

Rules and Regulations

Federal Register

Vol. 68, No. 31

Friday, February 14, 2003

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 15f

RIN 0503-AA24

Administrative Civil Rights Adjudications Under Section 741

AGENCY: Office of the Secretary,
Department of Agriculture (USDA).

ACTION: Interim final rule.

SUMMARY: The USDA amends the adjudication process for certain civil rights discrimination complaints filed administratively with USDA in order to establish deadlines for complainants to request a formal proceeding before an administrative law judge (ALJ) and to clarify that complaints may no longer be filed.

DATES: This rule is effective February 14, 2003. Written comments must be received by March 17, 2003.

ADDRESSES: Submit all comments concerning this interim final rule to: David Winningham, Director, Office of Civil Rights (CR), USDA, Whitten Building, Room 326-W, 1400 Independence Avenue, SW., Washington, DC 20250. Comments may be submitted via electronic mail to: David.Winningham@usda.gov.

FOR FURTHER INFORMATION CONTACT: David Winningham, Director, Office of Civil Rights, (202) 720-5212.

SUPPLEMENTARY INFORMATION:

Classification

This interim final rule has been reviewed under Executive Order (E.O.) 121866, and it has been determined that it is not a "significant regulatory action" because it will not have an annual effect on the economy of \$100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment,

public health or safety, or State, local or tribal governments or communities. This interim final rule will not create any serious inconsistencies or otherwise interfere with actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof, and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities or principles set forth in E.O. 12866.

Regulatory Flexibility Act

USDA certifies that this interim final rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601 *et seq.*).

Background and Purpose

The purpose of this interim final rule is to establish finality with respect to the status of Section 741 Complaint Requests filed under part 15f by imposing deadlines that will bring closure to all actions filed under part 15f.

On December 4, 1998, USDA published an interim final rule at 7 CFR part 15f implementing Section 741 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, enacted in Division A, section 101(a) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105-277. Section 741 waived the statute of limitations (SOL) for filing discrimination complaints under certain nondiscrimination statutes for a period of two years after the enactment of that Act with respect to certain USDA programs.

The period for filing a Section 741 Complaint Request under the waiver of the SOL provided in Section 741 expired on October 21, 2000. USDA no longer has authority under the terms of the statutory waiver to accept Section 741 Complaint Requests under part 15f unless such a complaint has already been docketed under part 15f by USDA or unless a request was filed with USDA prior to October 21, 2000. This interim final rule amends § 15f.5 to make clear that Section 741 Complaint Requests filed under part 15f are no longer accepted by USDA.

A number of Section 741 Complaint Requests filed under the waiver are still pending before USDA, and complainants are still entitled to review of the final resolution of those Section 741 Complaint Requests by an ALJ if the Section 741 Complaint Requests are pursued to the formal proceeding stage under part 15f.

Prior to enactment of Section 741, USDA had a number of civil rights complaints pending that were eligible for consideration under Section 7841. In part 15f, USA committed itself to automatically docketing these pending complaints as Section 741 Complaint Requests and reviewing them to determine if settlement was a possibility. If settlement did not occur, then the Director would advise the complainant of the opportunity for review of the Section 741 Complaint Request under formal proceedings before an ALJ. Additionally, any new Section 741 Complaint Requests that were filed after promulgation of part 15f similarly were reviewed to determine if settlement was a possibility, and complainants were notified of the opportunity for an ALJ review if settlement did not occur.

The current regulations do not specify a deadline by which a complainant must seek an ALJ review of the Section 741 Complaint Request after USDA has informed the complainant that USDA will not settle the Section 741 Complaint Request. In order to bring legal finality to the complaint resolution process provided in part 15f, USDA amends § 15f.9 to specify that a complainant has 30 days from receipt of a notice that USDA will not settle the Section 741 Complaint Request to file a request for review by an ALJ. Complainants who, prior to the date of publication of this interim final rule, received a notice that USDA would not settle will have until 90 days after February 14, 2003 to request review of their Section 741 Complaint Request by an ALJ. Finally, part 15f is clarified to state that new request under part 15f will not be accepted by USDA.

List of Subjects in 7 CFR Part 15f

Administrative practice and procedure, Agriculture, Appeal procedures, Civil rights, Equal access to justice, Ex parte communications, Farmers, Federal aid programs, guaranteed loans, Insured loans, Loan