

 New York State Parks, Recreation and Historic Preservation Section: Operations	Policy Title: Use of Other Power-Driven Mobility Devices in Outdoor Areas of New York State Parks & Historic Sites Directive: OPR-POL-024 Effective Date: 04/01/2022
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Purpose

The New York State Office of Parks, Recreation & Historic Preservation (OPRHP) is committed to enabling the use and enjoyment of the State park system by persons with disabilities. The United States Department of Justice (DOJ) rules implementing the Americans with Disabilities Act (ADA) require public entities to allow people with disabilities who use manual or power wheelchairs or scooters, and manually-powered mobility aids such as walkers, crutches, and canes, to use such devices in any areas open to pedestrian use. A public entity must also make reasonable modifications in its policies, practices, or procedures to permit the use of other types of power-driven mobility devices (OPDMDs) by individuals with mobility disabilities, unless the entity can demonstrate that the type of OPDMD cannot be operated because of legitimate safety requirements or damage to natural resources.

Definitions

Other power-driven mobility device (OPDMD): Any mobility device powered by batteries, fuel, or other means – whether or not designed primarily for use by individuals with mobility disabilities – used by individuals with mobility disabilities, including golf carts, electronic personal assistance mobility devices (i.e., the Segway PT), or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair.

Wheelchair: A manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the purpose of indoor or of both indoor and outdoor locomotion.

Process for Assessment

Who May Use OPDMDs: The ADA requires that people with mobility related disabilities be allowed to use OPDMDs, and also allows public agencies to institute reasonable restrictions on their use for legitimate safety reasons. The use of OPDMDs in OPRHP facilities is restricted to people with mobility disabilities as defined in §35.104 of Title II of the Americans with Disabilities Act. Users of OPDMDs may be asked to provide credible assurance that the mobility device is required because of their disability. A government-issued pass showing evidence of a

qualified mobility disability or any state's valid disabled parking placard or card assigned to the person who will be using the OPDMD constitutes credible assurance that a mobility device is required by the person's disability. A verbal representation is also acceptable, if the statement is not contradicted by observable fact. However, Staff shall not ask an individual using a wheelchair or OPDMD questions about the nature or extent of the individual's disability.

Assessment Factors: OPRHP facility managers have experience with OPDMD use and application of the prior version of this policy since 2015. The following factors are used in determining whether an OPDMD can be safely used in an OPRHP facility:

- 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, or poses a conflict with land management laws and regulations.

Land Classifications: Outdoor Developed Area Paths (e.g., through developed lawn areas, boardwalks or any other routes that pedestrians use).

Paved Trails

Typical examples of Paved Trails are Bicycle Class I (Greenway Trails) and developed or interpretive hiking trails. Paved trails are typically multi-use trails but in some high-use areas may be designated for foot traffic only. Tread width can vary from 5 to 14 feet with additional shoulder width. Considering the factors listed above, the characteristics of an OPDMD could affect other trail users based on the volume of pedestrian traffic and operational characteristics of the trail. These trails are typically high capacity, high volume, two-way traffic areas, where a width restriction allows for safe passing of other OPDMDs, bicycles and pedestrians.

Wide Unpaved Trails

Typical examples of wide unpaved trails are natural surface (unpaved) fire and park roads, carriage roads, and mowed trails, usually greater than 8 feet in width. These trails are typically wide enough for one-way vehicle traffic, and this width restriction allows for safe passing of other OPDMDs, bicycles, and pedestrians.

Standards for Outdoor Developed Area Paths, Paved Trails and Wide Unpaved Trails:

- Size:
OPDMDs shall not be wider than 48" (this width is needed in order to safely allow two OPDMDs to pass, and to allow OPDMDs to pass between bollards designed to prevent street vehicles operated by people without mobility disabilities from accessing the trails).
- Weight:
The overall weight of the device and user(s) shall not exceed 550 pounds (the weight limit is designed to limit heavier loads for two reasons. Heavier loads may cause damage to trails. Heavier devices may also be unstable on surfaces that may not be able to accommodate heavier loads safely).
- Speed:
OPDMDs shall not be operated at speeds in excess of 5 miles per hour (some paths or trails may be unpaved, and steeper than long-distance trails and any faster speeds would lead to soil erosion. Also, other paths and paved trails are more heavily used, and the lower speed limit is needed for the protection of other path or trail users).
- Noise:
OPDMDs shall not produce noise levels in excess of 70 decibels (this is a recognized maximum safe noise level).
- Emissions:
OPDMDs shall not exceed zero emissions during use (only manually or battery/electricity operated devices are permitted).

These trails include natural surface (unpaved), and often unimproved, narrow gauge tread (generally 18-36" tread width and maximum 6' corridor width), suitable for foot travel such as hiking, and/or multiple use activities, including mountain biking, and/or horseback riding. These are typically narrow trails; two-way traffic would require users to venture off-trail at risk of personal injury and harm to natural resources when overtaking or allowing passage.

Standards for Pedestrian (foot) or Multi-Use Single Track Trails:

- Size:
To protect other users on these trails, as well as their natural resources, only in-line OPDMD devices will be allowed. These OPDMDs should be smaller-sized and not exceed 26" in maximum width and have a maximum wheel width of 6".

The weight, speed, noise and emissions restrictions in the standards for the other land classifications above also apply to devices used on these pedestrian or multi-use trails.

In some facilities, these pedestrian or multi-use single track trails may be found in natural or remote areas and feature steep or uneven terrain, which may mandate additional caution and/or protections for natural resources. To protect patron safety and the area's natural

resources, it may be appropriate to preclude use of OPDMDs on these trails, or subject them to recurring seasonal or other restrictions. The facility managers should identify these trails in advance as not available to wheelchairs or OPDMDs and ensure that information is posted at the facility and on the Agency's websites and apps.

Policy Statement

If the OPDMD meets the standards for the land classifications described above an individual does not need to request access.

Exception

On a temporary basis, the facility manager may use the assessment factors and land classification to consider whether the characteristics of the OPDMD and on-site conditions such as the volume of traffic and operational characteristics of the area or seasonal conditions (e.g. flooding, rockslides, wildfires, crowds, etc.) could affect the safety of other users or the user of the OPDMD and may preclude use of the OPDMD. An articulable, legitimate safety concern may exist temporarily under certain seasonal conditions in specific areas of a park or historic site; however, OPDMDs should be allowed to the extent those temporary conditions are alleviated.

Prohibition

Gas-powered OPDMD

One type of OPDMD is a mobility device powered by a gas-fueled engine using natural gas, gasoline, diesel, synthetic or biofuel, or a combination thereof, including all-terrain vehicles (ATV), carts, off-road bikes, motor scooters, motorcycles, tractors and vehicles (whether two, three, or four wheeled).

OPDMDs equipped with gas-fueled engines will largely be prohibited in many park settings due to risks outlined below; however, the risks associated with gas-powered devices warrant an individualized assessment of the device's operating condition, operator's knowledge of existing conditions and restrictions, and the intended itinerary. This will reduce the risk of safety hazards arising from conflicting use of facilities and trail conditions. Consultation has not presented an unreasonable burden to users; virtually all state park facilities are staffed and have the capacity to review the request on-site and consult without undue delay.

OPRHP facilities possess significant natural topographical features and ecological resources that are managed to support a wide range of plant and animal communities in harmony with public recreation. Gas-powered OPDMDs present a substantial risk of harm to operators, visitors, and the immediate environment due to their internal combustion engines and relatively large dimensions, weight, driving range and/or horsepower.

Additional risks posed by gas-powered devices are detailed as follows:

- Volatile fuels present a risk of fire created by ignition systems and the heat of engine combustion.

- Fuel tanks may leak or fuel may spill during refueling. Fuel leaks damage the environment and may cause fire.
- Engine noise can produce a significant zone of disturbance to native wildlife and can negatively impact visitor experience. Noise presents a health risk to park users when it exceeds 70dB, which the World Health Organization has set as a maximum safe noise level in the workplace. Many gas-powered devices, such as ATV and motor bikes, have the capacity to routinely exceed this threshold level under otherwise normal operating conditions.
- The exhaust of small internal combustion engines may pose an air quality risk for park visitors and employees.

Other Notes:

- OPRHP facilities may post lower speed limits intended for all users that reflect path or trail conditions.
- Wheelchairs and OPDMD users must operate their devices in a safe manner, consider the nature of the path or trail and the other users.
- Wheelchairs or OPDMDs must always stay on designated paths or trails. Exceptions can be made when crossing turf or lawn areas or crosswalks to leave or rejoin a path or trail as necessary.
- When required by New York State law, wheelchair or OPDMD users shall wear protective gear or an appropriate helmet while operating their vehicles.

Forms

No forms.

Other Related Information

U.S. Department of Justice, Civil Rights Division, Disability Rights Section. *Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices*. <https://www.ada.gov/opdmd.htm>

History

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| 04/01/2022 | Substantial revisions, including removal of permits for OPDMDs, and providing guidance on device specifications for certain types of trails. |
| 07/15/2015 | Policy created and effective immediately. |