



## OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

January 16, 2025

**In Reply Refer to:**

EPA Complaint No. 05RNO-22-R4  
Alexis A. Lambert, Secretary  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard M.S. 49  
Tallahassee, FL 32399  
Alexis.Lambert@FloridaDEP.gov

**Re: Administrative Closure without Prejudice**

Dear Secretary Lambert:

This letter is to advise you that the U.S. Environmental Protection Agency's (EPA) Office of External Civil Rights Compliance (OECRC) is administratively closing EPA Complaint No. 05RNO-22- R4 (Complaint) without prejudice. The Complaint, filed against Florida Department of Environment (FDEP), alleged that FDEP discriminated against residents living nearby Florida's 10 municipal solid waste incinerators on the basis of race, color, national origin, sex, disability, and age through DEP's method of administering its Clean Air Act (CAA) Title V permitting of municipal solid waste incinerators. The Complaint also alleged that FDEP discriminated on the basis of national origin, age, and disability in the Title V permit renewal process for the Miami-Dade County Resources Recovery Facility in Doral, FL. On June 12, 2023, after determining that the Complaint met the jurisdictional requirements, OECRC accepted the Complaint for investigation. The acceptance letter identified the following issue for investigation:

1. Whether DEP's administration of its air permitting program for municipal solid waste incinerators, including the issuance of the Title V permits for the Hillsborough Incinerator, Tampa, FL (Permit Renewal No. 0570261-022-AV) and McKay Incinerator, Tampa, FL (Permit Renewal No. 0570127-008-AV), subjects persons to discrimination on the basis of race, color, and national origin,<sup>1</sup> in violation of Title VI

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<sup>1</sup> See 40 C.F.R. §§ 7.30 and 7.35.

of the Civil Rights Acts of 1964, and EPA's implementing regulation at 40 C.F.R Part 7; and

2. Whether DEP discriminated on the basis of national origin, disability, and age, in violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and EPA's implementing regulation at 40 C.F.R Part 7, by failing to provide meaningful access to the public participation process for the permit renewal related to the Doral Incinerator at issue in DEP's November 19, 2021, Notice of Intent to Issue; and
3. Whether DEP has in place and is appropriately implementing the procedural safeguards required under 40 C.F.R Parts 5 and 7 that all recipients of EPA financial assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to DEP's services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether DEP has a public participation policy and process that is consistent with Title VI and other federal civil rights laws, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.<sup>2</sup>

On January 13, 2025, via email, the Complainant withdrew the complaint. As a result, OECRC has concluded that continuation of the investigation is not warranted. Consequently, OECRC is administratively closing the complaint without prejudice<sup>3</sup> as of the date of this letter.

Although OECRC has not completed its investigation and is not issuing findings from the investigation of this Complaint, OECRC was able to identify opportunities for strengthening FDEP's nondiscrimination program:

- 1) Identify in FDEP's notice of nondiscrimination posted on FDEP's website, the individual or individuals who separately or together coordinate compliance with all federal

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<sup>2</sup> See Title VI of the Civil Rights Act of 1964, 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](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 CFR 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](https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf)); Guidance on Procedural Safeguards: Requirements and Best Practices, <https://www.epa.gov/system/files/documents/2024-08/civil-rights-guidance-on-procedural-safeguards-august-2024.pdf> (Aug. 2024).

<sup>3</sup> A closure without prejudice means that the complainant may refile the complaint with OECRC at a later time. See U.S. EPA, OECRC Case Resolution Manual, Section 1.10 "Withdrawing a Complaint," p. 12-13 available at: [https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf). If the complaint is refiled, OECRC will proceed with its preliminary review to determine whether the complaint should be accepted, rejected or referred.

nondiscrimination laws implemented by 40 C.F.R. Parts 5 and 7.<sup>4</sup>

- 2) Ensure FDEP's notice of nondiscrimination is posted prominently on the website and includes all applicable bases of discrimination covered by 40 C.F.R. Parts 5 and 7.<sup>5</sup> To ensure that the notice of nondiscrimination is prominently posted and readily accessible to individuals visiting FDEP's website, FDEP can post a link on their homepage next to the current "Accessibility" link that goes to the "Equal Opportunity – Nondiscrimination" page. This link could be titled "Nondiscrimination."
- 3) Take reasonable steps to ensure meaningful access for individuals with LEP,<sup>6</sup> which as a best practice, could include responsibility for, and verification of, the accuracy of its translations where FDEP relies on an automatic translation function to translate text into other languages on its website.
- 4) When necessary, as a part of reasonable steps to provide meaningful access for persons with LEP, translate documents published in portable document format (PDF).<sup>7</sup> OECRC recommends that FDEP provide information on FDEP's website, translated into appropriate languages, of how persons with LEP can contact FDEP if they need assistance with translation of the website content.

OECRC commends FDEP for the actions it took to strengthen its nondiscrimination program since the Complaint was accepted for investigation.

If you have any questions about this letter, please contact me by the telephone at (202) 564-8796, Nell Cormack, Case Manager, at (202) 565-2242, by email at [cormack.nell@epa.gov](mailto:cormack.nell@epa.gov), or Hayley Cormack, Case Manager, at (202) 250-8851, by email at [cormack.hayley@epa.gov](mailto:cormack.hayley@epa.gov).

Sincerely,

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

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<sup>4</sup> See 40 C.F.R. § 7.85(g); 40 C.F.R. § 7.95.

<sup>5</sup> Currently FDEP has a notice of nondiscrimination with respect to disability that only references the Americans with Disabilities Act. See <https://floridadep.gov/accessibility-information>. As FDEP is also responsible for complying with the Rehabilitation Act as a recipient of EPA financial assistance, OECRC recommends that FDEP also reference the Rehabilitation Act in this notice.

<sup>6</sup> See Title VI, 42 U.S.C. §§ 2000(d) et seq. (prohibiting discrimination on the basis of national origin); 40 C.F.R. § 7.30 (prohibiting exclusion from participation); *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).

<sup>7</sup> See *Id.*

cc:

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