

October 20, 2020



Penny Wu
Director, Recreation Staff
U.S. Forest Service
1400 Independence Ave SW
Washington, DC 20250-1124

By electronic submission to <https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-2619>.

Re: Comments on proposed revisions to Forest Service Travel Management Manual 7700

Dear Ms. Wu:

On behalf of our members and supporters working to protect and conserve California's wild places and waters on federal public lands, the California Wilderness Coalition (CalWild) generally supports the Forest Service's proposed revisions to its Travel Management Manual 7700, as set forth in its notice of availability for public comment, 85 Fed. Reg. 60129 (Sept. 24, 2020). The proposed revisions are appropriately tailored to address e-bikes as an emerging use on National Forest System lands and provide additional clarity that e-bikes constitute a class (or classes, based on Class 1, 2, or 3 e-bikes) of motor vehicles subject to longstanding travel management laws and policies designed to ensure quality and sustainable recreational opportunities for a wide range of national forest users.

The 2005 Travel Management Rule defines "motor vehicle" as "[a]ny vehicle which is self propelled," excluding vehicles operated on rails and battery-powered mobility devices.¹ On many occasions, the Forest Service has explicitly and correctly recognized that e-bikes – which by definition have a motor – are motor vehicles subject to the Travel Management Rule.² Nevertheless, the agency has struggled in recent years to address pressure for additional e-bike opportunities in certain areas, resulting in some Forest Service units having attempted to bypass travel management requirements.³ The proposed manual revision provides needed clarity on the required process for considering and providing for additional e-bike opportunities. The proposed revisions reflect the Travel Management Rule's direction that roads, trails, and areas be

¹ 36 C.F.R. § 212.1; see also Exec. Order No. 11,644, § 2 (defining "off-road vehicle" subject to travel management restrictions as "any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain," while excluding emergency, authorized, and official uses).

² E.g., 80 Fed. Reg. 4500, 4503 (Jan. 28, 2015) (response to comments on agency's winter travel management rule stated that "[n]ew technologies that merge bicycles and motors, such as e-bikes, are considered motor vehicles under § 212.1 of the TMR"); Mar. 24, 2016 memorandum from Washington Office Recreation Director to Regional Foresters re Electric Bikes and Trail Management ("E-bikes have a motor, thereby are self-propelled, and are not covered by the exceptions in the definition. Therefore, e bikes are motor vehicles and are subject to regulation under the TMR, which requires designation of National Forest System (NFS) roads, NFS trails, and areas on NFS lands for motor vehicle use.").

³ See, e.g., *Back Country Horsemen of America v. U.S. Forest Service*, No. 2:19-cv-02149-JAM-AC (E.D. Cal. Oct. 23, 2019) (challenging Tahoe National Forest's decision to permit Class I e-bikes on over 100 miles of non-motorized trails absent any public process or compliance with NEPA or the Travel Management Rule; case was dismissed after the Forest Service voluntarily withdrew its decision).

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designated by “vehicle class” and thereby facilitate designation of certain trails for motor vehicle use by class(es) of e-bikes to provide the more primitive experience that some e-bike users may seek. By engaging the public through appropriate National Environmental Policy Act (NEPA) and Travel Management Rule processes, the Forest Service can provide those opportunities where appropriate to meet the needs of this emerging national forest use, while at the same time, fully analyzing and minimizing the unique and potentially significant impacts of expanded e-bike use (such as user conflicts and resource damage).

However, while we generally support the proposed directives and the use of a programmatic environmental analysis as a tool to make efficient travel management planning decisions, any analysis of e-bike designation decisions must include adequate site-specific analysis under NEPA and the application of the minimization criteria and other travel management requirements. In other words, while programmatic analysis may facilitate more efficient and effective travel management decision-making, it does not eliminate the Forest Service’s legal obligations to perform site-specific analysis and discrete designation decisions for individual roads, trails and areas.

Sincerely,

A handwritten signature in cursive script that reads "Linda Castro".

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