

Directive 113.1
2/10/77

ACTION BY: All Divisions and Offices, AMS

Nondiscrimination - Agricultural
Marketing Service Programs

I PURPOSE

This Instruction:

- A States the policy of the Agricultural Marketing Service (AMS) on nondiscrimination in its programs and activities.
- B Provides the rules and regulations of the U.S. Dept. of Agriculture (7 CFR 15.1-15.52) on Nondiscrimination in Federally Assisted Programs and in Direct USDA Programs and Activities (see Exhibit A, attached).
- C Outlines Agency responsibilities under the Civil Rights Act of 1964, Title VI.
- D Sets forth procedures for handling complaints of discrimination in AMS programs.

II POLICY

All AMS employees are charged by law and regulation to conduct official business in such a manner that the Department does not directly or by implication:

- A Support, encourage, or condone the practice of segregation or other forms of discrimination;
- B Conduct programs in ways that permit economic barriers or social inhibitions to limit participation; or
- C Provide separate or different services for reasons of race, color, national origin, religion, or sex.

III DEPARTMENTAL RULES AND REGULATIONS

The rules and regulations, and amendments thereto, issued by the Department, giving effect to the Civil Rights Act of 1964, are contained in Exhibit A, attached. The Subparts contain the following:

- A Subpart A (7 CFR 15.1-15.12) pertains to Nondiscrimination in Federally Assisted Programs. This Subpart applies to the Federal-State Marketing Improvement (FSMI) Program.
- B Subpart B (7 CFR 15.50-15.52) pertains to Nondiscrimination in Direct USDA Programs and Activities. This Subpart applies to all AMS programs other than the FSMI Program.

IV RESPONSIBILITIES

A The Administrator, AMS, is responsible for assuring that AMS complies fully with the spirit and intent of the Civil Rights Act of 1964 and Departmental and AMS Regulations governing nondiscrimination.

B Deputy Administrators are responsible for continual program review to insure conformance with Subparts A and B of the rules and regulations contained in Exhibit A, attached, and adherence to AMS policies covering nondiscrimination.

C Division Directors are responsible for:

- 1 Insuring that programs are operated in conformance with AMS and Departmental civil rights regulations and overall legal requirements of the Civil Rights Act of 1964, as amended.
- 2 Insuring that all Division supervisory personnel are trained in civil rights requirements.
- 3 Scheduling and conducting compliance reviews as set forth in Section VII, below.

D The EEO Coordinator serves as the Civil Rights Coordinator for AMS, and is responsible for:

- 1 Assisting in directing and coordinating the day-to-day civil rights activities in AMS.
- 2 Serving as liaison with the Department for all AMS civil rights programs, and for handling complaints of discrimination and matters of compliance with the office of Equal Opportunity (OEO).

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- 3 Coordinating reports and specific information requests pertaining to the program.
- 4 Reviewing and approving instructions and new and revised program regulations for compliance and conformance with Agency policy on nondiscrimination

V IMPLEMENTATION

A Informing Employees. All AMS employees shall be made aware of the AMS and USDA policies set forth in this Instruction.

B Nondiscrimination Clauses.

- 1 The following clause shall be included in all new or revised program regulations not presently carrying the statement;

"The conduct of all services and the licensing of inspecting/grading/sampling personnel under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin."

- 2 In order to acquaint recipients of grading and inspection services with AMS policy on nondiscrimination, the following clause shall be included on all reprints or revisions of inspection and grading certificates:

"The conduct of all services and the licensing of inspecting/grading/sampling personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, or national origin."

C Cooperative Agreements. As required by Departmental regulations (4 AR 54), the following clause shall be included in all new or revised cooperative agreements;

"In connection with the work performed under this Agreement, the attached equal opportunity provisions prescribed by Executive order 11246, as amended by Executive Order 11375, are hereby made a part of this Agreement. Also attached and hereby made a part of this Agreement is a certification of nonsegregated facilities required by a Department of Labor order, dated May 9, 1967 (32 C.F.R. 7439)."

The referenced attachments are applicable as required by rules, regulations, and relevant orders of the Secretary of Labor (41 CFR Ch. 60). Language appropriate for cooperative agreements will be furnished by the Administrative Services Division.

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D Civil Rights Poster. The civil rights poster, And Justice For All, shall be displayed in all AMS offices, as well as in Federal-State offices.

VI NONCOMPLIANCE

7 CFR Subparts A and B (see Exhibit A, attached) prohibit discrimination as described. Situations not in accord with these regulations shall be considered as constituting noncompliance.

VII COMPLIANCE REVIEWS

Regularly scheduled formal compliance reviews are the prescribed method for insuring that AMS and Department nondiscrimination requirements are being met. While compliance reviews may be conducted during the course of a comprehensive field review, the compliance review itself will be a separately identifiable part of the field review.

A Form To Be Used. Form AMS-570, Civil Rights Compliance Review, shall be used to record the compliance review. Form AMS-570 is primarily intended for civil rights compliance reviews in AMS offices, but should also be used to the extent possible in reviewing other types of cooperating agencies as described below. Form AMS-570 shall be prepared in duplicate. The original shall be sent to the Civil Rights Coordinator, and one copy shall be retained in the Division.

