

§ 15f.5

(i) A farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

(ii) A housing program established under title V of the Housing Act of 1949; or

(2) In the administration of a commodity program or a disaster assistance program.

Ex parte communication means a prohibited communication between a party to a proceeding and the ALJ outside of the presence of, or without notice to, the other parties to the proceeding, as explained more fully in §15f.13.

Final determination means the final USDA decision made on your complaint under these rules.

Hearing means a proceeding in which you may present your case before the ALJ.

Interested party means a person, other than the complainant, OCR, and the agency, who has an interest in a proceeding under these rules and is admitted to the proceeding under §15f.20.

OCR means the USDA Office of Civil Rights.

Party or parties means the complainant, OCR, the agency, or a person admitted to the proceeding as an interested party.

Secretary means the Secretary of Agriculture.

Section 741 means 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 Complaint Request (or Request) means a request by a complainant to consider his complaint under these rules.

USDA means the United States Department of Agriculture.

7 CFR Subtitle A (1-1-03 Edition)

Subpart B—I Filed A Complaint With USDA Prior To July 1, 1997, How Do I Request That USDA Consider My Complaint Using These Procedures?

§15f.5 How do I request that USDA consider my complaint under these procedures?

In order for USDA to consider your complaint under these procedures, a Section 741 Complaint Request must be docketed with the Docketing Clerk in the USDA OCR.

(a) *Do I have to file a "Section 741 Complaint Request" if USDA is already working on my complaint? Do I have to file again?* If USDA OCR already reviewed or is working on your complaint, you will receive a notice by March 1, 1999, indicating that your complaint automatically has been docketed as a Section 741 Complaint Request for consideration under these procedures. The notice will provide you with the docket number assigned your Request and will give you further instructions with respect to what options you have or what actions you must take.

(b) *What if USDA is not working on my complaint? If I think USDA has reviewed or is working on my complaint, but do not receive a letter by March 1, 1999, what should I do?* If USDA is not already working on your complaint, or you do not receive a letter from USDA by March 1, 1999, or within 30 days thereafter, you should file a Section 741 Complaint Request with the Docketing Clerk at USDA OCR.

(c) *How long do I have to file my Section 741 Complaint Request?* You have until October 21, 2000 to file your Section 741 Complaint Request.

§15f.6 What must I say or include in my Section 741 Complaint Request?

If you must file a Section 741 Complaint Request, it should include a copy of your original complaint, a request in writing that USDA consider the complaint in accordance with these procedures, a statement as to when

your complaint was filed with USDA, and any other evidence you consider necessary to prove that your complaint is an eligible complaint suitable for consideration under these procedures.

§ 15f.7 May I be represented by an attorney?

(a) If your Section 741 Complaint Request is automatically docketed as set forth in §15f.5(a), and you already are represented by counsel of whom you have notified USDA, then this section does not apply.

(b) If you are filing your Section 741 Complaint Request with USDA, and if you are represented by an attorney, your Section 741 Complaint Request should also include an authorization signed by you indicating that the attorney is entitled to represent you on your behalf. If USDA receives such an authorization, all documents in connection with consideration of your complaint under these procedures will be sent to your attorney and not to you.

(c) Once your Section 741 Complaint Request is docketed with USDA, and you afterwards retain an attorney, you should forward an authorization to USDA signed by you indicating that the attorney is entitled to represent you on your behalf. If USDA receives such an authorization, all documents in connection with consideration of your complaint under these procedures will be sent to your attorney and not to you.

Subpart C—What Happens After I Send In My Section 741 Complaint Request? May I Seek to Resolve My Complaint Informally With OCR?

§ 15f.8 What does the Docketing Clerk do with my Section 741 Complaint Request?

All Section 741 Complaint Requests docketed by the OCR Docketing Clerk will be referred to the Director for an informal review. The Director will determine if the complaint is one that can be resolved informally, and, if so, the Director will seek to resolve the complaint informally with the complainant.

§ 15f.9 What will the Director do to settle my Section 741 Complaint Request when it is received?

The Director will review each Section 741 Complaint Request. If the Director finds that your complaint is an eligible complaint, the Director will: review all documents and evidence submitted by you; review all agency or OCR files, if any exist, regarding the circumstances surrounding the alleged discrimination; review any damage claims; and seek any further clarification, if necessary, from either you or the agency. OCR also may refer your eligible complaint for a formal investigation by the OCR, Program Investigation Division or by an outside contractor. Based on his or her review, the Director will either undertake negotiations with you to resolve the complaint; or inform you that OCR will not settle the complaint and explain to you your options, including your right to pursue formal proceedings before an ALJ under subpart D. If the complaint is successfully resolved or settled, the Director will issue a final determination disposing of the matter.

§ 15f.10 What if I do not want the Director to review my Section 741 Complaint Request and I want to proceed directly to a hearing?

If you do not want the Director to review your Section 741 Complaint Request, you may request a hearing following the procedures below in subpart D. You may request a hearing at any time during informal review or negotiations with the Director, or at any time during USDA consideration of your Section 741 Complaint Request.

Subpart D—If I Request A Hearing, What Will Happen? How Will The Hearing Be Conducted?

§ 15f.11 Where must I file a hearing request and what happens to it?

If you desire a hearing, you must file a request for a hearing with the Docketing Clerk, citing the docket number assigned to your Section 741 Complaint Request. When the Docketing Clerk receives your request for a hearing, your Section 741 Complaint Request will be assigned to an ALJ. The Docketing Clerk will send a notice of your hearing