



Americans with Disabilities Act (ADA) Accessibility Guidelines for Headwaters Charitable Trust Lands and Trails

I. Purpose

The purpose of these guidelines is to implement the Department of Justice's (DOJ) regulations that are focused on the use of wheelchairs and other power-driven mobility devices (OPDMD) for outdoor activities on Headwaters Charitable Trust (HWCT) lands, as set forth in 28 CFR Part 35. These guidelines are not meant to address access to HWCT indoor facilities and buildings.

The DOJ has amended the Department's title II regulation, 28 CFR Part 35, and the title III regulation, 28 CFR Part 36; the final rules and revisions went into effect on March 15, 2011. The revisions, including the definitions of wheelchairs and OPDMDs, have the potential to impact the accessibility of lands and trail systems under the ownership of HWCT. Access to trails and the use of devices as set forth below is limited to individuals with mobility disabilities. These guidelines do not authorize the use of these devices by others.

For more information related to general visitation to HWCT properties, please refer to the HWCT Property Use Guidelines, which can be found on the Trusts website [https:// HWCT.Org/ Resources/ Visitor Property Use Guidelines](https://HWCT.Org/Resources/VisitorPropertyUseGuidelines).

II. Definitions

Electric-powered mobility device: Any mobility device powered by batteries, including multiple passenger carts (three or four wheels), Electronic Personal Assistance Mobility Devices (EPAMDs - such as the Segway PT), battery-powered bikes (two or three wheels), and single passenger scooters (three or four wheels).

Gas-powered mobility device: Any mobility device powered by a gas-fueled engine using natural gas, gasoline, diesel, synthetic or biofuel, or combination thereof, including all-terrain vehicles, carts (three or four wheels), off-road bikes (two or three wheels), motor scooters (two or three wheels), motor cycles (two wheels), tractors, snowmobiles, trucks and cars (four wheels).

Headwaters Charitable Trust ADA Trail Accessibility Guidelines

III. HWCT Land and Trail Assessment

Assessment Process

Headwaters Charitable Trust has properties open for public use, focusing especially on those properties with maintained trails or trail systems located within them. Property use guidelines are based on DOJ guidelines (see: *DOJ Assessment Factors* below), and its aims were to determine whether particular devices can be used to access the land and, if applicable, the trails on HWCT lands. Trails on HWCT lands can be categorized into different types of which not all apply; and specific limitations and justifications can be found below, under *Trail Categories*.

DOJ Assessment Factors

Factor (i): The type, size, weight, dimensions, and speed of the device;

Factor (ii): The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

Factor (iii): The facility's design and operational characteristics (e.g., whether its business 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);

Factor (iv): Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility;

Factor (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.

Use of Gas-Powered Mobility Devices Statement

Gas-powered mobility devices are not permitted on HWCT Unmaintained Lands, Maintained Lands, or trails, with the exception of pre-approved management use or emergency access purposes.

DOJ Assessment Factors:

Justification: § 35.137 Mobility Devices Assessment Factors iv and v.

Headwater Charitable Trust lands and trails contain important conservation values that are managed to provide our region with clean waters and healthy forests, wildlife and natural areas for the benefit of present and future generations. The exclusion of gas-powered mobility devices, as compared to electric-powered mobility devices, is due to the substantial risk of harm to these values. This harm may result from fire caused by the heat of the gas-fired engine, spill of fuel or oil used in gas, and/or engine exhaust. In addition, the engine noise of gas-powered vehicles produces a significant zone of disturbance to the activities of native wildlife and can negatively impact the experience of visitors who count on viewing wildlife and listening to bird calls. Furthermore, the noise from gas-powered mobility devices poses a health risk to adjacent visitors when it exceeds 70 dB. The World Health Organization has set 70 dB as a maximum safe noise level in the work place. Most gas-powered vehicles, such as ATVs and gas-driven motor bikes, exceed this noise level. Additionally, the byproducts of combustion created by gas-powered engines pose a significant air quality risk to wildlife and vegetation, and also to other trail users. For more information on permitted and no-permitted activities during a visit to one of our properties, please see the HWCT Property Visitor Guidelines.

