



Empowering all to enjoy, share, and preserve the hiking experience

June 8, 2020

U.S. Department of Interior, Director (630)
Bureau of Land Management
Mail Stop 2134 LM
1849 C St. NW
Attention: RIN 1004-AE72
Washington, DC 20240

Submitted Electronically at regulations.gov

RE: American Hiking Society Comments on Proposed Rule *Increasing Recreation Opportunities through the Use of Electric Bikes Proposed Rule*

On behalf of American Hiking Society (AHS), our members, supporters, and the millions-strong hiking community nationwide, we respectfully submit these comments on the Bureau of Land Management (BLM) proposed rule, *Increasing Recreation Opportunities through the Use of Electric Bikes Proposed Rule*. This proposed rule would amend 43 CFR Part 8340 concerning the designation of off-road vehicles. As discussed below, AHS supports providing clarity by further defining the classifications of “electric bicycles” through this rule. We do not support adding an exception to permit their use on non-motorized trails through a blanket approach, given the lack of data on the impact on trails and all user groups, unclear guidance for authorized officers discretion to limit use, and the need for further environmental impact assessments.¹

Our nation's public lands and trails provide access to millions of recreation users every year including hiking, mountain biking, equestrian use, and electric motorized bicycle use. As BLM considers changes to the definitions of “electric bicycles,” designation areas, and procedures for electric motorized bicycle use on non-motorized trails we encourage the agency to consider the impacts on all user groups, the trails themselves, and the surrounding environment.

Social and Physical Impacts of Electric Motorized Bicycles Use on Non-Motorized Trails

AHS strongly supports the use of public lands for all types of recreation activities and for all types of users and welcomes the increased recreational opportunities that electronic motorized bicycles can provide regardless of “age, illness, disability or fitness.”² Use of electronic motorized bicycles is

¹ AHS bases these comments on the organizations Electric Bicycle Position Statement, available at, <https://americanhiking.org/policy-positions/electric-bicycle-position-statement/>.

² 85 Fed. Reg. No. 70 20230.

permitted on the majority of the 75,000 miles of roads and 15,000 miles of trails on BLM-managed land.³ However, to allow motorized recreation on non-motorized trails will degrade the natural, cultural, recreational and social values for which that land is managed. We urge BLM to continue its current practice of allowing electronic motorized bicycle use on the majority of its roads and trails while continuing to reserve non-motorized trails for non-motorized use.

The hiking community seeks out BLM's non-motorized trails for recreation, solitude, and the physical and mental benefits that these trails provide. The addition of motorized users, through electric motorized bicycles, raises concerns over trail conflict and safety, increases trail maintenance needs, and could displace hikers and other non-motorized trail users.

Safety of All Trail Users

The use of electric motorized bicycles can jeopardize the safety of non-motorized trail users in several ways. First, many BLM trails in urban-proximate areas are over-crowded. Adding electric motorized bicycle riders to the mix will create even more congestion. Increased congestion combined with already frequent conflicts between fast-moving mountain bikes and slower-moving hikers and horseback riders can result in increased safety concerns on the trail.

Second, research by Brigham Young University⁴ indicates that electric motorized bicycles travel faster on average than mountain bikes, including the potential to travel quickly uphill, while other users are travelling quickly downhill, further increasing the risk for accidents. Higher speeds by one user group increases the risk for all user groups. Allowing potentially fast-moving electric motorized bicycles on trails will exacerbate these conflicts and further marginalize the hikers, equestrians, and other users whose safety and enjoyment are at risk. This is especially true as BLM predicts increased electric motorized bicycle usage "in more challenging environments, such as high altitudes and mountainous terrain" while also promoting the increased access to trails to individuals of all abilities including those that BLM describes as having "limitations." Given the limited research into electric motorized bicycle usage, it's a logical assumption that users with limited experience or "limitations" may access more challenging and remote non-motorized trails of which they are unfamiliar and unprepared, creating safety issues for both themselves and other users.

Trail Impact

As the proposed rule indicates, electric motorized bicycles are expected to add more trail users onto non-motorized trails, including "increased ridership on challenging roads and trails." These users will have the capability to travel a longer distance more frequently resulting in heavier use in previously less utilized backcountry and remote sections of trails. With the maintenance backlog for BLM roads, bridges,

³ BUREAU OF LAND MANAGEMENT, TRANSPORTATION FACT SHEET, available at, file:///C:/Users/USER/Downloads/BLM_TranspoBrochure_OnePager_Fact%20Sheet%20(1).pdf.

⁴ Hall, et. al, 2019, Pedal-Assist Mountain Bikes: A Pilot Study Comparison of the Exercise Response, Perceptions, and Beliefs of Experienced Mountain Bikers (*JMIR Form Res* 2019;3(3):e13643). doi:[10.2196/13643](https://doi.org/10.2196/13643)

and trails at \$662 million and the agency understaffed, it's unclear how BLM will address the increased trail maintenance and management needs resulting from the impact of this type of usage.⁵

Electric Motorized Bicycles on Non-Motorized Trails Impact on Hiking Experience

The hiking community often seeks out trails as a respite to their day-to-day lives. This includes seeking solitude away from motorized vehicles and technology to enjoy a quiet, slow-moving, natural environment. The addition of electric motorized vehicles to non-motorized trails can lead to a reduction in the numbers of trails where hikers feel safe and welcome. The phenomenon of technological displacement can occur where recreation users with more advanced forms of transportation displace other users. Hikers, equestrian riders, and others could find it uncomfortable to share trails with fast electronic motorized bicycles coming from both directions, uphill and downhill, resulting in non-bicycle users essentially being forced off of these trails. The BLM-proposed rule combined with DOI Secretarial Order 3376 presume that electric motorized bicycles, “should be allowed where other, non-motorized types of bicycles are allowed and not allowed where other, non-motorized types of bicycles are prohibited,” without a meaningful examination of the impact on all users.

