

LEWIS RIVER TERRESTRIAL COORDINATION COMMITTEE

Facilitator: KENDEL EMMERSON
503-813-6040; CELL 509-774-8102

Location: SKYPE MEETING ONLY

Date: December 9, 2020

Time: 9:00 AM –12:00 PM

Agenda Items

- 9:00 a.m. Welcome
- Review Agenda, 10/14/20 Meeting Notes
 - Review and Accept Agenda, 10/14/20 Meeting Notes
- 9:15 a.m. Snowmobile use and Trapping on PacifiCorp Lands
- 9:30 a.m. Mitigation strategy for PacifiCorp projects (Speelyai Expansion, Saddle Dam Trails, Saddle Dam Rehabilitation, Yale Park)
- 10:00 a.m. Proposed Saddle Mountain Trails
- 10:45 a.m. Ebike Use on PacifiCorp Lands - Mark Smith and Bruce Barnes
- 11:00 a.m. Study/Work Product Updates
- Woodland Park
 - Saddle dam Rehabilitation Update
- 11:30 a.m. Next Meeting's Agenda
- Note: all meeting notes and the meeting schedule can be located at:
<https://www.pacificorp.com/energy/hydro/lewis-river/acc-tcc.html>
- 11:45 a.m. Meeting adjourn

FINAL Meeting Notes
Lewis River License Implementation
Terrestrial Coordination Committee (TCC) Meeting
December 9, 2020
Conference Call Only

TCC Representatives Present: (8)

Kendel Emmerson, PacifiCorp
 Summer Peterman, PacifiCorp
 Kim McCune, PacifiCorp
 Erik White, Cowlitz Indian Tribe
 Eric Holman, WDFW
 Amanda Froberg, Cowlitz PUD
 Bill Richardson, RMEF
 Peggy Miller, WDFW

Guests (4)

Jessica Kimmick, PacifiCorp
 Bruce Barnes, Public
 Mark Smith, Public
 Tim Hoffman, Public

Calendar:

January 13, 2021	TCC Meeting	TEAMS Call Only
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Assignments for December 9, 2020	Status
McCune: Email Equestrian Trail map link to TCC.	Complete – 12/9/20
Kimmick: Email trail map(s) to TCC with the following information added: vegetation layers showing forage openings, WHMP buffers, proposed harvest, and also revising scale to 20 ft. topographic contours.	Complete – 1/6/21

Assignments for October 14, 2020	Status
Emmerson: Get back to the TCC about what seeds were distributed on the fire break area at the Communications building in Management Unit 11.	Vendor used some older seed; PacifiCorp to return in mid-March 2021 to top seed with pollinator seed

Parking Lot Items	Status
Emmerson/McCune: Contact PacifiCorp's properties department to discuss further TNC detail and report to the TCC at the next meeting.	In progress

Emmerson reviewed the meeting notes from October 14, 2020. The meeting notes were approved at 9:08 am without changes. The following was added to today's agenda

- Devil's Backbone Update
- Timber Harvest; Buncombe Hollow in Management Unit 15

Emmerson reviewed the October 14, 2020. The meeting notes were approved at 9:08 am without changes.

Snowmobile Use and Trapping on PacifiCorp Lands

Emmerson informed the TCC that in the past PacifiCorp has had questions about snowmobile use on WHMP lands and the assumption was that they would be not allowed since they are motorized vehicle but realized that the TCC has not made this statement in the meeting notes.

The TCC agreed that snowmobiles are motorized vehicles and their use is not allowed/permitted on WHMP lands.

PacifiCorp received a trapping request in the Saddle Mountain (Fraser Pond and Saddle Dam Farm) area but the TCC had not discussed this in the past. Emmerson reached out to WDFW and inquired about perimeters if trapping was legal or not. Based on those conversation PacifiCorp sent an email with the following conditions:

- Trapping only occurs in areas that are open to hunting. Please go the following link to see what areas are open and closed to hunting
<https://www.pacificorp.com/community/recreation/washington/lewis-river-hunting-access.html>
- Trapping adheres to the WDFW seasons and rules
<https://wdfw.wa.gov/hunting/regulations/trapping>
- **Pelts are for personal use only. PacifiCorp does not allow commercial use of botanical, mineral, fish, or wildlife products on WHMP lands.**

Eric Holman (WDFW) expressed that trapping has likely been happening on WHMP lands for decades and this person is likely the first one to ask permission. It's legal as long as the person follows the WDFW regulations. Holman think the answer is solid but wonders about the term "commercial" aspect of it. These folks do sell the fur but likely doing so as an individual and not like a large commercial venture but likely a recreation activity. If they are collecting furs per WDFW regulations at a place where its legal to do so not sure if PacifiCorp has a roll in telling the trapper what they can do with the furs after they are collected. Emmerson will discuss this with PacifiCorp's legal counsel specifically regarding the use of the term "commercial use" and will add the topic on the January 2021 TCC meeting agenda.

Mitigation Strategy for PacifiCorp Projects (Speelyai Expansion, Saddle Dam Trails, Saddle Dam Rehabilitation, Yale Park)

Impacts from Saddle Dam rehabilitation are still being ferreted as construction details are discussed but as of now the impacts look to be considerably less than anticipated but there still will be some. Today we will discuss Saddle Dam Trails and we have already discussed Speelyai Parking expansion. Yale Park is mentioned on this topic but PacifiCorp has figured out a way to meet the expansion needs and stay off WHMP lands, so we don't need to discuss Yale Park at the TCC

meeting today. The impacts to WHMP lands from PacifiCorp will require mitigation so we would like to discuss a strategy with the TCC on how to address the mitigation requirements across several areas impacted. There are 3 different ways we could do this:

- 1) Each project gets individual mitigation
- 2) Look at all impacts in the specific area and mitigate by area (e.g. Management Unit 9 and 10 may be impacted by Saddle Dam and Saddle Dam trails and Management Unit 6 may be impacted by Speelyai Park expansion).
- 3) Take a cumulative approach and look at trails, the dam, and park expansion and consider all those projects combined together and determine the mitigation for all of it.

If the TCC selects the last option that will require a longer process and more coordination and documentation as we go along to ensure everything is being accounted for and mitigated. In 20 years from now folks can see what specific mitigation was completed for each impacted area.

The following Settlement Agreement language is the guidance to mitigation for impacts:

10.8.5.5 Mitigation for Impacts on Wildlife Habitat. If PacifiCorp proposes to take action on its Interests in Land that are managed under its WHMP, other than those actions specifically prescribed under this Agreement, and that action makes those lands no longer available for wildlife habitat, PacifiCorp shall consult with the TCC to determine if any mitigation is necessary. If Cowlitz PUD proposes to take action on its Interests in Land managed under its WHMP, other than those actions specifically prescribed under this Agreement, and that action makes those lands no longer available for wildlife habitat, Cowlitz PUD shall consult with the TCC to determine if any mitigation is necessary. If the TCC determines that mitigation is necessary, then whichever Licensee is responsible in the specific case shall implement that mitigation. Mitigation shall not be required for land parcels specifically identified in the WHMPs as having wildlife habitat as the secondary use.

The intent is to ask the TCC if they want to separate all the impact projects out and complete specific mitigation for each or lump them together. Emmerson thought the TCC would like to consider looking at all the project impacts from an entire basin approach and decided what specifically they want for a larger scale mitigation.

Holman favors an arrangement whereby we look at impacts case by case assessment and demonstrate the full range of whatever the TCC thinks the full impact is as each case is unique. But he likes the idea of dumping these into a basket after that assessment so we can do something that is a little bit bigger and we can get enough money to perhaps buy another piece of land and do a more significant project down the road at a location that strikes us as having enough capacity to be able to do that. Emmerson noted that lumping the mitigation projects together would not be immediate but, in the end, we should get a better product.

Peggy Miller (WDFW) clarified for the guests that the mitigation applies to WHMP lands and not private or Forest Service lands.

For the guests in attendance Emmerson noted that if anyone comes in a project requiring deforesting or expansion that affect WHMP lands then the TCC comes back together and approves or disapproves. If they do approve it comes with required mitigation based on the areas adversely

affected. For example, there was a substation expansion needed that was about ¼ acre, so they needed to mitigate for that with a habitat modification project and the TCC budget received some funds too. PacifiCorp has been the one of late doing project impacts to WHMP lands like the Saddle Dam reinforcement project that will require mitigation.

Emmerson clarified that all funds needed for the Yale Dam remediation, trails, park expansion, mitigation required, etc. are provided solely by PacifiCorp and not via grants or other funding mechanisms.

The TCC agreed to analyze the mitigation projects on a case by case basis but if there is an opportunity to lump projects together that gives us a bigger bang for the buck. Projects taking place currently may be lumped together but not projects that may take place well into the future. Emmerson will advise PacifiCorp management going forward and document the process.

