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Subparts L–N [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subparts A–D [Reserved]

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Subpart E—Civil Rights Compliance Requirements

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

§ 1901.201 Purpose.

This subpart contains policies and procedures for implementing the regulations of the Department of Agriculture issued pursuant to Title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, Executive Order 11246 and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354. Nothing herein shall be interpreted to prohibit preference to American Indians on Indian Reservations.

[41 FR 40112, Sept. 17, 1976]

§ 1901.202 Nondiscrimination in FmHA or its successor agency under Public Law 103-354 programs.

(a) *Nondiscrimination by recipients of FmHA or its successor agency under Public Law 103-354 assistance.* (1) No recipient of FmHA or its successor agency under Public Law 103-354 financial assistance will directly or through contractual or other arrangements subject any person or cause any person to be subjected to discrimination on the ground of race, color, or national origin, with respect to any program or facility. This prohibition applies but is not restricted to unequal treatment in priority, quality, quantity, methods, or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement provided with FmHA or its successor agency under Public Law 103-354 financial assistance.

(2) Specifically, and without limiting the general applicability of this subpart, such recipient will not on the grounds of race, color, or national origin:

(i) Deny any person the use, occupancy, or enjoyment of the whole or any part of real or personal property or service, financial aid, or other benefit under any program or facility.

(ii) Provide any person with any service, use, occupancy, or other benefit different from that provided others by the program or facility.

(iii) Subject any person to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit.

(iv) Restrict in any way any person's enjoyment of any right, privilege, or advantage enjoyed by others through the facility or activity.

(v) Treat any person differently from others in determining whether he or she satisfies any requirements or conditions for any admission or membership in the recipient or in any other organization.

(vi) Deny any person an opportunity or restrict opportunity to participate in a program or facility by:

(A) Refusing or failing to provide notice or services provided others for the purpose of encouraging participation in the program or facility; or

(B) Providing any person with such notice or services different from the notice or services provided others.

(vii) Utilize criteria or methods of administration that have the effect of subjecting a person to discrimination with respect to any program or facility or defeating or substantially impairing the achievement of the objectives of a program or facility.

(viii) Select sites or locate facilities with the purpose or effect of:

(A) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which the regulations in this subpart apply; or

(B) Defeating or substantially impairing the achievement of the objectives of the regulations in this subpart.

(ix) Continue any previous or existing discriminatory practices, but will take affirmative action to overcome the effects of such discrimination.

(x) Deny any person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(b) *Nondiscrimination by FmHA or its successor agency under Public Law 103-354 employees.* (1) No. FmHA or its successor agency under Public Law 103-354 employee will exclude from participation in, or deny the benefits of, any

program or activity administered by FmHA or its successor agency under Public Law 103-354, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, national origin, or marital status.

(2) No FmHA or its successor agency under Public Law 103-354 employee will:

(i) Be limited in the discharge of his or her responsibilities to working with applicants solely on the basis of race, color, religion, sex, national origin, or marital status.

(ii) Obstruct equal access to buildings, facilities, structures, or lands under the control of FmHA or its successor agency under Public Law 103-354.

(iii) Deny under any program or activity of FmHA or its successor agency under Public Law 103-354 equal opportunity for employment; for participation in meetings, demonstrations, training activities or programs; for receiving awards; for receipt of information disseminated by publication, news, radio, and other media; for obtaining contracts, grants, loans or other financial assistance, or for selection to assist in the administration of programs or activities of FmHA or its successor agency under Public Law 103-354.

(3) No FmHA or its successor agency under Public Law 103-354 employee will, while conducting official business, participate in or attend any segregated meetings or meetings held in a segregated facility from which persons are excluded because of race, color, religion, sex, national origin, or marital status.

(c) *Intimidating or retaliatory acts.* No recipient or other person will intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege under this subpart, or because a person has made a complaint or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to a complaint. The identity of complainants will be kept confidential except to the extent necessary to carry out the purposes of this subpart.

(d) *Nondiscrimination Agreement.* The County Supervisor will, at the time

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FmHA or its successor agency under Public Law 103-354 assistance is requested, give all applicants for loans and grants listed in §1901.204(a) a copy of Form FmHA or its successor agency under Public Law 103-354 400-4, "Non-discrimination Agreement," and inform the applicant that assistance will be conditioned upon executing this form and complying with the requirements of this subpart.

(e) *Covenants.* Each instrument of conveyance for loans subject to title VI of the Civil Rights Act of 1964, as outlined in §1901.204, must contain the following covenant: "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer."

(f) *Posters.* The nondiscrimination poster, "And Justice For All," will be displayed at the facilities and/or office of any borrower or grantee if the facilities have been financed by an FmHA or its successor agency under Public Law 103-354 loan or grant and are subject to title VI of the Civil Rights Act of 1964. This poster also will be displayed in all FmHA or its successor agency under Public Law 103-354 State and County Offices.

(g) *Racial and ethnic data.* Recipients should maintain, for review by FmHA or its successor agency under Public Law 103-354 and other appropriate agencies, racial and ethnic data showing the extent to which members of minority groups are beneficiaries of FmHA or its successor agency under Public Law 103-354-assisted programs. The data should identify recipients as White, Negro or Black, American Indian, Spanish Surname, Oriental and Other.

(h) *Discrimination complaints.* (1) Any person or any specific class of persons, if they believe they have been subject to discrimination prohibited by this subpart, may file a written complaint with any FmHA or its successor agency under Public Law 103-354 office, or, if

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they prefer with the Secretary of Agriculture. Persons who complain of discrimination will be advised of their rights to file complaints. A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Agriculture.

(2) A complaint filed with the County Supervisor or the State Director will be referred promptly to the Administrator, Attention: Equal Opportunity Officer. Attached to the complaint should be a statement by the County Supervisor or State Director identifying the recipient and type of assistance provided by FmHA or its successor agency under Public Law 103-354, indicating whether a non-discrimination agreement has been signed, and giving any other available pertinent information about the complaint.

[41 FR 40112, Sept. 17, 1976]

§ 1901.203 Title VIII of the Civil Rights Act of 1968.

FmHA or its successor agency under Public Law 103-354 employees, FmHA or its successor agency under Public Law 103-354 borrowers, contractors, packagers, and others who provide housing for sale or rent, are obligated under the provisions of title VIII of the Civil Rights Act of 1968 to provide fair housing to all persons regardless of race, color, religion, sex, or national origin.

(a) *Coverage.* The prohibitions against discrimination in the sale, rental, or financing of housing contained in title VIII apply to:

(1) All dwellings financed by loans made by the Federal Government and, therefore, to all RH borrowers.

(2) Any person in the business of selling or renting dwellings defined as:

(i) The owner of a dwelling intended for occupancy by five or more families.

(ii) Any person who has participated as principal in the sale or rental of three or more dwellings in the past year.

(iii) Any person who has served as sale or rental agent in two or more transactions in the past year.

(b) *Discrimination acts prohibited.* Title VIII prohibits FmHA or its successor