



Department of
Environmental
Conservation

Accessible Outdoor Recreation

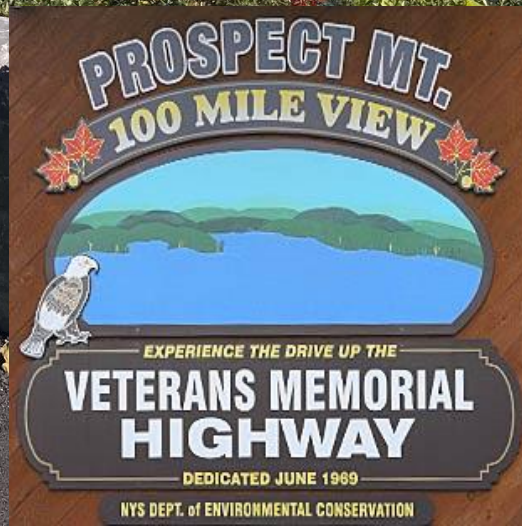
Training for the Adirondack Park Agency

September 15, 2022



“We *all* deserve access to lands open to the public, commensurate with our willingness to challenge ourselves and our desire to experience nature.”

-Debra Wolf Goldstein and Larry Knutson



Talk Outline

- “ADA in the Woods 101”
- DEC Accessible Recreation
- US Access Board Standards for Accessible Design



“ADA in the Woods 101”

Achieving equity in the outdoors



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Americans with Disabilities Act of 1990 (ADA)



The ADA requires that people with disabilities have **equal access to public accommodations**.

Discrimination, on the basis of disability, is prohibited.



8-year-old Jennifer Keelan participating in the "Capitol Crawl" in support of the passage of the ADA

Americans with Disabilities Act of 1990

Equal Opportunity for Individuals with Disabilities

- Title I. Employment (All Employers)
- Title II. Public Services (State and Local Governments)
- Title III. Public Services (Private Entities)

US Code; Title 42, Chapter 126



The screenshot shows the ADA.gov website. At the top left is the ADA.gov logo with a "BETA" tag and "U.S. Department of Justice Civil Rights Division". To the right is the "ADA Information Line" contact info: "Talk to us at 800-514-0301 | 800-514-0383 (TTY)" and hours: "M, Tu, W, F: 9:30am - 12pm and 3pm - 5:30pm ET" and "Th: 2:30pm - 5:30pm ET". Below this is a navigation bar with links: Home, Featured Topics, Laws, Regulations & Standards, Guidance & Resource Materials, Enforcement, and File a Complaint. A search bar is on the right. A yellow banner below the navigation bar reads: "▲ COVID-19 and the Americans with Disabilities Act — view information about eateries and medical setting visitor policies". The main content area features the title "The Americans with Disabilities Act (ADA) protects people with disabilities from discrimination." followed by a paragraph: "Disability rights are civil rights. From voting to parking, the ADA is a law that protects people with disabilities in many areas of public life." To the right of the text is a photograph of three people with disabilities: a woman with pink hair using a cane, a woman in a wheelchair, and a woman standing.

ADA.gov BETA
U.S. Department of Justice
Civil Rights Division

ADA Information Line
Talk to us at 800-514-0301 | 800-514-0383 (TTY)
• M, Tu, W, F: 9:30am - 12pm and 3pm - 5:30pm ET
• Th: 2:30pm - 5:30pm ET

Home Featured Topics Laws, Regulations & Standards Guidance & Resource Materials Enforcement File a Complaint

▲ COVID-19 and the Americans with Disabilities Act — view information about eateries and medical setting visitor policies

The Americans with Disabilities Act (ADA)
protects people with disabilities from discrimination.

Disability rights are civil rights. From voting to parking, the ADA is a law that protects people with disabilities in many areas of public life.



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Today's Focus: ADA Title II Regulations ★



*Code of Federal Regulations
28 CFR Part 35*

• Subpart A. General

- Self-evaluation
- Notice
- Designation of responsible employee and grievance procedures

★ Definition of disability

• Subpart B. General Requirements

★ General prohibitions against discrimination

- Maintenance of accessible features
- Service animals

★ Mobility devices

• Subpart C. Employment

• Subpart D. Program Accessibility

★ Existing facilities

★ New construction and alterations

Definition of Disability



- “A physical or mental impairment that substantially limits one or more of the **major life activities** of such individual...”
- Major life activities include, but are not limited to:
 - “Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing... breathing, concentrating, thinking...” (*plus 11 more activities*)
 - “The operation of a major bodily function...” (*including 18 organs and body systems*)
- The ADA Amendments of 2016 set forth that, “The definition of ‘disability’ shall be **construed broadly in favor of expansive coverage**, to the maximum extent permitted by the terms of the ADA.”

