



DEPARTMENTS OF TRANSPORTATION, JUSTICE ISSUE JOINT BULLETIN

The United States Department of Justice (DOJ) and the United States Department of Transportation (DOT) have issued a bulletin to reiterate municipalities' obligation to ensure persons with disabilities have safe access to pedestrian routes. The document, *Joint Technical Assistance on the Title II of the Americans with Disabilities Act (ADA) Requirements to Provide Curb Ramps When Streets, Roads, or Highways are Altered through Resurfacing*, was designed to clear confusion regarding when a public entity is responsible for providing wheelchair-accessible ramps during road maintenance and alterations.

Curb ramps allow those with mobility disabilities to safely travel on public sidewalks in high traffic areas. If curb ramps are not utilized during road alterations, wheelchair- and scooter-bound citizens are forced to travel in streets and roadways, often putting them in danger or preventing them from reaching their destination; some citizens with mobility disabilities choose to avoid this risk by opting to stay in their homes during roadway construction.

DOT reports many state and local governments have sought guidance on the scope of ADA curb ramp requirements. Key points from the bulletin are as follows:

- Curb ramps must be placed wherever a sidewalk or other pedestrian walkway crosses a curb. Curb ramps must be placed in such a way as to allow a person with a mobility disability to travel from one side of the roadway, across or through any curbs or median islands, and up onto the sidewalk on the opposite side of the street.
- ADA does not require curb ramps where a permanent walkway or prepared pedestrian surface does not exist, or in the absence of a curb, elevation, or other barrier between the street and walkway.
- Curb ramps are required during road alterations, or “any change that affects or could affect the usability of all or part of a building or facility”. Alterations include reconstruction, rehabilitation, resurfacing, widening, and projects of similar scale and effect. Maintenance activities are not considered alterations and do not require curb ramps.
- Specifically, resurfacing triggers the requirement of curb ramps if the work spans from one intersection to another and includes overlays of additional material to the

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road surface, with or without milling. Additionally, DOT explains because crosswalks are “distinct elements of right-of-way intended to facilitate pedestrian traffic”, resurfacing of a crosswalk requires curb ramps regardless of the span of the project.

- Because they don’t significantly restrict the public’s access to walkways, “treatments that serve solely to seal and protect the road surface, improve friction, and control splash” are considered maintenance and do not require curb ramps. Maintenance treatments include lane striping, crack sealing, joint repairs, pothole repair, pavement patching, and diamond grinding. DOT warns, however, several maintenance projects occurring simultaneously may qualify as alterations and would trigger the requirement for curb ramps.

To find out more about this and other technical assistance documents, contact the Department of Justice ADA information line at (800) 514-0301, or get information online at www.ada.gov.

For questions on roadway requirements or other safety issues, contact AMRRP Loss Control Manager Ed Bantel at (602) 368-6618 or ebantel@berkleyrisk.com.

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