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Project Development ADA Field Implementation Americans with Disabilities Act (ADA) Requirements for Resurfacing Projects

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Pavement resurfacing projects must include curb ramps and other similar features to make pedestrian facilities accessible to everyone



ROADWAY CURBS



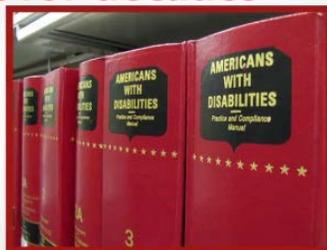
Roadway curbs can be an insurmountable barrier for people with physical impairments. Curbs make sidewalk travel difficult and dangerous for anyone using mobility aids, especially for a person in a wheelchair. Pedestrians need accessible routes in the public right-of-way, and laws require agencies to provide these routes.

Federal laws requiring provisions for equal access for people with disabilities have been in effect for decades. The 1968 Architectural Barriers Act, the 1973 Rehabilitation Act, the 1988 amendment to the Civil Rights Act, and the 1990 Americans with Disabilities Act, or ADA, have helped provide equal opportunity to safe and accessible transportation systems.

Title II of the ADA



Federal laws have been in effect for decades



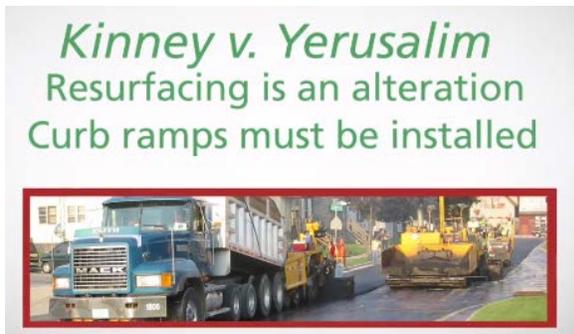
The Americans with Disabilities Act prohibits discrimination on the basis of disability in employment, government services, public accommodations, commercial facilities, and transportation. Title II of the ADA applies to all public entities, including all State departments of transportation and local public agencies within the United States and its territories.

Despite laws to provide accessible routes, pedestrians still face physical barriers to safe travel. Old roadways have not been

improved, and even newer facilities may not include fully accessible routes.



Accessibility laws and guidance require the installation of curb ramps or other modifications when a project alters a roadway. An alteration is a change that affects or could affect the usability of all or a part of a building or a facility. Alteration of roadways may include reconstruction, rehabilitation, and the widening of streets.



The United States Court of Appeals ruled in *Kinney v. Yerusalim* in 1993 that roadway pavement resurfacing constituted an alteration and that the installation of curb ramps is within the scope of such a project.



Resurfacing projects are not always simple asphalt overlays. Micro-surfacing, in-place asphalt recycling, and cape seals are

resurfacing treatments that trigger the ADA requirements for curb ramp accessibility.



Maintenance activities to keep facilities in good repair do not require accessibility modifications. Examples of pavement maintenance treatments are chip seals, crack filling, and pavement patching.

The United States Access Board provides standards and guidelines with the technical requirements for accessible pedestrian facilities. Curb ramp location, size, shape and detectable warning surfaces are critical details.



A curb ramp must be built in accordance with the standards to the maximum extent technically or physically feasible. Sometimes curb ramps cannot be fully compliant because of existing infrastructure, terrain characteristics, or environmentally sensitive areas. Agencies must document deviations from the standards, including the reasons why full compliance is not feasible.

Another challenge is that constructing proper curb ramps may add time and increase the cost of a resurfacing project. Good planning can mitigate the additional

time and resources required for ADA compliance.



One example of a community actively managing projects to meet the ADA requirements is the City of Auburn Plains. Auburn Plains planned a series of contracts for asphalt resurfacing of several streets.

To meet ADA requirements, Auburn Plains needed to install curb ramps.

The city had two options: it could include the curb ramps in the resurfacing contracts or issue a separate contract just for the installation of curb ramps. The city decided to issue a separate contract to a company with curb ramp installation expertise. By issuing a separate contract before the resurfacing project, the city was able to design and install curb ramps without affecting the primary work of resurfacing. The city received a better price and a better product.



The Americans with Disabilities Act and other nondiscrimination authorities require accessible routes for pedestrians in the public right-of-way. If your project alters a roadway, including the various forms of resurfacing, you are required to provide accessible curb ramps.

For more information about resurfacing projects ADA compliance, contact your state DOT or the FHWA Division Office.

Additional Resources

- USDOJ and USDOT Joint Technical Assistance on when curb ramps are required with resurfacing
http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm
- Glossary of Terms for resurfacing
http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta_glossary.cfm
- FHWA's Accessibility Resource Library
<http://www.fhwa.dot.gov/accessibility/index.cfm>
- U.S. Access Board's Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way
[Public Rights-of-Way Accessibility Guidelines \(PROWAG\) Notice of Proposed Rule Making, July 26, 2011](http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/ada-standards)
- Federal regulations containing ADA standards
<http://www.gpo.gov/fdsys/pkg/CFR-2012-title49-vol1/pdf/CFR-2012-title49-vol1-part37.pdf>
- U.S. Access Board's ADA standards
<http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/ada-standards>
- Questions and answers for ADA/Section 504
http://www.fhwa.dot.gov/civilrights/programs/ada_sect504qa.htm#q11

The content of this document is not a substitute for information obtained from State departments of transportation, appropriate FHWA Division Offices, and applicable laws. Scenarios have been simplified for emphasis and do not necessarily reflect the actual range of requirements applicable to the scenario or this topic. This document was created under contract number DTFH61-11-D-00026 by the Federal Highway Administration, U.S. Department of Transportation, and is offered to the public to heighten and focus awareness of Federal-aid requirements within the local public agencies community and reinforces the importance of these necessary policies, procedures, and practices.

This Companion Resource is the script content for the video production of the same name.