FAQ on ED 15-004  Updated May 2018


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GENERAL QUESTIONS

1. Are the criteria in the *Critical Elements for the Design, Layout, and Acceptance of Pedestrian Facilities* table “best practices” or requirements?

The criteria are requirements.

- If a feature doesn’t meet the “design/layout” values during design, the design should be adjusted to meet the values. If it cannot meet the values due to physical constraints, it must be justified as nonstandard.

- If a feature doesn’t meet the “design/layout” values during layout, it should be adjusted to meet the limits prior to construction. If it cannot meet the values due to physical constraints, it must be justified as nonstandard.

- Constructed or existing features that do not meet the “acceptance” values must be replaced with features that meet the values, or be justified as nonstandard if they cannot meet the values due to physical constraints.

Elements that are not in the table should be considered nonconforming features, in accordance with NYSDOT HDM Chapter 5, Section 5.1.

2. Who is supposed to use the *Critical Elements for the Design, Layout, and Acceptance of Pedestrian Facilities* table?

The table should be used as a reference tool by designers, construction personnel, and inspectors. It helps to ensure that the department is using the same standards and methods of measurement for facilities as they are designed, laid out, constructed, and checked for acceptance.

3. Do the completed *Critical Elements for the Design, Layout, and Acceptance of Pedestrian Facilities* tables need to be included in DAD?

No, they should not be included in the DAD. There is no formal filing requirement. However, it is strongly recommended that they be completed during design, kept in the ProjectWise file for reference, and updated, as necessary, during the life of the project.

4. Do the *Critical Elements for the Design, Layout, and Acceptance of Pedestrian Facilities* tables need to be completed and kept for every pedestrian element?

It is a best practice for inspectors, consultants and Department staff to fill out and retain the table, but it is not required. Inspection records and tables that are completed should be placed in the project file.

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5. **Is there ADA training for designers/construction/EICs/contractors/local project sponsors?**

Three webinars have been developed and posted on the [web page for Highway Design Manual, Chapter 18](#):

- Construction Inspection of Pedestrian Facilities
- Preliminary Design of Pedestrian Facilities
- Final Design of Pedestrian Facilities

This training was developed primarily for Department staff, but contractors, local project sponsors, and others outside of the department should also find it helpful.

6. **What are the ADA requirements for major or minor bridge rehabilitation projects?**

The ADA guidelines don’t distinguish bridge projects from other types of projects. The ADA requirements for a project depend on whether or not the work involves an “alteration” of a roadway or a pedestrian route, as defined in PROWAG R105.5. An “alteration” is any work that could affect pedestrian access, circulation or use.

Activities such as reconstruction, rehabilitation, resurfacing, widening, and projects of similar scale and effect are considered “alterations” of a roadway and will impact the pedestrian route if it intersects with it. Activities like filling potholes, crack sealing, joint repairs, or bridge painting are considered to be maintenance activities, rather than alterations to a roadway. A 2013 USDOD/USDOT Joint Technical assistance document was developed to clarify what types of work constitute an alteration of a roadway, requiring curb ramps and crosswalks to be addressed: [https://www.ada.gov/doj-fhwa-ta.htm](https://www.ada.gov/doj-fhwa-ta.htm)

If work on a bridge is similar to what qualifies as an “alteration” for highway work, then the curb ramps (within the project limits of the bridge project) must be addressed. If the work affects the sidewalks, as well, then the sidewalks would also need to be addressed.

7. **What are the ADA requirements for a signal-only project?**

If the scope of the signal work involves disturbing curb ramps or sidewalks, it is considered an “alteration” to the pedestrian path and any affected curb ramps and sidewalks within the project limits need to be addressed. If the work does not affect curb ramps or sidewalks (e.g., the scope of the work is limited to replacement of signal heads), it is not considered an “alteration” to the pedestrian path, and the curb ramps and sidewalks do not need to be addressed.

### LOCALLY ADMINISTERED PROJECTS

8. **Is department staff responsible for checking facilities on locally administered projects? ED 15-004 says they’re responsible for “state projects”.

Responsibility for ADA compliance on locally administered projects lies with the project sponsor, through their contractual agreement with the department. Department staff may be required to check facilities, on occasion, as part of our oversight and contract audit procedures.

9. **Do Nonstandard Features (NSFs) on a locally administered project go on NYSDOT’s ADA Transition Plan?**

NSFs on local roads should go on the local government’s ADA Transition plan, which should cover all facilities for which they are responsible. Only NSFs on the state system should go on NYSDOT’s transition plan.

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10. Do Nonstandard Features (NSFs) on a locally administered project need to be justified?

For all locally-administered Federal-aid projects, Nonstandard Feature Justifications for Pedestrian Facilities must be completed and approved by the responsible local official, and submitted to NYSDOT.

11. Do local projects need to name the licensed professional who is recommending/justifying Nonstandard Features (NSFs) as part of their project?

Yes. The “Nonstandard Feature Justification for Pedestrian Facilities” form requires entry of the name, title, and firm (if applicable) of the individual who is justifying the NSF. The individual must be a licensed professional.

12. Do local project sponsors (or their agents) need to complete the Critical Elements for the Design, Layout, and Acceptance of Pedestrian Facilities table?

It is strongly recommended, and the acceptance values on the sheet must ultimately be met. However, there’s no mandate obligating local project sponsors to complete or submit the sheet.

**DESIGN-BUILD PROJECTS**

13. Is department staff responsible for making sure that work done on design-build projects is ADA-compliant?

Responsibility for ADA compliance on design-build projects lies with the design-builder, their quality control plan, and their personnel. The Department’s quality assurance procedures and audits will ensure that the design-builder delivers fully compliant facilities. Department staff may be required to check facilities, on occasion, as part of our oversight and contract audit procedures.

14. If the RFP states that the design-builder must construct the project within the proposed ROW limits, but they find a compliant facility can’t be built within the ROW, how is it handled?

A design-builder is expected to comply with all requirements of the contract, including full ADA compliance. If the design-builder finds that they cannot meet the requirements as shown in the contract documents, they should bring it to the attention of the department to determine how to resolve it. This should be done prior to construction. In no case should a nonstandard feature be constructed without an approved justification, per HDM Chapter 2.

**HIGHWAY WORK PERMITS (HWPs)**

15. Who is responsible for seeing that Highway Work Permits comply with this Directive?

Responsibility for ADA compliance lies with the permittee, but regional quality assurance procedures and audits must ensure that the permittee delivers fully compliant facilities. Department staff may be required to check facilities, on occasion, as part of our permit close-out procedures.
16. If a highway permittee (or their contractor) is reconstructing or constructing curb ramps on a state highway and they cannot make it fully compliant due to constraints, who completes and signs the Nonstandard Justification form?

The permittee is responsible for ensuring that the Nonstandard Justification form is completed by a licensed professional and submitted. Nonstandard features justified using criteria A through G are approved by the Regional Director. Nonstandard features using criterion “H – Other” are to be approved by the deputy Chief Engineer (Design).

17. The ED states, “Nonstandard features that are compliant to the maximum extent practicable, and can be justified using criteria A through G in Exhibit 2-15a, may be approved by the Regional Director.” Does the RD need to approve NSFs for HWP-related pedestrian facility work?

Yes. Nonstandard features justified using criteria A through G are approved by the Regional Director. Nonstandard features using criterion “H – Other” are to be approved by the deputy Chief Engineer (Design).

18. If a curb ramp can be made fully compliant by a permittee only by using some of their own property, do they have to use it or can they justify a nonstandard feature and document this as part of the highway work permit? If they construct a noncompliant ramp because they didn’t use their own property, does the location get added to the ADA Transition Plan for NYSDOT to purchase ROW and reconstruct a fully compliant ramp?

Having to use their own property is not an acceptable justification for a permittee to provide a nonstandard curb ramp. The permittee must make the ramp compliant to the maximum extent practicable to obtain a permit. The state will not undertake a property acquisition for a permittee.

1R PROJECTS

19. On 1R projects, if a curb ramp is being replaced because it doesn’t meet the 1991 guidelines, does the replacement have to meet 1991 ADAAG or PROWAG standards?

If the ramp is being replaced, it is considered new construction and must be built to PROWAG requirements.

20. If one element of an existing ramp doesn’t meet the 1991 guidelines, does the entire ramp need to be replaced, or can the noncompliant element be fixed?

Unless it meets one of the conditions below, a ramp that fails to meet one or more of the 1991 ADAAG standards must be replaced with a new ramp meeting the current standards, or justified as a nonstandard feature.

There are certain situations where a ramp can be modified to meet the 1991 ADAAG standards and will not require a NSFJ:

- The ramp is in good condition and meets all 1991 ADAAG criteria except for minor vertical changes that can be corrected with grinding or with asphalt. Grinding may be performed or an asphalt “wedge” installed to bring it into compliance.
- The ramp is in good condition and meets all 1991 ADAAG criteria, except it requires a detectable warning and does not have one. A surface-applied detectable warning may be placed on the ramp to bring it into compliance.
- The ramp is in good condition and meets all 1991 ADAAG criteria, except for a horizontal gap of greater than ½” that can be corrected by filling with suitable filler material.

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21. If an existing curb ramp needs to be replaced on a 1R project, do the existing sidewalks (Pedestrian Access Routes) and pedestrian push buttons near it need to be evaluated for compliance? Do they need to be corrected if found deficient?

No. 1R projects only need to address curb ramps and crosswalks. Signals and sidewalks do not need to be evaluated or corrected as part of a 1R project. Deficient pedestrian facilities that do not intersect with the highway will be addressed as part of the Department’s ongoing Transition Plan.

22. If construction of new or replacement ramps must be made during a 1R project, can it take place anytime during the duration of that contract?

In general, curb ramp work must be completed prior to, or at the same time as, the completion of the rest of the project. The only exception is in specific circumstances on 1R projects, where ROW availability may require curb ramp work to be done as a follow-on project. Refer to HDM Chapter 7, §7.3.2.2, for more information on conditions that would permit the work to be done as a follow-on.

23. Is full-depth concrete repair work at spot locations considered maintenance, or an “alteration” that would require upgrading curb ramps?

This question is answered by the “Supplement to the 2013 DOJ/DOT Joint Technical Assistance” document that was issued by USDOT and USDOJ:

“The answer to this question depends on the scope and location of the pavement patch. If the pavement patch work is limited to a portion of the pavement, even including a portion of the crosswalk, patching the pavement would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. Public entities should note that the ADA requires maintenance of accessible features, and as such, they should ensure that when the pavement is patched or other road maintenance is performed, the work does not result in a lesser level of accessibility. See 28 CFR 35.133(a). If the pavement patching impacts the curb at a pedestrian street crossing where no curb ramp exists, the work affecting the curb falls within the definition of “alteration,” and a curb ramp must be constructed rather than simply replacing the curb. See 28 CFR 35.151(b) and 35.151(i).”

24. On 1R projects, does a transition from a new curb ramp to an existing sidewalk need to be justified as nonstandard if it doesn’t meet all the PROWAG requirements?

No. The transition segment between a new curb ramp and the existing sidewalk on a 1R doesn’t require a justification. These transitions frequently connect an existing, noncompliant sidewalk to a new, fully compliant curb ramp. The supplement to the 2013 DOJ/DOT Joint Technical Assistance states that there is no obligation to address existing obstacles on the adjacent sidewalk at the same time as a curb ramp. It’s also undesirable to introduce any new obstacles, such as a lip or step, to make the existing walk less accessible. A 5’ -10’ transition is included on the 608 Standard Sheets to address this circumstance. Noncompliant sidewalks and these transition segments should be included in the ADA Transition plan to eventually be replaced with fully compliant sidewalks.
25. Addressing nonstandard crosswalk cross slopes and running slopes on 1R projects can be problematic. Is there a point where cost and complexity make it justifiable to leave nonstandard slopes?

Cost cannot be used as a justification for nonstandard features, but there is no requirement to perform work outside of the project scope. PROWAG’s Supplementary Information states, “It is not intended for additional work to be done outside the scope of the project.”

Crosswalk slopes on 1R/2R projects must be corrected unless:

- The adjustment of the road grade (to furnish ADA-compliant slopes without introducing a hazard to motorists) would go beyond the scope of the 1R. If the project couldn’t achieve compliant crosswalk slopes without extensive paving or excessive milling, the work can’t be done within the scope of a 1R project.
- Noncompliant slopes are necessary to provide adequate highway drainage.

If a crosswalk can’t be fully corrected to meet the standards, the slopes should be improved as much as practicable within the project scope, and a nonstandard feature justification should be completed.

26. In 1R projects, is it preferable to correct nonstandard crosswalk cross slopes by creating a “tabletop”, or by milling out (and creating a bump)?

A “tabletop” is preferable to creating a milled bump. Tables should to be installed with gradual approaches that don’t introduce a hazard to motorists or cause problems for plows. If this can’t be done within the scope of the project, nonstandard crosswalk slopes are justifiable.

CURB RAMPS & BLENDED TRANSITIONS

27. Is it acceptable to leave an intersection quadrant(s) without a ramp if it has no sidewalk and/or pedestrian indicators leading to it?

Yes. Curb ramps are not required in the absence of a sidewalk or other prepared surface for pedestrian use.

28. Should detectable warning domes be “lined up” with the slope of a curb ramp, or with the pedestrian crossing?

Domes should be aligned perpendicular to the grade break between the ramp run and the street. (PROWAG Advisory R305.2.1). Detectable warning domes do not furnish wayfinding information for visually impaired pedestrians. This orientation allows wheeled assistance devices to “track” between the domes with the least resistance. The advisory states that dome orientation is “less critical” on slopes of less than 5%.
29. If detectable warnings are installed in one quadrant of an intersection, do detectable warnings have to be installed at all the other quadrants of the same intersection?

Detectable warnings are only required on newly constructed or altered curb ramps and blended transitions. However, when a ramp at one end of a pedestrian crossing has a detectable warning, it is strongly encouraged that a detectable warning be furnished at the opposite end of the same crossing, to give visually impaired pedestrians cues at both ends. This serves to notify them when they have entered and left the road crossing.

30. Does a diagonal curb ramp require a turning space at the bottom?

PROWAG doesn’t distinguish diagonal curb ramps as a separate ramp type. By PROWAG definitions, a diagonal curb ramp is a perpendicular curb ramp (meeting the curb at right angles). It specifies that a turning space must be provided at the top of a perpendicular curb ramp. PROWAG Figure 304.2.1 also shows a diagonal-type ramp with a turning space only at the top.

PEDESTRIAN SIGNALS AND PUSH BUTTONS

31. Should the MUTCD-specified distances from a curb to a pedestrian button be considered a critical design element?

No. The distances from curb to pedestrian pushbutton are mentioned in the MUTCD as desirable values, rather than standards. If these values cannot be met, the element is non-conforming, rather than nonstandard.

32. Does upgrading existing pedestrian signals trigger a requirement to bring the existing curb ramps up to PROWAG standards?

Any part of the pedestrian facility (curb ramp or sidewalk) that is disturbed by the signal upgrade would be considered “altered”. It needs to be brought up to PROWAG standards or justified. If the curb ramp won’t be disturbed with the signal upgrade, there is no alteration to ramp, and no requirement to address it as part of the signal project.

33. Is a level “pad” required in front of a pedestrian pushbutton?

PROWAG R403.2 requires a clear space at a pedestrian pushbutton. The space may not necessarily be level: it must have a maximum cross slope of 2% and a running slope consistent with the adjacent pedestrian access route.

The MUTCD guidance advises that pushbuttons should be placed adjacent to a “level, all-weather surface”, and where this is impracticable, adjacent to a surface that is “as level as feasible”.

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34. Do shared-use paths need to meet PROWAG requirements?

Shared-use paths that function as sidewalks should adhere to PROWAG and be justified as nonstandard when they cannot. Where shared-use paths function primarily as recreational facilities, they are more likely to be located on rugged terrain with more design constraints. They should adhere to PROWAG as much as practicable. Where trails and paths can’t meet PROWAG standards, the Architectural Barriers Act (ABA) guidelines (Chapter 10, Trails), and US (USFS) Forest Service guidelines can both be used as references.

35. Do recreational trails have to be paved to be “accessible”?

No, but the surface should be “firm, stable and slip-resistant”, per PROWAG. Paved surfaces usually meet these requirements with the least maintenance, but other surfaces, such as compacted gravel or wood decking, will also meet them if they are properly designed and maintained.

36. How should cross slope be measured on trails or paths wider than 48”?

The method of measurement for trails or paths < 10 ft. wide is the same as the method for sidewalks: take one measurement with a 4’ straight edge, perpendicular to the centerline, at 10’ intervals. For pavement widths > 10 ft., take one measurement on each side of the centerline, and use the greater of the two slope measurements.

37. Do Nonstandard Feature Justifications for Pedestrian Facilities need to be included in the Design Approval Document (DAD)?

No. Many nonstandard features will not be identified before Final Design. They do not need to be included in the DAD. However, a statement that all pedestrian facilities will be designed in compliance with applicable ADA guidelines should be included in the DAD.

38. Can cost be used as a justification for a nonstandard feature?

No. Cost is not a valid justification for constructing a nonstandard feature where a fully compliant feature could be installed within the scope of the project. Extraordinary measures and expense are not required to achieve full compliance, and PROWAG’s Supplementary Information states, “It is not intended for additional work to be done outside the scope of the project.” If removing or compensating for a design constraint is outside the scope of the project, a nonstandard feature is justifiable. The justification must be based on the limits of the scope and/or the constraint, however, rather than the cost.
ADA DURING CONSTRUCTION

39. If a pedestrian detour during construction is off the state ROW, should temporary (or permanent) improvements be made to bring it up to current ADA standards?

The temporary route (A.K.A. “Alternate Pedestrian Access Route”) doesn’t necessarily need to meet current ADA standards, but it cannot be less accessible than the existing pedestrian accommodations. If the existing pedestrian accommodations consist of narrow sidewalks with nonstandard curb ramps, the alternate route can consist of narrow sidewalks with nonstandard curb ramps. However, the alternate route cannot consist of narrow sidewalks with no curb ramps, because it would introduce obstacles that don’t currently exist. In the latter case, an equally accessible route should be provided, which may involve placing temporary or permanent curb ramps on the alternate route.

40. If there are existing nonstandard features on a temporary pedestrian route, do they need to be justified?

Existing features that are left “as is” on temporary pedestrian routes don’t need to be justified, unless they are within the project limits and could potentially have been corrected within the scope of the project. Any nonstandard features that will remain on the state system after the project is complete must be included in the Department’s ADA Transition Plan.