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On March 15, 2011, new Department of Justice rules took effect, specifying the “other power-driven mobility devices” (OPDMD) that could be used on trails by “individuals with mobility disabilities.” If you manage a trail that is open to the public this rule applies to your facility.

▶ [Analysis of state and local OPDMD regulations and policies](#)

- [Questions and Answers on Other Power-Driven Mobility Devices](#)
- [Webinar with audio in wmv format](#) presented by American Trails on the DOJ Rule on Feb. 23, 2011
- [DOJ text on "other power-driven mobility devices" from Federal Register with response to public comments](#)
- [See the Revised Final Title II Regulation of the Americans with Disabilities Act of 1990 \(42 U.S. C. 12131\), with full text of the DOJ rule](#)
- [Download "Revised ADA Requirements: Effective and Compliance Dates" \(pdf 225 kb\)](#)

BASIC FACTS on Department of Justice rule on power-driven mobility devices for accessibility

Compiled by Stuart Macdonald, National Trails Training Partnership (NTP) Manager, American Trails

On March 15, 2011 the Department of Justice (DOJ) revised rules went into effect allowing “other power-driven mobility devices” to be used by “individuals with mobility disabilities.” [Download pdf of key sections of the DOJ rule ...](#)

This DOJ ruling applies to any place, indoors or outdoors, that is open to the public.

Under the American with Disabilities Act (ADA) Title II this DOJ rule applies to trails on State or local government lands. Also under the ADA Title III it applies to other “public accommodations” that would include trails open to the public on privately or commercially managed lands. Federal agency managed lands are not directly covered under the ADA, however this rule sets legal precedents the Federal agencies must watch. So the Federal agencies are also reviewing their policies, procedures, and the way in which trails on the land base they manage have been assessed.



Virtually any vehicle can be used as an OPDMD

What IS an "other power-driven mobility device?"

An “other power-driven mobility device” (OPDMD) is defined in the rules 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, 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. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

In short an other power-driven mobility device is anything with a motor that can be driven, regardless of size or horsepower, if it is driven by a person who has a mobility related disability.

What is NOT an "other power-driven mobility device?"

Any device that meets the following DOJ definition of a wheelchair is not an other power-driven mobility device and must be allowed to be used anywhere, with no exceptions.

A wheelchair is: 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. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

Despite the DOJ ADA rules, the U.S. Forest Service wheelchair definition, regulations and policies remain in place and continue to apply to all on the U.S. Forest Service managed lands.

Who is to be allowed to use the other power-driven mobility devices?

The DOJ rules say anyone who has a mobility disability. A person using an other power-driven mobility device may be asked to provide a “credible assurance” that the mobility device is required because of the person’s disability. That credible assurance can be showing a valid, State-issued, disability parking placard or card, or other State-issued proof of disability, or if the person doesn’t have any of those with them, they may simply say that the other power-driven mobility device is being used for a mobility disability. A person may not be asked if they have a disability or anything about their disability.

Only 8 million people who have mobility limitations use wheelchairs, canes, crutches, etc. Close to 20 million people have a mobility related disability but don’t use wheelchairs, canes, and so forth. However, they still have mobility disabilities that limit the distance they can walk due to heart or breathing disorders, amputations, joint or muscle related disabilities, and the list goes on. Keep in mind that 85% of all disabilities aren’t obvious.

What do you need to do for your trail to be ready for March 15th when the DOJ rules on other power-driven mobility devices go into effect?

The DOJ rules requires an entity open to the public to make reasonable modifications in its policies, practices, or procedures to allow the use of other power-driven mobility devices by individuals with mobility disabilities, UNLESS: that entity can document that it has completed an assessment of the facility, trail, route or area, before the person requesting use of the device arrived onsite, and the entity found that class of other power-driven mobility device could not be used in that location due to one or more of the following DOJ assessment factors:

DOJ Assessment Factors:

- (a) “The type, size, weight, dimensions, and speed of the device;
- (b) The volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

(c) The 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);

(d) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and

(e) 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 Federal land management laws and regulations.”

If one of those issues prevents the use of a specific calls of other power-driven mobility device

Those are the only factors a public entity is to use in determining whether a particular class of other power-driven mobility device may be allowed in a specific location.

Policies and public notice:

DOJ rule states: “A public entity that has determined that reasonable modifications can be made in its policies, practices, or procedures to allow the use of other power-driven mobility devices should develop a policy that clearly states the circumstances under which the use of other power-driven mobility devices by individuals with a mobility disability will be permitted. It also should include clear, concise statements of specific rules governing the operation of such devices. Finally, the public entity should endeavor to provide individuals with disabilities who use other power-driven mobility devices with advanced notice of its policy regarding the use of such devices and what rules apply to the operation of these devices.”

The DOJ rules regarding other power-driven mobility devices, are a portion of the revisions to the ADA Title II and Title III finalized by DOJ on 9/15/2010.

- [Read the text of key sections of the DOJ rule ...](#)
- [Read more on the federal regulations related to use of wheelchairs and power-driven mobility devices...](#)
- [More on accessible trails and outdoor recreation and the Americans with Disabilities Act](#)

We wish to thank Janet Zeller, U.S. Forest Service National Accessibility Program Manager, (jzeller@fs.fed.us) for providing this information on the new DOJ rule.

MORE RESOURCES

American Trails index on [accessible trails, outdoor recreation, and the Americans with Disabilities Act](#)

See [DOJ ADA Website](#)

Additional information and comments on the “power-driven mobility device” issue:

- [Comments from American Trails to Department of Justice](#)
- [Concerns with DOJ proposal for "power-driven mobility devices"](#)
- [Comments favoring allowing Segway use as mobility assistive devices](#)
- ["Disabled Embrace Segway" from New York Times](#)
- [Hikers concerned about potential for ATVs gaining free access to backcountry areas](#)

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