

§ 15a.550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§15a.500 through 15a.550 provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Other Provisions**§ 15a.605 Enforcement procedures.**

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) are hereby adopted and applied to this part. These procedures may be found at 7 CFR 15.5-15.11 and 15.60-15.143.

PART 15b—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**Subpart A—General Provisions**

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APPENDIX A TO PART 15b—LIST OF FEDERAL FINANCIAL ASSISTANCE FROM USDA

AUTHORITY: 29 U.S.C. 794.

SOURCE: 47 FR 25470, June 11, 1982, unless otherwise noted.

Subpart A—General Provisions**§ 15b.1 Purpose.**

The purpose of this part is to implement section 504 of the Rehabilitation Act of 1973, as amended, to the end that no otherwise qualified handicapped individual in the United States shall

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solely by reason of his or her handicap be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 15b.2 Applicability.

This part applies to all programs or activities that receive Federal financial assistance extended by the Department of Agriculture after the effective date of this part whether or not the assistance was approved after the effective date. Subparts A, B, and C are of general applicability. Subparts D, E, and F are more specifically tailored. Subpart G is procedural.

[47 FR 25470, June 11, 1982, as amended at 55 FR 52139, Dec. 19, 1990; 68 FR 51342, Aug. 26, 2003]

§ 15b.3 Definitions.

As used in this part, the term or phrase:

(a) *The Act* means the Rehabilitation Act of 1973, Public Law 93-112, 87 Stat. 390 (1973), as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-651, 89 Stat. 2 (1974) and Public Law 93-516, 88 Stat. 1617 (1974) and the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Public Law 95-602, 92 Stat. 2955 (1978). The Act appears at 29 U.S.C. 701-794.

(b) *Section 504* means section 504 of the Act, 29 U.S.C. 794.

(c) *Education of the Handicapped Act* means the Education of the Handicapped Act, Public Law 92-230, Title VI, 84 Stat. 175 (1970), as amended by the Education of the Handicapped Amendments of 1974, Public Law 93-380, Title VI, 88 Stat. 576 (1974), the Education for All Handicapped Children Act of 1975, Public Law 94-142, 89 Stat. 773 (1975), and the Education of the Handicapped Amendments of 1977, Public Law 95-49, 91 Stat. 230 (1977). The Education of the Handicapped Act appears at 20 U.S.C. 1401-1461.

(d) *Department* means the Department of Agriculture and includes each of its operating agencies and other organizational units.

(e) *Secretary* means the Secretary of Agriculture or any officer or employee of the Department to whom the Sec-

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retary has delegated or may delegate the authority to act under the regulations of this part.

(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) *Federal financial assistance or assistance* means any grant, contract (other than a procurement contract or a contract of insurance or guaranty), cooperative agreement, formula allocation, loan, 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;

(3) Real and personal Federal property or any interest in Federal property, including:

(i) A sale, transfer, lease or use (on other than a casual or transient basis) of Federal property for less than fair market value, for reduced consideration or in recognition of the public nature of the recipient's program or activity; and

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

(4) Any other thing of value.

(h) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

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

(j) *Physical or mental impairment* means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech