

# POLICY ON USE OF OPDMDs ON LHVA-MANAGED SEGMENTS OF THE LACKAWANNA RIVER HERITAGE TRAIL

## I. THE LACKAWANNA RIVER HERITAGE TRAIL

The Lackawanna River Heritage Trail, including the D&H Rail-Trail, stretches 70 miles from the Borough of Pittston in Luzerne County north to the New York state border, passing through more than a dozen communities. The Lackawanna River Heritage Trail is divided into five distinct sections:

- \*Lower Valley;
- \*Scranton;
- \*Mid-Valley;
- \*Upper Valley; and
- \*The D&H Rail Trail.

The Lackawanna Heritage Valley Authority (“LHVA”) manages the first four, southernmost sections, between Pittston and Simpson. This stretch of the Lackawanna River Heritage Trail goes through highly-populated areas, including the cities of Carbondale, Pittston, and Scranton, the largest city in the Lackawanna Valley with a population density of more than 3,000 people per mile. (Scranton (city) QuickFacts, retrieved 7/20/14). The trail sections managed by LHVA are an important recreational feature of the Scranton/Wilkes-Barre MSA, which has a population of more than half a million. (Greater Scranton Chamber of Commerce website, retrieved 7/20/14; [see visitpa.com](http://www.visitpa.com).)

The Rail-Trail Council of NEPA, Inc., manages the D&H Rail-Trail, which is the rural, northernmost portion of the Lackawanna River Heritage Trail. **These OPDMD guidelines pertain only to those segments of the Lackawanna River Heritage Trail that are managed by LHVA** (collectively the “Trail”), and do not address OPDMD use on the D&H Rail-Trail.

Construction of the entire Lackawanna River Heritage Trail is not yet complete. As of the date this policy was adopted, 20 of the 70 miles are under development; in these areas, sidewalks (for pedestrians) and on-street routes (for cyclists) bridge the gaps between completed segments. Trail surfaces vary depending on the segment, including pavement, stonedust, unimproved natural surfaces, and rail bed cinders.

## II. OVERVIEW

LHVA is pleased to increase recreational opportunities for people with mobility disabilities by allowing the use of other power-driven mobility devices (“OPDMDs”) in areas where they can be operated safely, without posing a risk of serious harm to natural and cultural resources. All OPDMDs operated on the Trail must meet the standards below.

This policy is not meant to address access to LHVA's indoor facilities. **Access to the Trail 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.** Moreover, this policy applies only to OPDMD (non-wheelchair) use. As per federal law, wheelchairs and manually powered mobility aids such as walkers, crutches, and canes, are permitted anywhere on LHVA-owned or -managed property where pedestrian travel is allowed.

### III. DEFINITIONS

**Electric-powered mobility device:** Any mobility device powered by batteries, including multiple passenger carts (3 or 4 wheels), Electronic Personal Assistance Mobility Devices ("EPAMDs," such as the Segway PT), battery-powered bikes (2 or 3 wheels), and single passenger scooters (3 or 4 wheels).

**Gas-powered mobility device:** Any mobility device powered by a gas-fueled engine using natural gas, gasoline, diesel, synthetic or bio-fuel (or combination thereof), including all-terrain vehicles, off-road bikes, snowmobiles, motor scooters, carts, tractors, amphibious craft, trucks, and cars.

**Other power-driven mobility device ("OPDMD"):** 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 carts, EPAMDs, 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.

**Wheelchair:** 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 of both indoor and outdoor locomotion.

### IV. TRAIL ASSESSMENT

#### **Process**

LHVA staff has conducted a comprehensive assessment of its trail system, applying the U.S. Department of Justice ("DOJ") regulations issued pursuant to 28 CFR Part 35 (title II) and 28 CFR Part 36 (title III), which became effective March 15, 2011. The goal of the assessment process was to determine which types of OPDMD, if any, could be used on trails under LHVA's jurisdiction.

#### **DOJ Assessment Factors**

*Factor (i):* The type, size, weight, dimension 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):* N/A

*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 OPDMD 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.

## **Restrictions and Limitations:**

### **Restrictions on Use of Gas-Powered OPDMDs**

Gas-powered mobility devices are not permitted on the Trail, with the exception of (i) on-road use on the portions of the Trail where the route currently is located on municipal roadways (use on sidewalks is prohibited); (ii) emergency access use; or (iii) pre-approved, limited management use.

