

Equal Employment Opportunity Comm.

§ 1610.1

§ 1608.11 Limitations on the application of these guidelines.

(a) *No determination of adequacy of plan or program.* These Guidelines are applicable only with respect to the circumstances described in § 1608.1(d), of this part. They do not apply to, and the section 713(b)(1) defense is not available for the purpose of, determining the adequacy of an affirmative action plan or program to eliminate discrimination. Whether an employer who takes such affirmative action has done enough to remedy such discrimination will remain a question of fact in each case.

(b) *Guidelines inapplicable in absence of affirmative action.* Where an affirmative action plan or program does not exist, or where the plan or program is not the basis of the action complained of, these Guidelines are inapplicable.

(c) *Currency of plan or program.* Under section 713(b)(1), persons may rely on the plan or program only during the time when it is current. Currency is related to such factors as progress in correcting the conditions disclosed by the self analysis. The currency of the plan or program is a question of fact to be determined on a case by case basis. Programs developed under Executive Order 11246, as amended, will be deemed current in accordance with Department of Labor regulations at 41 CFR chapter 60, or successor orders or regulations.

§ 1608.12 Equal employment opportunity plans adopted pursuant to section 717 of title VII.

If adherence to an Equal Employment Opportunity Plan, adopted pursuant to section 717 of title VII, and approved by an appropriate official of the U.S. Civil Service Commission, is the basis of a complaint filed under title VII, or is alleged to be the justification for an action under title VII, these Guidelines will apply in a manner similar to that set forth in § 1608.5. The Commission will issue regulations setting forth the procedure for processing such complaints.

PART 1610—AVAILABILITY OF RECORDS

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AUTHORITY: 42 U.S.C. 2000e-12(a), 5 U.S.C. 552 as amended by Pub. L. 93-502, Pub. L. 99-570, and Pub. L. 105-231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

Subpart A—Production or Disclosure Under 5 U.S.C. 552

§ 1610.1 Definitions.

(a) *Title VII* refers to title VII of the Civil Rights Act of 1964, as amended by Public Law 92-261, 42 U.S.C. (Supp. II) 2000e *et seq.*

(b) *Commission* refers to the Equal Employment Opportunity Commission.

(c) *Freedom of Information Act* refers to 5 U.S.C. 552 (Pub. L. 90-23 as amended by Pub. L. 93-502).