

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 100

[Docket No. FR-5006-P-01]

RIN 2529-AA92

Design and Construction Requirements; Compliance With ANSI A117.1 Standards

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's regulations with respect to the design and construction requirements of the Fair Housing Act and its amendments by updating and clarifying the references to the American National Standards Institute (ANSI) building standard for accessibility and by codifying the current HUD recognized safe harbors under the Act. The ANSI A117.1 standard is the technical standard for the design of facilities that are accessible to persons with disabilities, including housing facilities, and is commonly referred to as "ANSI A117.1." The ANSI A117.1 standard is referenced in the 1988 amendments to the Fair Housing Act. Compliance with ANSI A117.1 satisfies the accessibility requirements of the Fair Housing Act and its amendments. This proposed rule would update the references to the ANSI A117.1 to adopt the 2003 edition of the standard. This proposed rule would also clarify that compliance with the appropriate requirements of the 1986, 1992, and 1998 editions also remains sufficient to meet the design and construction requirements of the Fair Housing Act and its amendments.

DATES: *Comment Due Date:* September 17, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Communications should refer to the above docket number and title.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely

receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Cheryl Kent, Special Advisor for Disability Policy, Office of Enforcement, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-2000; telephone number (202) 708-2333 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*) (the Fair Housing Act) prohibits discrimination in housing and housing-related transactions based on race, color, religion, national origin, and sex. The Fair Housing Amendments Act of 1988 expanded the coverage of the Fair Housing Act to include families with children and persons with disabilities.¹ The Fair Housing Act now provides that

¹ The Fair Housing Act refers to people with "handicaps." Subsequently, in the Americans with Disabilities Act of 1990 and other legislation, Congress adopted the term "persons with disabilities" or "disability," which is the preferred usage. Accordingly, this document hereinafter uses the terms "persons with disabilities," "disability," or "disabled," unless directly quoting the Fair Housing Act.

unlawful discrimination against persons with disabilities includes the failure to design and construct covered multifamily dwellings for first occupancy after March 13, 1991, in a manner that "(1) the public and common use portions of such dwellings are readily accessible to and usable by handicapped persons; (2) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and (3) all premises within such dwellings contain the following features of adaptive design: (a) An accessible route into and through the dwelling; (b) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (c) reinforcements in bathroom walls to allow later installation of grab bars; and (d) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space." Additionally, the Fair Housing Act states that compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the above-listed requirements.

On January 23, 1989 (54 FR 3232), HUD published its final regulation implementing the Fair Housing Amendments Act of 1988. In the final regulation, HUD adopted the 1986 edition of ANSI A117.1, which was the most recent edition in effect at that time, as the appropriate edition for acceptable compliance with the Fair Housing Act. HUD's regulation adopting ANSI A117.1 is located at 24 CFR 100.201. HUD's regulations implementing the design and construction requirements are located at 24 CFR 100.205.

II. This Proposed Rule

A. Updated ANSI A117.1 References Adopting 2003, 1998, and 1992 Editions

This proposed rule would update the references to ANSI A117.1 to adopt the appropriate requirements in the 2003, 1998, and 1992 editions as satisfying the design and construction requirements of the Fair Housing Act. Since HUD published its 1989 final rule implementing the Act and referencing the 1986 edition of ANSI A117.1-1986, three subsequent editions of ANSI A117.1 have been published—in 1992, 1998, and 2003. The Council of American Building Officials (CABO) published the 1992 edition, and the International Code Council (ICC)

published the 1998 and 2003 editions. These three latest editions are referred to as ICC/ANSI A117.1–2003, ICC/ANSI A117.1–1998, and CABO/ANSI A117.1–1992. Both the 1998 and 2003 editions of ANSI contain requirements for various types of units containing accessible features: Accessible Units (which are not limited to dwelling units), Type A Dwelling Units, Type B Dwelling Units, and Dwelling Units with Accessible Communication Features. The Type B dwelling unit is intended to comply with those features of accessible and adaptable design required by the Fair Housing Act. Accessible units and Type A dwelling units provide for a stricter degree of accessibility than is required by the Fair Housing Act and, as such, would meet the requirements of the Fair Housing Act as long as the scoping requirements in the Fair Housing Act, HUD's regulations, and HUD's Fair Housing Accessibility Guidelines ("Guidelines") also are met. However, the Fair Housing Act does not require compliance with Accessible units or with Type A dwelling units.