- B Compliance Reviews of AMS Field Offices. Civil rights compliance reviews of AMS field offices and Federal-State offices operating under cooperative agreements with AMS should be scheduled so that all offices are covered at least once every two years.
- C U.S. Warehouse Act. Compliance reviews of warehouses and elevators will be scheduled in accordance with AMS responsibilities under the U.S. Warehouse Act.
- D Applicants and Users of AMS Services. While AMS Divisions should not knowingly provide services to applicants or users known to practice discrimination, Divisions do not have authority to conduct civil rights compliance reviews or make civil rights inquiries of applicants or users, or to conduct surveys of employment to obtain minority worker data in warehouses, elevators, or State agencies or offices operating under cooperative agreements. Complaints involving applicants should be handled in accordance with Section IX, below.

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VIII COMPLIANCE ENFORCEMENT

Procedures for enforcing compliance in federally assisted programs are described in Exhibit A, attached (Subpart A, Sections 15.8-11). Procedures for enforcing compliance in direct USDA programs provided by AMS are described below.

A Situations indicating noncompliance must be recorded on Form AMS-570, and must immediately be brought to the attention of the party allegedly in noncompliance. Every effort must be made to achieve voluntary compliance through correspondence, telephone calls, or personal contact. In cases where an AMS office or employee is determined to be in noncompliance, corrective action must be immediate.

B Inform the Civil Rights Coordinator of the noncompliance situation and of informal efforts to resolve noncompliance.

C If within 60 days compliance has not been achieved through informal methods, send full information regarding the case through the Civil Rights Coordinator to the appropriate Deputy Administrator.

D The Deputy Administrator, with assistance of the Civil Rights Coordinator, shall:

- 1 Prepare a letter to the head of the organization in question, describing the nondiscrimination requirements of AMS program regulations and Department Administrative Regulations. The letter shall:
 - a Present the AMS understanding of the compliance problem and review informal efforts to obtain voluntary compliance.
 - b Explain that in the absence of compliance, AMS must move to enforce its regulations, and that the recipient organization will be given an opportunity

for a hearing prior to suspension, revocation, or termination of the cooperative agreement or official designation. (The hearing procedures outlined in Exhibit A, Subpart A 15.9-10, apply.)

c State that should the cooperating agency withdraw from the program, hearing and enforcement proceedings will not be necessary and program participation will be reconsidered at the time compliance is assured.

d Request a response within 10 days.

2 Send a copy of the letter to the Director, OEO.

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E If within 10 days there is a negative response or no response from the cooperating agency, then the case, together with recommended enforcement action, must be referred to the Director, OEO, for review.

F After consideration by the Director, OEO, the Administrator will forward the case to the office of the General Counsel for legal review and initiation of enforcement action necessary under applicable Department regulations.

IX COMPLAINTS

A Right To File a Complaint. The civil rights poster, And Justice For All, informs recipients of Department services of their right to file a complaint of discrimination in an AMS direct assistance program or federally assisted program. Any person who complains of discriminatory treatment in connection with an AMS direct or federally assisted program must be informed of his right to file a complaint in accordance with the following procedures:

- 1 Complaints alleging discrimination in a federally assisted program must be filed by the individual or his authorized representative not later than 180 days from the date of the alleged discrimination. Complaints alleging discrimination in a direct USDA program must be filed not later than 90 days following the date of the alleged discrimination, unless the Secretary extends the time for filing.
- 2 Complaints must be in writing, although no special format is required. Complaints may be directed to the Secretary of Agriculture, Washington, DC, or to any AMS official. Complaints will be accepted without regard to who is making the complaint or to whom the complaint is directed. Complaints submitted to AMS field personnel will be forwarded through normal supervisory channels to the Division Director.

B Procedures for Handling Complaints.

- 1 Complaints directed to the Secretary may be referred to AMS for resolution in accordance with Agency procedures or directly to the Office of Investigation (OI). Complaints received by OI will be handled in accordance with OI procedures.
- 2 Complaints received directly by AMS or referred to AMS by the Office of the Secretary will be sent immediately to the AMS Civil Rights Coordinator for determination of appropriate methods for handling. Generally, the following guidelines will apply:
 - a Complaints alleging discrimination in a federally assisted (Title VI) program will be referred to OI with a copy to the Director, OEO, accompanied by a proposed acknowledgment for signature.

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- b Complaints alleging discrimination against an employee of a cooperating agency by the cooperating agency will be referred to the appropriate State Equal Employment Opportunity Commission. The U.S. Equal Employment Opportunity Commission may also be notified.
 - c Complaints alleging discrimination against an applicant or user by a cooperating agency will be referred to OI with a copy to the Director, OEO, accompanied by a proposed acknowledgement for signature.
- 2 All complaints sent directly to AMS must be acknowledged immediately by the recipient. Without committing the Agency or the Department to any specific resolution, the complainant must be advised of steps that will be taken to process the complaint. A copy of the acknowledgment should accompany the complaint when it is forwarded to the Civil Rights coordinator.

X CIVIL RIGHTS ASPECTS OF ATTENDANCE AT MEETINGS

- A AMS employees acting in official capacity shall not take part in meetings or speak before groups where any racial group is segregated or excluded from the meetings, from its facilities, or from membership in the group.
- B Approval to attend meetings that conflict with the standards of this instruction must have the approval of the appropriate Deputy Administrator.

Administrator

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Attachment

Attachment - Civil Rights Act of 1964 Title VI is not available
Please refer to the printed copy.

Distribution: G07

Responsible Office: OA