Unmaintained Lands

No OPDMDs of any kind, including EPAMDs, are permitted on Unmaintained Lands. Headwaters Charitable Trust allows individuals with mobility disabilities to use wheelchairs, as defined by the DOJ, and manual-powered mobility aids such as walkers, crutches, canes, braces, or other similar devices on all Unmaintained Lands that are open to pedestrian use. Please note, however, that Unmaintained Lands are undeveloped, without designated and maintained trails, and are often difficult to access by manual-powered mobility aids such as the 243 acre Snow Shoe Property. See also, *Waiver Statement*, below.

Trail Categories

Paved/Crushed Gravel Trails: Multi-use trail with shoulder.

Permissible: Wheelchairs and electric-powered mobility devices not to exceed a 36-inch maximum width.

DOJ Assessment Factors:

Justification: § 35.137 Mobility Devices Assessment Factors i and ii.

Size and width characteristics of the device could pose safety risks to the device-user and other trail users based on the high volume of pedestrian traffic commonly found on such trails. These trails are

high capacity two-way traffic areas, where a device width restriction allows for safe passing of OPDMDs and other trail users.

Speed Limits on HWCT Lands and Trails

For safety purposes, and in consideration of public enjoyment within HWCT properties, all HWCT lands and trails have a maximum speed limit of 12 mph. Trail users operating any of the above-mentioned devices must observe this speed limit at all times and must yield to oncoming hikers. Please note that trail surfaces may be uneven, steeply sloped, or narrower than 36 inches in some places.

Safety Statement

Users of an OPDMD or wheelchair must operate the device in a safe manner considering the condition of the trail and the other users traveling on the trail. Additionally, all OPDMDs must stay on designated trails at all times; exceptions can be made when crossing turf areas to leave or rejoin a trail (assessment factors (i)-(v) inclusive).

Waiver Statement

The adoption of these guidelines does not represent an endorsement that HWCT trails or properties are safe for the use of an OPDMD or wheelchair. Users must exercise reasonable caution and care while operating such devices within HWCT lands and trail systems. As with any outdoor activity, there are inherent risks associated with hiking and trail-walking. All individuals who enter upon HWCT's trails and Unmaintained Lands do so at their own risk.

Validation of Mobility Disability

Individuals who have a mobility disability may show a valid State-issued disability card/placard, or other State-issued proof of disability, or they may state that they are using the mobility device due to a mobility disability. Headwaters Charitable Trust staff or volunteers may not ask about the nature and extent of the individual's disability. Furthermore, the rule states that the claim of a mobility disability must be considered valid as long as it is not contradicted by observable fact.

Public Notification

If you have any questions regarding the ADA ruling and how it applies to HWCT properties, or the accessibility of HWCT lands and trails, please contact Headwaters Charitable Trust at 814-236-4333. Headwaters Charitable Trust will post the above guidelines on our website at [HWCT.Org/Resources/ADA Policy](http://HWCT.Org/Resources/ADA%20Policy), and the guidelines can be requested in print or digital form by contacting the Headwaters Office at admin@hwct.org. Where it is appropriate, HWCT and volunteer Trail Stewards will post these guidelines on our trail system.

IV. Additional Resources

- Department of Justice ADA Ruling: DOJ ADA Website
- American Trails index on ADA-related topics: accessible trails, outdoor recreation, and the Americans with Disabilities Act
- Additional information and comments on "power-driven mobility devices":
 - o Comments from American Trails to Department of Justice
 - o Concerns with DOJ proposal for "power-driven mobility devices"

Sources

Accessible Trails; American Trails;

<http://www.americantrails.org/resources/accessible/powermobilityquestions.html>

Americans with Disabilities Act Title II Regulations: Nondiscrimination on the Basis of Disability in State and Local Government Services. Department of Justice. 2010, September 15. Department of Justice. Revised ADA Regulations: Implementing Title II and Title III. 2011, May 9. <http://www.ada.gov/regs2010/ADAregs2010.htm>

Lancaster County Parks Department;
<http://www.americantrails.org/resources/accessible/Lancaster-County-PA-policy-OPDMD.html>

Minnesota DNR; http://www.dnr.state.mn.us/accessible_outdoors/policycfr35.html

Orange County Parks;
<http://www.americantrails.org/resources/accessible/Orange-County-Parks-policy-OPDMD.html>

West Penn Trail Handicapped Accessibility Policy; Conemaugh Valley Conservancy;
www.conemaughvalleyconservancy.org

ADA Accessibility Guidelines - Western Pennsylvania Conservancy
<https://waterlandlife.org/wp-content/.../ADA-Trail-Accessibility-Guidelines-2012.pdf>