



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 100**

**[Docket No. FR-6138-P-01]**

**RIN 2529-AA99**

**Fair Housing Act Design and Construction Requirements;  
Adoption of Additional Safe Harbors**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend HUD's Fair Housing Act design and construction regulations by incorporating by reference the 2009 edition of International Code Council (ICC) Accessible and Usable Building and Facilities (ICC A117.1-2009) standard, as a safe harbor. The Accessible and Usable Buildings and Facilities standard is a technical standard for the design of facilities that are accessible to persons with disabilities. HUD proposes to determine that compliance with ICC A117.1-2009 satisfies the design and construction requirements of the Fair Housing Act and its amendments. This rule also proposes to designate the 2009, 2012, 2015 and 2018 editions of the International Building Code (IBC) as safe harbors under the Fair Housing Act. The IBC is a model building code and not law, but it has been adopted as law by various states and localities. The IBC provides minimum standards for public safety, health, and welfare as they are affected by building construction.

**DATES:** *Comment Due Date:* [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**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](http://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](http://www.regulations.gov) website 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 appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service, toll-free at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Lynn Grosso, Director, 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 Federal Information Relay Service, toll-free, at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Title VIII of the Civil Rights Act of 1968, as amended, (42 U.S.C. 3601 et seq.) (the “Fair Housing Act” or “Act”) prohibits discrimination in housing and housing-related transactions based on race, color, religion, national origin, sex, disability and familial status.<sup>1</sup> The Act provides, *inter alia*, that 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.” The Fair Housing Act does not contain specific technical design criteria that need to be followed to comply with the design and construction requirements. It does provide, however, that compliance with the appropriate requirements of the “American National Standard

---

<sup>1</sup> 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.

for buildings and facilities providing accessibility and usability for physically handicapped people (commonly referred to as ANSI A117.1), suffices to satisfy the requirements of [42 U.S.C. 3604(f)(3)(C)(iii)],” which states the Act’s design and construction requirements for the interiors of covered multifamily dwellings.

On November 7, 1988 (53 FR 44992), HUD published a proposed rule to implement the design and construction provisions of the Fair Housing Act, as amended. HUD’s proposed rule provided that “whenever ANSI A117.1 is used, the reference is to the most recently published edition of ANSI A117.1 as of the date bids for construction of a particular building are solicited.” Several commenters objected that an “open-ended” reference to future ANSI standards would represent an unlawful delegation of the Department’s rulemaking authority. According to these commenters, HUD should refer to a specific edition of the ANSI standards and should incorporate future editions only through rulemaking. As a result of these concerns, HUD’s Fair Housing Act final rule, published on January 23, 1989 (54 FR 3232), specifically stated that compliance with the appropriate requirements of ANSI A117.1–1986, the edition in effect at the time of the final rule, functions as a safe harbor and satisfies the technical requirements of the Act. HUD also stated that it would propose amending the definition of ANSI as future editions of ANSI A117.1 are published.

The Fair Housing Act directs HUD to “provide technical assistance to states and units of local government and other persons to implement [the design and construction requirements].” On March 6, 1991 (56 FR 9472), the Department published the “Final Fair Housing Accessibility Guidelines” which set forth specific technical guidance for designing covered multifamily dwellings to be consistent with the Act. Section I of the Guidelines states, “[t]hese guidelines are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair

Housing Act.” On June 24, 1994 (59 FR 33362), the Department published its “Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines.” The Department published a Fair Housing Act Design Manual (Design Manual) in 1996 that was reissued in 1998 with minor changes. The Design Manual is also a safe harbor for compliance with the Act.<sup>2</sup>

Since HUD published its Fair Housing Act final rule in 1989, the ANSI A117.1 accessibility standard has been updated several times. HUD, as a member of the A117 Committee that updates the A117.1 standard, participates in these updates. In addition, HUD, as part of its mandate to provide technical assistance to state and local governments to incorporate the design and construction requirements of the Act into their laws and procedures for review and approval of newly constructed multifamily dwellings, has periodically reviewed these updated standards. HUD published a final rule on October 24, 2008 (73 FR 63614) that incorporated by reference ICC/ANSI-2003 and clarified that compliance with the appropriate requirements of CABO/ANSI A117.1-1992 and ICC/ANSI-1998 continued to meet the design and construction requirements of the Fair Housing Act. See 24 CFR 100.201a(b)(1). As a result of HUD’s 2008 final rule, HUD’s current regulations specify that compliance with the appropriate requirements of ICC/ANSI A117.1-2003, ICC/ANSI A117.1-1998, CABO/ANSI A117.1-1992 and ANSI A117.1-1986 satisfy the Fair Housing Act’s accessibility requirements at subsection 804(f)(3)(C)(iii) of the Act. The 2008 final rule also updated the regulations to reference certain editions of the IBC as safe harbors for compliance with the accessibility requirements in the Fair Housing Act. HUD’s final rule codified these additional design and construction standards that HUD recognized as safe harbors at § 100.205(e).

