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Department of Toxic Substances Control

Official Policy

LANGUAGE ACCESS POLICY

DTSC-XX-XXXX

Subject/Title of Policy

Official Policy Number

DRAFT

Date Issued/Effective Date

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All Staff

Office of Civil Rights

Target Audience

Issuing Unit

Barbara A. Lee

Director

Name

Title

DRAFT

Signature

Date Signed

LANGUAGE ACCESS POLICY
DTSC-XX-XXX

DATE

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I. POLICY STATEMENT

The Department of Toxic Substances Control (DTSC) is committed to ensuring early, equal, and meaningful access to critical DTSC programs, services, activities, and information to persons with Limited English Proficiency (LEP).

II. PURPOSE

The purpose of this policy is to eliminate or reduce LEP as a barrier to accessing critical DTSC programs, services, activities, and information and ensure DTSC's compliance with federal and state civil rights laws, including Title VI of Civil Rights Act of 1964, Executive Order 13166, and the California Dymally-Alatorre Bilingual Services Act.

In developing this policy, DTSC considered many factors, including, but not limited to:

1. The need for language access in DTSC processes and the need to collect and assess data on the LEP needs of communities affected by the presence of hazardous waste facilities or contaminated sites.
2. The need for DTSC to develop a comprehensive action plan to address identified LEP needs.
3. Translation of vital documents, including executive summaries of decision documents and technical documents of substantial importance prepared by DTSC for permitting and cleanup decisions, including those prepared by DTSC pursuant to the California Environmental Quality Act (CEQA) (Cal. Pub. Res. Code, § 21000 et seq.)
4. Meaningful public participation through processes that comply with civil rights laws, regulations, policies, and guidance and have the following elements:
 - a. A clear prohibition on discriminatory practices, including practices of intimidation and hostile environments that prevent meaningful public participation.
 - b. Scheduling and holding meetings and hearings at appropriate times and locations that facilitate the ability of members of the public to participate, including interpretation in public meetings and hearings

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held by DTSC and translation of accompanying visuals, handouts, and presentations.

- c. Preparation of timely notices in English and any other appropriate languages, with the English and translated versions on the same page when feasible, for workshops, meetings, available drafts, comment periods, and related documents and publications.
- d. Accommodation of cultural, linguistic, and educational characteristics of communities affected by the presence of hazardous waste facilities or contaminated sites.

III. RELEVANT AUTHORITIES

The following is a non-exhaustive list of federal and state laws, regulations, and guidance that provides the foundation for this policy:

- Title VI of Civil Rights Act of 1964 (Pub. L. No. 88-352 § 601 (July 2, 1964), 78 Stat. 252.)
- Exec Order No. 13166, 65 FR 50121 (Aug. 11, 2000)
- Dymally-Alatorre Bilingual Services Act (Gov. Code, § 7290 et seq.)
- Gov. Code, § 11135
- Health and Saf. Code, § 39711
- Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, (Exec. Order No. 13166, 69 FR. 35602 (June 25, 2004)).
- U.S. Environmental Protection Agency, Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, Feb. 10, 2017, (Class. No. 1000.32)
- U.S. EPA, External Civil Rights Compliance Toolkit (Jan. 18, 2017)
- Dept. of Toxic Substances Control, Kettleman Title VI Settlement Agreement, Aug. 10, 2016.

IV. POLICY IMPLEMENTATION

To further guide implementation of this policy, DTSC will include program- and service-specific language access plans as elements within DTSC's Civil Rights Implementation

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Plan, including, at a minimum, language access plans related to hazardous waste facility permit decisions, enforcement, supplemental environmental projects, cleanup plans, and grants and other funding opportunities.

