
United States Department of Agriculture
Marketing and Regulatory Programs
Agricultural Marketing Service
Animal and Plant Health Inspection Service

Mission Area Directive

MRP 4311.1

10/07/2020

AUTHORIZATION TO ADMINISTER EMPLOYMENT OATH OF OFFICE

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1. PURPOSE

This Directive establishes delegation of authority and procedures for administering the employment oath of office to new appointees in the Agricultural Marketing Services (AMS) and Animal and Plant Health Inspection Service (APHIS). The principle purpose of the oath is to establish a record of acceptance of appointment.

2. SPECIAL INSTRUCTIONS AND REPLACEMENT HIGHLIGHTS

- a. This Directive replaces AMS Directive 320.4 Administering Oath of Office, dated 4/14/1993 and APHIS Directive 4311.1 Appointment Affidavits-Oath of Office, dated 7/20/1993.
- b. This Directive is in force until cancelled or superseded.

3. AUTHORITIES AND REFERENCES

This Directive must be applied in conjunction with:

- a. 5 United States Code, Part I, Chapter 3, Subchapter I, Section 302, [Delegation of Authority](#)
- b. 5 United States Code, Part III Subpart A, Chapter 29,
 - (1) Subchapter I, Section 2903, [Oath; Authority to administer](#)
 - (2) Subchapter I, Section 2904, [Oath; Administered without fees](#)
 - (3) Subchapter I, Section 2905(a), [Oath; Renewal](#)
 - (4) Subchapter I, Section 2906, [Oath; Custody](#)
- c. 5 United States Code, Part III, Subpart B, Chapter 33
 - (1) Subchapter II, Section 3331, [Oath of office](#)
 - (2) Subchapter II, Section 3332, [No consideration paid for appointment](#)
 - (3) Subchapter II, Section 3333, [Loyalty and striking against the Government](#)
- d. 5 United States Code, Part III, Subpart F, Chapter 73, Subchapter II Section 7311, [Loyalty and Striking](#)
- e. 7 Code of Federal Regulations, Subtitle A, Part 2, Subpart B, Section 2.7 [Authority to supervise and direct](#)
- f. 42 United States Code, Chapter 21B — [Religious Freedom Restoration](#)
- g. Office of Personnel Management, Chapter 3, Subchapter 4, Oath of Office [The Guide to Processing Personnel Actions](#)

4. SCOPE

Appointment affidavits are required for all new appointments in AMS and APHIS, including transfers from other departments, reinstatements, restorations, and reemployment.

5. POLICY

It is MRP policy that:

- a. Appointment affidavits will be administered to each new employee on the effective date of the employee's appointment or the first workday following appointment.
- b. A former employee returning to the government after a break in service is required to re-take the appointment oath and affidavits.
- c. Completion of the appointment oath and affidavits are mandatory. An individual who refuses to swear or affirm to the oath will not be appointed or will have his or her appointment terminated.

6. EXCEPTIONS

Appointment affidavits are not required for reassignments within the Department or appointments without compensation.

7. ROLES & RESPONSIBILITIES

- a. Title 7, Code of Federal Regulations Part 2, Subpart P, establishes delegations of authority by the Secretary to the General Officers of the Department and agency heads for management of human resources authorities. This Directive documents delegation of authority to administer employment oaths of office to the incumbents of the positions listed in the Appendix.
- b. If Agency officials authorized to administer the oath are not available, the oath may be administered by:
 - (1) Department employees, outside of Marketing and Regulatory Programs, who have been granted authority to administer the oath by their Agency.
 - (2) In accordance with 5 U.S.C § 2903, a person authorized by the laws of the United States or by state or municipal law to administer oaths. The oath must bear the official seal of the person administering the oath or if the official does not use a seal, the official's capacity to administer oaths must be certified to under seal by a court or other proper official.
 - (3) Notary public.

8. PROCEDURES

Each new employee must take the oath or affirmation and complete the affidavits contained in Standard Form 61 (SF-61), Appointment Affidavits. Agency officials delegated authority to administer the oath and affirmations must apply the following process when the oath is administered on an individual or group basis:

- a. The oath should be administered, if practicable, before the flags of the United States and USDA.
- b. It is customary for the authorized official to read the oath aloud to the appointee(s).
- c. Except with regard to any physical disability the appointee(s) may have that may necessitate reasonable accommodation, the appointee(s) taking the oath shall stand, raise his or her right hand, and repeat the oath and Affidavits aloud as follows:
 - (1) In accordance with 5 U.S.C. Chapter 33, Section 3331, each new appointee shall swear or affirm to the oath of Office stating:
“I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”
 - (2) In accordance with 5 U.S.C. Chapter 33, Section 3332 each employee shall execute the affidavit as part of the oath stating:
“I have not, nor has anyone acting in my behalf, given, transferred, promised, or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.”
 - (3) In accordance with 5 U.S.C. Chapter 33, Section 3333 each employee shall execute the affidavit as part of the Oath stating:
“I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.”
- d. Objection to Oath of Office
 - (1) If an appointee objects to the form of the oath on religious grounds, certain modifications may be permitted pursuant to the Religious Freedom Restoration Act.

