

§ 3282.101

respect to information whose disclosure is requested, the PIA or SAA shall refer the matter to the Secretary within 5 days of the request for disclosure. If a PIA or SAA receives a request for disclosure of information related to this program, which information was submitted to the PIA or SAA prior to the effective date of these regulations, the PIA or SAA shall refer the request for nondisclosure and required information to the Secretary.

[41 FR 19852, May 13, 1976, as amended at 61 FR 10860, Mar. 15, 1996]

Subpart C—Rules and Rulemaking Procedures

§ 3282.101 Generally.

Procedures that apply to the formulation, issuance, amendment, and revocation of rules pursuant to the Act are governed by the Act, the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and part 10 of this title, except that the Secretary shall respond to a petition for rulemaking by an interested party within 180 days of receipt of the petition.

[61 FR 10860, Mar. 15, 1996]

§ 3282.111 Petitions for reconsideration of final rules.

(a) *Definition.* A petition for reconsideration of a final rule issued by the Secretary is a request in writing from any interested person which must be received not later than 60 days after publication of the rule in the FEDERAL REGISTER. The petition shall state that it is a petition for reconsideration of a final rule, and shall contain an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. If the petitioner requests the consideration of additional facts, the petitioner shall state the reason they were not presented to be treated as petitions for rulemaking.

(b) *Proceedings on petitions for reconsideration.* The Secretary may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Secretary may issue a final decision on reconsideration without further proceeding, or may provide such opportunity to submit comments

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or information and data as the Secretary deems appropriate.

(c) Unless the Secretary determines otherwise, the filing of a petition under this section does not stay the effectiveness of the rule in question.

(d) Any party seeking to challenge any rule or regulation issued under the Act, except orders issued under section 604 42 U.S.C. 5403, if the challenge is brought before the expiration of the 60 day period set out in paragraph (a) of this section, shall file a timely petition for reconsideration under this section prior to seeking any other remedy.

§ 3282.113 Interpretative bulletins.

When appropriate, the Secretary shall issue interpretative bulletins interpreting the standards under the authority of § 3280.9 of this chapter or interpreting the provisions of this part. Issuance of interpretative bulletins shall be treated as rulemaking under this subpart C unless the Secretary deems such treatment not to be in the public interest and the interpretation is not otherwise required to be treated as rulemaking. All interpretative bulletins shall be indexed and made available to the public at the Manufactured Housing Standards Division and a copy of the index shall be published periodically in the FEDERAL REGISTER.

[61 FR 10860, Mar. 15, 1996]

Subpart D—Informal and Formal Presentations of Views, Hearings and Investigations

§ 3282.151 Applicability and scope.

(a) This subpart sets out procedures to be followed when an opportunity to present views provided for in the Act is requested by an appropriate party. Section 3282.152 provides for two types of procedures that may be followed, one informal and nonadversary, and one more formal and adversary. Section 3282.152 also sets out criteria to govern which type of procedure will be followed in particular cases.

(b) The procedures of § 3282.152 also apply to:

(1) Proceedings held by the Secretary whenever the suspension or disqualification of a primary inspection agency, which has been granted final approval, is recommended under § 3282.356 of these regulations, and

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under § 3282.361 that a manufactured home design does or does not conform to the standards or that a quality assurance manual is or is not adequate with a decision by an IPIA to red tag or not to red tag or to provide or not to provide a certification label for a manufactured home under § 3282.362 when the IPIA believes that the manufactured home does or does not conform to the standards.

(c) The procedures set out in § 3282.152 shall also be followed whenever State Administrative Agencies hold Formal or Informal Presentations of Views under § 3282.309.

(d) To the extent that these regulations provide for Formal or Informal Presentations of Views for parties that would otherwise qualify for hearings under 24 CFR part 24, the procedures of 24 CFR part 24 shall not be available and shall not apply.

[41 FR 19852, May 13, 1976, as amended at 51 FR 34467, Sept. 29, 1986; 61 FR 10442, Mar. 13, 1996]

§ 3282.152 Procedures to present views and evidence.

(a) *Policy.* All Formal and Informal Presentations of Views under this subpart shall be public, unless, for good cause, the Secretary determines it is in the public interest that a particular proceeding should be closed. If the Secretary determines that a proceeding should be closed, the Secretary shall state and make publicly available the basis for that determination.

(b) *Request.* Upon receipt of a request to present views and evidence under the Act, the Secretary shall determine whether the proceeding will be a Formal or an Informal Presentation of Views, and shall issue a notice under paragraph (c) of this section.

(c) *Notice.* When the Secretary decides to conduct a Formal or an Informal Presentation of Views under this

section, the Secretary shall provide notice as follows:

(1) Except where the need for swift resolution of the question involved prohibits it, notice of a proceeding hereunder shall be published in the FEDERAL REGISTER at least 10 days prior to the date of the proceeding. In any case, notice shall be provided to interested persons to the maximum extent practicable. Direct notice shall be sent by certified mail to the parties involved in the hearing.

(2) The notice, whether published or mailed, shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the proceeding will be held; a statement of the subject matter of the proceeding, the parties and issues involved; and a statement of the manner in which interested persons shall be afforded the opportunity to participate in the hearing.

(3) The notice shall designate the official who shall be the presiding officer for the proceedings and to whom all inquiries should be directed concerning such proceedings.

(4) The notice shall state whether the proceeding shall be held in accordance with the provisions of paragraph (f)—(Informal Presentation of Views) or paragraph (g)—(Formal Presentation of Views) of this section, except that when the Secretary makes the determinations provided for in sections 623 (d) and (f) of the Act, the requirements of paragraph (g) of this section shall apply. In determining whether the requirements of paragraph (f) or those of paragraph (g) of this section shall apply the Secretary shall consider the following:

(i) The necessity for expeditious action;

(ii) The risk of injury to affected members of the public;

(iii) The economic consequences of the decisions to be rendered; and

(iv) Such other factors as the Secretary determines are appropriate.

(d) *Department representative.* If the Department is to be represented by Counsel, such representation shall be by a Department hearing attorney designated by the General Counsel.

(e) *Reporting and transcription.* Oral proceedings shall be stenographically