



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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 19, 2020

In Reply Refer to:

EPA Complaint No. 34RNO-16-R10

Keith Hurley, Executive Director
Yakima Regional Clean Air Agency
186 Iron Horse Court
Suite 101
Yakima, Washington 98901

Dear Mr. Hurley:

This letter is to notify you that the Yakima Regional Clean Air Agency (YRCAA), has fully complied with the Informal Resolution Agreement (Agreement), dated August 9, 2019, reached between YRCAA and the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) in response to Complaint No. 34RNO-16-R10. Accordingly, Complaint No. 34RNO-16-R10 is closed as of the date of this letter.

On February 11, 2019, ECRCO accepted the following issues for investigation:

1. Whether the YRCAA provides meaningful access to information and their programs and activities, to Spanish speaking residents of the Lower Yakima Valley who have limited English proficiency (LEP) as required by Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.¹
2. Whether YRCAA has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to YRCAA services, programs and

¹ See Title VI of the Civil Rights Act, 42 U.S.C. 2000(d) (prohibiting discrimination on the basis of national origin); *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974); 40 C.F.R. § 7.35(a). See also EPA's 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).
<https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

activities for individuals with limited English proficiency and individuals with disabilities, and whether YRCAA's public participation policy and process provide meaningful public involvement that is consistent with federal civil rights laws, including Title VI, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.²

On August 9, 2019, the YRCAA entered into an Informal Resolution Agreement (IRA) with ECRCO to resolve the issues accepted for investigation as well as additional concerns identified by ECRCO regarding the YRCAA's nondiscrimination program. Since the signing of the IRA, ECRCO provided technical assistance to the YRCAA and worked collaboratively with the YRCAA to support its development and implementation of the necessary policies, plans and procedures.

To address the primary issue accepted for investigation, the IRA required the YRCAA to translate into Spanish (and other languages as appropriate) and make publicly available any notice and/or documents provided to English-speaking residents both electronically and in hard copies, including any notices and/or documents regarding permitting activity, air quality, and/or other environmental issues (e.g. burn ban announcements). The IRA also required the YRCAA to provide Spanish-speaking residents with LEP meaningful access to the YRCAA's process for filing environmental and public health complaints (both online and via other mechanisms) with the YRCAA. In addition, the YRCAA was required to conduct public meetings and/or outreach regarding its permitting, air quality, and/or other environmental programs, services, or activities in a way that ensures meaningful participation for Spanish-speaking LEP residents.

The IRA also required the YRCAA to develop and implement a nondiscrimination program that contains the procedural safeguards required by EPA's regulations at 40 C.F.R. Parts 5 and 7. These include, for example, items "prominently" posted and accessible to the public (including to persons with limited English proficiency and persons with disabilities), such as a notice of nondiscrimination; a nondiscrimination coordinator; nondiscrimination grievance procedures; and to review and maintain its LEP and disability plans and processes.

Based on a careful review of the most current documentation submitted by the YRCAA and the information publicly available on the YRCAA's website, ECRCO has determined that the

² See EPA's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. 71 FR 14207 (March 21, 2006).

https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf;

See [Procedural Safeguards Checklist for Recipients](https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf), which provides a more detailed explanation of

nondiscrimination obligations and best practices, available at https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf. See Disability Nondiscrimination Plan Sample, at https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf

https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf

https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf

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.

YRCAA has complied with the terms of the IRA signed on August 9, 2019. The YRCAA submitted its updated nondiscrimination plan, including an updated Language Access Plan, Public Involvement Plan, and Disability Access Plan, to ECRCO on April 13, 2020. The YRCAA submitted a revised version based on technical assistance provided by ECRCO on May 22, 2020, and provided its final version to ECRCO on May 27, 2020. Accordingly, ECRCO is terminating the monitoring of the IRA and closing EPA Complaint No. 34RNO-16-R10 as of the date of this letter.

Neither the conclusion of ECRCO's monitoring of this IRA or the closing of this complaint affect the YRCAA's continuing responsibility to comply with Title VI or the other federal non-discrimination laws and EPA's regulation at 40 C.F.R. Parts 5 and 7, nor does it affect EPA's investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.

We appreciate YRCAA's cooperation during this process. If you have any questions, please feel free to contact me at 202-564-9649, by e-mail at dorka.lilian@epa.gov, or Dale Rhines, ECRCO's Deputy Director at 202-564-4174, or by email at rhines.dale@epa.gov.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Angelia Talbert-Duarte
Associate General Counsel
Civil Rights & Finance Law Office

Michelle Pirzadeh
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA, Region 10

Beverly Li
Regional Counsel
US EPA, Region 10