

§ 115.200

public to comment on the relevant State and local laws, as well as on the performance of the agency in enforcing its law. All comments will be considered before a final decision on certification is made.

Subpart B—Certification of Substantially Equivalent Agencies

§ 115.200 Purpose.

This subpart implements section 810(f) of the Fair Housing Act. The purpose of this subpart is to set forth:

- (a) The basis for agency interim certification and certification;
- (b) The procedure by which a determination to certify is made by the Assistant Secretary;
- (c) The basis and procedures for denial of interim certification;
- (d) The basis and procedures for withdrawal of certification;
- (e) The consequences of certification;
- (f) The basis and procedures for suspension of interim certification or certification; and
- (g) The funding criteria for interim certified and certified agencies.

§ 115.201 Basis of determination.

A determination to certify an agency as substantially equivalent involves a two-phase procedure. The determination requires examination and an affirmative conclusion by the Assistant Secretary on two separate inquiries:

- (a) Whether the law, administered by the agency, on its face, satisfies the criteria set forth in section 810(f)(3)(A) of the Act; and
- (b) Whether the current practices and past performance of the agency demonstrate that, in operation, the law in fact provides rights and remedies which are substantially equivalent to those provided in the Act.

§ 115.202 Criteria for adequacy of law.

- (a) In order for a determination to be made that a State or local fair housing agency administers a law which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law or ordinance must:

24 CFR Subtitle B, Ch. I (4–1–99 Edition)

(1) Provide for an administrative enforcement body to receive and process complaints and provide that:

- (i) Complaints must be in writing;
- (ii) Upon the filing of a complaint the agency shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law;
- (iii) Upon the filing of a complaint the agency shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his or her procedural rights and obligations under the law or ordinance together with a copy of the complaint;
- (iv) A respondent may file an answer to a complaint.

(2) Delegate to the administrative enforcement body comprehensive authority, including subpoena power, to investigate the allegations of complaints, and power to conciliate complaints, and require that:

- (i) The agency commence proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint;
- (ii) The agency investigate the allegations of the complaint and complete the investigation within the time-frame established by section 810(a)(1)(B)(iv) of the Act or comply with the notification requirements of section 810(a)(1)(C) of the Act;
- (iii) The agency make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. If the agency is unable to do so it shall notify the parties, in writing, of the reasons for not doing so;
- (iv) Any conciliation agreement arising out of conciliation efforts by the agency shall be an agreement between the respondent, the complainant, and the agency and shall require the approval of the agency;
- (v) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the agency determines that disclosure is not required to further the purposes of the law or ordinance.