General prohibition against discrimination

“No qualified individual with a disability shall, on the basis of disability, **be excluded from participation in or be denied the benefits** of the services, programs, or activities of a public entity, or be subjected to **discrimination** by any public entity.”



Example: Campsite in a campground

CFR 35.130 (a)



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Equal and Integrated

- A public entity may not:
 - “Afford... an opportunity to participate... that is **not equal** to that afforded others,”
 - “Provide **different or separate** aids, benefits, or services...unless such action is necessary to provide aids, benefits, or services that are as effective as those provided others.”
- A public entity shall:
 - “administer services, programs, and activities in the **most integrated setting** appropriate to the needs of qualified individuals with disabilities.”



Example: Instead of clustered together in one area, accessible campsites should be integrated throughout the campground with the equivalent range of settings as those provided others.

CFR 35.130 (b1, d)



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Fundamental Nature of the Program

“A public entity shall make **reasonable modifications** in policies, practices, or procedures... unless the public entity can demonstrate that making the modifications would **fundamentally alter the nature** of the service, program or activity.”

CFR 35.130 (b7i)



Example: Campsite in a campground

Note: In the ADA regulations, the word “program” often refers to broad categories of activities or services provided to the public e.g., campsites in campgrounds.

How Much Farther?

Halfway there...



- **Subpart A. General**
 - Self-evaluation
 - Notice
 - Designation of responsible employee and grievance procedures
 - ★ Definition of disability
- **Subpart B. General Requirements**
 - ★ General prohibitions against discrimination
 - Maintenance of accessible features
 - Service Animals
 - ★ Mobility devices
- **Subpart C. Employment**
- **Subpart D. Program Accessibility**
 - ★ Existing facilities
 - ★ New construction and alterations

Mobility Devices- Regulations

CFR 35.137

Wheelchairs and manually-powered mobility aids

“A public entity shall permit... wheelchairs and manually-powered mobility aids...designed for use by individuals with mobility disabilities in any areas open to pedestrian use.”



Other power-driven mobility devices (OPDMDs)

“A public entity shall make reasonable modifications in its policies, practices, or procedures to permit the use of OPDMDs...unless the public entity can demonstrate that the class of OPDMD cannot be operated in accordance with legitimate safety requirements...”



Definitions in ADA Regulations

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.”



CFR 35.104

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 cars, electronic personal assistance mobility devices, such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes...”



Applying the Definitions

CFR 35.104

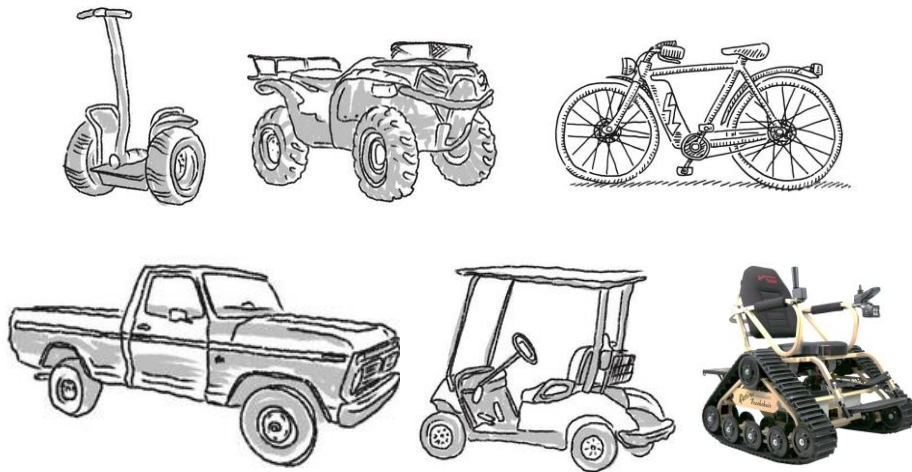
Wheelchairs



“...Designed--

1. primarily for use by an individual with a mobility disability
2. for the main purpose of indoor, or of both indoor and outdoor locomotion.”

