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(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

[52 FR 25358, July 7, 1987, as amended at 68 FR 51345, Aug. 26, 2003]

### § 4.314 Exceptions to the rule against age discrimination. Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by § 4.311 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

### § 4.315 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 4.313 and 4.314 is on the recipient of Federal financial assistance.

## DUTIES OF NRC RECIPIENTS

### § 4.321 Assurance of compliance.

Each NRC recipient has primary responsibility to ensure that its programs or activities are in compliance with the Act and these regulations. Each recipient will sign an assurance of compliance that its programs or activities will be conducted in compliance with all the requirements imposed by the Act and these regulations. A recipient also has responsibility to maintain records, provide information, and to afford access to its records to NRC, to the extent required to determine whether it is in compliance with the Act and these regulations.

[52 FR 25358, July 7, 1987, as amended at 68 FR 51345, Aug. 26, 2003]

### § 4.322 Written notice, technical assistance, and educational materials.

(a) NRC will provide written notice to each recipient of its obligations under the Act and these regulations, including its obligation under paragraph (b) of this section.

(b) Where a recipient makes available Federal financial assistance from NRC to a subrecipient, the recipient shall provide the subrecipient written notice of the subrecipient's obligations under the Act and these regulations.

(c) NRC will provide technical assistance, where necessary, to recipients to aid them in complying with the Act and these regulations.

(d) NRC will make available educational materials which set forth the rights and obligations of recipients and beneficiaries under the Act and these regulations.

### § 4.324 Information requirements.

Each recipient shall:

(a) Make available upon request to NRC information necessary to determine whether the recipient is complying with the Act and these regulations.

(b) Permit reasonable access by NRC to the recipient's books, records, accounts, facilities, and other sources of information to the extent necessary to determine whether the recipient is in compliance with the Act and these regulations.

## INVESTIGATION, CONCILIATION, AND ENFORCEMENT PROCEDURES

### § 4.331 Compliance reviews.

(a) NRC may conduct compliance reviews and preaward reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. NRC may conduct these reviews even in absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or preaward review indicates a violation of the Act or these regulations, NRC will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, NRC will arrange for enforcement as described in § 4.336.