

## § 101.81 Appeals.

(a) Any person whose request for adjustment or exception was denied by the Secretary or the Secretary's designated representative under § 101.80, may appeal to the Secretary who, through the Secretary's designated representative, shall review and reconsider the denial.

(b)(1) Except as provided in paragraph (b)(2) of this section, an appeal must be received by the Secretary no later than 45 business days after receipt of a written notice of denial. After this 45-business day period, an appeal may be accepted at the discretion of the Secretary.

(2) For requests for adjustment or exception involving rated orders placed for the purpose of emergency preparedness (see § 101.33(e)), an appeal must be received by the Secretary, no later than 15 business days after receipt of a written notice of denial. Contract performance under the order shall not be stayed pending resolution of the appeal.

(c) Each appeal must be in writing and contain a complete statement of all the facts and circumstances related to the action appealed from and a full and precise statement of the reasons the decision should be modified or reversed.

(d) In addition to the written materials submitted in support of an appeal, an appellant may request, in writing, an opportunity for an informal hearing. This request may be granted or denied at the discretion of the Secretary or the Secretary's designated representative.

(e) When a hearing is granted, the Secretary may designate an HHS employee to act as the Secretary's representative and hearing officer to conduct the hearing and to prepare a report. The hearing officer shall determine all procedural questions and impose such time or other limitations deemed reasonable. In the event that the hearing officer decides that a printed transcript is necessary, all expenses shall be borne by the appellant.

(f) When determining an appeal, the Secretary may consider all information submitted during the appeal as well as any recommendations, reports, or other relevant information and documents available to HHS or consult with any other persons or groups.

(g) The submission of an appeal under this section shall not relieve any person from the obligation of complying with the provision of this part or official action in question while the appeal is being considered unless such relief is granted in writing by the Secretary.