

ADA – Self Evaluation and Transition Plan for Public Rights-of-Way



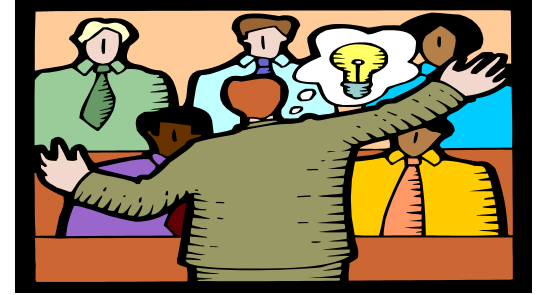
2014 NWPMA Conference

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Objectives



- Introduce Chapter 29 of the Local Agency Guidelines (LAG) Manual.
- Provide an understanding of the legal framework.
- Describe minimum requirements/components of a self-evaluation, a transition plan, and an accessible pedestrian signal (APS) policy.

ADA Laws

- Required of all public entities
 - Section 504 - Rehabilitation Act of 1973
 - USDOT Implementing Regulations (49 CFR 27)
 - Americans w/Disabilities Act of 1990
 - DOJ Implementing Regulations (28 CFR 35)



WSDOT Local Agency Guidelines (LAG) Manual Chapter 29 Provides a Summary of the Laws

- For projects with federal funding
- Assurances by recipients & subrecipients
- Designation of ADA Coordinator
- Public notice of policy
- Grievance/complaint procedures
- Self-evaluation
- Policy for accessible pedestrian signals (APS)
- Transition plans

Chapter 29 *Section 504 and the Americans with Disabilities Act*

29.1 General Discussion

This chapter summarizes the regulations and implementing requirements that local agencies must follow.

Section 504 of the Rehabilitation Act of 1973 states that no person with a disability shall be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity that receives Federal funding. This law extends to the entire operations of a recipient or subrecipient regardless of the specific funding source of a particular operation.

The Americans with Disabilities Act of 1990 is mirrored after Section 504 (nondiscrimination based on disability), but extends the reach of Federal accessibility laws to include those agencies that are not recipients or subrecipients of Federal funding. Title II (28 CFR Part 35) of the ADA specifically pertains to State and Local Governments.

Local agencies are always subject to the requirements of the ADA, and are typically subject to the requirements of Section 504 as well since they usually fall under the legal classification of being either a recipient or subrecipient of Federal funding. By legal definition, a recipient includes any public entity that receives Federal financial assistance from the United States Department of Transportation (USDOT), either directly or through another recipient (49 CFR Part 27.5). Note that recipient classification is not based on the funding source of a particular project, but rather on whether the public entity accepts any Federal funding for any purpose at any time.

29.2 Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the public works director and addressed to WSDOT, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA). This policy statement is required as part of the local agency's agreement with WSDOT.

Self-Evaluation

- Required for all public entities
- Scope – 28 CFR 35.105
 - Public entity shall evaluate policies, programs, services & identify barriers.
 - Public entity shall provide opportunity for interested persons/groups to be engaged in process.
 - Public entity with 50 or more employees shall ensure that the self-evaluation and process used is maintained/available to the public (website).

Transition Plan

- Required for all public entities with 50 or more employees.
- Purpose & Scope - 28 CFR 35.150(d)
 - Set forth steps necessary to complete structural modifications to existing facilities identified through self-evaluation (those areas not covered in a previously developed plan).
 - Becomes a short-range planning tool (“action” plan) for completing modifications.

Self-Evaluation and Transition Plan Elements

Self-Evaluation

28 CFR 35.105

1. **Inventory** – Identify barriers, rank, and prioritization.
2. **ADA Coordinator** – ADA advocacy groups & the public
3. **Grievance / Complaint Procedures**

Transition Plan

28 CFR 35.150 (d)(3)

1. **Corrective measures** – Remove barriers
2. **Implementation Schedule** – Remove barriers
3. **ADA Coordinator** – ADA Advocacy group & the public
4. **APS Policy** – Reasonable and consistent

Review of Requirements

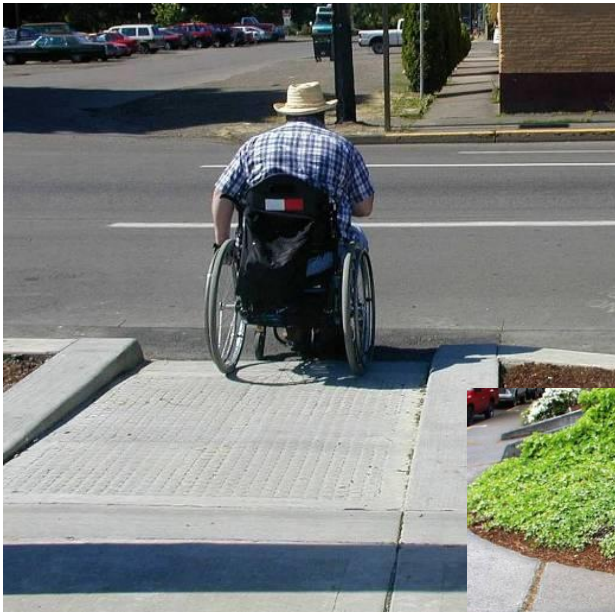
- New construction
- Alterations
- Maintenance

Self-Evaluation – What to Include

- In conjunction with Pedestrian Master Plans
- Barriers within public right-of-way
 - Curbs
 - Sidewalks
 - Pedestrian Crossings
 - Pedestrian Signals
 - Shared Use Trails
 - Parking Lots
 - Bus Stops

What are the Barriers?