---

<sup>2</sup> The Fair Housing Design Manual, August 1996, revised 1998, is available at <https://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>

## **II. This Proposed Rule**

This proposed rule would amend HUD's regulations with respect to the design and construction requirements of the Fair Housing Act by incorporating by reference the 2009 edition of International Code Council (ICC) Accessible and Usable Building and Facilities (ICC A117.1-2009)<sup>3</sup> as satisfying the design and construction requirements of the Fair Housing Act. This rule would not change either the scoping requirements or the substance of the existing accessible design and construction requirements contained in the Fair Housing Act or its regulation.

This proposed rule would also designate the 2009, 2012, 2015 and 2018 editions of the IBC as safe harbors under the Fair Housing Act. Unlike the Act, the IBC is a model building code, and not a law. It provides standards for public safety, health, and welfare as they are affected by building construction. The IBC is published by the ICC, which was formed to bring national uniformity to building codes. Representatives of three former national model code bodies joined together to develop what are now called the International Codes, or I-Codes. The IBC is a major volume of the I-Codes and contains provisions for accessibility designed to reflect the intent of the Act, the regulations, and the Guidelines. Compliance with the IBC or another model building code is not required unless mandated by a state or local jurisdiction. A jurisdiction may adopt a model building code in its entirety or with modifications.

With respect to housing, the IBC contains requirements for three different types of accessible units, which include sleeping units (when such units are used as a residence). The most accessible of these three types is an "Accessible Unit," which is wheelchair accessible and may be found in numerous types of residential buildings. A second level of accessibility is set forth in the requirements for "Type A" dwelling units. The IBC specifies that a percentage of

---

<sup>3</sup> Unlike prior versions of the American National Standard, the ICC A117.1-2009 does contain ANSI in its title.

“Type A” units must be provided containing a high level of accessibility, especially in kitchens and bathrooms, as well as some features of adaptability. The third level of accessibility is a “Type B” dwelling unit, which is a unit that is intended to comply with those features of accessible and adaptable design required under the Act. Like the Act, the requirements for Type B dwelling units apply to a greater number of dwelling units in a building, but the level of accessibility is less than that of the Type A dwelling units.

In addition, the IBC provides scoping requirements for the three types of dwelling units described above. The scoping requirements for the Type B dwelling units are intended to be consistent with the scoping requirements in the Act, the regulations, and the Guidelines. For the technical requirements, the IBC references the A117.1 accessibility standard. Thus, the IBC contains both scoping requirements and technical requirements that are consistent with the Act, the regulations and the Guidelines.

HUD is also proposing to amend § 100.205(e)(3) to provide that, in the future, HUD may propose new safe harbors by Federal Register notice. HUD would provide a minimum of 30 days public comment period and, after considering public comment, publish a final notice announcing any new safe harbor. HUD will periodically codify new safe harbors in part 100 in the course of later rulemaking. HUD proposes to provide that compliance with safe harbors established by Federal Register notice will satisfy the requirements of paragraphs (a) and (c) of § 100.205.

### **III. HUD’s Review of ICC A117.1-2009, and 2009, 2012, 2015 and 2018 IBC**

In 2013 and 2015, and most recently in 2018, representatives of the multifamily housing industry contacted the Department to request that HUD review the accessibility requirements contained in the 2009, 2012, 2015 and 2018 editions of the IBC to make a determination as to

whether these editions would be deemed safe harbors for compliance with the Act's design and construction requirements. These organizations also made this request with respect to ICC A117.1-2009, *Accessible and Usable Buildings and Facilities*. Based on assistance provided specifically by ICC in the past, the Department requested, and ICC provided, a side-by-side matrix comparing the relevant 2006 provisions of the IBC, which HUD had previously reviewed and declared as a safe harbor, with the 2009, 2012, 2015 and 2018 provisions in the IBC and related code documents. ICC also provided copies of the 2009, 2012, 2015 and 2018 IBC, related Code Commentary, and other relevant code documents. In addition, ICC provided a similar matrix for ICC/ANSI A117.1-2003 and ICC A117.1-2009, along with copies of ICC A117.1-2009 and related documents.