In 1999 and 2004, and, more recently, in 2006, HUD reviewed certain model building codes to determine if those codes meet the design and construction requirements set forth in the Fair Housing Act, HUD's Fair Housing Act regulations ("regulations"), and the Guidelines. In conjunction with these reviews, HUD reviewed the 1992, 1998, and 2003 editions of ANSI A117.1. On March 23, 2000 (65 FR 15740), HUD published its Final Report of HUD Review of Model Building Codes. In this report, HUD stated that it reviewed the 1992 CABO/ANSI A117.1 and the 1998 ICC/ANSI A117.1 and determined that these editions provide at least the same level of accessibility as the 1986 edition of ANSI A117.1. HUD reiterated this view in its "Final Report of HUD Review of the Fair Housing Accessibility Requirements in the 2003 International Building Code" (70 FR 9738, published February 28, 2005), which uses the 1998 edition of ICC/ANSI A117.1. Both of these reports are available at <http://www.hud.gov/offices/fheo/disabilities/modelcodes/>. More recently, in connection with its review of the 2006 International Building Code (IBC), HUD reviewed the 2003 ICC/ANSI A117.1. A notice about this latter review is published elsewhere in today's edition of the **Federal Register**. As a result of this latter review, the Department believes that compliance with the appropriate technical requirements of ICC/ANSI A117.1–2003 satisfies the design and construction

requirements of the Fair Housing Act when used together with the Act, the Department's regulations, and the Fair Housing Accessibility Guidelines for the scoping requirements. As noted in the Department's earlier reports referenced above, the Department has determined that compliance with ICC/ANSI A117.1–1998, CABO/ANSI A117.1–1992, or ANSI A117.1–1986 satisfies the design and construction requirements of the Fair Housing Act. These reports also indicate that because the ANSI A117.1 standard contains only technical criteria, designers and builders that are relying on the standard also need to consult the Fair Housing Act, the Department's implementing regulations, and the Fair Housing Accessibility Guidelines for the scoping criteria. Scoping criteria define when a building, element, or space must be accessible. Designers and builders also have the option of following one of the other HUD-recognized safe harbors. This option is discussed in more detail below.

B. HUD-Recognized Safe Harbors for Compliance With the Fair Housing Act's Design and Construction Requirements

Pursuant to publication of HUD's March 23, 2000, and February 28, 2005, reports, representatives from the building industry, code organizations, and advocacy groups requested technical assistance from the Department in developing code text changes for certain editions of the IBC, as well as in the development of a document that would compile housing-related code provisions in one document. Based on these requests, the Department has taken several steps, in addition to those discussed above, to effect code text changes to the IBC that will ensure that future editions of the IBC meet the accessibility requirements of the Fair Housing Act with respect to facilities subject to the Fair Housing Act. With the recognition of ICC/ANSI A117.1–2003 and the 2006 IBC as safe harbors, the Department currently recognizes ten safe harbors for compliance with the design and construction requirements of the Fair Housing Act. These documents are:

1. Fair Housing Accessibility Guidelines, March 6, 1991 (<http://www.hud.gov/offices/fheo/disabilities/fhefhag.cfm>), in conjunction with the June 28, 1994, Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines (<http://www.hud.gov/offices/fheo/disabilities/fhehasp.cfm>);
2. Fair Housing Act Design Manual ([\[destech/fairhousing.html\]\(http://www.huduser.org/publications/destech/fairhousing.html\)\), published by HUD in 1996 and updated in 1998;](http://www.huduser.org/publications/

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3. ANSI A117.1–1986, Accessible and Usable Buildings and Facilities, in conjunction with the Fair Housing Act (available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 90112), HUD's regulations, and the Guidelines for the scoping requirements;