Proposed Saddle Mountain Trails (Jessica Kimmick, PacifiCorp)

Kimmick informed the TCC attendees that the Swift and Yale Licenses and the Lewis River Settlement Agreement direct PacifiCorp to create and implement trail plans along the IP (International Paper) Road and at Eagle Cliff and she provided a detailed *Saddle Dam Conceptual Plan (Attachment A)*

PacifiCorp has been working on both projects for over a decade with little success. The memorandum dated December 2, 2020 titled, *IP Road Trail and Eagle Cliff Trail Conceptual Alternative, Saddle Dam WHMP Units 10 and 17 (Attachment B)* was also provided to the TCC that provides the background of PacifiCorp's efforts on this topic thus far.

After much communication with the FERC over the years about our efforts, they granted PacifiCorp an extension of time to create an alternative trail plan to the IP Road trail plan. It is PacifiCorp's desire to meet the intent of the licenses and SA to be able to provide trail opportunities in the Lewis River area, while recognizing we have come to the end of our options with both IP Road trail and Eagle Cliff trail plans.

PacifiCorp's idea for an alternative is to develop our trail plan within Unit 10 at Saddle Dam (see image below). This is a very conceptual map of what such a trail plan could look like, developed with the intent to begin a conversation about this location. In October, this concept visual was brought to the Lewis River Recreation Committee, as both the IP Road and Eagle Cliff trail plans were to be developed in coordination with them. They concurred this area could be an acceptable alternative location for both trail plans and asked PacifiCorp to move forward with next steps. Discussion with the TCC was identified as the next step.

Conceptual Plan: Saddle Dam (WHMP Unit 10)



Yellow line = existing trails (likely all user-built trails, ATV trespass)

Red dashed line = proposed decommission location

Solid dark red/brown line = conceptual proposed new trails

The main points regarding developing a trail system design are:

- Designate currently existing trails that are found to be in suitable locations through trail improvement, signage, and maintenance. Some sections may require reroutes.
- Decommission currently existing trails that are found to be causing resource damage, trespass issues onto neighboring landowners, or are not otherwise sustainable or contributing to an enjoyable user experience.
- We propose to provide approximately 6.75 miles of hiker and equestrian trails through a well-designed trail system allowing for a variety of distance and experience levels.
- As there is already a history of trail use in this area, the parking and restroom infrastructure to support public trail use for equestrians and hikers in this area is already established.
- New trails could lead the user up the ridge line around Frasier Pond, taking trail user into designated areas and out of sensitive areas and boggy wetlands.



This photo above is of the currently existing trailhead parking lot, which accommodates horse trailers and cars, with a vault toilet. This is located outside of the Saddle Dam Park and is available year-round. Saddle Dam Park is also a parking option for trail use during the summer months.

This landscape has a long history of public use and the existing trails will be evaluated for incorporation into the trail plan, to lessen impacts. The project will also provide an opportunity to decommission existing trails that have sustainability concerns.

Conceptual Plan Considerations: Sustainability



This photo above is the “Ridgeline Trail” which is roughly 1,000 long. The first 650’ has a 120’ elevation gain, or 18% slope. The remaining 350’ has a 160’ elevation gain, or 46% slope. Overall slope averages 24% and has no cross slope to mitigate water erosion. The result is a steep trail located in compacted clay-based soils which become slick when wet, with little opportunity for retroactive water management due to how incised it’s become from erosion. The average grade of a trail should be 10%, with a cross slope and grade reversals built in to mitigate water channeling. Given the conditions of this trail, it is unlikely to contribute to user enjoyment, and is probably used only as a “point to point” to access the 1040 road. The trail is currently is not maintainable and will only continue to deteriorate over time. We would like to provide better trail opportunities to the public through this effort.

The project will also provide a great opportunity to decommission existing trails with resource damage potential.

This photo below is of a section of the Frasier Creek Trail just before its junction with the 1000 road in Saddle Dam Farm. This section goes through a large alder patch within a predominantly fir forest, which indicates that it stays very wet most of the time. This photo does not show it as such as it was taken after more than a week’s time of dry weather. This section was not indicated as “decommission” on the conceptual map but can easily be included with the section of Frasier Creek Trail proposed for removal. The section shown for possible decommissioning just north of there may be considered due to the stream crossing. It would be our intent to minimize stream crossings and to stay out of WMZ and RMZ areas, as use in those areas can be highly damaging. We look forward to planning a system that allows enjoyable public use and is environmentally suitable.

Conceptual Plan Considerations: Environmental



We have some current trespass issues as illustrated in the photo below which can be addressed with a well-planned and well managed designated trail system. It would be our intent to decommission trails accessing neighboring Department of Natural Resources land, as we will not be seeking easement for the currently existing trails across their property. We recognize that we would likely not be able to come to an agreement with them, given our unsuccessful attempts at working together for the IP Road trail project.

Conceptual Plan Considerations: Trespass



Additionally, the trail that traverses across DNR land terminates at the Speelyai Canal, accessed by Arrowhead Road. The above left photo depicts the location where public access currently exists on Arrowhead road. Where the blue van is parked is the only parking spot that does not block the canal roadway or the shoo fly turnaround located behind the van. Parking infrastructure is not feasible here without creating new public access onto WHMP lands, as the canal road is too narrow and is gated for management purposes. Ultimately, it's PacifiCorp's goal to locate all the trails through this planning effort onto our property in locations that make sense.

A well developed and managed trail system often lessens the occurrence of undesignated trail development. Undesignated trails are built by users who are trying to fill an unmet need for legitimate trail use options.

These following photos depict additional undesignated trails which continue to be an issue for PacifiCorp within Unit 10. PacifiCorp staff regularly document ongoing trail building by users. PacifiCorp currently have 3.13 miles of unmanaged trail on our property that PacifiCorp allows for public use. This does not include the length that traverses DNR property (.85 mile), nor does it include the distances of trail located on road grade North of DNR property (.41 mile). When those are added in, users currently have access to 4.39 miles that we recognize.

Conceptual Plan Considerations: Trespass



It is our hope that by providing approximately 6.75 miles of well-constructed trails which provide for distance, loop trails and trail combinations through varying landscapes such as forested and harvested, with access to roads, and scenic areas to look at, that the undesignated trail building which contributes to safety and resource damage concerns, will cease.

Again, this map visual is completely conceptual, and serves to help our stakeholders envision what this trail plan could look like.

PacifiCorp's proposed intent is to provide approximately 6.75 miles of hiker and equestrian trails, allowing for a variety of trail distance and experience levels. PacifiCorp would decommission what isn't working, incorporate and improve upon what is, and construct new, well designed trails in appropriate locations. This trail plan proposal would benefit the user experience, the WHMP lands they are located on, and would meet the intent of the Settlement Agreement articles for IP Road and Eagle Cliff trails.

The trail designs would be planned for equestrian and hiking in mind. PacifiCorp does not prohibit mountain biking on their lands, but these would not be built for mountain biking and would not include mountain biking features such as bermed corners or tabletops, and trail design would not promote gravity or downhill mountain biking. If a user was interested in pedaling these trails it would be a cross country experience for mountain biking.

Miller noted that the same rules apply to this section of proposed trails on WHMP lands and are all for non-motorized use.

In response to Bill Richardson's (RMEF) question PacifiCorp does not have specific recreation use data on the existing trails and only has anecdotal data. However, PacifiCorp has not seen the parking lot at or over capacity. However, PacifiCorp does see regular trail use by equestrians, hunters, and hikers. Equestrian users seem to have higher use of the trails during off season rather than the summer months.

In response to a suggestion, Kimmick communicated that if PacifiCorp were to look for additional trail locations along the Yale Reservoir between Saddle Dam and Yale Park or Cougar Park, there would be considerable numbers of private land owners from whom PacifiCorp would have to secure easements, making the likelihood of success for such a project very low.

The TCC has some reservations about inviting additional people onto WHMP lands and potential negative resource impacts, i.e., elk and terrestrial wildlife. The TCC would like more time to review trail locations to mitigate, screen or vet out additional trail opportunities where it would cause the minimal amount of disturbance. A site visit is a possibility in the near future to aid the TCC with making a decision.

Ebike Use on PacifiCorp Lands (Mark Smith and Bruce Barnes)

Mark Smith, an Ebike dealer, and owner of an Ebike requested the TCC review its current policy about pedal assist 750-watt Ebike being considered as motorized. Smith expressed that according to RCW codes for the State of Washington they are considered a bicycle by the state, with 750-watt restrictions (**Attachment C** - Ebike email materials as provided by Mark Smith, October 22, 2020). He expressed that the Ebike does not cause the environmental damage that a horse would, and that an Ebike is beneficial to recreation for those that are not in the best possible physical condition or have disabilities are able to continue their recreation enjoyment at an older age. Average age of his Ebike customers is 62 years of age. Ebikes are not a cheap toy but a pedal assist that allows them to do the things they did when they were younger even though they may have a heart condition, knee replacement, etc.

