

# Frequently Asked Questions - ED 15-004 Design, Construction and Inspection of Pedestrian Facilities in the Public Right of Way

Updated 01/06/16

**Q1: Are the criteria in the table a best practice/guideline or a requirement/standard?**

A1: FHWA and the Department of Justice (DOJ) consider the ADA criteria a requirement/standard. Elements that will not be met must be justified and approved as nonstandard features in accordance with NYSDOT Highway Design Manual (HDM) Chapter 2, Section 2.8. Elements that are not in the table should be considered nonconforming features in accordance with NYSDOT HDM Chapter 5, Section 5.1.

**Q2: Should the MUTCD-specified distances from curb to a pedestrian button be added as a critical design element?**

A2: No. The distances from curb to pedestrian button are mentioned in the MUTCD as desirable values, rather than standards. When the desirable values can not be met, the element is non-conforming. A nonstandard feature justification is not required for non-conforming features.

**Q3: Is department staff responsible for checking facilities on local projects? The ED says they're responsible for "state projects".**

A3: Responsibility for ADA compliance on local 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.

**Q4: Is department staff responsible for making sure that work done on Design-Build jobs is ADA-compliant?**

A4: 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.

**Q5: If one criterion on an existing ramp doesn't meet the 1991 ADA criteria, does the ramp need to be replaced?**

A5: A ramp that fails to meet any of the 1991 ADA criteria needs to be corrected to meet 1991 ADA guidelines. The ramp can either be modified (e.g., grinding) to meet all criteria, or replaced. If it's replaced, it must meet current (PROWAG) standards, including the truncated dome warning devices.

**Q6: For a 1R that has an existing curb ramp that needs to be replaced, do we need to also evaluate the existing sidewalk (PAR) connecting to it and the existing pedestrian push buttons and correct these features if found deficient?**

 A6: No. 1R projects only need to address ramps and crosswalks. Signals, sidewalks and uncontrolled driveways do not need to be evaluated or corrected as part of a 1R project. Deficient pedestrian facilities that do not intersect with the highway are to be addressed as part of the Department's ongoing Transition Plan.

**Q7: Who is responsible for seeing that Highway Work Permits comply with this Directive?**

A7: Final guidance on specific roles and requirements for ADA compliance and documentation on HWPs is being developed, but responsibility for ADA compliance lies with the permittee. 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.

**Q8: If a highway permittee (or their contractor) is reconstructing or constructing curb ramps on a state highway and they cannot make it fully compliant, who completes and signs the Non-Standard Justification Form for the Pedestrian Facility?**

A8: The permittee's professionally licensed consultant is responsible for completing and recommending the Nonstandard Justification Form. The Regional Director is responsible for the approval of the Nonstandard Justification Form, which is to be placed in the Department's ProjectWise folder.

**Q9: Approval of NSF's for Local projects is by the Responsible Local Official. Do local projects need to specify who the licensed professional is who will recommend/justify the NSF as part of the project?**

A9: The Nonstandard Justification for Pedestrian Facilities requires the name, title and firm (if applicable) of the individual who is justifying the NSF. They must be a licensed professional.

**Q10: 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 NSF for HW permit related pedestrian facility work?**

A10: The Regional Director is responsible for the approval of the Nonstandard Justification Form, which is to be placed in the Department's ProjectWise folder.

**Q11: If the curb ramp can be made fully compliant by a permittee using some of their own property without impacting the use of the property, do they have to use it or do they have the right to decline and document this as part of the highway work permit? Do they need to provide a certified or notarized letter of declination with the highway work permit and attach it to the Non-Standard Feature Justification if this is the only reason the curb ramp is deficient, which would then kick the location into the ADA Transition Plan for NYSDOT to purchase ROW and reconstruction in the near future so that the curb ramp could be made fully compliant?**

A11: Having to use their own property is not an acceptable justification for a permittee to provide a non-standard curb ramp. The permittee must make ramp compliant to the maximum extent practicable to obtain a permit. The state will not undertake an acquisition for a permittee.

**Q12: During a design-build project, if the RFP states that the Design-Builder must construct the project within the proposed ROW limits, who handles the outreach memo to private property owners?**

A12: The expectation for a design-builder is that they comply with all requirements of the contract, including full ADA compliance. If the design-builder finds that they cannot meet the requirements as stated, 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 non-compliant ramp be constructed without a valid nonstandard feature justification.

