

Interim

Limited English Proficiency

Accessibility Plan



December 18, 2020



Vermont Agency of Natural Resources

Interim Limited English Proficiency Accessibility Plan

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Approved:

January 12, 2021

Signed:



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Summary

While the state of Vermont is small with a predominant English-speaking population, it is home to people with different cultures, ethnicities, races, and backgrounds. According to the 2018 U.S. Census Bureau American Community Survey, Vermont has over 8,600 people ages 5 years old or older that speak English less than very well.¹ These individuals that may not use English as their primary language or have a limited ability to speak, understand, read or write in English can have “limited English proficiency” (LEP). This language barrier prevents some individuals from achieving access to government programs, services, and activities.

All of Vermont residents deserve meaningful access and equitable opportunity to participate in the programs, services and activities administered by the State of Vermont Agency of Natural Resources (ANR). This Interim Limited English Proficiency Accessibility Plan (LEP Access Plan or the Plan) describes reasonable actions that ANR will take to ensure that individuals with limited English proficiency have meaningful access and equal opportunity to participate in the programs, services, and activities that ANR provides.

This LEP Access Plan contains an Interim LEP Accessibility Policy (LEP Access Policy) to ensure that individuals with limited English proficiency have adequate and meaningful access to ANR programs, services, and activities in a timely and effective manner. Detailed steps describing the implementation of this Plan will be part of a forthcoming LEP Accessibility Procedure for each of ANR’s departments – the Departments of Environmental Conservation (DEC), Fish and Wildlife (DFW), and Forests, Parks and Recreation (FPR).

This LEP Access Plan were developed in compliance and consistent with:

- Title VI of the Civil Rights Act of 1964, implementing regulations and federal guidance documents.
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 16, 2000).
- The Civil Rights Restoration Act of 1987, which clarifies that recipients of federal funds must comply with the civil rights laws across the institution including all programs and activities, not solely the program receiving federal funds.²
- The U.S. Environmental Protection Agency (EPA) guidance entitled, “Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI

¹ United States Census Bureau American Community Survey Data 2018 ACS 5-Year Estimates, Table B16001, Population 5 Years or over: Retrieved from:

<https://data.census.gov/cedsci/table?text=B16001&t=Language%20Spoken%20at%20Home&g=0400000US50&tid=ACSDT5Y2018.B16001&hidePreview=true>.

² The Civil Rights Restoration Act of 1987 (Pub. L. 100-259) applies this universal application to: (a) Title VI of the Civil Rights Act of 1964, (b) Title IX of the Education Amendments of 1972 (Pub. L. No. 92-318, 86 Stat. 373-75), (c) the Age Discrimination Act of 1975 (Section 4 of 29 U.S.C. § 623 (1975), and (d) Section 504 of the Rehabilitation Act of 1973 (29 U.S. C. § 794 (1985 & Sup. 1988)).

Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (EPA LEP Guidance).³

- ANR's mission to preserve, enhance, restore, and conserve Vermont's natural resources, and protect human health for the benefit of this and future generations. To conserve the fish, wildlife, plants, and their habitats for the people of Vermont.

ANR's LEP Access Plan will be finalized in 2021, following a formal public comment period.

This Plan is largely based on guidance from EPA and consists of these two major steps, which are described in greater detail in Sections Three and Four:

- Step One: Conduct Program Assessment using a federal "Four Factor Analysis." This step is for determining the extent to which ANR will provide language services, using a balance of four factors.⁴
- Step Two: Implement Five Key Planning Elements.⁵

ANR will review and update its LEP Access Plan on a periodic basis and at a minimum of every four years to ensure continued support of public needs, effectiveness of this Plan, and compliance with state and federal law.

³ 69 Fed. Reg. 35602 (June 25, 2004). Retrieved from: <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>.

⁴ EPA. 2004. LEP Access Guidance, *supra* note at 35606-35607.

⁵ *Ibid.*, 35611-35612.

1. Federal LEP Access Laws, Implementing Regulations and Guidance

1.1 Executive Order 13166 and Federal Agencies' Responsibilities

President Clinton signed federal Executive Order 13166 ("EO 13166") on August 11, 2000, entitled, "Improving Access to Services for Persons with Limited English Proficiency."⁶ EO 13166 clarifies that Title VI of the Civil Rights Act of 1964 and implementing regulations prohibit discrimination on the basis of race, color, and national origin – including limited English proficiency.⁷ The order was issued to ensure that the federal government provides programs and services to "otherwise eligible persons who are not proficient in the English language."⁸

Executive Order 13166 requires that all federal agencies, including the EPA, evaluate the programs and services they provide and identify needs of members of the public with limited English proficiency (LEP individuals) to participate in those programs and services. The Executive Order directs those federal agencies to develop and implement a plan to deliver those programs and services to assure that LEP individuals have meaningful access to them.

The Executive Order also directs federal agencies to ensure that recipients of federal assistance provide LEP individuals meaningful access to these programs and services. EPA's Title VI implementing regulations define a recipient as, "any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance."⁹

Federal financial assistance includes, but is not limited to grants and loans of federal funds; grants or donations of federal property; training; details of federal personnel; or any agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.¹⁰ Federal regulations indicate that Title VI covers the recipients' entire program or activity, even if only one part of the recipient's organization receives federal financial assistance.

⁶ EO 13166, 65 Fed. Reg. 50,123 (August 16, 2000). Retrieved from:
<https://www.lep.gov/sites/lep/files/resources/eolep.pdf>.

