DEPARTMENT OF ENVIRONMENTAL QUALITY
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GOVERNOR
MIKE D. McDANIEL, Ph.D.
SECRETARY

To: All Employees

From: Mike D. McDaniel, Secretary MMD

Date: July 26, 2007

Re: Foreign Language Assistance to Limited English Proficient Individuals

This memorandum sets forth the instances where the Louisiana Department of Environmental Quality (LDEQ) will offer interpretation and/or translation services to individuals who do not speak English as their primary language or who have a limited ability to read, write, speak or understand English. Failure to provide assistance to Limited English Proficient (LEP) individuals may deny them of the opportunity to participate meaningfully in the LDEQ's program and activities and could constitute, in certain circumstances, a violation of federal statutory and regulatory provisions regarding non-discrimination.

As a recipient of federal funding, the LDEQ is committed to ensuring that its programs and activities comply with both federal and state anti-discrimination law. Section 601 of Title VI of the Civil Rights Act of 1964, provides that no person 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." Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity "to effectuate the provisions of [Section 601] . . . by issuing rules, regulations, or orders of general applicability. . . . "

Environmental Protection Agency (EPA) implementing regulations provide that recipients "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, or national origin, or sex." EPA interprets its Title VI regulations to require all recipients of EPA assistance to provide meaningful access to LEP persons. 40 C.F.R. Part 7

In the past, the LDEQ has provided both interpretation and translation services on a case-by-case basis, based on a clear and apparent need to provide such services for meaningful participation by affected persons. Determination of the need for interpretation/translation services was made following staff interaction with stakeholders, canvassing by the Community-Industry Relations Group, and use of GIS tools. Thus, translation/interpretation in the past was provided when the need for such services was obvious.

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By way of the present memorandum, I am directing all appropriate staff to continue to be vigilant in identifying instances where the LDEQ should either advise stakeholders of their right to language assistance at no cost to them or to arrange for the agency to provide interpretation/ translation services on its own accord. As in the past, if, in your dealings with stakeholders, it becomes clear and apparent that the individual is LEP, please bring this conclusion to the attention of the division administrator so that a decision can be made as to the extent of the LDEQ's obligation to provide interpretation/translation services. I am also directing the Community-Industry Relations staff to bring to my attention any need to offer translation/interpretation services discovered in its community canvassing and outreach activities.

The Public Participation Group should also begin using the U.S. Census Bureau's "I speak card" at future public hearings to assist in the identification of LEP persons. Copies, along with other helpful information, can be found at http://www.usdoj.gov/crt/cor/13166.htm.

In order to determine the need, scope, and reasonableness of offering interpretation or translation services, the LDEQ will make an individualized assessment of each situation, balancing the four-factors that EPA recommends. These factors include:

1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the LDEQ;
2) The frequency with which LEP individuals come into contact with the program;
3) The nature and importance of the program, activity, or service provided by the program to people's lives; and
4) The resources available to the LDEQ and costs.

After undertaking this balancing-test, the LDEQ will make a determination as to the need and scope of language assistance. Assistance can include, but certainly is not limited to: offering interpretation either using competent bilingual staff (note: just because a staff member is self-identified as bilingual does not quality him/her to serve as an interpreter), use of telephone interpreter lines, written language services for translation of vital written materials, and use of family members or friends of the person(s) needing assistance as interpreters (where appropriate). As noted above in the balancing test, any decision to provide language assistance will consider the resources available to the LDEQ.

In all cases, the LDEQ adheres to the following when making decisions regarding its obligation to provide translation and interpretation services:

> The LDEQ shall provide written translations of vital documents for each eligible LEP group that constitutes five percent or includes 1,000 members, whichever is less, of the population of persons eligible to be served or likely to be affected
>
> Translation of other documents, if needed, can be provided orally; or, if there are fewer than 50 persons in a language group that reaches the above-mentioned five percent trigger, the LDEQ shall not translate vital written materials but will provide additional

written notice in the primary language of the LDEQ language group of the right to receive competent oral interpretation of those written materials, free of cost.

Finally, I request that all staff working in this area familiarize themselves with the U.S. EPA's *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affected Limited English Proficient Persons* (LEP Guidance) Federal Register, Vol. 69, No. 112, pp. 35602-35613 (June 25, 2004).

This memorandum will remain in effect until a more formal language assistance plan for the LDEQ can be developed.

Thank you for your assistance in ensuring that the LDEQ makes meaningful participation available to LEP stakeholders and meets its obligations under Title VI and other anti-discrimination laws.