

pursuant to paragraph (g) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance.

(3) If the Secretary denies any such request, the applicant or recipient may submit to the Secretary a request for a hearing in writing, specifying why it believes the Secretary to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with the procedures set forth in subpart I of part 4 of this title. The applicant or recipient shall be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (h)(1) of this section.

(4) While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (g) of this section shall remain in effect.

[38 FR 17977, July 5, 1973; 44 FR 54299, Sept. 19, 1979]

§ 17.10 Judicial review.

Action taken pursuant to section 602 of the act is subject to judicial review as provided in section 603 of the act.

[29 FR 16293, Dec. 4, 1964]

§ 17.11 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color, or national origin under any program to which this regulation applies and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this regulation. Nothing in this regulation, however, shall be deemed to su-

persede any of the following (including future amendments thereof): (1) Executive Orders 10925, 11114 and 11246, as amended and regulations issued thereunder, (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions insofar as such order, regulations, or instructions prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* The Secretary or his designee shall issue and promptly make available to interested persons instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to such officials of the Department as he deems appropriate, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the act and this part (other than responsibility for final decision as provided in §17.9), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI of the act and this part to similar programs and in similar situations. Any action taken, determination made or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the Secretary of the Interior.

[29 FR 16293, Dec. 4, 1964, as amended at 43 FR 4259, Feb. 1, 1978]

§ 17.12 Definitions.

As used in this part:

(a) The term *act* means the Civil Rights Act of 1964 (Pub. L. 88-352 78 Stat. 241).

(b) The term *Department* means the Department of the Interior, and includes each of its bureaus and offices.

§ 17.12

43 CFR Subtitle A (10-1-06 Edition)

(c) The term *Secretary* means the Secretary of the Interior or, except in § 17.9(f), any person to whom he has delegated his authority in the matter concerned.

(d) The term *United States* means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term *Federal financial assistance* includes (1) grants and loans of Federal funds, (2) grants or donations of Federal property and interests in property, (3) the detail of Federal personnel (4) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property 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 or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The terms *program or activity* and *program* mean all of the operations of any entity described in paragraphs (f)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(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 such 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)(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)(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; or

(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; or

(4) Any other entity which is established by two or more of the entities described in paragraph (f)(1), (2), or (3) of this section.

(g) The term *facility* includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term *recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof, but such term does not include the ultimate beneficiary.

(i) The term *primary recipient* means any recipient which is authorized or required to extend Federal financial assistance to another recipient.

(j) The term *applicant* means one who submits an application, request, or plan required to be approved by the head of a bureau or office, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

(k) The term *Office of Hearings and Appeals* refers to a constituent office of the Department established July 1, 1970. 35 FR 12081 (1970).

[29 FR 16293, Dec. 4, 1964, as amended at 38 FR 17978, July 5, 1973; 68 FR 51376, Aug. 26, 2003]

APPENDIX A TO SUBPART A OF PART 17

Federal financial assistance subject to part 17 includes, but is not limited to, that authorized by the following statutes:

I. *Public Lands and Acquired Lands.* (a) Grants and loans of Federal funds.

1. Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181-287).

2. Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359).

3. Alaska Grazing Act (44 Stat. 1452, 48 U.S.C. 471, *et seq.*).

4. Proceeds of Certain Land Sales (R.S. sec. 3689, as amended, 31 U.S.C. 711 (17)).

5. Taylor Grazing Act (48 Stat. 1269, as amended, 43 U.S.C. 315 *et seq.*).

6. Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (50 Stat. 874, 43 U.S.C. 1181f).

7. Payment to States for Swamp Lands Erroneously Sold by U.S. (R.S. sec. 3689, as amended, 31 U.S.C. 711 (18)).

8. Alaska Statehood Act, sec. 6(f), (72 Stat. 341, 48 U.S.C. note preceding sec. 21).

(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Materials Act (61 Stat. 681, as amended 30 U.S.C. 601-604).

