



9/15/2016

COTA Position Statement on E-mountain bikes

Ebikes (Electric Bikes) have recently been seen on a number of central Oregon trails maintained by COTA and this has inspired the Board of COTA to develop a position statement concerning that type of use.

When evaluating this issue, first we checked in with local land managing agencies to explore what policies on a local or national level exist as it pertains to the management of ebikes. In a 3/24/2016 memo developed by the Washington DC office and signed by Joe Meade Director of Recreation, Heritage and Volunteer Services; the USFS national office clearly stated that ebikes are in fact considered by the USFS to be motorized vehicles and thus are managed like all other motorized vehicles which includes them being prohibited on Non-Motorized trails. The memo goes on to state that ebikes are allowed on any route inventoried as a motorized trail or road open to motorized traffic. This all comes under the travel management planning rule CFR 261.13.

The BLM has mirrored the USFS national policy concerning ebikes and the BLM policy is that ebikes are considered motorized and thus managed the same as other motorized vehicles (and prohibited from BLM non-motorized trails). The BLM policy statement was signed by Michael Tupper- Deputy Assistant Director for Resources and Planning BLM Washington DC Office.

COTA fully supports these national policies and the intent and direction that they give. We believe as stated in these two national policies that ebikes are motorized vehicles with some power coming from a non-human source.

COTA's mission statement is as follows:

“COTA's primary purpose shall be to design construct and maintain sustainable, human powered multi use trails.” Therefore, advocating for ebikes would be a direct conflict and contradiction of our mission statement.

As is consistent with the national policy statements of the USFS and BLM, there are ample opportunities to ride ebikes on those federal lands including many miles of motorized trails (OHV/ORV trails) and the many miles of roads open to

motor vehicles here in central Oregon. Additionally, E-Fatbikes are allowed anywhere snowmobiles and motorized recreation is allowed.

Ebikes are however not allowed on any single track trails designed and managed for mountain bike use on central Oregon lands managed by the USFS or BLM. Fatbikes with electric assist (e-fatbikes) are not allowed on snowshoe trails or any other trail and/or area managed for non-motorized recreation including the fat bike specific trails at Wanoga Snow Park.

COTA will work with the local USFS and BLM trails/recreation staff to develop a signage program that communicates the 'no ebikes on non-motorized trails policy' and implement that plan by adding no ebikes stickers to current post and/or signs at trailheads, major junctions, and road crossings.

Questions on the use of Ebikes should be directed to the following contacts:

USFS- Marv Lang Deschutes National Forest Trails Program Manager

melang@fs.fed.us

BLM- Michael Anderson BLM Prineville District Outdoor Recreation Planner

maanderson@blm.gov

COTA- Woody Keen Board Member

woody.keen@cotamtb.com

BLM Policy

In Reply Refer To:
8340 (250) P

EMS TRANSMISSION 07/07/2015
Information Bulletin No. 2015-060

To: All Field Officials
From: Acting Assistant Director, Resources and Planning
Subject: Electronic Powered Bicycles on Public Lands

An electronic bicycle, also known as an e-bike, is a bicycle with an integrated electric motor. The Bureau of Land Management (BLM) classifies e-bikes as motorized vehicles, as defined at 43 CFR 8340.5 "(a) Off-road vehicle means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding: (1) any non-amphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and (5) any combat or combat support vehicle when used in times of national defense emergencies."

There is a great variety of e-bikes available and some can be used for mountain biking. Public interest in the use of e-bikes on Federal public lands is rising. As a transportation and recreation option, e-bikes represent an opportunity to reduce emissions, as they also appeal to a growing demographic with physical limitations to conventional bicycling. These factors contribute to a corresponding increase in interest and utilization on public lands. The BLM manages e-bikes similar to the U.S. Forest Service (FS). The FS manages e-bikes as a motor vehicle per their Travel Management Rule.

For more information or if you have questions about e-bikes, please contact Dennis Byrd., Outdoor Recreation Planner, Division of Recreation and Visitor Services (WO-250), at 202-912-7252 or by email at: DByrd@blm.gov.

Signed by:
Michael H. Tupper
Deputy Assistant Director
Resources and Planning

Authenticated by:
Robert M. Williams
Division of IRM Governance, WO-860

USFS Policy:



Forest Service

Washington Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 2300; 2350; 7700
Route To:

Date: MAR 24 2016

Subject: Electric Bikes and Trail Management

To: Regional Foresters

Electric bikes or e-bikes are growing in popularity and offer increased potential for quality recreation experiences, where determined appropriate, that connect people with enjoyment of their National Forests. Given the recent introduction of e-bikes as a use on National Forest System (NFS) land, questions have been raised by Forest Service units, recreationists, user groups, permit holders and law enforcement regarding appropriate routes and areas for this use. The intent of this letter is to provide current guidance on how to classify and manage e-bikes for determining where they are allowed to be operated on NFS lands. It also lays out possible opportunities to expand appropriate e-bike access to NFS lands through special designation routes and areas for e-bikes now and into the future.

The Forest Service recognizes that technology continues to rapidly change, including the design and capability of e-bikes and other related modes of travel. Monitoring of e-bike use for visitor safety, social issues, along with performance metrics and natural resource impacts will continue to develop and advance. As such, we as an agency remain open to potentially re-visiting and adjusting associated agency guidance if and as needed in the future.

As a starting point, certain applicable laws and relevant directives provide a foundational approach to current e-bike management:

The Forest Service's Travel Management Rule (TMR) and E-Bikes: The TMR defines "motor vehicle" as "any vehicle which is self-propelled, other than: (1) a vehicle operated on rails; and (2) 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. E-bikes have a motor, thereby are self-propelled, and are not covered by the exceptions in the definition. Therefore, e-bikes are motor vehicles and are subject to regulation under the TMR, which requires designation of National Forest System (NFS) roads, NFS trails, and areas on NFS lands for motor vehicle use. 36 CFR 212.51(a). Direction on e-bikes was included in a response in the *Federal Register* notice for the final over-snow vehicle rule. The response states: "New technologies that merge bicycles and motors, such as e-bikes, are considered motor vehicles under §212.1 of the TMR." 80 Fed. Reg. 4503 (Jan. 28, 2015).

Disability and Motorized Devices: Questions have been raised in relation to people with disabilities requesting use of e-bikes as an assistive device. The only exception for a person with a disability for use of a device that is self-propelled is if that device meets



both parts of the legal definition of a wheelchair or mobility device as defined above in 36 CFR 212.1 and also defined the same way in FSM 2353.05 as well as in 42 U.S.C. 12107. Under that definition, any device that is both designed solely for mobility for a person with disability and which is suitable for use in an indoor pedestrian area may be used anywhere foot travel is allowed. E-bikes are not solely designed for individuals who have mobility impairments and their suitability for indoor use would be highly questionable. Therefore, e-bikes do not qualify for an exception and may only be used where the Motor Vehicle Use Maps allows that use by all people. An e-bike remains a motor vehicle regardless of who is using it. It is essential that exceptions to TMR designations not be made. Restrictions on motor vehicle use that are applied consistently to everyone have been repeatedly found not to be discriminatory.

Section 504 of the Rehabilitation Act (29 U.S.C. 794): Requires programs on federal lands to provide “reasonable modification” of policies and procedures to allow the participation of qualified people who have disabilities. To be a qualified person the individuals must meet the same essential eligibility requirements for participation in that activity as does a person who doesn’t have a disability. However, no federal agency is to “fundamentally alter” the program in order to allow a person with a disability to participate. To allow a motorized device, that doesn’t meet both parts of the legal definition of a wheelchair, to be used on a route or in an area where use of that class of device is not designated would be a fundamental alteration of that program.

Other Power Driven Mobility Devices (OPDMD): In 2010, the Department of Justice released their Rule on OPDMD. An OPDMD is defined as any vehicle or device that is powered by batteries, fuel or other engines including those not primarily designed for people with disabilities. Under the OPDMD Rule, a person who has a disability is to be allowed to operate an OPDMD anywhere, unless that area has been previously determined not to be appropriate for use of that type of device/vehicle and the information as to what if any devices/vehicles may be operated in that location has been posted. The criteria within the Rule for such a determination includes the same parameters as were used for the Forest Service designations under the TMR. Therefore, the use of any OPDMD is limited to where the use of that specific type of device/vehicle is designated for use by all. It is essential that OPDMD exceptions not be made to the TMR designations.

Currently, e-bikes are allowed with the TMR designations for “Roads Open to All Vehicles”, “Trails Open to All Vehicles”, “Trails Open to Vehicles 50” or Less in Width”, and “Trails Open to Motorcycles Only”. In addition, new trail riding opportunities for e-bikes on existing non-motorized trails may be considered and designated as motorized trails by administrative units and ranger districts under travel management planning efforts, based on special vehicle class designations in accordance with 36 CFR 212.55. These motorized trail designation changes would involve appropriate environmental analysis, public participation and designation decisions that, once established, will be reflected on updated Motor Vehicle Use Maps in accordance with the TMR.

Technology continues to rapidly change, including the design and performance metrics of e-bikes. As such, the Forest Service will remain open to potentially re-visiting and adjusting associated agency guidance, if and as needed, in the future. The Washington Office Recreation, Heritage and Volunteer Resources staff members ready to assist you include Chris Spurl, Travel Management Program Manager, cfsporl@fs.fed.us; Jaime Schmidt, Assistant Program Manager for Trails, jschmidt@fs.fed.us; and Janet Zeller, Accessibility Program Manager, jzeller@fs.fed.us.

A handwritten signature in black ink, appearing to read 'J. Meade', with a stylized flourish extending to the right.

JOE MEADE
Director, Recreation Heritage & Volunteer Resources