⁷ 42 U.S.C. § 2000d et seq. Retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2008-title42/html/USCODE-2008-title42-chap21-subchapV.htm>; 40 CFR §7:
<https://www.epa.gov/sites/production/files/2013-09/documents/40p0007.pdf>; The United States Supreme Court held that discrimination against persons with limited English proficiency is a form of discrimination based on national origin, in violation of Title VI and thus prohibited. *Lau v. Nichols*, 414 U.S. 563 (1974).

⁸ EO 13166, *supra* note at Section 1, 50121.

⁹ 40 C.F.R. § 7.25.

¹⁰ DOJ, "Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs, Federal Coordination and Compliance Section, Civil Rights Division, August 2011, p. 2. Retrieved from: https://www.lep.gov/sites/lep/files/resources/081511_Language_Access_CAQ_TA_Guidance.pdf.

The United States Department of Justice (DOJ) is responsible for government-wide coordination of EO 13166.¹¹ The DOJ first issued general guidance in 2000¹² and its current guidance on June 18, 2002.¹³ The guidance is designed to assist federal agencies and recipients in complying with statutory and regulatory obligations to provide LEP individuals meaningful access to federal agencies' programs, services and activities.

The DOJ guidance defines LEP individuals as, "Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English can be limited English proficient, or "LEP," entitled to language assistance with respect to a particular type of service, benefit, or encounter."¹⁴ The DOJ guidance describes a four-factor analysis for recipients to use "as the starting point" in providing for meaningful access of programs by LEP individuals:

- 1) The number or proportion of LEP individuals from a language group eligible to be served or likely to be encountered by the program or grantee in the eligible service population.
- 2) The frequency with which LEP individuals from specific language groups who come into contact with the program seeking assistance.
- 3) The nature and importance of the program, activity, information, or service provided by the program to people's lives; and
- 4) The resources available to the grantee/recipient and costs.

To help recipients of EPA's financial assistance comply with EO 13166, EPA released guidance on June 25, 2004 entitled, "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (EPA LEP Guidance).¹⁵ The EPA LEP Guidance incorporates the DOJ four-factor analysis and provides a framework for recipients to use to provide LEP individuals meaningful access to programs, services and activities. EPA also released on February 10, 2017 an updated EPA Order 1000.32, "Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency" (EPA Order). The EPA Order sets forth expectations, requirements, and further guidance to ensure compliance with

¹¹ Refer to the DOJ website to aid federal agencies and recipients to provide meaningful access to LEP individuals: <https://www.lep.gov/>.

¹² EO 13166, *supra* note at 50123.

¹³ 67 Fed. Reg. 117, 41,455 (June 18, 2002), "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons;" Retrieved from: <https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/DOJFinLEPFRJun182002.pdf>.

¹⁴ *Ibid.*, p. 41459.

¹⁵ EPA. 2004. LEP Access Guidance, *supra* note.

EO 13166.¹⁶ Other federal agencies also provide guidance for their recipients of federal assistance, including state agencies, that is consistent with DOJ guidance.¹⁷

1.2 Vermont Agency of Natural Resources as Federal Recipient

The Vermont Agency of Natural Resources (ANR) is a state agency that receives federal financial assistance, for example, from EPA, the Department of the Interior (DOI), and Department of Agriculture (USDA). Therefore, ANR is required to comply with the provisions of:

- Title VI of the Civil Rights Act of 1964, implementing regulations,¹⁸
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 16, 2000), and
- The Civil Rights Restoration Act of 1987, which clarifies that recipients of federal funds must comply with the civil rights laws across the institution including all programs and activities, not solely the program receiving federal funds.¹⁹

ANR is committed to providing equitable service for Vermont communities and its residents. This LEP Access Plan is based on EPA LEP Guidance.²⁰ It ensures that ANR will accommodate the needs of the public, including individuals with limited English proficiency, to achieve meaningful access and equitable participation in the programs and services it provides.²¹ ANR will evaluate this plan and its programs, services and activities on a continuing basis, including when updated U.S. Census data are available, to ensure compliance with Title VI and LEP requirements.

¹⁶ EPA Order No. 1000.32, “Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency.” Retrieved from: https://www.epa.gov/sites/production/files/2017-03/documents/epa_order_1000.32_compliance_with_executive_order_13166_02.10.2017.pdf.

¹⁷ DOJ, *supra* note. Retrieved from <https://www.lep.gov/title-vi-guidance-for-recipients>.

¹⁸ 40 C.F.R. § 7.

¹⁹ The Civil Rights Restoration Act of 1987, *supra* note.

²⁰ EPA. 2004. LEP Access Guidance, *supra* note.

²¹ For guidance and other information on federal agencies’ compliance with access by LEP individuals, visit the federal government Limited English Proficiency website: <https://www.lep.gov/>.

2. LEP Access Policy and Purpose of the LEP Access Plan

2.1 Introduction

ANR recognizes the importance of effective, accurate, and timely communication with the public to ensure meaningful public access to its programs, services, and activities. ANR also acknowledges that language can be a barrier to accessing its programs, services, activities, and other benefits, understanding, and exercising rights, complying with regulations, or understanding important public health and safety information.

ANR's LEP Access Plan describes the actions ANR is taking to ensure that individuals with limited English Proficiency (LEP) have meaningful access to all of ANR's programs, services, and activities. ANR will periodically review this Plan to ensure continued responsiveness to the needs of LEP individuals and support compliance with state and federal nondiscrimination laws.

2.2 LEP Access Policy

In accordance with Title VI of the Civil Rights Act of 1964 and all other federal nondiscrimination laws and regulations, it is the policy of the ANR to ensure that individuals with limited English proficiency (LEP) have meaningful access to its programs, services and activities. For the purposes of this policy, an LEP individual is an Individual who does not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be LEP individuals. The U.S. Census Bureau defines persons with limited English proficiency as individuals who speak English "less than very well."²²

ANR's LEP Access Plan establishes the process for evaluating and identifying services that are reasonably necessary to provide meaningful access for LEP persons in a manner that is compliant with federal laws and regulations and EPA Guidance. ANR shall provide language assistance services to LEP individuals based on the ANR LEP Access Plan, as well as upon request.

