

AGENCY OF NATURAL RESOURCES POLICY

USE OF MOBILITY DEVICES ON ANR FEE-OWNED LANDS BY PERSONS WITH MOBILITY DISABILITIES

Background and Philosophy:

The Americans with Disabilities Act (ADA) prevents discrimination of individuals on the basis of disability. On March 15, 2011, the U. S. Department of Justice (DOJ) issued regulations that amend the Code of Federal Regulation (CFR) pertaining to Nondiscrimination on the Basis of Disability, specifically 28 CFR Part 35 (Title II) and Part 36 (Title III) of the ADA. The new regulations expand the definition of allowable mobility devices that a person with a mobility disability may use to access areas where public pedestrian use is allowed, and require managing entities to make reasonable efforts to accommodate such use.

These new regulations require public entities to make reasonable modifications in their policies, practices, and procedures to allow for the use of various mobility devices by individuals with mobility disabilities. The public entity may prohibit such a mobility device where the entity can demonstrate that the use will fundamentally alter the nature of the service or program or that a device cannot be operated in accord with legitimate safety requirements required by the public entity. Further, the DOJ regulations define a two-tiered approach to mobility devices and include requirements for the reasonable accommodation of "wheelchairs" and "other power-driven mobility devices".

This policy has been adopted by the Agency of Natural Resources in response to the March 15, 2011 DOJ ruling referenced above and applies to all ANR land owned "in fee", including Agency lands that are leased or licensed to other entities. In adopting this policy, the Agency believes that people with mobility disabilities are equally entitled to all rights and privileges of anyone else who seeks the values from recreational use of Agency lands. The Agency will work to identify reasonable modifications in its policies, practices, and procedures that will allow persons with mobility disabilities to access and enjoy ANR lands and facilities. At the same time, the Agency will also focus on protecting natural and cultural resources, ensuring public safety, and maintaining a quality recreational experience for all users on ANR lands.

Policy:

Use of Wheelchairs on ANR Lands

Wheelchairs shall be allowed on all Agency lands that are open to pedestrian use. *Wheelchair* means 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. Reasonable accommodation will be provided around gates to otherwise travelable surfaces. It shall be the responsibility of the user to judge the appropriateness of the terrain for wheelchair use.

Use of Other Power Driven Mobility Devices (OPDMD) on ANR Lands

An OPDMD is defined as a powered mobility device driven by batteries, fuel or other motorized means used by individuals with mobility disabilities for the purpose of locomotion, regardless of whether or not it is designed primarily for such use. This includes ATVs, golf carts, SEGWAY®s, and any other device that meets the definition and is not a wheelchair. (See Appendix A for descriptions of various OPDMDs and other definitions).

The use of OPDMDs by individuals with mobility disabilities is allowed on roads and trails on Agency lands that have been assessed and approved for such use by the Agency. Specifically the Agency applies the following assessment factors as outlined in the Federal Rule to determine whether an OPDMD can be allowed in an area as a reasonable accommodation:

- 1) The type, size, weight, dimensions and speed of the device
- 2) The facility's volume of pedestrian traffic
- 3) The facility's design and operational characteristics
- 4) Whether legitimate safety requirements can be established to permit the safe operation of the device in the specific facility, and
- 5) Whether the use of the device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources (e.g., excessive slope, wetlands, significant natural communities, etc.).

Any person seeking to use an OPDMD must be able to provide credible assurance that the use of the device is for a mobility disability. Staff may not, however, inquire as to specific nature or extent of the disability. Credible assurance may mean presentation of a State issued disability parking placard or in the absence of a placard, an oral statement from the user that is not contradicted by observable fact.

Individuals wishing to use an OPDMD on ANR lands must first certify that they have a mobility disability and obtain a simple, no cost "User's Pass and Agreement" from the Agency (see Appendix B). This requirement is intended to protect the resource and the user by informing others using the road or trail that the OPDMD use by the individual is a legitimate and allowed use.¹ The User's Pass and Agreement provides general information regarding OPDMD use on ANR lands. When a pass is obtained, the following conditions will apply in every case: an OPDMD may be used on ANR lands only by an individual with a mobility disability who requires its use for locomotion and only for the period of time that is specified on the pass. OPDMDs may not be used to transport non-disabled passengers (unless required for the safe operation of the OPDMD). The OPDMD will be operated only within the footprint of the designated road or trail and must be operated in a manner consistent with the pedestrian experience and characteristics of the trail or road and the concurrent allowed pedestrian uses. The OPDMD speed limit for all facilities is limited to typical pedestrian speed, as defined as 3 mph. OPDMD users assume all liability for use of OPDMD's on ANR lands.

