peopleforbikes

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Director
United States Department of Agriculture Forest Service
Recreation Staff
1400 Independence Avenue SW
Washington, DC 20250–1124

Re: Revised Directives - Forest Service Manual 7700 Travel Management; Chapter 7700, Zero Code; Chapter 7710 Travel Planning

Dear Director,

Thank you for the opportunity to comment on the United States Department of Agriculture Forest Service proposed revised directives to update and clarify guidance on management of electric bicycle use on National Forest System (NFS) lands.

We do not support the proposed revised directives as written and requests three changes to the proposed revised directives, detailed on page 4 of this letter.

We do acknowledge the Forest Service's efforts to issue new guidance to adapt to changing technologies and recreation patterns, manage electric bicycles in a clear and consistent way both internally and in coordination with fellow agencies, and allow for the use and enjoyment of electric bicycles by Americans seeking connection to natural experiences nationwide.

The PeopleForBikes Coalition ("PeopleForBikes") is the national trade association representing companies that manufacture and distribute bicycles, bicycle parts and bicycle accessories; as well as the national advocacy group that works for better policies and infrastructure for bicycle riding. The U.S. bicycle business contributes $88 billion annually to our economy and supports more than 780,000 jobs. PeopleForBikes represents more than 1.4 million Americans who support bicycling.

Our mission is to put more people on bicycles more often and make every bicycle ride better for everyone. Bicycling moves people efficiently and keeps people active and healthy. Electric bicycles are a natural extension of this work and have been a focus of ours for six years.

While electric bicycles are federally regulated for the purposes of consumer product safety, electric bicycles have not historically been consistently defined or managed across federal land management agency policies, and until recently, most agencies have regulated electric bicycles generically as a motor vehicle. The historic lack of terms to define the different classes (i.e. types) of electric bicycles on the market today may have created some confusion for land managers, public safety officials, consumers, and retailers.

In 2014, acknowledging the growth in electric bicycle ridership and the patent similarities, in

both federal consumer product regulations, and the similar desired experience of bicycles and electric bicycle riders, PeopleForBikes took the lead to develop a modern framework for manufacturers to classify, and states to regulate, electric bicycles. These classifications have better enabled policymakers and land managers to regulate and manage electric bicycle use in the U.S. It is critical that the U.S. synchronize these terms and policies across government entities, and in a manner consistent with most states, so that laws and regulations are easy for everyone to understand. Federal land management agencies are critical to this evolution, as many of the best biking experiences in the U.S. are on federal public lands.

We appreciate the Department of the Interior's October 2, 2020 finalized regulations that bring electric bicycle agency regulations closer in line to that of non-motorized bicycles and affords local land managers the authority to allow electric bicycles in many places where non-motorized bicycles are allowed. These changes are harmonizing federal land management policies with the actual products that people are riding on the ground, and proactively managing the desired experiences of electric bicycle riders. Recognizing the different e-bike classes will also enable these agencies to integrate e-bike use onto their public lands in a way that respects other trail users and our natural resources.

Given the statutory and regulatory changes that have taken place over the last twenty years, the U.S. Forest Service regulatory framework for electric bicycles (treating them as a type of motor vehicle) is now becoming an outlier. It is resulting in rules for electric bicycles that are inconsistent with those of neighboring communities and adjacent land management agencies. Electric bicycles should be regulated similarly to bicycles in order to provide for their safe operation, consistent regulation and reasonable use. As more federal, state and local governments have expanded electric bicycle access, U.S. Forest Service policies should also coordinate with policies in the communities that surround them.

The Three Electric Bicycle Classes

In 2015, U.S. electric bicycle manufacturers specified three classes of electric bicycles to regulate critical issues around electric bicycle speed, wattage, and motor engagement; create consistency with the three main forms of product that are currently on the marketplace and within the federal Consumer Product Safety Commission definition of an electric bicycle; and allow for distinct regulation of different classes of electric bicycles on recreational trails.

Electric bicycles sold in the U.S. are labeled according to these class designations, and 28 states (and counting) have adopted this three class electric bicycle system into their traffic statutes:

- Class 1: Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the electric bicycle reaches 20 mph.
- Class 2: Bicycle equipped with a throttle-actuated motor that ceases to provide assistance when the electric bicycle reaches 20 mph.
- Class 3: Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the electric bicycle reaches 28 mph.

In states that have codified the three classes of electric bicycles, many state and local land management agencies have updated their regulations to allow one or more class of electric bicycles where traditional bicycles are allowed to travel. Land managers appreciate that the three classes of electric bicycles allow them flexibility to designate various classes depending on the facility and local conditions.

The Need for New U.S. Forest Service Guidance Addressing Electric Bicycles

There are many benefits of improving electric bicycle policies on federal lands managed for recreation that serve both visitors and employees alike. Electric bicycles increase access for many types of people who now have a chance to ride a bicycle on public lands, as well as simplify access to a broader range of facilities that might not have been appealing to visit by bicycle, but are more appealing by electric bicycle. More people can access places that are fully suited for recreation and visitation on public lands, instead of concentrating around trailheads and visitor centers. This disperses use and can alert land managers to trail and road conditions in more remote areas of our public lands. Land managers also frequently report that electric bicycles increase their visitor services capacities, give their staff the ability to carry heavier loads without the assistance of a motor vehicle, and provide practical accessibility to more remote parts of Forest Service-managed lands.

New rules for electric bicycles can provide commonsense solutions for pressing issues such as traffic congestion, parking, maintenance backlogs, and emissions reduction. More and more people are using electric bicycles, especially those who wish to continue riding a bicycle but are limited by age, disability, or physical capacity. As a new recreation option, their use can bring the pleasure and freedom of bicycling to many more types of users and facilitate recreation for many new demographics.

Despite having a motor, low-speed electric bicycles are not passive vehicles; e-bike riders still derive significant mental and physical benefits from riding them.[1] In fact, e-bike riders can actually get more exercise in some instances as they tend to ride their bikes longer.[2]

In addition, more Americans are purchasing and riding electric bicycles on a regular basis. Electric bicycles are the fastest growing category of bicycle sales in the U.S. market, and we anticipate that their rapid adoption by customers will continue for many years to come. For example, in 2015, 9,533 electric bicycles were sold in the U.S. (through independent bicycle retailers). In 2019, this number had grown to 106,944, representing a more than 1,000% increase over four years. In the first eight months of 2020, through the month of August, Americans purchased more than 180,000 electric bicycles, and surpassed 2019 totals by June. Americans will continue to purchase electric bicycles and bring them to federal lands for both transportation and recreation purposes well into the future. It is critical that the agencies that administer our federal lands have sensible, consistent, fair, and realistic policies to guide this growing use.

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[1] An evolving body of literature is demonstrating that electric bicycles improve physical and mental health, and are

[2] Castro, A., et al., Physical activity of electric bicycle users compared to conventional bicycle users and non-cyclists: Insights based on health and transport data from an online survey in seven European cities, Transportation Research Interdisciplinary Perspectives (June 2019).

The characteristics of an electric bicycle – a hybrid technology that combines human and motor power and closely mirrors traditional bicycles – necessitate regulatory changes so that land managers can effectively and logically integrate electric bicycles into public lands to ensure improved recreation opportunities for the Americans who seek them.

Aspects of the Proposed Revised Directives That PeopleForBikes Supports

We support the general framework of the proposed updates to the directives. The following specific areas are critical to successful electric bicycle management on U.S. Forest Service lands, and we support their adoption:

- Defining and recognizing the three classes of electric bicycles.
- Allowing land managers the ability to open trails to specific classes of electric bicycles.
- Developing a policy that guide trail designations emerging technologies like electric bicycles.
- Creating criteria to inform electric bicycle use decisions.
- Allowing trail designation changes must be made through the travel management process (although we also encourage the development of a process for designating electric bicycle access outside of the travel management planning process).
- Encouraging land managers to consider designating electric bicycle use on trails and roads where bicycles are allowed and analyze whether the effects or electric bicycle use would be comparable to traditional bicycle use.

We would however, encourage additional modification to the proposed directives, as outlined below.

Recommended Changes

PeopleForBikes recommends three changes to the proposed revised directives.

> *Specifically, we ask that the definition of Electric Bicycle (Electric bicycle) under section 7705 – DEFINITIONS be amended to read as follows* (additions **bolded and underlined**):
>
> "Also referred to as an electric mountain bicycle (eMTB), a type of ~~motor vehicle~~ **device** with two **or three** wheels attached to a frame, ~~one behind the other,~~ equipped with fully operable pedals**, a seat or saddle for the rider,** and an electric motor of less than 750 watts that meets the requirements of one of the following three classes: (…)

1. Remove electric bicycles, as defined, from the definition of "motor vehicle."

Defining an electric bicycle separately from a motor vehicle or as a bicycle, is becoming commonplace in all areas of law and regulations that apply to these devices. Motor vehicles are very different products from electric bicycles, with different histories, design standards and usage. The wide variety of motor vehicles in existence is quite distinct from electric bicycles. We ask that the Forest Service manage electric bicycles separately from motor vehicles, and more closely align its electric bicycle management to that of traditional bicycles.

a. The classification of low-speed electric bicycles does not align with other federal, state, or local laws in the United States.

Bicycles have been widely accepted consumer products for more than 100 years, with a proven safety record. Electric bicycles are an extension of these bicycles, and they have a growing, positive track record regarding safety and operation. While until recently, electric bicycles were not specifically defined in laws that govern the management of federal public lands, they are defined in federal law for other purposes. Under these federal laws, low-speed electric bicycles are not motor vehicles.

Pursuant to 15 U.S.C. § 2085, electric bicycles are "consumer products," subject to the same consumer product safety standards as bicycles. In practice, they are designed, equipped, look like, and ride much like traditional bicycles but are easier to operate through the assistance of a small electric motor that is activated to assist the rider when pedaling. They are explicitly not "motor vehicles" subject to federal motor vehicle safety standards pursuant to 49 U.S.C. § 30102. In short, the federal government has long treated electric bicycles like bicycles from a product standpoint.

Federal statutes also specially excluded e-bikes from being considered a motor vehicle or off-road vehicle for the purposes of federal funding, which would otherwise prohibit the use of electric bicycles on certain trails built with federal funds. Under 23 U.S.C. § 217(h)(4) an electric bicycle is explicitly excluded from being considered a motorized vehicle and therefor is permitted to access non-motorized facilities in accordance with state and local law.

States overwhelming recognize low-speed electric bicycles as non-motorized device. All but seven states now define an electric bicycle as a bicycle in their traffic codes, allowing low speed electric bicycles in many of the same places as traditional bicycles, and especially in areas managed for non-motorized use. Most local governments follow these state laws.

Most recently, the electric bicycle rules adopted by the Department of the Interior on October 2, 2020 no longer consider electric bicycles a motorized use "unless the rider is using the throttle along to power the bicycle for an extended period of time." This update to the definition of electric bicycles under Department of the Interior regulations aligns management of electric bicycles more closely with that of traditional bicycles.

If the Forest Service proceeds in solidifying the proposed interpretation of all classes of low speed electric bicycles as motor vehicles, its management will stand in direct contrast to its fellow agencies and states. These government entities have overwhelmingly chosen to regulate electric bicycles as a non-motorized use in order to best match the functionality and use of these devices with our nation's recreation and transportation infrastructure.

b. The classification of low-speed electric bicycles as motor vehicles does not align trail management with user needs or existing research regarding electric bicycle use.

Aside from the issue of how other government entities are managing electric bicycles, and perhaps most crucially, the regulation of electric bicycles as a motorized use is out of synch with the desired experiences of electric bicycle users. From human dimensions and social

perspectives, numerous studies on electric bicycle user demographics and rider behaviors demonstrate that the desired experiences of electric bicycle riders are quite similar.[3]

Current best practices for recreation trail development carefully consider both the mix of trail users (e.g., walkers, runners, equestrians, cyclists, ATV riders, etc.) and the desired experiences of each user group. Both desire a mix of escape, solitude, challenge, play and adventure. While riding an electric bicycle can reduce the fitness required to participate compared to riding a standard bicycle, it still requires physical activity, and the addition of the small motor does not change the desired experience. For some, health benefits are a primary goal, for others a bonus, for some an obstacle. Some riders have high skill and low fitness (and vice versa), but regardless, electric bicycle riders are more similar to other wheeled users in that they are better able to take advantage of the fun and efficiency provided by their bikes, separating them from motorized trail users.

In addition to the similarity of the desired user experience between electric bicycle riders and other non-motorized trail users, existing evidence regarding the physical effects of e-bikes on trails supports their regulation as a non-motorized use.[4]

c. <u>The classification of low-speed electric bicycles as "motor vehicles" will frustrate the purpose of the proposal or lead to unintended consequences.</u>

Lastly, and perhaps most importantly, requiring that non-motorized trails be redesignated as motorized trails within the Travel Management Planning Process (and ultimately identified on Motor Vehicle Use Maps) is impractical. There is a significant risk that redesignations will be opposed not out of objection to electric bicycle use itself, but due to fear of the motorized designation beginning a process of allowing further motorized access to trails designed for non-motorized use. This could prolong true electric bicycle trail access years or indefinitely, undermining the agency's goals of proactively managing new technologies and authorizing their use based on science-based criteria. Alternatively, this process could result in a substantial number of non-motorized trails being converted to motorized trails – a unintended consequence and management strategy for the vast network of non-motorized USFS trails. Neither of these outcomes appear to be sound long-term management strategies. By defining electric assist bicycles as bicycles (consistent with sister agencies and the Consumer Product Safety Commission), the need for such redesignation is avoided.

d. <u>Low-speed electric bicycles would better managed as a non-motorized use.</u>

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[3] Hall C, Hoj TH, Julian C, Wright G, Chaney RA, Crookston B, West J; Pedal-Assist Mountain Bikes: A Pilot Study Comparison of the Exercise Response, Perceptions, and Beliefs of Experienced Mountain Bikers
Robert A. Chaney, P. Cougar Hall, Ashley R. Crowder, Benjamin T. Crookston, Joshua H. West; Mountain biker attitudes and perceptions of eMTBs (electric-mountain bikes)

[4] A Comparison of Environmental Impacts from Mountain Bicycles, Class 1 Electric Mountain Bicycles, and Motorcycles: Soil Displacement and Erosion on Bike-Optimized Trails in a Western Oregon Forest, International Mountain Bicycling Association.

In contrast, facilitating electric bicycle access to non-motorized trails by designating electric bicycles as bicycles, or "devices," rather than motor vehicles will also enable better land management. In the vast majority of areas, their treatment as non-motorized will be non-controversial and have little to no effect on other visitors. Notably, the use of all classes of electric bicycles on roads (including the shoulder), in bicycle lanes, and on wider, improved bicycle paths will be appropriate in almost all cases.

There are some areas of U.S. Forest Service-managed public lands where electric bicycle access will be more complicated. We recognize that there will be areas where it is appropriate to limit, or even restrict, electric bicycle access from non-motorized trails. In these areas, we recognize that land managers must balance the competing needs of other trail users, such as hikers, equestrians, and mountain bikers, with the addition of electric bicycles. The bicycle industry believes strongly in supporting our partner groups and being good stewards as local officials consider electric bicycles for use in these areas.

PeopleForBikes has long supported local land management decisions regarding where electric bicycles may be used on non-motorized dirt roads or natural surface singletrack trails that are open to bicycles. With the appropriate regulatory framework and local land manager engagement and oversight, electric bicycles can be successfully integrated into many non-motorized trail systems on federal lands. Local land manager can best apply the electric bicycle class system to authorize appropriate access and meet the needs of their community.

Despite these compelling reasons for regulating electric bicycles within its non-motorized framework, the proposed Forest Service Manual revisions do not explain the Forest Service's rational for classifying electric bicycles as a "motor vehicle," a that term is explicitly limited to devices that are "self-propelled" and does not appear to in any way contemplate devices with the combined motor and human-powered characteristics of low-speed electric bicycles. It offers no analysis of existing science around electric bicycle use and whether those effects are more closely aligned with non-motorized uses like bicycling or motor vehicle uses. Instead, it treats electric bicycles as a motorized use independent of whether that outcome supports the needs of trail users or research around electric bicycle use. These are significant deficiencies in the current proposal that will lead to the unintended outcomes described above. We encourage the Forest Service examine its authority and discretion to regulate low-speed electric bicycles separate from motor vehicles in order to avoid these results.

We support more modern and sensible policies around electric bicycles, select access on non-motorized trails and local-level discretion as to where and how electric bicycles are allowed. The proposed revised directives do not strike this balance and create an onerous implementation process to do what the directives set out to do – "facilitating and expanding access for e-bikes use."

2. Require seat or saddle to avoid confusion with scooters and broadening the definition of electric bicycles to three wheeled devices.

Although 15 U.S.C. § 2085 does not specify that a bicycle must be equipped with a seat or saddle, this is a critical differentiating factor between an electric bicycle and other electric powered mobility devices, and a key distinction of a bicycle. We urge you to require that electric bicycles be equipped with a seat or saddle so that electric bicycles remain easily

separable from other types of electric mobility devices that are designed to be stood upon, and there are no unintended regulatory consequences from this rulemaking. This specification could serve the agency in later rulemaking iterations as it subsequently explores potential modifications to access, or to update regulations pertaining to electric scooters, Segways, hover boards or other devices.

3. Apply the rules for traditional bicycle riders to electric bicycle riders when they are being ridden.

Because electric bicycles are demonstrably used similarly to traditional bicycles, we recommend that electric bicycle riders be explicitly afforded t she same rights and privileges, across all facilities and infrastructure, and be subject to all of the duties, of the operators of traditional bicycles. For reference, the rights and duties of traditional bicycle riders are extended to electric bicycle riders in the Department of the Interior electric bicycle regulations and in the majority of states.

We would like to again commend the Forest Service for its proactive approach to managing electric bicycle use. Thank you for your consideration of our comments, concerns and priorities regarding proposed the proposed revised directives. We are available to answer any questions about electric bicycles and their use on federal public lands.

Sincerely,

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