

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read Instructions before completing form.

I. A. Applicant/Recipient (Name, Address, City, State, Zip Code)

Name:
Address:
City:
State: Zip Code:

B. UEI

II. Is the applicant currently receiving EPA Assistance? ☒ Yes ☐ No

III. List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7.)

See Attachment A.

IV. List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that allege discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective actions taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7.)

None.

V. List all civil rights compliance reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))

See Attachment B.

VI. Is the applicant requesting EPA assistance for new construction? If no, proceed to VII; if yes, answer (a) and/or (b) below.

☐ Yes ☒ No

a. If the grant is for new construction, will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? If yes, proceed to VII; if no, proceed to VI(b).

☐ Yes ☐ No

b. If the grant is for new construction and the new facilities or alterations to existing facilities will not be readily accessible to and usable by persons with disabilities, explain how a regulatory exception (40 C.F.R. 7.70) applies.

VII. Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its program or activities? (40 C.F.R. 5.140 and 7.95)

☒ Yes ☐ No

a. Do the methods of notice accommodate those with impaired vision or hearing?

☒ Yes ☐ No

b. Is the notice posted in a prominent place in the applicant's offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications?

☒ Yes ☐ No

c. Does the notice identify a designated civil rights coordinator?

☒ Yes ☐ No

VIII. Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves? (40 C.F.R. 7.85(a))

☒ Yes ☐ No

IX. Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? (40 C.F.R. Part 7, E.O. 13166)

☒ Yes ☐ No

- X. If the applicant is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator.

N/A

- XI. If the applicant is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet Address for, or a copy of, the procedures.

N/A

For the Applicant/Recipient

I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized Official

L. Neal Stegman

B. Title of Authorized Official

Deputy Executive Director

C. Date

4/25/22

For the U.S. Environmental Protection Agency

I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all preaward compliance information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies the preaward provisions of 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations.

A. *Signature of Authorized EPA Official

B. Title of Authorized Official

C. Date

Attachment A.

III. List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7.)

Title VI Administrative Complaints

- [N/A]

On April 6, 2022, TCEQ received a letter from an individual, notifying TCEQ of her intent to sue and alleging “discrimination against [her] that involve[s] public corruption with the City of Dallas, Protect Environmental Services and Texas Commission [on] Environmental Quality.” Specifically, she alleged a TCEQ employee was involved in discrimination that caused her termination from her employment (not at TCEQ) “because his negligence to take proper action to correct the matter but has chosen to conspire [sic] to conceal Protect Environmental Services actions that violated of their agreement with TCEQ and the state of Texas law.” TCEQ is evaluating the complainant’s allegations as a Title VI complaint.

- **EPA Complaint No. 05RNO-22-R6**

On April 5, 2022, TCEQ received acknowledgement of an administrative complaint from EPA, External Civil Rights Compliance Office (ECRCO) involving the TCEQ and alleging discrimination based on race and national origin in violation of Title VI. ECRCO is currently reviewing the complaint and will notify TCEQ once the jurisdictional review is complete.

- **EPA Complaint No. 02R-21-R6**

A complaint was filed August 18, 2021, involving the Texas Commission on Environmental Quality (TCEQ) alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. The complaint was filed by Port Arthur Community Action Network (PA-CAN), regarding the TCEQ issuance of Federal Operating Permit No. 01493 to Oxbow Calcining, LLC. The U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) accepted the complaint for investigation on October 15, 2021. Specifically, ECRCO will investigate the following issues: “Whether TCEQ discriminated in violation of Title VI and EPA’s regulation at 40 C.F.R. Part 7 by using methods of administering a program, with respect to its oversight of Oxbow Calcining, LLC, with the effect of subjecting individuals to discrimination or defeating or substantially impairing the objectives of the program or activity on the basis of race.”

Attachment B.

V. List all civil rights compliance reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))

Title VI Administrative Complaints

- [N/A]

On May 13, 2021, TCEQ received a grievance complaint against the North Central Texas Municipal Water Authority (NCTMWA), under TCEQ's grievance procedures for filing such a complaint. The complaint alleged that NCTMWA has racially discriminated against local black residents by denying access to the Millers Creek Reservoir recreational lake during the annual Juneteenth Texas holiday. After analyzing the complaint and the issues raised therein, TCEQ determined that TCEQ lacks jurisdiction related to the substantive matters of the complaint and, accordingly, the Executive Director was unable to accept the complaint for investigation. TCEQ has notified the complainant. Additionally, on May 26, 2021, a TCEQ representative contacted NCTMWA and let them know about the complaint (without disclosing the complainant). NCTMWA indicated they are aware, and a similar complaint may have been sent to another state agency.

- 02NO-20-R6

A complaint was filed on November 12, 2019, that alleged TCEQ discriminated on the basis of national origin against residents of Texas who have limited English proficiency (LEP) in the administration of permitting and public engagement programs. TCEQ signed an informal resolution agreement with EPA's External Civil Rights Compliance Office regarding this complaint and continues to work on meeting the requirements of the signed agreement.

See attached EPA Resolution Letter dated November 4, 2020, and Agreement and TCEQ's disability non-discrimination plan, public participation plan, and language access plan, as required by the Agreement.

These documents can also be found at: [Title VI Compliance at TCEQ - Texas Commission on Environmental Quality - www.tceq.texas.gov](https://www.tceq.texas.gov/title-vi-compliance).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

November 4, 2020

Via Email

EPA Complaint No. 02NO-20-R6

Erin E. Chancellor
Deputy Director, Office of Legal Services
Texas Commission on Environmental Quality
Post Office Box 13087
Austin, TX 78711-3087
erin.chancellor@tceq.texas.gov

Re: Resolution of EPA Complaint No. 02NO-20-R6

Dear Deputy Director Chancellor:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement ("Agreement") entered into between EPA and the Texas Commission on Environmental Quality (TCEQ). On December 4, 2019, EPA accepted for investigation a complaint against TCEQ alleging discrimination on the basis of national origin against individuals with limited English proficiency (LEP) in the administration of TCEQ's permitting and public engagement programs, in violation of Title VI of the Civil Rights Act of 1964 and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7. The complaint was assigned EPA Complaint No. 02NO-20-R6. Specifically, EPA accepted the following issue for investigation:

Whether TCEQ discriminates against residents in the state of Texas on the basis of national origin, limited-English proficiency, including against Latino Spanish-speaking LEP residents, by failing to consistently provide effective public notice and meaningful access to TCEQ's programs and activities, including those relating to environmental permitting, such as translation of vital documents into Spanish and additional languages other than English, as appropriate, and providing language interpretation services at public meetings, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation at 40 C.F.R. Part 7.

During the course of EPA's investigation, TCEQ agreed to enter into the Agreement in order to resolve EPA Complaint No. 02NO-20-R6. The enclosed Agreement is entered into by EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI and 40 C.F.R. Part 7. It is understood that the Agreement does not constitute an admission by TCEQ of any violation or a finding by EPA of compliance or noncompliance with applicable federal non-discrimination laws and regulation.

The enclosed Agreement does not affect TCEQ's continuing responsibility under Title VI, 40 C.F.R. Parts 5 and 7, and other federal nondiscrimination laws, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth EPA's disposition of the complaint. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA is committed to working with TCEQ as it implements the provisions of the Agreement. If you have any questions regarding this letter and the Agreement between EPA and TCEQ, please contact me at (202)564-9649 or by e-mail at dorka.lilian@epa.gov.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

cc: Angelia Talbert-Duarte
Associate General Counsel
Civil Rights & Finance Law Office

David Gray
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 6

James McGuire
Regional Counsel
US EPA Region 6

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



INFORMAL RESOLUTION AGREEMENT
between the
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AND THE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA COMPLAINT NO. 02NO-20-R6

I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (“Title VI”), and other federal nondiscrimination laws, and United States Environmental Protection Agency’s (“EPA”) implementing regulations at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and intimidation and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance.¹ Texas Commission on Environmental Quality (TCEQ) receives financial assistance from EPA and, therefore, must ensure nondiscrimination in its programs and activities pursuant to federal nondiscrimination laws and EPA’s implementing regulation.
- B. On December 4, 2019, the EPA External Civil Rights Compliance Office within the Office of General Counsel (ECRCO) accepted for investigation a complaint against TCEQ, pursuant to Title VI and EPA’s implementing regulations at 40 C.F.R. Parts 5 and 7. EPA accepted for investigation the following issue:

Whether TCEQ discriminates against residents in the state of Texas on the basis of national origin, limited-English proficiency, including against Latino Spanish-speaking LEP residents, by failing to consistently provide effective public notice and meaningful access to TCEQ’s programs and activities, including those relating to environmental permitting, such as translation of vital documents into Spanish and additional languages other than English, as appropriate, and providing language interpretation services at public meetings, in violation of Title VI of the Civil Rights Act of 1964 and EPA’s implementing regulation at 40 C.F.R. Part 7.

¹ Title VI of the Civil Rights Act of 1964, 42 United U.S.C. §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*; 40 C.F.R. Parts 5 and 7.

- C. During the course of ECRCO's investigation, TCEQ agreed to enter into this Informal Resolution Agreement (Agreement). This Agreement serves to resolve the issue accepted for investigation in the complaint. This Agreement is entered into pursuant to the authority granted EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and the EPA regulations found at 40 C.F.R. Parts 5 and 7, and resolves EPA Complaint No. 02NO-20-R6 and additional concerns identified by EPA.
- D. This Agreement is entered into voluntarily by TCEQ and does not constitute an admission by TCEQ of a violation of, or a finding of compliance or noncompliance by EPA with Title VI or the other federal non-discrimination laws enforced by EPA pursuant to the regulations at 40 C.F.R. Parts 5 and 7.
- E. TCEQ is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and the other federal non-discrimination laws enforced by EPA regulations at 40 C.F.R. Parts 5 and 7. The activities detailed in Sections III and IV of this Agreement are in furtherance of TCEQ's ongoing commitment.

