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for serving the initial decision on the parties.

(d) Unless the initial decision of the ALJ is timely appealed to the judicial officer, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the Secretary and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 1.337 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the judicial officer in accordance with §1.338 of this part.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the judicial officer in accordance with §1.338 of this part.

§ 1.338 Appeal to the judicial officer.

(a) Any respondent who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the Secretary by filing a notice of appeal with the judicial officer in accordance with this section. The judicial officer of USDA shall consider all appeals to the Secretary under this subpart and render a decision on behalf of the Secretary.

(b)(1) A notice of appeal may be filed at any time within 30 days after the ALJ issues an initial decision. However, if another party files a motion for reconsideration under §1.337 of this part, consideration of the appeal shall be stayed automatically pending resolution of the motion for reconsideration.

(2) If a motion for reconsideration is timely filed, a notice of appeal may be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(c) The judicial officer may extend the initial 30-day period during which a notice of appeal may be filed for an additional 30 days if the respondent files a request for an extension within the initial 30-day period and shows good cause.

(d) If the respondent timely files a notice of appeal with the judicial officer and the time for filing motions for reconsideration under §1.337 of this part has expired, the ALJ will forward the record of the proceeding to the judicial officer.

(e) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(f) The representative for USDA may file a brief in opposition to exceptions within 30 days of receiving the brief proposing exceptions.

(g) There is no right to appear personally before the judicial officer.

(h) There is no right to interlocutory appeal of rulings by the ALJ.

(i) The judicial officer, in reviewing the decision, shall not consider any objection that was not raised before the ALJ unless a demonstration is made that extraordinary circumstances caused the failure to raise the objection.

(j) If any party demonstrates to the satisfaction of the judicial officer that additional evidence not presented to the ALJ is material and that there

were reasonable grounds for the failure to present such evidence to the ALJ, the judicial officer shall remand the matter to the ALJ for consideration of such additional evidence.

(k) The judicial officer may affirm, reduce, reverse, compromise, remand or settle any penalty or assessment determined by the ALJ.

(l) The judicial officer shall promptly serve each party to the appeal with a copy of the decision of the judicial officer and a statement describing the respondent's right to seek judicial review.

(m) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a respondent has exhausted all administrative remedies under this part and within 60 days after the date on which the judicial officer serves the respondent with a copy of the judicial officer's decision, a determination that a respondent is liable under §1.303 of this part is final and is not subject to judicial review.

§ 1.339 Stays ordered by the Department of Justice.

(a) If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Secretary a written finding that continuation of the administrative process described in this subpart with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the judicial officer shall stay the process immediately.

(b) If the judicial officer stays the administrative process in accordance with paragraph (a) of this section, the judicial officer may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 1.340 Stay pending appeal.

(a) A decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the judicial officer.

(b) The respondent may file with the ALJ a request for stay of the effective date of a decision of the judicial officer pending judicial review. Such request shall state the grounds upon which respondent relies in requesting the stay, together with a copy of the notice(s) of appeal filed by respondent seeking review of a decision of the judicial officer. The filing of such a request shall automatically stay the effective date of the decision of the judicial officer until the ALJ rules upon the request.

(c) The representative for the USDA may file an opposition to respondent's request for a stay within 10 days of receipt of the request. If the representative for the USDA fails to file such an opposition within the allotted time, or indicates that the USDA has no objection to the request, the ALJ may grant the stay without requiring respondent to give a bond or other security.

(d) The ALJ may grant a contested request where justice so requires and to the extent necessary to prevent irreparable harm but only upon the respondent's giving of a bond or other adequate security. The ALJ shall rule promptly on a contested request for stay.

(e) A decision of the ALJ denying respondent's request for a stay shall constitute final agency action.

§ 1.341 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the judicial officer imposing penalties or assessments under this part and specifies the procedures for such review.

§ 1.342 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this subpart and specify the procedures for such actions.

§ 1.343 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under §1.341 or §1.342 of this part, or any amount agreed upon in a settlement under §1.345 of this part, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund