

Office of the Environmental Justice Public Advocate



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Limited English Proficiency Plan

Response to Comments Document

September 2020



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

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I. Limited English Proficiency Plan

Under federal law, recipients of federal financial assistance, including the Michigan Department of Environment, Great Lakes, and Energy (EGLE or Department), are required to comply with the applicable provisions of Title VI of the Civil Rights Act of 1964, as well as implementing regulations developed by the relevant federal agency, here, the United States Environmental Protection Agency (EPA). Title VI and EPA's implementing regulations prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance. EPA interprets its Title VI regulations to require all recipients of EPA assistance to provide meaningful access to individuals with limited English proficiency (LEP).

The EGLE LEP Plan (Plan) establishes department-wide guidance to provide LEP individuals with meaningful access to EGLE actions, programs, projects, services, or activities in a timely and effective manner. The Plan was developed to be consistent with:

1. EGLE's commitment to provide meaningful access to LEP individuals;
2. EGLE's mission to protect the environment and public health by managing air, water, land, and energy resources;
3. Title VI of the Civil Rights Act of 1964;
4. Title VI implementing regulations and guidance documents; and
5. Executive Order 13166 (EO 13166)

EGLE accepted comments on the draft LEP Plan for a 45-day period starting on April 16 and ending on June 1, 2020. A total of 35 comments were received during the public comment period.

The remainder of this document is a listing of the significant comments received during the public comment period and the Department's responses. The first section discusses the comments received that resulted in changes to the final Plan. The last section discusses the Department's responses to all other significant comments that did not result in changes to the final Plan.

II. Summary of Comments Resulting in Changes to the Plan

Comment

Several comments mentioned EGLE's training curriculum should be more comprehensive and identify relevant topics to incorporate into the training.

Response

The plan was updated to include training on the following subjects:

- Environmental justice principles
- Federal nondiscrimination requirements
- Department responsibilities to LEP individuals
- Language assistance services offered by the Department
- Procedures for identifying language needs and providing language assistance
- Documentation of requests for language assistance and services provided
- Procedures for handling complaints regarding language assistance

Comment

Training should also cover environmental justice topics and the historic background specific to the region.

Response

The plan was updated to include environmental justice principles in training.

Comment

EGLE should expand the scope of staff who must be trained to include all staff and training for new employees.

Response

The plan was updated to require training for all new and current EGLE staff.

Comment

The Not Without Us Census and Needs Assessment identifies the total population of Michiganders who are deaf, deafblind and hard of hearing community as 7.4%. Inclusive language access is an important aspect of ensuring Michiganders who are deaf, deafblind and hard of hearing are fully engaged in EGLE programs, services and activities.

Response

EGLE will collaborate with the Michigan Division on Deaf, DeafBlind, and Hard of Hearing to seek feedback and recommendations for inclusive access for Michiganders who are deaf, deafblind, and hard of hearing, and on cultural competency training/tools for EGLE staff.

The following information was added to the plan in Section V, Factor 1:

“The Michigan Department of Civil Rights’ Division on Deaf, DeafBlind, and Hard of Hearing’s Not Without Us Census and Needs Assessment estimated 733,356 (7.4 percent) of Michiganders are deaf, deafblind, and hard of hearing.”

The following information was added to Section VII, Providing Notice to LEP Individuals:

“Engage with LEP individuals, community-based organizations, migrant worker organizations, agencies working with individuals who are deaf, deafblind, and hard of

hearing, to provide notice about EGLE programs, services and activities, as well as to get feedback on meaningful language assistance.”

Comment

EGLE should use plain language whenever possible on documents and provide a definition for technical language or terms.

Response

EGLE added the following language in Section VII Providing Notice to LEP Individuals:

“Provide translation of information and documents in plain language whenever possible and ensure that technical language and terms are defined.”

In addition, EGLE is currently working with Clear Language Lab at Literacy Works and the University of Michigan on a project titled Plain Language to Improve Environmental Justice. The aim of the project is to build capacity for applying plain language and develop best practices in the context of public participation in environmental decision-making. EGLE is also examining ways to provide plain language training to EGLE staff.

