

WASHINGTON STATE PARKS AND RECREATION COMMISSION POLICY/PROCEDURE

65-13-1 Use of Other Power-Driven Mobility Devices by Persons with Mobility Disabilities at State Park Facilities

See Also:

28 CFR 35 Title II	State and Local Government Services
28 CFR 36 Title III	Public Accommodations and Commercial Facilities
WAC 352-20-005	Definitions
WAC 352-20-020	Motor Vehicles on Roads and Trails
WAC 352-20-030	Speed Limits
WAC 352-28-050	Protecting and Restoring Degraded Natural Resources
WAC 352-32-075	Use of Non-motorized Cycles or Similar Devices

1. Purpose

This Policy applies to all employees of the Washington State Parks and Recreation Commission (State Parks). Its purpose is to provide guidance for agency staff to comply with rules issued by the federal Department of Justice pursuant to the 1990 Americans with Disabilities Act Title II and Title III that became effective on March 15, 2011. These rules deal with the use of power-driven mobility devices other than wheelchairs used by persons with disabilities

State Parks is committed to stewardship that transmits high quality park assets to future generations and is dedicated to safe outdoor recreation and public enjoyment that welcomes all our citizens—including those with disabilities—to their public parks.

2. Definitions

Dune area: The portion of the ocean beach areas lying landward of the line of ordinary high tide.

Long-distance trails: Stand-alone trails or trails within linear parks, usually located on former railroad rights-of-way. The trails are approximately 10 feet wide, with typical grades being under 3%. Trail surfaces are usually asphalt or crushed rock, except in undeveloped areas, where the surface is usually loose railroad ballast. Trails in this category include John Wayne Pioneer Trail, Willapa Hills Trail, Columbia Plateau Trail, Klickitat Trail, and Spokane River Centennial Trail. Rocky Reach Trail will also fall into this category, once it is developed.

Non-motorized trails within state parks: Trails intended for non-motorized use, located entirely within non-linear state parks. They are often part of a trail system within the park. Trail widths vary, but are generally under 6 feet wide, sometimes as narrow as 2 feet. Grades also vary, ranging from flat trails to grades of 20% or more. Trail surfaces can be paved with asphalt, concrete, wood, or crushed rock, but are often bare soil. Trail use is generally higher on these trails than on long-distance trails.

Ocean Beaches: Pacific coastal beaches under the ownership or control of the Washington State Parks and Recreation Commission, including the Seashore Conservation Area (as defined in RCW 79A.05.605), landward of the line of extreme low tide.

Off-road vehicle (ORV) trails: Recreational trails for motorized vehicles. State Parks currently has only one area open to ORV use, located within Riverside State Park.

Other Power-Driven Mobility Device (OPDMD): Power-driven devices other than wheelchairs used for locomotion by individuals with mobility disabilities. They are devices powered by batteries, fuel, or other engines, and may or may not be designed primarily for use by individuals with mobility disabilities. OPDMDs include golf carts, electronic personal assistance mobility devices, such as the Segway® PT, or any other mobility device designed to operate in areas without defined pedestrian routes.

Outdoor recreation access route: A continuous unobstructed path designated for pedestrian use that connects accessible elements within a picnic area, camping area, or designated trailhead. Examples include the paths connecting parking spaces to a picnic or camp unit, or a picnic unit to a toilet building, or those connecting accessible picnic tables to other accessible camping elements.

Sensitive beach areas: Beach areas that are used by threatened or endangered species. These areas include:

1. The Long Beach peninsula, between Oysterville Road and Leadbetter Point; and
2. The Copalis River spit, between Benner Road and the Copalis River.

Uppermost hard sand area: The area over which the tide ebbs and flows on a daily basis, and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle, and which is landward of the clam beds.

Winter recreation trails: Trails, or trail sections, on lands owned by State Parks, that are used for motorized or non-motorized winter trail sports, such as snowmobiling, cross-country skiing, snowshoeing, or dogsledding.

