

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 21

RIN Number 1601-AA03

Regulations Regarding Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance From the Department of Homeland Security

AGENCY: Office of the Secretary, Homeland Security.

ACTION: Interim final rule.

SUMMARY: This interim final rule effectuates the provisions of title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Homeland Security.

DATES: These interim final rules are effective March 6, 2003. Written comments may be submitted to the Department of Homeland Security on or before April 7, 2003.

ADDRESSES: Submit written comments (preferably an original and three copies) to Associate General Counsel (General Law), Department of Homeland Security, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Robert Coyle, (202) 282-8410, not a toll free call.

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (Pub. L. 107-296), which created the new Department of Homeland Security (DHS). Pursuant to the provisions of the Act, the new Department came into existence on January 24, 2003.

In order to establish procedures to facilitate the operations of the new Department, DHS is issuing an initial series of proposed and interim final regulations.

II. The Interim Final Rule

This interim final rule effectuates the provisions of title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation

in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Homeland Security.

III. Procedural Requirements

Because the DHS came into existence on January 24, 2003, it is necessary to promptly establish procedures to facilitate the operations of the new Department. Furthermore, this interim final rule parallels the existing operational regulations of other cabinet-level agencies to effectuate the provisions of title VI of the Civil Rights Act of 1964. Similar regulations were applicable to virtually all of the components being transferred to DHS from other cabinet-level agencies and the regulations are only being technically adapted for DHS, imposing no substantive requirement that is different from the existing regulations of these cabinet-level agencies. Accordingly, the Department has determined that notice and public procedure are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). For the same reasons, the Department has determined that this interim rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553 (d)(3).

It has been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

This regulation has been reviewed and approved by the Attorney General pursuant to Executive Order 12250 and reviewed by the Equal Employment Opportunity Commission pursuant to Executive Order 12067.

List of Subjects in 6 CFR Part 21

Civil rights, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth above, 6 CFR chapter I is amended by adding part 21 to read as follows:

PART 21—NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF HOMELAND SECURITY

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Appendix A to Part 21—Activities to Which This Part Applies

Appendix B to Part 21—Activities to Which This Part Applies When a Primary Objective of the Federal Financial Assistance Is to Provide Employment

Authority: 5 U.S.C. 310, 42 U.S.C. 2000d-2000d-7.

§ 21.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (the Act) to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Homeland Security. The provisions established by this part shall be effective for all components of the Department, including all Department components that are transferred to the Department, except to the extent that a Department component already has existing title VI regulations.

§ 21.3 Application.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the types of Federal financial assistance listed in appendix A to this part. It also applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of this part pursuant to an application approved before that effective date. This part does not apply to:

(1) Any Federal financial assistance by way of insurance or guaranty contracts;

(2) Money paid, property transferred, or other assistance extended before the effective date of this part, except where such assistance was subject to the title VI regulations of any agency whose responsibilities are now exercised by this Department;

(3) Any assistance to any individual who is the ultimate beneficiary; or

(4) Any employment practice, under any such program, of any employer, employment agency, or labor