

Paint Creek Trailways Commission Policy for use of Other Power-Driven Mobility Devices on Paint Creek Trailways Commission property

On March 15, 2011, the Department of Justice revised rules regarding "Other Power-Driven Mobility Devices" (OPDMD) to be used by individuals with mobility disabilities. Under the Americans with Disabilities Act (ADA) Title II, the new rule applies to lands owned by the Paint Creek Trailways Commission and any other trails on public lands open to pedestrian use. This policy does not apply to wheelchairs, because they are NOT an OPDMD and are allowed to be used anywhere, with no exceptions.

An "Other Power-Driven Mobility Device" 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. 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.

The Paint Creek Trailways Commission's mission is to provide trail users a natural, scenic, and educational recreation experience while preserving the ecological integrity of the Paint Creek Trail for the enjoyment of present and future generations. This mission statement applies to all users, including those with mobility disabilities. In order to comply with the new ruling , the Department of Justice ruling requires management agencies to conduct a facility assessment to determine which types of OPDMD can be authorized for use on trails open to the public. In determining whether a particular OPDMD can be allowed on the Paint Creek Trail as a reasonable modification, the following DOJ assessment factors were considered by the Paint Creek Trailways Commission:

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 other power-driven mobility device in the specific facility; and
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 land management practices, plans, policies, laws and regulations.

The Paint Creek Trailways Commission reviewed and assessed Paint Creek Trailways Commission property to determine permissible or non-permissible OPDMD uses. Based on the assessment, the Paint Creek Trailways Commission has approved the following OPDMD policy:

1. Persons with a mobility disability may use any OPDMD powered by batteries, including, but not limited to Electrical Assisted Bicycles (EAB) or Electric Personal Assistive Mobility Devices (EPAMD) that are 36" or less in width. No other OPDMD may be used, including, but not limited to, any gas or internal combustion fueled powered devices, ATV's golf carts, or motorcycles.

Factors in Assessment:

- a) Due to the 8 foot width of the trail, and two way traffic permitted on the trail, devices wider than 36" are potentially dangerous to users coming from the opposite direction, or from someone trying to pass the OPDMD from behind.
 - b) Gas or liquid fuel devices are prohibited because of the danger that fuel leaks and/or sparks may result in dangerous conditions or fires on the largely forested and grassy Paint Creek Trail. Gas or combustible fuel powered devices also pose a substantial risk to the natural and cultural resources associated with the trail, and by their nature, disturb the intended trail experience. Exhaust from these devices could be detrimental to all trail users and wildlife.
2. OPDMD must not exceed typical walking speeds based on existing trail conditions, and are limited to 5 MPH everywhere on the trail.

Factor in Assessment:

- a) Due to the high volume of pedestrian, cycling, and equestrian traffic, higher speeds pose a danger to other trail users.
3. OPDMD must stay on the developed 8 foot wide trail surface only.

Factor in Assessment:

- a) The Trail Right-of-Way varies in width, and contains significant sensitive, natural, historical, and cultural features. In addition, topography in some areas is not conducive to OPDMD use with the close proximity to the Paint Creek and exiting the developed surface may be dangerous.
4. The operator or a passenger of an OPDMD must be a person with a mobility disability, and, upon request of the Paint Creek Trailways Commission, must provide credible assurance that the mobility device is required because of the person's disability. The PCTC will accept the presentation of a valid, State-issued, disability

parking placard or card, or other State-issued proof of disability as credible assurance. In lieu of a valid, State-issued disability placard, card or other proof, the PCTC will accept a verbal representation, not contradicted by observable fact, that the OPDMD is being used for a mobility disability as credible assurance.

5. OPDMD must not be operated in a dangerous or reckless manner that may jeopardize the safety of the operator(s), Trailways Commission and/or municipal employees, the public or that may cause damage to property.

6. The Paint Creek Trailways Commission reserves the right to limit OPDMD during special events if such limitation is required, in the opinion of the Trailways Commission, to protect the public health, safety and welfare.

7. The Paint Creek Trailways Commission accepts no responsibility for storage of the OPDMD.

8. The Paint Creek Trailways Commission accepts no responsibility for transporting the OPDMD to and/or from the Paint Creek Trail.

9. The operator or passenger of the OPDMD is responsible for ensuring the device works properly, per manufacturer's instructions. The Paint Creek Trailways Commission accepts no responsibility for providing battery charging or emergency retrieval of the OPDMD under any circumstances, including, but not limited to, failed power of the device.

10. The Paint Creek Trailways Commission accepts no liability for damage to the OPDMD, or injury to the operator, whether caused by the operator, another visitor to the Paint Creek Trail, or any other circumstance.

11. The Paint Creek Trailways Commission accepts no liability for damage caused by the operator of the OPDMD, or injury to others caused by the operator of the OPDMD.