

## § 141.9

## 22 CFR Ch. I (4–1–01 Edition)

of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The officer presiding at the hearing may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings; hearings before other agencies.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part, except that procedural requirements of the hearing agency if other than this Department may be adopted insofar as it is determined by the Secretary that variations from the procedures described in this section or elsewhere as may be required under this part do not impair the rights of the parties. The Secretary may also transfer the hearing of any complaint to any

other department or agency, with the consent of that Department or Agency (1) where Federal financial assistance to the applicant or recipient of the other Department or Agency is substantially greater than that of the Department of State, or (2) upon determination by the Secretary that such transfer would be in the best interests of the Government of effectuating this part. Final decisions in all such cases, insofar as this part is concerned, shall be made in accordance with § 141.9.

[30 FR 314, Jan 9, 1965, as amended at 38 FR 17947, July 5, 1973]

### § 141.9 Decisions and notices.

(a) *Decisions on record or review by the responsible Department official.* The applicant or recipient shall be given reasonable opportunity to file with the officer presiding at the hearing briefs or other written statements of its contentions, and a copy of the final decision shall be given in writing to the applicant or recipient and to the complainant, if any. The officer presiding at the hearing shall render a decision on the matter.

(b) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 141.8(a) a decision shall be made by the responsible Departmental official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(c) *Rulings required.* Each decision of an officer presiding at the hearing shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(d) *Appeal.* Either party may appeal from a decision of the officer presiding at the hearing to the responsible Department official within 30 days of the mailing of the officer's decision. In the absence of such an appeal the decision of the officer presiding at the hearings shall constitute the final decision of the Department subject to paragraph (e) of this section.

(e) *Approval by Secretary.* Any final decision by an officer (other than the

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Secretary) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this part.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Departmental official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information establishing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible Departmental official determines that those requirements have been satisfied, he shall restore such eligibility, but such determination shall be in writing and shall be supported by

evidence and findings of fact which shall be retained by the Department.

(3) If the responsible Departmental official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Departmental official. The burden of substantiating compliance with the requirements of paragraph (g)(1) of this section shall be on the applicant or recipient. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

[30 FR 314, Jan. 9, 1965, as amended at 38 FR 17947, July 5, 1973]

### § 141.10 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

### § 141.11 Effect on other regulations; forms and instructions.

Nothing in this part shall be deemed to supersede: Executive Orders 10925 and 11114 and regulations issued thereunder, or any other regulations or instructions, insofar as such regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this regulation is inapplicable, or prohibit discrimination on any other ground.

(a) *Forms and instructions.* Each responsible Department official shall issue, and promptly make available to interested persons, forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(b) *Supervision and coordination.* The Secretary may, from time to time, assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part including the achievement of effectiveness