Comment

Increase outreach on non-English media of all types to inform people how to get information in languages other than English.

Response

Section VII Providing Notice to LEP Individuals was updated to include the following:

“Provide information and notice on non-English language radio and television stations, newspapers, and social media.”

Comment

Create multilingual taglines on the homepage of EGLE’s website with short messages about who to contact for information and how to request language assistance.

Response

Section VII Providing Notice to LEP Individuals originally included “Publish the LEP Plan on EGLE’s website to ensure public accessibility” and was updated to “Publish the LEP Plan and other materials, as well as information on how to access language assistance services, on EGLE’s website.”

Comment

ISpeak Card URL does not lead to PDF file for me. Leads to language map. Could not find way to get to ISpeak cards.

Response

The URL is updated in the final plan.

Comment

Consider various forms of outreach to provide notice to LEP individuals including webinars, flyers, social media posts, phone calls and in-person meetings (once everyone is able) and a webpage/site.

Response

Section VII Providing Notice to LEP Individuals was updated with additional ways for EGLE to ensure LEP individuals are informed, including:

- Develop outreach brochures and flyers, available in language other than English, that state language access services available.
- Provide information and notice on non-English language radio and television stations, newspapers, and social media.
- Engage with LEP individuals, community-based organizations, migrant worker organizations, agencies working with individuals who are deaf, deafblind, and hard of hearing, to provide notice about EGLE programs, services, and activities, as well as to get feedback on meaningful language assistance

Comment

In regards to providing interpreter services at any meeting or public hearing, fourteen days advance notice might provide too many barriers for LEPs.

Response

In order to ensure that translation and interpreter services can be secured through qualified interpreters and translators, fourteen days is needed. However, EGLE can request services with a shorter timeline, but may not be able to guarantee they will be available. The following was added to the Plan:

“EGLE will also consider and accommodate requests with less than fourteen calendar days’ notice when possible.”

Comment

The LEP Plan must describe what constitutes sufficient notice and how notice will be disseminated.

Response

Section VII, Providing Notice to LEP Individuals includes a variety of methods by which EGLE will ensure LEP individuals are informed. Based on comments, this section was expanded.

Comment

Although EGLE includes some provisions regarding notice in the draft, EPA’s Guidance suggest several other measures to ensure adequate notice.

Response

Section VII, Providing Notice to LEP Individuals is updated to include additional methods to provide notice including:

- Develop outreach brochures and flyers, available in languages other than English, that state language access services available.
- Provide translation of information and documents in plain language whenever possible and ensure that technical language and terms are defined.
- Provide information and notice on non-English-language radio and television stations, newspapers, and social media.
- Engage with LEP individuals, community-based organizations, migrant worker organizations, and agencies working with individuals who are deaf, deafblind, and hard of hearing, to provide notice about EGLE programs, services, and activities, as well as to get feedback on meaningful language assistance.
- Publish the LEP Plan and other materials, as well as information on how to access language assistance services, on EGLE’s website.
- Provide information and notice to community organizations, governmental entities, and other interested individuals; also, in languages other than English. This will provide the opportunity to advise EGLE of any LEP needs.
- Provide information in various languages, giving notice of language assistance services and rights, in public places and at public meetings.

Comment

Once an assessment confirms that there is an established LEP community in need of services, EGLE’s plan should operate with the initial presumption that there is a need for these services without first requiring a request from the public.

Response

The goal of the LEP Plan is to be proactive in identifying and engaging LEP individuals. As such the following was added to Section V Four-Factor Analysis:

“EGLE will use information provided in the four-factor analysis to proactively determine the need for language services without first requiring a request from the public to provide language assistance.”

Comment

Recommend the categorization of Priority LEP Counties, whereby counties with LEP populations at or above the state average of 3.1 LEP individuals per square mile are granted broad notice requirements automatically translated and provided in languages where 10,000 or more speakers who are LEP reside in the state. This currently includes Arabic, Bengali, Mandarin, Cantonese, Spanish, Syriac, and Vietnamese.