ANR will provide adequate communication of information, which includes language assistance using oral interpretation and translation of vital documents into the non-English language of each LEP group that is eligible to be served or likely to be affected by the ANR program, service or activity. Information received from communities will be used to aid in determining which documents are vital and which language services are needed to ensure meaningful access to LEP individuals. ANR will undertake an initial review of its published documents, and every two years thereafter, to identify those that are vital and therefore, would need translation.

ANR will employ a variety of methods to identify LEP individuals eligible to be served or likely to be encountered by a ANR program, activity, or service and who may need language assistance. Methods will include demographic information, prior interaction with LEP individuals among

²² United States Department of Justice (Federal Interagency) Limited English Proficiency website, Source and Methodology. Retrieved from: <https://www.lep.gov/source-and-methodology#:~:text=We%20have%20defined%20limited%20English,Survey%205%2DYear%20Estimate%20data.>

ANR staff and other government agency staff, as well as outreach to municipalities, community-based organizations, and other stakeholders.

ANR will provide language assistance services using qualified interpreters, translators, or technology and telephonic interpretation services.

ANR will provide public notice of language assistance services that are available free of charge. ANR will ensure timely and effective response to LEP individuals who need interpretive language assistance, information, or other related services.

ANR will train staff and ANR contractors that have a direct contact with the public and likely to encounter LEP individuals.

ANR will review and update the LEP Access Plan on a periodic basis and at a minimum of every four years to ensure continued support of public needs, effectiveness of this Plan, and compliance with state and federal law.

2.3 Purpose of the LEP Access Plan

The purpose of ANR's LEP Access Plan is to carry out its LEP Access Policy by providing meaningful access to programs, services, and activities for LEP individuals. It is consistent with ANR's mission -- "preserve, enhance, restore, and conserve Vermont's natural resources, and protect human health for the benefit of this and future generations. To conserve the fish, wildlife, plants, and their habitats for the people of Vermont" -- by ensuring that LEP individuals benefit from ANR programs, services, and activities. The Plan also promotes equity and environmental justice by:

- 1) Providing higher quality communications for linguistically diverse audiences.
- 2) Reducing language barriers that inhibit participation.
- 3) Providing adequate and equitable customer service.
- 4) Supporting education and training of ANR staff.

This LEP Access Plan is ANR's blueprint to ensure that individuals with limited English proficiency have meaningful access and equal opportunity to participate in the programs, services, and activities it provides. ANR's LEP Access Plan is consistent with EPA LEP Guidance and contains two major steps:

- Step One: Conduct Program Assessment using a federal "Four Factor Analysis;"
- Step Two: Implement Five Key Planning Elements.

3. Definitions

Bilingual Staff Member: A department staff member who is proficient in both English and at least one other language.

Compliance: The satisfactory condition existing when a recipient has effectively implemented all the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

Discrimination: The act (or action), whether intentional or unintentional, through which a person in the United States, solely because of race, color, or national origin, has been subjected to unequal treatment under any program or activity receiving financial assistance from the U.S. Environmental Protection Agency.

Disparate Treatment: One type of illegal discrimination that is prohibited under federal law. This type of discrimination may or may not be intentional. It refers to treating similarly situated individuals differently on the basis of their race, color, national origin, sex, range of ability, or age.²³

Disparate Impact: A second type of illegal discrimination that is prohibited under federal law. This type of discrimination may or may not be intentional. It refers to situations when a “neutral procedure or practice” results in providing fewer or inferior services or other benefits of a protected group.²⁴

Effective Communication: Communication that is sufficient to provide LEP individuals the same level of access to programs, services, and activities as those who are not LEP individuals.

Environmental Justice: 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.²⁵

Federal Assistance: Federal financial assistance includes, but is not limited to, grants and loans of federal funds; grants or donations of federal property; training; details of federal personnel; or any agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

Interpretation: The act of listening to a communication in one language and orally converting it to another language while retaining the same meaning.

Interpreter: An individual who is communicating meaning orally from one language into another.

²³ 42 U.S.C. 2000d, et seq. Retrieved from: <https://www.justice.gov/crt/title-vi-1964-civil-rights-act>

²⁴ 40 C.F.R. §§ 7.30, 7.35. Retrieved from: <https://19january2017snapshot.epa.gov/sites/production/files/2013-09/documents/40p0007.pdf>

²⁵ U.S. Environmental Protection Agency, Environmental Justice Glossary. Retrieved from: <https://www.epa.gov/environmentaljustice/ej-2020-glossary>.

Language access: Steps taken by the Department or organization to make its programs, services, and activities accessible to LEP individuals.

Limited English Proficient (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. LEP individuals may be competent in some types of communication but still be LEP for other types of communication. LEP individuals may be entitled to language assistance regarding a particular program, service, or activity.

Meaningful Access: Language assistance to provide accurate, timely and effective communication to the LEP individual and ensures equal access to department programs, services, and activities.

Meaningful Public Involvement: Meaningful public involvement consists of informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.²⁶

Noncompliance: The condition that exists when a recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing the Title VI requirements.

Primary Language: The language an individual uses to most effectively communicate.

Programs, Services and Activities: Refers to all operations of a department.

