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(334) 271-7700 ■ FAX (334) 271-7950

DATE: November 5, 2018

TO: Marilyn Elliot, Deputy Director
ADEM Nondiscrimination Coordinator

FROM: Lance R. LeFleur, Director LRL

RE: Nondiscrimination Grievance Investigation Procedures

The Nondiscrimination Coordinator will process complaints alleging discrimination by the Alabama Department of Environmental Management (ADEM) on the basis of race, color, national origin, disability, age, sex, retaliation or intimidation against any individual or group as protected by 40 C.F.R. Parts 5 and 7 (see paragraph (10) below), as follows:

(1) Complaints alleging discrimination by ADEM will be forwarded to ADEM's Nondiscrimination Coordinator in Montgomery.

(2) In cases where the complainant is unable or incapable of providing a written statement, a verbal complaint of discrimination will be forwarded to the Nondiscrimination Coordinator at (334) 271-7710. The complainant will be interviewed by an ADEM employee who, if necessary, will assist the person in converting verbal complaints to writing.

(3) All complaints alleging discrimination by ADEM shall be reviewed for the following information:

a. the specific action(s) by ADEM that allegedly discriminate or result in discrimination in violation of 40 C.F.R. Parts 5 and 7.

b. the specific impact that allegedly has occurred or will occur as the results of such action(s); and

c. the identity of the parties subjected to, impacted by, or potentially impacted by the alleged discrimination.

(4) Within ten working days of receipt of the complaint, ADEM will provide the complainant or his/her representative with a written acknowledgement of receipt and notice of how the complaint will be investigated. ADEM will also notify complainants that their complaint may also be filed with the U.S. EPA, External Civil Rights Compliance Office, 1200 Pennsylvania Avenue, N.W., Mail Code 1201A, Washington, DC 20460-1000 in accordance with 40 C.F.R. Parts 5 and 7.

(5) The Nondiscrimination Coordinator, based on the information in the complaint and any additional information provided by the complainant, will determine if the matters alleged are within the jurisdiction of 40 C.F.R. Parts 5 and 7, and whether the complaint has sufficient merit to warrant an investigation. These determinations will be made within fifteen working days after the receipt of the complaint by

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)

Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
3664 Dauphin Street, Suite B
Mobile, AL 36608
(251) 304-1176
(251) 304-1189 (FAX)

ADEM. A complaint will be regarded as meriting investigation unless:

a. It clearly appears on its face to be frivolous or trivial;

b. 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; or

c. Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint.

(6) If the Nondiscrimination 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 of 40 C.F.R. Parts 5 and 7, the investigator will draft a report with findings and recommendations.

(7) 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 fifteen working days of the receipt of the complaint by ADEM. The complainant is under no obligation to provide any requested information.

(8) 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 has been accepted. 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.

(9) Within 120 days of accepting the complaint, the Office of the Director will respond in writing to the complainant approving or disapproving the findings and recommendations made in the investigative report, based upon a preponderance of the evidence. ADEM will implement the recommendations approved by the Office of the Director.

(10) ADEM employees shall not retaliate, intimidate, threaten, coerce, or discriminate against any individual or group for the purpose of interfering with any right or privilege granted under 40 C.F.R. Parts 5 and 7, or because an individual has filed a complaint or has testified, assisted, or participated in any way in an investigation, or has opposed any practice made unlawful under 40 C.F.R. Parts 5 and 7.

BY AND THROUGH THIS DELEGATION OF RESPONSIBILITIES TO THE ADEM NONDISCRIMINATION COORDINATOR, THE ABOVE PROCEDURES ARE HEREBY ADOPTED TO ASSURE THE PROMPT AND FAIR RESOLUTION OF COMPLAINTS WHICH ALLEGE UNLAWFUL DISCRIMINATION UNDER TITLE VI, AND THE OTHER FEDERAL CIVIL RIGHTS LAWS COVERED UNDER 40 C.F.R. PARTS 5 AND 7.

Lance R. LeFleur, Director