- (2) If an appointee objects or questions the phrase in the oath ‘defend the Constitution’ Office of Personnel Management (OPM) guidance directs the person administering the oath explain that the phrase does not imply that the prospective employee would be expected to bear arms. The phrase replicates the pledge to support the United States system of government as established under the Constitution.

e. Modifications

Recognizing that each of the issues listed above could alone provide basis for a modification, the following procedure must be followed:

- (1) If an appointee request a modification, the appointee must provide specific information on their objection to the language in the oath in writing. The person administering the oath must send the written request for modification through the appropriate administrative channels to the servicing Human Resources (HR) Specialist.
- (2) Once the servicing Staffing Specialist receives the appointee’s written request for modification and forwards the request to the HR Policy Branch, Employment Policy Specialist, the request will be submitted from the Policy Branch within 3 business days from receipt to the USDA Office of Human Resources Management (OHRM) for review and collaboration with the USDA Office of the General Counsel (OGC). The decision resulting from the OGC and OHRM processes will be provided in writing to the HR Policy Branch, Employment Policy Specialist.
- (3) If the OHRM and OGC return a favorable decision on behalf of the appointee, the servicing Staffing Specialist will notify the appointee and modify the SF-61 in accord with the approved stated modification of the appointee, and ask the appointee to complete the form to include signature and date.
- (4) If the modification requested is not approved through the OGC and OHRM processes, the servicing Staffing Specialist will notify the appointee that the request was not approved. The servicing Staffing Specialist will inform the appointee that their signature must complete the SF-61 to authorize the appointment. If the appointee chooses not to sign the SF-61, it is a considered a declination and the appointment will not be processed further.

f. Signatures

The oath, when executed, will refer to the date of entrance on duty so as to entitle the employee to pay from that date.

The appointee(s), after taking the oath, and objections or questions, if any, have been resolved, must sign the SF-61 in the presence of the person administering the oath.

Upon signature by the appointee(s), the person administering the oath must sign and complete the SF-61 to include verification of the required credentials as appropriate.

g. Declination

Before entering into any duties or receiving any salary, appointees must swear or affirm to the oath and affidavits. Although the appointment of an employee may become effective before the oath is completed, the employee has no right to continued employment until the oath is executed. An individual who declines to swear or affirm to the oath will not be appointed or will have his or her appointment terminated.

If an individual declines to swear or affirm to the oath, the supervisor must submit the form directly to the servicing Human Resources Specialist for further processing of the termination action.

h. Form Distribution

- (1) When an authorized MRP Agency official administers the oath to an employee, the person administering the oath is responsible for submitting the completed SF-61 to the supervisor of the employee. The supervisor is responsible for submitting the completed form to the servicing Human Resources Specialist.
- (2) When the oath is administered to an employee by an authorized individual other than an MRP Agency official, for example notary public, the supervisor of the employee is responsible for the submission of the SF-61 through appropriate administrative channels to the servicing Human Resources Specialist.

- i. Time and Attendance (T&A) Record
The initial time and attendance record, including electronic versions, must be notated to certify that the employee has completed the appointment oath of office. The time and attendance record may not be processed until the certification has been completed.

9. FORMS

The form(s) that are referenced and/or required for use as established by this Directive include the following:

- a. Standard Form 61, Appointment Affidavits is used to document the Oath of Office obligation as required by 5 U.S.C. Sections 3331, 3332 and 3333. The SF-61 may be accessed at the [General Services Administration Forms Library](#).
- b. Time and attendance records may be in either paper form using traditional sign in/out logs, for example [HRO Form 345-F](#), or [MRP 345 R](#), or electronically through WebTA.

10. RECORDS MANAGEMENT

Federal records created by this Directive must be maintained in accordance with the established [General Records Schedule \(GRS\)](#). If employees are named in an active litigation hold, Freedom of Information Act (FOIA) request, and/or other action, those records, regardless of media, must be preserved and maintained in their native format until otherwise notified by your Agency Records Officer and/or the Office of General Counsel.

- a. MRP-IT IMB is the official record-keeper of this Directive, which is to be preserved permanently, per [Paperwork and Data Management \(PDM\) 4-1](#).
- b. The Human Resources Division, Human Resources Operations office is the official record-keeper of the completed Standard Form 61, Appointment Affidavit, which will be maintained in accordance with GRS 2.1, Employee Acquisition Records, item 140, GRS 2.2, Employee Management Records, 040, 041.
- c. The executed Standard Form 61, Appointment Affidavits, must be permanently filed on the right side of the Official Personnel Folder (eOPF).

11. INQUIRIES AND ADDITIONAL INFORMATION

- a. Direct general inquiries on procedural matters to the MRP Human Resources Division, [Human Resources Operations Service Provider](#).
- b. Direct requests for policy interpretations on complex issues to the MRP Human Resources Division, [Human Resources Policy Branch](#).
- c. Records management inquiries should be directed to the Program Records Management Liaison for [APHIS/AMS](#).
- d. This Directive can be accessed online via the [APHIS/AMS](#) Issuance Web page(s).