**Q13: Is it acceptable to leave an intersection quadrant(s) without a ramp if it has no sidewalk and/or pedestrian indicators leading to it and the Complete Streets Checklist prepared for the project does not indicate that there are pedestrian generators that potentially need to be accommodated?**

→ A13: No ramps are required in the absence of a sidewalk or other prepared surface for pedestrian use.

**Q14: If construction of new or replacement ramps must be made during an "alteration" project, can it take place anytime during the duration of that contract?**

A14: Curb ramp work must be completed prior to, or at the same time as, the completion of the rest of the alteration work. They cannot be done after all other alteration work is completed.

**Q15: Do the Critical Elements for the Design, Layout and Acceptance Tables need to be submitted with the Design Approval Document?**

A15: No. The table is a tool for inspection during design or scoping; a reference for designers and reviewers; for contractors and inspection staff layout forms; and for the acceptance during construction.

**Q16: Do the Critical Elements for the Design, Layout and Acceptance Tables need to be completed for every pedestrian element?**

A16: It is a best practice for inspectors, consultants and Department staff unfamiliar with the elements to fill out and retain the table, but it is not required. Inspection records and forms that are completed should be placed in the project file.

**Q17: Is full depth concrete repair work at spot locations considered maintenance?**

A17: The answer to this question depends on the scope and location of the pavement repair. If the pavement repair work is limited to a portion of the pavement, even including a portion of the crosswalk, repairing the pavement would typically be considered maintenance and would not require simultaneous installation or upgrading of curb ramps. ADA requires maintenance of accessible features, and as such, the work cannot result in a lesser level of accessibility. 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.

**Q18: Who is supposed to complete the “Critical Design Elements for Pedestrian Facilities” table? Does it need to be included in DR?**

A18: The “Critical Design Elements for Pedestrian Facilities” table was developed to be used as a reference tool for designers, construction staff 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. It should not be included in the DR, and there is no formal filing requirement for it. However, it is strongly recommended that it be completed during design, kept in the ProjectWise file for reference, and updated, as necessary, during the life of the project.

**Q19: Will there be ADA training for designers /construction/EICs/contractors/local project sponsors?**

A19: Targeted training for department staff (design, construction and EICs) is being developed and will be delivered as individual webinars in early 2016. Specific training for contractors, local project sponsors and others outside of the department is not planned, but the webinars will be made available on the public website where anyone can access them.

**Q21: Do Nonstandard Feature Justifications for Pedestrian Facilities need to be approved prior to design approval, or included in the Design Approval Document?**

A21: No. Most nonstandard features will not be identified before Final Design. However, a statement that all pedestrian facilities will be designed in compliance with applicable ADA Guidelines should be included in the Design Approval Document.

**Q22: On 1R projects, we are required to meet 1991 ADAAG. If we are replacing a curb ramp (not modifying a single element) because it doesn't meet the 1991 guidelines, are we required to replace it to the 2010 guidelines?**

A22: Yes. If the ramp is being replaced, it is considered new construction and must be built to PROWAG guidelines.

**Q23: There is a requirement for a minimum designed slope on a curb ramp of 5%. If we inventory an existing ramp and find the slope is less than 4.5%, can we consider this a blended transition? Can any curb ramp, regardless of ramp type, be considered a blended transition if the slope does not meet the minimum running slope requirement of a curb ramp?**