4. CABO/ANSI A117.1–1992, Accessible and Usable Buildings and Facilities, in conjunction with the Fair Housing Act (<http://www.iccsafe.org>), HUD's regulations, and the Guidelines for the scoping requirements;

5. ICC/ANSI A117.1–1998, Accessible and Usable Buildings and Facilities, in conjunction with the Fair Housing Act (<http://www.iccsafe.org>), HUD's regulations, and the Guidelines for the scoping requirements;

6. ICC/ANSI A117.1–2003, Accessible and Usable Buildings and Facilities, in conjunction with the Fair Housing Act (<http://www.iccsafe.org>), HUD's regulations, and the Guidelines for the scoping requirements;

7. 2000 ICC Code Requirements for Housing Accessibility (CRHA), published by the International Code Council (ICC), October 2000 (<http://www.iccsafe.org>) (ICC has issued an errata sheet to the CRHA);

8. 2000 International Building Code, as amended by the 2001 Supplement to the International Building Code (2001 IBC Supplement);

9. 2003 International Building Code published by ICC (<http://www.iccsafe.org>), December 2002, with one condition: Effective February 28, 2005, HUD determined that the IBC 2003 is a safe harbor, conditioned upon ICC publishing and distributing a statement to jurisdictions and past and future purchasers of the 2003 IBC stating, "ICC interprets Section 1104.1, and specifically the Exception to Section 1104.1, to be read together with Section 1107.4, and that the Code requires an accessible pedestrian route from site arrival points to accessible building entrances, unless site impracticability applies. Exception 1 to Section 1107.4 is not applicable to site arrival points for any Type B dwelling units because site impracticability is addressed under Section 1107.7"; and

10. 2006 International Building Code, published by ICC (<http://www.iccsafe.org>)² in January 2006, with

² ICC's Web site includes information about the condition on the 2003 IBC at the following links: <http://www.iccsafe.org/news/nr/2005/index.html>; <http://www.iccsafe.org/government/news/>; and http://www.iccsafe.org/news/ePeriodicals/eNews/archive/ICCeNews_0305.html.

a January 31, 2007, erratum to correct the text missing from Section 1107.7.5 (see the Department's report on its review of this document elsewhere in today's **Federal Register**) and interpreted in accordance with the relevant 2006 IBC Commentary.

HUD's March 23, 2000, Final Report addresses HUD's policy with respect to the above safe harbors. If a state or locality has adopted one of the above documents without modification to the provisions that address the Fair Housing Act requirements, a building covered by the Act's design and construction requirements will be deemed compliant, provided: (1) The building is designed and constructed in accordance with plans and specifications approved during the building permitting process and (2) the building code official does not waive, incorrectly interpret, or misapply one or more of those requirements. However, neither the fact that a jurisdiction has adopted a code that conforms with the accessibility requirements of the Fair Housing Act, nor that construction of a building subject to the Fair Housing Act was approved under such a code, changes HUD's statutory responsibility to conduct an investigation, following receipt of a complaint from an aggrieved person, to determine whether the requirements of the Fair Housing Act have been met. Nor does either fact prohibit the Department of Justice from investigating whether violations of the Fair Housing Act's design and construction provisions may have occurred. The Fair Housing Act provides that: "determinations by a State or unit of general local government under paragraphs 5(A) and (B) shall not be conclusive in enforcement proceedings under this title."

HUD's investigation of an accessibility discrimination complaint under the Fair Housing Act typically involves a review of building permits, certificates of occupancy, and construction documents showing the design of the buildings and the site, and conduct of an on-site survey of the buildings and property. During the investigation, HUD investigators take measurements of relevant interior and exterior elements on the property. All parties to the complaint have an opportunity to present evidence concerning whether HUD has jurisdiction over the complaint, and whether the Act has been violated as alleged. In enforcing the design and construction requirements of the Fair Housing Act, a *prima facie* case may be established by proving a violation of HUD's Fair Housing Accessibility Guidelines. This *prima facie* case may

be rebutted by demonstrating compliance with a recognized, comparable, objective measure of accessibility. See Order on Secretarial Review, *U.S. Department of Housing and Urban Development and Montana Fair Housing, Inc. v. Brent Nelson*, HUD ALJ 05-068FH (September 21, 2006) (2006 WL 4540542). In making a determination as to whether the design and construction requirements of the Fair Housing Act have been violated, HUD uses the Fair Housing Act, the regulations, and the Guidelines, all of which reference the technical standards found in ANSI A117.1-1986.

