

**Title VI and Environmental Justice  
MDEQ Integration Subgroup**

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Section 601 of Title VI provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or **be subjected to discrimination under any program or activity receiving Federal financial assistance.**

42 U.S.C. § 2000d (emphasis added).

Section 602 provides, in relevant part:

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d [Section 601] of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing financial assistance in connection with which the action is taken.

Id. § 2000d-1.

The EPA regulations at issue provide:

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, [or] national origin . . . .

. . .

**A recipient shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination** because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.

40 C.F.R. §§ 7.30 & 7.35(b) (emphasis added).

EPA interprets "discriminatory effects" in this manner:

In order to find a recipient in violation of the discriminatory effects standard in EPA's Title VI implementing regulations, OCR [the Office of Civil Rights] would determine whether the recipient's programs or activities have resulted in **an unjustified adverse disparate impact**. In other words, OCR would assess whether **the impact is both adverse and borne disproportionately by a group of persons based on race, color, or national origin, and if so, whether that impact is justified . . . .**

It is worth noting that it is possible to have a violation of Title VI or EPA's Title VI regulations based solely on discrimination in the procedural aspects of the permitting process (*e.g.*, public hearings, translations of documents) without a finding of discrimination in the substantive outcome of that process (*e.g.*, discriminatory human health or environmental effects). Likewise, it is possible to have a violation due to discriminatory human health or environmental effects without the presence of discrimination in the public participation process.

Draft Recipient Guidance & Draft Revised Investigation Guidance, 65 Fed. Reg. 39,650, 39,670 (June 27, 2000).

Compliance with environmental laws is not sufficient to meet the requirements of EPA's Title VI regulations:

**Compliance with environmental laws does not constitute per se compliance with Title VI.** Frequently, discrimination results from policies and practices that are neutral on their face, but have the effect of discriminating. . . . [T]here may be instances in which environmental laws do not regulate certain concentrations of sources, or take into account impacts on some subpopulations which may be disproportionately present in an affected population. For example, there may be evidence of adverse impacts on some subpopulations (*e.g.*, asthmatics) and that subpopulation may be disproportionately composed of persons of a particular race, color, or national origin. Title VI is concerned with how the effects of the programs and activities of a recipient are distributed based on race, color, or national origin. A recipient's Title VI obligation exists in addition to the Federal or state environmental laws governing its environmental permitting program.

Draft Recipient Guidance & Draft Revised Investigation Guidance, 65 Fed. Reg. at 39,680.