

Data Submitted (UTC 11): 10/26/2020 5:27:19 PM

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Comments: ABBREVIATED COMMENTS- See attached file

Director, Recreation Staff

1400 Independence Avenue SW, Washington,

DC 20250-1124.

Re: SM 7700 and 7710 E-bikes #ORMS-2619

Subject: Proposed Revised Directives for guidance on management of electric bicycle (e-bike) use on National Forest System (NFS) lands.

Dear Director,

The International Mountain Bicycling Association (IMBA) provides the following abbreviated comments on the USFS Office of Regulatory and Management Services proposed directives #2619 for guidance on management of electric bicycle (e-bike) use on National Forest System (NFS) lands.

Please see attached pdf file for the complete comments with citations and more information and discussion.

IMBA would like to thank the USFS and its staff for meeting with us and others to hear our key recommendations and concepts we have provided on this subject in the past. Our view and understanding of this issue continues to evolve and these comments represent the latest in our assessment.

As a mountain bike advocacy organization, IMBA's mission is to create, enhance and protect great places to ride mountain bikes. E-bikes are a broad category. While IMBA generally supports the concepts of e-bike use on paved and prepared bike lanes and commuter pathways, we do not have an official position on this segment of e-bike use. Consequently, as it pertains to electric bikes, these comments will focus only on the use of electric mountain bikes or eMTBs on shared-use public land non-motorized trails and how that would interact with and/or affect non-motorized mountain biking. We will not focus on e-bike use outside of trail-based recreation or on existing motorized routes, as that is outside the scope.

Class 1 eMTBs can be a great way for people to enjoy mountain biking experiences and trail-based recreation. We look forward to working with land managers and all stakeholders to achieve the best possible solutions for this use-case. Our ideal situation is that together we all navigate this emerging technology so bike access is enhanced and protected broadly, and new opportunities to ride bikes (whether traditional or electric) are better than ever. To accomplish this, IMBA is focused on creating more trails close to home to grow the quantity and quality of mountain bike trail communities across the U.S., so everyone has access to close-to-home rides and iconic backcountry experiences. Since 1988, IMBA has been the worldwide leader in mountain bike advocacy and the only organization focused entirely on trails and access for all types of mountain bikers in all parts of the U.S. IMBA's national network of more than 200 local groups, individual riders and passionate volunteers are exemplary trail stewards on public lands across the country and our success has been leveraged and made possible by the local work of these dedicated groups and individuals.

Throughout the 30-plus years IMBA has been advocating for mountain bikes, the sport and its technology has changed dramatically. Once again we find ourselves in an exciting moment as eMTBs have emerged as a new

technology in our sport. This exciting new technology has sparked an energetic debate. Open discussions and thoughtful, common sense solutions will help all involved reach positive outcomes for natural surface trail access for both mountain bikes and eMTBs.

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#### Overview:

The USFS proposed directive is an amendment to the Forest Service Manual (FSM) 7700 for the Travel Management Rule (TMR) and Travel Planning for motor vehicle use management. Currently, since e-bikes are motorized vehicles, and the proposed directives codify that, any motorized route or motorized trail is automatically open to eMTBs if not specifically closed to such use. The agency's Motor Vehicle Use Map (MVUM) shows routes and trails open to motorized use which is the primary source of access for eMTBs on USFS lands to date. This allocation has been depicted on the MVUM via the Special Vehicle Designation category symbol. This Special Vehicle Designation category allows for any motorized class of vehicle not listed or restricted under the FSM's other categories to be specifically authorized on a route. There have been very limited instances where the USFS has authorized eMTB use on existing or new trails open to bicycles that restrict all other motorized modes of travel.

The USFS can and does manage e-bikes/eMTBs on its motorized system roads and trails. Therefore the proposed directive does not change much in how e-bikes will be managed on motorized routes, beyond creating a directive more specific to e-bikes and officially recognizing and adopting a set of common definitions and classes into the USFS Manual.

However, generally speaking, from an agency management perspective, it is bike trails that provide the intended experiences sought by eMTB riders. While USFS Regions provide varying amounts of shared bike and motorcycle trails, many if not most bike trails are on non-motorized system trails. To allow eMTBs on these trails, under current regulations and this proposed directive, requires reclassifying them as motorized. It is clear this proposed directive is not about allowing e-bikes on motorized trails. Rather, it is about defining or creating a process and framework for allowing e-bikes, as motorized vehicles, on bike trails currently classified as non-motorized trails and consequently recategorizing them as motorized trails, albeit limited possibly to certain classes of eMTBs. This categorical transformation creates a cascade of concerns and potential problems these comments will focus on.

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#### Elements of the Proposed Directive IMBA Supports

1. Support inviting the experience of eMTBs on Forest Service mountain bike trails where appropriate.
2. Support that the proposed directive defines e-bikes independent of traditional human powered bicycles.
3. Support appropriate trail access for Class 1 eMTBs as long as such access decisions do not jeopardize existing or impede new access or funding streams for traditional mountain bikes.
4. Support the requirement for local NEPA decisions and public involvement to determine new access for e-bikes.
5. Support providing USFS managers discretion to restrict e-bikes access by certain class(es) as necessary.

#### Elements of the Proposed Directive IMBA Opposes

1. Oppose any technical and/or official reclassification of non-motorized trails into the motorized category due to lack of criteria which can exclude certain classes and uses of eMTBs from motorized definition.
2. Oppose future multi-use non-motorized MTB trails being placed on Motor Vehicle Use Map (MVUM) as they become limited motorized trails.
3. Oppose Class 2 or 3 eMTB access on traditional bike trails in most situations based on factors of throttle actuation, speed and overall preserving bicycle genre integrity and social tolerance.
4. Oppose triggering, to designate e-bike use on bike trails, the Travel Management Rule under FSM 7715.03 and the requirement to apply the onerous minimization criteria, intended for

managing more powerful, more traditional combustion motorized vehicles.

5. Oppose regulatory and definition components of the USFS proposed directives that will restrict, disrupt, disqualify and/or unnecessarily complicate available state and federal funding sources, federal budget appropriations, or skew agency trail accounting allocations.

#### Summary of Key Recommendations

It is unacceptable to have traditional non-motorized bike trails recategorized as motorized routes simply to allow certain classes of eMTBs. Instead, the USFS should consider creating a consistent and functional directive that makes effective management of bikes and e-bikes possible by meeting five primary requirements.

1. ? Maintains bikes and e-bikes as two distinct uses that can share common experiences while being distinguished and managed independently by type and/or class. The proposed directive achieves this.
2. ? Requires appropriate trail management decisions and public input under NEPA. The proposed directive achieves this.
3. ? Preserves the previously made investments in mountain bike trail access on non-motorized trails. The proposed directive jeopardizes this.
4. ? Retains the integrity of the non-motorized trail category. The proposed directive jeopardizes this.
5. ? Provides an appropriate and timely process and pathway for eMTBs to gain access to public land bike trails while creating safeguards to protect traditional bike trail funding and access. The proposed directive fails to achieve this.

In order to authorize eMTBs on certain non-motorized USFS bike trails while retaining the current non-motorized status, the USFS should:

1. Establish certain qualifying criteria for excluding eMTBs from the motorized definition, like the Department of Interior (DOI), and determine, through NEPA, which non-motorized bike trails will allow qualifying eMTBs while retaining non-motorized status.

The criteria should include:

- a. e-bike fits under Class 1 e-bike definition and requires human propulsion,
- b. while being used on roads and trails open to non-motorized and mechanized use.
- c. its use is pedal assisted, not throttle powered, and,
- d. a USFS manager has determined through NEPA that e-bikes are appropriate for shared non-motorized use of roads or trails in question.

2. Establish policy so that eMTBs qualifying for the motorized exclusion criteria above will in turn be exempt from the Travel Management Rule and minimization criteria regulating the use and management of motorized vehicles. This policy should allow eMTBs to be managed in a manner more consistent with other non-motorized uses where deemed appropriate.

3. Standardize signing protocols to ensure public enjoyment and appropriate use of public lands and to help guide trail visitors to the experiences of their choice.

4. The USFS should seek to publish and maintain official USFS Bike Trail Use Maps (similar to the MVUM) in order to depict to the public which USFS trails are open to bikes and/or eMTBs and which trails are not open to bikes and/or eMTBs.

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#### Proposed Directive Discussion:

Defining e-bikes as motorized vehicles is counter to the intent of the proposed directive.

The Federal Register, under 60129, confirms the intent of the proposed directive. First, it states, "Currently e-bike use is not allowed on NFS roads, on NFS trails, and in areas on NFS lands that are not designated for motor vehicle use." (emphasis added). It then states this will "promote designation of NFS roads,

NFS trails, and areas on NFS lands for e-bike use...." . Since this is unnecessary for motorized routes, this leaves only non-motorized routes as the intended target for this promotional directive.

IMBA does not oppose creating a process to authorize eMTBs on NFS bike trails, IMBA encourages it. IMBA supports Class 1 eMTBs on trails that have been designated through a public NEPA process. What IMBA opposes is the manner in which the USFS proposes to achieve this. Outcomes of planning decisions that recategorize non-motorized trails as motorized trails are unacceptable and unnecessary. This is counter to the stated intent of promoting e-bike use on Forest Service lands.

This creates an ineffective and improbable process for a variety of reasons, including:

1. Lack of agency resources to undergo full TMR planning intended for ORVs  
? This fact alone will limit the application of this directive.
2. Broad opposition to reclassifying non-motorized trails as motorized  
? The systematic loss of trail miles categorized as non-motorized, whether literal or only technical and perception-based, is unacceptable.
3. Jeopardizing past, present, and future state and federal funding sources  
? Past non-motorized specific investments, current trail funding sources, and federal allocations will all be compromised in some fashion.
4. Preventing an adequate time frame in providing new opportunities for eMTBs  
? Requiring Motorized Travel Management Planning, with its onerous requirements, will be a non-starter for many forests which will endlessly delay the objective of this proposed directive.

The key to the problems above rests with defining e-bikes exclusively as motorized vehicles, without any process or criteria for purposefully excluding certain class(es) and uses of e-bikes from the motorized vehicle category. Should the USFS revise its proposed directive to provide this option, most of the above concerns would be solved. The Department of Interior has navigated this process in a more effective manner and IMBA recommends a similar approach. IMBA supports a baseline e-bike definition of motorized but after thoroughly considering the DOI Rule, establishing a set of conditional criteria for allowing some e-bikes to be exempt from the motorized definition is a workable solution that strikes an appropriate balance for effectively managing eMTBs on USFS system bike trails.

eMTB use should not trigger the Travel Management Rule under FSM 7700.

IMBA will always maintain a position that NEPA and public involvement is necessary when proposing and making decisions on public lands. However, the type of NEPA and the justification for the manner in which NEPA will take place in the future to address e-bikes/eMTBs on USFS lands is not adequately discussed in the proposed directives. Consistent eMTB implementation is important, yet this is left to the USFS Regional offices or individual forests to determine without any guidance or direction. It is only clear that decisions would require new Travel Management Planning under the Travel Management Rule (TMR) because e-bikes would be considered exclusively motorized vehicles. Many Forests have undergone new Forest Plans or Travel Management Plans (TMPS) in recent years. These included significant Environmental Impact Studies (EISs) or Environmental Assessments (EAs) and will not be repeated or updated for years to come. IMBA argues this level of NEPA is unnecessary. Many other Forests have completed specific Non-Motorized Trails Projects to refine or expand mountain bike trail opportunities. These were accomplished with site specific NEPA (for specific trail systems). These are far less costly and time consuming and should suffice in most situations. Other options, when necessary based on demand, would be a Programmatic EA to address an entire Forest's bike trail system.

Impacts from eMTBs are not on par with motorized off-road vehicles (ORVs). To designate access for a type of motorized ORV requires following regulations set forth in the TMR. The TMR, and the 1970's era Executive Orders it was based on, require the USFS to apply a robust set of "minimization criteria" for ORV use on Federal Public Lands to prevent environmental impacts and social conflicts. This onerous criteria, while appropriate for

the impacts caused by ORV management, is not necessary or legally required for non-motorized bike trail designations. A much less vigorous version of NEPA is generally performed. While environmental and social impacts are always an issue to consider when designating access for any use, e-bikes are inappropriately placed under FSM 7700 Chapter 7710 and therefore subject to the minimization criteria intended for ORVs. Non-motorized trails are generally managed under the Trails Manual (FSM 2353) and the Trails Management Handbook (FSH 2309.18) and NEPA performed is more specific to the impacts of non-motorized use. This is where the process for designating non-motorized trails for eMTB use that qualifies for IMBA's recommended motorized exclusion should take place.

If the USFS could establish certain class and use restrictions criteria so that qualifying eMTBs could be conditionally excluded from the motorized definition, these excessive ORV requirements under the TMR can be alleviated to better streamline use designations in a timely fashion and avoid subjecting traditional bike trails to the minimization criteria based only on the question of e-bike use.

The Bureau of Land Management recently laid out an in-depth explanation as to why e-bikes should not be considered ORVs and subject to the E.O.s in their response to comments on their Proposed E-bike Rule. In it they argue e-bikes do not fit within the scope of what the E.O.s had in mind, nor do they do the damage that compelled the agency to take the action they did to restrict ORVs. If the USFS moves forward with requiring these tedious and unnecessary steps it will almost certainly stall and unreasonably delay the designation of e-bike access across the country. The USFS has neither the capacity nor fiscal resources to undergo the level of travel planning necessary for motorized vehicle use designations again. IMBA understands designating trails for e-bikes would not require reopening designations for other ORVs, but does the public know this? What will be the expectations of the ORV community who may be unsatisfied with the previous ORV designation outcomes of the TMPs? What would be the unintended consequences for traditional bicyclists to apply the minimization criteria to existing bike trails when reviewing those trails for e-bikes? Would this lead to unnecessary and unfounded scrutiny and lead to new opposition to trail conditions? Are these factors being considered by the USFS when proposing this directive? Aside from having the TMR be wholly unnecessary for e-bike designations, and the potential of opening up a veritable Pandora's box of new opposition, this requirement will be considered impractical by USFS line officers and lead to a lack of agency action to determine and provide reasonable e-bike access any time soon.

Implementing Proposed Directives will be in conflict with Forest Plan Direction and Trail Management Objectives.

All current USFS system trails should have Trail Management Objectives (TMOs) and these are inextricably linked to their Forest Plan Directives. TMOs are heavily influenced by their status as either motorized or non-motorized and the management intent set forth in the applicable management plan. Categorically reclassifying a non-motorized bike trail into a motorized trail will have broad sweeping implications and conflict with the associated Forest Plans. Or, it may simply disqualify a high percentage of bike trails from even being considered for eMTB use if doing so would violate the Forest Plan direction, even though such trails could potentially host eMTBs successfully.

At the very least, this required formal shift will certainly alter the social intent of the trail. Studies have shown trail associations and management parameters such as non-motorized or semi-primitive have important social values that impact experiences whether such impacts are real or perceived. It is unclear how much of a problem this will be as the Forest Service was not able to provide IMBA data on what trail systems were defined as non-motorized or under a semi-primitive ROS.

Again, to address this, please see the motorized exclusion recommendations above.

Broad opposition to reclassifying non-motorized trails as motorized trails exists.

While the USFS claims in the Federal Register that these proposed directives align with the DOI

proposed e-bike rule, this is only the case for certain aspects. It is critically different. Unlike DOI agencies which make certain types and uses of e-bikes excluded from the motorized category, the USFS proposed directives define e-bikes as inextricably motorized vehicles no matter the class or use. This is a fundamental difference between the two federal, often neighboring, agencies. This places them not in alignment but rather in conflict as the outcomes will thoroughly confuse the public and lead to trail discrepancies and unmanaged use.

By excluding e-bikes from the motorized category, the BLM Rule creates a process for allowing eMTBs on non-motorized trails while maintaining the non-motorized trail classification. This helps protect the integrity of traditional bike trails and helps reassure bike advocates their beloved trails will remain close to the trail experience they value. It also promises to provide desired experiences for eMTB riders. On the other hand, as stated throughout this document, the USFS would require the recategorization of such trails into the motorized classification, leading to animosity and/or delayed decisions.

This is the central flaw of the USFS proposed directive. Again, IMBA opposes any reclassification of hard fought and defended non-motorized trails into the motorized classification. Other non-motorized trail stakeholders who oppose this reclassification of trails include hikers and equestrians. While arguable that the trail experience might not be any different, regardless of whether the trail remains effectively a hiking/biking/horse trail now with eMTBs, this fundamental shift to a motorized trail has broad-reaching implications to user expectations and experiences and lacks the safeguards needed to ensure future, more impactful, motorization does not occur.

The USFS simply must find an alternative solution to managing ebikes to prevent this drastic change. This is not to suggest eMTBs would cause these changes, rather this is the presumed social and fiscal impact of the permanent fundamental reclassification of non-motorized trails into the motorized class.

#### Jeopardizing Future Funding.

As mentioned above, this proposed directive creates ramifications to funding. The general public's perception of "losing" non-motorized trail mileage through the decision-making process will lead to unnecessary public relations problems and claims of the shift being a "slippery slope" to more motorization. Shifting more trail miles over time from the non-motorized class into the motorized class, even if only for e-bikes, will also fundamentally shift federal budgetary dollars into the motorized pot.

There will likely be no way to ensure dollars, once allocated and spent on these non-motorized trails, will ever make it back to those same trails, if those trails are lost in the vast motorized trail management budgets where need and competition for trail maintenance is never-ending.

IMBA does not know if anyone fully understands these funding conflicts, as the conflicts have yet to present themselves. But the speculation below has merit. Some conflicts could be overcome in time with education, compromise and reasonable accommodations. However, for the foreseeable future, this proposed directive will often conflict with the existing funding framework at both the state and federal level. IMBA, therefore, sees the shift to motorized as a potential loss of access, lowering dedicated mileage for non-motorized bike trails, and lessening financial and physical resources available for management and maintenance. The following are three possible red flags.

a. Recreation Trail Program (RTP): The Federal Highway Administration (FHWA) currently defines e-bikes as a motorized vehicle under 23 U.S. Code § 217 (j) 2. RTP grants are administered by FHWA under 23 U.S. Code § 206. For trails which have been funded by RTP funds stipulated for non-motorized recreation, changing the trail classification to a motorized trail will place those trails in violation of the funding used for them. While precise data is not available, this amounts to millions of dollars spent on non-motorized mountain biking trails on USFS lands across the country. It is IMBA's understanding that none of these trails would be available for e-bike use if e-bikes are exclusively defined as motorized vehicles. The USFS should publicly identify all trails that have these associated challenges and state what their status is so the public is

aware of trails that would not be eligible for eMTB use.

b. Federal Budget Allocations: While the Forest Service differentiates its budgets under the Capital Improvements and Maintenance program by roads and trails, IMBA questions what the short and long term implications will be on shifting untold numbers of trails from the non-motorized trail class to the motorized trail class. Will this artificially bloat the motorized trail data? Will this lead to more or less competition for funding for one or more user groups on each side of that equation? Will fewer dollars be available for maintaining bike trails if they are reclassified as motorized routes? These are unanswered questions that give IMBA great pause. IMBA staff sit on the National Forest Trail Stewardship Grant program committee. Each year grant requests are reviewed and there is a concerted effort to keep funding balanced between motorized and non-motorized projects. Will this cause fewer bike trail projects to get funded? It is possible these scenarios will skew the data and the funding available for it if greater consideration and thought is not given to how the USFS proposed directive impacts these federal funding sources.

c. State-based Trail Grant Programs and User Fee Programs: Many states have State Trails and ORV/OHV programs and some are increasingly discussing recreational use or mountain bike fee sticker programs as funding mechanisms for trail development and maintenance. These programs are generally separated by motorized and non-motorized distinctions. Where will e-bikes fit in? As the Proposed directive state, upwards of 30 states provide some sort of definition that allows e-bikes to be operated on non-motorized bike trails. The entire DOI will now allow qualifying e-bikes to be excluded from the motorized definition. This leads to a broad discrepancy and has untold implications on funding streams. For the public advocates, this also impacts their likelihood for grant success. Applying to a motorized state grant review committee for an eMTB trail grant on a motorized trail that only allows eMTBs, hike, bike and horse will likely not be seen as valuable to a broader motorized grant review committee. Likewise, applying to the non-motorized grant review committee for an eMTB trail grant that is now officially a motorized trail will also not likely be successful. This predicament is exacerbated by the USFS proposed directive.

While the USFS proposed directive is clear when it comes to e-bikes being motorized, this does not solve the problem, as e-bike users seek non-motorized experiences. Additionally, the States and the Federal Consumer Products Safety Commission define e-bikes as bikes. Will e-bike operators on public land trails be forced to pay into both programs or will they be lost in between and not pay into either? How and where will grant requests be received for e-bikes? These issues will need to be resolved fairly and consistently and the USFS proposed directive fails to acknowledge its role in the manageability of its lands as it pertains to these complicated issues. Maybe it is not the USFS obligation to address these state-based issues, but it should seek to create policy that is effective and long-term. IMBA's recommendations provide a better solution.

Trail Sign Standards (not addressed in the proposed directive).

The proposed directive as written will rely heavily on trail signage to ensure public compliance since not all trails will be open to any or all e-bikes. The proposed directive currently makes no mention for how to sign trails for e-bike use or how to differentiate between classes for individualized designations. IMBA recommends trail sign standards, and recommends the USFS make clear that any eventual trail or trail system opened to e-bike use will maintain a trail sign standard utilizing separate allowable use demarcations (like those affixed to carsonite signs) to depict both bikes and e-bikes independently. Greater clarity in the proposed directive is needed to resolve public concerns over aggregated or combined signage practices.

## Conclusion

The USFS should establish certain qualifying criteria for excluding Class 1 eMTBs from the motorized definition, so their use may be designated on non-motorized trails without jeopardizing the non-motorized status, and allow for a more streamlined and appropriate trail designation NEPA process.

IMBA appreciates the U.S. Forest Service's committed desire in increasing public access through the development of this proposed directive. IMBA also recognizes this is not a simple issue nor is the public in agreement on the outcome. Getting the proposed directive right and consistent with adjacent agencies is not only important for appropriate future access for e-bikes, but it is extremely important for preserving world-class access for traditional mountain bikes, which the USFS has long been known for.

Sincerely,

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