

STATE OF COLORADO
DEPARTMENT OF NATURAL RESOURCES
COLORADO PARKS AND WILDLIFE
Administrative Directive B-350

SUBJECT: Interim Administrative Directive governing the use of Other Power Driven Mobility Devices (OPDMDs)

AUTHORITY: Americans with Disabilities Act Title II Regulations - Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services (as amended by the final rule published on September 15, 2010)

DATE APPROVED: 10-25-2011

REVIEW DATES:

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I. PURPOSE

The purpose of this directive is to establish interim guidelines for the use of Other Power Driven Mobility Devices (OPDMDs) by persons with mobility disabilities on lands managed and controlled by the Department of Natural Resources, Colorado Parks and Wildlife.

II. BACKGROUND AND DISCUSSION

The United States Department of Justice (DOJ) recently amended the language in Title II of the Americans with Disabilities Act to include another category of mobility aids known as other Power Driven Mobility Devices (OPDMD). Examples of OPDMDs are golf carts, electric bicycles, and Segway scooters. The revised regulation directs public entities to make reasonable modifications in their policies, practices or procedures to permit the use of OPDMD by individuals with mobility disabilities. The full text of Title II including the revisions can be found at www.ada.gov. Pursuant the vision statement and the first goal of the Colorado State Parks 2010 Strategic Plan, access to trails and outdoor recreational facilities is an essential outdoor recreational pursuit that must be made available to all Coloradans and visitors to this state.

This policy implements DOJ's amendments to 28 CFR Parts 35.104, 35.130 and 35.137, page 56177: "Title II Final Rule: Nondiscrimination on the Basis of Disability in State and Local Government Services" addressing the use of wheelchairs and other power-driven mobility devices.

www.ada.gov/regs2010/titleII_2010/titleII_2010_fr.pdf

Colorado Parks and Wildlife (CPW) is committed to making reasonable accommodations to ensure that our facilities, services and programs are safe and accessible to all persons for their benefit and enjoyment and use. This Interim Policy

will ensure compliance with the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and the Architectural Barriers Act of 1968, until assessments of all of CPW area trails is completed. The scheduled completion date for the State Park trail assessments is December, 2011.

III. DEFINITIONS

Wheelchairs manually-powered mobility aids: The DOJ defines a wheelchair as 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 outdoor locomotion.

Use of wheelchairs and manually-powered mobility aids: CPW allows individuals with mobility disabilities to use wheelchairs (as defined by the DOJ) and manually-powered mobility aids such as walkers, crutches, canes, braces, or other similar devices in all areas administered and managed by CPW that are open to pedestrian use (i.e., wherever foot traffic is allowed).

Other Power Driven Mobility Devices (OPDMD): The DOJ definition of an OPDMD is 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 well defined pedestrian routes (i.e., sidewalks), but that is not a wheelchair as defined in this section.

Use of OPDMDs: CPW is currently assessing potential classes of OPDMDs for use in CPW facilities and on CPW lands. In accordance with DOJ regulations, the CPW will assess the following factors:

- (I) *Size, weight, dimensions, and speed of the device;*
- (II) *The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);*
- (III) *The facility's 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);*
- (IV) *Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and,*
- (V) *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.*

IV. INTERIM POLICY

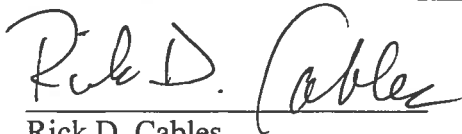
Based on preliminary assessments, and until a final policy is issued, effective immediately, OPDMDs may be used on any trail and/or road designated for use by an Off-highway Vehicle (as defined by the Colorado Revised Statutes 33-14.5-101 (3)) with a wheel base of 48 inches or less within CPW management areas. OPDMDs may not be used on any trail and/or road not officially designated for Off-highway Vehicle access. Manually or battery-operated wheelchairs and manually-powered mobility devices as set forth in this policy are permitted on all CPW trails and roads and on CPW lands wherever foot or bicycle traffic is allowed.

Colorado Revised Statute 33-14.4-101 (3) "Off-highway vehicle" means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:

- (a) Vehicles designed and used primarily for travel on, over, or in the water;*
- (b) Snowmobiles;*
- (c) Military vehicles;*
- (d) Golf carts;*
- (e) Vehicles designed and used to carry disabled persons;*
- (f) Vehicles designed and used specifically for agricultural, logging, or mining purposes; or*
- (g) Vehicles registered pursuant to article 3 of title 42, C.R.S.*

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Administrative Directive No. B-350 is approved this 25th day of Oct., 2011, by:



Rick D. Cables
Division Director
Colorado Parks and Wildlife

