

Vilas County Forestry, Recreation, and Land Department - Accessibility Guidance

On March 15, 2011, The Department of Justice (DOJ) amended its regulation implementing Title II of the Americans with Disabilities Act (ADA) to increase access to public facilities and programs by individuals with mobility disabilities. This policy is in response to the DOJ ruling, which allows access for individuals with mobility disabilities to all public trails by use of wheelchairs, manually powered mobility aids, and other power-driven mobility devices (reference DOJ, Title II, 28 CFR. Part 35 [CRT Docket No. 105; AG Order No. 3180-2010]). Power-driven mobility devices (PDMDs) include any mobility device powered by batteries, fuel, or other engines - whether or not designed primarily for use by individuals with mobility disabilities. These may include, but are not limited to, all-terrain wheelchairs, electric bicycles, electronic personal assistance mobility devices (EPAMDs) such as the Segway® PT, golf carts, ATVs, UTVs, cars and trucks.

- 1) **Use of wheelchairs and manually powered mobility aids.** Individuals with mobility disabilities are permitted to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use. Disability documentation is not required. (Reference §35.137 (Title II) and §36.331 (Title III) Mobility devices).
 - a) **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 both indoor and outdoor locomotion. (Reference §35.104 and §36.104 – Definitions).
- 2) **Use of other power-driven mobility devices (OPDMDs).** Other power-driven mobility device means 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 carts, electronic personal assistance mobility devices (EPAMDs) such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes. OPDMD’s are not wheelchairs (Reference §35.104 and §36.104 – Definitions).
 - a) **Other power-driven mobility devices (OPDMDs):**
 - i. Gas-powered device: any mobility device powered by a gas-fueled engine using natural gas, gasoline, diesel, synthetic or bio fuel, 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).
 - ii. Electric-powered device: any mobility device powered by batteries, including multiple passenger carts, electronic personal assistance mobility devices (such as the Segway PT), and battery-powered bikes.
 - iii. Tandem wheel device: any two, three or four-wheeled mobility device where the wheel alignment is parallel along one or more axles.
 - iv. Inline wheel device: any two-wheeled mobility device where the wheel direction of travel are aligned in the same plane.
- 3) **Disability Identification.** An individual with a mobility disability using an OPDMD must have:
 - a) A valid, State-issued, disability-parking placard or card, or other State-issued proof of disability, as a credible assurance that the use of the other power-driven mobility device is for the individual’s mobility disability.

- b) Class A, B, or C Disability Permit issued by WI DNR.
 - c) In lieu of a valid, State-issued disability-parking placard, a credible verbal assurance will be accepted.
 - d) Staff shall not ask an individual using a wheelchair or OPDMD questions about the nature and extent of the individual's disability.
- 4) **Assessments:** In accordance with DOJ regulations, trail assessments will be conducted on trails on Vilas County Forest to determine what type of OPDMDs are reasonable for use by individuals with mobility disabilities. Assessments shall be based on the actual on-site conditions observed by the assessor as well as seasonal conditions known to Vilas County Forestry, Recreation, and Land Department staff (e.g. flooding, soil types, seasonal wetness, wild fires, crowds, etc.). Consideration should be given to established ways for public use in addition to areas where pedestrians are allowed, including but not limited to: beaches, lawn areas, and roadways open to public motorized vehicles (e.g. County Forest Roads and campground roads). This follows the five assessment factors provided in the DOJ ruling to determine whether or not a specific OPDMD can be allowed. PDMDs shall not be operated off-trail unless an applicant has specifically requested permission for off-trail use on the Power-Driven Mobility Device (PDMD) Permit for Disabled Access, and, after conducting an assessment, that off-trail use is considered permissible.
- a) **Assessments Factors:**
 - i) What is the design of the trail? Describe using the following characteristics: steep grades, sharp curves, uneven terrain, natural obstacles, blind intersections, current uses, and trail width. Identify any of the characteristics that will make certain PDMD use unsafe.
 - ii) What is the pedestrian traffic like on this trail, and will it accommodate the safe use of PDMD? Note current trail uses and typical pedestrian volume. What type of PDMDs would pose a safety concern for pedestrian users of this trail? Will PDMD use of any kind be unsafe?
 - iii) Consider the design and characteristics of the trail as well as the pedestrian traffic, what kind of PDMD use could be accommodated, specifically taking into account the following factors of the device: size, tire size, weight, dimension, speed, emissions, tread type, sound level, and ground clearance.
 - iv) Considering the use of PDMDs identified in factor (iii), what are the requirements necessary to ensure the safety of all trail users?
 - v) Will PDMD use create a risk of substantial harm to the environment natural resources or cultural resources? Explain. Examples: Impact to sensitive plants and ecosystems; impact to animal habitat; spread of invasive plants; impact to historic areas; and soil compaction.
 - b) **Gas-powered OPDMD:** The use of all gas-powered mobility devices (for all trail categories) will be allowed pursuant to an OPDMD permit when the assessment factors indicate that OPDMD use is possible at the site. Such permits shall be issued with reasonable terms and conditions to ensure, to the greatest extent practicable, the health, safety and welfare of the operator, other patrons, and staff, and to protect the environmental and cultural resources of the Vilas County Forest in accordance with the DOJ assessment factors.
 - i) **Considerations:** Vilas County Forest possess significant natural topographical features and ecological resources that are managed to support a wide range of ecological communities

and wildlife habitat in harmony with public recreation. Ordinary use of gas-powered mobility devices on the Vilas County Forest may 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 below.

- (a) Volatile fuels present a risk of fire created by ignition systems and the heat of engine combustion.
 - (b) Fuel tanks may leak or fuel may spill during refueling. Fuel leaks damage the environment and may cause fire.
 - (c) Engine noise can produce a significant zone of disturbance to native wildlife and can negatively affect 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 work place. Many gas-powered devices, such as ATV and motor bikes, routinely have the capacity to exceed this threshold level under otherwise normal operating conditions.
 - (d) Under certain conditions, the exhaust of small internal combustion engines may pose an air quality risk for forest patrons and employees.
- ii) 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. Obtaining a permit should not present an unreasonable burden to users.
 - iii) Factors to be considered as permit conditions should include the weight, speed and condition of the device (including fuel tanks, backfire/flare arrestors, mufflers, and mirrors and other safety equipment). The volume and type of patrons using the trail, as well as the nature and condition of the trail to be accessed and variations in the suitability of terrain due to weather, erosion, and wildlife activity. The permit process will also serve as a logbook or intended itinerary for patrons and will facilitate response to calls for assistance and/or search and rescue efforts.
- c) **Electric-powered OPDMD:** The Vilas County Forest, Recreation, and Land Department has assessed a range of OPDMD and concludes that the use of most electric-powered mobility devices should be allowed through an OPDMD permit subject to any restrictions deemed necessary by property administrators.
- i) Considerations (pursuant to 28 CFR § 35.137(b)): In general, electric-powered mobility devices present less risk of serious harm to operators, park visitors and the immediate environment than gas powered devices. Electric-powered devices do not use volatile fuels, ignition, or internal combustion engines and they usually have reduced horsepower, range and speed capacity compared to gas-powered devices. Moreover, these devices present virtually no noise or air quality issues. Accordingly, electric-powered devices will generally be allowed on trails and bikeways under the specific trail type categories as established herein. Users of these devices are required to observe the applicable speed limit, accommodate other trail users, and stay within authorized trails. All OPDMD may be restricted from narrow or single-track trails that do not provide appropriate terrain or lack adequate space for the safe passage of other users.