Recipient: Any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.²⁷

Safe Harbor: The EPA LEP Guidance includes a “safe harbor” standard, based on DOJ Guidance,²⁸ that offers greater certainty of compliance with statutory obligations to provide meaningful access for LEP individuals. It applies to the translation of written documents only. The standard contains two actions to show strong evidence of compliance: (a) The EPA recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or includes 1,000 members, whichever is less, of the population of individuals eligible to be served or likely to be affected or encountered. The Safe Harbor provision does not affect the requirement to provide meaningful access to LEP individuals

²⁶ 71 Fed. Reg. 54 (March 21, 2006), Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance), 14207-14217; Retrieved from: https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf.

²⁷ 40 C.F.R. § 7.25.

²⁸ Safe Harbor provisions in the United States Department of Justice 2002 LEP Guidance 67 Fed. Reg. 41455 (June 18, 2002), p. 41464. Retrieved from: <https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf>.

through oral translation services. Translation of other documents, if needed, can be provided orally; or (b) If there are fewer than 50 individuals in a language group that reaches the five percent trigger in (a), ANR or other recipient “does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.²⁹

Subrecipient: An entity that receives Federal financial assistance through a primary recipient.

Title VI Program: The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited only to Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the Civil Rights provisions of other federal statutes to the extent that they prohibit discrimination on the grounds of race, color, or national origin in programs receiving federal financial assistance of the type subject to Title VI.

Translation: The process of transferring written text from one language into an equivalent text in another language.

Translator: A person who conveys written text from one language into the equivalent text in another language.

Vital Document: Paper or electronic material that is critical for accessing a Department’s programs, activities, services, and/or benefits, or contains information about procedures or processes that is required by law. Classification of a document as “vital” may depend upon, “the importance of the program, information, encounter or service involved and the consequence to the LEP individual if the information is not provided accurately or in a timely manner.”³⁰ For example, vital documents could include consent and complaint forms, intake forms with the potential for important consequences, written notices of rights, denial, loss, or decreases in benefits or services, notices of disciplinary action, environmental hazards, or cease and desist orders, notices advising LEP persons of free language assistance, residential lead-based paint disclosure program forms and pamphlets, consumption advisories, written tests that do not assess English language competency, but test competency for a particular license, job, or skill for which English is not required, applications to participate in a recipient’s program or activity or to receive recipient benefits or services.³¹

²⁹ EPA. 2004. LEP Access Guidance, *supra* note.

³⁰ *Ibid.*, 35610.

³¹ *Ibid.*, 35609-35610.

4. Step One: Conduct Program Assessment Using a Four-Factor Analysis

As required in the EPA LEP Guidance and consistent with DOJ guidance, ANR will determine the extent to which it will provide language services using a balance of the following four factors which are described below: (1) the number or proportion of LEP individuals estimated to be served or likely to be encountered in the community of concern; (2) the frequency with which LEP individuals come in contact with the program, service or activity; (3) the nature and importance of the program, activity or service being provided; (4) the resources available to ANR and the associated costs.

The balancing of these four factors ensures meaningful access without imposing undue burden on small businesses, local governments and civic organizations.³² ANR will keep record of its activities under the LEP Plan’s implementation, including language assistance needed and locations (by county and U.S. Census block),³³ frequency and type of language services provided, and costs.

4.1 Factor 1: The Number or Proportion of LEP Individuals Eligible to be Served or Likely to be Encountered by a ANR program, Activity, or Service

The United States Census Bureau (Census) uses four classifications for people who speak English: (1) “very well;” (2) “well,” (3) “not well,” and (4) “not at all” and considers individuals who speak English less than “very well” as LEP individuals.

According to the 2018 American Community Survey in Table One below, 8,611 people of the state of Vermont ages 5 or older spoke English less than very well, thus considered persons of limited English proficiency. This LEP persons represent approximately 1.5% of the state population ages 5 or older. The largest language-group among these LEP individuals was French with 1,392 LEP individuals, reflecting French-Canadians who are represented in rural areas across the northern tier of Vermont.

³² *Ibid.*

³³ For more information on U.S. Census Bureau’s use of census blocks, visit:
<https://www.census.gov/newsroom/blogs/random-samplings/2011/07/what-are-census-blocks.html>.

Table 1: LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER
 Data Source: American Community Survey, 2018

	Speak English less than very well	Speak English very well	Total
French (incl. Cajun)	1,392	6,979	8,371
Nepali Marathi or other Indic languages	1,287	1,019	2,306
Spanish	1,223	5,228	6,451
Chinese (incl. Mandarin Cantonese)	1,021	1,209	2,230
Serbo-Croatian	485	935	1,420
Arabic	383	269	652
Russian	287	472	759
Vietnamese	274	288	562
Japanese	270	235	505
Amharic Somali or other Afro-Asiatic languages	264	420	684
Swahili or other languages of Central Eastern and Southern Africa	178	151	329
Other languages of Asia	177	254	431
German	124	2,076	2,200
Other Indo-European languages	104	837	941
Tagalog (incl. Filipino)	99	408	507
Haitian	95	37	132
Polish	94	498	592
Thai Lao or other Tai-Kadai languages	93	109	202
Italian	91	712	803
Greek	91	249	340
Ilocano Samoan Hawaiian or other Austronesian languages	80	66	146
Korean	69	356	425
Persian (incl. Farsi Dari)	53	127	180
Other and unspecified languages	52	329	381
Hindi	50	132	182
Punjabi	45	60	105
Khmer	39	17	56
Yiddish Pennsylvania Dutch or other West Germanic languages	39	496	535
Hebrew	38	171	209
Ukrainian or other Slavic languages	28	317	345
Portuguese	21	195	216
Urdu	18	149	167
Yoruba Twi Igbo or other languages of Western Africa	13	116	129
Armenian	12	114	126
Gujarati	12	121	133
Malayalam Kannada or other Dravidian languages	10	45	55
Bengali	-	155	155
Hmong	-	-	-
Other Native languages of North America	-	170	170
Telugu	-	75	75
Tamil	-	-	-
English			561,094
All			595,301
Navajo	-	-	-
Total	8,611	25,596	1,190,602

The most recent Vermont county data with detailed languages are from the 2011-2015 American Community Survey. The data show that five counties have more than 150 French-speaking individuals who speak English less than very well. Spanish speakers were the second largest group, with 1,359 LEP individuals. Only two counties – Addison and Chittenden – have over 200 Spanish-speaking individuals that speak English less than very well. Many of the Spanish speakers are migrant farmworkers in the rural areas of the state. These groups each represent about 0.25% of the total population.