This policy shall take effect immediately and shall remain in effect until amended.

¹ For example, the use of ATVs by the general public is prohibited on ANR lands unless specifically authorized by the Secretary of ANR through rulemaking.

Procedure for Implementation:

OPDMD Assessment of ANR Lands

District Stewardship Teams shall be responsible for assessing ANR facilities for accommodating various classes of OPDMDs. For purposes of this assessment, ANR facilities are limited to established and permanent roads and trails on ANR lands. This assessment is intended to provide a listing of roads and trails on ANR lands that are open to some type of OPDMD use. In determining whether a road or trail can accommodate various classes of OPDMD, District Stewardship Teams shall apply the five assessment factors described in the Federal Rule and summarized above. The results of this assessment will be used to update the Agency's GIS trails layer and will be publicly available on the Agency's website. If the District Stewardship Team cannot reach consensus regarding the use of OPDMDs for a particular road or trail (or portion of road or trail), it shall be referred to the ANR Lands Stewardship Team which in turn will forward its recommendation to the commissioner of the department responsible for that property for a decision. The OPDMD assessment shall be incorporated into the long range management plan for the underlying ANR parcel. Newly acquired parcels of ANR lands shall be assessed by District Stewardship Teams in accord with this procedure as part of developing the parcel's interim stewardship plan.

Pass for Use of OPDMD on ANR Lands

Users with mobility disabilities that wish to access ANR lands with an OPDMD are required to verify in writing that they have a mobility impairment that requires them to use an OPDMD for mobility purposes and to specify the time period they are requesting such use. Based on this information, users may obtain a no-cost User's Pass and Agreement which they must sign and keep with them while using an OPDMD on ANR lands. Additionally, OPDMD users may need to make arrangements with district staff to open gates along roads that are otherwise closed to motor vehicle use by the public. District staff can also provide information and answer questions regarding roads and trails that are open to different classes of OPDMDs in their respective districts.

Leases and Licenses on ANR Lands

ANR lands that are leased or licensed for special approved uses are also covered by this policy. Areas that are open to general pedestrian recreation access within ANR lands that are under an active lease or license shall provide for reasonable OPDMD use and access by persons with mobility disabilities. In negotiating, issuing and administering ANR leases and licenses, the ANR Lands Director will ensure that uses of OPDMDs on the leased or licensed parcel by qualifying individuals are consistent with this policy and allowed where appropriate. (Ski area lessees shall be responsible for assessing roads and trails within the leasehold area for OPDMD use in accord with this policy and making reasonable accommodations for allowing OPDMD use where appropriate).

Information and Outreach


The Department of Forests, Parks and Recreation's Lands Administration Division shall post this policy and direct users to a map of ANR roads and trails that have been approved for different classes of OPDMDs on its website.

The ANR Lands Stewardship Team shall develop and regularly update the OPDMD User's Pass and Agreement that provides general information regarding the use of OPDMDs on ANR lands. District Stewardship Teams shall work to develop appropriate signing and informational materials regarding specific roads and trails that have been identified as open to OPDMD use in their respective districts for review and approval by the ANR Lands Stewardship Team.


Appendices:

Appendix A: Definitions

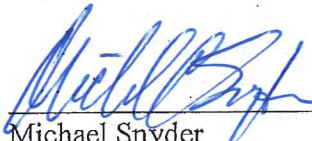
Appendix B: OPDMD User's Pass and Agreement




Deborah Markowitz Date
ANR Secretary 1-27-15



David Mears Date
DEC Commissioner 1/27/15



Michael Snyder Date
FPR Commissioner 1/27/15



Louis Porter Date
FW Commissioner 1/27/15

Appendix A

MOBILITY DEVICE DEFINITIONS

For purposes of the Vermont Agency of Natural Resources policy regarding the Use of Mobility Devices on ANR Fee-Owned Lands by Persons with Mobility Disabilities, the following definitions shall apply:

All-Terrain Vehicle (ATV) - Any recreation vehicle with three or more tires, 50 inches or less in width, having a wheelbase of 61 inches or less, has handlebar steering and a seat designed to be straddled by the operator.

Electric Bicycle - Any bicycle or tricycle with a low-powered electric motor weighing less than 100 lbs, with a top motor-powered speed not in excess of 20 mph.