II. BACKGROUND

- A. On May 23, 2017, ECRCO resolved EPA Complaint No. 01R-00-R6 involving TCEQ based on an Informal Resolution Agreement between EPA and TCEQ. As part of the complaint resolution, ECRCO reviewed TCEQ's policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA's nondiscrimination regulation, public participation policies and procedures, as well as required policies and procedures to ensure meaningful access to TCEQ programs and activities for persons with disabilities and limited-English proficiency (LEP). ECRCO determined to work with TCEQ on its nondiscrimination program under a separate process.
- B. Under the separate process, beginning in May 2018, ECRCO provided technical assistance to TCEQ regarding its nondiscrimination program obligations and best practices, including notice of nondiscrimination, grievance procedures, nondiscrimination coordinator, providing meaningful access for individuals with LEP (including the best practice of developing an LEP plan as described in EPA's LEP Guidance, 69 FR 35602 (2004), <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>) and disabilities, and public participation.
- C. In response to the separate process, TCEQ undertook the following actions in 2018 and 2019 with respect to its nondiscrimination program:
 - 1. Published a notice of nondiscrimination entitled "Environmental Equity: Nondiscrimination in TCEQ Processes" on its website, accessible via a

link to the notice on the TCEQ website homepage (<https://www.tceq.texas.gov/>), and updated the signs placed at desks/check-in areas that provide notice that TCEQ does not discriminate;

2. Updated its grievance procedures for resolution of discrimination complaints (https://www.tceq.texas.gov/assets/public/comm_exec/pm-ph/env-eq/Grievance%20Procedures-2019-4-2.pdf), which are accessible from TCEQ's website at <https://www.tceq.texas.gov/agency/decisions/hearings/envequ.html#report>
 3. Identified a nondiscrimination coordinator, Jim Fernandez, whose contact information is available on TCEQ's website at <https://www.tceq.texas.gov/agency/decisions/hearings/envequ.html#report>
 4. Translated its nondiscrimination webpage, which includes the above nondiscrimination information in C.1. through 3. above, into Spanish (<https://www.tceq.texas.gov/agency/decisions/hearings/equidad-ambiental-la-no-discriminacion-en-los-procesos-de-la-tceq>);
 5. Modified the search functions on TCEQ's website related to nondiscrimination so that website searches are more responsive; and
 6. Updated its employee training to ensure that federal nondiscrimination laws, policies and procedures are a part of the training program.
- D. TCEQ has implemented other measures to meet its obligations under federal non-discrimination statutes to provide reasonable accommodations and meaningful access for persons with disabilities to TCEQ's programs and activities:
1. TCEQ notifies the public of available resources by including language on public documents that contain instructions for seeking reasonable accommodations to individuals with disabilities. This includes, but is not limited to, notices of public meetings, notices of public hearings, notices of rulemaking, and notices of the commission's public agenda meetings.²
 2. TCEQ's public commission agenda meetings are broadcast on the internet (see <https://www.tceq.texas.gov/agency/decisions/agendas/agenda.html>), and the broadcasts are closed-captioned. TCEQ provides information on its website for accessing the broadcasts. The notice for the meeting

² See, e.g., https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/current/2020/201021.pdf; https://www.tceq.texas.gov/assets/public/comm_exec/pm-ph/notices/2020/2020-10-21-lauren-concrete-inc-162359-162395-ph.pdf; https://www.tceq.texas.gov/assets/public/comm_exec/pm-ph/notices/2020/2020-11-16-jupiter-brownsville-llc-147681-PSDTX1522-GHGPSDTX172-cch.pdf; https://www.tceq.texas.gov/assets/public/legal/rules/hearings/20041328_phn.pdf.

agenda contains information for contacting TCEQ's Office of the Chief Clerk if any accommodation is necessary for a member of the public to make an oral presentation at the agenda meeting. *See* https://www.tceq.texas.gov/agency/decisions/agendas/comm/comm_agendas.html (links to upcoming and archived agenda meetings). At the close of the agenda, TCEQ provides information regarding the availability of language assistance and disability assistance for its public commission agenda meetings. *See, e.g.,* https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/current/2020/200729.pdf.

3. TCEQ makes the documents it files, publishes, or otherwise authors accessible to individuals with disabilities before finalizing and publishing the documents for posting or distribution. *See, e.g.,* TCEQ Accessibility of Information and Communication Technology Plan (Rev. Sept. 18, 2019).
4. Pursuant to TCEQ's Website Accessibility Policy, https://www.tceq.texas.gov/help/policies/accessibility_policy.html, TCEQ is committed to making its website and webpages accessible to all users, and to continually review and update them for accessibility.

III. SPECIFIC TCEQ COMMITMENTS

A. Community Meetings

1. TCEQ committed to hold at least three (3) virtual stakeholder meetings on TCEQ's pending rulemaking project on "Amending Alternative Language Public Notice Requirements and Public Participation" no sooner than October 19, 2020, to accommodate effective community outreach during the COVID-19 Pandemic, and to provide simultaneous professional language interpretation during the meetings in Spanish and any other appropriate languages. TCEQ held these meetings on October 19, 2020 at 2:00, October 20, 2020 at 6:00, and October 22, 2020 at 10:00.
2. In addition to the three virtual stakeholder meetings on the pending rulemaking (Section III.A.1. above), within 180 days after the effective date of this Agreement, TCEQ will hold a virtual stakeholder meeting through an appropriate and accessible platform that will be recorded and linked on TCEQ's Website as a community resource. TCEQ will provide simultaneous professional language interpretation during the meeting in Spanish and any other appropriate languages. This additional virtual stakeholder meeting will include the following topics:

- a. TCEQ's permitting process and opportunities for public involvement;
 - b. How to access and interpret air quality data;
 - c. TCEQ's environmental complaints process for members of the public, including how to contact TCEQ, what information must be provided, how the agency responds to complaints, and how to follow the status of a complaint after it is made;
 - d. How to access TCEQ information relating to public emergencies;
 - e. How members of the public may submit information to TCEQ; and
 - f. How evidence collected by members of the public is used by TCEQ in enforcement.
3. Within one year after the date of the virtual meeting in Section III.A.2. above, TCEQ will hold two in-person community meetings, one in the Manchester community of East Houston and another in Pasadena, Texas. These meetings will include the same information offered in the virtual meeting in Section III.A.2 above. TCEQ may need to adjust the timing of these meetings based on the public health and safety concerns related to the COVID-19 Pandemic and based on the Centers for Disease Control guidance related to public gatherings.
4. TCEQ will publish timely notice of the meetings (at least 30 days prior to the meeting date) described in Section III.A.2 through 3 above, in English, Spanish and any other appropriate languages. Notice of the upcoming meetings will be announced in at least the following ways:
 - a. In one or more English language newspaper(s) of general circulation, serving the communities of East Houston and Pasadena;
 - b. In Spanish in one or more publications serving Spanish Speaking communities of East Houston and Pasadena Texas;
 - c. On the TCEQ website;
 - d. Through agency social-media accounts, including Facebook and Twitter;
 - e. By mail to known stakeholders and stakeholders' representatives; and
 - f. By mail through a general, area-wide mailout, using the United States postal service.

B. Public Participation Plan:

1. TCEQ understands that meaningful public involvement consists of informing, consulting, and working with potentially affected communities at various stages of the environmental decision-making process to address their needs. Therefore, TCEQ will develop a public participation plan that:
 - a. Is available to all persons regardless of race, color, national origin (including limited-English proficiency), disability, sex and age; and is translated into appropriate languages pursuant to the analysis conducted pursuant to Section III.C.2. below;
 - b. Ensures that the factors used to determine the time, place, location, duration, and security at public meetings are developed and applied in a non-discriminatory manner;
 - c. Ensures that TCEQ's public participation procedures are implemented consistent with the federal non-discrimination laws and EPA's Public Participation Guidance found at 71 F.R. 14207, 14210 (March 21, 2006),³ and include implementation of steps for effective public participation that are accessible to all persons without regard to race, color, national origin (including limited English proficiency), disability, sex, and age each time TCEQ engages in a public participation or public involvement process.
 - d. Considers as part of TCEQ's development of the public participation plan, the following elements to ensure that the plan is available and accessible to all persons regardless of race, color, national origin, disability, sex, and age:
 - i. relevant community (including demographics, history, and background);
 - ii. relevant TCEQ staff members, including phone numbers and email addresses, to allow the public to communicate via phone or internet;
 - iii. past and present community concerns (including any complaints filed under the federal non-discrimination laws);
 - iv. detailed plan of action (outreach activities) that TCEQ will take to address concerns;
 - v. contingency plan for unexpected events;
 - vi. location where public meetings will be held (considering the availability and schedules of public transportation);

³ <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>

- vii. contact names for obtaining language assistance services for limited-English proficient persons, including translation of documents and/or interpreters for public meetings;
 - viii. appropriate local media contacts (based on the culture and linguistic needs of the community); and
 - ix. the information repository location.
- 2. TCEQ will ensure that information about its public participation plan and opportunities for public participation will be provided in an accessible and user-friendly format and posted on TCEQ's website in appropriate languages other than English, pursuant to Section III.C.2 below, to ensure that the public will be better informed about the opportunities to participate in TCEQ's programs and activities.
- 3. Within 120 days after the effective date of this Agreement, TCEQ will forward to ECRCO for review a final draft of its public participation plan, as well as information about the proposed location and accessibility of the plan, such as a link to TCEQ's Website. ECRCO will review the draft public participation plan and provide any comments within 30 days of receipt. TCEQ will submit a final public participation plan within 30 days of receipt of ECRCO's comments.

C. Plan to Ensure Meaningful Access for Individuals with Limited English Proficiency (LEP):

- 1. TCEQ will provide meaningful access to individuals with limited English proficiency (LEP), and will develop, publicize, and implement written procedures to ensure meaningful access to all TCEQ programs and activities by all persons, including access by individuals with limited English proficiency, at no cost to those individuals.
- 2. TCEQ will conduct the appropriate analysis in light of EPA's LEP Guidance found at 69 F.R. 35602 (June 25, 2004)⁴ and <http://www.lep.gov> to determine what language services or mix of language services it may need to provide to ensure that individuals with limited English proficiency can meaningfully participate in TCEQ's programs and activities.
- 3. TCEQ will:
 - a. Develop a language access plan consistent with EPA's LEP Guidance that is translated into Spanish, and other appropriate

⁴ <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>.

languages, pursuant to the analysis conducted pursuant to this Section III.C.2. which includes, as part of the development of the plan, an identification and consolidation of the processes and procedures TCEQ currently has in place to ensure that individuals with LEP are provided meaningful access to TCEQ's programs and activities;

- b. Develop, publicize, and implement written procedures to ensure meaningful access to all TCEQ programs and activities for all persons, including access for individuals with limited English proficiency. This process will include an identification and consolidation of all procedures currently used by TCEQ to provide opportunities for all individuals to participate in TCEQ's programs and activities, as well as any further procedures TCEQ may develop for these purposes. These procedures will be published on TCEQ's website, including on the Spanish-language page and in other appropriate languages pursuant to the analysis conducted pursuant to this Section III.C.2, so that the procedures are easily accessible for all individuals. Instructions for obtaining copies of the webpage for individuals that may have limited internet access or other problems accessing the page will be made available, and will be made available for those who may call in to TCEQ's helpline or otherwise reach out to the agency for non-internet assistance;
- c. Translate vital documents of general interest into prominent languages for LEP individuals who are served or likely to be encountered by TCEQ's programs and activities;
- d. Translate vital documents of individual interest to a particular LEP individual or group of LEP individuals;
- e. Provide for simultaneous oral interpretation of live proceedings (*e.g.*, town hall meetings and public hearings) in prominent languages when appropriate and necessary, through the procedures specified in the written LEP plan; and
- f. Provide for simultaneous interpretation of proceedings, meetings, *etc.*, for individual LEP persons participating in a TCEQ program or activity (*e.g.*, a LEP individual wishing to file a grievance or complaint) when appropriate and necessary, through the procedures specified in the written LEP plan.

