

| Type of Federal Financial Assistance                | Authority  |
|---|--|
| <b>Administered by the Office of Transportation</b> |  |
| 92. Transportation services .....                   | Sec. 201 of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1291; Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1622(j); Sec. 104 of the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1704. |

[47 FR 25470, June 11, 1982, as amended at 68 FR 51342, Aug. 26, 2003]

**PART 15c—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE (Eff. 1-9-15)**

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**APPENDIX A TO 7 CFR PART 15c—AGE DISTINCTIONS IN FEDERAL STATUTES OR REGULATIONS AFFECTING FINANCIAL ASSISTANCE ADMINISTERED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE**

**AUTHORITY:** 5 U.S.C. 301; 42 U.S.C. 6101 *et seq.*

**SOURCE:** 79 FR 73192, Dec. 10, 2014, unless otherwise noted.

**EFFECTIVE DATE NOTE:** At 79 FR 73192, Dec. 10, 2014, part 15c was added, effective Jan. 9, 2015.

**§ 15c.1 Purpose.**

The purpose of this part is to establish the nondiscrimination policy of the USDA on the basis of age in programs and activities funded in whole or in part by USDA, in compliance with the Age Discrimination Act of 1975, as amended (Age Act), and the requirements set by the HHS in its Government-wide regulation at 45 CFR part 90.

**§ 15c.2 Definitions.**

*Action* means any act, activity, policy, rule, standard, or method of ad-

ministration or use of any policy, rule, standard or method of administration.

*Age Act* means The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*

*Age* means the number of elapsed years from the date of a person's birth.

*Age distinction* means any action using age or an age-related term.

*Age-related term* means a word or words that necessarily imply a particular age or range of ages (*e.g.* "children," "adult," or "older person").

*Agency* means a major organizational unit of USDA with delegated authorities to deliver programs, activities, benefits, and services.

*Agency Head* means the head of any agency within USDA which may hold the title Administrator, Chief, or Director depending on the agency.

*Assistant Secretary for Civil Rights (ASCR)* means the civil rights officer for USDA responsible for the performance and oversight of all civil rights functions within USDA, and who retains the authority to delegate civil rights functions to heads of USDA agencies and offices. The ASCR is also responsible for evaluating agency heads on their performance of civil rights functions.

*Beneficiary* means a person or group of persons with an entitlement to receive or enjoy the benefits, services, resources, and information from, or to participate in, the activities and programs funded in whole or in part by USDA.

*Complainant* means any person or group of persons who files with any USDA agency a complaint that alleges discrimination in a program or activity funded in whole or in part by USDA.

*Complaint* means a written statement that contains the complainant's name and address and describes the alleged

discriminatory action in sufficient detail to inform the Office of the Assistant Secretary for Civil Rights (OASCR) of the nature and date of the alleged civil rights violation. The statement must be signed by the complainant(s) or someone authorized to sign on behalf of the complainant(s). The complaint need not be written or signed if submitted in an alternate format to accommodate the complaint filing needs of a person who has Limited English Proficiency, a disability, or other special need. The complaint must be based on one or more prohibited bases.

*Compliance Review* means a systematically planned and regularly initiated investigation that assesses and evaluates the civil rights and equal opportunity policies, procedures and practices of a USDA agency or instrumentality to determine compliance with civil rights statutes, regulations, standards, and policies.

*Department* (used interchangeably with USDA) means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

*Discrimination* means unlawful treatment or denial of benefits, services, terms, conditions, rights, or privileges to a person or persons based on a protected basis, including age.

(1) *Federal Financial Assistance* includes:

- (i) Grants and loans of Federal funds;
- (ii) The grant or donation of Federal property and interests in property;
- (iii) The detail of Federal personnel;
- (iv) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property, or any interest in such property, or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease or furnishing of services to the recipient; and
- (v) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(2) Federal financial assistance does not include procurement contracts at market value, contracts of guarantee

or insurance, regulated programs, licenses, or programs that provide direct benefits. The complaint must be based on one or more prohibited bases.

*HHS* means The United States Department of Health and Human Services.

*Normal Operation* means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

*Program or activity* includes all of the operations of:

(1) *State and local governments.* (i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government.

(2) *Educational institutions.* (i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system.

(3) *Private organizations.* (i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation.

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship.

(4) *Other organizations receiving Federal financial assistance.* Any other entity which is established by two or more of the entities described in paragraph (r)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

### § 15c.3

*Recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision (to include the District of Columbia and any United States territories and possessions), any public or private entity, institution, organization or any of their instrumentalities, or any individual (provided the individual is not the ultimate beneficiary) in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program or activity, including any successor, assignee, or transferee thereof.

*Statutory Objective* means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected general purpose legislative body.

#### § 15c.3 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) *Specific discriminatory actions prohibited.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) *Specific forms of age discrimination.* The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) *Exceptions to the rules against age discrimination.* (1) A recipient is permitted to take an action, otherwise prohibited by this section, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statu-

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tory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(i) Age is used as a measure or approximation of one or more other characteristics;

(ii) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

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

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

(2) A recipient is permitted to take an action otherwise prohibited by this section that 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.

(3) If a recipient operating a program or activity provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of this subpart.

(4) Any age distinctions contained in a rule or regulation issued by USDA shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies, notwithstanding the provisions of this part.

#### § 15c.4 Compliance, assurance, and notice requirements.

(a) USDA recipients have primary responsibility to ensure that their programs and activities are in compliance with the Age Act and this regulation and shall take steps to eliminate violations of the Age Act. Each recipient of Federal financial assistance from USDA shall sign a written assurance as