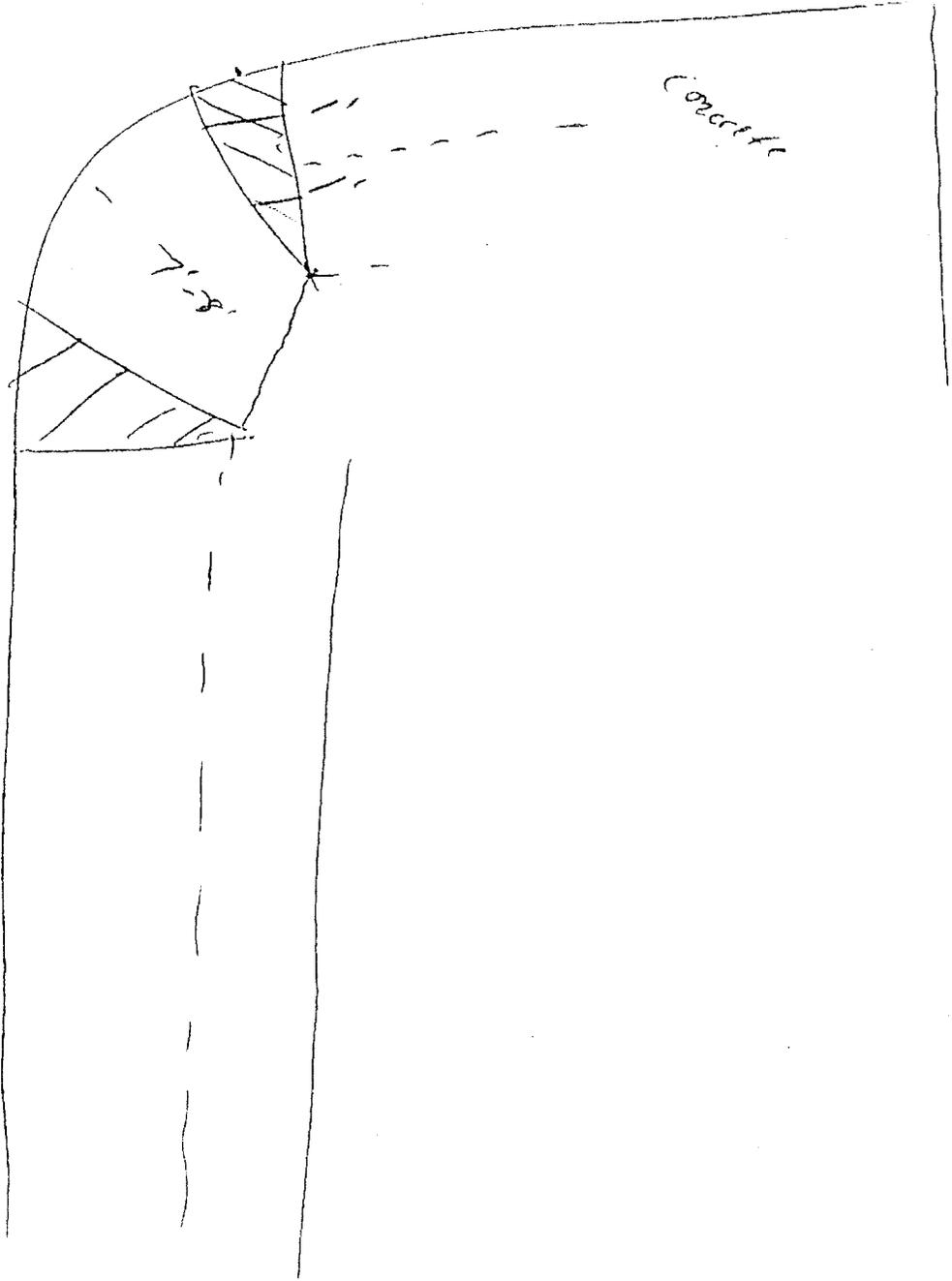
A23: Yes. PROWAG defines a blended transition as a connection “between the pedestrian access route at the level of the sidewalk and the level of the pedestrian street crossing that has a grade of 5 percent or less.” Running slope is the only element that the guidelines use to distinguish between a curb ramp and a blended transition.

**Q24: The 1991 ADAAG required detectable warnings, but they're not included the "1R" Section of Critical Elements for the Design, Layout and Acceptance of Pedestrian Facilities table. Why?**

A24: Detectable warnings were required with the 1991 ADAAG, but the requirement was later suspended (between 1994 and 2001), and the Access Board declined to re-address them in the 2004 ADA guidelines, deferring them to the 2010 PROWAG. Determining exactly which guidelines were in effect at the time an individual ramp was built is problematic (and in some cases, impossible) so they are not considered a critical element for an existing ramp on a 1R project.

**Q25: If detectable warnings are installed in one quadrant of an intersection, is it a requirement to install detectable warnings at the other quadrants of the same intersection?**

A25: Detectable warnings are only required on the newly constructed and 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



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