Other power-driven mobility devices (OPDMDs)



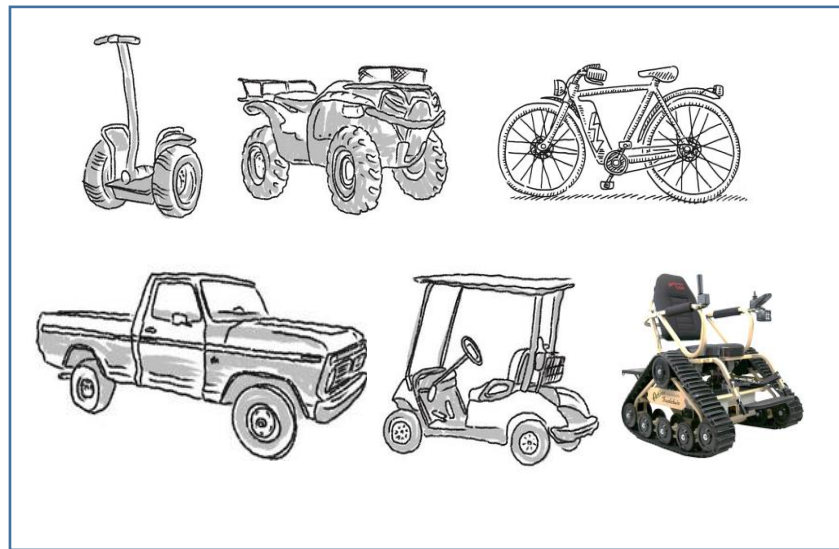
“...any mobility device... that is used by individuals with mobility disabilities for the purpose of locomotion...”

OPDMD Assessment Factors

“A public entity shall consider...

1. The type, size, weight, dimensions, and speed of the device;
2. The facility's volume of pedestrian traffic...
3. The facility's design and operational characteristics...
4. Whether legitimate safety requirements can be established to permit the safe operation of the OPDMD in the specific facility; and
5. 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.”

Other power-driven mobility devices (OPDMDs)



CFR 35.137 (b2)



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How Much Farther?

Home Stretch



- **Subpart A. General**
 - Self-evaluation
 - Notice
 - Designation of responsible employee and grievance procedures
 - ★ Definition of disability
- **Subpart B. General Requirements**
 - ★ General prohibitions against discrimination
 - Maintenance of accessible features
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- **Subpart C. Employment**
- **Subpart D. Program Accessibility**
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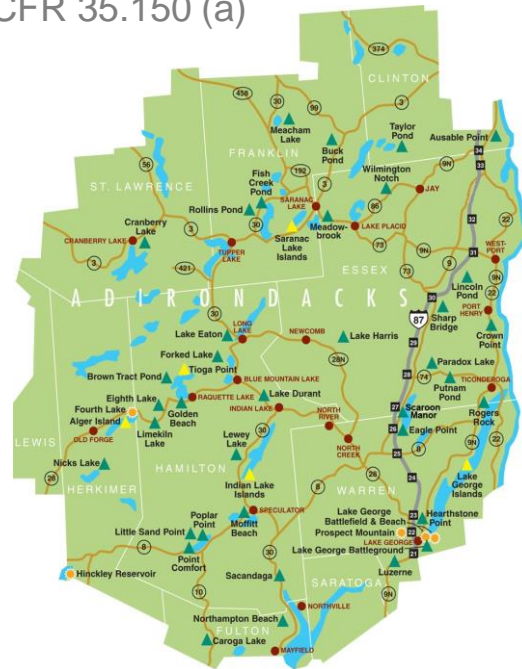
Program Accessibility- Existing Facilities

CFR 35.150 (a)

“A public entity shall operate each service, program, or activity so that the service, program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

This paragraph does not—

1. Necessarily require a public entity to make each of its existing facilities accessible...
2. Require a public entity to take any action that would threaten or destroy the historic significance of a historic property...
3. Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens.”



*Example:
DEC Campground Program*

Regarding #3- “In those circumstances... a public entity has the burden of proving that compliance... would result in such alteration or burdens. The decision... must be made by the head of a public entity ... and must be accompanied by a written statement...”