Tables Two and Three below show the number and percentages of the state population that speaks English less than very well by town and county. In addition to reliance on U.S. Census data and as described below, ANR will work with community-based organizations representing immigrant populations to help assess the number of LEP individuals for public outreach related to ANR projects and activities. In total, 223 of Vermont's 251 cities and towns (89%) have fewer than 50 LEP individuals. There were only seven municipalities with more than 200 LEP individuals; five of these were in Chittenden County. The other two were Rutland and Brattleboro. The municipalities that have at least 50 LEP individuals, representing “concentrations” of LEP individuals, include: Brattleboro, Bridport, Burlington, Canaan, Chester, Derby, Essex, Fair Haven, Hinesburg, Hyde Park, Londonderry, Montpelier, New Haven, Rutland, Sheldon, South Burlington, Williston, and Winooski.

ANR typically interacts with the public, including LEP individuals, at public meetings, public hearings, comments on permit issuances, other activities that entail public review and comment. ANR is concerned that minority populations who are eligible for programs and services could be underserved because of language barriers.

ANR acknowledges that U.S. Census data alone may not provide the most current information about the location, languages spoken, number and needs of LEP populations in the State. A broader effort is needed to accurately identify the number and needs of LEP individuals. Under this first factor, ANR commits to the following actions:

- Assess currently available data on the number, proportion (as a percentage), and language needs of LEP populations eligible to be served or likely to be encountered by an ANR program, activity, or service.
- Evaluate records of prior interaction with LEP individuals by ANR staff.
- In areas with a higher prevalence of LEP individuals, such as portions of Chittenden County, work with municipal officials and community-based organizations representing immigrant populations to encourage participation and facilitate communication.
- Continue outreach to the LEP communities.
- Periodically update this plan to ensure consistency and compliance with Title VI.
- Keep records of LEP individuals (size of population, language needs, generation location, age, type of program, activity, or service) who seek or receive services.

Table 2: Number of Individuals Who Speak English Less than Very Well by Language & County

Language	Vermont	Addison County	Bennington County	Caledonia County	Chittenden County	Essex County	Franklin County	Grand Isle County	Lamoille County	Orange County	Orleans County	Rutland County	Washington County	Windham County	Windsor County
Total Population	596,209	35,370	34,863	29,447	151,897	5,936	45,562	6,658	23,677	27,572	25,772	57,819	56,181	41,870	53,585
Spanish or Spanish Creole	1,359	205	64	23	361	11	179	2	174	77	16	61	18	67	101
French (incl. Patois, Cajun)	1,570	41	30	60	429	110	203	19	38	55	275	69	144	23	74
French Creole	32	-	-	-	-	-	-	-	-	-	-	32	-	-	-
Italian	122	4	4	-	50	2	3	-	11	-	-	28	-	18	2
Portuguese or Portuguese Creole	99	-	-	1	56	4	-	4	27	-	-	5	-	2	-
German	280	6	48	-	45	2	8	5	3	23	11	23	42	23	41
Yiddish	4	2	-	-	-	-	-	-	-	-	2	-	-	-	-
Other West Germanic languages	26	10	-	-	9	-	-	-	-	-	-	-	-	-	7
Scandinavian languages	26	-	-	-	-	-	-	5	2	-	5	8	-	6	-
Greek	67	-	-	-	24	-	-	-	-	5	2	5	-	-	31
Russian	204	4	3	5	166	-	-	5	-	-	3	3	-	-	15
Polish	74	5	-	3	37	-	19	-	-	-	6	1	3	-	-
Serbo-Croatian	508	31	-	-	352	-	-	2	-	-	-	-	-	123	-
Other Slavic languages	34	1	-	-	15	-	-	-	-	2	-	11	3	2	-
Persian	48	-	-	-	36	-	3	-	-	-	-	-	9	-	-
Hindi	31	-	-	4	27	-	-	-	-	-	-	-	-	-	-
Urdu	21	15	-	-	-	-	-	-	-	-	-	-	6	-	-
Other Indic languages	939	-	-	-	936	-	-	-	-	3	-	-	-	-	-
Other Indo-European languages	123	1	-	3	89	-	-	-	-	-	-	-	-	28	2
Chinese	720	5	6	76	407	3	6	-	-	4	9	88	3	53	60
Japanese	147	3	60	3	-	-	2	-	-	11	-	57	11	-	-
Korean	116	16	2	1	28	-	-	-	-	-	2	-	5	-	62
Thai	126	3	2	-	84	-	7	-	-	-	-	27	3	-	-
Laotian	104	-	-	-	33	-	-	-	-	-	-	-	-	71	-
Vietnamese	580	5	24	-	498	-	-	-	-	-	-	33	18	-	2
Other Asian languages	266	-	-	-	242	-	-	-	-	-	-	-	-	19	5
Tagalog	129	2	-	-	42	-	8	-	-	-	3	61	3	4	6
Other Pacific Island languages	64	-	-	-	9	-	-	-	-	3	2	29	-	21	-
Other Native N. Amer. languages	2	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Hungarian	7	2	-	-	-	-	-	-	-	-	-	5	-	-	-
Arabic	300	-	-	3	282	-	-	-	-	-	-	-	-	15	-
Hebrew	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
African languages	403	9	2	-	351	-	-	-	-	-	-	12	5	24	-
Other and unspecified languages	10	-	-	-	-	-	-	-	-	-	10	-	-	-	-

