

subcontractor contracts with another, such other contractor shall also submit such compliance reports to the recipient, contractor or subcontractor as may be necessary to enable the recipient, contractor or subcontractor to determine and carry out his obligations under section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(b) *Access to sources of information.* Each recipient, contractor and subcontractor to which this part applies, shall permit access by the Department Compliance Officer or his designee or by the Secretary or his designee during normal business hours to such of his books, records, accounts, and other sources of information, and his facilities, as may be pertinent to ascertain compliance with rules, regulations, and orders implementing section 403 of Public Law 93-153.

(c) *Information in possession of other agency, institution, or person.* Where any information required of a recipient, contractor or subcontractor is in the exclusive possession of any other agency, institution, or person and such agency, institution or person shall fail or refuse to furnish this information, the recipient, contractor or subcontractor shall so certify in a report and shall set forth what efforts it has made to obtain the information.

(d) *Failure to submit reports.* Failure to file timely, complete and accurate reports as required constitutes non-compliance with the equal opportunity clause and is ground for the imposition by the agency, recipient, contractor, or subcontractor of any sanctions as authorized by section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(e) *Information to beneficiaries and participants.* Each recipient, contractor and subcontractor to which this part applies, shall make available to participants in and beneficiaries of its operations and services, information regarding the provisions of this part and the details of the recipient's, contractor's or subcontractor's compliance with this part, to the extent that it will enhance their participation in non-discrimination programs of recipient, contractor, or subcontractor, and aid the recipient, contractor, or subcon-

tractor in meeting its obligations under this part.

§ 27.8 Compliance procedures.

(a) *Approval of affirmative action plans.* The Department Compliance Officer shall from time to time review the recipient's, contractor's or subcontractor's affirmative action plans to determine whether they meet the requirements of rules, regulations and orders implementing section 403 of Public Law 93-153. Where deficiencies are found to exist, the Department Compliance Officer or his designee will so inform the recipient, contractor or subcontractor and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 27.9.

(b) *Periodic compliance reviews.* The Department Compliance Officer shall from time to time review the practices of recipients, contractors and subcontractors to determine whether they are complying with the rules, regulations and orders implementing section 403 of Public Law 93-153. The purpose of the compliance review is to determine if the recipient, contractor or subcontractor maintains nondiscriminatory operations and practices and whether it is taking the action required by the rules, regulations, and orders implementing section 403 of Public Law 93-153 to assure that no person on the grounds of race, creed, color, national origin or sex is excluded from receiving or participating in any activity conducted under any permit, right-of-way, public land order or other Federal authorization to which this part applies. It shall consist of a comprehensive analysis of all aspects of the recipient's, contractor's or subcontractor's operations and practices which may be involved, and the policies and conditions resulting therefrom. Where necessary, recommendations for appropriate sanctions shall be made.

(c) *Complaints.* Any person who believes himself or any other individual to be subjected to discrimination prohibited by this part may file with the Department Compliance Officer or his designee, a written complaint. A complaint must be filed not later than 180

§ 27.9

days from the date of the alleged discrimination, unless the time for filing is extended by the Department Compliance Officer or his designee.

(d) *Investigations.* The Department Compliance Officer or his designee will make a prompt investigation whenever a compliance review report, complaint, or any other information indicates a possible failure to comply with the rules, regulations, and orders implementing section 403 of Public Law 93-153. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, contractor, or subcontractor, the circumstances under which the possible noncompliance occurred and other factors relevant to a determination as to whether the recipient, contractor or subcontractor has failed to comply with section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(e) *Resolution of matters.* (1) If an investigation pursuant to paragraph (a), (b), (c), or (d) of this section indicates a failure to comply with the rules, regulations, and orders implementing section 403 of Public Law 93-153, the Department Compliance Officer or his designee will so inform the recipient, contractor or subcontractor and the matter will be resolved by informal means whenever possible. Before the recipient, contractor or subcontractor can be found to be in compliance, he must make specific commitments in writing, to correct all deficiencies. The commitments must include the precise actions to be taken and dates for completion. The time periods allotted shall be no longer than the minimum periods necessary to effect such changes. Upon approval of the Department Compliance Officer, the recipient, contractor or subcontractor, may be considered in compliance, on condition that the commitments are faithfully kept. The recipient, contractor or subcontractor shall be notified that making such commitments does not preclude future determinations of noncompliance when the commitments are not being met or when there is a determination by the Department Compliance Officer that the full facts were not known at the time commitments were accepted, and

43 CFR Subtitle A (10-1-06 Edition)

that commitments are not sufficient to correct deficiencies.

(2) If an investigation does not warrant action pursuant to paragraph (e)(1) of this section, the Department Compliance Officer shall so inform the recipient, contractor or subcontractor, and the complainant, if any, in writing.

(f) *Intimidatory or retaliatory acts prohibited.* No recipient, contractor or subcontractor shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 403 of Public Law 93-153 and implementing rules, regulations, and orders, or because he has made a complaint, testified, assisted, benefited from, or participated in any manner in an investigation, compliance review, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(g) *Approval of action by Authorized Officer.* During the period of construction of the Trans-Alaska Pipeline, and until such time as this paragraph (g) is rescinded by the Secretary, the Department Compliance Officer shall coordinate all actions taken pursuant to this part with the Authorized Officer and shall secure the approval of the Authorized Officer prior to the taking of any final act hereunder.

§ 27.9 Procedures for effecting compliance.

(a) *General.* If there appears to be a failure or refusal of any recipient, contractor, or subcontractor to observe or comply substantially with section 403 of Public Law 93-153, or implementing rules, regulations, and orders, compliance may be effected through the use of conciliation conferences, informal hearings, and procedures to cause termination or suspension of or refusal to grant or to continue the permit, or other Federal authorization to which this part applies, or of the contracts to which this part applies, or by any other means authorized by law. Such other means may include, but are not limited to: