

# OUTDOOR ALLIANCE

June 9, 2020

Casey Hammond  
Acting Assistant Secretary, Land and Minerals Management  
U.S. Department of the Interior  
1849 C St. NW  
Washington, DC 20240

## **Re: BLM Proposed Rule, "Increasing Recreational Opportunities through the Use of Electric Bikes," RIN 1004-AE72**

Dear Mr. Hammond:

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

On behalf of the human powered recreation community, we write in response to the Bureau of Land Management's proposed rule to expand e-bike use on public lands.

In general, our interest is not to oppose e-bike access, but rather to ensure that e-bike use does not come at the expense of the human powered recreation experience, human powered access, or conservation values, and to ensure that the agency proceeds cautiously given that hybrid human/electric powered technology is likely to expand into other settings.

### **General comments**

Outdoor Alliance supports the decision to provide management and definition for some e-bikes distinct from both traditional bicycles and from other classes of off-highway vehicles (OHVs). E-bikes are a hybrid technology, with reduced potential for



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user conflict and environmental impacts relative to other classes of OHV, but with significantly increased potential for conflict and environmental impact relative to traditional bicycles. It is appropriate to manage this type of use independent of both traditional bicycles and higher-impact OHVs.

BLM requests information from the public concerning the social and physical impacts of e-bike use, and we have a number of concerns that we believe suggest a cautious approach is warranted. Across the country, mountain bike access to a variety of landscapes is frequently hard won and tenuous, largely because of user conflict. We are very concerned that a policy that introduces e-bikes onto non-motorized trails injudiciously will result in erosion of social acceptance for traditional bicycles on public lands trails. For a number of reasons, outlined further below, we believe e-bikes are likely to significantly exacerbate user conflict, and if other trail users believe that where bicycles are allowed, e-bikes will, as a general rule, also be allowed,<sup>1</sup> those trail users are ultimately likely to strongly oppose bicycle access across the board.

E-bikes are certain to result in increased user conflict for a number of reasons. First, an e-bike provides for a power output significantly in excess of what any human can maintain for a significant period of time, allowing a person of average fitness to travel further, and faster, than the fittest trained athlete. Where e-bikes are brought onto a landscape previously open only to human-powered uses, social conflict is certain. For example, hikers, traditional bikers, and equestrians are largely acclimated to expect bicycles traveling at higher rates of speed only when they are moving downhill; an e-bike, by contrast, can achieve and maintain significantly higher rates of speed on flat and uphill terrain, increasing the potential for passing and conflict on trails. Additionally, a person operating an e-bike is likely to cover significantly more ground in a single outing, again increasing the potential for interactions—and conflicts—with other trail users. These concerns are also applicable to the likelihood of increased conflict with wildlife, and it is imperative that expanded e-bike access be sustainable and not come at a cost to conservation values.

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<sup>1</sup> See Proposed Rule at § 8342.2(d) (“Authorized officers should generally allow [e-bikes]... on roads and trails upon which mechanized, non-motorized use is allowed.”). Our concerns with this formulation are discussed in greater detail below.



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While we accept the BLM's objective of providing increased accessibility to public lands trail experiences, we believe this objective can be met while reducing the inevitable increase in user conflict by limiting the applicability of the rule to Class 1 e-bikes. Class 2 and 3 e-bikes—because of the potential for throttled use (Class 2) and higher rates of speed (Class 3)—will further exacerbate these problems (as discussed further below) without meaningfully improving accessibility for those who would like or require an electric-assisted trail experience. Additionally, as BLM notes in the proposed rule, e-bikes are currently allowed on the majority of roads and trails on BLM-administered land. Simply put, it is appropriate that Class 2 and Class 3 e-bikes continue to be managed as off-road vehicles.

## Exclusion approach

Under the proposed rule, e-bikes would be excluded from the definition of off-road vehicles and managed identically to bicycles when certain criteria are met. While the practical effect of this approach would be to allow e-bikes on specified trails designated through subsequent NEPA processes—an approach which largely seems workable—we are concerned that this regulation structure will inappropriately blur what should be a clear line between non-motorized and motorized uses (including e-bikes).

To maintain this important distinction, we believe it would be preferable—and more conducive to precise management—to define a lower-impact off-road vehicle category consisting of Class 1 e-bikes and then designate trails, through public engagement and NEPA, that are open to hybrid use, presumably including some trails currently designated as non-motorized.

While this distinction may seem like one of semantics, an approach that does not, in any way, conflate nonmotorized uses with electric-assisted uses would be more conducive to precise management, help limit user conflict and give land managers better tools to respond, and help ensure that e-bike and traditional bike access are not treated as synonymous by land managers and the general public.

## Definitions

The proposed definitions exclude e-bikes from the definition of off-road vehicles under defined circumstances. While we would prefer to see changes to the overall



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regulatory structure as described above, if the BLM proceeds under the proposed structure, these definitions still require adjustment.

First, under the definition of off-road vehicle, an e-bike is excluded when, among other circumstances, it is “not being used in a manner where the motor is being used exclusively to propel the E-bike.” This definition appears targeted at the use of Class 2, throttled, e-bikes, with the intention being that they are permissible only when the electric motor is used as an assist for active pedaling. This appears entirely unenforceable. Because this provision does not appear to in any way be workable in practice, and because of the enhanced potential for trail damage from throttled e-bikes, we believe it imperative that these devices be restricted to roads and trails where other off-road vehicles are permitted. Class 2 and 3 e-bike use on historically non-motorized trails will significantly increase user conflict and resource degradation with little to no marginal benefit in improved trail accessibility relative to Class 1 e-bikes, and they should continue to be managed as off-road vehicles.

Second, the term “electric bicycle” (e-bike), is defined to include the three classes of e-bikes as currently defined by the Consumer Product Safety Commission. As described above in the discussion regarding potential user, wildlife, and resource conflict, we believe this definition should include at most only Class 1 e-bikes. It is entirely possible for the BLM to meet its objective of facilitating increased trail access for physically limited users while reducing the level of resulting user conflict, wildlife conflict, and potential resource degradation by limiting access to historically nonmotorized trails to Class 1 e-bikes. Because of the increased speed of Class 3 e-bikes and the enforcement challenges associated with Class 2 e-bikes, as well as the potential for throttled e-bikes to increase trail damage, these classes are more appropriately restricted to other trails where motorized use is permitted.

Additionally, we are concerned by the proposal to include three-wheeled cycles under the definition of e-bikes. Many trails are designed and maintained to a width inappropriate for three-wheeled cycle use, and a widening of these trails, either deliberately or as a result of use, would significantly degrade the trail experience for other trail users, including for traditional bikes, and likely have an impact on other conservation values, as well. Outdoor Alliance supports the goal of providing trail experiences for adaptive cyclists. Use of three-wheeled cycles should be restricted, however, to trails of a design accommodating to three-wheeled cycle use and specifically designated as appropriate for that use.



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Finally, given the susceptibility of e-bikes to aftermarket modification, we believe that the rule should explicitly state that e-bikes modified to function outside the design or performance parameters established by the three-class system are to be managed as off-road vehicles under the rule.

## Designation procedures

In general, we strongly support the requirement for site-specific NEPA analysis before opening historically non-motorized trails to e-bike use. We strongly oppose the direction, however, that, “Authorized officers should generally allow [e-bikes]... unless the authorized officer determines that E-bike use would be inappropriate on such roads or trails.”<sup>2</sup>

As noted in the proposed rule’s *Federal Register* announcement, the majority of BLM roads and trails are already open to e-bike use. Of the remaining non-motorized trails, only a fraction are open to traditional bicycles, and riders desiring a recreational experience free from conflicts with motorized users, including from e-bikes, will be faced with a further winnowed landscape. Additionally, the proposed rule (or subsequent guidance) must provide additional direction to land managers for how to exercise their discretion in allowing use of e-bikes. Decisions for where to allow e-bike use must be based on the NEPA process, robust public input, and factors like the site-specific physical and social conditions—including conservation values—and the implications of e-bike use. The direction that e-bikes “should generally [be] allow[ed]” is both too broad and too vague. In general, we believe the presumption must be that non-motorized trails will remain closed to e-bikes absent a robust public process guided by NEPA and a site-specific determination as to the appropriateness of e-bikes on the specific trail under consideration.

Additionally, while we strongly believe it inappropriate to include Class 2 and Class 3 e-bikes within the scope the proposed rule’s exclusion structure, at minimum the proposed rule must clarify that land managers have the flexibility to disallow those classes (as well as three-wheeled cycles) on certain trails that may be open to Class 1 e-bikes.

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<sup>2</sup> Proposed Rule at § 8342.2(d).



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Outdoor Alliance appreciates the opportunity to comment on the BLM's proposed rule, and we look forward to working with the agency to ensure the harmonious integration of e-bikes onto the public lands landscape.

Best regards,



Louis Geltman  
Policy Director  
Outdoor Alliance

cc: Adam Cramer, Executive Director, Outdoor Alliance  
Chris Winter, Executive Director, Access Fund  
Beth Spilman, Interim Executive Director, American Canoe Association  
Mark Singleton, Executive Director, American Whitewater  
Kent McNeill, CEO, International Mountain Bicycling Association  
Todd Walton, Executive Director, Winter Wildlands Alliance  
Tom Vogl, Chief Executive Officer, The Mountaineers  
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