4. Within 180 days after the effective date of this Agreement, TCEQ will forward to ECRCO for review a final draft of its LEP plan to ensure meaningful access to all TCEQ programs and activities for individuals with limited-English proficiency and provide information as to the proposed location and accessibility of the LEP plan, such as a link to TCEQ's Website. ECRCO will review the draft LEP plan and provide any comments within 30 days of receipt. TCEQ will submit a final LEP plan within 30 days of receipt of ECRCO's comments
5. Within 30 days after adoption of TCEQ's final LEP plan, TCEQ will make the communities it serves aware of its LEP plan and how to access language assistance services at no cost. This information will be provided on TCEQ's website in appropriate languages other than English based on the appropriate analysis conducted in accordance with Section III.C.2.

D. Policy to Ensure Meaningful Access for Individuals with Disabilities

1. TCEQ will develop a policy to provide individuals with disabilities the opportunity for meaningful access in its programs and activities, which includes provisions addressing the following:
 - a. Providing 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 meaningfully in the programs and activities provided by TCEQ.
 - b. Providing individuals with disabilities with the right to request accommodations and to receive accommodations appropriate to their needs in order to meaningfully participate in or benefit from TCEQ's programs and activities in an accessible, nondiscriminatory and integrated setting.
2. TCEQ will make additional efforts to ensure that the communities it serves are aware that services for individuals with disabilities are available. TCEQ will prominently post its policy on the TCEQ website, which is translated into appropriate languages pursuant to the analysis conducted pursuant to Section III.C.2 above, including in both English and Spanish, and which will be accessible to individuals with disabilities.
3. Within 60 days of the effective date of this Agreement, TCEQ will forward to ECRCO for review a final draft of its policy to ensure meaningful access to, and an opportunity for full participation in, all TCEQ programs and activities for individuals with disabilities, as well as information about the proposed location and accessibility of the policy,

such as a link to TCEQ's Website. ECRCO will review the draft policy and provide any comments within 30 days of receipt. TCEQ will submit a final policy within 30 days of receipt of ECRCO's comments.

E. Training

1. Within 120 days after implementing the deliverables identified in this Agreement (Sections III.A. through D. above), TCEQ will provide training to all staff on TCEQ's nondiscrimination policies and procedures and on its federal nondiscrimination obligations. TCEQ will certify to ECRCO that the training has been provided.
2. Within 180 days after execution of this Agreement, TCEQ will certify to ECRCO that it has a plan in place to ensure that such training is a routine part of the on-boarding process for new employees and is given periodically as refresher training to all employees.

IV. GENERAL

- A. In consideration of TCEQ's implementation of commitments and actions described in Section III of this Agreement, ECRCO will end its investigation of Complaint No. 02NO-20-R6 and not issue a decision containing findings on the merits of the complaint.
- B. ECRCO will monitor the implementation of the commitments in Section III of this Agreement, as appropriate, to ensure they are fully implemented. Once the terms of this Agreement are satisfied, ECRCO will issue a letter documenting closure of its monitoring actions in Complaint No. 02NO-20-R6 and closure of the Complaint as of the date of that letter.
- C. Unless the terms of a commitment in Section III provide for a different timeframe, TCEQ will, within 30 days after the implementation of each commitment, and consistent with the timeframes in Section III, submit confirmation of each commitment's implementation, by electronic mail to the Director, External Civil Rights Compliance Office, Office of General Counsel, at Dorka.Lilian@epa.gov.
- D. ECRCO will review and provide feedback about any documentation submitted by TCEQ demonstrating completion of each commitment and will provide an assessment as to whether the documentation satisfies the commitment within 30 days of receipt of each such submission.
- E. EPA will, upon request, provide technical assistance to TCEQ regarding any of the civil rights obligations previously referenced.

V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, “day” will mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period will run until the close of business of the next working day.
- B. Documents submitted by TCEQ to EPA shall be sent by email to the Director of ECRCO at Dorka.Lilian@epa.gov.
- C. Documents submitted by ECRCO to TCEQ shall be sent by email to the Deputy Director of TCEQ Office of Legal Services.

VI. EFFECT OF THE AGREEMENT

- A. TCEQ understands that, if necessary, ECRCO may visit TCEQ, interview staff, and request such additional reports or data as are necessary for ECRCO to determine whether TCEQ has fulfilled the terms of this Agreement.
- B. TCEQ understands that EPA will not close its monitoring of this Agreement until ECRCO determines that TCEQ has fully implemented this Agreement and that a failure to satisfy any term in this Agreement may result in the EPA opening an investigation.
- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to TCEQ’s program or authorities, or for other good cause, the Party seeking a modification will promptly notify the other in writing, setting forth the facts and circumstances justifying the proposed modification. Any modification(s) to this Agreement will take effect only upon written agreement by the Director of TCEQ and the Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between TCEQ and EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person will be construed to change any commitment or term of this Agreement, except as specifically agreed to by TCEQ and EPA in accordance with the provisions of Section VI.C. above.
- E. This Agreement does not affect TCEQ’s continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA’s regulations at 40 C.F.R. Parts 5 and 7, nor does it affect EPA’s investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.

- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Deputy Director of the Office of Legal Services in her capacity as an official of TCEQ, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of ECRCO has the authority to enter into this Agreement.

On behalf of the Texas Commission on Environmental Quality



Erin E. Chancellor
Deputy Director, Office of Legal Services

November 3, 2020
(Date)

On behalf of the U.S. Environmental Protection Agency,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

November 3, 2020

(Date)



TCEQ Disability Nondiscrimination Plan

The Texas Commission on Environmental Quality (TCEQ) is committed to protecting the health of the residents of Texas and the environment. TCEQ provides individuals with disabilities the opportunity for full participation in its programs, services, and activities through compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, as amended by ADA Amendments Act of 2008, and Title 40 Code of Federal Regulations (CFR) Part 7, Subpart C.

Furthermore, TCEQ addresses environmental equity (also known as Environmental Justice) concerns for all Texans, including low-income and minority communities across the state, so that all Texans can fully participate in decision-making processes and enjoy the benefits of our environmental programs, services, and activities.

Persons with Disabilities

TCEQ recognizes that individuals with disabilities may need accommodations or modifications to have equal opportunities to participate in or benefit from our programs, services, and activities.

It is our policy that no individual with a disability, who is qualified to participate within the specified TCEQ process, will be denied access to or participation in any program, service, or activity offered. We will administer programs, services, and activities in the most integrated setting appropriate to the reasonable needs of individuals with disabilities.

TCEQ will operate public programs, services, and activities consistent with 40 CFR Part 7, Subpart C so that, when each program or activity is viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. When TCEQ holds meetings, we will coordinate with the appropriate parties to find ADA-compliant venues, whenever possible.

TCEQ will provide at no cost appropriate auxiliary aids and services including, for example, qualified sign language 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, services, and activities in a manner that is timely and protects the privacy and independence of the individual.

Individuals with disabilities have a right to request reasonable accommodations. When requested, individuals will receive reasonable accommodations appropriate to their needs in order to fully participate in or benefit from TCEQ's services and activities in a nondiscriminatory, integrated setting.

TCEQ Internal Policies for Persons with Disabilities

TCEQ ensures all agency employees and applicants are provided equal employment opportunities under the law and a work environment free of discrimination based on

disability. It is TCEQ's policy to not discriminate against qualified individuals who have a disability with respect to selection and hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. TCEQ also reasonably accommodates qualified individuals with a disability so that they can perform the essential functions of a job, in accordance with federal and state laws, including the ADA, and TCEQ's Operating Policy and Procedure 12.04.

TCEQ Environmental Equity Program

So that all Texas residents can fully participate in decision-making processes and enjoy the benefits of our environmental programs, services, and activities, TCEQ is committed to Environmental Justice.

The U.S. Environmental Protection Agency (EPA) defines Environmental Justice as:

[T]he fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This goal will be achieved when everyone enjoys:

- The same degree of protection from environmental and health hazards, and
- Equal access to the decision-making process to have a healthy environment in which to live, learn, and work ([Learn about Environmental Justice, 2020](https://www.epa.gov/environmentaljustice/learn-about-environmental-justice)
<https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>)

TCEQ's Environmental Equity Program aims to:

- Help Texas residents and neighborhood groups participate in decision-making and regulatory processes,
- Serve as your TCEQ contact to address concerns about environmental injustice,
- Thoroughly consider your concerns and handle them fairly, and
- Ensure that all people receive equal benefit from environmental regulations and protection.

Public Participation at TCEQ

TCEQ wants you to participate in our decision-making processes. Currently, TCEQ has many ways for you to participate, including the following:

- Our [Environmental Permitting: Participating in the Process](#) page helps you know your rights and responsibilities in the permitting process;
- Our [Participating in Rulemaking](#) page explains how you can find out about and comment on new and changing rules;
- For many permits or rulemaking actions that require public notice, you can [attend public meetings or hearings on rulemaking](#) or [attend public meetings or hearings on pending permits](#) and make comments at these meetings;
- You can also [submit written comments on rulemaking](#) or [submit written comments on pending permits](#) any time during the public comment period; and

- [Public notices](#) published in local newspapers tell you how to [submit public comments and requests to the Office of the Chief Clerk online](#), by U.S. mail, or in person.

TCEQ provides the following services and information for those with Limited English Proficiency:

- In public notices, TCEQ explains to participants in English and in Spanish how to call the Public Education Program hotline at 800-687-4040 for more information about the public notice as well as what it means;
- Public notices also include a link to the [TCEQ website](#). TCEQ has established rules regarding when public notices should be published, and notices will be displayed in multiple languages according to these rules. We also evaluate on a case-by-case basis whether interpreters should attend meetings and hearings. (See [30 Texas Administrative Code \(TAC\), Sec. 39.405\(h\)](#), governing alternative language public notice requirements. See also [30 TAC, Sec. 39.604\(e\)](#); [30 TAC, Sec. 330.57\(i\)\(5\)](#); [30 TAC, Sec. 330.69\(b\)\(3\)](#); and [30 TAC, Sec. 326.73\(a\)\(7\)](#), governing alternative language sign-posting requirements.);
- TCEQ often offers [Spanish templates and tools](#);
- TCEQ has an [English-Spanish glossary](#) to make written translations of both general information and regulatory documents consistent; and
- TCEQ offers many documents—such as those detailing how to report environmental problems, how to participate in environmental permitting, and how to receive environmental program assistance—in Spanish. These documents, and other [TCEQ publications in Spanish](#), may be found online on our [Information Available in Spanish](#) and [Bilingual Documents](#) pages.

TCEQ is always interested in enhancing opportunities for participating in decision making processes as more is learned from research, partners, and the public. Although not a federal program, TCEQ also considers Executive Orders—such as Executive Order 13166, which requires federal agencies to work with recipients of federal financial assistance so that meaningful access is provided to applicants and beneficiaries with limited English proficiency—when engaging the public. To increase and enhance public involvement in agency decision making, TCEQ is currently developing a language access plan for those with limited English proficiency and a public participation plan.

Nondiscrimination Coordinator

TCEQ has a coordinator for agency efforts to comply with the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, ADA of 1990, Section 13 of the Federal Water Pollution Control Act of 1972, and Title IX of the Education Amendments of 1972. There are many reasons an individual may contact the nondiscrimination coordinator including, but not limited to, requesting an accommodation, filing a discrimination complaint, and/or asking questions about TCEQ's nondiscrimination program. The nondiscrimination coordinator can be contacted as follows:

Jim Fernandez
Environmental Equity (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Email: chiefclk@tceq.texas.gov

Telephone: 512-239-2566 / Dirija sus preguntas al 512-239-2566.

Please keep in mind that the more specific the request or complaint, the more it helps TCEQ in working to resolve the issue. Individuals may also email the coordinator, if they see any issues on our webpages (i.e., an inaccessible webpage or a broken link). Individuals who work for TCEQ and who have a discrimination complaint related to their employment may reach out to the Employee Relations Section of TCEQ's Human Resources & Staff Services Division.

Accommodations at TCEQ

TCEQ provides individuals with disabilities the opportunity for meaningful access and participation in TCEQ programs, services, and activities. No participant with a disability in a TCEQ program, service, or activity will be discriminated against in the provision of services available to all individuals in general. Auxiliary aids, services, or other accommodations used by individuals with disabilities to provide access to programs, services, and activities may not always be present; thus, individuals are responsible for letting TCEQ know what reasonable accommodations they need in advance, so that TCEQ may provide an appropriate response to the accommodation request.

Accommodations are not required that fundamentally alter the nature of the program, service, or activity; require waiver of essential program or licensure requirements; violate accreditation requirements; or pose an undue fiscal or administrative burden on TCEQ. In determining appropriate reasonable accommodations, TCEQ considers the wishes of the individual, and in certain appropriate circumstances, TCEQ also considers the documentation provided by the individual as well as institutional expertise in working with individuals with disabilities. TCEQ will not require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit under any circumstance.

TCEQ is actively making our [website accessible](#) to all users. To ensure that TCEQ complies with state and federal law, TCEQ reviews each new webpage or application for compliance with the World Wide Web Consortium's Web Content Accessibility Guidelines. TCEQ also reviews previously existing webpages and applications for accessibility when making significant modifications to them. Additionally, TCEQ continues to make older webpages and applications accessible.

TCEQ is committed to working with individuals with disabilities, as well as individuals with limited English proficiency, to provide accommodations in order to fully participate in and benefit from TCEQ's programs, services, and activities. TCEQ asks individuals to make requests in a timely manner as noted below and cannot guarantee that requests for specific accommodations made with less time will be granted.

- As stated in each [TCEQ commission meeting agenda](#), persons with disabilities who plan to attend a TCEQ commission meeting (also called an agenda) and who may need aids or services, such as a sign language interpreter, readers, large print, or Braille, should contact the [Office of the Chief Clerk](#) at 512-239-3300 at least five business days before the agenda, so that arrangements can be made.
- As stated in each TCEQ commission meeting agenda, people who need help from a language interpreter to understand the meeting and/or to provide an oral presentation at a commission meeting, should contact the [Office of the Chief Clerk](#) at 512-239-3300 at least five business days before the agenda, so that arrangements can be made.
- All [TCEQ commission meetings](#) are broadcast over the internet and can be watched on any computer or mobile device. Meetings are offered with closed captioning.
- All TCEQ public notices instruct persons with disabilities who need special accommodations at a public meeting to call the Office of the Chief Clerk at 512-239-3300 or 1-800-RELAY-TX (TDD) at least five business days before the meeting, so that appropriate arrangements can be made.

Tracking, Training, and Follow Up

TCEQ tracks data on the nature and extent of services provided. TCEQ utilizes procedures that will maintain personal information in a manner that protects the privacy and independence of the individual as required by federal and state law.

To better ensure that employees understand nondiscriminatory processes, TCEQ provides periodic in-service training for staff to develop and to update their awareness and understanding of the needs of individuals with disabilities and limited English proficiency, as well as legal compliance issues.

TCEQ carries out the federally mandated responsibilities to enforce several civil rights laws which, together, prohibit discrimination on the basis of: race, color, or national origin (including on the basis of limited English proficiency); sex; disability; and age by applicants for and recipients of federal financial assistance from the Environmental Protection Agency (Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and The Age Discrimination Act of 1975, respectively). TCEQ also enforces Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination based on sex under programs or activities receiving financial assistance in the Clean Water Act. The regulations of 40 CFR Parts 5 and 7, which implement the above-mentioned laws, apply not only to intentional discrimination but also to policies and practices that have a discriminatory effect. See [40 CFR Part 5](#) and [40 CFR Part 7](#) for additional information.

TCEQ will provide prompt and equitable resolution of complaints alleging any action that would violate federally mandated responsibilities listed above. Procedures for providing prompt and equitable resolution of complaints are applicable to any anticipated complaint, including an appeal of a denied accommodation request. See [TCEQ's Grievance Procedure Policy](#) for more information.

It is the policy of TCEQ to continually improve TCEQ programs, services, and activities. This Disability Nondiscrimination Plan is a living document, which will be reviewed and improved regularly. To better ensure meaningful access for individuals with limited English proficiency, this document will be translated into Spanish. It may also be translated into other languages, if requested. Additionally, TCEQ is working on a Public Participation Plan and a Limited English Proficiency Plan, which should be available in 2021.

Definitions

1. Disability means, with respect to an individual:
 - a. A physical or mental impairment that substantially limits one or more of the person's major life activities;
 - b. A history of such an impairment; or
 - c. Being regarded as having such an impairment.
2. Qualified Individual with a Disability is someone who (with or without accommodations) is qualified to participate within the specified TCEQ program, service, activity, or decision-making process.
3. Accommodation means adjustments including reasonable modifications to rules, policies, or practices; environmental adjustments such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services. Examples of accommodations include, but are not limited to scribe, interpreter, environment free of distractions, material in Braille, tapes, translated documents, and computer-assisted instruction.
4. Environmental Justice means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies ([Learn about Environmental Justice, 2020](#)).
5. Limited English Proficiency means individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
6. Interpreter means a person who interprets orally from one language to another.
7. Translator means a person who translates written words or writing from one language to another.

TCEQ and any of its agents will not coerce, intimidate, retaliate against, or discriminate against any individual for exercising a right under the ADA, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and The Age Discrimination Act of 1975.

This Policy applies to all TCEQ subrecipients, agents, and contractors. TCEQ grants and contracts that are federally funded include terms that require recipients to comply with antidiscrimination laws. TCEQ does not allow discrimination on the basis of race, color, national origin, sex, disability, age, sexual orientation, veteran status, or retaliation in the administration of our programs, services, or activities, as required by federal and state laws and regulations.

Laws, Regulations, and Executive Orders

40 CFR Part 7

[40 CFR § 7.70](#) covers nondiscrimination in programs receiving federal assistance from EPA. It incorporates the Uniform Federal Accessibility Standards, Appendix A to 41 CFR Subpart 101-19.6. Discrimination is prohibited on the basis of race, color, national origin (Part B), and handicap (Part C).

Americans with Disabilities Act

[Americans with Disabilities Act](#) became law in 1990. It is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. This Act guarantees that people with disabilities have the same opportunities as everyone else to participate in state and local government programs and services.

Executive Order 13166

On Aug. 11, 2000, President Clinton signed [Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,”](#) requiring Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Section 13 of the Federal Water Pollution Control Act of 1972

As a recipient of federal funding under [Section 13 of the Federal Water Pollution Control Act of 1972](#), TCEQ must comply with 40 CFR § 7.30, which states: “No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act. . . .”

Section 504 of the Rehabilitation Act of 1973

As a recipient of federal funding, TCEQ must follow [Section 504 of the Rehabilitation Act of 1973](#). Section 504 prohibits discrimination against qualified individuals on the basis of their disability. Section 504, 29 USC § 794, states: “No otherwise qualified individual with a disability in the United States, as defined in section 705 (20) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”

Texas Labor Code, Chapter 21

The Texas Labor Code, [Chapter 21](#) protects against discrimination based upon race, color, gender, national origin, religion, age, and disability by employers with at least 15 employees.

The Age Discrimination Act of 1975

As a recipient of federal funding, TCEQ must follow [The Age Discrimination Act of 1975](#). This act prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. The Act, 42 USC § 6102, states: “Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) of this title and section 6103(c) of this title, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.”

Title VI of the Civil Rights Act of 1964

As a recipient of federal funding, TCEQ must follow [Title VI of the Civil Rights Act of 1964](#). Title VI prohibits discrimination on the basis of race, color, or national origin in all federally assisted programs. Title VI, 42 USC § 2000d, states: “No person in the United States 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.”

Title IX of the Education Amendments of 1972

As a recipient of federal funding, TCEQ must follow [Title IX of the Education Amendments of 1972](#). Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”



TCEQ Public Participation Plan

Purpose of the Plan: Public involvement is vital to many Texas Commission on Environmental Quality (TCEQ) activities and programs. Meaningful public involvement ensures that those who are most likely affected by a TCEQ decision are notified, understand the proposed decision, and have an opportunity to provide input before TCEQ action. This document provides guidance to TCEQ staff, the regulated community, and the public in understanding expectations for meaningful public participation.

