

opportunity to participate in programs or activities despite the existence of permissibly separate or different programs or activities.

(3) The Department may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The Department may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the Department; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The provisions of paragraph (b)(4) of this section do not apply to sites or locations at which the Department owns or leases buildings on the date the regulations in this part become effective.

(6) The Department, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(7) The Department may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the Department establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. This part does not apply to the programs or activities of non-departmental entities that are licensed or certified by the Department of Labor.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to persons with handicaps or

the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The Department shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

[52 FR 11606, Apr. 9, 1987; 52 FR 23967, June 26, 1987]

§ 33.7 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Department. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established in 29 CFR part 1613 (subpart G), shall apply to employment in federally conducted programs or activities.

[52 FR 11606, Apr. 9, 1987; 52 FR 23967, June 26, 1987]

§ 33.8 Program accessibility: Discrimination prohibited.

Except as otherwise provided in §§ 33.9 and 33.10 of this part, no qualified individual with handicaps shall, because the Department's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Department.

[52 FR 11606, Apr. 9, 1987; 52 FR 23967, June 26, 1987]

§ 33.9 Program accessibility: Existing facilities.

(a) *General.* The Department shall operate such program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the Department to make each of its existing facilities accessible to and usable by individuals with handicaps;

(2) Require the Department to take any action that it can demonstrate