

U.S. NUCLEAR REGULATORY COMMISSION
IMPROVING ACCESS TO AGENCY PROGRAMS AND ACTIVITIES
BY PERSONS WITH LIMITED ENGLISH PROFICIENCY

Background: The United States is home to millions of national origin minority individuals who have limited English proficiency (LEP). Because of their limited proficiency in speaking, reading, or understanding English at appropriate levels of competency, otherwise eligible LEP persons are often excluded from programs, denied pertinent information or services, experience delays, or receive care and services based on inaccurate or incomplete information. This potential barrier to the exchange of information is of particular importance to the U.S. Nuclear Regulatory Commission (NRC). Members of the public, including LEP persons, are the principal beneficiaries of the agency's mission which is to protect the public health and safety and the environment. One of the Agency's primary goals is to provide the public and stakeholders with clear and accurate information about, and a meaningful role in, NRC's regulatory program in order to foster respect for, and confidence in, that program.

On August 11, 2000, the President issued Executive Order 13166 directing Federal agencies to develop and implement reasonable steps to ensure meaningful access by persons with limited English proficiency to their respective federally conducted and federally assisted programs and activities. The executive order further directs each agency to prepare a written plan documenting its policies, procedures, and reasonable steps designed to ensure that LEP persons have meaningful access to federally conducted programs and activities. This plan (hereinafter referred to as the LEP Plan) identifies the policies, procedures, and reasonable steps to be taken by the NRC in furtherance of Executive Order 13166.

This LEP Plan is similar to LEP requirements imposed on recipients of federal financial assistance through the Agency under Title VI of the Civil Rights of 1964, as amended, and is consistent with the compliance standards set out in the Department of Justice LEP Policy Guidance Document of August 11, 2000 (DOJ LEP Guidance), reprinted at 65 FR 50123 (August 16, 2000).

Scope: This policy and LEP Plan apply to all NRC-conducted programs and activities. A federally conducted program or activity includes everything a Federal agency does, including contact with the public.

Objectives: (1) To ensure that information on NRC-conducted programs and activities can be meaningfully accessed and understood by persons whose proficiency in speaking, reading, or understanding English is limited (i.e., LEP persons); (2) to perform regular assessments of affected areas to determine the current LEP makeup and whether existing assistance is meeting the needs of such persons; and (3) to ensure that NRC managers and employees are aware of the procedures for accessing language assistance resources.

Criteria for Providing Assistance: As required by Executive Order 13166, the criteria to be used to determine the scope of program's responsibility to provide language assistance services to LEP individuals, are those set out in the Department of Justice LEP Policy Guidance Document of August 11, 2000 (DOJ LEP Guidance), reprinted at 65 FR 50123 (August 16, 2000). While considerable flexibility is afforded program managers under that Guidance in determining how best to ensure reasonable and meaningful access to their programs by LEP individuals, the Department of Justice Guidance identifies four cross-cutting factors that should be considered in all cases. These factors are:

(a) Number or proportion of LEP Individuals. Programs that involve a few or even one LEP person still have a responsibility to take reasonable steps to provide meaningful opportunities for access. However, a factor in determining the reasonableness of these efforts is the number or proportion of people who will be excluded from the programs, absent efforts to remove language barriers. The steps that are reasonable for programs that involve one LEP person a year may be different than those expected from programs that serve several LEP persons each day. But even those who serve very few LEP persons on an infrequent basis should utilize this balancing analysis to determine whether reasonable steps are possible, and if so, have a plan to provide language assistance if it is needed.

(b) Frequency of contact with the program. Frequency of contacts between the program or activity and LEP individuals. For example, if LEP individuals must access the Agency's programs or activities on a daily basis, the Agency has greater responsibility than if such contact is unpredictable or infrequent. Local or regional conditions should be considered when determining the frequency of contact with the program or activity.

(c) Nature and importance of the program. The importance of the program or activity will affect the determination of what reasonable steps are required to be taken. More affirmative steps must be taken in programs where the denial or delay of access may have life or death implications than in programs that are not as crucial to one's day-to-day existence. In assessing the effect on individuals of failure to provide language services, the importance of the benefit to individuals both immediately and in the long-term must be considered.

(d) Resources Available. The resources available may have an impact on the nature of the steps needed to be taken. A program with limited resources would not take the same steps to provide LEP assistance as a larger program/activity that has a limited number of eligible LEP persons where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to an individual's day-to-day existence.

Each of these factors is discussed in the DOJ LEP Guidance noted above. The Office of Small Business and Civil Rights should be consulted for additional guidance on the application of these factors to particular Agency programs.

Implementation of Agency's LEP Plan: Each Agency program will ensure that language assistance results in accurate and effective communication and understanding. Each Agency program shall apply the four factors in determining whether the following steps should be taken to meet the language needs of LEP individuals.

(a) Oral language assistance. Oral language/interpretation assistance to LEP individuals shall be provided as and where needed. The Agency will contract for telephonic interpretation services accessible by all Agency employees. The agency shall also establish a mechanism through which face-to-face oral interpretations can be obtained as and where necessary.

(b) Written translation assistance. Vital information includes information which is critical or required to participate in or benefit from a federally conducted program or activity. As determined necessary and reasonable after application of the criteria for language assistance, vital documents, summaries of vital documents, or information intended for distribution to or use by members of the general public shall be translated into languages other than English.

Each Agency program shall be responsible for deciding, based on the four factors for language assistance: (1) which of its documents contain vital information; (2) which documents must be translated (or summarized and translated); and (3) which languages are need for translation. Documents accessible through the Agency web site, which are determined to require translation, should also be accessible in its non-English versions.

(c) Notification to LEP individuals of availability of language assistance services.

Notification of the availability of language assistance services will be made in languages other than English. This message shall be disseminated through the Agency's web site and through public announcements related to NRC-conducted or sponsored public meetings, hearings, or workshops.

(d) Training. Agency personnel having responsibility for implementation of this Plan shall be provided training on the requirements of this Plan, the criteria for providing LEP assistance, and, as appropriate, techniques for evaluating the adequacy of language assistance measures. Agency personnel whose duties include significant contact with members of the public will be provided information on the scope of available language assistance services, and the procedures through which such resources can be accessed.

(e) Periodic Assessments. The LEP Plan will serve as the Agency's written policy and procedure to ensure meaningful communication with LEP persons. A regular assessment (at least every 3 years) will be conducted of the Agency's plan, language assistance activities, and training initiatives, to determine: (1) current LEP makeup of the program/activity; (2) current communication needs of LEP persons; (3) whether existing assistance continues to meet the needs of such persons; and (4) whether sources of, and arrangements for, assistance are still current and viable.

Technical Assistance: The SBCR will provide technical assistance to NRC program offices for implementation of this Plan. Program managers should consult with SBCR to obtain information on language assistance services available to federal agencies and for further guidance on application of each of the four factors discussed in the DOJ LEP Guidance.

References:

1. Executive Order 13166 dated August 11, 2000, reprinted at 65 FR 50121 (August 16, 2000).
2. Department of Justice LEP Policy Guidance Document dated August 11, 2000, reprinted at 65 FR 50123 (August 16, 2000).