It is the Department's position that the above-named documents represent safe harbors only when used in their entirety; that is, once a specific safe harbor document has been selected, the building in question should comply with all of the provisions in that document that address the Fair Housing Act design and construction requirements to ensure the full benefit of the safe harbor. The benefit of safe harbor status may be lost if, for example, a designer or builder chooses to select provisions from more than one of the above safe harbor documents or from a variety of sources, and will be lost if waivers of provisions are requested and obtained. A designer or builder taking this approach runs the risk of building an inaccessible property. While this does not necessarily mean that failure to meet all of the respective provisions of a specific safe harbor document will result in unlawful discrimination under the Fair Housing Act, designers and builders that choose to depart from the provisions of a specific safe harbor bear the burden of demonstrating that their actions result in compliance with the Act's design and construction requirements. HUD's purpose in recognizing a number of safe harbors for compliance with the Fair Housing Act's design and construction requirements is to provide a range of options that, if followed in their entirety during the design and construction phase without modification or waiver, will result in residential buildings that comply with the design and construction requirements of the Act.

This proposed rule therefore proposes to update the references to the ANSI A117.1 standard to adopt the 2003 edition, and to stipulate that compliance with the appropriate requirements of the 1998, 1992, and 1986 editions continues to satisfy the requirements of the Fair Housing Act. The proposed rule also updates the regulation to acknowledge all ten safe harbors currently recognized by HUD. This rule would not change either the scoping requirements or the

substance of the existing accessible design and construction requirements contained in the regulations, nor would the rule state that compliance with the 1986 ANSI standard is no longer appropriate. The appropriate requirements of the 1986, 1992, 1998, and 2003 editions of ANSI A117.1 would all constitute safe harbors for compliance with the accessibility requirements of the Fair Housing Act, when used together with the Act, HUD's regulations, and the Guidelines for the scoping requirements.

C. Request for Public Comment

While the Department's current position is outlined above, the Department is also interested in receiving public comments on the efficacy of continuing to recognize older editions of the ANSI A117.1 standard. The Department anticipates updating its Fair Housing Accessibility Guidelines to reference a newer edition of ANSI A117.1 for the technical requirements on how to make dwelling units and public and common use areas accessible. Once this happens, one option would be that buildings designed and constructed after the Guidelines are updated would need to meet the more recent edition of ANSI A117.1 specified in the Guidelines, with respect to technical criteria. Another option would be to stipulate that the two most recent editions would suffice to meet the Act's technical criteria, when used with the scoping requirements in the Act, HUD's regulations, and the Guidelines. Similarly, the Department seeks public comment on how long the Department should continue to recognize earlier editions of the IBC. The Department recognizes that a model building code is not enforceable until a state or local jurisdiction adopts the model building code. The Department also recognizes that the code adoption process takes time and is not carried out by state or local jurisdictions on the same timetable under which the model building code is updated. The Department neither wishes nor intends to create burdens for state and local governments, and welcomes and encourages comments from state and local building code jurisdictions on this matter.