2. Rights-of-way for Tramroads, Canals, Reservoirs (28 Stat. 635, as amended, 43 U.S.C. 956, 957).

3. Highway Rights-of-way (R.S. sec. 2477 43 U.S.C. 932).

4. Small Tract Act (52 Stat. 609, as amended, 43 U.S.C. 682a-682e).

5. Rights-of-way for Dams, Reservoirs, Water Plants, Canals, etc. (33 Stat. 628, 16 U.S.C. 524).

6. Rights-of-way for Power and Communication Facilities (36 Stat. 1253, as amended, 43 U.S.C. 961).

7. Recreation and Public Purposes Act (44 Stat. 741, as amended, 43 U.S.C. 869-869-4).

8. Stock-Watering Reservoirs (29 Stat. 434, as amended, 43 U.S.C. 952-955).

9. Alaska Housing Authority Act (63 Stat. 60, 48 U.S.C. 484c).

10. Railroad Rights-of-way in Alaska (30 Stat. 409, 48 U.S.C. 411-419).

11. Grants to States in Aid Schools (44 Stat. 1026 as amended, 43 U.S.C. 870).

12. Carey Act (28 Stat. 422, as amended, 43 U.S.C. 641).

13. Airports and Aviation Fields (45 Stat. 728, as amended, 49 U.S.C. 211-214).

14. Special Land Use Permits (R.S. sec. 453, as amended, 43 U.S.C. 2).

15. Rights-of-way for Irrigation and Drainage (26 Stat. 1101, as amended, 43 U.S.C. 946).

16. Rights-of-way for Pipelines to Transport Oil or Natural Gas (41 Stat. 449, as amended, 30 U.S.C. 185).

17. Townsite Laws (R.S. 2380 *et seq.*, as amended, 43 U.S.C. 711 *et seq.*).

18. Leases of Lands near Springs (43 Stat. 1133, 43 U.S.C. 971).

19. Rights-of-way for Railroads (18 Stat. 482, 43 U.S.C. 934).

20. Grants of Easements (76 Stat. 1129, 40 U.S.C. 319-319c).

II. *Water and Power.* (a) Grants and loans of Federal funds.

1. Federal Reclamation Program (32 Stat. 388, 43 U.S.C. 391, and Acts amendatory or supplementary thereto).

2. Reservation of Land for Park, Playground, or Community Center (38 Stat. 727, 43 U.S.C. 569).

3. Distribution System Loan Program (69 Stat. 244, as amended, 43 U.S.C. 421a-421d).

4. Rehabilitation and Betterment Loan Program (63 Stat. 724, as amended, 43 U.S.C. 504).

5. Small Reclamation Project Loan Program (70 Stat. 1044, 43 U.S.C. 422a-422k).

6. Assistance to School Districts on Reclamation Projects (62 Stat. 1108, 43 U.S.C. 385a).

7. Payment from Colorado River Dam Fund, Boulder Canyon Project (54 Stat. 776 as amended, 43 U.S.C. 618(c)).

8. Payment on In Lieu of Taxes Lands Acquired Pursuant to Columbia Basin Project Act (57 Stat. 19, 16 U.S.C. 835c-1).

9. Payment in Lieu of Taxes on Land to Trinity County, California (69 Stat. 729).

10. Saline Water Research Program (66 Stat. 328, as amended, 42 U.S.C. 1951).

11. Water User Repayment Obligations on Reclamation Projects (43 Stat. 703, 43 U.S.C. 501, 62 Stat. 273, 66 Stat. 754).

12. Water Resources Research Act (78 Stat. 329).

(b) Sale, lease, grant or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Townsite Disposal on Reclamation Projects (34 Stat. 116, 43 U.S.C. 566).

2. Transfer of Federal Property in Coulee Dam, Washington (71 Stat. 529, 16 U.S.C. 835c note).

3. Transfer of Federal Property to Boulder City, Nevada (72 Stat. 1726, 43 U.S.C. 617u note).

4. Reservation of Land for Park, Playground, or Community Center (38 Stat. 727, 43 U.S.C. 569).

5. Saline Water Research Program-Donation of Laboratory Equipment (72 Stat. 1793, 42 U.S.C. 1892).

6. Reclamation Program-Conveyance of Land to School Districts (41 Stat. 326, 43 U.S.C. 570).

7. Recreation and Public Purposes Program (44 Stat. 741, as amended, 43 U.S.C. 869-869a).

8. Dedication of Land for Public Purposes, Page. Arizona (72 Stat. 1686, 1688).

Pt. 17, Subpt. A, App. B

9. Removal of Sand, Gravel, and Other Minerals, and Building Materials from Reclamation Project Lands (53 Stat. 1196, as amended, 43 U.S.C. 387).

