

(b)(1) The Assistant Secretary may request the petitioner for additional facts and may take such other actions as are considered appropriate such as:

(i) Publishing the petition for public comment;

(ii) Holding informal discussion on the issues raised by the petition with the State and other persons affected; or

(iii) Holding an informal hearing in accordance with §1902.13 of this chapter.

(2) Any such petition shall be considered and acted upon within a reasonable time. Prompt notice shall be given of the denial in whole or in part of any petition and the notice shall be accompanied by a brief statement of the grounds for the denial. A denial of a petition does not preclude future action on those issues or any other issues raised regarding a State plan.

Subpart B—Notice of Formal Proceeding

§1955.10 Publication of notice of formal proceeding.

(a) The Assistant Secretary, prior to any notice of a formal proceeding under this subpart, shall by letter, provide the State with an opportunity to show cause within 45 days why a proceeding should not be instituted for withdrawal of approval of a plan or any portion thereof. When a State fails to show cause why a formal proceeding for withdrawal of approval should not be instituted, the State shall be deemed to have waived its right to a formal proceeding under paragraph (b) of this section and the Assistant Secretary shall cause to be published in the FEDERAL REGISTER a notice of withdrawal of approval of the State plan.

(b)(1) Whenever the Assistant Secretary, on the basis of a petition under §1955.5 or on his own initiative, determines that approval of a State plan or any portion thereof should be withdrawn, and the State has not waived its right under §1955.3(b) or paragraph (a) of this section to a formal proceeding, he shall publish a notice of proposed withdrawal in the FEDERAL REGISTER as set out in §1955.11 and cause such notice, in the form of a complaint, to be

served on the State in accordance with §1955.15.

(2) Not later than 5 days following the publication of the notice in the FEDERAL REGISTER, the State agency shall publish, or cause to be published, within the State reasonable notice containing a summary of the information in the Federal notice, as well as the location or locations where a copy of the full notice is available for inspection and public copying.

(3) Two copies of such notice shall be served on the Assistant Secretary in accordance with §1955.15.

(c) Not less than 30 days following publication of the notice in the FEDERAL REGISTER, the State shall submit a statement of those items in the notice which are being contested and a brief statement of the facts relied upon, including whether the use of witnesses is intended. This statement shall be served on the Assistant Secretary in accordance with §1955.15. When a State fails to respond to the notice of proposed withdrawal under paragraph (b)(1) of this section, the State shall be deemed to have waived its right to a formal proceeding and the Assistant Secretary shall cause to be published in the FEDERAL REGISTER a notice of withdrawal of approval.

§1955.11 Contents of notice of formal proceeding.

(a) A notice of a formal proceeding published under §1955.10 shall include:

(1) A statement on the nature of the proceeding and addresses for filing all papers;

(2) The legal authority under which the proceeding is to be held;

(3) A description of the issues and the grounds for the Assistant Secretary's proposed withdrawal of approval;

(4) A specified period, generally not less than 30 days after publication of the notice in the FEDERAL REGISTER, for the State to submit a response to the statement of issues in the notice;

(5) A provision for designation of an administrative law judge under 5 U.S.C. 3105 to preside over the proceeding.

(b) A copy of the notice of the proceeding stating the basis for the Assistant Secretary's determination that approval of the plan, or any portion