Response

Section V, Four-Factor Analysis Factor 1 was updated to include a categorization of priority LEP counties where more than 4 percent of the population are identified as LEP. The updates are below:

“EGLE will consider these counties as priority LEP counties. The likelihood of programs, activities, and services in these counties to encounter LEP populations is higher.”

County	Total LEP (Percent of Total Population)
Wayne	94,038 (37.6%)
Oakland	55,730 (4.7%)
Macomb	46,380 (5.6%)
Kent	30,750 (5.0%)
Washtenaw	15,631 (4.4%)
Ingham	12,900 (4.7%)

The four-factor analysis will still apply to determine when translation and interpretation services will be provided.

Comment

Several comments identified the use of machine translation should be prohibited in the Plan.

Response

Section VII, Selecting Language Assistance Services was updated with the following:

“EGLE will not utilize machine translation, such as Google Translate, under any circumstances.”

Comment

Effective practices for language assistance include assessing the target language and securing the use of a qualified interpreter who can interpret effectively, accurately, and impartially. Note: Use of a family member, friend, or minor is discouraged due to issues regarding competency, confidentiality, or conflict of interest.

Response

EGLE received several comments related to Section VIII, Selecting Language Assistance Services. The Plan was updated to include the following methods of providing interpretation and translation services:

1. Contracting and hiring qualified interpreters and translators. EGLE will primarily rely on these services when providing language assistance. EGLE will utilize contractors who are qualified and/or certified to communicate in both English and the LEP language, have knowledge of specialized terms in both languages, and understand and follow the relevant confidentiality rules.
2. Bilingual staff who are qualified and/or certified to communicate in both English and the LEP language and have received training in proper interpretation and

translation protocol. EGLE staff who volunteer to be a part of the Language Team will primarily provide support to ensure the accuracy of translated documents and interaction with LEP individuals.

3. Using telephone (or video conferencing) interpreter services. These services may be needed when holding virtual meetings or events.
4. Partnering with other departments, agencies, or community volunteers that provide services to LEP individuals to maximize resources and to ensure that language services provided fit the need of the community being served.
5. Using family members or friends. EGLE will not rely on an LEP individual's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities. LEP individuals may choose to use, at their own expense, an interpreter of their choosing in place of or as a supplement to the language services EGLE provides.

Comment

Plan state[s] that EGLE will contract and hire “qualified interpreters and translators”. However, it does not mention how EGLE will determine if they are qualified or whether they will be certified interpreters and translators. Only certified interpreters and translators should be used when possible.

Response

Section VIII, Selecting Language Assistance Services was updated to include the following:

“EGLE will primarily rely on these services when providing language assistance. EGLE will utilize contractors who are qualified and/or certified to communicate in both English and the LEP language, have knowledge of specialized terms in both languages, and understand and follow the relevant confidentiality rules.”

Comment

The plan states that depending on the type of language assistance services needed, bilingual staff can be used. When the services of bilingual EGLE staff are not available or appropriate and there is a need for an outside interpreter, the office may seek interpretation assistance from a contracted interpreter through the department-wide contract. The statement above suggests that EGLE will primarily rely on bilingual staff to satisfy their obligation to provide interpretation services. This inconsistency is concerning for several reasons.

Response

The Plan has been updated to clarify with the following:

“EGLE will primarily rely on qualified contracted interpreters and translators for both written translation and interpretation services. EGLE will develop a Language Team comprised of bilingual staff to help with reviewing translated documents for accuracy and provide support for interacting with LEP individuals.”

Comment

As done in LEP plans of other agencies, EGLE should specify documents that are categorically deemed vital. At a minimum, this should include the documents noted by EPA Guidance as a base.

Response

While the Plan doesn't include documents that are categorically deemed vital, it was updated to include the following additional example vital documents:

- Consent and complaint forms
- Written notices of rights, denial, loss, or decreases in benefits or services
- Notices of disciplinary action, environmental hazards, or cease and desist orders
- Notices advising LEP persons of free language assistance
- Consumption advisories
- Residential Lead-Based Paint Disclosure Program Forms and Pamphlets

Comment

EGLE must outline how it will ensure the quality of document translations.