New construction and alterations



“Design and construction

- Each facility... shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities...
- *Exception for structural impracticability.*
 - “Full compliance... is not required where a public entity can demonstrate that it is structurally impracticable.... only in those rare circumstances when the unique characteristics of terrain prevent incorporation of accessibility features.

Alterations

- Each facility...altered by...a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such matter that the altered portion of the facility is readily accessible to and usable by individuals with disabilities...”

CFR 35.151

DEC Accessible Recreation



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DEC Accessibility Program

- **Provide guidance**, technical support, and training to DEC programs
- **Engage people with disabilities** in DEC programs and decision-making
- **Improve access** to diversify visitors to state lands
 - Accessibility assessments
 - Public information on accessible facilities
 - Accommodation requests and grievances
 - Outreach and partnerships



Accessibility Advisory Committee
Field Trip to Lewey Lake 2021



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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THEODORE E. GALUSHA, TEENA
WILLARD, and WILLIAM SEARLES

Plaintiffs,

- against -

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,
JOHN P. CAHILL, sued herein in his official
capacity as Commissioner of the New York
State Department of Environmental
Conservation, ADIRONDACK PARK
AGENCY OF THE STATE OF NEW YORK,
DANIEL T. FITTS, sued herein in his official
capacity as Chairman of the Adirondack Park
Agency of the State of New York, GEORGE E.
PATAKI, sued herein as Governor of the State
of New York, JOHN DOE, Individually, and
STATE OF NEW YORK,

Defendants,

- and -

ADIRONDACK COUNCIL, ADIRONDACK
MOUNTAIN CLUB, RESIDENTS
COMMITTEE TO PROTECT THE
ADIRONDACKS, ENVIRONMENTAL
ADVOCATES, ASSOCIATION FOR THE
PROTECTION OF THE ADIRONDACKS,
GRAHAM L. COX, LISA M. GENIER,
DEBRA HAMILTON and EARNEST B.
LaPRAIRIE,

Intervenor-Defendants.

2001 Galusha Settlement

- A. Expedited Unit Management Plans
- B. Capital Projects ~\$5 million
- C. Expanded Motorized Access
- D. Expanded Non-Motorized Access
- E. Training and Public Information
- F. Other Commitments
 - Statewide Coordinator
 - Regional ADA Coordinators
 - Advisory Committee



Committee Site Visits

- Connect with regional staff on construction and maintenance of accessible features
- Provide guidance to engineering on standard designs



Lake Eaton, Lake Durant, and Lewey Lake Campgrounds
August 2021



Looking Glass Pond, Schoharie County
October 2020



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Fostering Connections



Outdoor Accessibility Day

Sunday, August 8, 2021, 11am- 4pm



Activities, Tours, and Demonstrations

Pontoon boat rides*	Meet at kayak dock	Every half hour (11:30am-3pm)
Fishing clinic	Fishing dock	All day
Sensory nature walk*	Start at Welcome Center	At 11:30am, 12:30pm, 1:30pm, 2:30pm
Accessible campsite tour*	Start at Red Fox campsite	At Noon, 1pm, 2pm, 3pm
Adaptive campfire cooking demonstration	Bear Cub campsite	Starting at 1pm
Outdoor mobility equipment- NYS Justice Center/TRAID	Porcupine campsite	Noon-3pm
Access Star Scavenger Hunt	Start at Welcome Center porch	All day

Learn More About...

John Dillon Park	Inside Welcome Center	All day
DEC and State Parks accessible facilities	Welcome Center porch	All day
SUNY Cortland Inclusive Recreation Resource Center	Black Bear campsite	Noon-1pm
Preparing your family for the outdoors	White Tail campsite	Noon-3pm
Camping equipment- Crua Outdoors	Wild Turkey campsite	Noon-3pm



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Accessible Recreation

ADA Accessibility
Coordinators

Accessible Recreation
Destinations

Accessible Features at
Campgrounds & Day Use
Areas

Americans with Disabilities
Act Grievance Procedure

Motorized Access Program
for People with Disabilities
(MAPPWD)

Case by Case
Accommodation Program for
Power-driven Mobility
Devices

Fishing Access for Anglers
with Disabilities

[Home](#) » [Outdoor Activities](#) » [State Recreation Lands](#) » Accessible Recreation

Accessible Recreation

NYSDEC welcomes all visitors to explore outdoor recreation on state lands and we are committed to providing an ever-increasing range of accessible opportunities. Currently, visitors to our accessible facilities can enjoy fishing, boating, hunting, canoeing, picnicking, horseback riding, hiking, visiting historic assets, wildlife observation and camping at DEC campgrounds as well as primitive areas.

