

US EPA ARCHIVE DOCUMENT

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Title VI Guidance Comments  
US Environmental Protection Agency  
Office of Civil Rights (1201A)  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

To the US Environmental Protection Agency:

The purpose of this letter is to provide our comments on your *Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* and your *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits*.

Our comments are limited to the issue of your agency employing a disparate-impact approach in determining compliance with Title VI of the Civil Rights Act of 1964. For the reasons discussed in the May 5, 1998, letter to you Re: Interim Guidance on Title VI and Environmental Permitting from the Center for Equal Opportunity, Institute for Justice, and Defenders of Property Rights, this approach is mistaken as a matter of both law and policy. *See also* Roger Clegg, "The Bad Law of 'Disparate Impact,'" *The Public Interest* (Winter 2000), at pp. 79-90; Thomas A. Lambert, *EPA's "Revised Guidance" for Implementing Title VI: Environmental Justice on Faulty Legal Footing* (July 2000) (Policy Brief for the Center for the Study of American Business). For your convenience, we will send you copies of the cited materials under separate cover.

Accordingly, we recommend that you limit your enforcement efforts to ensuring that there has been no disparate treatment because of race, color, or national origin, which is the intended scope of Title VI.

Sincerely,

Roger Clegg  
Center for Equal Opportunity

Nancie G. Marzulla  
Defenders of Property Rights

Clint Bolick  
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