

**§ 90.50 Exhaustion of administrative remedies.**

(a) The agency shall provide in its regulations that 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 the agency has made no finding with regard to the complaint; or

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

(b) If either of the conditions set forth in § 90.50(a) is satisfied the agency shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right, under section 305(e) of the Act, to bring a civil action for injunctive relief that will effect the purposes of the Act; and

(3) Inform the complainant:

(i) That a civil action can only be brought in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, the head of the granting agency, and the recipient;

(iv) That the notice shall state: the alleged violation of the Act; the relief requested; the court in which the action will be brought; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

**Subpart E—Future Review of Age Discrimination Regulations**

**§ 90.61 Review of general regulations.**

The Secretary shall review the effectiveness of these regulations in secur-

ing compliance with the Act. As part of this review, 30 months after the effective date of these regulations, the Secretary shall publish a notice of opportunity for public comment on the effectiveness of the regulations. The Secretary will assess the comments and publish the results of the review and assessment in the FEDERAL REGISTER.

**§ 90.62 Review of agency regulations.**

Each agency shall review the effectiveness of its regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of its regulations, each agency shall publish a notice of opportunity for public comment on the effectiveness of the agency regulations. Each agency shall assess the comments and publish the results of the review in the FEDERAL REGISTER.

**PART 91—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HHS**

**Subpart A—General**

Sec.

91.1 What is the purpose of the Age Discrimination Act of 1975?

91.2 What is the purpose of HHS' age discrimination regulations?

91.3 To what programs or activities do these regulations apply?

91.4 Definition of terms used in these regulations.

**Subpart B—Standards for Determining Age Discrimination**

91.11 Rules against age discrimination.

91.12 Definitions of normal operation and statutory objective.

91.13 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.

91.14 Exceptions to the rules against age discrimination: Reasonable factors other than age.

91.15 Burden of proof.

91.16 Affirmative action by recipient.

91.17 Special benefits for children and the elderly.

91.18 Age distinctions contained in HHS regulations.