

Commissioner's Policy – 3

Motorized Access Program for People with Disabilities

Background

The Department manages approximately four million acres of State land in New York State. This land can, consistent with existing law, provide those with disabilities with significant recreational opportunities.

In issuing permits to qualifying people with disabilities to use motor vehicles on State lands, the Department must comply with existing law. On Forest Preserve lands, the Department must comply with the directive in Article XIV, Section 1 of the New York State Constitution which requires that Forest Preserve lands be "forever kept as wild forest lands." Thus, the Department may not issue permits which have the result of diminishing the forever wild character of these forest lands.

The Adirondack Park and Catskill Park State Land Master Plans'(1) restrictions on motor vehicle access into the Forest Preserve, as well as the Department's rules and regulations pertaining to motor vehicle use, place additional legal constraints on where motor vehicles may be used. In both the Adirondack Park and Catskill Park, motor vehicle use is prohibited on trails and in areas, is limited to designated and specifically marked roads in lands classified as Wild Forest and Intensive Use, and is prohibited on all lands classified as Wilderness, Canoe and Primitive.

On Department lands outside the Forest Preserve, current restrictions for motor vehicle use are not as stringent and provide a wider range of opportunities: use of motor vehicles is allowed where specifically permitted by posted notice or by permit issued by the Department. Another legal constraint, applicable on all lands under the jurisdiction of the Department, is found at Vehicle and Traffic Law §2405. It provides that all-terrain vehicles may not travel on a road unless it has been specifically marked for such use.

The past three decades have been witness to increased efforts to afford people with disabilities equivalent opportunities of life in all aspects of society. They, along with their families and friends, want to share the experiences that others have. They also do not want to face barriers, either constructed or attitudinal, that artificially prevent the enjoyment of life's benefits. The Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973 (as amended) and the Americans with Disabilities Act (ADA) of 1990 have all compelled federal, state and local governments to analyze their facilities and recreational opportunities and take steps to make them accessible. These acts seek the removal of the barriers to equal opportunity. The legislation that has the most bearing on State recreational programs is the ADA, with guidelines for analysis of facilities, implementation of accessibility minimum standards and a system of accountability. These legislative mandates establish only minimum requirements, and, for the purposes of this policy, do not require amendments to Article XIV, Section 1 of the State Constitution, the Department's rules and regulations, or the Adirondack Park State Land Master Plan or Catskill Park State Land Master Plan. The Department is, however, broadening the

scope of its consideration to provide people with disabilities access which may involve the use of motor vehicles on certain lands under its jurisdiction.

In the developed recreational facilities that it manages, such as campgrounds, the Department continues to be active in improving access for people with disabilities and has already provided many opportunities for their use. Now, where appropriate, consistent with constitutional, statutory and regulatory provisions and the Adirondack Park State Land Master Plan and Catskill Park State Land Master Plan, the Department will provide a means for a greater enjoyment of the lands it manages. All conditions of this policy guideline are directed for the protection of the public and the resource while enhancing access opportunities for people with disabilities.

The Adirondack Park State Land Master Plan and the Catskill Park State Land Master Plan and the Department's rules and regulations place various limitations on the availability of roads, trails and geographical areas that can be opened to motor vehicle use. Reforestation and other lands administered by the Department offer opportunities to allow for this type of access. Some Forest Preserve lands (classified as Intensive Use and Wild Forest) offer similar opportunities.

With this policy, the Department is addressing one aspect of making certain lands under its administration accessible to people with disabilities and facilitating recreational opportunities for them where legal and appropriate. For both the Department and the people who enjoy and use public lands, it is expected that everyone will assume increased responsibility for stewardship of those lands. All conditions and implementations of this policy guideline are to be directed for the protection of the public and the resource involved.