Source: 2011-2015 American Community Survey

Table 3: Percentage of Population that Speaks English Less than Very Well by Language & County

Language	Vermont	Addison County	Bennington County	Caledonia County	Chittenden County	Essex County	Franklin County	Grand Isle County	Lamoille County	Orange County	Orleans County	Rutland County	Washington County	Windham County	Windsor County
Spanish or Spanish Creole	0.23%	0.58%	0.18%	0.08%	0.24%	0.19%	0.39%	0.03%	0.73%	0.28%	0.06%	0.11%	0.03%	0.16%	0.19%
French (incl. Patois, Cajun)	0.26%	0.12%	0.09%	0.20%	0.28%	1.85%	0.45%	0.29%	0.16%	0.20%	1.07%	0.12%	0.26%	0.05%	0.14%
French Creole	0.01%													0.06%	
Italian	0.02%	0.01%	0.01%		0.03%	0.03%	0.01%			0.05%			0.05%		0.04% 0.00%
Portuguese or Portuguese Creole	0.02%			0.00%	0.04%	0.07%		0.06%	0.11%			0.01%		0.00%	
German	0.05%	0.02%	0.14%		0.03%	0.03%	0.02%	0.08%	0.01%	0.08%	0.04%	0.04%	0.07%	0.05%	0.08%
Yiddish	0.00%	0.01%										0.01%			
Other West Germanic languages	0.00%	0.03%			0.01%										0.01%
Scandinavian languages	0.00%							0.08%	0.01%		0.02%	0.01%		0.01%	
Greek	0.01%				0.02%					0.02%	0.01%	0.01%			0.06%
Russian	0.03%	0.01%	0.01%	0.02%	0.11%			0.08%				0.01%	0.01%		0.03%
Polish	0.01%	0.01%		0.01%	0.02%		0.04%				0.02%	0.00%	0.01%		
Serbo-Croatian	0.09%	0.09%			0.23%			0.03%						0.22%	
Other Slavic languages	0.01%	0.00%			0.01%					0.01%		0.02%	0.01%		0.00%
Persian	0.01%				0.02%		0.01%							0.02%	
Hindi	0.01%			0.01%	0.02%										
Urdu	0.00%	0.04%												0.01%	
Other Indic languages	0.16%				0.62%					0.01%					
Other Indo-European languages	0.02%	0.00%		0.01%	0.06%									0.07%	0.00%
Chinese	0.12%	0.01%	0.02%	0.26%	0.27%	0.05%	0.01%			0.01%	0.03%	0.15%	0.01%	0.13%	0.11%
Japanese	0.02%	0.01%	0.17%	0.01%			0.00%			0.04%		0.10%	0.02%		
Korean	0.02%	0.05%	0.01%	0.00%	0.02%					0.01%			0.01%		0.12%
Thai	0.02%	0.01%	0.01%		0.06%		0.02%					0.05%	0.01%		
Laotian	0.02%				0.02%										0.17%
Vietnamese	0.10%	0.01%	0.07%		0.33%							0.06%	0.03%		0.00%
Other Asian languages	0.04%				0.16%									0.05%	0.01%
Tagalog	0.02%	0.01%			0.03%		0.02%				0.01%	0.11%	0.01%	0.01%	0.01%
Other Pacific Island languages	0.01%				0.01%					0.01%	0.01%	0.05%		0.05%	
Other Native N. Amer. languages	0.00%														0.00%
Hungarian	0.00%	0.01%										0.01%			
Arabic	0.05%			0.01%	0.19%										0.04%
Hebrew															
African languages	0.07%	0.03%	0.01%		0.23%							0.02%	0.01%		0.06%
Other and unspecified languages	0.00%										0.04%				

Source: 2011-2015 American Community Survey

4.2 Factor 2: The Frequency with Which LEP Individuals Encounter Programs

As discussed under Factor 1, ANR anticipates that most of its contact with LEP individuals will occur at public meetings or hearings associated ANR programs, services, and activities, when filing public notices, announcing grant availability, or when development activities warrant a state environmental permit. ANR expects that the type and frequency of staff interactions with LEP individuals varies by program.

ANR shall build on the initial assessment under Factor One and assess across all departments and divisions the frequency that the program, service, or activity encounters LEP individuals or language group or organization representing LEP individuals. The assessment will evaluate general contact and contact that is specific to the matter for which an LEP evaluation is occurring. The assessment will help identify the type of language services needed. Based on the assessment, ANR shall establish the degree to which ANR should contact LEP individuals regarding language services and the conditions of service to ensure meaningful access to programs, services, and activities. ANR shall consult with the Office of the Vermont Attorney General Civil Rights Unit, the Agency of Administration Racial Equity, and Human Rights Commission as needed. ANR shall also keep records of the frequency of LEP individuals encountering ANR and the program, service, or activity or service being provided.

4.3 Factor 3: The Nature and Importance of the Program, Service, or Activity Provided by the Recipient to the LEP Community

The importance or urgency of the program, service, or activity such as an event that could cause potentially harmful impacts, such as a sudden spill or chemical release, can heighten the need to provide for language services. ANR shall evaluate the program, service, or activity that is necessitating the LEP evaluation for its importance and/or urgency. That evaluation will determine whether the lack of access to language services or information could cause immediate or severe impacts to public health and safety, environmental hazards, or other detrimental consequences to LEP individuals. ANR will establish on-going communications with organizations representing LEP individuals and keep records that describe the nature and importance of the program, service, or activity for LEP individuals.