3. Policy

General The Washington State Parks and Recreation Commission will follow all federal and state laws as established by the 1990 Americans with Disabilities Act Title II and Title III, and all subsequent United States Department of Justice revisions. This policy specifically addresses the requirement that a public agency “*shall make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities*” (28 CFR Part 35).

In general, OPDMD use by persons with mobility disabilities will be allowed wherever they do not: 1) pose a risk to the safety of the operator or other members of the public, or 2) create a substantial risk of serious harm to the environment, or to natural or cultural resources.

Who May Use OPDMDs With the exception of off-road vehicle parks, the use of OPDMDs in Washington State Parks is restricted to people with mobility disabilities as defined in §35.104 of Title II of the Americans with Disabilities Act. Users of OPDMDs must provide credible assurance that the mobility device is required because of their disability. Credible assurance may be provided by showing park staff 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. Individuals who provide only verbal representation, not contradicted by observable fact, that the device is required because of a mobility disability will not be denied the benefit of this program. Park staff shall not ask an individual using a wheelchair or OPDMD questions about the nature or extent of the individual's disability.

Use of Assessment Factors and Land Classifications This policy is based on federal rules that specify the assessment factors public agencies must use as the basis for decisions as to whether it is reasonable to allow the use of a class of OPDMD by individuals with disabilities in specific venues such as park trails and public buildings. These are:

1. The type, size, weight, dimensions, and speed of the device
2. Pedestrian traffic volume
3. Facility design and operational characteristics
4. Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility
5. 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.

State Parks land classifications, as described in WAC 352-16-020, are designations of the natural, cultural, or recreational resource values of lands managed by the Washington State Parks and Recreation Commission. The land classification process inventories and evaluates a park's natural, cultural, and recreational resources. Land classifications will therefore be used to determine resource sensitivity for the purposes of assessing whether a particular class of OPDMD creates a risk of serious harm to them.

Standards for Use of OPDMDs In order to ensure that OPDMD operation does not pose significant safety or environmental risks, all OPDMDs operated in State Parks must meet the following standards.

Long-distance trails:

1. OPDMD use is permitted, except in classified Natural Area Preserves, provided the OPDMD meets the other criteria in this section.
2. Internal combustion engines are not permitted in classified Natural Areas or Natural Forest Areas.
3. OPDMD shall not exceed 48" in width¹.
4. If powered by an internal combustion engine, the OPDMD engine shall be equipped with a US Forest Service-approved spark arrestor, in working condition with no modifications. The OPDMD is required to have an operating muffler device, and to meet Clean Air standards in effect at the time of its manufacture.
5. Speed shall not exceed 15 miles per hour, except within 30 feet of other trail users, where speed shall not exceed 5 miles per hour.

Non-motorized trails within state parks:

1. OPDMD use is permitted, except in classified Natural Area Preserves, provided the OPDMD meets the other criteria in this section.
2. In classified Natural Areas, Natural Forest Areas, and Heritage Areas, OPDMD use is permitted only on trails with a paved, wood, or crushed rock surface.
3. If the trail has wider areas to allow for passing at 1000-foot maximum intervals, the OPDMD width shall not exceed 90% of the width of the trail, up to a maximum of 48".
4. If the trail does not have wider areas to allow for passing at 1000-foot maximum intervals, the OPDMD width shall not exceed 45% of the width of the trail, up to a maximum of 48".
5. If powered by an internal combustion engine, the OPDMD engine shall be equipped with a US Forest Service-approved spark arrestor, in working condition with no modifications. The OPDMD is required to have an operating muffler device, and to meet Clean Air standards in effect at the time of its manufacture.
6. Speed shall not exceed 5 miles per hour.²

Outdoor recreation access routes:

1. OPDMD use is permitted, provided the OPDMD meets the other criteria in this section.
2. If the outdoor recreation access route has wider areas to allow for passing at 200-foot maximum intervals, the OPDMD width shall not exceed 90% of the width of the outdoor recreation access route, up to a maximum of 48".

¹ 48" maximum 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.

² 5 miles per hour is the maximum speed on non-motorized trails within state parks because these trails are often unpaved, and steeper than long-distance trails. Under these conditions, faster speeds would lead to soil erosion. Also, since these trails are more heavily used, the lower speed limit is needed for the protection of other trail users.