Response

EGLE will primarily rely on qualified contracted translators and is developing a Language Team comprised of bilingual staff to help with reviewing translated documents for accuracy.

Comment

The draft LEP plan provides county by county LEP data for several counties, but EGLE should consider smaller geographical areas such as multiple cities, one city, or even a combination of census tracts within a city.

Response

Section V, Four-Factor Analysis, Factor 1 was updated to include the following:

“EGLE will consider the geographic scope of its programs, activities, and services when determining the number or proportion of LEP individuals likely to be encountered or impacted. For example, if making a decision on a proposed permit, EGLE will determine if LEP populations exist near the facility.”

Comment

The numbers reflected in the EGLE LEP plan are outdated. The most recent report from the U.S. Census reflects that there has been an increase in LEP people.

Response

The numbers were updated to reflect the most recent data.

Comment

It should also be noted the map app on lep.gov/maps cites outdated data and EGLE should always consult the latest Census data when identifying LEP populations. Another tool that may be helpful is EJSCREEN, an environmental justice mapping

and screening tool which includes identification of linguistically isolated or LEP households.

Response

EGLE will use a variety of methods to identify LEP populations. Section V, Four-Factor Analysis, Factor 1 was updated to include the following:

“The U.S. Environmental Protection Agency, Environmental Justice Screening and Mapping Tool (EJSCREEN) is also a good tool for identification of linguistically isolated or LEP households and provides information on languages spoken (Add Maps>More Demographics>Category>Language).”

Comment

EGLE must identify how it will accurately identify Michigan’s LEP communities with greater particularity.

Response

EGLE will use a variety of methods to identify LEP populations. Section V, Four-Factor Analysis, Factor 1 was updated to include the following:

“Identification of LEP populations can be accomplished by examining the most recent census data, using the tools described above, and contacting EGLE district staff, local governments agencies, community-based organizations, community members, and others.”

Comment

When cost concerns limit the ability to provide services, EGLE should coordinate with governmental agencies to share costs and reduce the burden of providing services. EGLE must explore new resources including funding, collaboration with other agencies, sharing existing language service providers, human resources, emerging technology, and other mechanisms for ensuring improved access for individuals who are LEP.

Response

Section V, Four-Factor Analysis, Factor 4 was updated to include the following:

“EGLE will consider the level of resources and the costs to provide language assistance services. When cost concerns limit the ability to provide services, EGLE will explore other options including coordination with other government and non-governmental agencies, exploring new resources and emerging technology, and other mechanisms for ensuring meaningful access for individuals who are LEP.”

Comment

The Plan informs the reader that the funds available for LEP services come from existing EGLE operating funds. However, the Plan does not provide further details related to the amount anticipated to be needed (and therefor[e] committed) to provide LEP services.

Response

The amount of funds needed and available for LEP services vary depending on the program and services provided. The plan has been updated to reflect this. As part of the annual monitoring and updating of the plan, EGLE will be collecting data on cost to help determine future allocation of funds.

Comment

The Plan states that “EGLE shall explore cost-effective means of delivering adequate and accurate language services before limiting services due to resource constraints.” This sentence should be deleted or rewritten. It may be misinterpreted to mean that a non-English speaker’s need for services are not as important as that of an English speaker.

Response

The sentence was updated as follows:

“EGLE will consider the level of resources and the costs to provide language assistance services.”

Comment

While the “safe harbor” standard is a good baseline, there are certainly additional situations which should require translation services. We hope that EGLE will avoid using the “safe harbor” circumstances as a minimum requirement for providing written translations.

Response

The “safe harbor” standard will be used as a guide when deciding when written translation should be provided, not as a minimum requirement. The following was added to the Plan:

“EGLE will use the safe harbor standard as a guide when deciding when written translation should be provided.”

Comment

Several comments were received stating EGLE should add more specifics regarding how often EGLE will monitor and update the plan.

Response

Section X, Monitoring and Updating the EGLE LEP Plan was updated to include the following:

“The plan will be reviewed and updated at least on an annual basis. Ongoing public input will continue to be taken into consideration on an ongoing basis.”

Comment

Several comments were received that EGLE should collect data and include the methods by which the Plan will be monitored and updated.

