



evergreen
MOUNTAIN BIKE ALLIANCE



October 26, 2020

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

Attn: Ms. Wu: Travel Management Director

CC: Ms. Martin: Recreation, Heritage, and Volunteer Resource Director

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

Re: Proposed Revisions to Forest Service Travel Management Manual 7700/7710

Dear Ms. Wu,

The Evergreen Mountain Bike Alliance (Evergreen MBA) and the undersigned recreation organizations and industry businesses, are collectively writing to express strong concern about the proposed revisions to Travel Management Manual 7700, as described in the notice of availability for public comment, 85 Fed. Reg. 60129, issued on Sept. 24, 2020, and posted on your e-bike project page, #ORMS-2619.

We appreciate the US Forest Service’s effort in establishing management solutions for the rising use of e-bikes on National Forest System lands and trails. Mountain biking is a fast-growing sport. Mountain bike sales growth began exceeding road bike sales growth in August 2019. Bicycle sales grew by 40% over the past 12 months, with 112% growth last April, and 64% growth in May. Much of this growth is in e-bike sales, which is projected to reach peak sales at 400,000 units sold in the U.S this year, representing more than 100% growth over 2019 sales.¹

At the Evergreen Mountain Bike Alliance, membership growth has been just as strong. Today, we are the nation’s largest statewide mountain bike alliance at 7,908 members and over 65,000 social media followers. Our membership has tripled since 2015 and over the past 2 years our growth pace has trended at an average of 100+ new members per month. A growing number of our existing and new members are embracing e-MTBs.

¹ All data points from Bicycle Retailer, Industry News, www.bicycleretailer.com).

As a non-motorized recreation organization, we have been very careful in where and how we collaborate with land managers and educate our community to introduce e-MTB technology to trails in a sensible and sustainable manner. What's clear is that e-bike technology is here to stay.

Now is the time for a practical, consistent, fair, and realistic regulatory environment to manage e-bikes on trails and deal with their steadily increasing popularity. We urge the USFS to adopt new policy and regulations that are pro-active in addressing technology advancements that are already widely available within the marketplace and prevalent on trails today.

The undersigned are concerned that adopting the current proposal of aligning e-bikes with motorized travel management directives will create a complicated, impractical and ineffective regulatory and enforcement environment, and that it will lead to more user confusion and increased conflict. If adopted as proposed, we believe the USFS will place itself in a position of being behind in addressing the realities of today's trail uses and needs, and without a practical solution to effectively manage e-bike use. In addition, Class 1 e-MTBs are quickly becoming ubiquitous in technology and hard to distinguish from standard analog mountain bikes, making enforcement of the proposed regulations nearly impossible.

We also believe that any new directives concerning e-bikes should align with the Forest Service's own regulations on how the agency defines motorized vehicles (per 36 CFR § 212.1.) and must, at minimum, provide flexibility within local districts, forests and/or regions to align e-bike access with local conditions and state laws. This is particularly important to enable consistency when trails cross multiple jurisdictions or in a situation where a community's primary trail opportunities are on USFS land and there are no alternatives for e-bike legal trail access on non-motorized trails.

We have outlined our comments by subject area below and encourage USFS staff to re-evaluate its current approach and consider a more practical solution to including and managing e-bikes on US Forest Trails and Lands.

1) Adopting Three-Class Management System for E-Bikes

We support the USFS adopting the proposed three classes in order to create a management environment for e-bikes. The three classes are well established as industry standard at this time. Twenty seven U.S States as well as all agencies under the US Department of Interior have already adopted the three-class system in order to practically manage the different types of e-bikes that exist. Managing e-bikes according to the three classes creates consistency across Federal land management agencies and creates a framework for decision making for when and how to allow e-bikes on trail.

To be clear about the focus of our comments: we are submitting with the specific lens of electric mountain bike (e-MTB) use on single track trails. They are most relevant in terms of access to single track non-motorized trails, and the only true version of an e-bike that represents the sport of mountain biking and our user group. E-bikes come in many shapes and forms. It's important to consider various types of e-bikes and their primary use objectives. Many Class 2 and 3 e-bikes are appropriate (and now legal in many states) for commuting purposes on paved trails, in bike lanes, and for long distance recreation experiences on improved surface recreational pathways. However, these uses may not be acceptable or compatible on non-motorized natural surface single track trails. I would like to underscore the importance of differentiation between all three classes of e-bikes for commuting and long distance family friendly recreation purposes, vs. mountain biking, which primarily takes place on multi-use single track trail, shared with hikers and equestrians.