In conducting its review of these documents, the Department carefully reviewed the matrices provided by ICC, as well as the code documents and the accessibility standards. The Department determined that the accessibility provisions in the IBC and the ICC A117.1 standard provide at least the same level of accessibility as that required by the Act, HUD's implementing regulations, and the Guidelines.

The Department also notes that following its earlier reviews of the model building codes, the Department worked with representatives from the building industry, code organizations and advocacy groups to develop code text for certain editions of the IBC and participated in public hearings to aid in the passage of these code text changes. The Department is also a voting member of the A117 Committee, which is the Committee that reviews and makes changes to the A117.1 accessibility standard, and in this role, the Department has been actively involved in updating all editions of the A117.1 standard that have followed the 1986 edition.

Having reviewed the 2009, 2012, 2015 and 2018 editions of the IBC, the Department finds that the accessibility provisions in these editions of the IBC are consistent with the requirements in the Act, HUD's regulations and the Guidelines. The Department did not find any provision that it believes provides for less accessibility than what is required in the Act, the regulations and the Guidelines, and the Department notes that in certain respects, the IBC provides for greater accessibility. Similarly, in its review of the ICC A117.1-2009, the Department did not find any provisions that provide for less accessibility than what is required in the Act, HUD's regulations and the Guidelines. However, the Department welcomes comments concerning provisions that may provide for less accessibility than what is required in the Act, HUD's regulations and the Guidelines.

#### **IV. HUD-Recognized Safe Harbors for Compliance with the Fair Housing Act's Design and Construction Requirements and HUD Policy Regarding These Safe Harbors**

This proposed rule would amend § 100.205(e) to add ICC A117.1-2009, and the 2009, 2012, 2015 and 2018 versions of the IBC to HUD's current list of safe harbors for compliance with the design and construction requirements of the Fair Housing Act.

The Department reiterates its policy with respect to safe harbors. A covered multifamily building will be deemed compliant with the Act's design and construction requirements if the State or locality where the building is located has adopted one of HUD's safe harbors without modification of the provisions that address the Act's design and construction requirements, 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. The fact that a jurisdiction has adopted a code that conforms to the accessibility requirements of the Fair Housing Act or that construction of a building subject to the Act was approved under such a

code, however, does not alter 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 and to issue a charge of discrimination if warranted. Similarly, neither fact precludes the Department of Justice from investigating whether violations of the Act's design and construction provisions may have occurred and filing a lawsuit in federal court to enforcement compliance with the Act where appropriate. The Fair Housing Act provides that, "[d]eterminations by a State or unit of general local government under [the Act] shall not be conclusive in enforcement proceedings under this title." 42 USC 3604(f)(6)(a).

HUD's investigation of a complaint under the Fair Housing Act's design and construction requirements typically involves, *inter alia*, a review of building permits, certificates of occupancy, and construction documents showing the design of the buildings and the site, and an on-site survey of the buildings and property. During the investigation, HUD investigators take measurements of relevant interior and exterior elements of the property. All parties to the complaint have an opportunity to present evidence concerning, *inter alia*, 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 Act, a prima facie case may be established by proving that the covered multifamily dwellings were not designed and constructed in accordance with HUD's Fair Housing Accessibility Guidelines. This prima facie case may be rebutted by evidence demonstrating compliance with a recognized, comparable, objective measure of accessibility. *See* Order on Secretarial Review, *U.S. Dept. of Housing and Urban Development v. Nelson*, HUD ALJ 05-068FH, 2006 HUD ALJ LEXIS 56, \*14 (Sept. 21, 2006) (2006 WL 4540542), *aff'd*, *Nelson v. HUD*, 320 Fed. Appx. 635, 2009 US App. LEXIS 6142, \*4-5 (9th

Cir. Mar. 26, 2009). In making a determination as to whether the design and construction requirements of the Act have been violated, HUD uses the Act, the regulations, and the Guidelines, all of which reference the technical standards found in ANSI A117.1-1986.