Smith would like to know if the TCC has any questions or needs additional information, and how he might pursue the TCC allowing Ebike access on PacifiCorp lands.

Bruce Barnes expressed that it's discrimination to not allow disabled hunters and different user groups to use PacifiCorp lands. He communicated that he has a huge vested interest in the Mt. Saint Helens and the adjacent areas and the wildlife. He is not vandalizing anything or cutting trails, he wants to be able to ride his Ebike to the area he sits and hunts in and enjoy peace and quiet and get away from people. He expressed that few Ebike users are up there and it would not be that big of an impact.

Emmerson explained that when the WHMP was developed the TCC developed standard guidelines and objectives for different habitat and management needs (Forest, Orchards, Public Access, etc.). The public access goal is to..... *minimize the disturbance to wildlife and protect their habitat while managing access for non-motorized recreation which includes legal hunting and fishing and activities associated with implementation of the WHMP*. This applies to all WHMP lands that PacifiCorp owned in 2006 and what has been acquired since then.

Emmerson noted that considerable Ebike information was presented to the TCC regarding disturbance and how an Ebike are different from regular bicycles so the TCC made the decision that Ebikes are considered a motorized vehicle regardless of the wattage rating. The line has been drawn that if it has a wattage it will be considered a motorized vehicle. Other private timber companies share the same thoughts and PacifiCorp has received public comments that support this decision.

Emmerson confirmed to the TCC and the guests that PacifiCorp has not and does not accept federal funds or WDFW grants for its Lewis River wildlife program.

Miller expressed that PacifiCorp has paid for everything... mitigation funds that PacifiCorp paid for the restoration. No Forest Service or federal funds have been included with PacifiCorp funds for their mitigation efforts. Emmerson clarified that the Washington State RCW rules do not apply to private property, which is PacifiCorp WHMP lands.

In response to a question from Barnes, PacifiCorp's recreation sites are separate from its WHMP lands and those provide ADA access. The Lewis River project has had WHMP boundary delineated and it excludes most of the recreation and facilities areas, as well as some leased properties.

McCune noted it's an important distinction that the TCC is implementing compliance requirements of the Lewis River 50-year Settlement (SA) and License which includes a reference that motorized vehicles are prohibited on WHMP lands. The SA consists of 26 Parties which have higher authority over this decision, of which the details of the SA is also on the Lewis River website.

Study/Work Product Updates

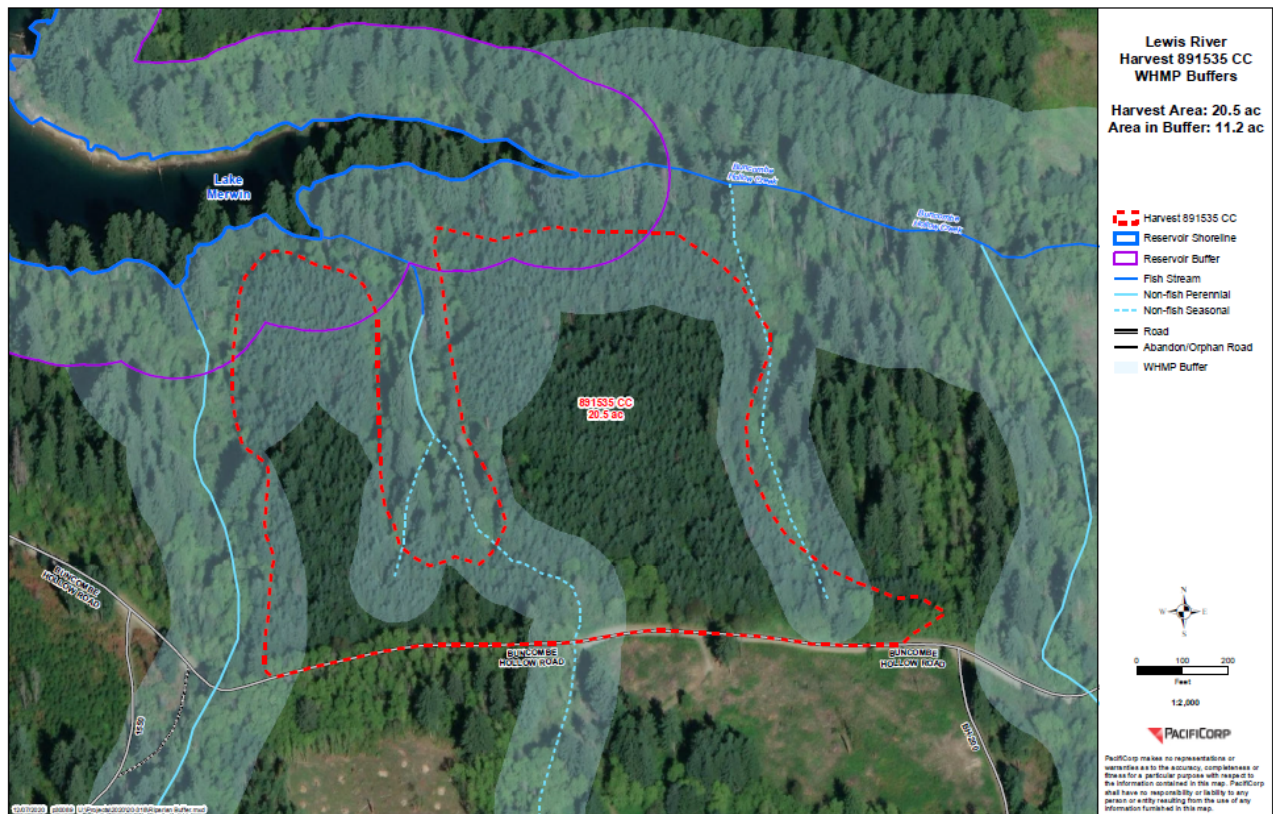
Woodland Park - PacifiCorp sent the HOA the planting expense detail (\$2,500) and they responded back with a detailed plan about how they didn't need to pay PacifiCorp and they would get the plants and trees and create a beautiful landscape and they would take care of it. PacifiCorp's properties dept. declined this offer. PacifiCorp has ordered the plants from the Washington Conservation District and the plants will arrive in February. We were able to get carsonite posts with the WHMP stickers with Wildlife Habitat Management Area on it....and the posts will begin going in this Monday.

Saddle Dam Rehabilitation Update – The last meeting Emmerson had the soil information came back favorable and appears that they will not need to as much rock and dirt as originally anticipated.

They also think they will be able to bring the reservoir up to an elevation that will allow Saddle Dam Park to be open for the next recreation season. Construction would start after Labor Day 2021. Fortunately, that gives us approximately a week of archery season, so it unlikely the area will reopen for hunting in 2021. Emmerson spoke with WDFW law enforcement and he said there have not been much conflict with hunters in that area and understood so it will probably be through 2022 and open fully for hunting in 2023.

Devil's Backbone – Approximately two weeks ago the pile burning began but on the first day the piles were taking longer to get going because there is a small amount of fines in the piles. In addition, the contractor's son was in a life-threatening accident so there was additional delay. Not sure if the burning is complete but will reach out to the contractors this Friday to get an update on the burning.

Timber Harvest off of Buncombe Hollow – to meet the cover:forage requirements two timber harvest have been scheduled for commercial thinning in Management Unit 16. This on south side of Merwin Dam (Clark County side) and along Buncombe Hollow Road. Buncombe Hollow that goes quite a way back in there and accesses management units 16, 15 & 14 (14 is where Middle Earth timber harvest was). PacifiCorp has been laying out the commercial thinning planned back there and the contractor brought to our attention that once we are done with this year activities we are probably not going to be back in this area for another 15-20 years as we are all caught up on cover:forage. And, there is one area in management unit 15 that is off of Buncombe Hollow road that was clear cut harvested in 1989 and the image below indicates what the WHMP buffers are for riparian and shoreline. The harvest area is 20.5 acres and the buffer will be 11.2 acres so that give us about 50% for us to work with. This is commercial thinning, not a clearcut, and it is unlikely we will clearcut this area in the future due to WHMP buffers. Emmerson and PacifiCorp's contractor looked at this area and Emmerson agrees it's the trees are really close with little to no sunlight and they left some really large nice trees. The contractor would like to add this area to the commercial thinning schedule this year and thin to the Forest Practices buffers. It is currently at 210 trees per acre and it would be thinned down to 60%-70% canopy cover and then retain all the larger trees. This will allow the trees to grow larger faster, increase diversity in shrubs and understory growth that is very much lacking now.



The images below were taken this week as you can see entirely sword fern and salmonberry and it was planted only with Douglas fir there are some large cedars that were retained. It's north facing into Buncombe Hollow creek which is a dark dank canyon. We will grass seed it, but it will be difficult to get grasses to be really successful.

