refuses to comply with the require-
ments imposed by that section. Federal
financial assistance may be refused
under paragraph (c) of this section. The
Department is not required to provide
assistance during the pendency of the
administrative proceeding under such
paragraph (c), except where the assist-
ance is due and payable under a con-

(c) Termination of or refusal to grant or
to continue Federal financial assistance.
No order suspending, terminating, or
refusing to grant or continue Federal
financial assistance shall become effec-
tive until:

(1) The responsible civil rights offi-
cial has advised the applicant or recipi-
ent of its failure to comply and has de-
termined that compliance cannot be
secured by voluntary means;

(2) There has been an express finding
on the record, after opportunity for
hearing, of a failure by the applicant or
recipient to comply with a requirement
imposed under this part;

(3) The action has been approved by
the Secretary; and

(4) The expiration of 30 days after the
Secretary has filed with the commit-
tees of the House and Senate having
legislative jurisdiction over the pro-
gram or activity involved a full written
report of the circumstances and the
grounds for such action. Any action to
suspend or terminate, or to refuse to
grant or to continue Federal financial
assistance shall be limited to the par-
ticular political entity, or part thereof,
or other applicant or recipient as to
whom such a finding has been made
and shall be limited in its effect to the
particular program, or part thereof, in
which such noncompliance has been so
found.

(d) Notice to State or local government.
Whenever the Secretary determines
that a State or unit of general local
government which is a recipient of
Federal financial assistance under title
I of the Housing and Community Devel-
opment Act of 1974, as amended (42
U.S.C. 5301–5318) has failed to comply
with a requirement of this part with
respect to a program or activity funded
in whole or in part with such assist-
ance, the Secretary shall notify the
Governor of the State or the chief exec-
utive officer of the unit of general local
government of the noncompliance and
shall request the Governor or the chief
executive officer to secure compliance.
The notice shall be given at least sixty
days before:

(1) An order suspending, terminating,
or refusing to grant or continue Fed-
eral financial assistance becomes effec-
tive under paragraph (c) of this section;
or

(2) Any action to effect compliance
by any other means authorized by law
shall be taken under paragraph (a) of this
section.

(e) Other means authorized by law. No
action to effect compliance by any
other means authorized by law shall be
taken until:

(1) The responsible civil rights offi-
cial has determined that compliance
cannot be secured by voluntary means;

(2) The recipient or other person has
been notified of its failure to comply
and of the action to be taken to effect
compliance; and

(3) At least 10 days have elapsed since
the mailing of such notice to the appli-
cant or recipient. During this period,
additional efforts shall be made to per-
suade the applicant or recipient to
comply with this part and to take such
corrective action as may be appro-
priate.

However, this paragraph shall not be
construed to prevent an award official
from utilizing appropriate procedures
and sanctions established under the
program to assure or secure compli-
ance with a specific requirement of the
program designed to effectuate the ob-
jectives of this part.

§ 8.58 Hearings.

(a) Opportunity for hearing. Whenever
an opportunity for a hearing is re-
quired by § 8.57(c), reasonable notice
shall be given by registered or certified
mail, return receipt requested, to the
affected applicant or recipient. This
notice shall advise the applicant or re-
cipient of the action proposed to be
taken, the specific provision under
which the proposed action against it is
to be taken, and the matters of fact or
law asserted as the basis for this ac-
tion. The notice shall:

§ 8.58 Hearings.

(a) Opportunity for hearing. Whenever
an opportunity for a hearing is re-
quired by § 8.57(c), reasonable notice
shall be given by registered or certified
mail, return receipt requested, to the
affected applicant or recipient. This
notice shall advise the applicant or re-
cipient of the action proposed to be
taken, the specific provision under
which the proposed action against it is
to be taken, and the matters of fact or
law asserted as the basis for this ac-
tion. The notice shall:

§ 8.58 Hearings.

(a) Opportunity for hearing. Whenever
an opportunity for a hearing is re-
quired by § 8.57(c), reasonable notice
shall be given by registered or certified
mail, return receipt requested, to the
affected applicant or recipient. This
notice shall advise the applicant or re-
cipient of the action proposed to be
taken, the specific provision under
which the proposed action against it is
to be taken, and the matters of fact or
law asserted as the basis for this ac-
tion. The notice shall:
(1) Fix a date not less than 20 days after the date of the notice for the applicant or recipient to request the administrative law judge to schedule a hearing, or

(2) Advise the applicant or recipient that the matter has been scheduled for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set is a waiver of the right to a hearing under §8.57(c) and consent to the making of a decision on the basis of available information.

(b) Hearing procedures. Hearings shall be conducted in accordance with 24 CFR part 180.


PART 9—ENFORCEMENT OF NON-DISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec.
9.101 Purpose.
9.102 Applicability.
9.103 Definitions.
9.110 Self-evaluation.
9.111 Notice.
9.112-9.129 [Reserved]
9.130 General prohibitions against discrimination.
9.131 Direct threat.
9.132-9.139 [Reserved]
9.140 Employment.
9.141-9.148 [Reserved]
9.149 Program accessibility: discrimination prohibited.
9.150 Program accessibility: existing facilities.
9.151 Program accessibility: new construction and alterations.
9.152 Program accessibility: alterations of Property Disposition Program multifamily housing facilities.
9.153 Distribution of accessible dwelling units.
9.154 Occupancy of accessible dwelling units.
9.155 Housing adjustments.
9.160 Communications.
9.170 Compliance procedures.

SOURCE: 59 FR 31047, June 16, 1994, unless otherwise noted.

§ 9.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 9.102 Applicability.

This part applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with disabilities in the United States.

§ 9.103 Definitions.

For purposes of this part:
Accessible: (1) When used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, complies with applicable accessibility standards and can be approached, entered, and used by individuals with physical disabilities. The phrase “accessible to and usable by” is synonymous with accessible.

(2) When used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route and, when designed, constructed, altered or adapted, complies with applicable accessibility standards and can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in §9.151 is “accessible” within the meaning of this definition. When a unit in an existing facility which is