Response

Section X, Monitoring and Updating the EGLE LEP Plan, was updated to include the following:

As part of monitoring the plan, EGLE will collect data on the following:

- Language services requested (including by whom)
- Language services provided
- Languages requested or provided
- Purpose
- Target audience/location
- Cost
- Whether assistance was provided by EGLE Language Team
- Challenges encountered and how they were resolved

EGLE will examine and update its LEP Plan based on the following:

- Changes in demographics as reported by the American Community Survey and Census
- The number of LEP individuals who were encountered annually
- Ensuring the needs of LEP individuals can be addressed
- An evaluation of EGLE's programs and services offered to meet the needs of LEP individuals
- The receipt of complaints concerning the agency's failure to meet the needs of LEP individuals
- Feedback from stakeholders, the community, and LEP individuals, including the Michigan Advisory Council on Environmental Justice
- Best practices to further enhance language assistance services

III. Summary of Significant Comments

A. General

Comment

We are disappointed that EGLE decided to implement the LEP Plan through policy. Any future administration can easily eliminate a policy. If Michigan is going to commit sincerely to environmental justice, the commitment must be reflected to the maximum extent practicable in binding laws such as regulations. To the extent EGLE does not believe it has the statutory authority necessary to promulgate LEP regulations, it should actively seek it from the legislature. Therefore, we see the LEP Plan policy as a necessary interim step along the path to codifying environmental justice in our laws.

Response

The goal of our work is to ensure that we can address the needs of all Michigan residents as it relates particularly to those with limited English proficiency. To that end, we are moving forward with policy solutions to provide immediate access through a plan designed to ensure meaningful access and the ability to have equitable participation for all. Ultimately, our goal is to have laws that codify our environmental justice policies, however, today we are able to ensure access through the development and implementation of this Plan.

Comment

In light of the COVID-19 crisis, EGLE is unlikely to receive comments that comprehensively address the varied concerns of LEP individuals and communities most impacted by the Plan. LEP communities are among those disproportionately impacted by the current situation, and EGLE should take seriously the possibility that their voices will not be heard because of this crisis. This reality reinforces the importance of including a commitment in the LEP plan to review the Plan regularly and incorporate feedback from LEP individuals.

Response

EGLE recognizes that COVID-19 created unique challenges for public engagement. The Plan is a living document and will be reviewed and updated at least on an annual basis. Public input will continue to be taken into consideration on an ongoing basis. We understand that current circumstances provide imperfect solutions, however we are committed to continuous improvement of the Plan based on input from and engagement with the people and communities impacted by the Plan.

B. Training

Comment

Ensure that all staff have been trained on utilizing telephonic and other remote interpreting platforms.

Response

While EGLE doesn't believe that all staff need to be trained in utilizing telephonic and other remote interpreting platforms, EGLE's Environmental Support Division is well-versed in public engagement technology, especially given the virtual nature of recent public engagement during COVID-19.

Comment

Include training on the dialect aspect of languages.

Response

EGLE agrees that dialect of languages is an important factor to consider when engaging with LEP individuals and will include this fact in the training being provided to EGLE staff.

Comment

EGLE must partner with community organizations to design and provide training to EGLE staff.

Response

EGLE is willing to partner directly with communities and community organizations to design and provide training to staff.

Comment

EGLE must create a rubric for evaluating the effectiveness of trainings.

Response

While EGLE hasn't developed a rubric for evaluating the effectiveness of trainings, we will include checks for understanding as part of the training provided to EGLE staff. In addition, as part of the monitoring of the Plan, we will evaluate challenges encountered and the need for additional training.

C. EGLE Staff

Comment

Recommend the development of a long-range vision that intentionally recruits and hires staff from affected neighborhoods.

Response

EGLE has created a Diversity, Equity, and Inclusion team within the department. The DEI team is focused on a variety of initiatives to increase the Department's focus on inclusive diversity and equity. One of the primary initiatives is focused on diversifying staffing through enhanced, targeted outreach that focuses on underrepresented communities and people within the Department.

Comment

The department should hire individuals who are proficient in a foreign language and form a task force of a group of people within EGLE who can help with translating.

Response

EGLE is committed to engaging community in our outreach and our work. The Department currently works with certified translators contracted through the Michigan Department of Technology, Management and Budget for external translation and interpretation services. EGLE has also created an EGLE Language Team, which includes staff members who are fluent in various languages to support contracted services. Exploration of ways to more deeply engage community members in our work to ensure everyone has equitable, meaningful access also continues.

Comment

It is important for EGLE to continuously practice authentic community engagement and relationship building with LEP individuals and community-based organizations that support such individuals.

Response

EGLE agrees.

Comment

EGLE should have a community liaison person to connect with diverse cultural and language communities.

Response

EGLE is currently under a hiring freeze but could look at the possibility of hiring a community liaison position in the future.

Comment

EGLE should hire translation assistance from the communities impacted.

Response

The Department currently works with certified translators contracted through the Michigan Department of Technology, Management and Budget for external translation and interpretation services. EGLE has also created an EGLE Language Team, which includes staff members who are fluent in various languages to support contracted services. Exploration of ways to engage community members in our work to ensure everyone has equitable, meaningful access also continues.

D. Hotline

Comment

EGLE hotlines and other information numbers should ensure that there are interpreters available.

Response

Currently, EGLE enlists the support of EGLE staff and Language Team members to assist with interpretation needs on our hotlines and information numbers. Moving forward, we are working to enhance language interpretation services for all of our hotlines and information numbers.

Comment

EGLE should set up a phone line for multilingual recorded messages and provide broadcasts in multiple languages.

Response

EGLE is working to increase and enhance the use of multilingual messaging in our work. Moving forward, we will identify the most effective means for ensuring that appropriate languages are accessible via recorded messaging and other means.

E. Public Notification and Meetings

Comment

EGLE must publish its LEP assessment determinations.

Response

EGLE's mission is carried out by its various divisions and offices. Given the varied activities and services of EGLE's divisions and offices, the process for public involvement is not a one size fits all approach. The Plan is designed to provide some consistency across the divisions and offices while still allowing flexibility.

Comment

The LEP Plan should make clear and explicit guidelines for community meetings.

Response

EGLE's Policy No. 09-007, Policy and Public Involvement in Department Decisions has guidelines for community meetings and is referenced in the Plan.

Comment

Do the divisions and district office[s] follow the same rules and guidance for determining public involvement and engagement?

Response

No. Rules and guidance for determining public involvement and engagement vary by divisions and programs. The requirements for public involvement vary based on the rules and regulations that apply. That being said, both this Plan and EGLE's Policy No. 09-007, Policy and Public Involvement in Department Decisions, provide department-wide guidance to provide consistency across the Department.

F. LEP Outreach

Comment

To serve individuals with limited English proficiency effectively, EGLE must conduct proactive outreach, utilizing written translations, trained bi- or multilingual staff, and interpreting services, as an integral part of any changes and updates to policies and practices during this time.

Response

EGLE agrees and has made that commitment through this Plan.

Comment

EGLE should intentionally work with organizations with longstanding relationships in the community because the translation of a document is only the beginning to helping other language speakers feel that their input is really desired and necessary. Trust is at the core of interacting with hard to reach residents.

Response

EGLE agrees trust is an essential component of community engagement and is committed to working with community organizations.

Comment

Community members have been disappointed that EGLE did not consult with Michigan residents on the Draft LEP Plan and then put the draft out for comment during the COVID crisis.

Response

The Plan is a living document and will be reviewed and updated at least on an annual basis. Public input will continue to be taken into consideration on an ongoing basis. Community members can provide feedback on the Plan or implementation of the Plan anytime by contacting Katie Kruse at 517-249-0906 or EGLE-NondiscriminationCC@michigan.gov.

G. Identifying LEP Populations

Comment

When individuals are eligible for EGLE services or are directly affected by EGLE's activities, programs, or services, EGLE can identify who needs language assistance by consulting with state agencies that work with migrant and seasonal farmworkers that harvest many fruits and vegetables in Michigan during the agricultural season.

