

### § 34.5

subjecting individuals or establishments to discrimination in the determination of the types of services, financial aid, or other benefits, or the facilities that will be provided; or the class of individuals or establishments to which, or the situation in which, such services, financial aids, other benefits, or facilities will be provided; or the class of individuals or establishments to be provided an opportunity to participate in any activity; and

(ix) Selection of a site or location for facilities for the provision of services, financial aid, or other benefits, with the purpose or effect of substantially impairing the objectives of section 17, the President's *Decision*, and implementing rules, regulations, and orders.

(c) *Scope of prohibited discrimination.*

(1) The enumeration of specific forms of prohibited discrimination in paragraph (b) of this section does not limit the general prohibition in paragraph (b) of this section.

(2) Action taken in compliance with an affirmative action plan developed pursuant to these regulations shall not be deemed a violation of this section.

### § 34.5 Assurances.

Every application for a certificate, permit, right-of-way, lease, public land order, or other Federal authorization to which this part applies, filed after the effective date of these regulations, and every contract covered hereunder to provide goods, services, or facilities in the amount of \$10,000 or more to a recipient, contractor, or subcontractor to which this Part applies, must contain an assurance that the recipient, contractor, or subcontractor does not and will not maintain any segregated facilities, and that all requirements imposed by or pursuant to section 17, Condition 11 of the President's *Decision* and implementing rules, regulations, and orders shall be met, and that it will require a similar assurance in every subcontract of \$10,000 or more.

### § 34.6 Equal opportunity clause.

Each certificate, permit, right-of-way, lease, or other Federal authorization to which this part applies, shall include the following Equal Opportunity Clause:

### 43 CFR Subtitle A (10-1-09 Edition)

(a) The recipient, contractor, or subcontractor hereby agrees that it will not discriminate directly or indirectly against any individual or establishment in offering or providing procurements, employment, services, financial aid, other benefits, or other activities to which these regulations apply. The recipient, contractor, or subcontractor will take affirmative action to utilize business enterprises owned and controlled by minorities and/or women in its procurement practices; to assure that applicants for employment are employed, and that employees are treated during employment, without discrimination on the basis of race, creed, color, national origin, or sex; and to assure that individuals and establishments are offered and provided services, financial aid, and other benefits without discrimination on the basis of race, creed, color, national origin, or sex. The recipient, contractor, or subcontractor agrees to post in conspicuous places available to contractors, subcontractors, employees, and other interested individuals, notices which set forth these equal opportunity terms; and to notify interested individuals, such as bidders, contractors, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements, of its obligations under section 17, Condition 11 of the President's *Decision*, and the implementing rules, regulations, and orders thereunder;

(b) The recipient, contractor, or subcontractor will comply with all rules, regulations, and orders which implement section 17 and Condition 11 of the President's *Decision*;

(c) The recipient, contractor, or subcontractor will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 17 and Condition 11 of the President's *Decision*, and will permit access to its facilities, books, records, and accounts by the Federal Inspector for purposes of ascertaining compliance with such rules, regulations, and orders;

(d) In the event of a recipient's, contractor's, or subcontractor's non-compliance with these equal opportunity terms, compliance may be effected through procedures authorized