Summary: The legal framework of public involvement in TCEQ activities and programs is established by various statutes administered by TCEQ, rules developed and administered by TCEQ, and requirements of federally delegated programs including Title VI of the Civil Rights Act of 1964 and U.S. Environmental Protection Agency (EPA) regulations Title 40 Code of Federal Regulations (CFR) Parts 5 and 7. While some aspects of public involvement are specific to the statutory and regulatory frameworks of individual programs, public involvement led by TCEQ is based on following best management practices and underlying principles. By applying the guidance and best practices presented in this Plan, TCEQ aims to:

- Enhance opportunities and mechanisms for the agency to engage with the public on TCEQ's activities and programs;
- Promote respectful and meaningful dialogue between community members, organizations, industry, and TCEQ;
- Educate the public about TCEQ's activities and programs;
- Build trust with the public to strengthen community ties and partnerships;
- Work with community organizations to identify shared goals and opportunities for collaboration;
- Maintain consistent communication procedures;
- Provide consistent communication about state law and TCEQ's authority;
- Work with the public on strategies to improve future public engagement; and
- Identify underserved communities and develop tailored communication plans that best serve their specific cultural and logistical needs.

Revisions: Established June 14, 2021.

Applicability: All TCEQ programs and employees must comply with this Plan.

Owner: Office of Legal Services.

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1. Plan Summary

The Plan identifies methods by which TCEQ interacts with the public, provides guidance and best practices for ensuring meaningful public participation within TCEQ activities, and highlights opportunities for enhancing public involvement within TCEQ activities and programs.

TCEQ is committed to ensuring that its public participation procedures are implemented consistent with federal nondiscrimination laws and include steps for public participation that are accessible to all persons without regard to race, color, national origin (including limited English proficiency), disability, sex, and age.

2. Core Functions of TCEQ

TCEQ strives to protect our state's public health and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste.

To accomplish our mission, we will:

- Base decisions on the law, common sense, sound science, and fiscal responsibility;
- Ensure that regulations are necessary, effective, and current;
- Apply regulations clearly and consistently;
- Ensure consistent, just, and timely enforcement when environmental laws are violated;
- Ensure meaningful public participation in the decision-making process;
- Promote and foster voluntary compliance with environmental laws and provide flexibility in achieving environmental goals; and
- Hire, develop, and retain a high-quality, diverse workforce.

3. Definitions

For purposes of this Plan, the following definitions apply:

- A. American Community Survey (ACS) is a survey conducted by the U.S. Census Bureau that helps local officials, community leaders, and businesses understand the changes taking place in their communities. It is the premier source for detailed U.S. population and housing information.
- B. Census block group means a unit for the U.S. Census Bureau used for reporting. Census block groups generally contain between 600 to 3,000 people.
- C. Disability means, with respect to an individual:
 - A physical or mental impairment that substantially limits one or more of the person's major life activities;
 - A history of such an impairment; or
 - Being regarded as having such an impairment.

- D. EJSCREEN means the Environmental Justice Screening and Mapping Tool, a mapping and screening tool developed by EPA that provides environmental and demographic information for specific areas.
- E. Environmental Justice means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies ([Learn about Environmental Justice](#), 2020).
- F. Limited English Proficiency means individuals who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.
- G. Percent minority means the percent minority as a fraction of population, where minority is defined as all but Non-Hispanic White Alone, calculated from the U.S. Census Bureau's ACS 5-year summary estimates.
- H. Percent low-income means the percent of individuals whose ratio of household income to poverty level in the past 12 months was less than 2 (as a fraction of individuals for whom ratio was determined), calculated from the U.S. Census Bureau's ACS 5-year summary estimates.
- I. Percent less than high school education means the percent of individuals age 25 and over with less than a high school degree, calculated from the U.S. Census Bureau's ACS 5-year summary estimates.
- J. Percent linguistically isolated means the percent of households in which no one age 14 and over speaks English "very well" or speaks English only (as a fraction of households), calculated from the U.S. Census Bureau's ACS 5-year summary estimates.
- K. Socio economic status means the social standing or class of an individual or group. It is often computed based on education, income, and occupation.
- L. ADA means the Americans with Disabilities Act of 1990, as amended.

4. Importance of Public Participation

TCEQ interacts with the public in many different manners including in-person (e.g., meetings, hearings, stakeholder groups, advisory groups, informal contacts, investigations), mail (e.g., notices, mass mailouts, direct mailouts), telephone (e.g. questions), and electronically (e.g., email, website). TCEQ wants the public to participate in decision-making processes and to provide information about matters within TCEQ's purview. Currently, TCEQ has many avenues for public participation. The following sections describe the many ways that the public can participate in TCEQ's processes, activities, and programs.

5. TCEQ Public Meetings, Hearings, and Agendas

TCEQ holds public meetings to collect community feedback and comments on pending TCEQ decisions for activities within multiple programs. These meetings provide an opportunity for the public to learn more about a permit application or a TCEQ activity, as well as to obtain answers to their questions from both TCEQ representatives and, for permit applications, applicants. Public meetings also provide an opportunity for the public to comment formally and informally on a particular matter.

TCEQ works to ensure meetings are held in a venue that meets ADA standards, is large enough for the expected number of participants, is conveniently located near the impacted community, has good acoustics, has the needed equipment, and has an appropriate layout to accommodate a meeting as one large group. When circumstances dictate, TCEQ also uses electronic platforms to provide public meetings. Electronic platforms provide a mode for meeting either by computer or phone so that individuals who do not have internet access may still meaningfully participate.

Public meetings, Commissioners' Agendas, Commission Work Sessions, Executive Director's Agenda, public hearings for proposed rules, and state implementation plan revisions are posted online. Meetings include the date, time, venue, registration information, and a contact for questions. Online information may be accessed with the links below:

- [Public meetings](#);
- [Commissioners' Agendas](#);
- [Commission Work Sessions](#);
- [Executive Director's Agenda](#);
- [Public hearings for proposed rules](#); and
- [State implementation plan revisions](#).

Public meetings and hearings include notices. Notices provide information on the permit application or rule, how to comment, where to find the deadline for the comment period, and how to request more information. Public meeting notices also describe how to request more information, at no cost, in languages other than English, and how to request accommodations for people with disabilities at no cost. When a need is identified, notices may also be translated into alternative languages by the applicant. Reasonable accommodations for persons with disabilities or language access needs should be requested at least one week prior to the meeting. Such accommodations take time to implement and, although TCEQ will make every effort, otherwise reasonable requests made within two weeks of a meeting may not be able to be granted.

For more information on how to participate in permitting and rulemaking, the public can access TCEQ's webpages. The [Environmental Permitting: Participating in the Process](#) webpage helps the public know their rights and responsibilities in the permitting processes, and the [Participating in Rulemaking](#) webpage explains how to find out about and comment on new and changing rules.

6. Permit Applicant's Role

Permit applicants have an important role in ensuring effective public participation. In addition to hosting meetings (when required) and to providing information required by statute and regulations, applicants may be required to provide simultaneous oral interpretation in alternative languages at certain public meetings for permitting applications, as well as provide notices in alternative languages. Applicants may also be required to provide a plain language summary of an application to inform the public about a proposed new permit.

7. State Office of Administrative Hearings

The [State Office of Administrative Hearings](#) (SOAH) resolves disputes between Texas agencies, other governmental entities, and private citizens either through an administrative hearing or mediation. SOAH is separate and independent from the agencies involved in the disputes. A [calendar](#) of SOAH Hearings can be found on our webpage. When an interpreter is needed for all or part of a proceeding, parties may file a written request with SOAH at least seven calendar days before the hearing.

8. Occupational Licensing

TCEQ oversees specific environmental licenses and company registrations. The public can find out more information on requirements for training providers, license renewals, and new or replacement licenses through the [Occupational Licensing](#) webpage. Additionally, the public can register to take paper licensing exams, find computer-based testing centers, and find required initial training and continuing education courses through the Occupational Licensing webpage.

9. Enforcement

TCEQ enforces compliance with the state's environmental laws. The public can find more information on the enforcement process and activities through our [Enforcement Process and Actions](#) webpage.

10. Public Review

The public can review and track the status of multiple matters pending before TCEQ:

- The [Commissioners' Integrated Database](#) allows the public to track matters pending before the Commission and Executive Director for approval after notice issues.
- The [Search for TCEQ Public Notices](#) page contains information about public notices that TCEQ has mailed.
- [Central Registry](#) provides a centralized location for information about those TCEQ regulates.
- The [Track Complaints and Enforcement](#) page allows the public to follow complaints and enforcement actions.
- The [Status of Permits and Registrations](#) page allows the public to follow the status of permits and registrations.
- The public may review Texas superfund sites using the [Texas Superfund Registry](#).
- The [Emergency Response](#) page allows the public to track natural disasters, spills, and other environmental emergencies and situations.

11. Public Input

For many matters, the public is able to [submit comments online](#), by mail, by email, or in person when meetings or hearings are held. Comments may be submitted regarding proposed rules, pending permits, and TCEQ services. Additionally, the public can make [complaints](#) regarding activities, programs, or facilities under TCEQ's purview 24 hours a day. Complaints may be made online, by email, or by telephone.

There are multiple avenues for the public to receive help to understand and participate in TCEQ's processes.

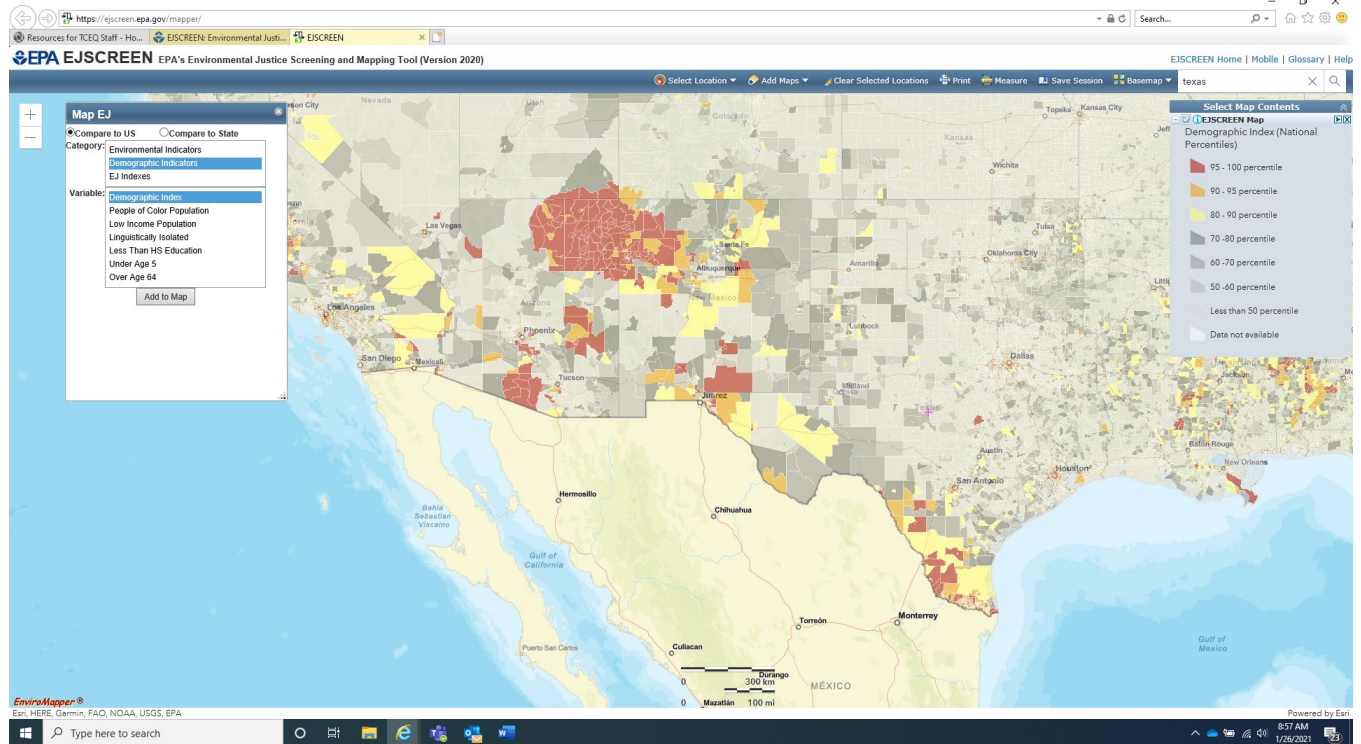
- The [Public Education Program](#) helps answer questions about pending TCEQ permits, the permitting process, and opportunities for public participation on permit applications. They also operate a toll-free hotline for the general public (800-687-4040).
- The [Office of Public Interest Counsel](#) provides information to anyone with questions about the legal aspects of TCEQ's rules, permitting procedures, contested case hearing procedures, or enforcement proceedings.

