

findings and proposed decision and supporting brief or statement with the Assistant Secretary.

(3) The Assistant Secretary must review the recommended decision and, within 60 days of its issuance, issue his or her own decision.

(c) If the Assistant Secretary concludes:

(1) In the case of a hearing pursuant to sections 122, 127, or 142 of the Act, that a State plan or the activities of the State's Protection and Advocacy System does not comply with Federal requirements, he or she shall also specify whether the State's payment or allotment for the fiscal year will not be authorized for the State or whether, in the exercise of his or her discretion, the payment or allotment will be limited to the parts of the State plan or the activities of the State's Protection and Advocacy System not affected by the noncompliance.

(2) In the case of a hearing pursuant to section 127 of the Act that the State is not complying with the requirements of the State plan, he or she must also specify whether the State's payment or allotment will not be made available to the State or whether, in the exercise of his or her discretion, the payment or allotment will be limited to the parts of the State plan not affected by such noncompliance. The Assistant Secretary may ask the parties for recommendations or briefs or may hold conferences of the parties on these questions.

(d) The decision of the Assistant Secretary under this section is the final decision of the Secretary and constitutes "final agency action" within the meaning of 5 U.S.C. 704 and the "Secretary's action" within the meaning of Section 129 of the Act (42 U.S.C. 6029). The Assistant Secretary's decision must be promptly served on all parties and amici.

[49 FR 11779, Mar. 27, 1984, as amended at 52 FR 44847, Nov. 20, 1987; 61 FR 51162, Sept. 30, 1996]

**§ 1386.112 Effective date of decision by the Assistant Secretary.**

(a) If, in the case of a hearing pursuant to section 122 of the Act, the Assistant Secretary concludes that a State plan does not comply with Fed-

eral requirements, and the decision provides that the payment or allotment will be authorized but limited to parts of the State plan not affected by such noncompliance, the decision must specify the effective date for the authorization of the payment or allotment.

(b) In the case of a hearing pursuant to sections 127 or 142 of the Act, if the Assistant Secretary concludes that the State is not complying with the requirements of the State plan or the activities of the State's Protection and Advocacy System do not comply with Federal requirements, the decision that further payments or allotments will not be made to the State, or will be limited to the parts of the State plan or activities of the State's Protection and Advocacy System not affected, must specify the effective date for withholding payments of allotments.

(c) The effective date may not be earlier than the date of the decision of the Assistant Secretary and may not be later than the first day of the next calendar quarter.

(d) The provision of this section may not be waived pursuant to § 1386.84.

[49 FR 11779, Mar. 27, 1984, as amended 61 FR 51162, Sept. 30, 1996]

**PART 1387—PROJECTS OF NATIONAL SIGNIFICANCE**

AUTHORITY: 42 U.S.C. 6000 et. seq.

**§ 1387.1 General requirements.**

(a) All projects funded under this part must be of national significance and serve or relate to individuals with developmental disabilities to comply with section 162 of the Act.

(b) Based on section 162(d), proposed priorities for grants and contracts will be published in the FEDERAL REGISTER and a 60 day period for public comments will be allowed.

(c) The requirements concerning format and content of the application, submittal procedures, eligible applicants and final priority areas will be published in program announcements in the FEDERAL REGISTER.

(d) Projects of National Significance, including technical assistance and data