Electric Personal Assistance Mobility Device (EPAMD) - A two-wheeled, gyroscopically stabilized battery-powered personal transportation device, including, but not limited to devices manufactured by Segway®.

Golf Cart - A motor vehicle that: (1) has not less than three wheels in contact with the ground; (2) has an unloaded weight less than 1,300 lbs; (3) is designed to be and is operated at not more than 15 mph and (4) is designed primarily to carry golf equipment and not more than two persons, including the driver.

Low Speed Vehicle - A four-wheeled motor vehicle capable of speeds of not more than 25 mph on a paved level surface, and whose gross vehicle weight is less than 3,000 lbs.

Mobility Scooters - Electrically powered wheeled device on which a single user sits, also called a Powerchair, for use by an individual with a mobility disability for indoor or both indoor and outdoor locomotion.

Motorbike or Motorcycle - Any two wheeled motorcycle or motor-driven cycle designed for or capable of traveling off developed roadways and highways and also referred to as trail bikes, endure bikes, trials bikes, motocross bikes or dual purpose motorcycles.

Off-Highway Vehicle (OHV) - Any motor vehicle designed for or capable of cross-country travel on or over land, water, sand, snow, ice, marsh, or other natural terrain. This definition includes: ATVs, UTVs, SOHVs, motorcycles designed for off-highway use, and vehicles over 50 inches, such as sport utility vehicles, 4-wheel drive trucks and other similar vehicles that are designed for off-road travel.

Other Power Driven Mobility Device (OPDMD) - Any powered mobility device driven by batteries, fuel, or other motorized means used by individuals with mobility disabilities for the purpose of locomotion, regardless of whether or not it is designed primarily for such use. This includes ATVs, golf carts, Segways®, and any other device meeting this definition that is not a wheelchair.

Recreational Off-Highway Vehicle (ROV) – Any motorized, off-road vehicle designed to travel on four or more non-highway tires, with a steering wheel, non-straddle seating, seat belts, an occupant protective structure, and engine displacement up to 1,000 cc.

Snowmobile – Any motorized vehicle under 1,000 lbs designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners.

Specialty Off-Highway Vehicle (SOHV) – Any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an ATV, UTV, or motorbike.

Utility Type Vehicle (UTV) – Any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four or more tires, maximum width less than 74 inches, maximum weight less than 2,000 lbs, and having a wheelbase of 110 inches or less. A UTV must have a minimum width of 50 inches, a minimum weight of at least 900 lbs or a wheelbase over 61 inches. UTVs do not include golf carts, vehicles specially designed to carry a disabled person, and implements of husbandry. As used herein, UTVs also include ROVs meeting the above criteria.

Wheelchair – 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 for both indoor and outdoor locomotion.

Appendix B

OPDMD User Pass and Agreement

Use of Other Power Driven Mobility Devices (OPDMD) on Agency of Natural Resources Land

Name: _____ Date: _____
Address: _____ Phone #: _____
_____ Email Address: _____
_____ Date of Birth: _____

Duration of Pass required:

What classes of OPDMDs will you be using:

- CLASS I: Small (vehicle width less than 36 inches)
 CLASS II: (ATVs, vehicle width of 36 to 50 inches)
 CLASS III: (UTV, autos, vehicle width more than 50 inches)

In some cases there may be a process for accessing certain pieces of state land. If there is a facility that you believe should be considered accessible and is not on the map of trails assessed and approved for OPDMD use, please contact your local district office. Certain roads and trails on the map may be gated for some times of the year. It may be necessary to make arrangements with district staff in order to get them opened. Some roads and trails may experience seasonal closures.

Refer to the map found at <https://fpr.vermont.gov/recreation/activities/accessible-activities> or contact your local district office for more information about roads and trails that have been assessed and approved for different classes of OPDMDs.

If you know where you want to go, would you please tell us some trails/areas that you will be accessing and what kind of activities you will engage in so that we can better target our efforts to increase accessibility:

Please note that all OPDMD use is restricted to 3 mph which is the average pedestrian walking speed. This is in order to provide a safe environment for all users.

To view the full Agency of Natural Resources policy on OPDMDs or to find a link to the web-based form, please see: <https://fpr.vermont.gov/recreation/activities/accessible-activities>

I hereby affirm that I have a mobility disability.