12. Preliminary Screening Efforts to Reach Underserved Communities

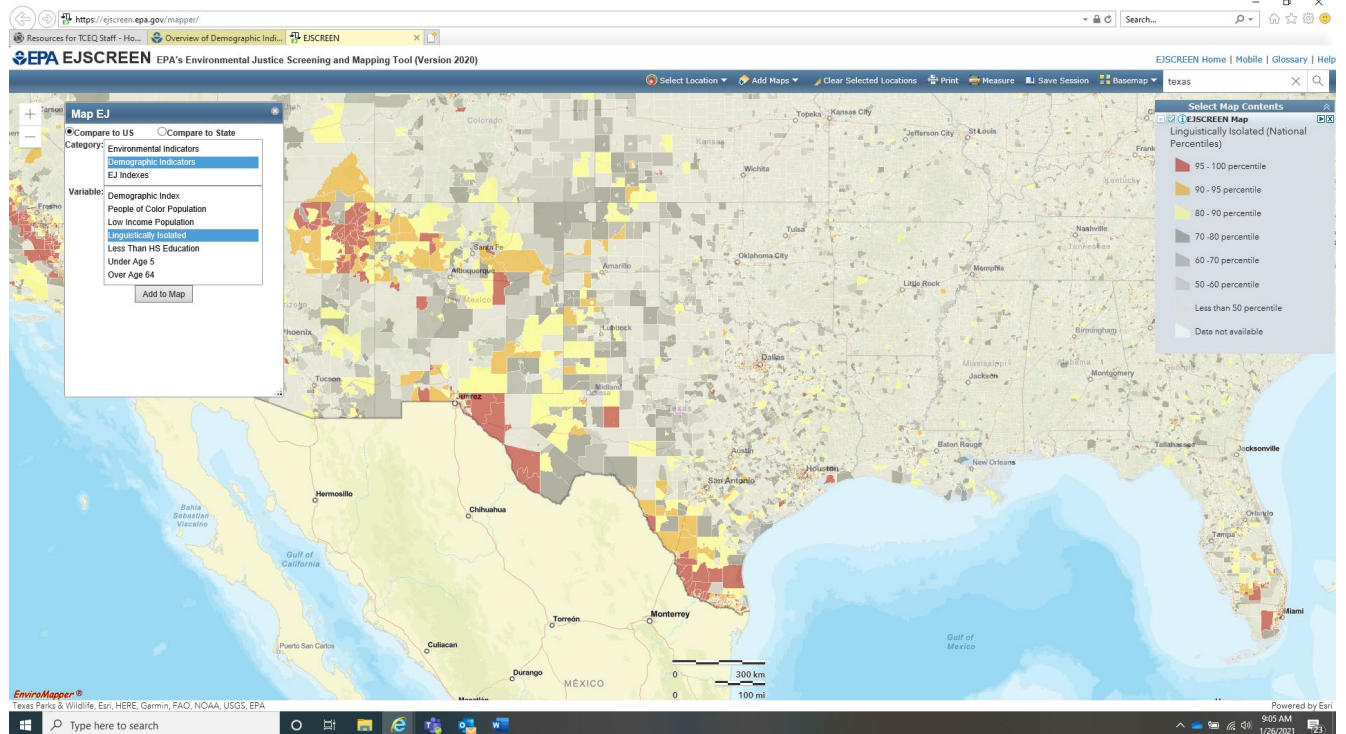
To ensure meaningful public outreach, in addition to statutorily required outreach, TCEQ will perform a preliminary screening to identify areas/populations for which additional outreach is necessary. TCEQ will use tools such as [EJSCREEN](#) and [American Community Survey](#) to conduct the preliminary screening. EJSCREEN is a mapping and screening tool built on nationally consistent data and a method that utilizes both environmental and demographic indicators. The American Community Survey provides a narrative profile covering 15 different topic areas as well as text and bar charts to display highlights of selected social, economic, housing, and demographic estimates for selected geographic areas.

The preliminary screening will be conducted for TCEQ activities and programs such as new applications and/or new activities, which require notice, and are considered to have significant public interest within the following geographical locations: Urban metroplexes (i.e., Austin, Dallas, Fort Worth, Houston, San Antonio), West Texas, the Texas Panhandle, and along the Texas/Mexico border. Other geographical locations should be decided on a case-by-case basis. These areas were chosen due to the Demographic Index and the Percent Linguistically Isolated Index. Map 1 shows the Demographic Index, which is based on the average of Percent Low-Income and Percent Minority. Map 2 shows the Percent Linguistically Isolated.

Map 1: Demographic Index



Map 2: Percent Linguistically Isolated



13. Development of Public Involvement Plan

TCEQ's preliminary screening results will be used by TCEQ Divisions in coordination with the applicant to develop tailored Public Involvement Plans (PIPs). Each TCEQ program office will follow its own statutory or regulatory public notice requirements in addition to the PIP. If statutory or regulatory requirements for a specific activity would make a PIP impractical (e.g., a quick approval timeframe), the TCEQ program office should note in writing such special circumstances.

When developing the PIP, TCEQ program offices, in coordination with the applicant, will use outreach strategies that meet the needs of the area by engaging in the following practices:

- Providing information and materials that are easy to understand;
- Providing information and materials in the appropriate languages, formats, and medias;
- Providing information at a time and in a manner conducive to public participation; and
- Assigning outreach staff that can communicate effectively with diverse stakeholders.

TCEQ has developed internal practices to better ensure that factors used to determine the time, place, location, duration, and security at public meetings are developed and applied in a nondiscriminatory manner. TCEQ works with staff, interested legislative members, and the applicant to schedule meetings in a manner that meets requirements and encourages public participation. TCEQ public meetings are normally scheduled in the early evening. TCEQ works with the applicant to ensure that the meeting venue is open and accessible to all members of the public, if held in person. If the meeting is held electronically, TCEQ provides both a computer and telephone option. When determining a need for security, TCEQ considers factors such as specific requests for security, volume and content of comment letters, historical knowledge regarding previous public meetings in the area, and number of members of the public and elected officials expected.

Unless otherwise indicated, TCEQ considers the following parameters within the specified location when developing the PIP:

- Percent less than high school education;
- Percent low-income;
- Percent minority; and
- Percent linguistically isolated.

After review by TCEQ program office management, the PIP should be made available online in an easily accessible location, as well as in paper format if requested. The PIP may be amended, if necessary, by the implementing TCEQ program office. For example, the PIP could be amended based on feedback from the public on a case-by-case basis or if the TCEQ program office identifies a problem in executing the PIP (e.g., postponed or cancelled meetings due to events such as inclement weather or a public health crisis).

The PIP will be conducted by the TCEQ program office in coordination with the applicant and shall include, at a minimum, the following elements:

1. A plain language, brief description of the activity.
2. A statement that the goal of the PIP is to ensure that the plan is available and accessible to all persons regardless of race, color, national origin, disability, sex, and age.
3. A brief description of the known community and stakeholder groups (including demographics, history, and background).
4. A detailed plan of public outreach activities the program will take to reach the affected public. Examples include information available, location of information (i.e., online/hard copies), public and/or informational meetings planned, and languages available.
5. Contact information for obtaining more information or special services such as translation of documents, interpreters for meetings, and/or services for persons with disabilities.
6. In many cases, formal notification using specific media is mandatory pursuant to statutory and regulatory requirements. The PIP shall identify where public notices will be posted.
7. Any additional requirements identified as part of the Language Access Plan.

Reports produced during the preliminary screening should be included directly in the PIP. Appendix A includes an example PIP.

14. Nondiscrimination Coordinator Contact Information

TCEQ has a coordinator who organizes TCEQ's efforts to comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, The Age Discrimination Act of 1975, the Americans with Disabilities Act (ADA) of 1990, Section 13 of the Federal Water Pollution Control Act of 1972, and Title IX of the Education Amendments of 1972. Reasons an individual may contact the nondiscrimination coordinator include, but are not limited to, requesting an accommodation, filing a discrimination complaint, and/or to ask questions about TCEQ's nondiscrimination program. The nondiscrimination coordinator can be contacted as follows:

Jim Fernandez
Environmental Equity (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Email: chiefclk@tceq.texas.gov
Telephone: 512-239-2566 / Dirija sus preguntas al 512-239-2566

15. Translation and Interpretation Services

The Nondiscrimination Coordinator can provide support in obtaining language assistance (such as interpretation or translation of documents) to facilitate participation in TCEQ meetings, programs, or activities.

16. Accessibility Statement

It is TCEQ policy that no individual with a disability, who is qualified to participate within the specified TCEQ process, will be denied access to or participation in any program, service, or activity offered. TCEQ will administer programs, services, and activities in the most integrated setting appropriate to the reasonable needs of individuals with disabilities.

17. Environmental Justice Statement

Environmental Justice is important to TCEQ. TCEQ strives to address environmental concerns for all Texans, including low-income and minority communities across the state, so that all Texans can fully participate in decision-making processes and enjoy the benefits of our environmental programs. TCEQ recognizes that communities are unique. TCEQ aims to work with communities to better ensure access to decision-making processes and a healthy environment in which to live, learn, and work.