Definition of Electric Motorized Bicycle

AHS joins other trail organizations in support of the current management of “Electric Bicycles” (referred in these comments as electric motorized bicycles) as off-road vehicles defined under 43 CFR 8340.0-5a and in *Manual 1626—Travel and Transportation Management*, which defines “Electric Bicycles” as: “A bicycle with an integrated electric motor that can be used for propulsion, also known as an e-bike or booster bike.” Manual 1626 indicates that “Electric bicycles, also referred to as e-bikes, are to be managed in a manner consistent with off-highway vehicles (off-road vehicles) as defined in 43 CFR 8340.0-5(a). Such management applies to all types of e-bikes, including pedal-assist models designed for speeds below 20 miles per hour.”

The definition of “Electric Bicycles” above clearly describes them as a motorized vehicle, and the manual clearly directs BLM to manage electric motorized bicycles similarly to other off-highway or off-road vehicles. Although an electric motorized bicycle may look similar to other bicycles, it is unquestionably a motorized vehicle. The fact that the motor is electric and may not make the same noise level as another motorized vehicle should not exempt electric motorized bicycles from the definition and management requirements of a motorized vehicle.

We understand the addition of a new definition of “electric bicycle” that defines the current classifications of electronic motorized bicycles, but we *oppose* the proposed exclusion under CFR §8340.0-5(a)(5) of “electric bicycle” from the definition of off-road vehicle, which belies the inherent motorized nature of these “electric bicycles”. We caution that challenges will remain with continuing to define electric

⁵ CAROL HARDY VINCENT, CONGRESSIONAL RESEARCH SERV., DEFERRED MAINTENANCE OF FEDERAL LAND MANAGEMENT AGENCIES: FY2009-FY2018 ESTIMATES AND ISSUES 3 (Apr. 30, 2019), available at <https://fas.org/sgp/crs/misc/R43997.pdf>

motorized bicycles and their current classes since rapid technological developments may result in quickly outdated definitions.

Additionally, the BLM-proposed new definition lacks clarity, which will create difficulty in enforcement. For example, the proposed rule indicates that while a Class 2 electric motorized bicycle is being pedaled, it would be considered a non-motorized use but would instantly become a motorized use as soon as the motor is engaged without pedal assistance.⁶ This follows that an individual could enter at a trailhead as a non-motorized user and become a motorized (prohibited) user at any point on the trail. How BLM intends to enforce this remains to be seen and highlights, as just one example, the lack of clarity in the proposed rule.

Designation of Areas and Trails/Designation Procedures

The proposed rule adds a new paragraph to Section 8342.2 *Designation Procedures* that directs authorized officers “generally be encouraged” to authorize the use of electric motorized bicycles on non-motorized designated trails. Although it is up to an officer's discretion to determine if the use of electric motorized bicycles is appropriate, the rule provides no criteria for making that determination. The only examples of criteria provided are “[for trails that are] particularly steep or narrow...and the use of e-bike at speeds higher than originally intended could present danger to some users.” Yet, at the same time, the proposed rule uses a similar type of trails, “more challenging environments, such as high altitudes or mountainous terrain” as the rationale for allowing the use of electric motorized bicycles on non-motorized trails.⁷ Inconsistencies like this will confuse both the officer using their discretion to determine whether use is permitted and trail users.

Additionally, while the proposed rule states that “no additional e-bike use would be allowed...as a direct result of this proposed rule becoming effective,” it directly contradicts itself in its effect, allowing previously-barred electric motorized bicycles on non-motorized trails. BLM has proposed the rule without the following: peer-reviewed data on the impact of electric motorized bicycle use on trails, meaningful criteria for how BLM authorized officers might determine where or under what conditions the use of electric motorized bicycles might be exempted, and NEPA environmental analyses. This leaves many unanswered questions on the impact of this decision on all trail users and the trail itself. The potential negative consequences of the rule, including its potential for conflict and safety concerns among trail user groups, is not well understood. The presumption to generally allow electric motorized bicycle use with so many unanswered questions should give BLM pause in adding this paragraph to Section 8342.2.

⁶ 85 Fed. Reg. No.70 20231. “Class 2 e-bikes allow for the motor to propel the rider without pedaling. Under the proposed rule, e-bikes operated in a fully motorized method that does not involve pedal assistance would not be eligible to be excluded from the definition of off-road vehicle.” A Class 2 electric motorized bicycle is generally identified as equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

⁷ 85 Fed. Reg. No. 70 20230-1.

Conclusion

AHS thanks BLM for the opportunity to submit public comments and urges the agency to reconsider the provisions of the proposed rule that would, in effect, permit electronic motorized bicycle use on non-motorized trails. Given the concerns outlined above and the impact on all trail user groups, adopting the proposed rule would not benefit the trails community as a whole and would, in fact, have negative effects on all users of BLM-managed trails.