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STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

September 3, 2013

MEMORANDUM

TO: Division Engineers

FROM: T. R. Gibson, PE
Chief Engineer

SUBJECT: ADA Curb Ramps for Resurfacing and Other Division Design Projects

The United States Department of Justice (USDOJ) and the Federal Highway Administration (FHWA) recently published the attached Briefing Memo regarding curb ramp additions or retrofits that are required for resurfacing type projects. Based on this joint ruling from USDOJ and FHWA, the following types of work require installation of new curb ramps and/or retrofit of existing, nonstandard curb ramps where applicable:

- Traditional resurfacing with plant mix asphalt (including mill and fill)
- Thin lift overlays to include OGAFC, Ultra-thin, SA-1, S4.75A, and Microsurfacing
- Hot in-place recycling
- Cape Seals (but not chip seals, slurry seals, or fog seals)

The addition of curb ramps is required when the curb section is connected to a pedestrian walkway with a prepared surface for pedestrian use. Existing curb ramps constructed in accordance with the 1991 standard or later are not required to be retrofitted as a part of these projects. New or retrofit curb ramp construction should follow details of standards 848.05 and 848.06 in the 2012 Roadway Standard Drawings. If site conditions make these standards difficult to follow refer to the link below for alternate curb ramp designs. This link also includes 1991-2011 curb ramp designs for use as a reference to determine the need for retrofits.

https://connect.ncdot.gov/resources/Specifications/Pages/2012-Roadway-Drawings.aspx

These requirements apply to all resurfacing type projects, rehabilitation, reconstruction, new construction, and Division Design projects. In addition, encroachments, driveway permits, and locally administered projects should adhere to these requirements.

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1 SOUTH WILMINGTON STREET
RALEIGH NC

Effective immediately, take all necessary steps to include curb ramp details on all appropriate projects in accordance with this Federal policy. Please review this information with your staff to ensure compliance. Direct any questions you may have about this issue to the Construction Unit at (919) 707-2400.

Attachment

cc: R. E. Greene, Jr., PE
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BRIEFING MEMO

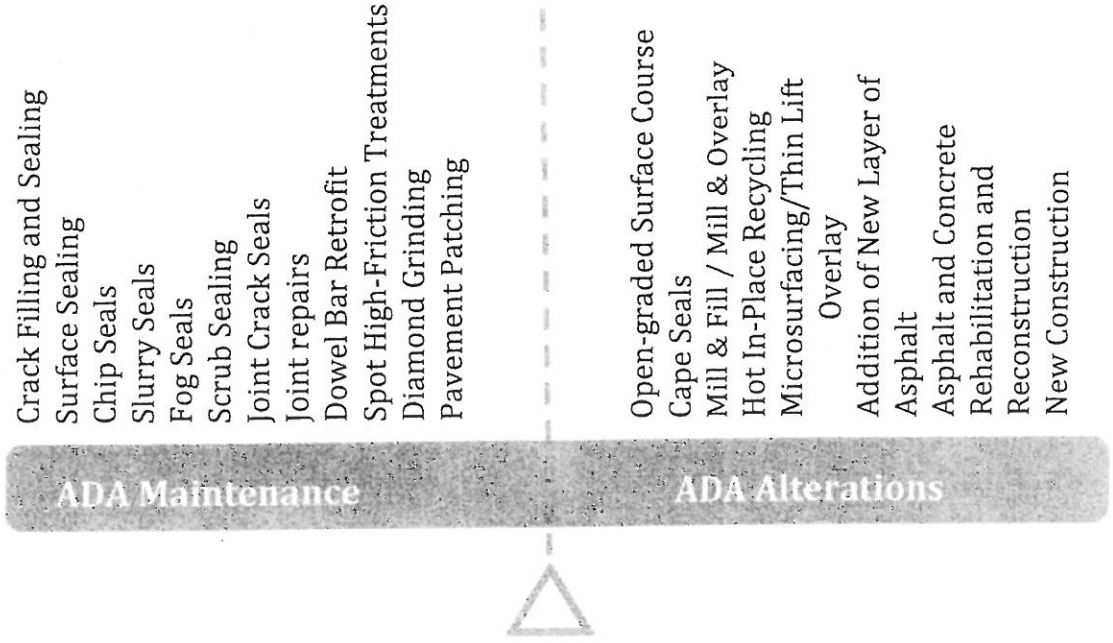
SUBJECT: Department of Justice/Department of Transportation Joint Technical Assistance on Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing

ISSUE: Throughout the nation, there are different interpretations and inconsistencies in enforcement of when curb ramps are required.

BACKGROUND: The Americans with Disabilities Act of 1990 (ADA) is a civil rights statute prohibiting discrimination against persons with disabilities in all aspects of life, including transportation, based on regulations promulgated by the United States Department of Justice (DOJ). DOJ's regulations require accessible planning, design, and construction to integrate people with disabilities into mainstream society. Further, these laws require that public entities responsible for operating and maintaining the public rights-of-way do not discriminate in their programs and activities against persons with disabilities. FHWA's ADA program implements the DOJ regulations through delegated authority to ensure that pedestrians with disabilities have the opportunity to use the transportation system's pedestrian facilities in an accessible and safe manner.

FHWA and DOJ met in March 2012 and March 2013 to clarify guidance on the ADA's requirements for constructing curb ramps on resurfacing projects. Projects deemed to be alterations must include curb ramps within the scope of the project.

SUMMARY OF GUIDANCE CLARIFICATION: This clarification provides a single Federal policy that identifies specific asphalt and concrete-pavement repair treatments that are considered to be alterations—requiring installation of curb ramps within the scope of the project—and those that are considered to be maintenance, which do not require curb ramps at the time of the improvement.



This approach clearly identifies the types of structural treatments that both DOJ and FHWA agree require curb ramps (when there is a pedestrian walkway with a prepared surface for pedestrian use and a curb, elevation, or other barrier between the street and the walkway) and furthers the goal of the ADA to provide increased accessibility to the public right-of-way for persons with disabilities. This single Federal policy will provide for increased consistency and improved enforcement.

MOVING FORWARD:
Divisions are expected to initiate discussions with their Partnering Agency / State to:

1) Disseminate this clarification with regard to when curb ramps are required
    a. States are expected to inform/assist local agencies
2) Establish a plan to implement this single Federal policy as soon as practical
    a. FHWA Headquarters is not providing a set deadline for all projects to comply with this policy.
    b. Projects that are ready for Construction Advertisement or are under contract may proceed.
    c. The Division should evaluate the projects in the state pavement preservation/resurfacing program and agree on projects to comply with this policy.
    d. The Division should work with its Partnering Agencies / States to evaluate and modify, if necessary, their existing resurfacing ADA policies to comply with this policy.

POINTS OF CONTACT:
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