

# Keeping Pace with Changing ADA Regulations

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By Gary Essex A. Solsona, PE, QSP/D

In 1990, the **Americans with Disabilities Act (ADA)** gave new rights to 19% of the U.S. population. This federal civil rights law bans discrimination against people with disabilities in employment, state and local government services, public accommodations, commercial facilities and transportation.

ADA standards and regulations continuously evolve. Public agencies are responsible for staying abreast of ever-changing accessibility laws that pertain to facilities within the public right-of-way. That is the only way officials can effectively minimize confusion and serve all constituents.

An ideal method is to absorb lessons from people who have learned from experience where applying a guideline may work and directing to a standard will not work. These are crucial challenges when deciding whether to move forward or shelve a project. Yet the topic is so intricate that even consultants who work with ADA standards every day can steer people in the wrong direction.

One presenter at a recent American Public Works Association's Streets and Technology Conference gave incorrect information about the governing standard for a project, and an audience member had to correct him.

That incident was the genesis of this white paper. The Harris team wants to share accurate, hard-won knowledge about best engineering practices for ADA-compliant public facilities in a Pedestrian Access Route, including sidewalks, curb ramps, street crossings and public parking lots.

## Step-by-Step Success

Why is it a challenge to find a recipe for an effective ADA-compliant project? Because there is no single parameter: Accessibility standards differ based on jurisdiction, and **Title II (Federal)** and **Title 24 (California)** regulations have become more stringent over time. The ingredients are the same: design and construction. But their mix keeps changing.

Harris uses a proven, three-step approach to determine which ADA design standards or guidelines apply to design within the public right-of-way:

1. Identify which agency has authority over the project: Caltrans? City? County?
2. For a Caltrans project, or if a City project encroaches into Caltrans right-of-way, refer to the **Caltrans Standard Plans and/or Revised Standard Plans (latest edition)**, and/or **Highway Design Manual (latest edition)** and **Design Information Bulletin (DIB) 82-05**.

3. For a City or County project, confirm which standard plan the City or County has adopted (e.g. Caltrans, APWA, Orange County Public Works, San Diego Regional Standards). If a public agency has its own standard plan, review the details shown on that standard. If they meet or exceed the DOJ **2010 ADA standards** for Accessible Design, then the standard is acceptable.

Many agencies ask if they can use the **California Building Standards Code (CBC)**. While this might appear to be common sense, the idea runs aground because the CBC has not yet been certified for ADA compliance by the U.S. Department of Justice (DOJ). DOJ enforces ADA regulations for public accommodations and state and local government services.

California has made a valiant effort to lift the CBC to the right level: the 2013 revisions were designed to conform to the requirements of the 2010 DOJ amendments. Without certification, however, the only safe CBC standards to follow are the ones that are as strict or stricter than the DOJ standards. Anyone using a CBC standard that is less strict than a DOJ standard who is taken to court will most likely lose. The **ADA website** is clear that while states are responsible for applying their own codes, ADA requirements must also be satisfied.

## A Changing Environment

Every new regulatory change means that existing infrastructure will eventually need an upgrade—there’s no “grandfathering” for public facilities. For example, design requirements for curb ramps have changed from the 1994 ADA standards to the 2010 ADA standards, including slope, landing, flare and grade. Cities have had to replace curb ramps, even if they were still in good shape, to fit new regulations that may seem to offer a negligible benefit: It is one thing to improve an impassable condition, and another to rip out a ramp to install truncated domes or flatten it by 1%. (Recently, as of July 3, 2015, Caltrans removed the requirement of a grooved border around curb ramps since the CBC no longer required it effective July 1 2015. Also, Caltrans deleted the ISA pavement marking in the details because this is not a State or Federal requirement for on-street accessible parking.)

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As soon as new regulations are announced, which may include adoption of portions of or the entire 2011 Public Right of Way Accessibility Guidelines (PROWAG), there’s a flurry of activity because municipalities see the need to react quickly: In 2009, Caltrans lost an eye-opening **\$1 billion-dollar lawsuit** because there was no ADA transition plan to replace non-ADA-compliant curb ramps. In addition, any person with a disability is entitled to sue for a civil rights violation if he or she encounters a building condition that does not comply with ADA standards.

For example, when there was a change in requirements for the acceptable number of parking stalls based on building occupancy, agencies had to revisit public locations (e.g., library, senior center) to see if they were still compliant with ADA. If a library had one accessible stall and needed two, the parking lot had to be restriped or the city would have risked a lawsuit.

## Achieving the Right Design

The unexpected costs of compliance demand due diligence from agencies. What's the best approach to reaching the most cost-effective and economically sustainable result? Start by focusing on design, which is invaluable. This effort may exceed the construction effort, especially when there are many constraints, but will reveal the best solutions.

Some ingredients for success in the design of ADA facilities in the public right of way include:

- Conducting a detailed field review/survey to prevent field changes or, even worse, rejections from failing to meet ADA standards. The field review/survey can also identify the need to acquire right-of-way or coordinate with other plans that affect the new improvements.
- Determining the level of detail that the project requires, and the exceptions to the rules. For example, when encountering obstructions within a sidewalk, such as a power pole or utility cabinet, the clear width of the sidewalk is permitted to be reduced to 32 inches for a length of 24 inches. Another example: when making an improvement to a street crossing, the curb ramps aren't the only items to review for ADA compliance. It's necessary to confirm if the entire crosswalk (grades and cross slopes) complies with the ADA standards as well.
- Using a slightly less than maximum and slightly more than minimum requirement for slopes and dimensions in accessibility design, to avoid construction inaccuracies. Some contractors have pointed to this as a key issue in curb ramp and sidewalk improvements, where precision is critical.
- Using caution when suggesting custom designs for site-specific locations. They may be worth the cost, but only if the contractor has demonstrated experience in this area. Even then, it is helpful to have a "Plan B" that shows how to alter the design to remain ADA compliant, in case surprises occur during construction.

## Summary

Agencies must take a proactive approach to the changing ADA rules, designing for the next regulatory trend. By becoming more informed of the current regulations, or using experienced consultants who are aware of the changing trends, cities can make wise choices and save the costs of future improvements.



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For over a dozen years—almost all of them with Harris—Gary has enriched communities across Southern California as both project manager and project engineer on scores of public works projects. His award-winning career includes roadway improvements, storm drain, sewer and ADA design, sound-wall and retaining-wall design projects, and the preparation of traffic control plans and project study reports.

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