Response

EGLE will work with other state agencies such as the Michigan Department of Civil Rights and Department of Health and Human Services to help identify who needs language assistance.

Comment

Information is generally translated into the standard three languages (English, Arabic and Spanish) while neglecting to consider there are Michiganders who rely on information in their primary language: American Sign Language.

Response

EGLE will collaborate with the Michigan Division on Deaf, DeafBlind, and Hard of Hearing to seek feedback and recommendations for inclusive access for Michiganders who are deaf, deafblind and hard of hearing whose primary language is American Sign Language.

Comment

EGLE received a couple of comments about conducting a language survey to identify individuals who need language assistance.

Response

EGLE agrees that this would be a good strategy to identify individuals who need language assistance.

Comment

Suggest more detail in Section IV Identifying LEPs including how outreach to stakeholders will be done.

Response

Section VII, Providing Notice to LEP Individuals, includes additional information on how outreach will be done.

Comment

EGLE should adopt clear thresholds for determining when LEP services are required for statewide and locally concerning programs and services.

Response

EGLE's mission is carried out by its various divisions and offices. Given the varied activities and services of EGLE's divisions and offices, the process for determining when LEP services are required is not a one size fits all approach. The Plan is designed to provide some consistency across the divisions and offices while still allowing flexibility.

H. Language Assistance Services and Methods

Comment

Ensure that all notices and updates are translated into the top five languages spoken by LEP individuals in the relevant geographic location.

Response

The four-factor analysis will be used to determine when language services are provided. It is not feasible for EGLE to translate all notices and updates into the top five languages spoken in a relevant geographic location.

Comment

Provide interpreted and translated information and announcements contemporaneously with English announcements.

Response

When EGLE determines that language assistance is needed, the information and announcements are released in English and other identified languages at the same time.

Comment

The Plan does not provide information on the number of bilingual staff EGLE has, and it does not identify what language or languages each bilingual staff member speaks. Does EGLE have Spanish; Arabic; Chinese (Mandarin and Cantonese); Korean; Amharic, Somali, and other Afro- Asiatic languages; and German speaking staff who interact with the public?

Response

EGLE is developing a Language Team as part of the implementation of the Plan. Only those who volunteer to be a part of the team would be included on the list of bilingual staff. Once the team is developed, EGLE can provide the number and languages of bilingual staff.

Comment

The Plan talks about hiring bilingual staff. However, the Plan does not specify the process for hiring bilingual staff including what languages EGLE wants to target. Furthermore, the Plan does not specify when and how to test the competency of current or prospective bilingual staff that will be interpreting or translating at EGLE.

Response

EGLE will primarily rely on qualified contracted interpreters and translators for both written translation and interpretation services. EGLE will develop a Language Team comprised of bilingual staff to help with reviewing translated documents for accuracy and provide support interacting with LEP individuals.

Comment

EGLE must establish core competencies for “qualified interpreters.”

Response

EGLE will primarily rely on qualified contracted interpreters and translators for both written translation and interpretation services. EGLE is currently using the statewide contracts with Linguistica International and Bromberg and Associates. Each of these companies train and screen their interpreters, translators, and language professionals.

Comment

Competency in interpretation also includes consideration of ethical and cultural knowledge. An interpreter must be cognizant of the cultural differences that shape interpretation; to communicate effectively, an interpreter must be aware of cultural norms and differences within the LEP community it serves.

Response

EGLE agrees that cultural competency is important. Both companies that EGLE utilizes for language assistance services try to hire local interpreters with experience in the communities and industries they serve. EGLE also feels it’s important to engage with community organizations and other agencies in the local community to ensure those considerations are taken into account.

Comment

For vital documents there should be a prioritization of document types (written, website, email, etc. Which language group and which documents will be prioritized in the budget set aside for LEP work?

Response

EGLE’s mission is carried out by its various divisions and offices. Given the varied activities and services of EGLE’s divisions and offices, the process for prioritization of documents will be determined by the divisions and offices. The Plan is designed to provide some consistency across the divisions and offices while still allowing flexibility.

Comment

EGLE must clarify how it will determine whether documents are vital. Specifically, the final plan should include a list of vital documents that must, at a minimum, be translated.