/s/

Doug Nash
Deputy Administrator
MRPBS Business Services

APPENDIX

Agricultural Marketing Service Delegation of Authority to Administer Employment Oaths of Office

LOCATION	OFFICES	AUTHORIZED POSITION
Washington, DC	All Offices	<ul style="list-style-type: none"> • Servicing HR Specialists and HR Assistants, HRO Branch, Staffing
Outside of DC	Cotton and Tobacco Program <ul style="list-style-type: none"> • Grading Division • Standardization and Engineering Division • Quality Assurance Division • Market News Division • Information Technology Division • Research and Promotion Staff • Tobacco Field Operations • Administrative Staff 	<ul style="list-style-type: none"> • Deputy Director • Area Directors • Regional Directors • Assistant Regional Directors • Section Head • Administrative Officer • Program Assistants • Circuit Supervisors • Set Work Leaders
	Commodity Procurement <ul style="list-style-type: none"> • Domestic Commodity Procurement Division • Operations Support Division • WBSCM Management Division • Procurement Policy & Service Contracts Division • International Commodity Procurement Division • Nutrition & Product Development Division 	<ul style="list-style-type: none"> • Servicing HR Specialists and HR Assistants, HRO Branch, Staffing
	Dairy Program <ul style="list-style-type: none"> • Economics Division • Grading and Standardization Division • Order Formulation and Enforcement Division • Promotion Research & Planning Division 	<ul style="list-style-type: none"> • National Field Director • Assistant National Field Director • Field Supervisors • Administrative Officer • Program Assistant
Washington, DC	Fair Trade Practices <ul style="list-style-type: none"> • Packers & Stockyards Division (PSD) 	<ul style="list-style-type: none"> • Director • Associate Director • Branch Chiefs • Servicing HR Specialists and HR Assistants, HRO Branch, Staffing
Outside of DC		<ul style="list-style-type: none"> • Director • Associate Director • Branch Chiefs • Regional Directors • Unit Supervisors • Administrative Officer
Outside of DC	<ul style="list-style-type: none"> • Perishable Agricultural Commodity Act Division (PACA) 	<ul style="list-style-type: none"> • Regional Directors

	<ul style="list-style-type: none"> Warehouse & Commodity Management Division (WCMD) Food Disclosure and Labeling Division 	<ul style="list-style-type: none"> Deputy Director Servicing HR Specialists and HR Assistants, HRO Branch, Staffing
Outside of DC	<p>Federal Grain Inspection Service</p> <ul style="list-style-type: none"> Office of the Deputy Administrator Field Management Division Quality Assurance and Compliance Division Technology and Science Division 	<ul style="list-style-type: none"> Division Directors Deputy Directors Branch Chiefs Field Office Managers Assistant Field Office Managers Administrative Officer Compliance Officer Team Leads Shift Supervisors Program Assistant (Clerical Staff)
	<p>Livestock and Poultry Program</p> <ul style="list-style-type: none"> Livestock Poultry & Grain Market News Division Quality Assessment Division Research and Promotion Division Food Safety and Commodity Specification Division Agricultural Analytics Division 	<ul style="list-style-type: none"> Directors Officer-in-Charge Area Office Supervisors Federal State Supervisors Regional Administrative Officer Program Assistant
	National Organic Program	<ul style="list-style-type: none"> NOP Deputy Administrator
	<p>Science and Technology Program</p> <ul style="list-style-type: none"> Laboratory Approval and Testing Division Monitoring Programs Division Plant Variety Protection Office Seed Regulatory and Testing Division 	<ul style="list-style-type: none"> Lab Directors Field Supervisors
	<p>Specialty Crops Program</p> <ul style="list-style-type: none"> Market News Division Marketing Order and Agreement Division Promotion and Economics Division Specialty Crops Inspection Division 	<ul style="list-style-type: none"> Director Administrative Officer Officer In Charge Program Assistant
	Transportation and Marketing Program	<ul style="list-style-type: none"> Director Deputy Director Chief of Staff Program Assistants Management and Program Analysts

**Animal and Plant Health Inspection Service
Delegation of Authority to Administer Employment Oaths of Office**

OFFICES	AUTHORIZED POSITION
MRPBS, Human Resources Division	<ul style="list-style-type: none"> • Deputy Directors, HRD • Branch Chiefs • servicing HR Specialists and HR Assistants, HR Operations Branch, Staffing
APHIS Programs	<ul style="list-style-type: none"> • Deputy Administrators • Program Directors • Regional Directors • Assistant Regional Directors • State Plant Health Directors • Area Directors • Lab Directors • Program Resource Management Officer(s)
Field Locations	<ul style="list-style-type: none"> • Managers and supervisory personnel delegated L/A employment authority (limited appointment authority) • Program Administrative Assistants