



**FOR RELEASE 12/1/2015**

**The U.S. Environmental Protection Agency's  
Notice of Proposed Rulemaking (NPRM) to  
Amend its Nondiscrimination Regulations**

**Office of Civil Rights**



# Background

**The current NPRM is just one of several strategic EPA measures to ensure prompt, effective and efficient civil rights nondiscrimination complaint docket management and to enhance OCR's proactive compliance program.**

**Since 2010, the EPA has undertaken a comprehensive examination of its Civil Rights program, both internally and by commissioning an external review of the program.**

**This process included benchmarking its regulations against those of other federal agencies and its decision to bring its regulations into conformance with more than twenty other federal agencies.**



# Accountability Measures for the External Compliance and Complaints Program

**OCR's External Compliance Strategic Plan for 2015-20 promotes mission-critical program accountability through measures that will:**

- 1) ensure prompt, effective and efficient complaint docket management;**
- 2) enhance the Office of Civil Rights' (OCR) external compliance program through proactive compliance reviews, strategic policy development, and engagement of critical EPA, federal and external partners and stakeholders (e.g., recipients and communities); and**
- 3) strengthen OCR's workforce through strategic human capital planning, organizational development and technology resources and training to promote a high-performing organization.**



# Purpose of the NPRM

**One of the measures that OCR will undertake to ensure prompt, effective and efficient complaint docket management and to enhance OCR's proactive compliance program, is the modification of its non-discrimination regulation. The NPRM will:**

- **Reaffirm EPA's discretion to initiate compliance reviews to ensure compliance with civil rights laws;**
- **Provide EPA with the ability to request and receive compliance information from recipients on a regular basis;**
- **Reaffirm EPA's discretion to determine how to ensure the prompt, effective, and efficient resolution of its cases; and**
- **Reaffirm EPA's enforcement discretion to tailor its approach to complaints to match their complexity, scope and nature.**



## Proposed Modifications

- **Remove “reason to believe that discrimination may be occurring” language in sections 7.85(b), 7.110(a) and 7.115(a) to conform with the language in the regulations of other federal agencies;**
- **Provide discretion to have recipients submit compliance reports by adopting language substantially similar to the regulations of many other federal agencies;**
- **Remove the introductory text in section 7.120 concerning the investigation of “all complaints” and adopt language which conforms with regulations promulgated by other federal agencies and with the DOJ’s Coordination Regulations at 28 C.F.R. Part 42, Subpart F; and**
- **Amend sections 7.115(c) and 7.120(c) and (d) by deleting specific deadlines associated with complaint processing, while imposing the requirement that the various complaint processing steps occur “promptly.” This includes acknowledgment, jurisdictional review, and investigation/compliance review completion deadlines.**
- **Remove citations to expired OMB control numbers and add the current OMB control number.**

# Anticipated Impact



- In order to enable it to create a model civil rights program which can nimbly and effectively enforce civil rights statutes in the environmental context, EPA's regulations will be aligned with those of over 20 other federal agencies
- Allow EPA to tailor resolution path to each complaint based on the unique factual pattern and legal issues presented.
- EPA must still promptly process and investigate complaints even with the elimination of inflexible deadlines. EPA is fully committed to processing complaints expeditiously.
- Provide EPA with similar level of flexibility and discretion as afforded to other federal agencies when collecting compliance information. As other agencies have demonstrated, a successful compliance report program can be an invaluable tool in managing the complaint investigation docket, selecting recipients for compliance reviews, and conducting targeted outreach to provide technical assistance.

Collaborate with interested stakeholders regarding the content, frequency and prioritization of recipients that will be expected to submit compliance reports regarding information that recipients are already required to collect and maintain, as well as its phased-approach to conducting compliance reviews.

- More proactive engagement with recipients and communities to identify issues before they rise to the level of a complaint.
- Clarify applicable OMB Control Number that applies to the EPA's requests for information under 40 CFR Part 7.



## Questions

- **Velveta Golightly-Howell, Director of the Office of Civil Rights**
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