

Commissioner's Order

Compliance with Federal Americans with Disabilities Act

Date: December 27, 2017

Statutory authority: *Minnesota Statutes*, section 84.027, subd.19

Supersedes: This document replaces the version dated October 20, 2015.

BACKGROUND

WHEREAS, the federal Americans with Disabilities Act (ADA) rules in 28 CFR part 35 establish requirements for nondiscrimination on the basis of disability with respect to mobility devices, and

WHEREAS, the federal ADA rules in 28 CFR part 35.137, subpart b, item 2 establish assessment factors in determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable modification, and

WHEREAS, the Minnesota Department of Natural Resources (DNR) is required to comply with the ADA, and

WHEREAS, the DNR may issue a permit to allow use of another power-driven mobility device in otherwise prohibited areas if it determines that a unique situation applies and special conditions can be placed on the use that would make it safe to operate the other power-driven mobility device or prevent serious harm to the environment or natural or cultural resources.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to authority vested in me by law, including *Minnesota Statutes*, section 84.027, subdivision 19, that individuals with mobility disabilities:

1. **WHEELCHAIRS AND MANUALLY POWERED MOBILITY AIDS.** You can use wheelchairs and manually-powered mobility aids in any areas open to pedestrian use.

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 and outdoor locomotion, including electric scooters. Manually-powered mobility aids include walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities. Natural barriers and primitive development may limit some from accessing all areas.

2. **OTHER POWER-DRIVEN MOTORIZED VEHICLES (OPDMDs).** You can use other power-driven mobility devices, unless the department can demonstrate that the class of other power-driven mobility devices cannot be operated safely, without harming resources, or conflict with federal laws. Refer to the table and explanations for the facilities and lands types that have been assessed. Natural barriers and primitive development may limit some from accessing all areas.

Other power-driven mobility devices are defined 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 or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair. For the purposes of this order, these devices include:

- a. Single-user electric devices (such as a Segway, electric-assist bicycle and electric foot scooter)
 - b. Single-user internal combustion devices (such as a motorized bicycle, internal combustion foot scooter, and off-highway motorcycle), Class 1 ATV (internal combustion and electric), and golf cart
 - c. Class 2 ATV
 - d. Off-road vehicle
 - e. Highway licensed vehicle
 - f. Snowmobile
3. **ELIGIBILITY ON SITE.** When you arrive at the DNR facility or land where the device would not normally be allowed under state law, you may have to provide credible assurance to a DNR employee that the device is used because of a disability. You can demonstrate your eligibility by showing a valid state-issued disability parking placard or card, showing other state-issued proof of disability, or making a verbal representation of the mobility disability not contradicted by facts observed.
 4. **SPECIAL USE PERMIT.** Certain activities requires a special use permit. The permit application is available on the DNR website. We encourage you to contact the facility or land manager to discuss the request before you start the application process. The facility or land manager is expected respond to you with a permit acceptance, with or without conditions, or denial response within two weeks from the time you have submitted all required information (including additional information beyond the application).
 5. **REQUIREMENTS.** You must comply with the following requirements when using other power-driven mobility devices in DNR facilities and lands:
 - a. You must clean outdoor gear and devices before arriving to the recreation site and before leaving the recreation site. You must remove seeds and mud from clothes, boots, gear, pets, and devices. This will limit the spread of invasive species.
 - b. You are responsible for your own safety and the safety of others.
 - c. You are not allowed to damage DNR facilities and lands (such as rutting ground, wetlands, waterbody beds, or ski trails; damaging trees, etc.).
 - d. You are required to know if you are in a DNR facility or land, and the facility or land type.
 - e. You are required to have other permits or licenses needed for other recreational activities like hunting and fishing.
 6. **APPEALS.** You can submit an appeal in writing to the DNR ADA Title II Coordinator, 500 Lafayette Road, St. Paul, MN 55155-4049.

7. DENIAL OR REVOCATION. If you do not use the device as directed by the table or permit, your ability to use the device as directed will be denied or the permit will be revoked.
8. FUTURE UPDATES. This commissioner's order may be updated as needed, so you should always check the DNR website for the most up-to-date information.



Tom Landwehr, Commissioner

Date: 12/27/2017

TABLE

The DNR uses this table and the explanations that follow to determine where other power-driven mobility devices are allowed and when a special use permit is required.

