

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 § 17.311.

**§ 17.315 Affirmative action by recipients.**

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

DUTIES OF DOI RECIPIENTS

**§ 17.320 General responsibilities.**

Each DOI recipient has primary responsibility to ensure that its programs or activities are in compliance with the Act and these regulations, and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and to afford DOI access to its records to the extent DOI finds necessary to determine whether the recipient is in compliance with the Act and these regulations.

**§ 17.321 Notice to subrecipients and beneficiaries.**

(a) Where a recipient extends Federal financial assistance from DOI to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and these regulations.

(b) Each recipient shall make necessary information about the Act and these regulations available to its beneficiaries in order to inform them of the protections against discrimination provided by the Act and these regulations.

**§ 17.322 Assurance of compliance and recipient assessment of age distinctions.**

(a) Each recipient of Federal financial assistance from DOI shall sign a written assurance as specified by DOI that it will comply with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) As part of a compliance review under § 17.330 or complaint investigation under § 17.331, DOI may require a recipient employing the equivalent of

15 or more employees to complete a written self-evaluation, in a manner specified by the responsible Department official, of any age distinction imposed in its program or activity receiving Federal financial assistance from DOI to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act and the DOI regulations, the recipient shall take corrective action.

**§ 17.323 Information collection requirements.**

Each recipient shall:

(a) Keep records in a form and containing information which DOI determines may be necessary to ascertain whether the recipient is complying with the Act and these regulations.

(b) Provide to DOI, upon request, information and reports which DOI determines are necessary to ascertain whether the recipient is complying with the Act and these regulations.

(c) Permit reasonable access by DOI to the books, records, accounts, and other recipient facilities and sources of information to the extent DOI determines necessary to ascertain whether the recipient is complying with the Act and these regulations.

(d) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1084-0027. The information will be collected and used to assess recipients' compliance with the Act. Response is required to obtain a benefit.

(e) Public reporting burden for this information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed; and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to: Departmental Clearance Officer, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, Mail Stop 2242; and the Office of Information and Regulatory Affairs,

### § 17.330

Office of Management and Budget,  
Washington, DC 20503.

#### INVESTIGATION, CONCILIATION, AND ENFORCEMENT PROCEDURES

### § 17.330 Compliance reviews.

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

(b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, DOI will attempt to secure voluntary compliance with the Act. If voluntary compliance cannot be achieved, DOI will arrange for enforcement as described in § 17.335.

### § 17.331 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with DOI, alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complaint must be filed within 180 days from the date the complainant had knowledge of the alleged act of discrimination. For good cause shown, however, DOI may extend this time limit.

(b) DOI will consider the date a complaint is filed to be the date upon which the complaint sufficiently meets the criteria for acceptance as described in paragraphs (a) and (c)(1) of this section.

(c) DOI will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

### 43 CFR Subtitle A (10-1-03 Edition)

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint, as described in paragraphs (a) and (c)(1) of this section.

(3) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(4) Notifying the complainant and the recipient (or their representatives) of their right to contact DOI for information and assistance regarding the complaint resolution process.

(d) DOI will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

### § 17.332 Mediation.

(a) *Referral of complaints for mediation.* DOI will promptly refer to the FMCS all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and these regulations unless the age distinction complained of is clearly within an exception; and,

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, FMCS shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The FMCS shall send the agreement to DOI. DOI, however, retains the right to monitor the recipient's compliance with the agreement.

(d) The FMCS shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.