



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

JAMES H. TROGDON, III  
SECRETARY

MEMORANDUM

Date: June 25, 2019

To: Division Engineers

From: Johanna Cockburn, AICP <sup>DS</sup>  
Bicycle, Pedestrian and Public Transportation Division Director  
Brenda Moore, PE <sup>BLM</sup>  
State Roadway Design Engineer  
Mark Whisenant <sup>MW</sup>  
Office of Civil Rights ADA Program / Title VI Program Manager

Subject: ADA Curb Ramp Installation Compliance for Highway Projects

The North Carolina Department of Transportation (NCDOT) is the public entity responsible for operating and maintaining the public rights-of-way for the State of North Carolina and therefore the cost and installation of ADA compliant curb ramps are the responsibility of NCDOT. For NCDOT roadway projects with a municipal cost-share, the cost-share may not include the curb ramps. Encroachments, driveway permits, and locally administered projects must also adhere to ADA requirements.

These ADA curb ramp requirements apply to all resurfacing projects, rehabilitation, reconstruction, new construction, and Division design projects.

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. Enforcement is 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 states to ensure that pedestrians with disabilities have the opportunity to use transportation system 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. The resulting guidance indicates all roadway projects deemed to be alterations must include curb ramps within the scope of the project. Department policy does not permit the inclusion of costs share for ADA curb ramps on construction projects which include sidewalk, sidepath or other cost-shared improvement where financial participation by a municipality occurs.

The Agreements Unit was advised of this Americans with Disabilities Act (ADA) requirement on January 29, 1997. From that point forward, this NCDOT policy was adopted and has been in effect. All subsequent municipal agreements involving sidewalk reimbursement agreements must exclude costs for ADA compliant ramps. Please refer to the attached memos from October 1<sup>st</sup>, 1998 and September 3<sup>rd</sup>, 2013 if further clarification is required.



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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

A handwritten signature in black ink, appearing to read "T. R. Gibson", written over the name and title in the "FROM" field.

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 OGAFS, 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.

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE CHIEF ENGINEER  
1536 MAIL SERVICE CENTER  
RALEIGH NC 27699-1636

TELEPHONE: 919-707-2500  
FAX: 919-733-9426  
WEBSITE: [WWW.NCDOT.GOV](http://WWW.NCDOT.GOV)

LOCATION:  
TRANSPORTATION BUILDING  
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  
R. A. Hancock, PE  
R. A. Garriss, PE  
J. K. Lacy, PE  
D. M. Barbour, PE  
J. V. Barbour, PE  
Jennifer Brandenburg, PE  
John Sullivan, III, PE

## BRIEFING MEMO

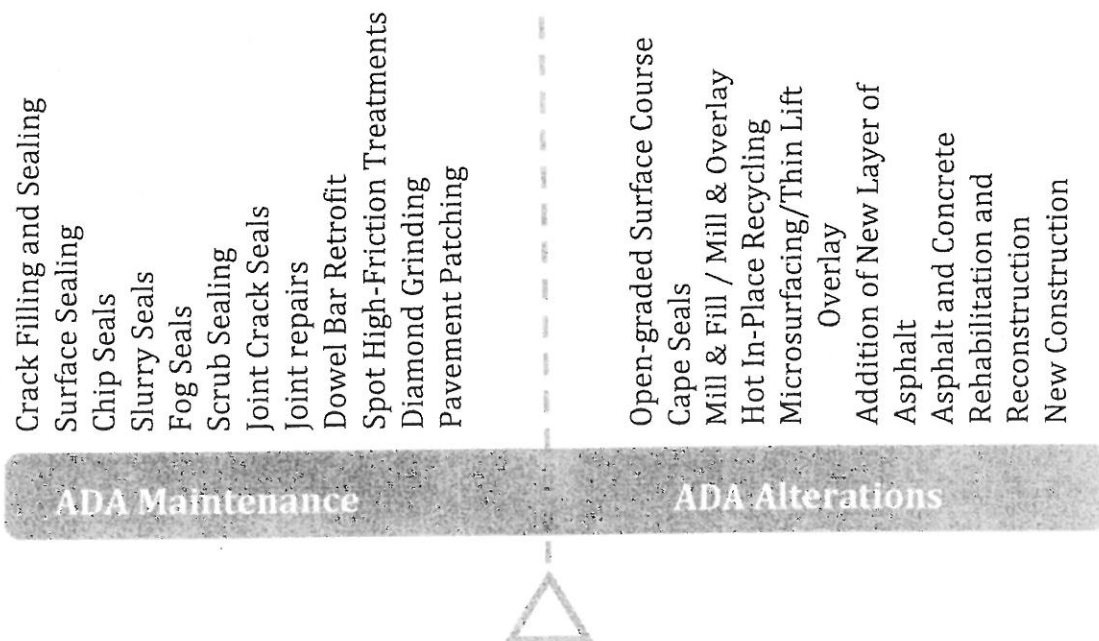
**SUBJECT:** Department of Justice/Department of Transportation Joint Technical Assistance on Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing

**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:**

Brooke Struve, RC Safety & Design Team, CTSRC-LAK, 720-963-3270, [Brooke.Struve@dot.gov](mailto:Brooke.Struve@dot.gov)

Candace Groudine, Director-External Civil Rights, HCR, 202-366-4634, [Candace.Groudine@dot.gov](mailto:Candace.Groudine@dot.gov)

Robert Mooney, Pre-Construction Team Leader, HIPA, 202-366-2221, [Robert.Mooney@dot.gov](mailto:Robert.Mooney@dot.gov)



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION


JAMES B. HUNT JR.  
GOVERNOR

P.O. BOX 25201, RALEIGH, N.C. 27611-5201

E. NORRIS TOLSON  
SECRETARY

October 1, 1998

MEMORANDUM TO: Len Hill, PE  
State Design Engineer

FROM: Whit Webb, III, PE   
Program Development Branch Manager

SUBJECT: Payment for Wheelchair Ramps

Thank you for your letter of September 23, 1998, re-emphasizing that the Department should not be billing Municipality's for wheelchair ramps on construction projects which include sidewalk participation by a Municipality.

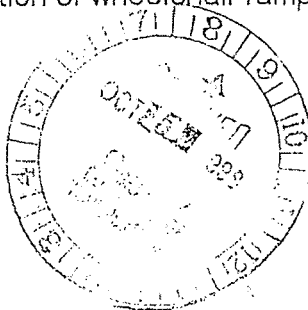
The Agreements Unit was advised of the Americans with Disabilities Act (ADA) requirement on January 29, 1997. From that point forward the policy was adopted, and all subsequent municipal agreements involving sidewalk reimbursement excluded any additional cost for wheelchair ramps.

By copy of this letter, I will advise the Accounts Receivable Unit in our Fiscal Branch to review all estimates for sidewalk construction to ensure that Municipalities are not being billed unnecessarily for construction of wheelchair ramps.

WHW/do

Attachment

Cc: Bob Brown, PE  
Laurie Smith, CPA  
Doug Lane  
Charles Creech  
Lee Johnson





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STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.  
GOVERNOR

P.O. BOX 25201, RALEIGH, N.C. 27611-5201

E. NORRIS TOLSON  
SECRETARY

*cc: Laurie*  
*orig Whit*

MEMO TO: Mr. Whit Webb, III, PE  
Program Development Branch Manager

FROM: Len Hill, PE *Len Hill*  
State Design Engineer

DATE: September 23, 1998

SUBJECT: Payment for Sidewalk and Wheelchair Ramps

Recently, it was brought to my attention that occasionally cities are still being billed for wheelchair ramps. Since wheelchair ramps are constructed to meet the Americans with Disabilities Act (ADA) requirements and are to be constructed regardless of whether there is initial sidewalk construction, the City should not be billed for the wheelchair ramps.

Please relay this information to appropriate members of your staff. By copy of this memo to Bob Brown and Tom Shearin, I am requesting them to advise their employees that when computing additional quantities for new sidewalk construction, the wheelchair ramp costs should not be included within the estimate that is furnished for the municipal agreement. Again, the City should be billed only for the construction of the new sidewalk.

If you have any questions, please contact me.

RLH/dmb

cc: Tom Shearin, PE  
Bob Brown, PE  
Randy Garris, PE  
Doug Lane