Type of Other-Powered Mobility Device	Single-user Electric Devices	Golf Cart, Class 1 ATV, & Single-user Internal Combustion Devices	Class 2 ATV	Off-Road Vehicle	Highway Licensed Vehicle	Snowmobile
DNR Buildings, Caves & Mines	Yes, walking speed	No	No	No	No	No
DNR Recognized Paths, Hiking & Snowshoe Trails	Yes, walking speed	Yes, where the device is at least 6" less than half of the surface width, walking speed	Special Use Permit, walking speed	No	No	Special Use Permit, walking speed
DNR Picnic & Day-use Areas	Yes, walking speed	Special Use Permit, walking speed	Special Use Permit, walking speed	No	Special Use Permit, walking speed	Yes
DNR Multi-use non-motorized Bicycle Trails	Yes, less than 15 mph	Yes, where the device is at least 6" less than half of the trail width & operates at walking speed. Generally this device meets the width requirement.	Special Use Permit, walking speed	No	No	Yes, where snowmobiles are allowed
DNR Ski Trails	Yes, for devices adapted to not damage trail surfaces	No	No	No	No	No
DNR Motorized Trails & Areas & Managed Roads & Parking	Yes	Yes	Yes	ORV trails, roads, and parking only	Roads and parking only	Yes

Type of Other-Powered Mobility Device	Single-user Electric Devices	Golf Cart, Class 1 ATV, & Single-user Internal Combustion Devices	Class 2 ATV	Off-Road Vehicle	Highway Licensed Vehicle	Snowmobile
DNR Equestrian Areas & Trails	Yes, walking speed	Yes, walking speed	Special Use Permit, walking speed	No	No	Special Use Permit, walking speed
DNR Closed Forests, Cross Country Travel in Managed & Limited Forests, & Areas of Limitations	Yes	Special Use Permit	Special Use Permit	Special Use Permit	Roads, parking & Special Use Permit	Yes
DNR Managed Forests - Routes	Yes	Yes	Yes	Yes	Yes	Yes
DNR Limited Forests - Routes	Yes	Yes, walking speed	Yes, walking speed	No	Roads & parking only	Yes
DNR Recognized Hunter-walking Trails (WMA & State Forest)	Yes, walking speed	Special Use Permit, walking speed	Special Use Permit, walking speed	No	No	Special Use Permit, walking speed
DNR WMA, AMA & LUP (for recognized paths & hiking trails, see above)	Yes	Special Use Permit	Special Use Permit	Special Use Permit	Roads, parking & Special Use Permit	Special Use Permit
DNR SNA (for recognized paths & hiking trails, see above)	Yes	Special Use Permit	Special Use Permit	Special Use Permit	Roads, parking, & Special Use Permit	Special Use Permit

TABLE EXPLANATIONS

- a. Only persons with mobility disabilities are allowed to use, as an operator or passenger, an other power-driven mobility device in DNR facilities and lands where the device would not normally be allowed under state law.
- b. We recommend that you carry the Use Table with you in case other persons are not familiar with what is allowed.
- c. DNR recognized paths, hiking trails, snowshoe trails, and multi-use non-motorized bicycle trails:
 - Single-user electric devices, single-user internal combustion devices, Class 1 ATV and golf cart are allowed where the device is at least 6” less than half of the path or trail width.
 - Class 2 ATV may be allowed where the device is at least 6” less than half of the path or trail width.
- d. The speed limit is walking speed in pedestrian or limited visibility areas and less than 15 mph in motorized areas except where higher speeds are allowed for other users.
- e. State forest lands:

- Cross-country (off-trail) other power-driven mobility travel is generally prohibited, except pursuant to Minnesota Statutes, chapter 84.926 (hunting and trapping season exceptions), and by special use permit for any person.
 - Hunting/trapping exceptions for ATVs and highway licensed vehicles apply.
- f. Lands temporarily posted closed to motorized use are also closed to other power-driven mobility devices.
- g. Exceptions must be addressed by a permit.
- h. This does not apply to:
- roads managed by other units of government located within DNR facilities and
 - private property or facilities and programs (such as walk-in access, grant-in-aid, and conservation easements).