D. Other Accessibility Standards

Nothing in the Fair Housing Act precludes a jurisdiction from adopting accessibility standards that provide a greater degree of accessibility than is required under the Fair Housing Act. In addition, residential properties may be subject to more than one accessibility standard. For example, when a residential property receives federal

financial assistance, it must also comply with the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and 24 CFR part 8. A complex that is covered by the Fair Housing Act may also be covered, in part, by the Americans with Disabilities Act (ADA), e.g., the rental office and any other place of public accommodation that is leased or used by persons other than the residents and their guests. This proposed rule would apply only to the accessibility requirements of the Fair Housing Act. Therefore, this proposed rule would not constitute a change in the requirements for compliance for federally funded facilities and dwelling units covered by Section 504 or the Architectural Barriers Act (ABA), which must comply with their respective regulatory requirements at 24 CFR part 8 and 24 CFR part 40, including the Uniform Federal Accessibility Standard (UFAS), the ADA, and the Department of Justice's regulations for the ADA. However, to the extent that the requirements of the Fair Housing Act apply to the same dwelling units that are subject to the requirements of Section 504, the ABA, or the ADA, the safe harbors for compliance outlined in this proposed rule shall be applied to those dwelling units that are subject to the Fair Housing Act, but shall not be applied to dwelling units covered by the stricter requirements of Section 504 and the ABA, or the ADA, where applicable.

III. Additional Information

A link to the Department's report of its review of the 2006 International Building Code, as well as the February 28, 2005 and March 23, 2000, reports, is located at <http://www.hud.gov/offices/fheo/disabilities/modelcodes/>. The Fair Housing Act, as amended in 1988, and the Fair Housing Accessibility Guidelines can also be obtained through links provided at this Web site. The Fair Housing Act regulations are located at http://www.access.gpo.gov/nara/cfr/waisidx_00/24cfr100_00.html. CABO/ANSI A117.1-1992, ICC/ANSI A117.1-1998, and ICC/ANSI A117.1-2003 are available for purchase at <http://www.iccsafe.org/e/category.html>. ANSI A117.1-1986 is available for purchase from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis on any rule subject to notice and comment rulemaking

requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would adopt the 2003 edition of ANSI A117.1 for purposes of defining technical standards for accessibility for covered multifamily dwellings. The proposed rule would also provide that compliance with the 1986 edition of ANSI A117.1 HUD previously adopted, as well as with the 1992 and 1998 editions of ANSI A117.1, would meet with the requirements of the Fair Housing Act and of HUD-recognized safe harbors. Small entities need not incur a significant economic impact, as small entities can still be in compliance with the requirements of the Fair Housing Act if they continue to use the 1986 ANSI A117.1 technical standard. Adopting the 2003 edition, as well as the 1992 and 1998 editions of the standard, may even alleviate a significant economic impact for small entities, as those entities may find compliance with more recent editions of the ANSI A117.1 standard to be less burdensome than compliance with the 1986 edition. The proposed rule would not impose an undue burden on small entities, as the rule would merely codify the use of more recent ANSI A117.1 standards as satisfying the design and construction requirements of the Fair Housing Act. Therefore, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Federalism Impact

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Environmental Impact

This proposed rule is a policy document that sets out fair housing and nondiscrimination standards. Accordingly, under 24 CFR 50.19(c)(3), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1531-1538) requires federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose, within the meaning of the UMRA, any federal mandates on any state, local, or tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for this program is 14.400.

List of Subjects in 24 CFR Part 100

Fair housing, Individuals with disabilities.

For the reasons stated in the preamble, HUD proposes to amend 24 CFR part 100 as follows:

PART 100—DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT

1. The authority for 24 CFR part 100 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3600-3620.

2. In § 100.201, revise the definitions of *Accessible*, *Accessible route*, *ANSI A117.1*, and *Building entrance on an accessible route* to read as follows:

§ 100.201 Definitions.

* * * * *

Accessible when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase *readily accessible to and usable by* is synonymous with *accessible*. A public or common use area that complies with the appropriate requirements of ICC/ANSI A117.1-2003 or a comparable standard is deemed *accessible* within the meaning of this paragraph. A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986, CABO/ANSI A117.1-1992, or ICC/ANSI

A117.1–1998 or a comparable standard is also deemed accessible within the meaning of this paragraph.

