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USDA Forest Service

Director - Recreation Staff

1400 Independence Avenue SW

Washington, DC 20250-1124.

[*https://cara.ecosystem-management.org/​Public/​ReadingRoom?​project=​ORMS-2619*](https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-2619)

**Re: Comments on Proposed E-bike Directives**

Dear Recreation Staff:

On behalf of the National Ski Areas Association (NSAA), thank you for the opportunity to comment on the USDA Forest Service’s proposed directives to update and clarify guidance on management of electric bicycle (e-bike) use on National Forest System (NFS) lands. NSAA is the trade association for ski area owners and operators nationwide. We represent 320 alpine resorts, accounting for over 90% of the skier/snowboarder visits in the United States. NSAA appreciates the Forest Service’s recognition of the need to address e-bikes in policy given their increasing popularity, prevalence and the role they can play in enhancing recreation experiences on National Forest System (NFS) lands. Please include our comments below in the record.

***Background***

NSAA and the U.S. Forest Service have a longstanding public-private partnership that makes outdoor recreation opportunities available to the public through ski areas operating on National Forest System (NFS) lands. That partnership helps facilitate the public’s use, enjoyment, and appreciation of National Forests. Ski areas are a crucial component of the recreational activities offered on National Forests, and help the federal government meet increasing demand for outdoor recreation. With the passage of the Ski Area Recreational Opportunity Enhancement Act (SAROEA) in 2011, public land ski areas have transitioned from downhill ski resorts to four-season recreation operations. These four season resorts are major economic drivers and employers in rural communities.

A number of ski areas operating on Forest Service land allow e-mountain bikes on their trails and have added e-bikes to their mountain bike rental fleets. They are well received by guests who may not have the ability to ride uphill or have come from lower elevations and are not accustomed to the high-altitude terrain. They are also attractive to riders who have been riding mountain bikes for years but can no longer push their physical limits. With a quiet and emissions free ride, disc brakes, suspension, and a wide gear range, e-bikes blend right in on mountain bike trails.

From an operational standpoint, ski resorts with e-bikes have learned that an e-bike program *complements* a lift-served mountain bike program. The “assist” can help guests access more mid-mountain terrain or even terrain above the gondola or lift serving mountain bikers. The assist can also help beginners access lower parts of the mountain, as a mountaintop ride might not provide a true beginner mountain bike experience, allowing for a “progression” in terrain similar to that of ski and snowboard lessons.

E-bikes are permitted on ski area trails because the overwhelming majority of trails and service roads within a ski area special permit boundary are *not* subject to the Forest Service’s Travel Management Rule (TMR), which governs the definition of “motorized vehicles” for purposes of motorized versus non-motorized trail designations. Ski area permits are not subject to the Forest Service’s TMR because ski area trails and roads are developed, managed and maintained solely by resort staff. Accordingly, resorts can allow e-bikes on their trails at their discretion, with operating plan approval from the USFS. Adding e-bikes to resort mountain biking trails is akin to a resort allowing ski-bikes or other devices on its trails in winter – it is a business and operational decision driven by the resort that is approved in coordination with the Forest Service through the resort’s operating plan.

Ski areas have an interest in the agency’s draft e-bike policy for a number of reasons. Ski areas operating on NFS lands might have contiguous areas of NFS trails that are affected by this policy, and ski areas operating on private land may also have adjacent public lands that are affected by this policy. Some ski areas also have a non-motorized NFS trail inside their permit boundary. Our primary interest in shaping e-bike policy is to create a seamless experience for resort guests and recreationists when it comes to riding e-bikes on trails. E-bikes are permitted at ski areas, and ideally e-bikers would have the option to leave the ski area boundary and continue on adjacent trails without confusion or conflicting policies about where e-bikes are allowed or not.

***Comments***

NSAA applauds the agency for taking this important step of developing policy on e-bikes in response to changes in public demand for outdoor recreation experiences. As noted in the agency’s draft policy, e-bikes can provide new opportunities for individuals who might otherwise be prevented from experiencing an NFS trail without assistance from an electrical motor, including those with limitations stemming from age, illness, disability or fitness level, especially in more challenging environments. Americans are taking advantage of recreation opportunities on public lands now more than ever, and those recreation experiences provide enormous health benefits and increase appreciation for public lands as well. We urge the agency to adopt a modern and forward thinking policy that truly reflects the public’s expectations. The agency’s policy should treat e-bikes as bicycles, manage e-bikes in a clear and consistent way, and remove barriers to a seamless use and enjoyment of e-bikes by visitors seeking connection to the natural environment.

**Clarify that the Proposed Policy and Designation of Trails for E-bike Use do not Apply to Ski Area Permitted Lands**

NSAA requests that the Forest Service clarify in the directives or in the preamble to the final directives that the procedures for designating trails as suitable for e-bike use under the Forest Service’s Travel Management Rule do not apply to ski area trails or roads on NFS lands inside resort permit boundaries. The Forest Service Travel Management Rule excludes from the general prohibition on motor vehicle use on NFS roads and trails, “[m]otor vehicle use that is specifically authorized under a written authorization issued under Federal law or regulations.”  36 C.F.R. § 261.13(h).  That means that the approximately 122 ski areas operating under special use permits are not subject to the Travel Management Rule prohibition on motor vehicle use.  The Forest Service has recognized this important point in Forest-specific Travel Management Plans, for example in the White River National Forest in Colorado, where the agency stated that the “roads and trails dedicated to the ski area operation [are] considered designated permitted routes under the ski area permit”; ski areas are “responsible for the management, operation, and maintenance of these routes”; and the “administration of trails on … ski areas is under the permit system and operating plans.” (White River National Forest Travel Management Plan, Final Environmental Impact Statement, at 30 (2011); *id.*, Response to Comments at Aspen/Sopris-3.)

Accordingly, the Forest Service should take this opportunity to clarify in the directives or in the preamble to the final directives that the use of trails and roads on NFS lands inside permitted ski areas, including for e-bike use, is governed by the terms of the ski area permit, the operating plan, and any project-specific approvals under the permit, rather than the Travel Management Rule or the proposed directive.

**Seize the Opportunity to take a Modern, Realistic and Efficient Approach to E-bikes**

Advancements in e-bike technology, tremendous growth in the popularity of this recreational activity, shifting mindsets, and rapidly increasing opportunities for e-bike use on state, and county and other federal lands should provide the context for the Forest Service’s policy development. While the agency characterizes e-bikes as emerging, in fact e-bikes have already arrived. Their use has dramatically increased over the past five years, and will continue to grow as result of [recent advancements in lithium-ion battery technology](https://www2.deloitte.com/us/en/insights/industry/technology/technology-media-and-telecom-predictions/2020/bike-technology-transformation.html), making e-bikes even more affordable and attractive to consumers. Over 130 million e-bikes are expected to be sold between 2020 and 2023 according to NPD Group. The fact that e-bikes are *already on the trails* should be taken into account in deciding (1) whether a drawn out and site-specific designation process is warranted, particularly with respect to adding Class 1 bikes to existing bike trails; and (2) whether NEPA/local level environmental analysis is required. It is important that the agency address e-bike use in the most efficient and forward-looking manner possible.

**Do not Define E-bikes as Motorized Vehicles**

NSAA has pointed out for some time that Class 1 and Class 2 e-bikes do not meet the agency’s own definition of motorized vehicle, which is a vehicle that is “self-propelled.”[[1]](#footnote-1) Not only is the classification of e-bikes as motor vehicles incorrect based on the plain words of the policy, it reflects an outdated view of e-bikes, the e-bike experience, and the acceptance of e-bikes as a cultural matter among riders. On a practical level, defining e-bikes as motorized will require the agency to change non-motorized trails to motorized to add e-bikes, as opposed to just adding e-bikes to non-motorized trails.

E-bikes are more akin to bicycles than motor vehicles, and this fact is underscored by emerging bicycle technology. For example, bicycles now have **electric gear systems,** a method of changing gears which enables bike riders to shift with electronic [switches](https://en.wikipedia.org/wiki/Switch) instead of using conventional [control levers](https://en.wikipedia.org/wiki/Shifter_(bicycle_part)) and mechanical cables. The switches are connected by wire or [wirelessly](https://en.wikipedia.org/wiki/Wireless) to a [battery pack](https://en.wikipedia.org/wiki/Battery_pack) and to a small [electric motor](https://en.wikipedia.org/wiki/Electric_motor) that drives the [derailleur](https://en.wikipedia.org/wiki/Derailleur_gears), switching the [chain](https://en.wikipedia.org/wiki/Bicycle_chain) from [cog](https://en.wikipedia.org/wiki/Cogset) to cog. An electronic system can switch gears faster, and requires less maintenance than traditional cables. Electric gears are part of a dedicated system in newer bikes but can also be added after-market to existing mechanical derailleurs through a wireless handlebar remote. These types of advancements in technology can blur the line between bicycles and e-bikes, and warrant a review of the agency’s definition of bicycles and e-bikes.

We suggest the following language changes for consideration:

**7705 - DEFINITIONS**

Bicycle. A pedal-driven, ~~solely~~ human-powered device, with two wheels attached to a frame, one behind the other.

Electric Bicycle (E-Bike). Also referred to as an electric mountain bike (eMTB), a type of ~~motor vehicle~~  bicycle with two wheels attached to a frame, one behind the other, equipped with fully operable pedals and an electric motor of ~~less~~ not more than 750 watts that meets the requirements of one of the following three classes:

a. Class 1 E-Bike. An e-bike equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the e-bike reaches the speed of 20 miles per hour.

b. Class 2 E-Bike. An e-bike equipped with a motor that may be used exclusively to propel the e-bike and that ceases to provide assistance when the e-bike reaches the speed of 20 miles per hour.

c. Class 3 E-Bike. An e-bike equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the e-bike reaches the speed of 28 miles per hour.

It is worth noting that the Department of Interior chose not to classify e-bikes as motor vehicles in its October 2 Final Rules governing the use of electric bicycles on BLM, Park Service, Bureau of Reclamation and USFWS lands (*see 43 CFR 420, 43 CFR 8340, 36 CFR 4.30, 50 CFR Part 27*.) This provides yet another reason for the Forest Service to change its definition of electric bicycle in the final directive. Aligning with Interior on this approach will help the Forest Service’s stated goal of providing “continuity of recreation experiences” on routes crossing multiple jurisdictions and will help reduce confusion among riders. To that end, NSAA also suggests that the Forest Service align the directives with the Park Service’s proposed e-bike definition to account for the fact that many manufacturers sell e-bikes with motors having exactly 750 watts.

**Authorize and Manage E-bikes Through a More Streamlined Process**

The agency’s proposed process for designating trails suitable for e-bikes and conducting NEPA on the addition of e-bikes to trails is cumbersome, presents barriers to e-bike use, and falls short of meeting the agency’s stated goals in the agency’s proposed EADM rule. The proposed policy does not actually authorize e-bikes on trails, it allows e-bikes to be authorized through additional process. In the draft policy’s proposed criteria (7715.5 4.b and 4.c) for designating trails, the agency requires consideration of:

“the extent to which effects from e-bike use are comparable to effects from existing bicycle use, accounting for, as appropriate, differences in speed; potential effects from increased or concentrated use; and any site-specific considerations;’ and “[w]hether a programmatic environmental analysis may be feasible and more efficient due to similarities in effects of bicycle use and e-bike use.”

In keeping with the goals of creating more efficient and effective agency process, NSAA would encourage the agency to expressly authorize Class 1 e-bikes on non-motorized trails that are open to bicycles, and provide for a process to restrict them based on specific criteria, if requested based on local circumstances. This is the approach recently proposed by the Park Service, and it makes sense. As currently drafted, the proposed directives add a layer of process by merely “promoting” the authorization of e-bikes, but not actually authorizing them on trails. The alternative opt-out approach would save scarce resources and greatly improve efficiency in process and decision-making.

With respect to NEPA review of e-bike authorizations, NSAA questions why the addition of bikes to bike trails triggers NEPA at all. The analogy would be requiring NEPA to add snowboards onto ski trails. While there may have been some cultural resistance to snowboards many decades ago, their addition to an existing trail results in no actual additional impacts, just perceived impacts, to a large extent driven by lack of familiarity. After all, e-bikes are already on trails, in many cases unnoticed. Differences in speed between bikes and e-bikes is more a function of the rider and his or her ability level, and should not trigger NEPA review. Likewise, while authorizing e-bikes may bring more bike use to trails, an increase in bike ridership is already occurring as a result of COVID and America’s changed work patterns. Managing the trails with even or odd days for bikers and hikers or designating trail uses more clearly would be way more efficient and practical than conducting a NEPA process to assess the impacts of e-bikes versus bicycles. Finally, NSAA is skeptical of the suggestion that a programmatic environmental analysis might be appropriate in the agency’s approach to e-bikes. In our experience, a site-specific NEPA process often follows the completion of a programmatic analysis, making it yet another level of review.

If the agency truly wants to promote e-bike experiences as stated in the draft directive, unnecessary barriers need to be removed. Having to get a designation for every trail, versus using an opt-out process for Class 1 like bikes, is a huge barrier. NEPA review is also an unnecessary and costly barrier. Adding layers of NEPA through programmatic and site-specific analysis will also serve to deter, rather than promote, e-biking. The Forest Service can remedy these issues by choosing not to define e-bikes as motorized vehicles and adopting a similar approach as the Park Service by allowing e-bikes on any trails currently authorized for bicycle use.

\* \* \*

In closing, we urge the agency to be forward looking and efficient in responding to shifts in public demand on NFS lands. Resiliency and diversity of opportunities offered are key to serving the public and ensuring the success of mountain communities, particularly now.

Thank you for your consideration of these comments.

Best Regards,

**Geraldine Link**

Geraldine Link

Director of Public Policy

1. “Motor Vehicle. Any vehicle which is self-propelled, other than:

   a. A vehicle operated on rails; and

   b. Any wheelchair or mobility device, including one that is battery-powered, that is designed solely for use by a mobility-impaired person for locomotion and that is suitable for use in an indoor pedestrian area (36 CFR 212.1).” FSM 7705 [↑](#footnote-ref-1)