI No. 33-20.
- D. In a letter dated October 6, 2022, in response to the voided permit, OECRC stated that it would continue to focus the investigation of this complaint in part on the Stellantis Complex as an example of EGLE’s methods of administering its air permitting program. OECRC also recognized ongoing concerns expressed by community members during OECRC’s onsite visit to Detroit, Michigan on February 27, 2023, and through interviews with residents who live near the Stellantis Complex, regarding EGLE’s enforcement related to reported nuisance odors at the Stellantis Complex, alleged permit and rule violations, and an alleged lack of transparency regarding EGLE’s permitting decisions. The community also expressed concerns regarding the lack of a robust green buffer of trees around the Stellantis Complex perimeter and additional trees on Beniteau and Lillibridge streets.

## **III. SPECIFIC COMMITMENTS TO RESOLVE EPA COMPLAINT NO. 02RNO-22-R5**

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<sup>5</sup> For purposes of this Agreement, the “Stellantis Complex” refers to Stellantis’s Mack Assembly Plant and Jefferson North Assembly Plant in Detroit, Michigan.

- A. Within 180 days of the effective date of this Agreement, as part of EGLE’s efforts to collaborate with local units of government, including the role that zoning decisions may have on EGLE’s subsequent air permit decisions, EGLE will engage with organizations representing local units of government and the City of Detroit (City) to discuss how residential areas located in close proximity to businesses in industrial zoned areas, and those businesses, can be impacted as it pertains to the application of the Clean Air Act and the protection of public health. Within 60 days following this 180-day period, EGLE will provide EPA with a written summary of EGLE’s engagement as described above and any outcomes of that engagement.
- B. For a period of 180 days following the effective date of this Agreement, EGLE will continue discussions with EPA Region 5 and City officials on environmentally beneficial project ideas and prioritization across the city. EGLE will create a written summary of EGLE’s engagement as described above and any outcomes of that engagement. EGLE will provide EPA with the written summary within 60 days following the 180-day period.
- C. EGLE will continue to participate in meetings with community groups formed in the City of Detroit, including the area surrounding the Stellantis Complex. If, within two (2) years from the effective date of this Agreement, EGLE conducts air sampling studies around the Stellantis Complex, such as ones similar to the On-Site Sampling Report published in March 2023, EGLE agrees to host or co-host public engagement sessions (such as with local agencies in the City of Detroit), as appropriate, to share information and materials with community members on the outcomes and results of such studies. EGLE will publish these materials on its Online Information Portal.
  - i. EGLE will send the EPA a written report that includes a detailed description of any public engagement sessions or meetings with community members living near the Stellantis Complex that occurred within one year following the execution of this Agreement (such as meetings with community groups, both current and any to be formed, as well as any other outreach activities). EGLE will send the written report to EPA within 30 days following this one-year period. The report will include:
    - a) Purpose/subject of the meeting;
    - b) Date and time;
    - c) Location;
    - d) List of participants; and,
    - e) Whether interpretative services were provided.
  - ii. EGLE will send the EPA links to any relevant materials related to the Stellantis Complex, including, for example, reports, information presented at public engagement sessions, and fact sheets, and published on the Online Information

Portal for a period of one-year from the effective date of this Agreement. EGLE will send the links to EPA within 30 days following the one-year period.

D. EGLE will, at least 90 days prior to the informational meeting noted in commitment E below, hold a briefing session with EPA on EGLE's process for protecting civil rights in the issuance of air construction permits. The briefing will include: (a) How EGLE uses screening tools in permitting actions to better understand and engage communities; (b) How EGLE utilizes existing state authorities to address public health concerns and ensure permit compliance; and (c) When EGLE may consider exercising department discretion to impose any reasonable permit conditions to mitigate potential impacts from the permit.

i. EPA will share any feedback on the information provided at the briefing session with EGLE within 30 days.