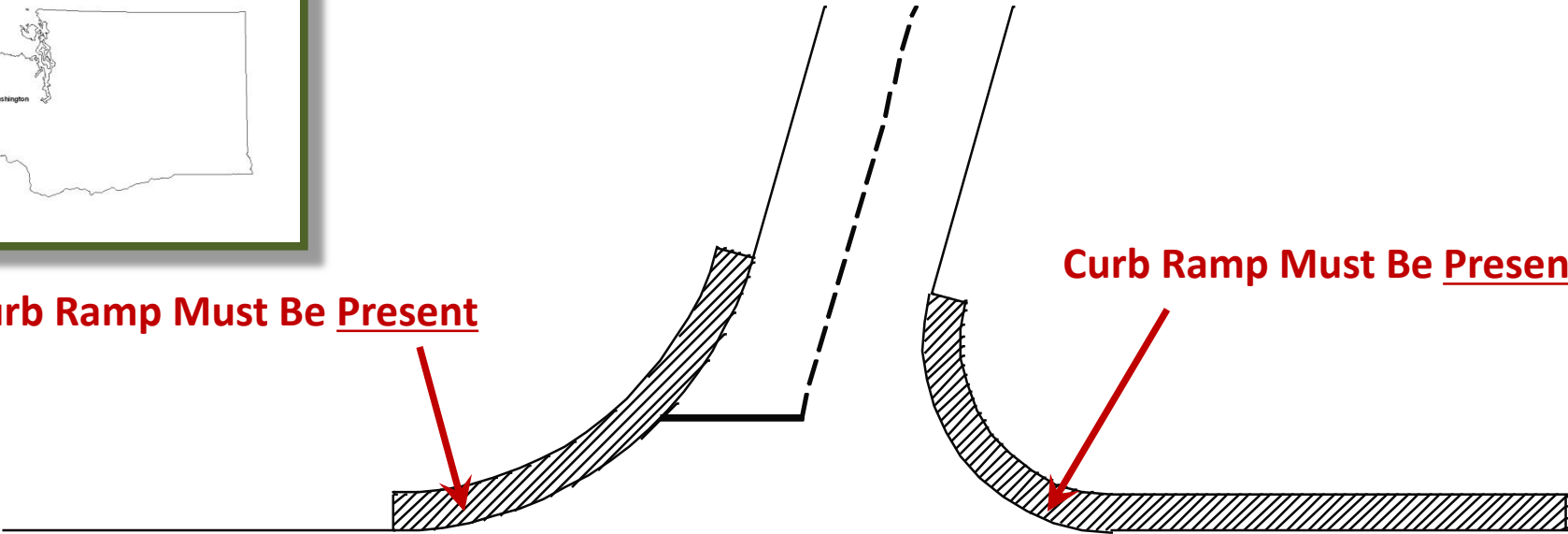
- Curbs/Slopes





Curb Ramp Must Be Present

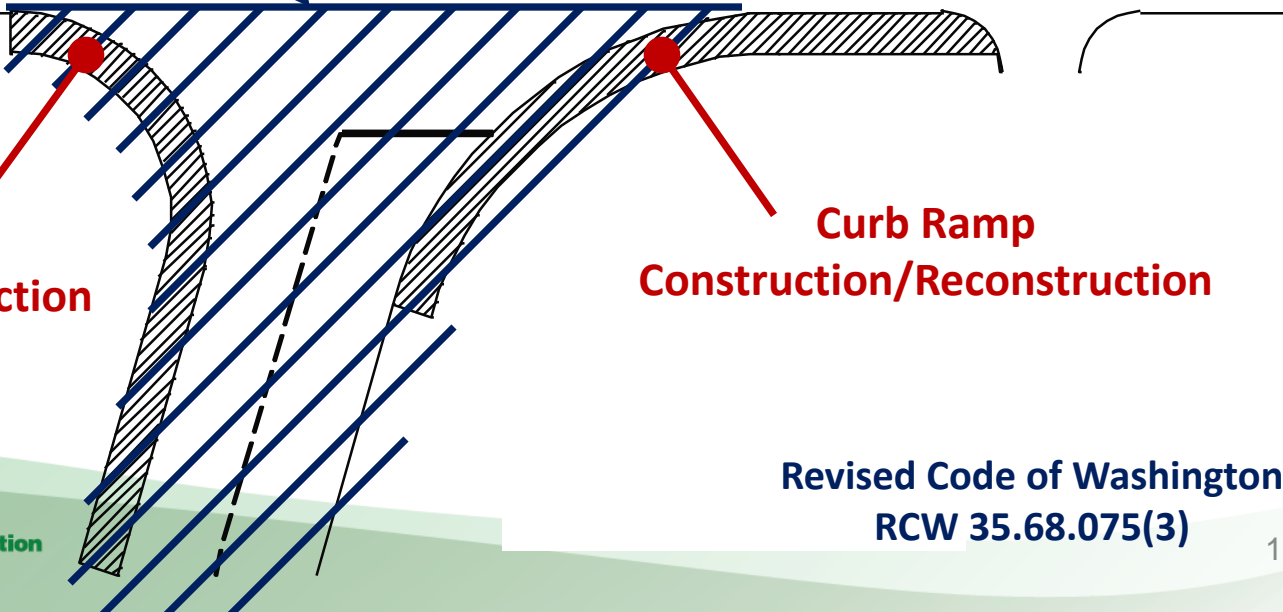
Curb Ramp Must Be Present



**Project Limit
Paving Limit**

**Curb Ramp
Construction/Reconstruction**

**Curb Ramp
Construction/Reconstruction**



**Revised Code of Washington
RCW 35.68.075(3)**

What are the Barriers?



What are the Barriers?

- Communication Devices



What are the Barriers?

- Construction Work Zones



Self-Evaluation Tools

- Level (laser, SMART – 24” best for sidewalks 48” or less; 48” for larger sidewalks)
- Measuring tape; GIS equipment
- WSDOT’s 2012 Field Guide for Accessible Public Rights of Way
- Checklists



Transition Plan - Example

Transition Plan Matrix Explanation

Coded Reference is number sequenced corresponding to all other documents, such as the "Survey Report" which is a supplemental document providing greater detail and explanation

Blue font indicates that hyperlinks exist leading to pertinent references and documents

Barriers are determined based on ADAAG specifications and/or other applicable federal design guidelines and rule making such as UFAS, FHAG, ANSI, TAMM, etc. depending on its pertinence to the given barrier

Three basic criteria are utilized to determine the importance of barrier removal and how soon corrections will be made: 1) Frequency of use by individuals with disabilities, 2) frequency of use by the general public, and 3) Overall - considering the first two criteria and additional issues such as safety, citizen complaints, etc. High Criteria typically indicates corrections will be completed within one year, Medium typically indicates corrections will be completed within 3 years, and Low typically indicates corrections will be completed at some undetermined point in the future

Recommended corrections are developed by DMCG and possibly modified by the Disability Advisory Advisory Committee. Corrections are developed in consideration of the "Program Access" provisions of Title II, where applicable.

Finalized actions, including criteria, dates to be corrected, and correction measures, all of which, are determined by designated City Officials or representatives. Typically an Ad Hoc Committee is formed to make these determinations.

City of "Year City" Transition Plan - June 2003 (Finalized - July 21, 03) Page 1

Reference	Location		Deficiency		Correction		Criteria - Labor, Materials, P-Value			Finalized Actions To be completed by Board of Aldermen			
	Facility Name	Area	Description	Barrier	ADAAG Reference	Recommended Correction	Priority (overall)	Public Access	Frequency - PWD	Priority #	Consequential Costs to City	Finalized Correction	Date to be Corrected
LP-1	Lay Park	Parking	All accessible parking	Accessible parking does not exist due to gravel/grass surfaces	4.1.3(5) (6)	Provide one accessible parking space at the designated accessible pavilion according to ADAAG 4.6	M	M	M	LP-10	\$300	Follow Recommended Correction	3/1/06
LP-2	"	Pedestrian pathways	Pathways to Pavilions	No accessible pathways to pavilions due to gravel/grass	4.3.1	Provide an accessible path of travel (equal) to the accessible pavilion	M	M	M	"	\$100	Follow Recommended Correction	3/1/06
LP-3	"	"	Pathways to play equipment	No accessible path to play equipment due to grass surface and abrupt level change	Play Area - 15.6.4.3.1	Provide an accessible path to play area near accessible parking, remove raised wooden borders	L	"	"	LP-11	\$300	Follow Recommended Correction	Estimated 3/1/03
LP-4	"	"	Pathways to individual picnic picnic tables	No accessible path to individual picnic tables due to grass	Outdoor Rec. - 16.5.1	Create an accessible path and accessible surface at (one per year) individual picnic tables	L	"	"	LP-12	\$1,000	Follow Recommended Correction	Estimated 3/1/03

APS Policy

- Reasonable & consistent policy for APS stems from general prohibition against discrimination:
 - Title II – “No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”

Reasonable & Consistent Policy for APS

- Policy should consist of:
 - APS as individual accommodation upon request
 - APS in existing locations (transition plan)
 - APS in new construction/alterations

Reasonable & Consistent Policy for APS – Maryland SHA

- New construction/alterations
 - APS to be installed at all signals with pedestrian indications.
 - Signals without pedestrian indications will be designed for future installation of APS.
- Existing signals with pedestrian indications where no work is planned
 - Consider and address individuals requests for APS.
 - Install APS on priority ranking basis (transition plan).
 - APS committee to establish ranking.



July 8th, 2013

Department of Justice/Department of Transportation Joint Technical Assistance¹ on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing

Title II of the Americans with Disabilities Act (ADA) requires that state and local governments ensure that persons with disabilities have access to the pedestrian routes in the public right of way. An important part of this requirement is the obligation whenever streets, roadways, or highways are *altered* to provide curb ramps where street level pedestrian walkways cross curbs.² This requirement is intended to ensure the accessibility and usability of the pedestrian walkway for persons with disabilities.

An alteration is a change that affects or could affect the usability of all or part of a building or facility.³ Alterations of streets, roads, or highways include activities such as reconstruction, rehabilitation, *resurfacing*, widening, and projects of similar scale and effect.⁴ Maintenance activities on streets, roads, or highways, such as filling potholes, are not alterations.

Without curb ramps, sidewalk travel in urban areas can be dangerous, difficult, or even impossible for people who use wheelchairs, scooters, and other mobility devices. Curb ramps allow people with mobility

Regardless of whether there is curb-to-curb resurfacing of the roadway, **resurfacing a crosswalk (marked or unmarked) triggers curb ramps at that crosswalk**



July 8th, 2013

The following surface treatments **ARE** Alterations that trigger curb ramps.

- Reconstruction including –
 - Full depth reclamation
 - Cold in-place recycling
- Rehabilitation including –
 - Full slab replacement
 - Slab jacking
 - Widening
- HMA resurfacing including -
 - Overlay
 - Mill and Fill
 - **Thin lift overlays**
- **Open Graded Friction Course**
- **Microsurfacing**
- **Cape seal** (i.e., a chip seal in combination with either a slurry seal or microsurfacing applied over the top)
- **In-place asphalt recycling**



July 8th, 2013

The following surface treatments **ARE NOT** Alterations and are considered **MAINTENANCE** of the roadway surface-

- Crack sealing
- Surface sealing with liquid asphalt
- Chip seal (by itself {i.e., not a cape seal})
- Slurry seal (by itself {i.e., not a cape seal})
- Fog seal
- Scrub sealing
- Joint crack seals (routing prior to crack seal)
- Joint repairs on concrete panels
- Dowel bar retrofits
- Spot high friction treatments
- Diamond grinding
- **Pavement patching** (either full or partial depth)

Bicycle & Pedestrian Funding Opportunities with FTA and FHWA Funds

Bicycle and Pedestrian Funding Opportunities / Federal Transit and Federal Highway Funds

Activity	FTA	ATI	CMAQ see note below	HSIP	NHPP NHS	STP	TAP TE	RTP	SRTS until expended	PLAN	402	FL
Access enhancements to public transportation	\$	\$	\$			\$	\$					
ADA/504 Self Evaluation / Transition Plan						\$	\$	\$		\$		
Bicycle and/or pedestrian plans	\$					\$	\$			\$		
Bicycle lanes on road	\$	\$	\$	\$	\$	\$	\$		\$			
Bicycle parking	\$	\$	\$		\$	\$	\$	\$	\$			
Bike racks on transit	\$	\$	\$			\$	\$					
Bicycle share (capital and equipment; not operations)	\$	\$	\$		\$	\$	\$					
Bicycle storage or service centers	\$	\$	\$			\$	\$					
Bridges / overcrossings for bicyclists and/or pedestrians	\$	\$	\$*	\$	\$	\$	\$	\$	\$			
Bus shelters	\$	\$	\$			\$	\$					

http://www.fhwa.dot.gov/environment/bicycle_pedestrian/funding/funding_opportunities.cfm

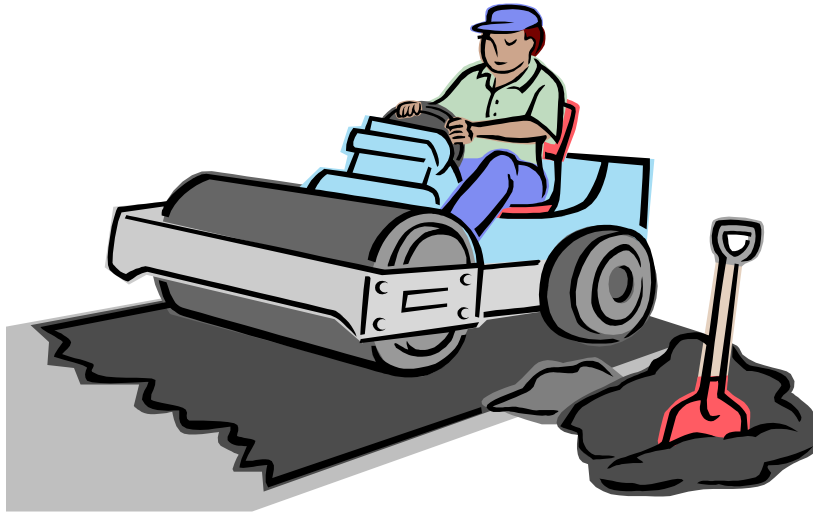
Resources

- 28 CFR Part 35 <http://www.law.cornell.edu/cfr/text/28/part-35>
- 49 CFR Part 27 <http://www.law.cornell.edu/cfr/text/49/part-27>
- LAG Manual Chapter 29
<http://www.wsdot.wa.gov/publications/manuals/fulltext/M36-63/Lag29.pdf>
- NCHRP Report 20-7 (232)
<http://www.wsdot.wa.gov/NR/rdonlyres/D4DD8837-ADC4-486E-AB93-BCA9719E15EB/0/ADATransitionPlansReportMay2009.pdf>
- FHWA Companion Guide to Self-Evaluation Video
<http://www.fhwa.dot.gov/federal-aidessentials/companionresources/33self%20evaluation.pdf>
- FHWA Companion Guide to Transition Plan Video
<http://www.fhwa.dot.gov/federal-aidessentials/companionresources/32transitionplans.pdf>

Resources (continued)

- DOJ-FHWA Joint Technical Assistance on Alterations
http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm
- Public Right-of-Way Accessibility Guidelines
<http://www.access-board.gov/guidelines-and-standards/streets-sidewalks/public-rights-of-way/proposed-rights-of-way-guidelines>
- Planning & Design Resources for LPAs
<http://www.wsdot.wa.gov/LocalPrograms/Planning/ada.htm>
- Rancho Cordova, CA ADA Transition Plan
<http://www.cityofranchocordova.org/Index.aspx?page=133>
- City of Zillah, WA ADA Self-Evaluation/Transition Plan
<http://www.cityofzillah.us/ADA%20Self-Evaluation%20and%20Transition%20Plan%2012-2-2013.pdf>
- City of Bellevue, WA Self-Evaluation Report
<http://www.ci.bellevue.wa.us/accessibility-reports.htm>

The End – Questions



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<http://www.wsdot.wa.gov/LocalPrograms/Traffic/ada.htm>