

Report Attacks EPA Civil Rights Office As DOJ Fights Pollution Complaint

A consulting firm hired by EPA Administrator Lisa Jackson to assess the agency's Office of Civil Rights (OCR) has delivered a scathing assessment of the troubled office, finding it has not "adequately" adjudicated discrimination complaints filed by outside groups and has "struggled" to address internal discrimination complaints.

The findings come as the Department of Justice (DOJ) in a recent filing to an international human rights court is seeking to have a landmark petition dismissed by claiming the residents who assert their rights have been violated by the polluting industry have not exhausted their domestic remedies, including petitions to OCR.

The EPA-commissioned report, "Evaluation of the EPA Office of Civil Rights," by Deloitte Consulting, outlines a number of problems within OCR, including that it lacks "the rudiments of organizational infrastructure," resulting in "a record of poor performance." The report notes OCR has only addressed 6 percent of outside discrimination complaints, known as Title VI petitions, within its 20-day time limit, and has a decade-long backlog. The office also did not complete internal Equal Employment Opportunity reports, "a basic administrative task required of all federal agencies," for 2006-2008. *Relevant documents are available on InsideEPA.com.*

Jackson sought the report as part of her high-profile pledge to overhaul OCR, following a landmark 2009 appeals court ruling in *Rosemere Neighborhood Association v. EPA* where the court criticized OCR for engaging in a "pattern of delay" in failing to respond to a discrimination complaint filed under civil rights law.

One source says the fact that Jackson hired an outside consultant to evaluate OCR is "fairly unusual" and says "something about the dynamics going on, to have to go outside the agency to get an analysis."

But Jackson defended the agency in an internal memorandum responding to the report. "While we have made strides, we still have a lot of work to do. . . . We will move quickly to address the issues raised in the report," Jackson wrote in the April 1 memo to staff. Jackson added that she has asked the agency's Deputy Administrator Bob Perciasepe to lead a committee to review the report and make recommendations on next steps.

Meanwhile, environmentalists are strongly objecting to DOJ's push to have the Inter-American Commission on Human Rights, part of the Organization of American States, reverse its landmark 2010 ruling accepting an environmental justice petition filed by Advocates For Environmental Human Rights (AEHR) on behalf of residents of a historically black Louisiana community (*Inside EPA*, April 16, 2010).

DOJ in a Dec. 17 filing recently obtained by *Inside EPA* says, "The United States Constitution and related federal statutes, most notably Title VI of the Civil Rights Act of 1964, guarantee Mossville residents the right to equal protection under the law and prohibit Louisiana agencies from implementing the various environmental laws in a manner that results in discriminatory effects. These rights are enforceable in federal court and through EPA's administrative complaint process."

In its March 30 response, AEHR cites the recent audit as evidence for why that remedy is ineffective. The group adds, "The commission has determined that [its rules warrant] admissibility of petitioners' claim. . . . The U.S. government's observations do not present any valid reason for the commission to reverse its decision."

An AEHR source says the group is waiting to hear back from the commission about next steps but expresses disappointment that the Obama DOJ is backing the original position taken by the Bush administration in 2006. If AEHR wins its case, the court could impose force pollution reductions to protect the residents. AEHR pursued the international venue after years of failing to gain traction at EPA on their complaints. — *Dawn Reeves*