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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

February 19, 2019

Return Receipt Requested
Certified Mail#: (b) (6) Privacy

In Reply Refer to:
EPA Complaint No. 01D-19-R5

Dave Fredrickson, Commissioner
Minnesota Department of Agriculture
625 Robert Street North
St. Paul, MN 55155-2538

Re: Notification of Acceptance of Administrative Complaint

Dear Commissioner Fredrickson:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is accepting for investigation an administrative complaint filed against the Minnesota Department of Agriculture (MDA) and received by the EPA on October 16, 2018. The complaint alleges that MDA discriminated against a person with a disability, when it denied a request for reasonable accommodation for a pesticide licensing exam that MDA administers, in violation of Section 504 of the Rehabilitation Act of 1973 and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has determined that the complaint meets the jurisdictional requirements stated above. First, the allegation is in writing. Second, it alleges that discrimination occurred in violation of EPA's nondiscrimination regulation. Third, the alleged discriminatory act occurred within 180 days of the filing this complaint. Finally, it alleges a discriminatory act by MDA, which is a recipient of EPA financial assistance.

ECRCO will investigate the following issues:

1. Whether the Minnesota Department of Agriculture (MDA) discriminated on the basis of disability in violation of Section 504 of the Rehabilitation Act of 1973 and EPA's implementing regulation at 40 C.F.R. Part 7, by denying a request for reasonable accommodation, submitted by a person with a disability, for a pesticide licensing exam administered by MDA.

2. Whether MDA has and is implementing the procedural safeguards recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, and the specific policies and procedures to ensure meaningful access to MDA services, programs and activities, including for individuals with disabilities and individuals with limited English proficiency (LEP), in compliance with requirements set forth in 40 C.F.R. Parts 5 and 7.

The initiation of an investigation of the issues above is not a decision on the merits. ECRCO is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with the complainant and MDA, if appropriate, and determine next steps utilizing ECRCO's internal procedures. In the intervening time, ECRCO is providing MDA with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of this letter notifying MDA of the acceptance of Administrative Complaint #01D-19-R5. *See* 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that ECRCO will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, ECRCO is willing to discuss, at any point during the process, offers to informally resolve the subject complaint. In specific cases involving individual remedies, ECRCO may provide Early Complaint Resolution (ECR). ECR is a process by which ECRCO facilitates the resolution of accepted complaints informally by providing an early opportunity for the complainant and recipient to come to a mutually acceptable agreement. ECRCO may contact the complainant and recipient to offer this resolution option. If ECR is not appropriate or does not resolve the case in its entirety, ECRCO may contact the recipient to discuss its interest in informally resolving the complaint by entering into an Informal Resolution Agreement with ECRCO. We invite you to review ECRCO's Case Resolution Manual for a more detailed explanation of ECRCO's complaint resolution process, including the ECR process, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e) and 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO.

If you have questions about this letter, please feel free to contact Zahra Khan, Case Manager, at 202-564-0460, by email at khan.zahra@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,

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

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

Cheryl Newton
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 5

Arnold E. Layne
Acting Associate Assistant Administrator
Acting Deputy Civil Rights Official
U.S. EPA Office of Chemical Safety and Pollution Prevention

Anne Overstreet
Chief, Certification and Worker Protection Branch
Office of Pesticide Programs
U.S. EPA Office of Chemical Safety and Pollution Prevention