V. DEFINITIONS

For purposes of this policy, the definitions of the terms outlined below apply:

- a. Bilingual Person: a person who is fluent in two languages and proficient in both English and another language. (See also Cal. Govt. Code, § 7296.)
- b. Interpret or Interpretation: the act of converting oral communication in one language to another while retaining the same meaning to ensure that LEP persons have meaningful access to the communication.
- c. Limited English Proficient (LEP) Person: a person with a primary language other than English who, due to limited English language proficiency, must communicate in that primary language to ensure a meaningful opportunity to participate effectively in and fully benefit from critical DTSC programs, services, activities, and information.
- d. Public Contact Position: a position determined by DTSC to be one which emphasizes the ability to meet, contact, and assist the public in the performance of DTSC's functions. (Cal. Govt. Code, § 7297.)
- e. Translate or Translation: the act of replacing or converting written text in one language with or to written text in another language to ensure that LEP persons have meaningful access to the text.
- f. Vital Documents or Information: documents or information that convey information that critically affects the ability of the recipient of the information to make informed decisions regarding his or her participation in the program, service, or activity offered by the DTSC. Whether a document or information is vital depends on the importance of the program, information, or services involved and the consequence or impact to LEP persons if the document is not translated. A document may contain both vital information and non-vital information.

VI. LANGUAGE ACCESS PROCEDURES

DTSC will undertake the following actions, and provide services as described, to ensure early, equal, and meaningful access by LEP persons to critical DTSC programs, services, activities, and information:

a. General LEP Services:

To eliminate or reduce LEP as a barrier to accessing critical DTSC programs, services, activities, and information, DTSC will:

1. Employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public in languages other than English consistent with the requirements of the Dymally-Alatorre Bilingual Services Act, Gov. Code, § 7290 et seq.
2. Participate in the Biennial Language Survey to identify all non-English language needs and the primary languages of the individuals and communities DTSC serves.
3. Ensure that DTSC's Public Participation Manual includes provisions to facilitate meaningful public participation by LEP persons related to DTSC cleanup projects, hazardous waste facility permit decisions, enforcement activities, and other DTSC activities as appropriate.
4. Make language access information available to the public to inform LEP persons of DTSC's language access policy and services, including the availability of interpreters and translated materials. This includes, but is not limited to, providing language access information in languages other than English in all DTSC's regional offices, developing language access outreach materials in languages other than English and working with community groups and organizations to inform LEP persons of language access assistance, and making language access information in languages other than English available on DTSC's website.

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5. Incorporate federal and state civil rights and language access requirements in all applicable DTSC policies, procedures, bids, assurances, grants, and contracts.
6. Disseminate federal and state civil rights and language access requirements to all DTSC contractors, subcontractors; and beneficiaries of state and federal funding.

c. Translation of Vital Documents and Information

DTSC will translate vital documents or information related to critical DTSC programs, services, activities, and information. Sometimes documents will contain both vital information and non-vital information, in which case only vital information, and not non-vital information, may be translated. Vital documents and information are determined on a case by case basis, taking into consideration factors such as: (1) the number or proportion of LEP persons eligible to be served by the DTSC program, service, activity, or information; (2) the frequency with which LEP persons come into contact with the DTSC program, service, activity, or information; (3) the nature and importance of the DTSC program, service, activity, or information to people's lives; and (4) the resources available to DTSC and costs associated with providing translation services.

Documents that may be considered vital or that may contain vital information may include, but are not limited to, documents that are necessary for the public to fully to understand DTSC's programs, services, and activities, including technical and other documents related to DTSC decisions and activities related to hazardous waste facilities and contaminated sites. Examples may include, but are not necessarily limited to:

- Administrative forms
- Application forms
- Complaint forms
- Letters
- Newsletters
- Community Updates
- Outreach and educational materials
- Permitting documentation
- Public Notices and Newspaper Notices
- Fact Sheets
- Technical documents
- Environmental documents prepared pursuant to the California Environmental Quality Act of "CEQA"

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The determination of vital documents and information is further discussed in DTSC's Civil Rights Implementation Plan.

d. Access to Translated Documents:

1. Each DTSC regional office will make translated documents available to LEP persons as needed to ensure early, equal, and meaningful access to DTSC programs, services, activities, and information.
2. Each DTSC regional office will provide, as needed, information that may affect the public's rights, duties, or privileges with regards to the services or benefits of DTSC in languages other than English.
3. DTSC will provide access to translated documents on DTSC's website.
4. DTSC will provide translated materials to LEP persons by mail, email, or other communication medium consistent with the department's Public Participation Policy and DTSC's Civil Rights Implementation Plan.

b. Interpretation Services:

DTSC will provide interpretation services related to critical DTSC programs, services, activities, and information, including at DTSC-held public meetings, public hearings, and other public events. The need for interpretation services will be determined on a case-by-case basis, taking into consideration factors such as: (1) the number or proportion of LEP persons served or potentially affected by the DTSC program, service, activity, or information; (2) the frequency with which LEP persons come into contact with or are affected by the DTSC program, service, activity, or information; (3) the nature and importance of the DTSC program, service, activity, or information to people's lives; and (4) the resources available to DTSC and costs associated with providing translation services.