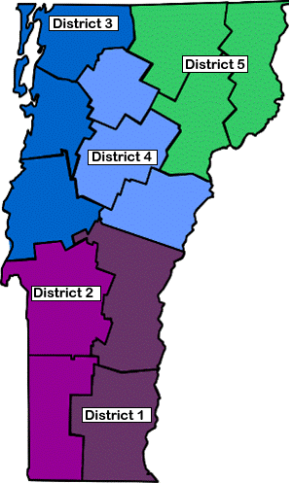
Signature: _____

Date: _____

This pass is effective upon signing.

Please keep this pass with you at all times when using an OPDMD to access state lands.

District Office Contact Information:

	District 1: <i>Windham & Windsor Counties</i> Dept. of Forests, Parks & Recreation 100 Mineral Street, Suite 304 Springfield, VT 05156-3168 anr.fprDistrict1@vermont.gov Phone: 802.289.0613	District 2: <i>Bennington & Rutland Counties</i> Dept. of Forests, Parks & Recreation 271 North Main Street, Suite 215 Rutland, VT 05701 anr.fprDistrict2@vermont.gov Phone: 802.786.0060	District 3: <i>Addison, Chittenden, Franklin & Grand Isle Counties</i> Dept. of Forests, Parks & Recreation 111 West Street Essex Junction, VT 05452-4695 anr.fprDistrict3@vermont.gov Phone: 802.879.6565	
	District 4: <i>Lamoille, Washington & Orange Counties</i> Dept. of Forests, Parks & Recreation 5 Perry Street, Suite 20 Barre, VT 05641-4265 anr.fprDistrict4@vermont.gov Phone: 802.476.0170	District 5: <i>Caledonia, Essex, & Orleans Counties</i> Dept. of Forests, Parks & Recreation 374 Emerson Falls Road, Suite 4 St. Johnsbury, VT 05819 anr.fprDistrict5@vermont.gov Phone: 802.751.0123		

Please be aware and considerate of other uses of the route. The facilities identified in the trails assessment are multi-use trails and all users must be respectful of each other.

The use of an OPDMD is limited to the person(s) providing credible assurance of disability. OPDMDs may not be used to transport non-disabled passengers unless the passenger is needed for safe operation of the OPDMD.

The roads and trails assessment identifies which routes can be used by various class of OPDMD: CLASS I (vehicle width less than 36 inches), CLASS II (vehicle width of 36 to 50 inches), and CLASS III (vehicle width more than 50 inches). Below are examples of each Class (this is not a complete list):

CLASS I

Electric Bicycle – The term “electric bicycle” means any bicycle or tricycle with a low-powered electric motor weighing less than 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

Electronic Personal Assistance Mobility Device (EPAMD) – A two-wheeled, gyroscopically stabilized, battery-powered personal transportation device, including, but not limited to devices manufactured by Segway®.

Mobility Scooters – Electrically powered wheeled device on which a single user sits, also called a Powerchair, for use by an individual with a mobility disability for indoor or both indoor and outdoor locomotion.

Motorbike or Motorcycle – Any self-propelled two-wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.

Tank Chairs – A wheelchair with motorized treads in place of wheels designed for all-terrain use, not indoor use. Primarily designed for use by persons with a mobility disability.

CLASS II

All-Terrain Vehicle (ATV) – Any recreation vehicle with three or more tires, 36 to 50 inches in width, having a wheelbase of 61 inches or less, has handlebar steering, and a seat designed to be straddled by the operator.

Golf Cart – A motor vehicle that: (1) has not less than three wheels in contact with the ground; (2) has an unloaded weight less than 1,300 pounds; (3) is designed to be and is operated at not more than 15 miles per hour; and (4) is designed primarily to carry golf equipment and not more than two persons, including the driver.

CLASS III

Low Speed Vehicle – A four-wheeled motor vehicle capable of speeds of not more than 25 miles per hour on a paved level surface, and whose gross vehicle weight is less than 3,000 lbs.

Recreational Off-Highway Vehicle (ROV) – Motorized off-road vehicles designed to travel on four or more non-highway tires, with a steering wheel, non-straddle seating, seat belts, an occupant protective structure, and engine displacement up to 1,000 cc.

Utility Type Vehicle (UTV) – Any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four or more tires, maximum width less than 74 inches, maximum weight less than 2,000 lbs., and having a wheelbase of 110 inches or less. A UTV must have a minimum width of 50 inches, a minimum weight of at least 900 lbs. or a wheelbase of over 61 inches. UTV does not include golf carts, vehicles specially designed to carry a disabled person, or implements of husbandry. UTV as used herein, also includes ROVs meeting the above criteria.