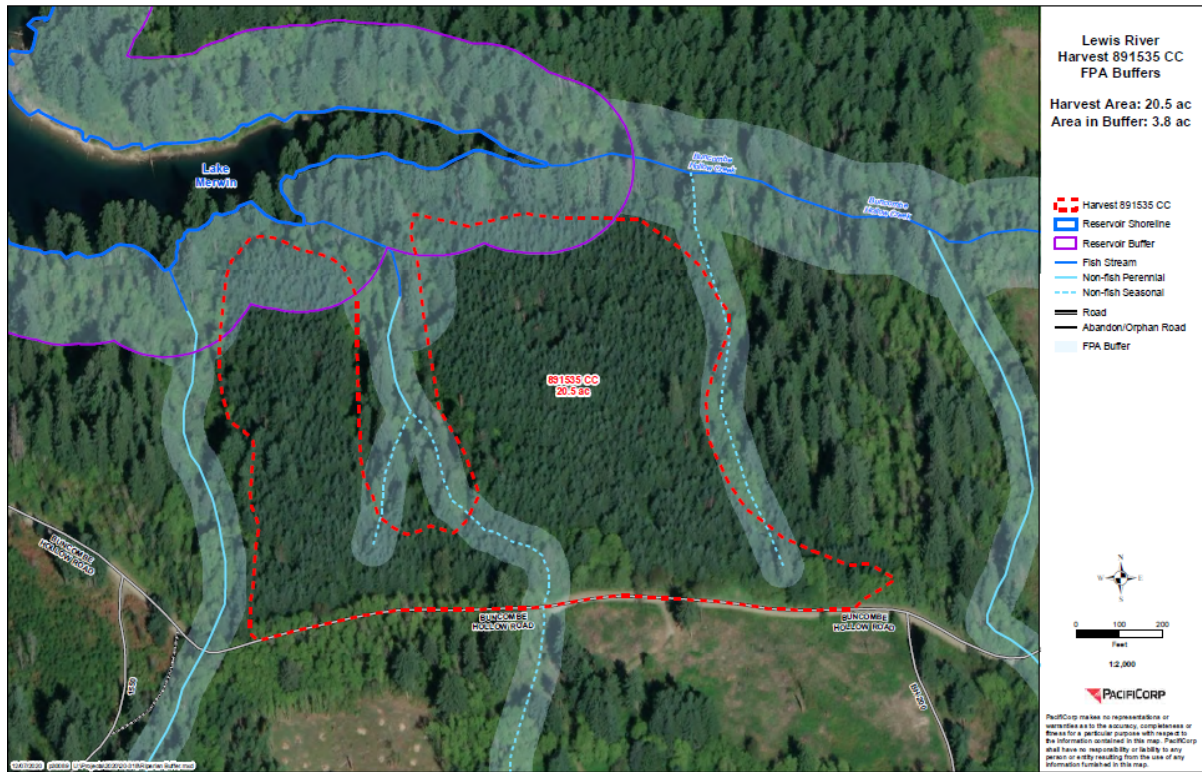




The Forest Practices (FPA) buffers would give us 3.8 acres of harvest area in buffers so about 17.2 acres that would be commercially thinned. This will also be in the 2021 WHMP Annual Plan for TCC further review. If we adhere to WHMP acres we would log about 10 acres.

The TCC is generally supportive of letting the big trees getting bigger soon than later which puts the landscape on a better trajectory and another good spot for a thinning.

Emmerson will move forward with this thinning and put it in the 2021 WHMP Plan. Everything in unit 16 is commercial thinning and in unit 10 is clearcut. In response to Eric Holman's (WDFW) question there is opportunity in Unit 16 for creating small open areas for deer & elk meadows.



2021 Meeting Schedule

McCune informed the TCC the PacifiCorp is terminating its use of Skype meetings so she will cancel all 2021 meetings and reschedule using the new TEAMS meeting software.

Agenda items for January 13, 2021

- Review December 9, 2020 Meeting Notes (**TCC COMMENTS DUE January 4, 2021**)
- TCC Site visit; TBD
- Trapping on PacifiCorp Lands; follow up on commercial use term
- Saddle Mountain Trails
- Meeting Protocol; public attendance
- Study/Work Product Updates

Next Scheduled Meeting

January 13, 2021
TEAMS Meeting Only

Attachments:

- December 9, 2020 Meeting Agenda
- **Attachment A** - Saddle Dam Conceptual Plan
- **Attachment B** - IP Road Trail and Eagle Cliff Trail Conceptual Alternative, Saddle Dam WHMP Units 10 and 17, December 2, 2020
- **Attachment C** – Ebike email materials as provided by Mark Smith, October 22, 2020

Adjourn 11:40 a.m.



Saddle Dam Trail Proposed Changes

- Trail**
- Existing
- Proposed New
- x-x- Proposed Decommissioned
- Road
- ~ Stream
- Contour (40ft)
- Wetland
- Water Body
- PacifiCorp Land
- Private Land
- Public Land**
- BLM
- WA DNR
- STATE

PACIFICORP
 GIS SUPPORT SERVICES
 Solutions Group
 Data is projected in UTM Zone 10, NAD83, meters. gisdept@pacifiCorp.com

PacifiCorp makes no representations or warranties as to the accuracy, completeness or fitness for a particular purpose with respect to the information contained in this map. PacifiCorp shall have no responsibility or liability to any person or entity resulting from the use of any information furnished in this map.





MEMORANDUM

TO: Terrestrial Coordination Committee

FROM: Jessica Kimmick

cc: Kendel Emmerson and Summer Peterman

DATE: December 2, 2020

RE: IP Road Trail and Eagle Cliff Trail Conceptual Alternative, Saddle Dam WHMP Units 10 and 17

Background IP Road Trail and Eagle Cliff Trail Plans:

PacifiCorp is required through its Federal Energy Regulatory Commission (FERC) Yale hydroelectric project license, FERC No. P-2071, Article 406, to file for FERC approval, a Yale/IP Road Trail Plan (IP Trail Plan), including a map identifying trail location, trailheads and associated day use area and parking and an implementation schedule, consistent with sections 11.2.2.2 and 11.2.2.3 of the Lewis River Settlement Agreement (SA). The IP Trail Plan must be developed in consultation with the Lewis River Recreation Committee (LRC). Article 406 provides that upon the FERC approval of the IP Trail Plan, the licensee shall implement the IP Trail Plan, including any changes required by the FERC. Similarly, PacifiCorp is required through its Swift No. 1 hydroelectric project license, FERC No. P-2111, Article 406, to file for FERC approval an Eagle Cliff Park Trail Plan (EC Trail Plan), consistent with section 11.2.1.2 of the SA. The EC Trail Plan must also be developed in consultation with the Lewis River Recreation Committee (LRC). Article 406 provides that upon FERC approval of the EC Trail Plan, the licensee shall implement the EC Trail Plan, including any changes required by the FERC.

PacifiCorp has undertaken extensive effort over the span of, at minimum, a decade to create both plans in order to fulfill the license obligations as written, with minimal success. Please see **Attachment A for the Yale/IP Road Trail Project Actions** and **Attachment B for the Eagle Cliff Project Actions**, undertaken to date.

On December 9, 2019 and specific to the Yale/IP Road project, PacifiCorp requested the FERC for an Extension of Time to find an alternative trail plan. Request was granted by the FERC, and in accordance with the FERC order PacifiCorp will file an alternative to the Yale/IP Road Trail Plan by December 31, 2021.

Proposed Solution to IP Road Trail and Eagle Cliff Trail Plans:

In light of FERC approval to create and submit an alternative trail plan to the Yale/IP Road Trail, and in consideration of the low potential associated for a new Eagle Cliff Trail alternative either in providing a quality user experience or in PacifiCorp's ability to implement the project on private

or Forest Service land ownership, we reviewed our other recreation facilities and PacifiCorp-owned properties to locate suitable alternative locations that would provide quality non-motorized trail experiences in the Lewis River area.

We have identified PacifiCorp land near Saddle Dam (WHMP Unit 10) that has current existing, unmanaged (PacifiCorp acknowledges their presence, provides trail maps, but performs limited maintenance) and/or undesignated trails (user built trails that are not acknowledged or desired by PacifiCorp) that could be significantly expanded to create a cohesive, well-built trail system. A designated trail system near Saddle Dam would provide for both long and short trail experiences for hikers and equestrians. This trail system would make use of the existing Saddle Dam equestrian trailhead and would incorporate some of the currently existing unmanaged trails in the area as deemed appropriate. The trail plan proposes to decommission undesignated and/or unmanaged trails that are causing resource damage, safety concerns, or are promoting trespass issues onto neighboring landowners. New trails will be designed and built with the user experience and the environmental resource in mind. The provision of additional trail miles for users wanting distance, loop trails and trail combination opportunities will curb the construction of new undesignated trails, as it is evident those are being created in response to a need. See the attached conceptual map showing potential trail locations and how they would work together to create a new non-motorized trail system.

