

## ADEM Civil Rights and Environmental Justice Complaint Reporting and Investigating Process

This is intended to provide assistance to anyone who has reason to believe they have been discriminated against by the Alabama Department of Environmental Management (ADEM) on the basis of:

- race;
- color;
- national origin;
- disability;
- age; or
- sex.

Below is a step-by-step procedure for filing a timely complaint to the proper authority and describes the process that will be used to investigate and resolve the complaint, in compliance with 40 CFR §§ 5.135 and 7.90. However, these procedures do not apply to administrative actions which are being pursued in another forum.

### SUBMISSION OF COMPLAINT

#### A. Filing Complaints of Discrimination.

- (1) Complainants may submit written complaints to ADEM's Title VI/Environmental Justice (EJ) Coordinator at ADEM, which is located at 1400 Coliseum Blvd., Montgomery, AL 36110-2059. ADEM's mailing address is P.O. Box 301463, Montgomery, AL 36130-1463, or by email at [CivilRightsAssistance@adem.state.al.us](mailto:CivilRightsAssistance@adem.state.al.us)
- (2) In cases where the complainant is unable or incapable of providing a written statement, but wishes ADEM to investigate alleged discrimination, a verbal complaint of discrimination may be made to ADEM by calling the EJ Coordinator at (334) 271-7700. The complainant will be interviewed by an ADEM employee who, if necessary, will assist the person in converting verbal complaints in writing. All complaints must, however, be signed by the complainant or his/her representative.
- (3) Complaints must be filed with the Title VI/EJ Coordinator at ADEM within 90 days of an alleged discriminatory act. ADEM has the authority to waive the 90-day time period required for filing a complaint if the complainant can demonstrate that the failure to file was based on "good cause." If the complainant wishes to request a waiver, the complainant must submit a detailed written description explaining why the complainant failed to file the complaint within 90 days of the alleged act(s) of discrimination.

#### B. Complaint Format.

- (1) All complaints must be in writing and signed by the complainant or his/her representative before ADEM can respond. Complaints shall:
  - a. describe with specificity the action(s) that allegedly intentionally discriminate or result in discrimination in violation of 40 CFR Parts 5 and 7;
  - b. describe with specificity the impact that allegedly has occurred or will occur as the results of such action(s); and
  - c. identify the parties subjected to, impacted by, or potentially impacted by the alleged discrimination.
- (2) ADEM will provide the complainant or his/her representative with a written acknowledgement within ten working days that ADEM has received the complaint.

C. Determination of Jurisdiction and Investigative Merit.

The EJ Coordinator, based on the information in the complaint and additional information provided by the alleged civil rights violator(s), will determine if ADEM has jurisdiction to pursue the matter and whether the complaint has sufficient merit to warrant an investigation. These determinations will be made within 15 working days after the receipt of the complaint by ADEM. A complaint shall be regarded as meriting investigation unless:

- (1) It clearly appears on its face to be frivolous or trivial;
- (2) Within the time allotted for making the determination of jurisdiction and investigative merit, ADEM voluntarily concedes noncompliance and agrees to take appropriate remedial action or reaches an informal resolution with the complainant;
- (3) Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint; or
- (4) It is not timely and good cause does not exist for waiving the requirement.

INVESTIGATION

If the Title VI/EJ Coordinator accepts the complaint, the Coordinator will designate an individual to investigate the allegation(s). After examining all of the information in light of the requirements in 40 C.F.R. Parts 5 and 7, the investigator will draft a report with findings and recommendations.

A. Request for Additional Information from the Complainant.

In the event that the complainant has not submitted sufficient information to make a determination of jurisdiction or investigative merit, ADEM may request additional information. This request

shall be made within 15 working days of the receipt of the complaint by ADEM and will require that the party submit the information within 60 working days from the date of the original request. Failure of the complainant to submit additional information within the designated timeframe may be considered good cause for determination of no investigative merit.

B. Request for Information Involving Third Party Entities.

In the case of complaints involving third party entities; e.g. a sub-recipient, permit applicant or permittee, ADEM will notify the third party entity that the complaint has been received no later than the time of the written notice provided to a complainant that the complaint is complete. At such time, ADEM will ask the third party entity to provide information necessary for ADEM to investigate the complaint. ADEM will use the information provided by the third party entity and the complainant in resolving the complaint.

DISPOSITION OF COMPLAINTS

Within 180 days of accepting the complaint, the Office of the Director will issue a written decision approving or disapproving the findings and recommendations made in the investigative report. ADEM will implement the recommendations approved by the Office of the Director. The consequent disposition of the complaint will be communicated to the complainant in writing.

In addition, complaints may be filed in accordance with 40 C.F.R. Parts 5 and 7 with the U.S. EPA, Office of Civil Rights, 1200 Pennsylvania Avenue, N.W., Mail Code 1201A, Washington, DC 20460-1000, instead of following the ADEM grievance process.