III. *Mineral Resources*. Grants and loans of Federal funds.

1. Control of Coal Mine Fires (68 Stat. 1009, 30 U.S.C. 551-558 *et seq.*)

2. Anthracite Mine Drainage and Flood Control and Sealing of Abandoned Mines and Filling Voids (69 Stat. 352, as amended, 30 U.S.C. 571-576).

3. Sealing and filling of voids in abandoned coal mines, reclamation of surface mine areas, and extinguishing mine fires (79 Stat. 13, as amended, 40 U.S.C., App., 205).

IV. *Fish and Wildlife*. (a) Grants of Federal funds.

1. Pittman-Robertson Act (50 Stat. 917, as amended, 16 U.S.C. 669).

2. Dingell-Johnson Act (64 Stat. 430, 16 U.S.C. 777).

3. Sharing of Refuge Revenues (49 Stat. 383, as amended, 16 U.S.C. 715s).

4. Aid to Alaska (Section 6(e) of the Alaska Statehood Act, 72 Stat. 340, and Act of February 28, 1944, 58 Stat. 101, 16 U.S.C. 631e).

5. Anadromous Fish Act of 1965 (79 Stat. 1125, 16 U.S.C. 757a-757f).

6. Aid to Education (70 Stat. 1126, 16 U.S.C. 760d).

7. Jellyfish Act of 1966 (80 Stat. 1149, 16 U.S.C. 1201-1205).

(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Cooperative Research and Training Program for Fish and Wildlife Resources (74 Stat. 733, 16 U.S.C. 753a)

2. Protection and Conservation of Bald and Golden Eagles (54 Stat. 251, as amended 16 U.S.C. 668a).

3. Wildlife Land Transfers (sec. 8 of Colorado River Storage Project Act of 1956, 70 Stat. 110, 43 U.S.C. 620g)

4. Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661-664).

(c) Furnishing of services of a type for which the recipient would otherwise pay.

1. Lampry Eradication Program (60 Stat. 930, as amended, 16 U.S.C. 921)

2. Cooperative Research and Training Program for Fish and Wildlife Resources (74 Stat. 733, 16 U.S.C. 753a)

3. Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. 661 *et seq.*).

V. *Parks and Territories*. (a) Grants and loans of Federal funds.

1. Payments to School Districts—Yellowstone National Park (62 Stat. 338, 16 U.S.C. 40a).

2. Payments in Lieu of Taxes—Grand Teton National Park (64 Stat. 851, 16 U.S.C. 406d-3).

3. Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 47a).

43 CFR Subtitle A (10-1-06 Edition)

4. Bureau of Outdoor Recreation (77 Stat. 49, 16 U.S.C. 460*I*).

5. Revised Organic Act of the Virgin Islands (68 Stat. 497, as amended, 48 U.S.C. 1541-1644).

6. Guam Rehabilitation Act (77 Stat. 302).

7. Organic Act of Guam (64 Stat. 384 as amended, 48 U.S.C. 1421-1425 except sec. 9(a), 48 U.S.C. 1422c(a)).

8. Guam Agricultural Act (P.L. 88-584, 78 Stat. 926).

9. Outdoor Recreation Programs (78 Stat. 897, as amended, 16 U.S.C. 460*I*-460*I*-11).

(b) Sale, lease, grant or other disposition of, or the permission to, use Federal property or any interest in such property at less than fair market value.

1. Puerto Rico Federal Relations Act (39 Stat. 954, 48 U.S.C. 748).

2. Virgin Islands Corporation Act (63 Stat. 350, as amended, 48 U.S.C. 1407 *et seq.*).

3. Territorial Submerged Lands Act (77 Stat. 338, 48 U.S.C. 1701-1704).

4. Organic Act of Guam (64 Stat. 392, 48 U.S.C. 1421f(c)).

(c) Furnishing of services by the Federal Government of a type for which the recipient would otherwise pay.