4.4 Factor 4: Available Resources and Overall Costs

Because of the generally low incidence of LEP individuals seeking language assistance in Vermont, ANR anticipates the cost to provide for language services to be manageable. ANR will use state contractors to provide in-person and telephone translation services. ANR does not anticipate that the cost of translation services will hinder the Department's ability to accommodate the needs of Vermont's LEP populations. ANR will evaluate options that cost-effectively deliver adequate and accurate language services before steps are taken to limit services due to financial constraints. ANR will maintain records to include costs and resources to provide services.

4.5 Safe Harbor

The EPA LEP Guidance includes a “safe harbor” standard that offers ANR greater certainty of compliance with its obligations to provide meaningful access to programs, services, or activities for LEP individuals. It applies to the translation of written documents only. It does not affect the requirement to provide meaningful access via competent oral interpretation.

The standard contains two actions to show strong evidence of compliance:

- a) Written translations of vital documents for each eligible LEP language group that constitutes 3 percent or 500 people, whichever is less, of the population of individuals eligible for or to be affected by ANR’s programs, services and activities.³⁴ Translation of other, non-vital documents, if needed, can be provided orally;
- b) If there are fewer than 50 individuals in a language group that reaches the three percent trigger in (a) above, ANR provides written notice, translated into the primary language of the LEP language group, stating that the LEP individuals have the right to receive competent oral interpretation of written vital materials at no cost.

Because of the current low incidence of LEP individuals in Vermont overall, this plan modifies the Safe Harbor standard for the translation of written documents contained in EPA’s guidance from five percent or 1,000 people to 3 percent or 500 people. To further demonstrate strong evidence of statutory compliance, ANR will provide oral and written interpretation and translation services based on actions described as part of the Four-Factor LEP analysis. ANR will also take reasonable steps to provide language services for all other requests and maintain records on requests for language assistance.

4.6 Statement of Decision

ANR will prepare a statement of decision upon completion of a Four-Factor Analysis. If the decision is to provide for LEP services, ANR will include a statement of the type of services to be provided, identification of vital documents for translation, and any public engagement activities anticipated.

³⁴ Federal Guidelines use 5 percent or 1,000 people. EPA. 2004. LEP Access Guidance, *supra* note at 35610; DOJ. 2002. LEP Guidance *supra* note at 41464. The recommended minimum threshold is to reflect Vermont’s current demographics, which still assure a balanced approach to provide LEP individuals meaningful access to ANR programs, activities, and services.

5. Step Two: Implement Five Key Planning Elements

ANR's LEP Access Plan contains the following five key planning elements, as referenced to the EPA LEP Guidance: (1) identifying LEP individuals who need language assistance; (2) identifying ways to provide language assistance; (3) training staff members; (4) providing notice to LEP individuals; and (5) monitoring and updating the LEP Access Plan.

5.1 Planning Element #1: Identify LEP Individuals who Need Language Assistance

ANR acknowledges that it will need to rely on a variety of sources to identify LEP individuals in the State. ANR will use the outcome of the Four-Factor Analysis, particularly the first two factors, to aid in identification of LEP individuals in need of language assistance. ANR will use demographic data from the U.S. Census Bureau's American Community Survey (ACS)³⁵ five-year estimates to identify the languages, other than English, that are spoken in Vermont. ANR will use Geographic Information System (GIS) tools to help depict demographic data. In addition to available demographic information, ANR will also conduct outreach to communities, community-based organizations, and other stakeholders, and evaluate records of prior interactions with LEP individuals by ANR staff and other state government agency staff. ANR will look for other sources, such as records of Department of Education enrollment, to analyze languages most frequently spoken by LEP persons by region. ANR employees will bring "I Speak" material to public meetings to help identify language service needs.

5.2 Planning Element #2: Provide Language Assistance Services

ANR will take reasonable steps to provide oral and written interpretation and translation, upon the outcome of a LEP Four-Factor analysis of a program, service, or activity or upon request.

The classification of a document as "vital" depends upon a number of considerations, such as the importance of the information, the program, service, or activity involved, and the consequences of not providing information accurately or in a timely manner. ANR will undertake an initial review of its published documents, in whole or in part, to identify those that are vital and therefore will need to be translated within a reasonable timeframe. ANR anticipates conducting a periodic review of its documents every two years to determine if documents are vital.

The State of Vermont has retained a language services contract to provide translation, interpretation, telephonic interpretation. ANR will provide notice of the availability of language assistance services and will ensure timely and effective response to LEP individuals who need interpretive language assistance, information, or other related services. ANR will also take steps to ensure communication is conducted using qualified interpreters and translators. ANR will keep records of use of language assistance services.

³⁵ For information regarding the Census Bureau American Community Survey, visit:
<https://www.census.gov/programs-surveys/acs/about.html>.

5.3 Planning Element #3: Train ANR Staff and Contractors

ANR will provide training for staff and ANR contractors who are involved in public outreach and engagement and are likely to encounter LEP individuals. The purpose of the training is to ensure that staff and ANR contractors understand the LEP Access Plan, know how to identify and work effectively with LEP persons, and understand how to provide effective language assistance services. ANR may use the staff annual performance reviews to aid in identifying staff training needs. ANR will provide staff and contractor training when there are substantive changes to this plan, as part of new employee orientation, and at a minimum of every three years.