The conceptual map proposes to incorporate 6,459.39 feet (1.2 miles) of existing trail, decommission 10,068.64 feet (1.9 miles) of existing trail, and build 29,168.69 feet (5.52 miles) of new trail. These distances do not include trail located on road grade or on neighboring landownership. The exact location of the trail system is subject to change based on on-site survey and design work, but it is PacifiCorp's intent to provide approximately 6.75 miles within the system. The conceptual map design is based on topography and streams and the preliminary decisions for the decommissioning and incorporation of existing trail are based on known on-site conditions.

The proposed Saddle Dam trail system will minimize environmental disturbance (e.g. make use of some existing unmanaged trails as deemed suitable, will decommission trails that have high negative impact to the resource, makes use of currently existing support facilities, etc.) and provides a solution to both the undesignated trail building use that is currently occurring in the area as well as the need for PacifiCorp to build, manage, and maintain new trails per the Swift No. 1 and Yale licenses.

PacifiCorp discussed the information provided in this memo and the conceptual map with the LRC during the October 21, 2020 meeting with the intent to solicit their review and input. The LRC agreed that the proposal as outlined in the memo and conceptual map is a good alternative to replacing the IP Road and Eagle Cliff trails requirements and to proceed with next steps. PacifiCorp is now requesting TCC representatives review and provide input of this proposal. We would appreciate your advance review of this memo and conceptual map, with the intent to discuss your questions and comments in depth at the December 9, 2020 TCC meeting, so that we may proceed with next steps. We look forward to your questions, comments, and future collaboration on this project.

Attachment A: Yale/IP Road Trail Project Actions Summary

Date	Acting Party	Action/Event
October/ November 2010	PacifiCorp	PacifiCorp began contacting Washington Department of Natural Resources (DNR), Clark County and Weyerhaeuser to request approval for the trail plan as agreed to in the Lewis River Settlement Agreement. Weyerhaeuser sent confirmation they did not want trail implemented on their land; Clark County responded they were on board with trail implementation and looked forward to working with PacifiCorp to accomplish such.
December 15, 2011	DNR	PacifiCorp received a letter from DNR advising they will not release any current easement rights to their use of the right of way as a "logging road" nor do they want to have a pedestrian trail on DNR managed trust land.
June 19, 2013	FERC	PacifiCorp receives FERC Order Approving Road Trail Plan pursuant to Article 406 of the FERC license.
May 2014	PacifiCorp	PacifiCorp visits DNR office to meet in person to discuss PacifiCorp's plans for trail, including vault toilets and parking lot, pursuant to its obligations in the Lewis River Settlement Agreement and requests DNR's formal written agreement or denial.
June 13, 2014	DNR	DNR sends email stating DNR does not find that a trail is a favorable option but does not clarify what problems DNR anticipates will occur.
June 20, 2014	PacifiCorp	PacifiCorp sends letter to DNR requesting clarification of DNR's position, what the anticipated problems with trail implementation are and clarification about their concerns with the existing road easement (granted to Pacific Power and Light by Harbor Plywood in 1952).
January 2015	DNR	DNR representative emails PacifiCorp to advise he is talking with his managers in Olympia, Washington about PacifiCorp's request.
February 2015	PacifiCorp	PacifiCorp sends reminder to DNR that if the parties cannot come to some conclusion about a trailhead location, then PacifiCorp will have to start looking at other options. PacifiCorp's role in helping to bring the road up to haul standards ultimately hinges on having the trailhead location.
September 4, 2015	PacifiCorp	PacifiCorp files extension of time request for Exhibit G drawings and overall project completion with the FERC.
September 24, 2015	PacifiCorp/DNR	PacifiCorp and DNR meet on-site to discuss future trailhead locations and amending the existing road use easement granted to PacifiCorp which would include

Date	Acting Party	Action/Event
		road to trail use activities as part of the allowed use under the easement.
October 16, 2015	DNR	DNR responds with a list of next steps to firm up future responsibilities on the road and mitigation measures to be taken.
November 9, 2015	FERC	PacifiCorp receives extension of time for Exhibit G drawings and project completion. Deadline extended to December 31, 2017.
January 1, 2016	PacifiCorp	PacifiCorp begins plans and permit application package for submittal to Clark County.
March 21, 2016	DNR	DNR emails PacifiCorp to advise that DNR wants to discuss entering into a new agreement between the parties for Project use and not amend the existing easement.
October 26, 2016, & November 8, 2016	PacifiCorp	PacifiCorp inquires as to status of draft lease. DNR responds draft document is not yet ready for review both times.
November 16, 2016	DNR	DNR provides initial lease template that contains all lease language the agency uses regardless of whether the language is relevant to the current lease request. Also advises new agent now assigned to this lease is out on fire duty and so this may be a slow-going process.
August 30, 2017	DNR	DNR provides revised draft lease created as a result of PacifiCorp's comments to initial document template.
October 18, 2017	PacifiCorp	PacifiCorp submits draft lease with comments/suggestions/edits back to DNR.
October 19, 2017	PacifiCorp	PacifiCorp has not received a response from May 2017 meeting with Clark County; PacifiCorp legal counsel submits a letter to Clark County chief prosecuting attorney requesting resolution.
November 1, 2017	Clark County	PacifiCorp receives letter from Clark County chief prosecuting attorney stating that Clark County will retract several requirements imposed on the project by Clark County staff.
November 1, 2017	PacifiCorp	PacifiCorp sends inquiry as to status of DNR lease review.
November 2, 2017	DNR	DNR responds they have internal review scheduled for November 9, 2017 and will either meet with PacifiCorp to discuss the revised document that PacifiCorp submitted back, or they will send to their attorney for review and approval.

Date	Acting Party	Action/Event
November 15, 2017	PacifiCorp	PacifiCorp performs design engineering updates in the field.
November 21, 2017	PacifiCorp	PacifiCorp sends status inquiry email to DNR.
November 27, 2017	DNR	DNR advises PacifiCorp that they have completed the internal review and would like to schedule some time to discuss PacifiCorp's comments. Meeting times proposed are during the week of December 11 to 15 th . Meeting is scheduled for December 11, 2017.
December 13, 2017	PacifiCorp and DNR	Representatives from both entities review lease and PacifiCorp's comments. The parties agree all requested terms are reasonable. DNR notes next step is to forward this version of agreed-upon document to the Washington State Attorney General office for review and approval. PacifiCorp will forward copies of all project related permits and an Operating Plan to DNR to insert into lease as exhibits as soon as all are available.
March 6, 2018	DNR	DNR sends its response to draft lease redlines back to PacifiCorp for review.
May 15, 2018	PacifiCorp	PacifiCorp working with its general contractor and surveyor to finalize draft survey that includes all relevant easements on portion of the IP Road that will be included in the agreements between DNR and PacifiCorp.
May 17, 2018	PacifiCorp	PacifiCorp advises DNR that it is still working on fine-tuning the draft revised survey and plans to submit to DNR for its review the next week.
May 22, 2018	PacifiCorp	PacifiCorp submits revised draft survey information to DNR rep Shannon Soto via email that includes confirmation of title reports pulled and easement areas added to the draft survey to be used as an exhibit in the final documents between the parties.
June 12, 2018	PacifiCorp	PacifiCorp submits final Plan of Operation to DNR rep Shannon Soto to be used as an exhibit in the final documents between the parties.
June 13, 2018	PacifiCorp	PacifiCorp property agent and legal department try to continue to review most recent documents submitted for review by DNR; however, the redline version of the lease DNR sent back for review has changes in it that are not redlined and it is unclear as to where all the changes are that they made. PacifiCorp sends a request to DNR for a complete redline version of the changes

Date	Acting Party	Action/Event
		they made so that PacifiCorp's document review does not have to start from scratch.
July 12, 2018	PacifiCorp	PacifiCorp requests status from DNR via email. DNR rep advises PacifiCorp that there have now been additional changes to the boiler plate template language that they need to incorporate into the draft document before PacifiCorp reviews again. They will forward revised template to PacifiCorp for review and then want attorneys for both sides to finalize documents.
July 16, 2018	DNR	<p>DNR representative Shannon Soto advises PacifiCorp via email of the following:</p> <ul style="list-style-type: none"> • The survey is pending review by our survey department. • The plan of operations is being incorporated into your lease. • The lease will be revised to meet the most current AAG approved template. (Last Revised 7/3/2018) • The permits have not been received yet. • I think a meeting with your attorney and the DNR attorney should be arranged after the next lease draft is presented. I think that might be more effective in coming to an agreeable document. I would like to schedule some time this fall in September or October.
July 18, 2018	PacifiCorp	PacifiCorp sends confirmation and status of all permits that PacifiCorp either has or is still waiting for to DNR rep Shannon Soto.
August 27, 2018	PacifiCorp	PacifiCorp property agent sends 11 pdf files containing all permits received from Clark County to Shannon Soto via email.
August 30, 2018	PacifiCorp	<p>PacifiCorp provides the current construction schedule to DNR as follows: The schedule assumed that the lease would be executed by September 7. The basic schedule is as follows:</p> <ul style="list-style-type: none"> • Prebid meeting – 8/30/2018 • Eagle buffer restriction lifted – 9/1/2018 • Award construction contract – 9/7/2018 • Fully execute all contracts – 9/14/2018 • Required Clark County kick-off meeting – 9/19/2018 • PacifiCorp internal permitting kick-off meeting – 9/20/2018 • Construction mobilization - 9/21/2018 • Construction Substantial Completion – 11/30/2018 • Final Completion – 12/7/2018

Date	Acting Party	Action/Event
		<ul style="list-style-type: none"> Eagle buffer restriction active – 1/1/2019 <p>Note the short window to work in due the existing eagle tree and its buffer.</p>
September 13, 2018	DNR	DNR representative emails requested revisions for revised survey and requests phone call from PacifiCorp property agent. Phone tag ensues.
September 17 & 18, 2018	PacifiCorp and DNR	PacifiCorp property agent spoke with the DNR representative on the phone multiple times to review the requested changes and make sure both parties are on the same page about what revisions could and should be made to the survey. Phone calls were very productive.
September 28, 2018	PacifiCorp	PacifiCorp property agent sent revised survey back to DNR
October 15, 2018	DNR	DNR representative responds to email via phone call. Their surveyor is now out until 10/23/2018. She is going to check with their attorney to see if the attorney will at least review the document and language changes without the final approved survey so that part is moving. Then PacifiCorp can review the attorney comments, etc. This agreement will not be finalized or signed prior to the end of October/beginning of November 2018.
October 30, 2018	DNR	DNR representative responds that her surveyor is now working directly with PacifiCorp's surveyor regarding the edits that still need to be made to the survey.
November 1, 2018	DNR	DNR representative sent revised draft lease for PacifiCorp review. This does not contain survey or legal description yet. PacifiCorp begins review of document. DNR representative also noted DNR is waiting for All County Surveyors to finalize the survey and correct the technical edits.
November 5, 2018	DNR	DNR representative confirms final survey is approved for recording by DNR.
December, 2018	PacifiCorp	PacifiCorp Legal review of DNR draft lease
December 19, 2018	PacifiCorp	PacifiCorp files Extension of Time Request to the FERC
January 7, 2019	PacifiCorp	PacifiCorp records the final survey as approved by DNR in Clark County, Washington
January 24, 2019	FERC	The FERC issues Extension of Time to PacifiCorp
March 13, 2019	DNR	PacifiCorp received letter from DNR advising that if PacifiCorp did not approve the last draft lease for the

Date	Acting Party	Action/Event
		trailhead location the agency had offered, PacifiCorp's application would be canceled.
March 21, 2019	PacifiCorp	PacifiCorp Legal conducted phone call with DNR AG to advise they were conducting legal review and needed more time to do so.
July 3, 2019	PacifiCorp and DNR	PacifiCorp Legal sent another email to AG on 7/3/2019 recommending more dates to discuss language in document. AG responded and informed legal to go ahead and finalize remainder of document with DNR agents Shannon Soto and Charles Malone.
July 16, 2019	PacifiCorp and DNR	PacifiCorp and DNR conducted a conference call to finalize lease agreement. The parties were not able to reach agreement concerning multiple items, including but not limited to liability language and the term length of the agreement. The DNR representative asked for confirmation concerning whether the issue was now closed. PacifiCorp advised the agency that if this was still a requirement under the FERC license, then the issue is still open for PacifiCorp. PacifiCorp further advised DNR that PacifiCorp would put together a purchase proposal and submit to them for review.
November 13, 2019	PacifiCorp	PacifiCorp sent an email DNR offering to purchase the three tax lots (total of 81.66 acres) that belong to the state of Washington in their entirety. As a clarification, a potential purchase of only the portions of the tax lots over which the trailhead and trail traverse is not an option as a result of Clark County minimum-acreage zoning restrictions.
November 15, 2019	DNR	DNR sent email response to PacifiCorp noting that DNR is not interested in disposing of the properties as the agency's ownership preserve control over active timber hauling routes.
December 9, 2019	PacifiCorp	PacifiCorp submits to the FERC an Extension of Time to find an alternative trail plan.
March 26, 2020	FERC	FERC grants extension of time to December 31, 2021
October 21, 2020	PacifiCorp and LRC	PacifiCorp presented Saddle Dam conceptual trail plan to the LRC as a potential alternative to the IP Road Trail. LRC agreed that a trail plan at Saddle Dam would be a good alternative to IP Road trail and to proceed with next steps.

Attachment B: Eagle Cliff Trail Project Actions Summary

On September 28, 2006, PacifiCorp informed the LRC that a contractor would be selected to prepare the Eagle Cliff Park Trail Plan. The feasibility study was initiated in early 2007.

On March 6, 2007, PacifiCorp provided the LRC with what it understood to be the potential trail route considered during relicensing. In review, this route had safety issues and could have resulted in disturbance to bull trout and a local eagle roost.

On May 20, 2009, PacifiCorp provided the LRC and USFWS with the Eagle Cliff Park Trail Feasibility Study Report for its 30-day review and comment period.

On May 21, 2009, PacifiCorp received comment from the Washington Recreation Conservation Office (WRCO) on the May 20, 2009 Eagle Cliff Park Trail Feasibility Study Report.

On June 11, 2009, PacifiCorp reported to the Aquatic Coordination Committee (ACC) the background of the Settlement Agreement requirement (SA 11.2.1.2) specific to PacifiCorp conducting a detailed trail routing study in the first year of the Lewis River license.

On June 19, 2009, PacifiCorp received comments from both USFWS and WDFW on the May 20, 2009 Eagle Cliff Park Trail Feasibility Study Report.

On June 22, 2009, PacifiCorp submitted the Eagle Cliff Park Trail Feasibility Study Report and agency correspondence letters to the FERC.

On July 9, 2009 PacifiCorp informed the ACC that a tour of the Eagle Cliff Park Trail had been conducted with representatives from USFWS, PacifiCorp and WDFW, and that PacifiCorp had received comments from both USFWS and WDFW requesting that PacifiCorp not build the trail due to potential threats to bull trout.

On September 13, 2010, PacifiCorp sent to representatives of the Settlement Agreement, notice that the company will not proceed with further development or construction of the Eagle Cliff Park Trail. PacifiCorp also noted intent to file with the FERC required documents indicating that Article 406 of the Project license should be eliminated. No comments were returned to PacifiCorp; no objections were received from the parties to the settlement agreement.

On February 16, 2012, the FERC notified PacifiCorp that it should file a formal request with the FERC to amend the license and remove Article 406.

On July 25, 2012 PacifiCorp informed the LRC of the FERC's February 16, 2012 response. Based on the feasibility study and comments received from USFWS and WDFW, it was noted that PacifiCorp is not likely to construct the trail.

On March 9, 2018, PacifiCorp sent to representatives of the Settlement Agreement and members of the Aquatic Coordination Committee, Terrestrial Coordination Committee and the LRC, a draft version of the license amendment application to remove Article 406 from the Swift No. 1 FERC license.

On May 2, 2018, the Washington Recreation and Conservation Office provided comment to the draft license amendment stating they did not support the proposed amendment and requested that PacifiCorp seek out an equal alternative recreation opportunity.

On October 24, 2018, PacifiCorp provided the LRC information on two alternatives for a trail at Eagle Cliff. Alternative 1, a trail route up the Eagle Cliff rock outcrop on the south side of the Lewis River, and has significant potential public safety concerns. Alternative 2, a trail route between Swift Forest Camp and Eagle Cliff Park, requires crossing multiple private property ownerships and the FS 90 road. The LRC requested that PacifiCorp continue to seek out alternatives in order to satisfy the intent of the SA. The LRC representative from the US Forest Service was tasked with seeking information within its agency about trail development on either side of the FS 90 road.

