

Indiana Department of Transportation Policy and Procedure for
Determination of Technical Infeasibility



Division of Highway Design and Technical Support
Division of Fleet and Facilities
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BACKGROUND

The Indiana Department of Transportation occasionally coordinates projects containing pedestrian elements in which it is technically infeasible to comply with the Americans with Disabilities Act (ADA). This policy and procedure was developed to provide a consistent process to document technical infeasibility.

POLICY

When, during the course of an alteration project, an individual identifies a situation where ADA compliance is not possible because it appears to be technically infeasible, he or she must submit a written request to the ADA Technical Infeasibility Committee (ADATIC) for a determination of technical infeasibility.

DEFINITIONS

Alteration (Building or Facility): An alteration is a change to a building or facility that affects or could affect the usability of the building or facility, or portion thereof. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, resurfaces of circulation paths or vehicular ways, changes or rearrangement of the structural parts or elements and changes or rearrangement in the plan configuration of walks and full-height partitions. Normal maintenance, such as reroofing, painting, wallpapering or changes to mechanical and electrical systems do not constitute an alteration unless it affects the usability of the building or facility.

Alteration (Roadway): An alteration to a roadway is defined by the Department of Justice (DOJ)/Department of Transportation (DOT) Joint Technical Assistance on the Title II of the Americans with Disabilities Act guidance, issued June 28, 2013. Types of alteration and maintenance work activities are summarized in Table 1. The thickness of a surface treatment is no longer the deciding factor when categorizing a pavement treatment as an alteration or maintenance activity. In some instances, two maintenance treatments combined may have the effect of an alteration.

Alterations	Maintenance
Open-Graded Surface Course	Crack Sealing & Filling
Mill & Fill / Mill & Overlay	Surface Sealing
Hot-In-Place Recycling	Chip Seals
Microsurfacing / Thin Lift Overlay	Slurry Seals
Addition of New Layer of Asphalt	Fog Seals
Asphalt & Concrete Rehab & Reconstruction	Scrub Sealing
New Construction	Joint Crack Seals
	Joint Repairs
	Dowel Bar Retrofit
	Spot High – Friction Treatments
	Diamond Grinding
	Pavement Patching

Table 1. Alteration vs. Maintenance Work Activities

Facility: A facility is all or any portion of a building, structure, site improvement, element and pedestrian route or vehicular way located on a site. A highway or sidewalk inside the public right of way is a facility.

Technically Infeasible: With respect to an alteration project, technically infeasible means that there is little likelihood of the building or facility being made ADA-compliant because existing structural conditions would require the removal of or alteration of a load-bearing member that is an essential part of the structure frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the current minimum Americans with Disabilities Act Accessibility Guidelines.

RESPONSIBILITIES

It is the responsibility of the ADATIC to review and provide a ruling on all requests for determination of technical infeasibility. The ADATIC will apply the current ADA standards during the review and issue a ruling of approved or not approved. The ADATIC may, within its discretion, apply industry accepted best practices to provide substantially equivalent or greater accessibility and usability for persons with disabilities.

COMMITTEE MEMBERS

The ADATIC shall be composed of at least six members, which will include the following or their appointed representatives:

1. Title VI / ADA Program Manager
2. Director of Highway Design & Technical Services
3. Supervisor of Roadway Engineer Review
4. Senior Standards Engineer
5. Fleet and Facilities Director (as needed for building or facility changes only)
6. Construction Management Director
7. Federal Highway Administration (FHWA) Civil Rights Engineer or the Senior Transportation Engineer

Three voting members constitute a quorum for the purposes of reviewing and making a technical infeasibility determination. All members of the ADATIC are voting members, except the FHWA representative. All final determinations require a consensus of a majority of the voting members present during a review meeting. All decisions of the ADATIC are final and not subject to further review.

PROCEDURES

A request for a determination of technical infeasibility may be made to any ADATIC member. In all cases, the Title VI/ADA Program Manager must receive a copy of the request.

The request must contain the following:

- 1) Name and contact information of the requester;
- 2) DES Number, if available;
- 3) Project location and description of the scope of the project;
- 4) A detailed written explanation of the ADA standards and elements that cannot be met because of the alleged technical infeasibility;
- 5) A detailed description of the alleged technical infeasibility ;
- 6) A detailed written explanation of at least two options considered before requesting a technical infeasibility determination regarding and explanation of how the proposed solutions provides accessibility to the maximum extent possible;
- 7) A recommendation regarding which proposed solution is the best fit given the circumstances and an explanation why;
- 8) An itemization of the costs to comply and comparison to the original project cost; and
- 9) Pictures and/or drawings of the actual project location and proposed solutions.

Incomplete submissions will be returned for additional information without review.

Once the ADATIC receives a request for a technical infeasibility determination, the project may not proceed with implementing a solution until the ADATIC issues its determination or the individual withdraws his or her request. It is within the ADATIC's discretion to grant the request for a withdrawal.

The ADATIC will meet within 10 working days of receipt of a complete written request for a technical infeasibility determination. It is within the ADATIC's discretion whether to invite the submitter to the meeting to present information or respond to ADATIC questions.

The ADATIC member receiving the request will submit an initial acknowledgement within two working days of receiving the request for a technical infeasibility determination.

The ADATIC will issue a written final determination within 30 days of receipt of a complete request for a technical infeasibility determination.

The ADATIC will keep minutes of each meeting and a record of all determinations.