



## DEPARTMENT POLICY AND PROCEDURE

09-024

### Nondiscrimination in EGLE Programs

Original Effective Date: October 28, 2015

Last Revision Date: January 21, 2020

Distribution: All EGLE Employees and EGLE Web Site

#### ISSUE

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Title 40 of the Code of Federal Regulations (CFR), Part 7, Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency, prohibits discrimination on the basis of race, color, national origin, age, sex, or disability in programs or activities receiving federal assistance from the United States Environmental Protection Agency (EPA). It requires recipients of federal assistance from the EPA to:

- A. Collect, maintain, and provide information showing compliance with 40 CFR Part 7.
- B. Designate a person to be the Nondiscrimination Compliance Coordinator to coordinate efforts to comply with 40 CFR Part 7.
- C. Adopt grievance procedures that assure the prompt and fair resolution of discrimination complaints alleging violations of 40 CFR Part 7.
- D. Provide continuing and prominent public notice of nondiscrimination on the basis of race, color, national origin, age, sex, or disability, and of the identity and contact information for the Nondiscrimination Compliance Coordinator.

As set forth below, it is the Michigan Department of Environment, Great Lakes, and Energy's (EGLE) policy not to discriminate on the basis of several factors, including those in 40 CFR Part 7 and other applicable state and federal laws. In addition, EGLE adopts the following procedures to implement the requirements of 40 CFR Part 7.

#### POLICY

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##### A. Compliance Information

1. EGLE shall collect, maintain, and on request of the EPA External Civil Rights Compliance Office (ECRCO), provide the following information to show compliance with 40 CFR Part 7:
  - a. A brief description of any lawsuits pending against EGLE that allege discrimination that 40 CFR Part 7 prohibits.

- b. Racial/ethnic, national origin, age, sex, handicap, and disability data, or [EPA Form 4700-4](#) information submitted with EGLE applications for EPA assistance.
  - c. A log of discrimination complaints that identifies the complaint, the date it was filed, the date EGLE's investigation was completed, the disposition, and the date of disposition.
  - d. Reports of any compliance reviews conducted by any other agencies.
  - e. Additional data and information specific to certain EGLE programs or activities to determine compliance where there is reason to believe that discrimination may exist in an EGLE program or activity or to investigate a complaint alleging discrimination in an EGLE program or activity.
2. When preparing compliance information, EGLE shall use the racial classifications set forth in 40 CFR Section [7.25](#) in determining categories of race, color, or national origin.
  3. EGLE shall keep records of the compliance information identified in paragraphs (1)(a) – (1)(b) for at least three years after completing a project for which EGLE was a recipient of EPA assistance. When any complaint or other action for alleged failure by EGLE to comply with 40 CFR Part 7 is brought before the three-year period ends, EGLE shall keep records until the complaint is resolved.
  4. EGLE shall:
    - a. Give the ECRCO access during normal business hours to its books, records, accounts, and other sources of information, including its facilities, as may be pertinent to ascertain compliance with 40 CFR Part 7.
    - b. Make compliance information available to the public upon request.
    - c. Assist in obtaining other required information that is in the possession of other state agencies, institutions, or persons not under EGLE's control. If such party refuses to release that information, EGLE shall inform the ECRCO and explain its efforts to obtain the information.

## **B. Nondiscrimination Compliance Coordinator**

The EGLE Director has a designated position in the Executive Office as EGLE Nondiscrimination Compliance Coordinator (NCC), who is responsible to coordinate EGLE's efforts to comply with its obligations under 40 CFR Part 7. The NCC contact information is:

Nondiscrimination Compliance Coordinator  
Executive Office  
Michigan Department of Environment, Great Lakes, and Energy  
525 West Allegan Street  
P.O. Box 30473  
Lansing, Michigan 48909-7973  
E-mail: [EGLE-NondiscriminationCC@Michigan.gov](mailto:EGLE-NondiscriminationCC@Michigan.gov)  
Telephone: 517-249-0906

**C. Grievance Procedures**

EGLE adopts the following procedures to allow any person or group to submit a complaint alleging discrimination of any kind by EGLE, including discrimination by EGLE that may constitute a violation of 40 CFR Part 7 or of any state or federal statutes or regulations that EGLE enforces, and in order to assure the prompt and fair resolution of any such discrimination complaints.

Step	Who	Does What
1.	Complainant	<p><b>Submittal of Complaint</b></p> <p>In order to have a complaint submittal considered for investigation under this procedure, the complainant shall file the complaint using the <i>Grievance Submittal Form</i> (<a href="https://www.michigan.gov/documents/egle/EQP_0120_698434_7.pdf">https://www.michigan.gov/documents/egle/EQP_0120_698434_7.pdf</a>) no later than 180 calendar days after the date(s) of the alleged act(s) of discrimination.</p> <p>Complaints shall be in writing and signed by the complainant or the complainant’s representative and shall include contact information for the complainant or their representative.</p> <p>The complaint shall specify with as much detail as possible:</p> <ul style="list-style-type: none"> <li>• The actions or inactions by EGLE that support an alleged violation.</li> <li>• The alleged discrimination that did or will result from such actions or inactions.</li> <li>• The identity of the person(s) harmed or potentially harmed by the alleged discrimination.</li> <li>• The state or federal statutes or regulation that EGLE allegedly violated (if known).</li> </ul> <p>EGLE may request additional information from the complainant if needed to assist with meeting the complaint requirements listed above. Appropriate assistance shall be provided to individuals with disabilities and individuals with limited English proficiency. Also, complaints in alternate formats shall be accepted from individuals with disabilities, for example, complaints filed on computer disks, on audio tape, or in Braille.</p> <p>All complaint submittals should be mailed (or e-mailed) to the NCC at the following address:</p> <p style="padding-left: 40px;">Nondiscrimination Compliance Coordinator                      Executive Office                      Michigan Department of Environment, Great Lakes, and Energy                      525 West Allegan Street                      P.O. Box 30473                      Lansing, Michigan 48909-7973                      E-mail: <a href="mailto:EGLE-NondiscriminationCC@Michigan.gov">EGLE-NondiscriminationCC@Michigan.gov</a>                      Telephone: 517-249-0906</p>

Step	Who	Does What
2.	NCC	<p><b>Logging of Complaint Submittals</b></p> <p>All complaint submittals meeting the requirements in Step 1 are to be logged. The NCC shall retain a copy of all documents on file in accordance with the records retention schedule. The NCC shall also notify the relevant program manager(s). All logged complaints will receive an appropriate, prompt, and unbiased investigation.</p> <p>The following are examples of what will not be logged as a complaint submittal:</p> <ul style="list-style-type: none"> <li>• Anonymous submittals.</li> <li>• Submittals too vague to reasonably determine the allegations of discriminatory conduct.</li> <li>• Submittals not sufficiently identifying the person(s) harmed or potentially harmed by the alleged discrimination.</li> <li>• Inquiries seeking advice or information.</li> <li>• Courtesy copies of court pleadings.</li> <li>• Newspaper articles.</li> <li>• Web-based media sources such as YouTube videos, e-mail strings, blogposts, comments strings, or web pages.</li> <li>• Courtesy copies of internal grievances.</li> <li>• Voice mail messages, telephone calls, or in-person conversations.</li> </ul>
3.	NCC	<p><b>Initial Review of a Complaint Submittal; Informal Resolution Process</b></p> <p>Upon receipt of a complaint and any additional information supporting or otherwise associated with the complaint, a case file shall be established containing all documents and information pertaining to the complaint and an initial review of the case shall be conducted. At this stage, the NCC shall determine if an informal resolution process should be engaged and, if so, shall inform the complainant how to engage the available options for the informal resolution process.</p>