E. Within one (1) year of the effective date of this Agreement, EGLE will hold at least one (1) informational meeting with the community surrounding the Stellantis Complex regarding the regulation of the Stellantis Complex and other air emission sources within the vicinity, including any issues related to permitting and enforcement including (a) How EGLE conducts odor regulation and enforcement (Mich. Admin. Code R. 336.1901(b)); (b) How EGLE uses screening tools to review areas surrounding Stellantis to better understand and protect communities; (c) How EGLE mitigates potential impacts from a permit; and (d) Updates to EGLE's public participation policy to ensure meaningful public engagement process.

Within 30 days after the informational meeting, EGLE will provide EPA a copy of final presentation materials that were used (if applicable), and a written report that details the date, location, list of participants, topics discussed, and any community feedback received, as appropriate.

#### **IV. GENERAL CONSIDERATIONS**

- A. In consideration of EGLE's implementation of commitments and actions described in Section III of this Agreement, EPA will toll its time period for issuing preliminary findings for EPA Complaint No. 02RNO-22-R5 and not issue a decision containing findings on the merits of the complaint.
- B. EPA will monitor the implementation of the obligations in Section III of this Agreement, as appropriate, to ensure it is fully implemented. Once the obligations of this Agreement are satisfied, EPA will issue a letter documenting closure of its

monitoring actions in EPA File No. 02RNO-22-R5 and closure of the complaint as of the date of that letter.

- C. EPA will review any documentation submitted by EGLE demonstrating completion of each obligation and will provide an assessment as to whether the documentation satisfies the obligations within 30 days of receipt of each such submission.
- D. The EPA will, upon request, provide technical assistance to EGLE regarding any of the civil rights obligations and actions that need to be taken to ensure compliance with the requirements of Title VI and other federal non-discrimination laws and the EPA regulations at 40 C.F.R. Parts 5 and 7.

#### **V. COMPUTATION OF TIME AND NOTICE**

- A. As used in this Agreement, “day” will mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period will run until the close of business of the next working day.
- B. Service of any documents required by this Agreement will be made personally via electronic mail as outlined below. Documents forwarded by email for review are to be sent in native format for draft documents and PDF format for documents intended to be final.
- C. Electronic documents submitted by EGLE to EPA via email will be sent to the following email address: OECRC\_IRA@epa.gov.
- D. Documents submitted by EPA will be sent to the following email address: CliftJ@michigan.gov. Documents mailed by EPA will be mailed to the following address: 525 West Allegan Street, PO Box 30471, Lansing, MI 48909-7973.

#### **VI. EFFECT OF THE AGREEMENT**

- A. EGLE understands that, if necessary, EPA may interview staff and request such additional reports or data as are necessary for EPA to determine whether EGLE has fulfilled the terms of this Agreement.
- B. EGLE understands that the EPA will not close its monitoring of this Agreement until EPA determines that EGLE has fully implemented this Agreement and that a failure to satisfy any term in this agreement may result in the EPA re-opening an investigation.

- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to the EGLE's program or authorities, or for other good cause, the Party seeking a modification will promptly notify the other in writing, setting forth the facts and circumstances justifying the proposed modification. Any modification(s) to this Agreement will take effect only upon written agreement by the Director of EGLE and the Director of OECRC, or their designee.
  
- D. This Agreement constitutes the entire Agreement between EGLE and the EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person will be construed to change any commitment or term of this Agreement, except as specifically agreed to by EGLE and the EPA in accordance with the provisions of Section 6(C) above.
  
- E. This Agreement does not affect EGLE's continuing responsibility to comply with Title VI or other federal nondiscrimination laws and the EPA's regulations at 40 C.F.R. Parts 5 and 7, nor does it affect the EPA's investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
  
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Director, in their capacity as an official of the EGLE, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Acting Deputy Director of OECRC has the authority to enter into this Agreement.

On behalf of the U.S. Environmental Protection Agency:

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Adam Wilson, Acting Deputy Director  
Office of External Civil Rights Compliance

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(Date)

On behalf of the Michigan Department of Environment, Great Lakes, and Energy:

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Phillip D. Roos, Director

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(Date)