Accessibility improvements invite families with children in strollers and people with mobility issues to our state lands. Various methods of communication are utilized to include people with hearing or sight disabilities in environmental education. Our focus is on inclusion and not separate programs.

Many of our sites were designed to provide people with choices about the type of recreational experience and level of personal challenge they prefer. We encourage visitors to contact DEC's [ADA Accessibility Coordinators](#) to discuss their individual needs and recreational pursuits with knowledgeable staff.

The NYS Access Pass, which is administered by the Office of Parks, Recreation and Historic Preservation (OPRHP), is accepted at DEC campgrounds and day use areas. DEC does not issue Access Passes. You can get an Access Pass and more information at [the OPRHP website](#).

Service animals are welcome at all DEC sites. Special permits and licenses for [hunting](#) and [fishing](#) are available to people with disabilities.



▶ Watch a clip about [recent investments in outdoor recreation](#) and check out other clips on DEC's [YouTube Channel](#).



More about Accessible Recreation:

[ADA Accessibility Coordinators](#) - Contact information for DEC Access Coordinators who can provide more information on accessible destinations and programs

[Accessible Recreation Destinations](#) - List of accessible places to go on DEC lands for each county in New York State

[Accessible Features at Campgrounds & Day Use Areas](#) - Up-to-date information on accessible features at DEC Campgrounds and Day Use Areas.

[Americans with Disabilities Act Grievance Procedure](#) - DEC grievance procedure providing for prompt and equitable resolution of nonemployment related complaints, alleging discrimination on the basis of disability in DEC practices and policies, or the provisions of its programs, services, and activities.

[Motorized Access Program for People with Disabilities \(MAPPWD\)](#) - Application for permit to use motorized vehicles by persons with disabilities on specified DEC trails

[Case by Case Accommodation Program for Power-driven Mobility Devices](#) - Request for accommodation for the use of power-driven mobility devices on DEC lands

[Fishing Access for Anglers with Disabilities](#) - Map with links to regional web pages of fishing access sites for anglers with disabilities.



CAMP



FISH



HIKE



BOAT



VIEW



HUNT



SKI



LEARN



VISIT



ACCESS

Important Links

[Accessible Recreation
Mapping - DECinfo
Locator](#)

[DEC Campgrounds](#)

[Fishing and Hunting
Licenses/Permits for
People with
Disabilities](#)

Links Leaving DEC's Website

[Office of Parks,
Recreation and
Historic Preservation
\(OPRHP\) - Access
Pass](#)

[US Department of
Justice ADA Center](#)

[US Access Board](#)

PDF Help

For help with PDFs on
this page, please call
518-402-9295.

Contact for this Page

NYSDEC
Accessibility Program
Division of Operations
625 Broadway
Albany, NY
12233-5253
518-402-9295
Send us an email

This Page Covers



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Caution Acronyms!

MAPPWD/CP3 and OPDMDs

Motorized Access Program for People with Disabilities (MAPPWD)

Commissioner's Policy #3

The Motorized Access Program for People with Disabilities (MAPPWD) permit is a temporary revocable permit (TRP) that provides motor vehicle access to certain state lands administered by DEC. MAPPWD permit holders are permitted uncommon access to activities such as hunting, fishing, camping and wildlife observation. The permit is only issued to qualified people with disabilities, who must complete and submit the application linked below.

Permit holders can use a permitted vehicle to travel beyond the reach of public roads, to areas where others must hike or bike. The permit provides access for those who seek solitude, connection to nature, undisturbed wildlife habitat, and inclusion with fellow sportspeople.

MAPPWD Routes have been carefully selected in order to protect natural areas and recreational activities. **Access is restricted to designated routes only.**

Case by Case Accommodation Program for Power-driven Mobility Devices

Compliance with Federal Rule on Power-driven Mobility Devices on DEC Lands

The US Department of Justice has amended the definition of "wheelchair" and added a definition of "power-driven mobility device" to the regulation that implements Title II of the Americans with Disabilities Act.

