

## § 1150.1

## 36 CFR Ch. XI (7–1–05 Edition)

### Subpart D—Time

- 1150.31 Computation.
- 1150.32 Extension of time or postponement.

### Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

- 1150.41 Informal resolution.
- 1150.42 Citations.
- 1150.43 Answers.
- 1150.44 Amendments.
- 1150.45 Request for hearing.
- 1150.46 Motions.
- 1150.47 Disposition of motions and petitions.
- 1150.48 PER: Citation, answer, amendment.

### Subpart F—Responsibilities and Duties of Judge

- 1150.51 Who presides.
- 1150.52 Authority of judge.
- 1150.53 Disqualification of judge.

### Subpart G—Prehearing Conferences and Discovery

- 1150.61 Prehearing conference.
- 1150.62 Exhibits.
- 1150.63 Discovery.

### Subpart H—Hearing Procedures

- 1150.71 Briefs.
- 1150.72 Purpose of hearing.
- 1150.73 Testimony.
- 1150.74 Exclusion of evidence.
- 1150.75 Objections.
- 1150.76 Exceptions.
- 1150.77 Official notice.
- 1150.78 Public documents.
- 1150.79 Offer of proof.
- 1150.80 Affidavits.
- 1150.81 Consolidated or joint hearing.
- 1150.82 PER proceedings.

### Subpart I—The Record

- 1150.91 Record for decision.
- 1150.92 Official transcript.

### Subpart J—Posthearing Procedures; Decisions

- 1150.101 Posthearing briefs; proposed findings.
- 1150.102 Decision.
- 1150.103 PER: Posthearing briefs, decision.
- 1150.104 Judicial review.
- 1150.105 Court enforcement.

### Subpart K—Miscellaneous Provisions

- 1150.111 Ex parte communications.
- 1150.112 Post-order proceedings.
- 1150.113 Amicable resolution.
- 1150.114 Effect of partial invalidity.

AUTHORITY: 29 U.S.C. 792, as amended.

SOURCE: 45 FR 78474, Nov. 25, 1980, unless otherwise noted.

### Subpart A—General Information

#### § 1150.1 Purpose.

*Purpose.* The purpose of the regulations in this part is to implement section 502(b)(1) of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 792, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, section 118, 92 Stat. 2979, by establishing rules of procedure for public hearings which ensure compliance with standards issued under the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 *et seq.* (including standards of the U.S. Postal Service).

#### § 1150.2 Applicability: Buildings and facilities subject to guidelines and standards.

(a) *Definitions.* As used in this section, the term:

*Constructed or altered on behalf of the United States* means acquired by the United States through lease-purchase arrangement, constructed or altered for purchase by the United States, or constructed or altered for the use of the United States.

*Primarily for use by able-bodied military personnel* means expected to be occupied, used, or visited principally by military service personnel. Examples of buildings so intended are barracks, officers' quarters, and closed messes.

*Privately owned residential structure* means a single or multi-family dwelling not owned by a unit or subunit of Federal, state, or local government.

(b) *Buildings and facilities covered.* Except as provided in paragraph (c) of this section, the standards issued under the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 *et seq.* (including standards of the United States Postal Service) apply to any building or facility—

(1) The intended use for which either—

(i) Will require that such building or facility be accessible to the public, or

(ii) May result in employment or residence therein of physically handicapped persons; and

## Architectural and Transp. Barriers Compliance Board

## § 1150.4

(2) Which is—

(i) To be constructed or altered by or on behalf of the United States;

(ii) To be leased in whole or in part by the United States—

(A) After August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States; or

(B) On or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date;

(iii) To be financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if the building or facility may be subject to standards for design, construction, or alteration issued under the law authorizing the grant or loan; or

(iv) To be constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

(c) *Buildings and facilities not covered.* The standards do not apply to—

(1) Any privately owned residential structure, unless it is leased by the Federal government on or after January 1, 1977, for subsidized housing programs; or

(2) Any building or facility on a military installation designed and constructed primarily for use by military personnel.

(d) Any covered building or facility, as provided in this section, which is designed, constructed, or altered after the effective date of a standard issued which is applicable to the building or facility, shall be designed, constructed, altered, or leased in accordance with the standard. For purposes of this section, any design, construction, alteration or lease for which bids or offers are received before the effective date of an applicable standard, in response to an invitation for bids or request for proposals, is not subject to that standard.

### § 1150.3 Policy of amicable resolution.

The policy of the Architectural and Transportation Barriers Compliance Board is to maximize the accessibility and usability of buildings, and facili-

ties through amicable means. To this end, the Architectural and Transportation Barriers Compliance Board encourages voluntary and informal resolution of all complaints.

### § 1150.4 Definitions.

*A&TBCB* means the Architectural and Transportation Barriers Compliance Board.

*Agency* means Federal department, agency, or instrumentality as defined in sections 551(1) and 701(b)(1) of title 5 U.S.C., or an agency official authorized to represent the agency. It includes any executive department or independent establishment in the Executive Branch of the government, including wholly owned government corporations, and any establishment in the legislative or judicial branch of the government, except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction.

*Alteration* means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts, and extraordinary repairs. It does not include normal maintenance, reroofing, interior decoration, or changes to mechanical systems.

*Architectural Barriers Act* means the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 *et seq.*

*Building or facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property.

*Chair* means the Chair of the A&TBCB.

*Complaint* means any written notice of an alleged violation, whether from an individual or organization, or other written information reasonably indicating to the Executive Director a violation of the standard.

*Construction* means any section of a new building or an addition to an existing building.

*Day* means calendar day.

*Executive Director* means the A&TBCB Executive Director.