



OFFICE OF CIVIL RIGHTS AND ADJUDICATION

WASHINGTON, D.C. 20460

February 27, 2026

Serena McIlwain, Secretary
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, MD 21230
via email: MDE.Secretary@maryland.gov

RE: Rejection and Referral of EPA Complaint No. 03RA-25-R3

Dear Secretary Serena McIlwain:

As you are aware, the U.S. Environmental Protection Agency (EPA), Office of Civil Rights and Adjudication (OCRA), External Civil Rights Division (ECRD) received the above-referenced complaint against the Maryland Department of Environment (MDE). The complaint raises allegations of discrimination by MDE on the basis of race by:

1. violating the 2019 informal resolution agreement (IRA) between MDE and EPA;
2. renewing various permits and failing to enforce permit violations for facilities in the Brandywine, Maryland area;
3. failing to issue timely public notice for coal combustion residual (CCR) contamination in the Mattawoman Creek watershed; and
4. treating projects and facilities differently based on the demographics of the area.

Fifth, the complaint also raises allegations of misuse of Justice40 and Thriving Communities Technical Assistance Center (TCTAC) funds in Maryland.

This letter serves to notify you that ECRD is rejecting the complaint.

Pursuant to EPA's nondiscrimination regulation, ECRD must conduct a preliminary jurisdictional review of administrative complaints to determine whether to accept, reject, or refer it to an appropriate federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation.

First, the complainant must submit a complaint in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the entity that the complainant identifies as allegedly engaging in discrimination must be an applicant for, or recipient of, EPA financial assistance. *See* 40 C.F.R. § 7.15.

Third, the complainant must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation. *See* 40 C.F.R. § 7.120(b)(1). An alleged discriminatory act is one based on race, color, national origin, sex, age, or disability. Fourth, a complainant must file the complaint within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2).

After careful consideration, ECRD must reject this complaint. The second, third, and fourth allegations are not timely as the allegations were not filed within 180 days of the alleged discriminatory acts. Specifically, the complaint alleges that MDE renewed permits for various facilities in 2021, 2022, and 2023; that MDE failed to issue public notice of CCR contamination in the Mattawoman Creek watershed between 2012 and 2019, in 2022, and in 2024; and that MDE treated projects differently based on the demographics of the area in 2020 and 2021.

As the complaint was filed on September 30, 2025, none of these allegations occurred within 180 days of the filing date of the complaint. Although the complaint alleges that MDE failed to remediate violations of permits for various facilities between 2021 and 2024, 2018 and 2025, 2019 and 2025, 2020 and 2024, and 2012 and 2019, the complaint does not provide specific dates of the alleged discriminatory acts to determine that at least one of the alleged failures took place within 180 days of the filing date.

The first and fifth allegations do not allege discriminatory acts that, if true, may violate EPA's nondiscrimination regulation. To further clarify the first allegation, the allegation in this matter referred to specific provisions of the 2019 IRA between the Maryland Public Service Commission (MPSC) and the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (DOT PHMSA).¹ Because the specific provisions at issue are part of an agreement between DOT PHMSA and MPSC, ECRD does not have any authority to investigate alleged violations of an agreement with another federal agency.

Accordingly, ECRD must reject this complaint, in its entirety, for investigation.

Pursuant to EPA's non-discrimination regulations at 40 C.F.R. § 7.120(d), and due to the subject matter of the first allegation, the claim may fall under the jurisdiction of DOT PHMSA. Therefore, ECRD has referred the complaint to DOT PHMSA for it to make a determination regarding ECRD's referral.

¹ Complainant filed a joint complaint (EPA Complaint No. 29R-16-R3) against MDE and MPSC with ECRD and DOT PHMSA in 2016. Since ECRD closed the IRA for EPA Complaint No. 29R-16-R3 in [2020](#) (signed January 21, 2019 and monitoring closed December 15, 2020), the alleged actions against MDE in this current matter cannot violate the former agreement. Additionally, the current complaint [alleges violations of provisions regarding EJScreen](#) as part of the [IRA \(signed January 28, 2019\) between the MPSC and DOT PHMSA](#). Since the complaint alleges violations of the IRA with DOT PHMSA, referral to DOT PHMSA is appropriate for allegation 1.

Additionally, due to the subject matter of the fifth allegation, the claim may fall under the jurisdiction of the EPA Office of the Inspector General (EPA OIG). Therefore, ECRD has referred the complaint to EPA OIG for it to make a determination regarding ECRD's referral.

Finally, EPA's nondiscrimination regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have acted or participated in an action to secure rights protected by the civil rights requirements EPA enforces. See 40 C.F.R. § 7.100. Any individual that opines a recipient has engaged in such misconduct can file a complaint with EPA.

If you have any questions, please contact Case Manager Nell Cormack by email at Cormack.Nell@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Juan Carlos Hunt". The signature is written in a cursive, flowing style.

JuanCarlos M. Hunt, Director
U.S. EPA, Office of Civil Rights and Adjudication

cc: Catherine Libertz, Deputy Regional Administrator/Deputy Civil Rights Official
Allison Gardner, Regional Counsel
U.S. EPA, Region 3