

§ 17.336

(b) DOI will limit any termination under § 17.335(a)(1) to the particular recipient and particular program or activity or part of such program or activity DOI finds in violation of these regulations. DOI will not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from DOI.

(c) DOI will take no action under paragraph (a) of this section until:

(1) The Secretary or his/her designee has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary or his/her designee has sent a written report of the circumstances and grounds of the action to the committees of Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary or his/her designee will file a report whenever any action is taken under paragraph (a) of this section.

(d) DOI also may defer granting new Federal financial assistance from DOI to a recipient when a hearing under § 17.335(a)(1) is initiated.

(1) New Federal financial assistance from DOI includes all assistance for which DOI requires an application or approval, including renewal or continuation of existing activities or authorization of new activities, during the deferral period. New Federal financial assistance from DOI does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 17.335(a)(1).

(2) DOI will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 17.335(a)(1). DOI will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. DOI will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

43 CFR Subtitle A (10–1–02 Edition)

§ 17.336 Hearings, decisions, post-termination proceedings.

Certain DOI procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to DOI's enforcement of these regulations. The procedural provisions of DOI's Title VI regulations can be found at 43 CFR 17.8 through 17.10 and 43 CFR part 4, subpart I.

§ 17.337 Remedial action by recipients.

Where DOI finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that DOI may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, DOI may require both recipients to take remedial action.

§ 17.338 Alternate funds disbursement procedure.

(a) When DOI withholds funds from a recipient under these regulations, where permissible the Secretary may disburse the withheld funds directly to an alternate recipient under the applicable regulations of the bureau or office providing the assistance.

(b) The Secretary will require any alternative recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 17.339 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and DOI has made no finding with regard to the complaint; or

(2) DOI issues any finding in favor of the recipient.

(b) If DOI fails to make a finding within 180 days or issues a finding in favor of the recipient, DOI will:

(1) Promptly advise the complainant of this fact;

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and