The standards and codes adopted by HUD as safe harbors represent safe harbors only when used in their entirety; that is, once a specific safe harbor document has been selected, the covered multifamily dwellings in question should comply with all of the provisions in that document that address the Act's design and construction requirements. 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. In addition, the benefit of safe harbor status will be lost if waivers of accessibility provisions are requested and/or obtained from state or local governmental agencies. HUD's purpose in recognizing a number of safe harbors for compliance with the 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 Act's design and construction requirements.

As part of its review of the various editions of the IBC, the Department also reviewed the related IBC Commentary to determine whether certain commentary that the Department drafted for inclusion in the IBC Commentary continues to appear in the IBC Commentary from one edition to the next. The Department reviewed the IBC Commentary only in this respect and did not review the Commentary with respect to other sections of Chapter 11 of the IBC or to commentary not drafted by the Department. Therefore, the Department's review of the code commentary applies only to the code commentary the Department previously provided to ICC. The commentary which the Department previously provided to ICC is commentary that relates to

Exception 1 under Section 1107.4 of the IBC, which addresses requirements for an Accessible Route. This commentary is intended to ensure that the IBC's Accessible Route requirements do not provide for less accessibility than the Act's Accessible Route requirements. The Department reviewed the IBC Commentary for the 2009, 2012, 2015 and 2018 editions of the IBC and notes that this commentary is included and remains unchanged. For a detailed discussion of this commentary, see 72 Fed. Reg. 39432 (July 18, 2007).

## **V. Incorporation by Reference**

Before HUD issues a final rule, the referenced standard proposed for incorporation must be approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This rulemaking proposes to incorporate the voluntary consensus standard ICC A117.1-2009 Accessible and Usable Building and Facilities, as satisfying the design and construction requirements of the Fair Housing Act. It would not incorporate interpretations of ICC A117.1-2009 issued by the ICC or any other entity or person. The rulemaking also cannot account for editions of ICC A117.1 issued after the 2009 edition. Therefore, if HUD wishes to revise the standard in the future to codify newer editions of ICC A117.1, further rulemaking would be required.

ICC A117.1-2009 is available online for review during this rule's comment period, via read-only access, at [https://codes.iccsafe.org/content/ICCA117\\_12009?site\\_type=public](https://codes.iccsafe.org/content/ICCA117_12009?site_type=public). Members of the public may visit the link and create a username and password to view the free-access edition. The standard may also be obtained from the International Code Council, 500 New Jersey Avenue, NW., 6th Floor, Washington, DC 20001-2070, telephone number 1-888-422-7233, <http://www.iccsafe.org/e/category.html>.

## **VI. 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. Small entities include small businesses, small not-for-profit organizations, and small governmental jurisdictions.

The purpose of this proposed rule is to update a codified regulation that provides technical standards for the design of covered multifamily dwellings to ensure accessibility for persons with disabilities as required by the Fair Housing Act. Specifically, the rule would incorporate by reference the 2009 edition of ICC A117.1 as a safe harbor, compliance with which would satisfy the requirements of the Fair Housing Act. The proposed rule also retains as safe harbors the 1986, 1992, 1998 and 2003 editions of ANSI A117.1, as well as the 2000, 2003 and 2006 IBC, which HUD has previously adopted. In addition, the rule would add the 2009, 2012, 2015 and 2018 versions of the IBC as safe harbors. Consequently, small entities would not incur a significant economic impact as they may continue to use any of the previously codified standards. Additionally, adopting the 2009 ICC A117.1 and the other new safe harbors may alleviate a significant economic impact for small entities, as those entities may find compliance with these standards to be less burdensome because their state or local building codes may use these later editions of the A117.1 standard or the IBC. 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 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**

Aged, Fair housing, Incorporation by reference, Individuals with disabilities, Mortgages, Reporting and recordkeeping requirements.

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 A117.1-2009 (proposed for incorporation by reference, see § 100.201a), ICC/ANSI A117.1-2003 (incorporated by reference, see § 100.201a), ICC/ANSI A117.1-1998 (incorporated by reference, see § 100.201a), CABO/ANSI A117.1-1992 (incorporated by reference, see § 100.201a), ANSI A117.1-1986 (incorporated by reference, see § 100.201a) or a comparable standard is 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 A117.1-2009 (proposed for incorporation by reference, see § 100.201a), ICC/ANSI A117.1-2003 (incorporated by reference, see § 100.201a), ICC/ANSI A117.1-1998 (incorporated by reference, see § 100.201a), CABO/ANSI A117.1-1992 (incorporated by reference, see § 100.201a), ANSI A117.1-1986 (incorporated by reference, see § 100.201a) or a comparable standard is an “*accessible route*” within the meaning of this paragraph.