Step	Who	Does What
4.	NCC	<p><b>Determination if Complaint Warrants Further Investigation</b>                      The NCC, based on information in the complaint submittal and other information available, shall determine if:</p> <ul style="list-style-type: none"> <li>• EGLE has jurisdiction to pursue the matter.</li> <li>• The complaint submittal contains sufficient merit to warrant further investigation.</li> </ul> <p>A complaint shall warrant further investigation unless:</p> <ul style="list-style-type: none"> <li>• It lacks an identifiable path to resolution or does not provide enough clarity to warrant next steps.</li> <li>• Within the time allotted for making the determination of jurisdiction and investigative merit, EGLE reaches an agreed resolution with the complainant.</li> <li>• Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint.</li> <li>• The complaint was not submitted within the time limits established in Step 1.</li> </ul> <p>Within 14 calendar days of receipt of the complaint submittal, the NCC shall inform the complainant if the complaint has or has not been accepted for further investigation. If it is determined that further investigation is not warranted, the reason for such determination shall be recorded in the case file.</p>
5.	NCC	<p><b>Further Investigation of Complaint</b>                      If the NCC determines the complaint submittal warrants further investigation, the NCC shall review the alleged facts to determine the course of the investigation. The investigation may include interviews of EGLE employees, other relevant witnesses, or others named in the complaint. Relevant EGLE employees shall make themselves available as necessary. The preponderance of the evidence standard will be applied during the analysis of the complaint.</p>
6.	NCC	<p><b>Report and Determination</b>                      The NCC shall issue a report and determination on whether EGLE violated 40 CFR Part 7. The NCC shall prepare a written report of the investigation that shall include a narrative of the incident, identification of individuals interviewed, and evidence reviewed, and shall contain findings and a determination. The report and determination shall be placed in the complaint file.</p> <p>Within 180 calendar days of receiving the complaint that warranted investigation, the NCC shall notify the complainant in writing of the findings of the investigation and the recommendations for resolution.</p>

Step	Who	Does What
7.	Complainant	<p><b>Appeal</b></p> <p>The person submitting the complaint may appeal the decision of the NCC by writing to the EGLE Director within 30 calendar days of receiving the NCC's decision. The EGLE Director shall issue a written decision in response to the appeal no later than 30 calendar days after its receipt.</p>

**D. Notice of Nondiscrimination**

EGLE shall provide continuing notice that it does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in any of its programs or activities. Methods of notice shall accommodate those with impaired vision or hearing. At a minimum, this notice shall be posted on EGLE's web site and in a prominent place in EGLE's offices or facilities. Where appropriate or upon request, such notice shall be in a language or languages other than English. The notice shall identify the current EGLE NCC as the responsible EGLE employee designated to coordinate EGLE's efforts to comply with its obligations under 40 CFR Part 7. The text of the notice to be provided under this policy shall read as follows:

EGLE does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in the administration of any of its programs or activities, and does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected by applicable laws and regulations, or for the purpose of interfering with such rights, and claims of intimidation and retaliation will be handled promptly if they occur.

EGLE is responsible for coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements implemented by 40 CFR Part 7 (Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency) and Part 5, as applicable, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

If you have any questions about this notice or any of EGLE's nondiscrimination programs, policies, or procedures or if you believe that you have been discriminated against with respect to an EGLE program or activity, you may contact:

Nondiscrimination Compliance Coordinator  
 Executive Office  
 Michigan Department of Environment, Great Lakes, and Energy  
 525 West Allegan Street  
 P.O. Box 30473  
 Lansing, Michigan 48909-7973  
 E-mail: [EGLE-NondiscriminationCC@Michigan.gov](mailto:EGLE-NondiscriminationCC@Michigan.gov)  
 Telephone: 517-249-0906

Or you may visit EGLE's web site at [Michigan.gov/EGLEpolicies](http://Michigan.gov/EGLEpolicies) and under "Department" click the link for Policy and Procedure No. 09-024, Nondiscrimination in EGLE Programs, to obtain a copy of EGLE's procedures to file a grievance/complaint of discrimination.

To ensure individuals can invoke these grievance procedures without fear of reprisal, EGLE explicitly prohibits retaliation against any individual for any purpose, including for the purpose of interfering with any right or privilege guaranteed under any state or federal statutes or regulations because that individual has filed a complaint or has testified, assisted, or participated in any way in an investigation, proceeding, or hearing of any kind or has opposed any practice made unlawful under any state or federal statutes or regulations. Prohibited retaliatory acts include intimidation, threats, coercion, or discrimination against any such individual or group. Any concern regarding retaliation should be reported to the NCC.

The Notice of Nondiscrimination for general publications that are distributed to the public (e.g., public outreach materials, such as brochures, notices, fact sheets, or other information on rights and services; applications or forms to participate in or access EGLE programs, processes, or activities) shall read as follows:

EGLE does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in the administration of any of its programs or activities, and prohibits intimidation and retaliation, as required by applicable laws and regulations.

#### **E. Access for Persons with Limited English Proficiency**

EGLE will provide the opportunity for meaningful access to all programs and activities for individuals with Limited English Proficiency (LEP). As will be set forth more fully in EGLE's LEP Plan, it is the policy of EGLE to translate vital documents and provide oral interpretation into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity based on the four-factor test outlined below.