On October 23, 2019, PacifiCorp presented two additional trail alternatives to the LRC. Alternative 3, a trail route in PacifiCorp Unit 27 with access off the FS 90 road, and Alternative 4, a trail route in PacifiCorp Unit 36 with access off the 7960 road or the 3600 road. Due to access and public safety issues, the LRC agreed that no further action would be required for Alternatives 1 and 3, but request that PacifiCorp continue to consider Alternatives 2 and 4. During this meeting it was noted that the USFS was still tasked to seek information within its agency about trail development, and comment was requested by Dec. 1, 2019. Later that day, the USFS asked PacifiCorp if trail development on USFS property would comply with ADA standards and if a restroom facility would be considered and/or if PacifiCorp would be contributing to the maintenance of the Pine Creek Information facility. PacifiCorp responded that the trail would likely be minimally developed as backcountry in nature and therefore would be exempt from barrier free development due to the 1019 Condition for Exceptions #3: "Compliance would fundamentally alter the function or purpose of the facility or the setting" under the U.S. Access Board requirements for ADA accessibility for new construction for outdoor recreation on Federal land. Additionally, restroom facilities would be provided to trail users at both Swift Forest Camp and Eagle Cliff Park and therefore would likely be unnecessary to provide for another restroom along the trail or maintenance support at the Pine Creek Information facility. No additional discussion has transpired, and it remains unclear to date if the USFS would support trail development on either side of the US 90 road.

On October 21, 2020, PacifiCorp presented a conceptual map and project proposal memo to the LRC describing an alternative trail plan to be developed on PacifiCorp property at Saddle Dam, Unit 10. The LRC agreed that the proposed would be a good alternative to replace the Eagle Cliff trail requirement, and requested PacifiCorp proceed with next steps.

From: [Mark Smith](#)
To: [Emmerson, Kendel \(PacifiCorp\)](#)
Subject: [INTERNET] Fwd: Pedal Assist Bicycles
Date: Thursday, October 22, 2020 10:13:53 AM
Attachments: [RCW 46.04.169 Electric-assisted bicycle—Class 1 electric-assisted bicycle—Class 2 electric-assisted bicycle—Class 3 electric-assisted bicycle..html](#)
[NPS-2020-0001-0001_content.pdf](#)
[BLM-2020-0001-0001_content.pdf](#)
[FWS-HQ-NWRS-2019-0109-0001_content.pdf](#)
[E-Bike-Law-Handouts WA 2020.pdf](#)

**** REMEMBER SAIL WHEN READING EMAIL ****

Sender	The sender of this email is ecoparkman@gmail.com using a friendly name of Mark Smith . Are you expecting the message? Is this different from the message sender displayed above?
Attachments	Does this message contain attachments? Yes If yes, are you expecting them? RCW 46.04.169_ Electric-assisted bicycle—Class 1 electric-assisted bicycle—Class 2 electric-assisted bicycle—Class 3 electric-assisted bicycle..html , NPS-2020-0001-0001_content.pdf , BLM-2020-0001-0001_content.pdf , FWS-HQ-NWRS-2019-0109-0001_content.pdf , E-Bike-Law-Handouts_WA_2020.pdf
Internet Tag	Messages from the Internet should have [INTERNET] added to the subject.
Links	Does this message contain links? No Check links before clicking them or removing BLOCKED in the browser.
Cybersecurity risk assessment: Medium	

Kendel Emmerson,

Please find below my email request sent to Mr Clapp, the Citizen representative to PacifiCorp TCC Group.

Todd Olsen also suggested that I send you the same information, regarding my request for the TCC Group to review your decision to disallow pedal assist bicycles (E-Bikes) access on roads closed to motorized vehicles, but open to bicycles. I have also attached information regarding current RCW's. Washington State Law and other State and Federal agency decisions regarding Pedal Assist Bicycles (E-Bike).

I am happy to discuss this matter in greater detail with you at your convenience.

Thank you for your prompt attention to this matter,

Mark Smith,
 Eco Park Resort, at Mt St Helens,
 Bakcou E-Bike Dealer
 360-749-4050

----- Forwarded message -----
From: **Mark Smith** <ecoparkman@gmail.com>
Date: Wed, Oct 21, 2020 at 12:44 PM
Subject: Pedal Assist Bicycles

To: <jmcmacle@gmail.com>

Mr John Clapp,

RE : TCC Pedal Assist Bicycle Use Decision

My name is Mark Smith, I was given your name from Todd Olsen, I understand that you are the Citizen Representative to Pacificcorp's TCC group.

I own and operate Eco Park Resort, at Mt St Helens, I am an E-bike rider and dealer, while there is much concern and information regarding E-bike capabilities, power and speed, I find most E-Bike owners are older users using them to continue outdoor activities. My E-Bike owners ride them safely and slow, using the pedal assist to give them the ability, insurance and confidence to participate in outdoor recreation in their later years.

While they do provide pedal assistance with an electric motor, with limited battery power, you still have to pedal. They provide a smooth, controlled work out and rider experience. Talking to my owners, most ride the same distances as they did on conventional mountain bikes, averaging 6-12 miles. And, while E-Bike manufactures claim distances of 25 to 30 mile distances, we see the averages of battery life more in the area of 6 to 12, dependent on the elevation gain on roads and trails.

E-bikes are evolving and are proving to provide recreational access to people who may not have the physical capability to ride a conventional mountain bike, but still want to be able to access and experience outdoor recreation. It is important that all land management bodies and jurisdictions are provided with the latest information and facts surrounding them so that they can make responsible decisions for all recreational user groups.

Being a dealer I have demo bikes in stock and would be happy to provide them for you to ride and evaluate them for yourself.

I look forward to providing information and sharing my opinion and concerns with the TCC group. I am confident that once all the facts and information are presented that a decision will be made to benefit all user groups with regards to access on recreational land Pacific Corp Controls.

I have attached information regarding E-Bike use in our State and Federal Lands.

Thank you in advance for taking the time to read this email, please contact me if you have any questions or concerns.

Mark Smith,
Eco Park Resort, at Mt St Helens
360-749-4050

DATES: The comment period for the advance notice of proposed rulemaking published February 14, 2020, at 85 FR 8516, is extended. Comments should be received on or before July 14, 2020.

ADDRESSES: Submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* docket@access-board.gov. Include docket number ATBCB–2020–0002 in the subject line of the message.

- *Fax:* 202–272–0081.

- *Mail or Hand Delivery/Courier:* Office of Technical and Information Services, U.S. Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004–1111.

All comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Technical information: Juliet Shoultz, (202) 272–0045, Email: shoultz@access-board.gov. Legal information: Wendy Marshall, (202) 272–0043, marshall@access-board.gov.

SUPPLEMENTARY INFORMATION: On February 14, 2020, the Architectural and Transportation Barriers Compliance Board (Access Board) issued an advance notice of proposed rulemaking to begin the process of updating its existing accessibility guidelines for rail vehicles covered by the Americans with Disabilities Act. See 85 FR 8516, February 14, 2020. In that document, the Access Board requested comments by May 14, 2020.

On March 26, 2020, the American Public Transit Association (APTA) requested that the 90-day comment period be extended for an additional 60 days to allow for a more thorough, careful review of the 25 technical questions posed by the Board. APTA continued that “given the pandemic and national emergency declarations, our members who are concerned about this issue have been pulled away to work on essential functions. Thus, the additional time would allow APTA members to collaborate and develop thoughtful responses to the Access Board’s questions.”

Although the Access Board has already provided a 90-day comment period and held a public hearing on the ANPRM, the Board will provide additional time for the public to submit comments.

David M. Capozzi,
Executive Director.

[FR Doc. 2020–07292 Filed 4–9–20; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8340

[LLWO430000.L12200000.XM0000.20x 24 1A]

RIN 1004–AE72

Increasing Recreational Opportunities Through the Use of Electric Bikes

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its off-road vehicle regulations to add a definition for electric bikes (e-bikes) and, where certain criteria are met and an authorized officer expressly determines through a formal decision that e-bikes should be treated the same as non-motorized bicycles, expressly exempt those e-bikes from the definition of off-road vehicles. This proposed change would facilitate increased recreational opportunities for all Americans, especially those with physical limitations, and would encourage the enjoyment of lands and waters managed by the BLM.

DATES: Please submit comments on or before June 9, 2020.

ADDRESSES: You may submit comments, identified by the number RIN 1004–AE72, by any of the following methods:

—*Mail/Personal or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, Mail Stop 2134 LM, 1849 C St. NW, Attention: RIN 1004–AE72, Washington, DC 20240.

—*Federal eRulemaking portal:* <http://www.regulations.gov>. In the Searchbox, enter “RIN 1004–AE72” and click the Search button. Follow the instruction at this website.

