United States
Department of
Agriculture

Natural Resources
Conservation
Service

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Washington, D.C.
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SUBJECT: PER - No FEAR Act Notice

TO: All NRCS Employees

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws," P.L. 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." P.L. 107-74, Title I, General Provisions, Section 101(1).

The Act also requires NRCS to provide this notice to Federal employees, former employees and applicants for Federal employment to inform them of the rights and protections available to them under Federal antidiscrimination, whistleblower protection and retaliation laws.

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b) (1); 29 U.S.C. 206(d); 29 U.S.C. 631; 29 U.S.C. 633a; 29 U.S.C. 791 and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the agency. See 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC). See contact information below.

All NRCS employees are obligated to report acts of misconduct, fraud, waste and abuse. A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited

by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b) (8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site at http://www.osc.gov. A computer link has been established to facilitate direct access to the OSC Web site for NRCS employees. This link is located under USDA Employee Resources at http://my.nrcs.usda.gov.

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, as applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the OSC to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

For further information regarding the No FEAR Act regulations, refer to 5 CFR 724, as well as your servicing human resources office. The pamphlet entitled, "The Role of the U.S. Office of Special Counsel," contains information on prohibited personnel practices and whistleblower disclosures. It may be accessed at http://www.osc.gov/documents/pubs/oscrole.pdf. Employees are encouraged to review and familiarize themselves with this information. Additional information may be found on the OSC Web site at http://www.osc.gov/library.htm#ppp and the EEOC Web site at http://www.eeoc.gov.

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