

## **Department Policy for Use of Other Power-Driven Mobility Devices (OPDMDs)**

### **Introduction**

March 15, 2011 is the effective date for the Americans with Disabilities Act (ADA), Title II Regulations (28 CFR 35.151) for states and local governments that include requirements for:

- Service animals, ticketing, and use of wheelchairs, manually-powered mobility aids and other power-driven mobility devices.

### **Types of mobility devices**

Mobility devices fall into 2 categories: wheelchairs and other power-driven mobility devices (OPDMDs).

According to the U.S. Department of Justice, in Part 35.104, Americans with Disabilities Act, Nondiscrimination on the Basis of Disability in State and Local Government Services, Definitions, a wheelchair is defined as a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion.

Electric motorized scooters meet this definition, provided they meet Section 37.3 of the U.S. Department of Transportation's regulations implementing the ADA (49 CFR Parts 27, 37, and 38), which defines a "common wheelchair" as a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered, that does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied, and provided they meet the Illinois Vehicle Code definition (625 ILCS 5/1-148.3, from Ch. 95 ½, par. 1-148.3), which defines motorized wheelchair as any self-propelled vehicle, including a three-wheeled vehicle, designed for and used by a person with disabilities, that is incapable of a speed in excess of 8 miles per hour on level ground.

An OPDMD is defined as any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway PT<sup>®</sup>, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

Individuals using an OPDMD may be asked if the device is being used due to a mobility disability (documentation and further conversation establishing the nature and/or extent of the disability cannot be required and shall not take place), and to provide "credible assurance" that the device is necessary because of the individual's mobility disability ("credible assurance" can be the person's State issued placard or ID or can be a verbal statement not contradicted by observable fact).

### **Assessment factors**

As defined by the U.S. Department of Justice, in Part 35.137, Americans with Disabilities Act, Nondiscrimination on the Basis of Disability in State and Local Government Services, Americans with Disabilities Act, Mobility Devices, in determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable modification, a public entity shall consider the following factors—

- (i) The type, size, weight, dimensions, and speed of the device;
- (ii) The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

- (iii) The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);
- (iv) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
- (v) Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources.

## **Policy**

The Department's intent is to provide equal opportunity to all visitors to experience programs, facilities, and natural and cultural resources at Department sites. Due to the broad range of devices and vehicles that meet the above definition of an OPDMD, the Department will assess the use of such devices using the above assessment factors. Until such time and pending further review, the Department will allow use of OPDMDs that meet the following criteria:

- a) Limited by the intended use of the device or vehicle, based upon the manufacturer's recommendation and the type of recreation activity the device or vehicle is designed and used for.
- b) If powered by an internal combustion engine, the engine shall have a four-stroke cycle, be equipped with an approved spark arrestor muffler, and meet Clean Air standards in effect at the time of its manufacture. Two-stroke cycle engines are not allowed.
- c) If powered by an internal combustion engine, OPDMDs are not allowed inside structures whether the internal combustion engine is used or not while indoors.
- d) Used in accordance with normal operating hours for that facility or site and in compliance with current regulations and policy governing public use of Department programs and sites.
- e) Used only on paved (concrete, asphalt, or compacted aggregate) or wooden circulation paths on the grounds of Department sites. Note: this does not include trails (see following), floating boardwalks, or inside structures.
- f) Used on Department-owned vehicle ways with a posted speed limit of 15 mph or less in the immediate vicinity of buildings, lodges, and campgrounds.
- g) Combined width of the OPDMD, operator, and additional load does not exceed 45% of the surface width of the circulation path.

Upon completion of the Department's review of currently available OPDMDs, further criteria may be established to provide greater clarity of use.

## **Subpart Policy – Trails**

### **Types of Department trails**

Trails on Department sites are designated for one or more of the following uses:

- Hiking
- Interpretation
- Horseback riding
- Cross-country skiing
- Biking
- Mountain biking
- Snowmobiling
- Disabled Accessible

## **Purpose of Department trails**

Department trails provide the visitor the opportunity to engage in various trail-based outdoor recreational activities in a natural environment and provide access to natural and cultural resources and associated experiences, e.g., natural communities, scenic overlooks.

## **Policy**

Any Department trails designated for pedestrian traffic are open to individuals with mobility disabilities using wheelchairs, scooters, walkers, crutches, canes, braces, or other similar devices as defined here.

Any Department trails designated as disabled accessible are open to individuals with mobility disabilities using wheelchairs as defined here, and to OPDMD's, as defined here and that meet the criteria stated in this policy.

Any Department trails designated for hiking, interpretation, horseback-riding, cross-country skiing, biking, and mountain biking are open to individuals with mobility disabilities using wheelchairs, as defined here, but not open to OPDMDs due to assessment factors (i), (ii), (iv) and (v). OPDMDs pose a legitimate safety threat to other individuals using the trails and they pose a substantial risk to the natural and cultural resources associated with the trails, and by their nature they disturb the intended trail experience.

Any Department trails designated for snowmobiling are open to individuals with mobility disabilities using wheelchairs, as defined here, and to OPDMDs, as defined here and that meet the criteria stated in this policy.

Any Department trail or section of Department trail that is designated for hiking, interpretation, horseback riding, cross-country skiing, biking, mountain biking, or snowmobiling that also allows use of motor vehicles by the public, are open to individuals with mobility disabilities using wheelchairs, as defined here, and to OPDMDs, as defined here and that meet the criteria stated in this policy.

Individuals with mobility disabilities using Department trails open to wheelchairs, as defined here, and OPDMDs, as defined here, use those trails at their own risk. The Department makes no claims that Department trails are designed, maintained, and managed for any mobility device.

It is suggested that individuals with mobility disabilities contact the site office prior to arrival to determine if their OPDMD is allowed according to the criteria stated in this policy. Upon arriving at the site, individuals with mobility disabilities using OPDMDs must check in at the site office prior to use of the OPDMD on a Department trail or roadway to ensure its use is acceptable at that site.

Site superintendents are authorized to issue, condition, or deny permission for program, facility, or other access as long as the determination is based upon non-disability related factors. Such reasons may include documentable safety, facility or natural resource management purposes, search and rescue operations, weather conditions, seasonal closures of areas for wildlife protection, and hunting programs.

## **Operator Responsibilities**

Operating a motor vehicle on Department leased or managed areas, roads, and trails, carries a greater responsibility than operating that vehicle in a city or other developed setting. Not only must the operator know and follow all applicable traffic laws, the operator needs to show concern for the environment as well as other users. The misuse of motor vehicles can lead to the temporary or permanent closure of any designated road, trail, or area. The motor vehicle operator is subject to State traffic laws, including State requirements for licensing, registration, and operation of the vehicle in question. Motor vehicle use, especially off-highway vehicle use, involves inherent risks that may cause property damage, serious injury, and possibly death to participants. The operator must drive cautiously and anticipate rough surfaces and features such as snow, mud, vegetation, tree roots, and water crossings common to remote

driving conditions. The operator voluntarily assumes full responsibility for these damages, risks, and dangers. The operator must take care at all times to protect him or herself and those under his or her responsibility. Medical assistance may not be readily available. Cellular telephones do not work in many areas of the State. The operator should take adequate food, water, first-aid supplies, and other equipment appropriate for the conditions and expected weather. Compliance with these rules is the operator's responsibility. A person may be asked to leave the site if the device is being operated in an unsafe or disruptive manner. If a device is operated in an unsafe or disruptive manner, or on a trail or in an area where such devices are prohibited, the operator may be subject to arrest and prosecution.

Other pertinent definitions (from the ADA 2010 Standards) applicable to Department sites and facilities include

**Circulation Path:** An exterior or interior way of passage provided for pedestrian travel, including but not limited to, *walks*, hallways, courtyards, elevators, platform lifts, *ramps*, stairways, and landings.

**Facility:** All or any portion of *buildings*, structures, *site* improvements, *elements*, and pedestrian routes or *vehicular ways* located on a *site*.

**Vehicular Way:** A route provided for vehicular traffic, such as in a street, driveway, or parking *facility*.