A vital document is any document that is critical for ensuring meaningful access to EGLE's major activities and programs by beneficiaries, generally, and LEP persons, specifically. Whether or not a document is "vital" may depend upon the importance of the program, information, encounter, or service involved and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

Information received from communities will help determine which documents are vital to the meaningful access of the LEP populations and what language services may be needed to provide meaningful access to individuals with LEP.

EGLE will balance the following four factors when determining which documents to translate:

##### **Factor 1: The Number and Proportion of LEP Persons Served or Encountered in the Service Area.**

EGLE will:

- Examine their prior experiences with LEP individuals and determine the breadth and scope of language services that are needed.

- Seek and examine demographic information regarding minority populations and foreign languages predominately spoken in the service area. Such information may be obtained from the U.S. Census, school systems, community organizations, local governments, and through the EGLE public comment process.

**Factor 2: The Frequency with Which LEP Individuals Come into Contact with EGLE Programs, Activities, and Services.**

EGLE will:

- Assess as accurately as possible the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance. This information will be gathered from EGLE staff who interact with community members daily.
- Consider the frequency of different types of language contacts. Less frequent contact with different language groups may suggest a different and/or less intensified solution.

**Factor 3: The Importance to LEP Persons of Program Activities and Services.**

EGLE will:

- Identify the programs, services, or activities that would have a serious consequence if language barriers prevent LEP persons access to them.
- A determination will be made as to the impact on actual and potential services to LEP beneficiaries.

**Factor 4: The Resource Available to the Recipient and Costs.**

This last step in the four-factor analysis allows an area to weigh the demand for language assistance against the organization's current and projected financial and personnel resources. This analysis should help determine if the language services it currently provides are cost-effective and should also help the organization plan future investments that will provide the most needed assistance to the greatest number of LEP persons within the limits of organization resources.

EGLE will also develop relationships with local community groups to engage them in the translation of documents.

**F. Access for Persons with Disabilities**

EGLE will provide individuals with disabilities the opportunity for meaningful access and opportunity for full participation in its programs and activities. EGLE will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the programs and activities provided by EGLE in a timely manner and in such a way as to protect the privacy and independence of the individual.

Individuals with disabilities have a right to request accommodations. Individuals will receive reasonable accommodations appropriate to their needs in order to fully participate in or benefit from EGLE's programs and activities in an accessible, nondiscriminatory, and integrated setting.

EGLE seeks to achieve an inclusive and accessible environment within all of its offices, facilities, and locations of public meetings/hearings. EGLE requires its State of Michigan owned and leased buildings to be designed so that they can be used safely and easily by all people without unnecessary effort, separation, or special treatment.

### G. Tracking and Annual Review of Complaints Received

All complaints logged, including a summary of allegations, status, and final determinations, will be tracked and reviewed annually by the NCC. The review shall include an analysis of patterns of complaints or systemic problems within EGLE or program areas. An annual report will be provided to the EGLE Director in January. The report will include an assessment of the efficacy of EGLE's nondiscrimination policy.

### LINKS TO ADDITIONAL INFORMATION

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[Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance \(EPA Form 4700-4\)](#)

[Grievance Submittal Form \(EQP0120\)](#)

### APPROVING AUTHORITY

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Liesl Eichler Clark, Director

### HISTORY

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Policy No.	Action	Date	Title
09-024	Created	10/28/2015	Nondiscrimination in Programs Receiving Federal Assistance from the U.S. Environmental Protection Agency
09-024	Revised	01/21/2020	Nondiscrimination in EGLE Programs

### CONTACT/UPDATE RESPONSIBILITY

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Any questions or concerns regarding this policy and procedure should be directed to the Nondiscrimination Compliance Coordinator, Executive Office, at [EGLE-NondiscriminationCC@Michigan.gov](mailto:EGLE-NondiscriminationCC@Michigan.gov).

*An EGLE policy and procedure cannot establish regulatory requirements for parties outside of EGLE. This document provides direction to EGLE staff regarding the implementation of rules and laws administered by EGLE. It is merely explanatory, does not affect the rights of or procedures and practices available to the public, and does not have the force and effect of law. EGLE staff shall follow the directions contained in this document.*