18. Continuous Improvement

It is the policy of TCEQ to continually work to improve public involvement in TCEQ programs and activities. In this effort to continually identify and implement public engagement improvements in the administration of its activities and programs TCEQ will review whether the agency:

- Communicates consistently and in a manner that meets the needs of impacted communities;
- Reaches communities, including low-income and minority communities, who have been historically underrepresented within TCEQ's programs and decision-making opportunities;
- Facilitates public understanding of issues before TCEQ, including notice of pending decisions, factors that TCEQ considers in reaching a decision, the legal and technical information that TCEQ relies upon to make informed decisions, and the basis of the decision when it is made;
- Advances the public's understanding of and ability to work within the TCEQ organizational structure and decision-making processes;
- Seeks opportunities to improve working relationships with local units of government and non-governmental organizations, including stakeholders, community groups, and the media; and
- Improves the technical means by which TCEQ conveys and receives information, including use of the Internet and electronic meetings.

To better evaluate whether TCEQ is meeting the expected public participation, within one year after the Plan has been finalized, TCEQ will:

- Deliver three public webinars to cover the Plan and to answer questions regarding the Plan;
- Provide an opportunity for public comments on the Plan; and
- Review and consider public comments before making updates to the Plan.

19. Training

TCEQ will provide training to all staff regarding TCEQ's nondiscrimination policies and procedures and on its federal nondiscrimination obligations. Such initial training must occur no later than 120 calendar days after the initial finalization of this Plan. Once in place, such training will be a routine part of the on-boarding process for new employees. Subsequent trainings will be offered periodically as a refresher training to all employees.

Additionally, staff are encouraged to take TCEQ trainings, which enhance communication, conflict resolution, and public meeting facilitation skills.

20. Commitment

It is TCEQ's intention to follow the Plan and to update this living document. TCEQ will continue to perform its work in an open and transparent way, with awareness of and sensitivity to the changing demographics of Texas. As TCEQ applies the public participation strategies and methods articulated in this Plan, TCEQ expects to be better stewards of the state's resources and better partners with the communities we serve.

21. References

"LRAPA Public Participation Policy." *Lane Regional Air Protection Agency*, 12 Jan. 2021, <https://www.lrapa.org/DocumentCenter/View/4595/LRAPA-Public-Participation-Policy--Final>

"Learn About Environmental Justice." EPA, 14 Dec. 2020, <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

"Public Participation." *New Mexico Environment Department*, 12 Jan. 2021, <https://www.env.nm.gov/wp-content/uploads/sites/10/2018/02/NMED-Policy-and-Procedure-07-13.pdf>

"Policy on Public Involvement in Department Decisions." *Michigan Department of Environment, Great Lakes, and Energy*, 12 Jan. 2021, https://www.michigan.gov/documents/egle/EGLE_Policy_09-007_679780_7.pdf

"Socioeconomic Status." *American Psychological Association*, 12 Jan. 2021, <https://www.apa.org/topics/socioeconomic-status>

Appendix A: Public Involvement Plan (PIP) Example

1. Plain language summary:

2. Description of the known community/stakeholder groups:

- Area:
- Demographics
 - Percent of people over 25 years who had at least graduated from high school
 - Per capita income for population near the specified location
 - Percent of minority population and percent of population by race within the specified location
 - Percent of Linguistically Isolated Households by language within the specified location
- Known community/stakeholder groups:
- History/background:

3. A detailed plan of public outreach activities the program will take to reach the affected public.

- Information available online:
 - Notice:
 - Application:
 - Other
- For information in hard copy contact:
- If a Public Meeting is expected, the meeting will be held as follows:
- Languages available:

4. Contact information for obtaining more information:

- For special services such as translation of documents, interpreters for meetings, and/or services for persons with disabilities, please contact the Office of Chief Clerk: **Email:** chiefclk@tceq.texas.gov; **Telephone:** 512-239-2566 / Dirija sus preguntas al 512-239-2566.

For programmatic information, contact:



TCEQ Language Access Plan

Preface: The Plan was developed to enhance access for all and establish guidance to better ensure individuals with limited English proficiency (LEP) may meaningfully access TCEQ programs, activities, and services in a timely and effective manner. The Plan was developed to be consistent with:

- TCEQ's commitment to provide meaningful access to LEP individuals;
- TCEQ's mission to protect our state's public health and natural resources consistent with sustainable economic development;
- [Title VI of the Civil Rights Act of 1964](#);
- Title VI implementing regulations and guidance documents.

Introduction: Under federal law, recipients receiving federal financial assistance, including TCEQ, must comply with Title VI of the Civil Rights Act of 1964 and implementing regulations, including [Title 40, Code of Federal Regulations \(CFR\), Part 7](#), which covers nondiscrimination in programs receiving federal assistance from the U.S. Environmental Protection Agency (EPA). These regulations prohibit discriminating and limiting participation on the basis of race, color, national origin, sex, disability, and age by programs and activities receiving federal financial assistance.

TCEQ is dedicated to providing services for all individuals residing in Texas. This includes providing timely, reasonable, and effective language assistance to LEP individuals. This Plan details TCEQ's framework to coordinate and improve meaningful access to LEP individuals by:

- Decreasing language barriers;
- Enhancing customer service;
- Guiding staff; and
- Communicating effectively with linguistically diverse audiences.

Effective Date:

Revisions: 9/8/2021.

Applicability: All TCEQ programs and employees must comply with this Plan.

Owner: Office of Legal Services.

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1. Plan Summary

The State of Texas is home to individuals who speak a variety of languages. This Plan identifies reasonable methods for ensuring meaningful access to TCEQ programs, activities, and services for LEP individuals and highlights opportunities for continuously improving our customer service.

2. Definitions

- A. Bilingual staff member** – A TCEQ staff member who has demonstrated proficiency in and ability to communicate information accurately in English and at least one other language. A bilingual staff member has the ability to speak or write directly to an LEP individual in a language other than English.
- B. Interpretation** – The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.
- C. Interpreter** – A person who interprets orally from one language to another.
- D. Limited English proficiency (LEP) individuals** – Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- E. Meaningful access** – Accurate, effective, and timely language assistance for TCEQ programs, activities and services, provided at no cost, so that LEP individuals' opportunity for participation may be substantially equal to that of English speakers', to the extent reasonably possible.
- F. Primary language** – The language in which an individual most effectively communicates.
- G. Translation** – The replacement of written text from one language to an equivalent written text in another language.
- H. Translator** – A person who translates written words or writing from one language to another.
- I. Vital document** – Paper or electronic material that is critical to access TCEQ's programs, activities, and services. Classification of a document as "vital" depends upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP individual if the information in question is not provided accurately or in a timely manner.

3. Agency Overview

TCEQ is the environmental agency for the State of Texas. TCEQ is headquartered in Austin and has approximately 2,800 employees located throughout the state. TCEQ's mission is to protect Texas' public health and natural resources consistent with economic development, with the goal of clean air, clean water, and safe management of waste. As a state regulatory agency, TCEQ is tasked with administering and enforcing

all laws, rules, and regulations falling within its jurisdiction. TCEQ's jurisdiction includes development of rules, reviewing and issuing permits, enforcement of environmental laws, and responding to inquiries from the public.

4. Elements of a Language Access Plan

TCEQ developed a workgroup with specialists from each of the offices to create the Plan. This workgroup was created to better understand the multiple manners in which TCEQ interacts with LEP individuals as well as to better ensure the development of an operational and effective Plan. The workgroup agreed that an effective Plan will identify individuals, provide language access, train staff, and communicate with LEP individuals. A brief description of each of these elements follows.

A. Identifying LEP individuals.

TCEQ interacts with the public in a variety of ways. TCEQ uses multiple methods to identify LEP individuals including use of demographic information, a newly developed survey for TCEQ divisions (Appendix A), and stakeholder outreach, which will include holding three public meetings to discuss the Plan, gather stakeholder input, and review public comment as discussed in Section 12.

B. Providing effective language assistance.

TCEQ takes reasonable steps to ensure meaningful access to its programs and activities by LEP persons.

C. Training staff.

Staff will be trained on TCEQ's nondiscrimination policies and procedures, which will include this Plan, and on the agency's federal obligations.

D. Communicating with LEP individuals.

After LEP populations have been identified, TCEQ will develop strategies, which involve the impacted community, to inform LEP individuals of a TCEQ program, service, or activity.

5. Four-Factor Analysis

TCEQ applies a four-factor analysis in taking reasonable steps to ensure LEP individuals have meaningful access to its programs, activities, and services. The four-factor analysis is an assessment that balances the following four factors: (1) demographics; (2) frequency; (3) nature and importance; and (4) available resources and costs.

TCEQ uses information provided in the four-factor analysis to anticipate, to the extent possible, the need for language services.

A. **Factor 1:** Number or proportion of LEP individuals in Texas eligible to be served or likely to encounter TCEQ services.

The greater the number of LEP individuals, the more likely language services will be needed. TCEQ should consider minority populations that are eligible for its programs, activities, and services but may be underserved because of language challenges.

The U.S. Census Bureau has four classifications of how well people speak English:

- “very well”
- “well”
- “not well”
- “not at all”

TCEQ considers individuals in Texas who speak English less than “very well” as LEP, which is in line with how the [U.S. Census Bureau](#) defines linguistic isolation as living in a household in which all members aged 14 years and older speak a non-English language and do not speak English very well. According to the [2015-2019 U.S. Census Bureau American Community Survey 5-Year Narrative Profile](#), approximately 35.5% of the population in Texas spoke a language other than English at home. Approximately 13.7% reported that they did not speak English “very well.” At 29.3%, Spanish was reported to be the most commonly spoken language by individuals 5 years and older who spoke a language other than English in Texas. Asian and Pacific Islander languages were next at 3.0%. Specific [examples of languages](#) spoken in Texas by 20,000 individuals or more who do not speak English very well include Spanish (3,073,590), Vietnamese (124,500), Chinese, including Mandarin and Cantonese, (82,010), Arabic (30,812), Korean (28,742), Urdu (21,582), and Tagalog (21,420).

B. Factor 2: The frequency with which LEP individuals encounter a TCEQ program, activity, or service.

TCEQ assesses, as effectively as possible, the frequency it has or expects to have contact with LEP individuals seeking assistance. TCEQ staff who interact with community members on a regular basis will gather information. The need for enhanced language services will be based on:

- The frequency of staff contacts with the language group;
- How often LEP individuals seek TCEQ services; and
- The type of language services needed.

TCEQ will gather information annually regarding interactions with LEP individuals. Information may include surveys of divisions (see Appendix A), review of contact with LEP individuals, stakeholder outreach, and/or other appropriate methods.

