

ENVIRONMENTAL JUSTICE THE RIGHT STUFF

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Environmental Justice~The Right Stuff

Overview -- EPA

- **Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.** This goal will be achieved when everyone enjoys: 1) the same degree of protection from environmental and health hazards, and 2) equal access to the decision-making process to have a healthy environment in which to live, learn and work. ([Environmental Justice | US EPA](#))
- **EPA External Civil Rights Compliance Office (ECRCO)** – Responsible for enforcing civil rights laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations at 40 C.F.R. Part 7.
- EPA-funded agencies (*e.g.* TCEQ) are **prohibited from taking acts, including permitting actions, that are intentionally discriminatory or have a discriminatory effect** based on race, color, or national origin. ([Title VI Laws and Regulations | US EPA](#))
- **Anyone who believes that an entity (that receives federal assistance) has discriminated may file a Title VI complaint.** ([How to File a Complaint of Discrimination \(epa.gov\)](#))

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Overview -- EPA

- Three types of legal claims: 1) **Disparate/Different Treatment** (intentional discrimination); 2) **Disparate Impact** (discriminatory effects); and 3) **Retaliation**.
- ECRCO procedural guidance for “prompt, effective and efficient resolution of complaints” is set forth in Case Resolution Manual (January 2021). ([2021.1.5 final case resolution manual .pdf \(epa.gov\)](#))
- EPA ECRCO **Process for Prioritizing and Selecting Affirmative Compliance Reviews** (Jan. 6, 2022) [01-06-20-ecrco-process-for-prioritizing-and-selecting-affirmative-compliance-reviews.pdf \(epa.gov\)](#)

Affirmative compliance reviews are conducted subsequent to the award of Federal financial assistance to determine whether a recipient complies with federal civil rights laws and EPA’s implementing regulation.
- ECRCO: **Compliance with environmental laws does not necessarily equate to compliance with civil rights laws.**

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Overview -- TCEQ

- At the heart of TCEQ's mission and philosophy is the goal of protecting all Texans while preserving our state's natural resources in a sustainable economic manner. To accomplish this goal, we strive to ensure that all Texans can participate in TCEQ programs and activities. TCEQ aims to work with communities to provide reasonable access to decision-making processes and a healthy environment in which to live, learn, and work. [Title VI Compliance at TCEQ - Texas Commission on Environmental Quality - www.tceq.texas.gov](https://www.tceq.texas.gov)
- **TCEQ is committed to protecting the health of the people in Texas and is making a strong policy commitment to enhance public participation and language access for all Texans.**
 - Additional efforts include:
 - Proposal, adoption, and implementation of a rulemaking on alternative language public notice requirements and public participation. (*ALN Rulemaking Adopted – Effective September 16, 2021*)
 - Development of a Disability Nondiscrimination Plan, Public Participation Plan, and Language Access Plan.
 - Holding stakeholder meetings to discuss public participation, as well as the Disability Nondiscrimination, Public Participation, and Language Access Plans. You can see each of those plans on this page.
 - Updating employee training to ensure federal nondiscrimination laws, policies, and procedures are included.
 - Considering, within our jurisdiction, ways to enhance participation, language access, and environmental quality in areas that may be disproportionately impacted.

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Overview -- TCEQ

- **Informal Resolution Agreement (IRA) between TCEQ and EPA** – EPA accepted for investigation a complaint against TCEQ (December 4, 2019). The complaint alleged discrimination on the basis of national origin against individuals with limited English proficiency in the administration of TCEQ’s permitting and public engagement programs, in violation of Title VI of the Civil Rights Act of 1964 and EPA’s nondiscrimination regulation, at 40 C.F.R. Part 7. During the course of EPA’s investigation, TCEQ agreed to enter into an informal resolution agreement with EPA, which was signed Nov 3, 2020.
- **TCEQ Preaward Compliance Review Report** for All Applicants and Recipients Requesting EPA Financial Assistance (April 25, 2022) [04-preaward-compliance-4700-04-w-attachments-fy23.pdf \(texas.gov\)](#)
- **TCEQ Grievance Procedure Policy:** In compliance with 40 C.F.R. Part 7, Section 7.90(a), the TCEQ has established a grievance procedure to ensure prompt and fair resolution of complaints alleging violations of 40 C.F.R. Parts 5 and 7 in the administration of the TCEQ’s programs and activities. [TCEQ Grievance Procedure Policy \(texas.gov\)](#)

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Overview -- TCEQ

- **Three Pending Title VI Complaints** related to TCEQ – two are under jurisdictional review and the other is in the Informal Resolution Agreement Process. ([070822 UPDATED Complaints Received and Compliance Reviews Initiated in 2014 to DATE in FY 2022- 7-8-2022.pdf \(epa.gov\)](#))
- **EPA Complaint No. 02R-21-R6** (Pending/Informal Resolution Agreement Process)

A complaint was filed August 18, 2021, involving the Texas Commission on Environmental Quality (TCEQ) alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. The complaint was filed by Port Arthur Community Action Network (PA-CAN), regarding the TCEQ issuance of Federal Operating Permit No. O1493 to Oxbow Calcining, LLC. The U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) accepted the complaint for investigation on October 15, 2021.

Specifically, ECRCO will investigate the following issues: **“Whether TCEQ discriminated in violation of Title VI and EPA’s regulation at 40 C.F.R. Part 7 by using methods of administering a program, with respect to its oversight of Oxbow Calcining, LLC, with the effect of subjecting individuals to discrimination or defeating or substantially impairing the objectives of the program or activity on the basis of race.”**

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Recent Developments in Texas

- EPA proposal related to **HGB Ozone SIP Reclassification** denies one-year attainment date extension based on its finding that there is “an already disproportionate pollution burden for communities near the Houston Ship Channel and communities around violating ozone regulatory monitor sites in the Houston area.”
- Twelve environmental groups filed a “**Petition for Action regarding Deficiencies in the Texas Air Permitting Program related to Environmental Justice & Public Participation**” with the EPA Administrator on 6/28/2022; requested corrective action includes EPA initiation of a Title VI compliance review per 40 C.F.R. §7.115 which allows for periodic reviews of any recipient’s programs or activities receiving EPA assistance.”
- Recent EPA comments on **draft NSR permit** note that “[d]ue to the lack of clarity in the permit, it makes it difficult for the local community which is predominantly low income and people of color and potentially disparately impacted by industry emissions to comment on these vague permit conditions.”
- DOJ Civil Rights Division opened an **environmental justice investigation into the City of Houston’s operations, policies and practices related to illegal dumping** and will examine whether the City responds to requests for municipal services in a manner that discriminates against Black and Latino Houston residents in violation of federal civil rights laws.

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