Response

EGLE's mission is carried out by its various divisions and offices. Given the varied activities and services of EGLE's divisions and offices, vital documents will vary across divisions and programs. Each division will determine what documents are vital and will be translated.

Comment

EGLE should include a timeframe for how promptly vital documents will be translated and provided when necessary to ensure there are no delays in access.

Response

The timeframe for translation of vital documents will depend on the programs, activities, and services at hand.

Comment

Permit applications should also be classified as vital documents, particularly if there is a comment period, public meeting, or public hearing.

Response

It may not always be feasible to translate permit applications. This will be determined on a case by case basis.

Comment

EGLE must create an appeal process for reclassifying documents as vital and to ensure the adequacy of translations so LEP populations do not have to go through the lengthy process of filing a Title VI complaint every time there is a deficient translation.

Response

There is no need to file a Title VI complaint every time there is a deficient translation or a request to reclassify documents as vital. EGLE would prefer that individuals contact the Office of Environmental Justice Public Advocate if there are concerns at EGLE-EnvironmentalJustice@Michigan.gov or Katie Kruse, EGLE's Nondiscrimination Compliance Coordinator, at 517-249-0906 or EGLE-NondiscriminationCC@Michigan.gov.

I. Four-Factor Analysis

Comment

EGLE must provide every person with interpretation services upon request.

Response

EGLE will strive to accommodate all language service requests but there may be circumstances where it is not possible.

Comment

Where an EGLE decision is subject to public notice and comment and applies to the entire state, a presumption should exist that it will be translated into languages used by LEP populations residing in the state, estimated by the most recent American Community Survey to be 1,000 people or more, as well as those languages within the statistical margin of error.

Response

This would include translation into at least 42 languages. This is not feasible given EGLE's current resources.

Comment

EGLE must set thresholds applicable to localized projects and conduct assessments to determine if thresholds are met.

Response

EGLE's mission is carried out by its various divisions and offices. Given the varied activities and services of EGLE's divisions and offices, the process for determining if language services are needed is not a one size fits all approach. The Plan is designed to provide some consistency across the divisions and offices while still allowing flexibility.

Comment

In Factor 2, the LEP plan notes that the need for language services will be based on "the frequency of staff contact with a language group, how often people with limited English proficiency seek services from a program, and what type of language services needed." I hope that EGLE will keep in mind that some LEP individuals may not currently be going to public hearing, seeking services, or be in contact with EGLE staff, but that lack of contact may be due to lack of awareness of EGLE's work in the community, not due to a lack of interest or need for services.

Response

EGLE recognizes that some LEP individuals may not be aware of EGLE's work. Through implementation of the Plan and continuous monitoring and updating of the Plan EGLE hopes to increase awareness of EGLE's programs, activities, and services with LEP individuals.

Factor 2 is only one of four factors considered in identifying when language services are needed. Through using a multi-pronged approach EGLE hopes to provide meaningful access to LEP individuals.

J. Safe Harbor

Comment

EGLE must explain in the LEP Plan the criteria for selecting which languages will and will not be translated. As drafted, the safe harbor provision fails to provide sufficiently

clear standards for determining when language access services must be provided at the state and local level.

Response

EGLE will use the safe harbor standard as a guide when deciding when written translation should be provided as opposed to a minimum threshold.

K. Monitoring and Updating the Plan

Comment

In the case of the Draft LEP Plan, EGLE can commit now to holding public meetings on the first anniversary of the adoption of the LEP Plan, which will demonstrate a commitment to hearing and incorporating public input on the Draft LEP Plan; it will also provide an opportunity to assess how well the LEP Plan is serving LEP persons.

Response

The Plan is a living document and public input will continue to be taken into consideration on an ongoing basis. We are willing to annually evaluate the effectiveness of the current plan and identify a means for public engagement to ensure that we are hearing from those who this plan is designed to support.

Comment

EGLE should consider forming a LEP advisory committee, perhaps linked to the Environmental Justice Advisory Council.

Response

This is a good idea, EGLE will consider developing an LEP advisory committee.