1. Bureau of Outdoor Recreation (77 Stat. 49, 16 U.S.C. 460*I*).

VI. *Indian Affairs*. (a) Grants and loans of Federal funds.

1. Menominee County, Wis. Educational Grants (76 Stat. 53).

(b) Sale, lease, grant, or other disposition of or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Conveyance of School Property (67 Stat. 41, as amended, 25 U.S.C. 293a).

2. Adult Vocational Training Act (70 Stat. 986, 25 U.S.C. 309).

VII. *General*. 1. Department Projects under the Public Works Acceleration Act (76 Stat. 541, 42 U.S.C. 2641-2643).

2. Grants for Support of Scientific Research (72 Stat. 1793, 42 U.S.C. 1891-1893).

3. Special Use Permits (R.S. sec. 441, as amended, 43 U.S.C. 1457).

4. Land and Water Conservation Fund Act of 1964 (Pub. L. 88-578, 78 Stat. 897).

[29 FR 16293, Dec. 4, 1964, as amended at 38 FR 17978, July 5, 1973]

APPENDIX B TO SUBPART A OF PART 17

The following statutes authorize Federal financial assistance limited to individuals of a particular race, color, or national origin

I. *Indians and Alaska Natives*. 1. Snyder Act (42 Stat. 208, 25 U.S.C. 13).

2. Adult Vocational Training Act (70 Stat. 986, 25 U.S.C. 309).

3. Vocational and Trade School Act (48 Stat. 986, 25 U.S.C. 471)

4. Johnson-O'Malley Act (48 Stat. 596, as amended, 25 U.S.C. 452-53)

5. Revolving Fund for Loan to Indians (48 Stat. 986, 25 U.S.C. 470).

6. Revolving Fund for Loans to Tribes (77 Stat. 301).

7. Conveyance of Buildings, Improvements, or Facilities to Tribes (70 Stat. 1057, 25 U.S.C. 443a).

8. Alaska Reindeer Act (50 Stat. 900, 48 U.S.C. 250-250p)

9. Disposals to Alaskan Natives (44 Stat. 629, 48 U.S.C. 355a and 355c).

II. *Natives of Certain Territories*. 1. Acceptance of Samoan Cession Agreement (45 Stat. 1253, as amended, 48 U.S.C. 1661).

2. Samoan Omnibus Act (76 Stat. 586, 48 U.S.C. 1666)

3. Guam Organic Act (64 Stat. 387, 48 U.S.C. 1422c).

[29 FR 16293, Dec. 4, 1964, as amended at 68 FR 51376, Aug. 26, 2003]

Subpart B—Nondiscrimination on the Basis of Handicap

AUTHORITY: 29 U.S.C. 794.

SOURCE: 47 FR 29546, July 7, 1982, unless otherwise noted.

§ 17.200 Purpose.

The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973 and its subsequent amendments, which are designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 17.201 Application.

This subpart applies to each recipient of Federal financial assistance from the Department of the Interior and to each program or activity that receives such assistance.

§ 17.202 Definitions.

As used in this subpart, the term:

(a) *The Act* means the Rehabilitation Act of 1973, Public Law 93-112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516, and the Rehabilitation, Comprehensive Service, and Developmental Disabilities Act of 1978, Public Law 95-602, 29 U.S.C. 700 *et seq.*

(b) *Section 504* means section 504 of the Act.

(c) *Education of the Handicapped Act* means that statute as amended by the Education for All Handicapped Chil-

dren Act of 1975, Public Law 94-142, 20 U.S.C. 1401 *et seq.*

(d) *Department* means the Department of the Interior.

(e) *Director* means the Director of the Office for Equal Opportunity of the Department.

(f) *Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) *Applicant for assistance* means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(h) *Federal financial assistance* means any grant, cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Easements, transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, outdoor spaces, including those used for recreation, park sites, developed sites, or other real or personal property or interest in such property.

(j) *Handicapped person*. (1) Handicapped person means any person who (i) has a physical, mental or sensory impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.