5.4 Planning Element #4: Provide Public Notice to LEP Individuals

ANR will publish the LEP Access Plan on its website. ANR will also distribute the LEP Access Plan to state and community-based organizations. ANR will also use the U.S. Census Bureau I-Speak Language Identification Cards for staff who may encounter with LEP individuals at work.³⁶

After LEP populations have been identified and, based on a Four-Factor Analysis, ANR determines that it will provide language services, ANR will provide notice of a program, service, or activity, using the same manner required by statute or regulation for public notice. ANR will also expand outreach using appropriate media to notify LEP populations and communities of these services that are free of charge. ANR will contact community-based and state organizations that support LEP populations and other relevant entities, such as schools, religious organizations, and chambers of commerce.

5.5 Planning Element #5: Monitor and Update the LEP Access Plan

The LEP Access Plan is designed to be flexible to accommodate periodic updating. The purpose of monitoring the LEP Access Plan is to ensure that these documents are effective, and that staff understand and know how to implement the Plan. ANR will use a set of criteria to monitor the effectiveness of the LEP Access Plan and will conduct an evaluation of these documents at a minimum of every four years.

6. Compliance and Discipline

ANR will offer staff feedback on a periodic basis to ensure that the staff have the resources they need to be compliant with this plan. ANR will also offer staff opportunities to provide feedback to identify sections in the plan, timeframes, and training materials in need of further clarification or updating. Any ANR employee who fails to comply in good faith with the terms and provisions of this LEP Access Plan may face disciplinary consequences up to and including dismissal.

³⁶ U.S. Census Language Identification Card: <https://www.lep.gov/sites/lep/files/resources/ISpeakCards2004.pdf>.

Appendix A: State of Vermont Translation Services Contracts

CONTRACT	SUPPLIER			EXPIRATION
In-Person Language Interpretation Services				
<u>41168</u>	Association of Africans Living in Vermont	<u>Yacouba Jacob Borgre</u>	802.985.3106	12/30/2022
Translation & Interpretation Services				
<u>41161</u>	Telelanguage Inc.	<u>Tim Bernal</u>	716.854.7633	12/30/2022

Appendix B: Abbreviations

ACS: American Community Survey (of the U.S. Census)

ANR: Agency of Natural Resources

CRF: Code of Federal Regulations

Census: United States Census Bureau

DEC: Department of Environmental Conservation (Vermont); part of ANR

DOI: United States Department of Interior

DOJ: United States Department of Justice

EPA: United States Environmental Protection Agency

FPR: Department of Forests, Parks, and Recreation Department (Vermont); part of ANR

FWD: Department of Fish and Wildlife (Vermont); part of ANR

LEP: Limited English Proficiency

USDA: United States Department of Agriculture

Appendix C: References

- Attorney General Holder Memorandum to All Federal Agencies Regarding the Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166 (February 17, 2011).
Link:
https://www.lep.gov/sites/lep/files/resources/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf.
- Civil Rights Act of 1964 (Title VI). 42 U.S.C. §2000d et seq.
Link: <https://www.justice.gov/crt/fcs>TitleVI-Overview>.
- Congressional Research Service, Civil Rights at School: Agency Enforcement of Title VI of the Civil Rights Act of 1964." R45665. April 4, 2019.
Link: <https://fas.org/sgp/crs/misc/R45665.pdf>.
- Executive Order 13166 of Aug. 11, 2000: 65 Fed. Reg. 50,123 (August 16, 2000). "Improving Access to Services for Persons with Limited English Proficiency."
Link: <https://www.justice.gov/crt/federal-coordination-and-compliance-section-180>.
- Michigan Dept. of Environment, Great Lakes, and Energy, "Draft Limited English Proficiency Plan, April 6, 2020.
Link: https://www.michigan.gov/documents/eble/eble-DraftLEPPlan-English_687454_7.pdf.
- United States Census Bureau American Community Survey:
<https://www.census.gov/programs-surveys/acs/about.html>.
https://www.lep.gov/maps/lma2015/Final_508/.
- United States Census Bureau American Community Survey Data 2015 ACS 5-Year Estimates, Table B16001, Population 5 years and over:
<https://data.census.gov/cedsci/table?q=B16001&hidePreview=true&tid=ACSDT5Y2015.B16001&g=0400000US50,50.050000>.
- United States Census Bureau Language Identification Card:
<https://www.lep.gov/sites/lep/files/resources/ISpeakCards2004.pdf>.
- United States Environmental Protection Agency, 2006, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance).
Link: <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>.
- United States Environmental Protection Agency 2004 LEP Guidance:
Link: <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>.

- United States Environmental Protection Agency: Assisting People with Limited English Proficiency:
Link: <https://www.epa.gov/ogc/assisting-people-limited-english-proficiency>.
- United States Environmental Protection Agency, LEP Updated Order 1000.32 (Feb. 23, 2017) “Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency:” <https://www.epa.gov/ogc/epa-order-100032-compliance-executive-order-13166>.
- United States Department of Justice “Enforcement of Title VI of the Civil Rights Act of 1964- National Origin Discrimination Against Persons with Limited English Proficiency: 65 Fed. Reg. 50123 (August 16, 2000).
Link: <https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20867.pdf>.
- United States Department of Justice 2002 LEP Guidance 67 Fed. Reg. 41455 (June 18, 2002):
Link: <https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf>.
- United States Department of Justice May 2011 Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs:
Link: https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf.
- U.S. Department of Justice “Common Language Access Questions, Technical Assistance and Guidance for Federally Conducted and Federally Assisted Programs,” August 2011: https://www.lep.gov/sites/lep/files/resources/081511_Language_Access_CAQ_TA_Guidance.pdf.
- United States Department of Justice (Federal Interagency) Limited English Proficiency
Link: <https://www.lep.gov/>.
- Digital.Gov Information on Best Practices for web content managers:
<https://digital.gov/2012/10/01/automated-translation-good-solution-or-not/>.