In meeting the mandates of this rule, DEC will continue to allow the use of cars, trucks and all-terrain vehicles by permit on designated routes as authorized in Commissioner Policy # 3 (CP-3), and will consider issuing permits, on a case-by-case basis, for the use of other types of power-driven mobility devices on these CP-3 routes for people with mobility disabilities.

DEC will also consider, on a case-by-case basis, issuing permits for the use of power-driven mobility devices on routes that are not currently open pursuant to Commissioner Policy #3.

Advance requests for such permits must be made to the DEC Access Coordinator. Requests for permits must include proof of disability or other credible assurance that the power-driven mobility device is to be used for a mobility disability.

All New York State laws, rules and regulations regarding public motor vehicle use on DEC's outdoor lands remain in effect.

Wheelchairs are allowed anywhere pedestrians are allowed on state lands.

DEC Permits for Hunters with Disabilities



Non-Ambulatory Hunter Permit

The [Non-Ambulatory Hunter Permit](#) allows qualified hunters to shoot a firearm from a motorized vehicle (including an off-road vehicle) that has the motor turned off and that is completely off the highway right-of-way.

To qualify: you must be physically unable to move about except with the use of a mechanized aid such as a wheelchair.

Non-Ambulatory Access to State Lands

DEC offers designated roads and trails for motor vehicle use by authorized individuals with disabilities having a mobility impairment. These roads can be found throughout the state on state forests, wildlife management areas, and forest preserves.

View the [Motorized Access Permit](#) page for a list of designated roads and details on how to obtain a statewide permit for this purpose.

Modified Longbow Authorization

The [Modified Longbow Authorization](#) (previously Modified Archery Permit) allows qualified individuals to hunt big or small game with a legal bow equipped with a device to aid in the drawing, holding and releasing of the bowstring. This authorization does not allow the use of a crossbow or modified crossbow.

To qualify: you must be physically unable to draw and hold a legal bow.

Modified Crossbow Permit

The [Modified Crossbow Permit](#) allows qualified individuals to hunt big or small game with a crossbow that has been specifically modified with a device that allows it to be discharged (fired) with use of a breath tube. This permit does not allow the use of an unmodified crossbow.

To qualify: you must be *permanently* physically unable to hold or draw a legal bow or to fire a legal bow that has been modified to hold and release the string. If you can pull the trigger on a gun, you will not qualify.



Accessible Recreation Destinations

Linked Counties have Recreational Areas with Access Features for People with Disabilities

Counties are organized by Region

- **Long Island:** [Nassau](#) | [Suffolk](#)
- **New York City:** [Bronx](#) | [Kings](#) | [New York](#) | [Kings](#) | [Queens](#) | [Richmond](#)
- **Lower Hudson Valley:** [Dutchess](#) | [Orange](#) | [Putnam](#) | [Rockland](#) | [Sullivan](#) | [Ulster](#) | [Westchester](#)
- **Capital Region/Northern Catskills:** [Albany](#) | [Columbia](#) | [Delaware](#) | [Greene](#) | [Montgomery](#) | [Otsego](#) | [Rensselaer](#) | [Schenectady](#) | [Schoharie](#)
- **Eastern Adirondacks/Lake Champlain:** [Clinton](#) | [Essex](#) | [Franklin](#) | [Fulton](#) | [Hamilton](#) | [Saratoga](#) | [Warren](#) | [Washington](#)
- **Western Adirondacks/Upper Mohawk Valley/Eastern Lake Ontario:** [Herkimer](#) | [Jefferson](#) | [Lewis](#) | [Oneida](#) | [St. Lawrence](#)
- **Central New York:** [Broome](#) | [Cayuga](#) | [Chenango](#) | [Cortland](#) | [Madison](#) | [Onondaga](#) | [Oswego](#) | [Tioga](#) | [Tompkins](#)
- **Rochester/Western Finger Lakes:** [Chemung](#) | [Genesee](#) | [Livingston](#) | [Monroe](#) | [Ontario](#) | [Orleans](#) | [Schuyler](#) | [Seneca](#) | [Steuben](#) | [Wayne](#) | [Yates](#)
- **Western New York:** [Allegany](#) | [Cattaraugus](#) | [Chautauqua](#) | [Erie](#) | [Niagara](#) | [Wyoming](#)