After reaching out to our State's own mountain bike manufacturers (Evil Bikes, Transition Bikes, and Kona Cycles), none of them consider class 2 and 3 e-bikes to be mountain bikes. The three mountain bike brands signed onto this support letter agree that only Class 1 e-MTBs are appropriate for non-motorized trail, as they are human powered, are limited to a 750-watt motor, and stop providing pedal assist power once the e-MTB reaches 20MPH.

2) USFS Regulatory Inconsistency

We believe the agency is inconsistent in how it's applying its own regulations to the proposed management rules for e-bikes. USFS' 36 CFR § 212.1 defines a motor vehicle as "any vehicle which is self-propelled." The definition of "self-propelled" is "moving or able to move without external propulsion". Class 1 e-MTBs and Class 3 e-bike motors are only powered with the aid of the user's legs (pedal assist), and therefore do not fit the definition of a motorized vehicle within the USFS agency's own regulations. Class 2 e-bikes can be 100% self-propelled, and therefore fit the USFS description of a motorized vehicle.

At Evergreen and within the leadership teams of the undersigned, we have applied this lens and have been very careful in when, how, and where we look to introduce e-MTBs to non-motorized trails. We have not pushed for blanket access and have treated e-MTBs as separate from analog bikes as technology and industry standards are still evolving. However, Class 1 e-MTBs now include technology that is nearly ubiquitous, which means identification of Class 1 e-MTBs and traditional mountain bikes is nearly impossible. The differences between the two are fast becoming nearly indiscernible to most trail users. Therefore, applying the definition of USFS 36 CFR § 212.1 to defining a Class 1 and Class 3 e-bike as non-motorized makes the most practical sense. (In reality, Class 3 e-bikes don't exist in the mountain bike industry, so they are irrelevant to trail use planning when it comes to the sport of mountain biking. They also exceed the speed limit of most non-motorized trails, and therefore are not relevant to non-motorized trail access, but they should technically still be defined as non-motorized under USFS 36 CFR § 212.1.)

3) Motorized Designation for All Three Classes of e-Bikes

The USFS proposes to manage eMTBs as motorized vehicles, with the option of allowing them on non-motorized trails after an environmental and public review process is complete and this new use is adopted. We do not support this approach for the following reasons:

- Designating eMTBs as motorized will negatively impact our traditional maintenance and development funding sources for non-motorized trails like RTP, WWRP and NOVA grant funding in Washington State. We believe this is an unintended consequence of the proposed revisions, but it is significant in how we, as a non-motorized recreation organization, can secure funding and continue to assist the USFS in maintaining non-motorized trails.
- A motorized designation for all three classes of e-bikes is inconsistent with recent rulings of the Department of the Interior that affect trails on National Parks, Bureau of Land Management, and Bureau of Reclamation Lands, and others. This creates inconsistency between trails on Federal lands and adds more confusion on where e-bikes can legally go.
- Establishing a new category of motorized vehicles under the Motorized Vehicle Use Map (MVUM) takes time and requires additional process that affects Travel Management Plans, which are notoriously slow to update. The proposed regulations will be resource intensive, slow, cumbersome, and impractical to implement.

- A motorized designation for all three classes does not align with the growing trend of State legislation classifying e-bikes as non-motorized transportation, now adopted in 27 states including Washington.
- Any time e-Mtb access is granted on a multi-use trail, hikers and equestrians also lose a non-motorized trail! This will create a dynamic of pitting recreation partners against each other any time e-bike access is evaluated, and will likely make a programmatic approach to this impossible. That, in turn, creates an administrative burden that makes the current proposal nearly impossible to successfully implement due to time and resource constraints within agency staff. We strongly believe this goes against H.R.3458, the Recreation Not Red Tape Act goals to remove barriers to outdoor recreation and boost rural economies across the country.
- Motorized designation of all three classes is inconsistent with the agencies' own definition of motorized vehicles in USFS' 36 CFR § 212.1, as explained in item #2 above.

E-MTBs have accessed non-motorized trails for nearly a decade, with limited impact to other uses. Studies completed to date show near to no additional impact to trails. Strong opinions and strong voices exist about their place on a non-motorized trail, but the reality is that this technology has been prevalent on trails for many years with little impact. It will be challenging, if not near impossible, to eliminate this use now.

We urge the USFS to align with the DOI and agency trends and create consistency by adopting all three classes as non-motorized. If this is not acceptable, then at minimum, the agency should adopt Class 1 and 3 as non-motorized bicycles based on its own definition of motorized vehicles. This sets a framework for practical application of Class-1 e-MTBs to trails and provides local flexibility to identify new riding opportunities for this fast-growing trail user group.

By allowing Class 1 e-MTBs on non-motorized trails on a case by case basis and upon completion of a review process, the USFS offers flexibility at the local level and preserves access to non-motorized maintenance funding sources that can be pursued by hikers, equestrians, and mountain bikers.

Separate Management Objectives

The USFS proposes to separate management objectives for e-bikes and adopt the Class 1, 2, and 3 classification system. We support managing e-MTBs differently from traditional mountain bikes for the following reasons:

- Separate management objectives would allow for e-bike specific signage on trails, which we support to help educate users.
- Separate management objectives protects traditional mountain biking access from being affected by potential future management updates based on currently unforeseen technology advances.
- Separate management objectives allows for specific management of Class 1, 2, and 3 e-bikes. Class 1 should be eligible for non-motorized trail access upon completion of a favorable environmental and public review, as directed by USFS districts, forests or regions. Class 2 and 3 should be specifically prohibited from non-motorized trails.
- We do not believe that Class 1 eMTBs requires a new class under MVUM. Under USFS' 36 CFR § 212.1, they, by definition, can be adopted as non-motorized bicycles.

We strongly urge the USFS to manage Class 1 e-bikes as a new non-motorized user group, to avoid jeopardizing existing non-motorized trail status designations and to better address today's trail use, needs, and demand.

Programmatic Approach to Environmental Analysis

We encourage USFS to adopt a programmatic approach to evaluating e-MTB access. We support a review process as part of NEPA, but highly support a programmatic approach to reduce the burden for allowing Class 1 e-MTB access to non-motorized trails on a trail-by-trail basis. By completing a NEPA once, at the District, Forest or Region level, administrative burden is significantly reduced and a shorter more effective process can be adopted when evaluating access for each trail or district.

Requiring full NEPA for each trail is not practical in an agency that is already resource constrained and will simply result in no action. This means that the rule revision, as proposed, will not be effective in addressing the current use of eMTBs on trails.

A programmatic approach will allow individual regions and districts to focus on practical and manageable rulemaking for e-MTB access, as opposed to adding more bureaucracy. By providing a few high-quality areas to ride, e-MTB riders will no longer be "incentivized" to break trail rules when there are no legal trails to ride in their home locales.

E-Bike Access on National Scenic Trails

If a National Scenic Trail currently already allows mountain biking, and the above Class 1 non-motorized classification is adopted, access to National Scenic Trails would be no different than any other non-motorized trails. We support the same process here: provide access only upon environmental and public review process on a case by case basis. We recognize that some National Scenic Trails offer unique situations that may require closing access to e-bikes, particularly if current use numbers are already at capacity. However, we suggest the door is kept open to enable family friendly e-bike tourism and sufficient flexibility for local decision making depending on the type of trail and trail uses that might be well-suited for e-bike use.

Recommendation Summary

Evergreen Mountain Bike Alliance and the undersigned advocate for a regulatory environment that enables Class 1 e-MTB access to non-motorized trails upon completion of a public review and in a manner that takes into account historic trail use. By treating Class 1 e-MTBs as non-motorized bicycles, and granting access on a case by case basis, the USFS offers flexibility at the local level and preserves maintenance funding sources that can be pursued by hikers, equestrians, and mountain bikers to help maintain thousands of miles of trail throughout the United States.

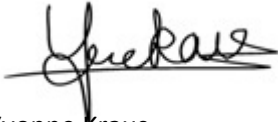
We propose:

- Adopt all three classes as non-motorized bicycles to align with all agencies under the DOI and a growing number of U.S. States, to provide a consistent management environment that adopts current industry standard. If this is not acceptable, then at minimum, align your classifications with USFS 36 CFR § 212.1 to:
 - Adopt Class 1 and Class 3 e-bikes as non-motorized transportation. (Pedal assist only)
 - Adopt Class 2 as motorized transportation (self-propelled).

- Allow Class 1 e-MTBs on non-motorized trails upon completion of an environmental review and public comment process, driven by local forests and/or districts.
- Prohibit Class 2 and 3 e-bikes on non-motorized trails.
- Encourage programmatic NEPA review of e-MTB impact on non-motorized trails, at the District, Forest or Regional level, or even national level to ease the review burden on a trail by trail basis.
- Approach eMTB access by using a “Closed Unless Signed Open” basis.
- Maintain a separate management objective between traditional mountain bikes and e-MTBs, to protect non-motorized trails from currently unknown technology advancements.
- Apply a consistent regulatory environment for all trails, including National Scenic Trails.

We are confident that the above approach reduces the review, implementation, and enforcement burden for agency staff, better meets today’s trail conditions and needs, and creates more consistency in how e-bikes are managed across all Federal agencies.

Sincerely,



Yvonne Kraus
 Executive Director
 Evergreen Mountain Bike Alliance

Supporting Organizations:

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