3. If the outdoor recreation access route does not have wider areas to allow for passing at 200-foot maximum intervals, the OPDMD width shall not exceed 45% of the width of the outdoor recreation access route, up to a maximum of 48”.
4. If powered by an internal combustion engine, the OPDMD engine shall be equipped with a US Forest Service-approved spark arrestor, in working condition with no modifications. The OPDMD is required to have an operating muffler device, and to meet Clean Air standards in effect at the time of its manufacture.
5. Speed shall not exceed 5 miles per hour.

Off-Road Vehicle (ORV) trails:

1. OPDMD use is permitted, provided the OPDMD meets the standards required of ORVs.

Winter recreation trails:

1. OPDMD use is permitted on trails or trail sections managed for snowmobile use during the winter recreation season, provided the OPDMD meets the standards required for other motorized winter users.
2. OPDMD use is permitted on ungroomed trails or trail sections managed for non-motorized winter trail use, provided the following criteria are met:
 - a. The OPDMD meets the standards required for other motorized winter users.
 - b. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.
 - c. If the trail has wider areas to allow for passing at 1000-foot maximum intervals, the OPDMD width shall not exceed 90% of the width of the trail, up to a maximum of 48”.
 - d. If the trail does not have wider areas to allow for passing at 1000-foot maximum intervals, the OPDMD width shall not exceed 45% of the width of the trail, up to a maximum of 48”.
 - e. Speed shall not exceed 15 miles per hour, except within 30 feet of other trail users, where speed shall not exceed 5 miles per hour.
3. OPDMD use is not permitted on groomed cross-country ski trails, except in areas where there is sufficient space to avoid damage to the set tracks and skating lanes. The following criteria must be met:
 - a. The OPDMD meets the standards required for other motorized winter users.
 - b. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.

- c. If the trail outside the set tracks has wider areas to allow for passing at 1000-foot maximum intervals, the OPDMD width shall not exceed 90% of the width of the trail, up to a maximum of 48”.
- d. If the trail outside the set tracks does not have wider areas to allow for passing at 1000-foot maximum intervals, the OPDMD width shall not exceed 45% of the width of the trail, up to a maximum of 48”.
- e. Speed shall not exceed 15 miles per hour, except within 30 feet of other trail users, where speed shall not exceed 5 miles per hour.

Off-trail use:

1. OPDMD use is not permitted off-trail, except in open turf areas managed for active or passive recreational activities.

Ocean Beaches:

1. OPDMD use is permitted in all areas where motor vehicles are permitted, provided the following criteria are met:
 - a. The OPDMD is driven on the uppermost hard sand area.
 - b. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.
 - c. Speed shall not exceed posted speed limits.
2. Except in designated sensitive beach areas, OPDMD use is also permitted in areas where motor vehicles are prohibited, provided the following criteria are met:
 - a. OPDMDs are not permitted in dune areas,³ except on designated trails or boardwalks. On such trails, refer to the criteria for non-motorized trails within state parks.
 - b. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.
 - c. OPDMD shall not exceed 48” in width⁴.
 - d. In uppermost hard sand areas, speed shall not exceed 15 miles per hour, except within 30 feet of other beach users, where speed shall not exceed 5 miles per hour.
 - e. In clam beds, speed shall not exceed 3 miles per hour⁵.
3. In sensitive beach areas, OPDMD use is permitted, provided the following criteria are met:

³ Dune areas are fragile ecosystems, and also have highly irregular and shifting terrain.

⁴ Larger OPDMDs are more likely to crush shellfish in the clam beds.

⁵ A low speed is needed in clam beds to avoid disturbing or crushing the shellfish, particularly while turning.

- a. OPDMDs are not permitted in dune areas³, except on designated trails or boardwalks. On such trails, refer to the criteria for non-motorized trails within state parks.
 - b. OPDMDs shall not produce noise levels in excess of 70 decibels⁶.
 - c. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.
 - d. OPDMD shall not exceed 48" in width⁷.
 - e. Speed shall not exceed 5 miles per hour, except in clam beds, where speed shall not exceed 3 miles per hour⁸.
4. OPDMD use is not allowed in beach areas closed for wildlife protection.

Puget Sound or Freshwater Beaches:

1. OPDMD use is permitted, except in classified Natural Area Preserves, provided the OPDMD meets the other criteria in this section.
2. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.
3. OPDMD shall not exceed 48" in width.⁹ On some beaches, the only access is via non-motorized trails within state parks or outdoor recreation access routes; in those cases, refer to the width limits in those sections of the policy.
4. Speed shall not exceed 5 miles per hour.¹⁰
5. OPDMDs shall not be driven over surface plants or animals, which include, but are not limited to oysters, muscles, barnacles, and seaweed.

State Park roads:

1. OPDMD use is permitted on internal state park roads, provided the OPDMD meets the other criteria in this section.
2. Internal combustion engines are required to have an operating muffler device, and to meet Clean Air standards in effect at the time of their manufacture.
3. Speed shall not exceed posted speed limits.

Indoor facilities:

1. OPDMD use is permitted provided the OPDMD does not exceed 32" in width.
2. Internal combustion engines are not permitted.

⁶ Excessive noise can disturb the threatened or endangered species that use sensitive beach areas.

⁷ Larger OPDMDs are more likely to disturb threatened or endangered species, or to crush shellfish.

⁸ Slower speeds are needed to avoid disturbing threatened or endangered species, and to avoid crushing shellfish.

⁹ 36" maximum width is needed because Puget Sound and freshwater beaches are often crowded, and because they often have sensitive surface plants or animals that would be more easily crushed by a larger device.

¹⁰ 5 miles per hour is the maximum speed on Puget Sound or freshwater beaches because they are often crowded, and because slower speeds are less likely to disturb sub-surface animals.

3. Speed shall match the walking speed of others in the facility, not to exceed 3 miles per hour.

Operator responsibilities:

1. OPDMD operators shall yield to other trail users. In particular, to ensure the safety of all trail users, the OPDMD shall come to a complete stop and shut off the OPDMD if it makes noise when encountering equestrians, and the operator should communicate with the rider to determine the best way to proceed safely.
2. OPDMDs must be kept entirely within the width of the trail bed at all times. Driving off the edge of the trail bed is damaging to vegetation and soils, and is not permitted.

4. Finding Out Where OPDMDs are Permitted in State Parks

To determine in advance of arriving at a park whether a particular OPDMD is permitted:

- Information on land classifications within some parks is available by viewing the park's management plan at <http://www.parks.wa.gov/plans/>
- Prospective visitors may contact park staff directly to determine land classifications, trail widths, and features.
- It is recommended that OPDMD users contact park staff in advance to discuss current trail conditions that might impact OPDMD use.

In the future, more information will be available on the State Parks website. The agency is in the process of developing online maps and a searchable trail database that will show trail features. Land classifications, trail surfaces, trail widths, and wide spots for passing are planned to be included.

5. Risk

Individuals with mobility disabilities using State Park facilities do so at their own risk. Washington State Parks makes no claims that any facility is designed, maintained, or managed for any OPDMD. Operating an OPDMD on state park trails requires caution. Rough surfaces, mud, vegetation, tree roots, and water crossings may be present.

6. Requesting an exception to this policy

Requests for exceptions to this policy will be considered on a case-by-case basis. Requests should be directed to the State Parks ADA Coordinator at ada@parks.wa.gov, or at the phone number on the agency Contacts page: <http://www.parks.wa.gov/contacts/>.

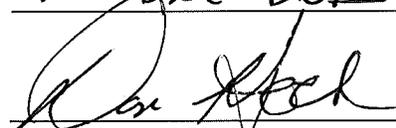
7. Posting

This policy shall be posted on the agency website and with the Park Rules in each park.

Commission Action Date: August 8, 2013

Agenda Item: ***Item E-5: Other Power-Driven Motorized Devices Policy—Requested Action***

Approved for publishing Date: 10-22-2013



Director Signature