

## § 7.943

of the mediation process without prior approval of the head of the mediation agency.

(e) The mediation will proceed for a maximum of 60 days after a complaint is filed with FEMA. Mediation ends if:

- (1) Sixty days elapse from the time the complaint is filed; or
  - (2) Prior to the end of that 60 day period, an agreement is reached; or
  - (3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached. This 60 day period may be extended by the mediator, with the concurrence of FEMA, for not more than 30 days if the mediator determines agreement will likely be reached during such extended period.
- (f) The mediator shall return unresolved complaints to FEMA.

## § 7.943 Investigation.

(a) *Informal investigation.* (1) FEMA will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, FEMA will use informal fact finding methods, including joint or separate discussion with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. FEMA may seek the assistance of any involved state agency.

(3) FEMA will put any agreement in writing and have it signed by the parties and an authorized official at FEMA.

(4) The settlement shall not affect the operation of any other enforcement effort of FEMA, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If FEMA cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of this regulation, FEMA will attempt to obtain voluntary compliance, it will

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begin enforcement as described in § 7.945.

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

## § 7.944 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

- (a) Attempts to assert a right protected by the Act or this regulation; or
- (b) Cooperates in any mediation, investigation, hearing, or other part of FEMA's investigation, conciliation and enforcement process.

## § 7.945 Compliance procedure.

(a) FEMA may enforce the Act and this regulation through:

(1) Termination of a recipient's Federal financial assistance from FEMA under the program or activity involved where the recipient has violated the Act or this regulation. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this regulation.

(ii) Use of any requirement of or referral to any Federal, State or local government agency that will have the effect of correcting a violation of the Act or this regulation.

(b) FEMA will limit any termination under § 7.945(a)(1) to the particular recipient and particular program or activity or part of such program or activity FEMA finds in violation of this regulation. FEMA will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from FEMA.

(c) FEMA will take no action under paragraph (a) until:

(1) The Director has advised the recipient of its failure to comply with the Act and this regulation and has determined that voluntary compliance cannot be obtained.