*Justification: Section 35.137(b)(2)(i), (ii), (iv),(v)*

Because of the Trail's heavy, year-round pedestrian traffic, Trail user safety might be compromised if fuel and combustion engine-driven OPDMDs were permitted. In addition to safety risks, the natural, environmental, and recreational value of the Trail would be fundamentally adversely impacted and altered. One study conducted in 2009 found that the Trail enjoyed over 128,000 user visits, occurring throughout each season of the year and every day of the week (and that number has only increased as pre-existing gaps in the Trail have been completed).<sup>1</sup> Certain portions have been designated as "safety corridors" for students to access their school in an off-road manner. The Trail provides a "green" recreation corridor that limits these users' exposure to fuel and combustion engine-driven devices and exhaust fumes. As documented in many scientific studies, gasoline-powered engines produce exhaust fumes and particulate matter that causes increased health risks for trail users, particularly bicyclists.<sup>2</sup> Noise from gasoline-powered engines greatly diminishes the recreational experience for trail users and poses a health risk to passersby when the level exceeds 70 dB, which is a level exceeded by most gasoline-operated engines. Leaked or spilled oil or other fuel from OPDMDs creates a safety risk for other trail users.

### **Restrictions on Width of OPDMDs**

OPDMDs shall be no wider than 33" or longer than 48," except when they are used on-road on those portions of the Trail currently located on municipal roadways.

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<sup>1</sup> Trail User Survey & Economic Impact Analysis, Lackawanna River Heritage Trail (2009) ("Trail User Survey"), p. 20 and 21. The study counted between 100 and 700 Trail users at every counting station, even on weekdays. *Id.* at 20.

<sup>2</sup> The New England Journal of Medicine in a 2007 study reported a link between pedestrian exposure to exhaust fumes and lung inflammation and asthma symptoms. Environmental Health Perspectives published a 2010 study reporting that cyclists inhale five times more poisonous ultra fine particulates than do pedestrians.

*Justification: Section 35.137(b)(2)(i), (ii), (iv)*

The Trail is in an urbanized area: hundreds of pedestrians and cyclists enjoy the Trail daily (see Trail User Survey, fn1). The 2009 Trail User Survey noted that the Trail is used throughout the year for fundraising events, public programs, fitness activities, marathons, and weekly runs by local running clubs. (See Trail User Survey, p. 11.) Permitting OPDMDs wider than 33" to share the Trail with this high volume of other users creates safety hazards, no matter the speed limit imposed on OPDMDs, and would fundamentally alter the service, programs, and activities of LHVA and its partners. Additionally, there is no consistent width along the Trail: for example, a section with a 10.5 foot minimum width might suddenly narrow to a 7 foot width (e.g., Winton Road, Jessup to LRBSA, Archbald). In general, (except for the on-road sections) the Trail varies in width between 8' and 12' and is sited on a combination of rail-trails, municipal sidewalks, flood control levees, and municipal parks. The Trail also contains a number of narrow pinch points around structures such as light posts, bridge abutments, and other structures. The width and length limitations noted above will permit other users to pass safely in the opposite direction and will permit the OPDMD to turn safely.

### **Speed Limits on LHVA Trails; Closures**

To ensure user safety and enjoyment, OPDMDs must be operated at a safe speed, not exceeding 5 mph. Where other users are present, the safe speed may be less than 5 mph. Any permitted OPDMDs must follow this speed limit and must yield the right of way to oncoming pedestrians or bicyclists.

OPDMDs are not permitted on portions of trails that are closed to the general public due to maintenance or construction. OPDMDs used on municipal roadways must adhere to the rules governing vehicular use on those roads. The person operating the OPDMD may not carry another person.

### **Disclaimer**

The adoption of this policy does not constitute an endorsement that trails, access points, parking areas, or other properties under LHVA's ownership or jurisdiction are safe for use by an OPDMD. A certain amount of risk is inherent in any outdoor activity, including hiking, walking, cycling, or OPDMD usage. OPDMD operators must use reasonable care, judgment, and caution when operating such vehicles on the LHVA trail system, and all persons who enter upon the Trail or other property under LHVA's ownership or jurisdiction do so at their own risk. LHVA does not accept any liability from damage caused by the operator of the OPDMD or injury to others caused by the operator of the OPDMD.

### **Verification**

LHVA staff and volunteers may ask a person seeking to use an OPDMD on the Trail to provide a credible assurance that the vehicle is required because of the user's disability. The volunteer or staff person will accept as proof a valid, state-issued disability parking placard or card, or other proof of disability as a credible assurance that the use of the device is for the person's mobility disability. The federal regulations noted above provide

information about other forms of credible assurance that will be acceptable. The volunteer or staff person shall not ask the person using the OPDMD about the nature or extent of the disability.

**Public Notification**

LHVA has posted this policy on its website [www.LHVA.org](http://www.LHVA.org); the policy also can be made available in print form by contacting Lackawanna Heritage Valley National & State Heritage Area, 213 South 7<sup>th</sup> Avenue, Scranton, PA 18505 or (570) 963-6730 extension 8200.

**Changes to Policy**

LHVA reserves the right to amend this policy at any time.

Adopted: August 28, 2014

Revised: \_\_\_\_\_