

CIVIL RIGHTS & EPA'S CLEAN POWER PLAN

BRENT NEWELL

LEGAL DIRECTOR

CENTER ON RACE, POVERTY &
THE ENVIRONMENT

BNEWELL@CRPE-EJ.ORG

TWITTER @BRENTJNEWELL

WWW.CRPE-EJ.ORG



“No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d.



A recipient of EPA funding “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.” 40 C.F.R. § 7.35(b).



Proposed Rule's EJ Analysis

79 Fed. Reg. at 34949-34950

- Admits that the Rule could increase pollution in communities when
 - An EGU may be dispatched more frequently after undergoing required modifications to improve efficiency; and
 - Increased utilization of Natural Gas Combined Cycle (NGCC) EGUs
- “EPA has concluded that it is not practicable to determine where there would be disproportionately high and adverse effects...”

Title VI Implications

- EPA proposes to (1) allow states to develop policies it admits will increase localized pollution; and (2) allow for Cap and Trade.
- Section 602 of Title VI calls for EPA to enforce the non-discrimination mandate in section 601 and authorizes EPA to promulgate regulations effectuating Title VI.
- The Rule is silent on whether or how EPA will enforce Title VI and does not propose regulatory language effectuating Title VI.

Thank
you!



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