\* \* \* \* \*

“*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 A117.1-2009 (proposed for incorporation by reference, see § 100.201a), ICC/ANSI A117.1-2003 (incorporated by reference, see § 100.201a), ICC/ANSI A117.1-1998 (incorporated by reference, see § 100.201a), CABO/ANSI A117.1-1992 (incorporated by reference, see § 100.201a), ANSI A117.1-1986 (incorporated by reference, see § 100.201a) or a comparable standard is a “*building entrance on an accessible route*” within the meaning of this paragraph.

\* \* \* \* \*

**3. Revise § 100.201a to read as follows:**

**§ 100.201a Incorporation by reference.**

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5240, Washington, DC 20410-0001, telephone number 202-708-2333, and is available from the sources listed in the following paragraphs. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html). The effect of compliance with this material is as stated in 24 CFR 100.205.

(a) American National Standards Institute (ANSI), 25 W. 43rd Street, 4th Floor, New York, NY 10036, Telephone (212) 642-4980, ANSI Webstore, <https://webstore.ansi.org>.

(1) ANSI A117.1-1986, American National Standard for Buildings and Facilities: Providing Accessibility and Usability for Physically Handicapped People, 1986 edition, IBR approved for §§ 100.201, 100.205.

(2) [Reserved]

(b) International Code Council, 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor, Washington, DC 20001-2070, telephone number 1-888-422-7233, <http://www.iccsafe.org/e/category.html>.

(1) CABO/ANSI A117.1-1992, American National Standard: Accessible and Usable Buildings and Facilities, 1992 edition, IBR approved for §§ 100.201, 100.205.

(2) ICC/ANSI A117.1-1998, American National Standard: Accessible and Usable Buildings and Facilities, 1998 edition, IBR approved for §§ 100.201, 100.205.

(3) ICC/ANSI A117.1-2003, American National Standard: Accessible and Usable Buildings and Facilities, 2003 edition, IBR approved for §§ 100.201, 100.205.

(4) ICC A117.1-2009, American National Standard: Accessible and Usable Buildings and Facilities, 2009 edition, IBR approved for §§ 100.201, 100.205.

4. In § 100.205, revise paragraph (e)(1), add paragraphs (e)(2)(vii) through (x), and revise paragraph (e)(3), to read as follows:

**§ 100.205 Design and construction requirements.**

\* \* \* \* \*

(e)(1) Compliance with the appropriate requirements of ICC A117.1-2009 (proposed to be incorporated by reference, see § 100.201a), ICC/ANSI A117.1-2003 (incorporated by reference, see § 100.201a), ICC/ANSI A117.1-1998 (incorporated by reference, see § 100.201a), CABO/ANSI A117.1-1992 (incorporated by reference, see § 100.201a), or ANSI A117.1-1986 (incorporated by reference, see § 100.201a), or suffices to satisfy the requirements of paragraph (c)(3) of this section.

(2) \* \* \*

(vii) 2009 International Building Code, published by ICC (<http://www.iccsafe.org>), and interpreted in accordance with the relevant 2009 IBC Commentary;

(viii) 2012 International Building Code, published by ICC (<http://www.iccsafe.org>), and interpreted in accordance with the relevant 2012 IBC Commentary;

(ix) 2015 International Building Code, published by ICC (<http://www.iccsafe.org>), and interpreted in accordance with the relevant 2015 IBC Commentary; and

(x) 2018 International Building Code, published by ICC (<http://www.iccsafe.org>), and interpreted in accordance with the relevant 2018 IBC Commentary.

(3) HUD may propose safe harbors by *Federal Register* notice that provides for a minimum of 30 days public comment period. HUD will publish a final notice announcing safe harbors after considering public comments. Compliance with safe harbors established by *Federal Register* notice will satisfy the requirements of paragraphs (a) and (c) of this section.

\* \* \* \* \*

Dated: January 6, 2020

---

David H. Enzel  
General Deputy Assistant Secretary for  
Fair Housing and Equal Opportunity

**Billing Code: 4210-67**

[FR Doc. 2020-00233 Filed: 1/14/2020 8:45 am; Publication Date: 1/15/2020]