DTSC will ensure that interpreters used by DTSC are qualified and/or certified to perform the services requested for the language(s) in which they have been certified as fluent. DTSC will ensure that interpreters:

- Demonstrate proficiency in and ability to communicate information in both English and in the other language and employ the appropriate mode of

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interpreting (e.g., consecutive, simultaneous, summarization, or sight translation).

- Have knowledge in both languages of any specialized terms or concepts particular to DTSC's programs, services, or activities and or any particularized vocabulary and phraseology used by LEP persons.
- Understand and follow confidentiality and impartiality rules to the same extent as DTSC employees and meet DTSC's expectations with respect to promoting and supporting a culture of respect and early, equal, and meaningful access.
- Understand and adhere to their role as interpreters.

e. Human Resources and Staff Training

DTSC will actively promote and support a culture of respect and early, equal, and meaningful access to critical DTSC programs, services, activities, and information by:

1. Through DTSC's Office of Administrative Services, ensuring that DTSC considers language access needs in its recruitment, hiring, training and evaluation of staff, as appropriate to the specific duties of the position.
2. Through DTSC's Office of Administrative Services, providing bilingual certification exams and maintaining a list of employees who are certified bilingual, including the language(s) in which the employee is certified.
3. Ensuring that certified bilingual employees are eligible for pay premiums, consistent with civil service regulations and other applicable guidelines from the California Department of Human Resources (CalHR).
4. Through the Office of Administrative Services, in collaboration with the Office of Civil Rights, providing training to DTSC staff in diversity and inclusion, civil rights and language access, including training in the identification of language needs and processes, tools, and resources available to meet those needs. Education and training will emphasize communication, understanding, partnership, and the skills and tools necessary for meaningful engagement.

VII. INQUIRIES AND COMPLAINTS

For questions and inquiries regarding this policy, please contact DTSC's Office of Civil Rights by telephone at (916) 324-3094 or by email ocr@dtsc.ca.gov. You can also contact the Office of Civil Rights by facsimile at (916) 322-2844 or by writing to:

Attn: Office of Civil Rights
Department of Toxic Substances Control
1001 "I" Street, 12th Floor
Sacramento, CA 95814

If you believe DTSC has not been able to provide you with satisfactory language access services, you may submit a Communication Assistance Resolution Form (Form 1602) with DTSC's Office of Civil Rights. A copy of DTSC's Communications Assistance Resolution Form is attached as Attachment A to this policy. DTSC's Communication Assistance Resolution Form is also available on DTSC's website at https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602.pdf (English) or https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602E.pdf (Spanish) or by calling DTSC's Office of Civil Rights at (916) 324-3094. You may also contact the State Personnel Board at (866) 889-3278 regarding any concerns you have regarding DTSC's language access services.

If you believe you have been subjected to behavior that violates this policy or other discriminatory treatment in violation of federal and state civil rights laws, you may file a complaint with DTSC using DTSC's Civil Rights Complaint Form (Form XXXX), which is available on DTSC's website at _____ or by calling DTSC's Office of Civil Rights at (916) 324-3094. For more information, please see DTSC's Civil Rights Policy, DTSC-XX-XXXX (DATE).

VIII. RESOURCES

- DTSC's Communication Assistance Resolution Form (Form 1602):
https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602.pdf (English)
https://dtsc.ca.gov/LawsRegsPolicies/Policies/upload/DTSC_1602E.pdf (Spanish)
- DTSC's Complaint Form for Denial of Services:

- DTSC's Public Participation Manual:
<https://dtsc.ca.gov/LawsRegsPolicies/Policies/PPP/upload/DTSC->

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[PublicParticipationManual.pdf](#)

- A list of translated DTSC publications:
<http://dtsc.ca.gov/PublicationsForms/index.cfm>

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