Franklin County

[Black Pond Hand Launch](#) 

[Buck Pond Campground](#) 

[East Pine Pond Hand Launch](#) 

[Fish Creek Pond Campground](#)   

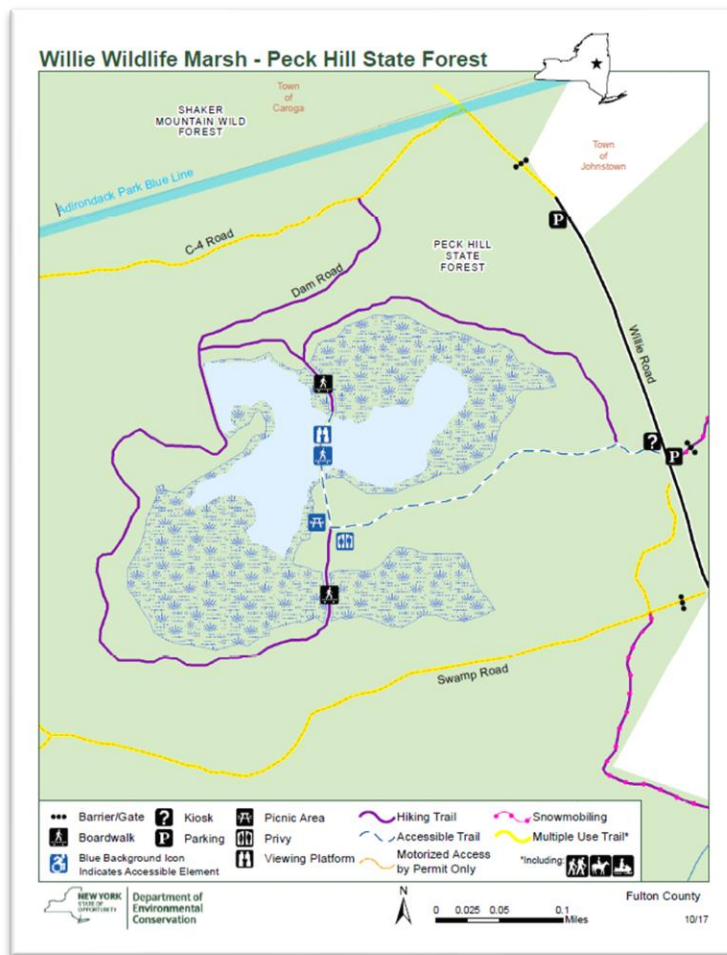
[Follensby Clear Pond Waterway Access Site](#) 

Key of Accessible Icons

 Boating	 Trails	 Equestrian	 Nature Observation
 Camping	 Fishing	 Picnicking	 Interpretive Site

Willie Wildlife Marsh

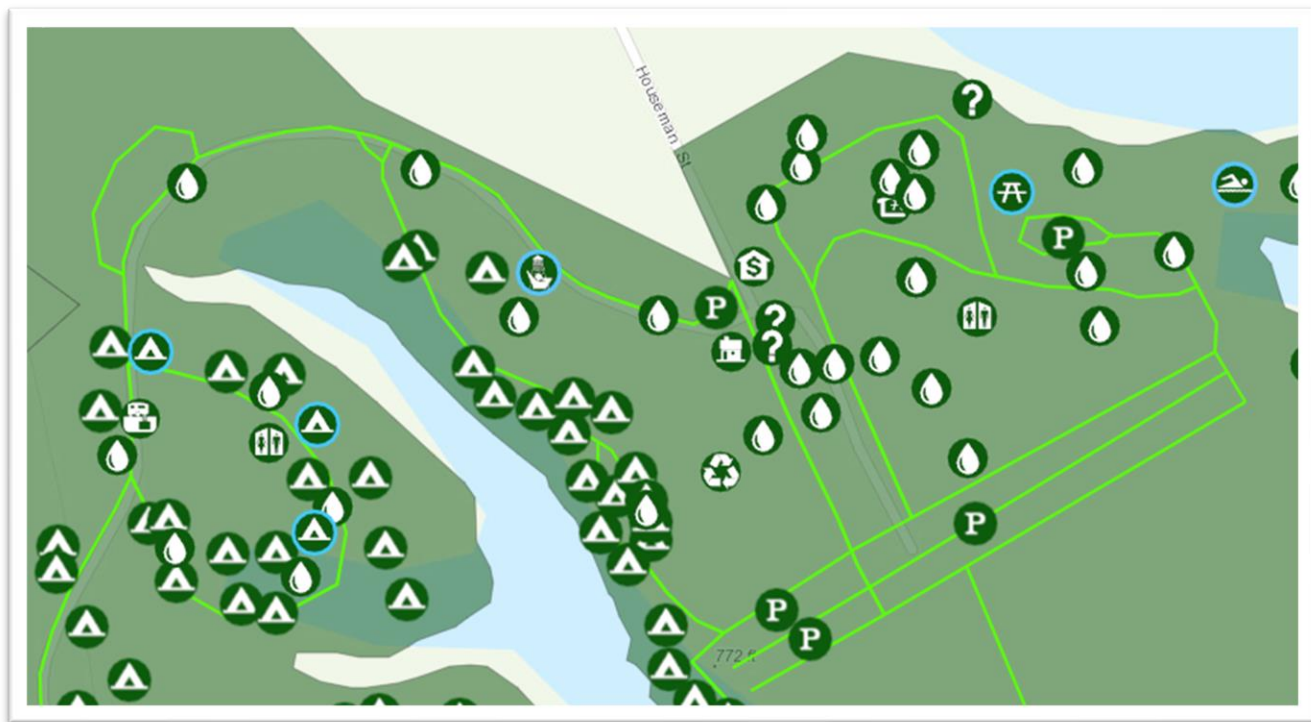
Peck Hill State Forest



Northampton Beach Campground & Day Use Area



icon key



DEC, DOH, OPRHP Partnership

Adaptive Equipment



- Five new accessibility mats at campground beaches
- New beach wheelchair for Lake George Beach
- New mobility device at Rogers Center



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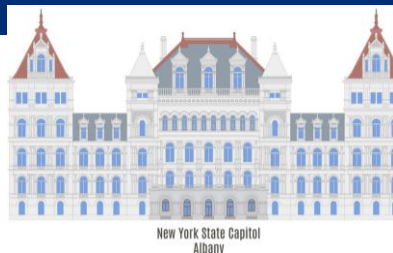
U.S. Access Board

Advancing Full Access and Inclusion for All

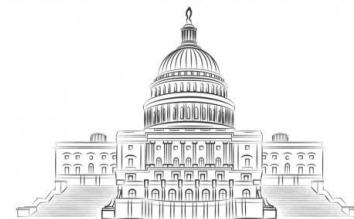
US Access Board Standards for Accessible Design



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ADA vs. ABA



Americans with Disabilities Act ADA Standards

- Applies to State governments
- Includes standards for buildings and three categories of DEC recreational facilities
- Requires “program accessibility” for facilities not included in the standards

Architectural Barriers Act ABA Standards

- Applies to Federal government and projects receiving federal funding
- Includes standards for recreational facilities not included in ADA Standards
- Provides guidance to states on how to provide “program accessibility” for Outdoor Developed Areas

DEC Recreational Facilities

ADA Standards:

- Buildings-bathroom and shower facilities
- Fishing and boating boarding piers
- Playgrounds



ABA Standards:

- Camping areas
- Picnic and viewing Areas
- Trails and Beach Access Routes



ABA Standards for Outdoor Developed Areas: Conditions for Exceptions

1. Compliance is **not practicable due to terrain**.
2. Compliance cannot be accomplished with the **prevailing construction practices**.
3. Compliance would **fundamentally alter the function or purpose of the facility or the setting**.
4. Compliance is **limited or precluded by any of the following laws**, or by decisions or opinions issued or agreements executed pursuant to any of the following laws:
 - Endangered Species Act (16 U.S.C. §§ 1531 et seq.);
 - National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.);
 - National Historic Preservation Act (16 U.S.C. §§ 470 et seq.);
 - Wilderness Act (16 U.S.C. §§ 1131 et seq.); or
 - Other federal, state, or local law the purpose of which is to preserve threatened or endangered species; the environment; or archaeological, cultural, historical, or other significant natural features.



Thank You

- Leah Akins
- DEC Statewide ADA
Accessibility Coordinator
- leah.akers@dec.ny.gov
- 518.402.9295

Connect with us:

Facebook: www.facebook.com/NYSDEC

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