



# Kansas LTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Road & Bridge Agencies

## Alteration or Maintenance? Guidance on the Requirement to Add Curb Ramps



*The requirement to provide curb ramps varies depending on whether the road work is considered alteration or maintenance.*



Over the past few years, state and local governments have sought further guidance on the scope of the alterations requirement with respect to the provision of curb ramps when streets, roads or highways are being resurfaced. These questions have arisen largely due to the development of a variety of road surface treatments other than traditional road resurfacing, which generally involved the addition of a new layer of asphalt. Public entities have asked the Department of Transportation and the Department of Justice to clarify whether particular road surface treatments fall within the ADA definition of alterations, or whether they should be considered maintenance that would not trigger the obligation to provide curb ramps. The two Departments issued a joint technical assistance document to address some of those questions. This article is adapted from that document.

### Where must curb ramps be provided?

Generally, curb ramps are needed wherever a sidewalk or other pedestrian walkway crosses a curb. Curb ramps must be located to ensure a person with a mobility disability can travel from a sidewalk on one side of the street, over or through any curbs or traffic islands, to the sidewalk on the other side of

the street. However, the ADA does not require installation of ramps or curb ramps in the absence of a pedestrian walkway with a prepared surface for pedestrian use. Nor are curb ramps required in the absence of a curb, elevation, or other barrier between the street and the walkway.

### When is resurfacing considered to be an alteration?

Resurfacing is an alteration that triggers the requirement to add curb ramps if it involves work on a street or roadway spanning from one intersection to another, and includes overlays of additional material to the road surface, with or without milling.

Examples include, but are not limited to the following treatments or their equivalents:

- addition of a new layer of asphalt,
- reconstruction,
- concrete pavement rehabilitation and reconstruction,
- open-graded surface course,
- micro-surfacing and thin lift overlays,
- cape seals, and
- in-place asphalt recycling.

### What kinds of treatments constitute maintenance?

Treatments that serve solely to seal and protect the road surface, improve friction, and control splash and spray are considered to be maintenance because they do not significantly affect the public's access to or usability of the road.

Some examples of the types of treatments that would normally be considered maintenance are:

- painting or striping lanes,
- crack filling and sealing,
- surface sealing,
- chip seals,
- slurry seals,
- fog seals,
- scrub sealing,
- joint crack seals,
- joint repairs,
- dowel bar retrofit,



- spot high-friction treatments,
- diamond grinding, and
- pavement patching.

In some cases, the combination of several maintenance treatments occurring at or near the same time may qualify as an alteration and would trigger the obligation to provide curb ramps.

**What if a locality is not resurfacing an entire block, but is resurfacing a crosswalk by itself?**

Crosswalks constitute distinct elements of the right-of-way intended to facilitate pedestrian traffic. Regardless of whether there is curb-to-curb resurfacing of the street or roadway in general, resurfacing of a crosswalk also requires the provision of curb ramps at that crosswalk.

**For more information**

To learn more about the requirement for curb ramps, read the Source for this article, below, and also consult Chapter 6 in the *ADA Best Practices Tool Kit for State and Local Governments* at <http://www.ada.gov/pcatoolkit/chap6toolkit.htm> ■

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**Getting a First-Hand Experience of Accessibility Issues**



A consulting firm in Mississippi turned a problem into an opportunity to provide enlightening training about ADA requirements. The firm had a contractor that was struggling to meet current standards with sidewalk and ramp construction on a local roadway project. The firm decided that its inspectors and engineers would benefit from a training course on Public Rights-of-Way Accessibility Guidelines (PROWAG) to help them address some of the challenges faced by working with existing roadways. They opened their training to engineers in the Mississippi DOT and local road agencies.

Jonathan Kiser, who developed and teaches the course, consulted the state DOTs for Mississippi and Louisiana in how they were training their employees on changes between ADAAG and PROWAG. Both agencies were using a training series hosted by the Association of Pedestrian and Bicycle Professionals (APBP) in association with the U.S. Access Board. Kiser used this series as the basis of his course, with input from his local ADA Citizens Advisory Committee. Members of the committee also

participated in teaching the course, which included an exercise where class participants used wheelchairs to traverse sidewalks that have excessive cross slopes, significant changes in level, and intersecting grades that exceed the maximum allowed with current standards.

The wheelchair exercise was eye-opening for participants. As one attendee put it: "Knowing that it takes 50-percent more effort to use a wheelchair on a sidewalk with a 3-percent cross slope than on a 2-percent cross slope was very different than having to actually use a wheelchair on those slopes .... In the future, I will definitely remember the amount of effort it takes to use sidewalk ramps, traverse uneven seams and cracks in sidewalk panels, and to navigate around benches, newspaper stands, and garbage cans."

For more information on the accessibility training offered by APBP, go to <http://www.apbp.org/>

Source: Kiser, Jonathan. Putting Themselves in Their Wheels. ITE Journal. November 2013. Photo courtesy of the Jackson Mississippi Clarion-Ledger, Joe Ellis photographer.

Photo courtesy of The Clarion-Ledger / Joe Ellis

Source:

- Department of Justice/Department of Transportation Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing. July 8, 2013. <http://www.ada.gov/doj-fhwa-ta.htm>