C. Factor 3: The nature and importance of TCEQ programs, activities, and services to the LEP population.

The programs, activities, and services offered by TCEQ may directly assist or impact LEP individuals and families; therefore, the actions in this Plan may be critical in providing meaningful access to LEP individuals and families. TCEQ considers the importance and/or urgency of the program, activity, or service undertaken when assessing the need for alternative language services. The need for LEP services could vary significantly, as actions by TCEQ programs cover a broad spectrum in terms of urgency and potential consequences. As this Plan is implemented, it will provide more data on this element.

D. Factor 4: The resources available to TCEQ and the overall cost to provide LEP assistance.

EPA's Guidance states that "reasonable steps" may cease to be reasonable where the costs substantially exceed the benefits. TCEQ will seek cost-effective options, such as technology-based solutions, to promote effective LEP programs and services. TCEQ continually assesses the availability of resources and costs associated with this Plan. In reviewing resources and efforts, TCEQ will identify interpreters and translators within the agency; the cost of contracting interpretation and translation services; appropriate documents, forms, and releases, that need translation; and available assets.

6. Prioritization Standard

Due to a continuous need for translations and finite resources, TCEQ will utilize the following prioritization standard when providing written translation of vital documents or portions of vital documents, as applicable.

- For significant agency decisions, is 5% or more of the affected (or expected to be affected) population comprised of LEP individuals who share a common non-English language?
- Are existing public participation rules met in Title 30, Texas Administrative Code (TAC) Chapter 39, which require Notice of Receipt of Application and Intent to Obtain Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) to be published in an alternative language?

Under 30 TAC Chapter 39, notice in an alternative language is required when:

- Either the elementary or middle school nearest to the facility or proposed facility is required to provide a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B, and 19 TAC § 89.1205(a) (Required Bilingual Education and English as a Second Language Programs), *and*
- students are enrolled in a program at that school; (2) students from that school attend a bilingual education program at another location; or (3) the school that otherwise would be required to provide a bilingual education program has been granted an exception from the requirements to provide the program as provided for in 19 TAC § 89.1207(a) (Bilingual Education Exceptions and English as a Second Language Waivers).

7. Providing Notice to LEP Individuals

TCEQ provides the public information on how to receive language assistance through the following services:

- Translating information and documents in plain language when reasonable;
- Providing information in languages other than English, as appropriate, through TCEQ's website and/or social media outlets;
- Publishing the Plan and other materials, including a Frequently Asked Questions document answering questions about the Plan, on TCEQ's website in English and Spanish;
- In public notices, explaining in English and in Spanish how to call the Public Education Program hotline at 800-687-4040 for more information about the public notice;
- In Commissioners' Agenda meeting notices, explaining in English and Spanish how to contact the [Office of the Chief Clerk](#) at 512-239-3300 at least five business days before the Commissioners' Agenda meeting to arrange for interpretation; and
- Providing training to TCEQ staff on requirements for providing meaningful access to programs, activities, and services for LEP individuals in languages other than English.

8. Selecting Language Assistance Services

Language services are typically provided by (1) oral interpretation in person or via telephone interpretation service and/or (2) written translation. TCEQ determines the necessary and reasonable balance between interpretation and translation services by considering multiple factors, including but not limited to, the demographics of the proposed location and/or participants, the requests of stakeholders, the vitalness of information, as well as available resources. TCEQ informs LEP individuals that TCEQ provides free interpretation and translation services for interacting with the agency upon request (or an alternative reasonable accommodation).

TCEQ considers and employs the following reasonable methods of providing effective interpretation and translation services as needed or requested:

- Using interpreters and translators – TCEQ may utilize bilingual staff members, contract with and hire interpreters and translators, as well as use online translation services.
- Partnering with other agencies and community organizations that provide services to LEP individuals – TCEQ may partner with others to maximize resources and to ensure that the language services provided fit the need of the community being served.
- Using telephone or electronic interpreter services – TCEQ may use telephone or electronic interpreter services when holding events, webinars, and virtual meetings.

- Using electronic devices – TCEQ may use electronic translation and interpretation devices to better understand the needs of LEP individuals for the first contact, when needed.

Interpretation

TCEQ staff evaluates the need for oral interpretation based on the following:

- Intended audience;
- Information being presented;
- Forum in which information is presented; and
- Purpose of the presentation.

When encountering LEP individuals who need services, TCEQ employees do not require or rely on an LEP individual's family or friends to act as an interpreter. However, TCEQ will respect an LEP individual's choice to provide their own interpreter or use one provided by someone else in place of the free language services offered by TCEQ.

Translation

TCEQ determines vital documents by considering the following factors and focuses on translation of vital documents in this order:

- Denial or delay of access to TCEQ services or information could have serious implications for the LEP individual;
- TCEQ is required by rule or statute to provide an activity, warning, notice, or information in an alternative language; and
- Information is critical for obtaining TCEQ services or access to TCEQ programs.

TCEQ will translate vital documents if the population eligible to be served or likely to be directly impacted by the program, activity, or service (1) meets the prioritization standard or (2) after consideration of the four-factor analysis, requires translation to meaningfully access the program, activity, or service. TCEQ may determine to only translate the vital information contained in a document that contains both vital and non-vital information; documents need not be translated in their entirety unless the entire document is considered vital. TCEQ may communicate the information in vital documents through oral or written translation. When a document is very large or when the target audience speaks different languages, TCEQ may provide information on where to obtain interpretation or translation of the vital information.

9. Nondiscrimination Coordinator Contact Information

TCEQ's Nondiscrimination Coordinator organizes TCEQ's efforts to comply with Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990, as amended; Section 13 of the Federal Water Pollution Control Act of 1972; and Title IX of the Education Amendments of 1972. Reasons an individual may contact the Nondiscrimination Coordinator include, but are not limited to, requesting an accommodation, filing a discrimination complaint, and/or to ask questions about

TCEQ's nondiscrimination program. Contact information for the Nondiscrimination Coordinator is as follows:

Jim Fernandez
Texas Commission on Environmental Quality
P.O. Box 13087 (MC105)
Austin, TX 78711-3087
Email: chiefclk@tceq.texas.gov
Telephone: 512-239-2566 / Dirija sus preguntas al 512-239-2566.

10. Plan Access

TCEQ will post the Plan on its website in English and Spanish. Additional interpretation and/or written translation will be provided upon request. Individuals without internet access may receive a copy of the Plan at no charge by contacting the Nondiscrimination Coordinator.

11. Training

TCEQ will provide training to all staff regarding TCEQ's nondiscrimination policies and procedures and on its federal nondiscrimination obligations. Such initial training must occur no later than 120 days after the initial finalization of this Plan. Once in place, such training will be a routine part of the on-boarding process for new employees. Subsequent trainings will be offered periodically as a refresher training to all employees.

12. Monitoring and Updating the Plan

It is the policy of TCEQ to continually improve TCEQ programs, services, and activities. This Plan is a living document, which will be reviewed regularly to evaluate its effectiveness in serving LEP individuals. TCEQ will amend this plan as needed. The evaluation will include but is not limited to:

- Evaluating feedback from engaging with LEP individuals and community-based organizations that serve LEP individuals;
- Identifying LEP populations impacted by TCEQ programs, activities, and services through annual surveys (Appendix A) and stakeholder outreach;
- Assessing the current level of program-related services delivered to LEP individuals in TCEQ programs, activities, and services; and
- Reviewing LEP training received by TCEQ employees.

To better evaluate whether TCEQ is meeting the needs of LEP individuals, within one year after the Plan has been accepted by EPA, TCEQ will:

- Deliver three public webinars to explain the Plan and to answer questions regarding the Plan;
- Provide an opportunity for public comments on the Plan; and
- Review and consider all public comments.

12. References

“American Community Survey, 2015-2019 ACS 5-Year Narrative Profile.” *United States Census Bureau*, 8 Mar. 2021, <https://www.census.gov/acs/www/data/data-tables-and-tools/narrative-profiles/2019/report.php?geotype=state&state=48>

“Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency.” *United States Environmental Protection Agency*, 8 Mar. 2021, https://www.epa.gov/sites/production/files/2017-03/documents/epa_order_1000.32_compliance_with_executive_order_13166_02.10.2017.pdf

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Appendix A: Survey Example for Divisions

An individual with limited English proficiency (LEP) is defined as a person who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English. The purpose of this survey is to gather information on the number and frequency of encounters that TCEQ employees have with LEP individuals and to determine if the nature of those interactions is vital to LEP individuals.

1. Does your division encounter LEP individuals during the course of normal programs, activities, and services?
 - YES (if yes, proceed to next question, #2)
 - NO (if no, the survey is over but annual review should still take place)
2. For what reasons do LEP individuals come into contact with your division? Select all that apply.
 - Individuals seeking TCEQ licenses, certifications, permits, and registrations;
 - Individuals and businesses regulated by TCEQ;
 - Individuals seeking to report information to TCEQ including violations of environmental rules, laws, or permits;
 - Individuals involved in TCEQ administrative process and enforcement actions;
 - Individuals in need of understanding new rules and regulations associated with TCEQ;
 - Individuals in need of notification of vital information distributed by TCEQ;
 - Individuals seeking information on environmental issues and practices;
 - Individuals seeking access to TCEQ programs, activities, and services; and
 - Individuals seeking to request and review TCEQ records.
 - Other _____
3. What are the primary languages of these LEP individuals? Select all that apply.
 - Spanish _____
 - Vietnamese _____
 - Chinese (including Mandarin and Cantonese) _____
 - Arabic _____
 - Korean _____

- Urdu _____
- Tagalog _____
- Other _____

4. For each language selected above, approximately how many people do you encounter annually who speak this language?

| <i>Language</i> | <i>Spanish</i> | <i>Vietnamese</i> | <i>Chinese</i> | <i>Arabic</i> | <i>Korean</i> | <i>Urdu</i> | <i>Tagalog</i> | <i>Other</i> |
|------------------------|----------------|-------------------|----------------|---------------|---------------|-------------|----------------|--------------|
| # of People | | | | | | | | |

5. For each language selected above, how are you providing alternative language services (contractor, qualified bilingual staff, volunteer bilingual staff, LEP 3rd party rep, or other (please specify))?

| <i>Language</i> | <i>Spanish</i> | <i>Vietnamese</i> | | <i>Chinese</i> | <i>Arabic</i> | <i>Korean</i> | <i>Urdu</i> | <i>Tagalog</i> | <i>Other</i> |
|-----------------------------------|----------------|-------------------|--|----------------|---------------|---------------|-------------|----------------|--------------|
| Manner service is provided | | | | | | | | | |
| | | | | | | | | | |