

§ 1150.5

Extraordinary repair means the replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance.

Judge means an Administrative Law Judge appointed by the A&TBCB and assigned to the case in accordance with either section 3105 or 3314 of title 5 U.S.C.

PER means Provisional Expedited Relief.

Respondent means a party answering the citation, including PER Citation.

Section 502 of the Rehabilitation Act means section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 792, as amended.

Standard means any standard for accessibility and usability prescribed under the Architectural Barriers Act.

[53 FR 39473, Oct. 7, 1988]

§ 1150.5 Scope and interpretation of rules.

(a) These rules shall govern all compliance proceedings held before a judge and all alleged violations coming to the Executive Director as a complaint.

(b) In the absence of a specific provision in these rules, procedure shall be in accordance with the Administrative Procedure Act, subchapter II of chapter 5 and chapter 7, of title 5 U.S.C., and the Federal Rules of Civil Procedure, in that order.

(c) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of the Architectural Barriers Act and section 502 of the Rehabilitation Act.

(d) The rules shall be applied to secure fairness in administration and elimination of unjustifiable expense and delay and to ascertain the truth.

(e) Words importing the singular number may extend and be applied to a plural and vice versa.

§ 1150.6 Suspension of rules.

Upon notice to all parties, the judge, with respect to matters pending before him/her, may modify or waive any rule in these regulations upon determination that no party will be unduly prejudiced and that the end of justice will be served.

36 CFR Ch. XI (7-1-08 Edition)

Subpart B—Parties, Complainants, Participants

§ 1150.11 Parties.

(a) The term parties includes (1) any agency, state or local body, or other person named as a respondent in a notice of hearing or opportunity for hearing, (2) the Executive Director and (3) any person named as a party by order of the judge.

(b) The Executive Director has the sole authority to initiate proceedings by issuing a citation under § 1150.42, on the basis of (1) a complaint from any person or (2) alleged violations coming to his/her attention through any means.

§ 1150.12 Complainants.

(a) Any person may submit a complaint to the A&TBCB alleging that a building or facility does not comply with applicable standards issued under the Architectural Barriers Act. Complaints must be in writing and should be sent to: Executive Director, Architectural and Transportation Barriers Compliance Board, 1111 18th Street, Suite 501, Washington, DC 20036-3894.

A complaint form is available at the above address. Complaints may, but need not, contain (1) the complainant's name and where he/she may be reached, (2) the facility or building and, if known, the funding agency, and (3) a brief description of the barriers. A complaint form is available at the above address.

(b) The A&TBCB shall hold in confidence the identity of all persons submitting complaints unless the person submits a written authorization otherwise.

(c) The A&TBCB shall give or mail to the complainant a copy of these regulations.

(d) A complainant is not a party to the proceedings as a matter of course, but may petition the judge to participate under § 1150.13.

(e) The A&TBCB shall send the complainant a copy of the final order issued by the judge. The complainant has standing to obtain judicial review of that order.

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