

**Federal Emergency Management Agency, DHS**

**§ 7.926**

United States. The term "State" also includes any one of the foregoing.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

**STANDARDS FOR DETERMINING AGE DISCRIMINATION**

**§ 7.920 Rules against discrimination.**

The rules stated in this section are limited by the exceptions contained in §§ 7.921 and 7.922 of these regulations.

(a) *General rule:* 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 rules:* 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, 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. The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

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

A recipient is permitted to take an action, otherwise prohibited by § 7.920, if the action reasonably takes into account age as a factor necessary to the normal operation of the achievement of any statutory 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:

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

(b) 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; and

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

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

**§ 7.922 Exceptions to the rules against age discrimination: Reasonable factors other than age.**

A recipient is permitted to take an action otherwise prohibited by § 7.920 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages 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.

**§ 7.923 Burden of proof for exceptions.**

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 7.921 and 7.922 is on the recipient of Federal financial assistance.

**§ 7.924 Affirmative action by recipient.**

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

**§ 7.925 Special benefits for children and the elderly.**

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 § 7.921.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

**§ 7.926 Age distinctions contained in FEMA regulations.**

Any age distinctions contained in a rule or regulation issued by FEMA shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to

## §7.930

which the rule or regulation applies, notwithstanding the provisions of §7.921.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

### DUTIES OF FEMA RECIPIENTS

#### §7.930 General responsibilities.

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

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

#### §7.931 Notice to subrecipients and beneficiaries.

(a) Where a recipient passes on Federal financial assistance from FEMA to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and this regulation.

(b) Each recipient shall make necessary information about the Act and this regulation available to its beneficiaries in order to inform them about the protection against discrimination provided by the Act and this regulation.

[55 FR 23078, June 6, 1990, as amended at 68 FR 51380, Aug. 26, 2003]

#### §7.932 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from FEMA shall sign a written assurance as specified by FEMA that it will comply with Act and this regulation.

(b) Recipient assessment of age distinctions. (1) As part of the compliance review under §7.940 or complaint investigation under §7.943, FEMA may require a recipient employing the equivalent of fifteen or more employees to complete written evaluation, in a manner specified by the responsible Agency

## 44 CFR Ch. I (10–1–06 Edition)

official, of any age distinction imposed in its program or activity receiving Federal financial assistance from FEMA to assess the recipient's compliance with the Act.

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

#### §7.933 Information requirement.

Each recipient shall:

(a) Keep records in a form acceptable to FEMA and containing information which FEMA determines are necessary to ascertain whether the recipient is complying with the Act and this regulation.

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

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

### INVESTIGATION, CONCILIATION, AND ENFORCEMENT PROCEDURES

#### §7.940 Compliance reviews.

(a) FEMA may conduct compliance reviews and preaward reviews or use other similar procedures that will permit it to investigate and correct violations of the Act and this regulation. FEMA 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 this regulation has occurred.

(b) If a compliance review or preaward review indicates a violation of the Act or this regulation, FEMA will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, FEMA will arrange for enforcement as described in §7.945.

#### §7.941 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with FEMA,