Accessible route means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. A route that complies with the appropriate requirements of ICC/ANSI A117.1–2003 or a comparable standard is an *accessible route*. A route that complies with the appropriate requirements of ANSI A117.1–1986, CABO/ANSI A117.1–1992, or ICC/ANSI A117.1–1998 or a comparable standard also is an *accessible route*.

ANSI A117.1 means the American National Standard for Accessible and Usable Buildings and Facilities. *ICC/ANSI A117.1–2003* means the 2003 edition of the American National Standard for Accessible Buildings and Facilities. *ICC/ANSI A117.1–1998* means the 1998 edition of the American National Standard for Accessible and Usable Buildings and Facilities. *CABO/ANSI A117.1–1992* means the 1992 edition of the American National Standard for Accessible and Usable Buildings and Facilities. “*ANSI A117.1–1986*” means the 1986 edition of the American National Standard for Buildings and Facilities—Providing Accessibility and Usability for Physically Handicapped People. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ICC/ANSI A117.1–2003, ICC/ANSI A117.1–1998, and CABO/ANSI A117.1–1992 may be obtained from the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041–3405. Copies of ANSI A117.1–1986 may be obtained from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112. Copies of the 1986, 1992, 1998, and 2003 editions

of ANSI A117.1 may be inspected at the Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001.

* * * * *

Building entrance on an accessible route means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ICC/ANSI A117.1–2003 or a comparable standard complies with the requirements, of this paragraph. A building entrance that complies with ANSI A117.1–1986, CABO/ANSI A117.1–1992, or ICC/ANSI A117.1–1998 also complies with the requirements of this paragraph.

* * * * *

3. Revise § 100.205(e) to read as follows:

§ 100.205 Design and construction requirements.

* * * * *

(e)(1) Compliance with the appropriate requirements of ICC/ANSI A117.1–2003 suffices to satisfy the requirements of paragraph (c)(3) of this section. Compliance with ANSI A117.1–1986, CABO/ANSI A117.1–1992, or ICC/ANSI A117.1–1998 also suffices to satisfy the requirements of paragraph (c)(3) of this section.

(2) The following also qualify as HUD-recognized safe harbors for compliance with the Fair Housing Act design and construction requirements:

(i) Fair Housing Accessibility Guidelines, March 6, 1991, in conjunction with the Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, June 28, 1994;

(ii) Fair Housing Act Design Manual, published by HUD in 1996, updated in 1998;

(iii) 2000 ICC Code Requirements for Housing Accessibility (CRHA), published by the International Code Council (ICC), October 2000 (with corrections contained in ICC-issued errata sheet), if adopted without

modification and without waiver of any of the provisions;

(iv) 2000 International Building Code (IBC), as amended by the 2001 Supplement to the International Building Code (2001 IBC Supplement), if adopted without modification and without waiver of any of the provisions intended to address the Fair Housing Act’s design and construction requirements;

(v) 2003 International Building Code (IBC), if adopted without modification and without waiver of any of the provisions intended to address the Fair Housing Act’s design and construction requirements, and conditioned upon the ICC publishing and distributing a statement to jurisdictions and past and future purchasers of the 2003 IBC stating, “ICC interprets Section 1104.1, and specifically, the Exception to Section 1104.1, to be read together with Section 1107.4, and that the Code requires an accessible pedestrian route from site arrival points to accessible building entrances, unless site impracticality applies. Exception 1 to Section 1107.4 is not applicable to site arrival points for any Type B dwelling units because site impracticality is addressed under Section 1107.7.”

(vi) 2006 International Building Code; published by ICC, January 2006, with the January 31, 2007, erratum to correct the text missing from Section 1107.7.5, if adopted without modification and without waiver of any of the provisions intended to address the Fair Housing Act’s design and construction requirements, and interpreted in accordance with the relevant 2006 IBC Commentary;

(3) Compliance with any other safe harbor recognized by HUD in the future and announced in the **Federal Register** will also suffice to satisfy the requirements of paragraphs (a) and (c) of this section.

* * * * *

Dated: June 18, 2007.

Kim Kendrick,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. E7–13886 Filed 7–17–07; 8:45 am]

BILLING CODE 4210–67–P