FOR FURTHER INFORMATION CONTACT: Britta Nelson, National Conservation Lands and Community Partnerships, 303–236–0539. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Executive Summary

- I. Public Comment Procedures
- II. Background
- III. Discussion of the Proposed Rule
- IV. Procedural Matters

I. Public Comment Procedures

You may submit comments, identified by the number RIN 1004–AE72, by any of the methods described in the **ADDRESSES** section.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and
2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM is not obligated to consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at the address listed under “**ADDRESSES:** Personal or messenger delivery” during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

II. Background

The Federal Land Policy and Management Act (FLPMA) directs the BLM to manage public lands it administers for multiple use and sustained yield (unless otherwise provided by law) and to provide for outdoor recreation (43 U.S.C. 1701). Many visitors bicycle on BLM-managed public lands. Improvements in bicycle technology have made bicycling an option for more people and have made public lands more accessible to cyclists. One bicycle design modification growing in popularity is the addition of a small electric motor that provides an electric power assist to the operation of the bicycle and reduces the physical

exertion demands of the rider. Electric bicycles (also known as e-bikes) are available in an ever-expanding range of design types (urban commuter, full suspension mountain, fat-tire, gear hauler bikes, etc.) and electric assist capabilities (limited by speed, wattage, output algorithms, etc.). E-bikes are commonly used in different capacities, such as transportation and recreation. While they come in many varieties, the proposed rule focuses on Class 1, 2, and 3 e-bikes.

The integration of a small electric motor onto bicycles has reduced the physical demand required to operate an e-bike and, in turn, has increased the public's access to recreational opportunities, including for people with limitations stemming from age, illness, disability or fitness, and in more challenging environments, such as high altitudes or mountainous terrain. The integration of a small electric motor onto bicycles has also created uncertainty regarding whether e-bikes should be treated in the same manner as other types of bicycles or as motorized vehicles subject to the BLM's off-road vehicle regulations at 43 CFR part 8340.

On August 29, 2019, the Secretary of the Interior issued Secretary's Order (S.O.) 3376 to address regulatory uncertainty on how agencies within the Department of the Interior should manage e-bikes. Specifically, S.O. 3376 set forth the policy of the Department of the Interior that e-bikes should be allowed where other, non-motorized types of bicycles are allowed and not allowed where other, non-motorized types of bicycles are prohibited. S.O. 3376 directs the BLM to revise its off-road vehicle regulations at 43 CFR 8340.0–5 to be consistent with S.O. 3376. The National Park Service, Fish and Wildlife Service, and Bureau of Reclamation are also revising their regulations for consistency with S.O. 3376.

III. Discussion of Proposed Rule

Existing BLM regulations do not explicitly address the use of e-bikes on public lands. However, under the BLM's current Travel and Transportation Management Manual (MS–1626), e-bikes are managed as off-road vehicles, as defined at 43 CFR 8340.0–5(a), and are allowed only in those areas and on those roads or trails that are designated as open or limited to off-road vehicle use. Additionally, e-bikes currently must be operated in accordance with the regulations governing off-road vehicle use at 43 CFR subpart 8341.

The proposed rule would direct authorized officers to generally allow, through subsequent decision-making,

Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, where appropriate. The authorization for Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion to be used on roads and trails upon which mechanized, non-motorized use is allowed, would be included in a land-use planning or implementation-level decision. Such decisions would be made in accordance with applicable legal requirements, including compliance with the National Environmental Policy Act (NEPA). Under the proposed rule, where an authorized officer determines that Class 1, 2, and 3 e-bikes should be allowed on roads and trails upon which mechanized, non-motorized use is allowed, such e-bikes would be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) and would not be subject to the regulatory requirements in 43 CFR part 8340. Additionally, e-bikes excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) would be afforded all the rights and privileges, and be subject to all of the duties, of a non-motorized bicycle. Under the proposed rule, authorized officers would not allow e-bikes where mechanized, non-motorized bicycles are prohibited.

A primary objective of the BLM's travel and transportation management is to establish a long-term, sustainable, multimodal travel network and transportation system that addresses the need for public, authorized, and administrative access to and across BLM-managed lands and related waters. Travel management planning occurs as part of regional or site-specific land use and implementation decisions. Such decisions typically involve public participation and must comply with NEPA. Travel management is an ongoing and dynamic process through which roads and trails for different modes of travel can be added and/or subtracted from the available travel system at any time through the appropriate planning and NEPA processes. These changes may be necessary based on access needs, resource objectives, and impacts to natural resources or the human environment. Any such decisions are made through an amendment to the existing land use plan, or through implementation level actions for a travel management plan.

Under current land use plans and travel management plans, the use of off-road vehicles (and, therefore, e-bikes) is currently allowed on the majority of

roads and trails on BLM-administered public lands. The proposed rule would have no effect on the use of e-bikes and other motorized vehicles on such roads and trails; e-bikes, which the BLM currently manages as off-road vehicles, and other motorized vehicles could continue to use roads and trails upon which off-road vehicle use is currently allowed. However, the proposed rule would, by directing authorized officers to allow certain e-bike use where mechanized, non-motorized bicycle use is allowed, facilitate an increase in recreational opportunities for all Americans, especially those with physical limitations, and encourage the enjoyment of the Department of the Interior (DOI)-managed lands and waters.

The BLM expects that the changes directed by the proposed rule would result in an increase in e-bike ridership on public lands. The BLM recognizes that the appeal of many BLM-managed roads and trails to cyclists is the opportunity to experience a challenging road or trail which may have inherently limited ridership. Under the proposed rule, the use of an e-bike could cause increased ridership on these roads or trails. To address site-specific issues, the BLM would consider the environmental impacts from the use of e-bikes through a subsequent analysis. E-bike use would be subject to the governing land use plans, including conditions of use that may be specific to an area. The BLM requests information from the public on the potential social and physical impacts of e-bike use on public lands.

§ 8340.0–5 Definitions

The proposed rule would add a new definition for electric bicycles, or e-bikes, and define three classifications of e-bikes (see new paragraph (j) of this section). The proposed rule would also exclude e-bikes from the definition of off-road vehicle, pursuant to subsequent action by an authorized officer, where specific criteria are met (see new paragraph (a)(5) of this section).

Paragraph (a) of this section defines an off-road vehicle as “any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain . . .” and includes 5 exceptions. The proposed rule would move existing paragraph (a)(5) of this section to (a)(6) and add a new (a)(5) that addresses e-bikes. Under proposed paragraph (a)(5) of this section, an e-bike would be excluded from the definition of off-road vehicle if: (1) The e-bike is being used on roads and trails where mechanized, non-motorized use is allowed; (2) the e-bike

is not being used in a manner where the motor is being used exclusively to propel the e-bike; and (3) an authorized officer has expressly determined, as part of a land-use planning or implementation-level decision, that e-bikes should be treated the same as non-motorized bicycles on such roads and trails.

Notably, some e-bikes are capable of propulsion without pedaling. For example, 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 at 43 CFR 8340.0–5(a) and would continue to be regulated as off-road vehicles.

New paragraph (j) of this section includes the definition for electric bicycles, or e-bikes. E-bikes may have 2 or 3 wheels and must have fully operable pedals. The electric motor for an e-bike may not exceed 750 watts (one horsepower). E-bikes must fall into one of three classes, as described in paragraphs (j)(1) through (3) of this section.

Proposed paragraph (j)(1) describes class 1 e-bikes, which are equipped with a motor that only provides assistance when the rider is pedaling and ceases to provide assistance when the speed of the bicycle reaches 20 miles per hour.

Proposed paragraph (j)(2) of this section describes class 2 e-bikes, which have a motor that in addition to pedal assistance, can propel the bicycle without pedaling. This propulsion and pedal assistance ceases to provide assistance when the speed of the bicycle reaches 20 miles per hour.

Proposed paragraph (j)(3) of this section describes class 3 e-bikes, which have a motor that only provides assistance when the rider is pedaling and ceases to provide assistance when the speed of the bicycle reaches 28 miles per hour.

The definition of e-bike in proposed paragraph (j), including the three classes of e-bikes included in that definition, is consistent with other DOI agencies which are also proposing revisions to their regulations to address e-bike use. The BLM believes that having the same definition as other DOI agencies will ensure consistent implementation across public lands administered by the DOI and help coordination with other local, State, and Federal agencies.

Considering that this technology is new and evolving, the BLM requests information from the public on use of Class 1, 2, and 3 e-bikes on roads and trails on public land.

Subpart 8342—Designation of Areas and Trails

Section 8342.2 Designation Procedures

The proposed rule would add a new paragraph (d) to this section that addresses how the BLM would issue decisions to authorize the use of e-bikes on public lands. Authorized officers would generally be encouraged to authorize the use of e-bikes whose motorized features are being used to assist human propulsion on roads and trails upon which mechanized, non-motorized use is allowed. The proposed rule provides authorized officers with discretion, however, to determine that the use of e-bikes (or certain classes of e-bikes) would be inappropriate on roads or trails.

This proposed rule would not, on its own, change the existing allowances for e-bike usage on BLM-administered public lands. In other words, no additional e-bike use would be allowed on BLM-administered public lands as a direct result of this proposed rule becoming effective. Rather, the proposed rule directs the BLM to specifically consider e-bike usage in future land use planning or implementation-level decisions. This new paragraph also provides the authorized officer with discretion to determine whether e-bike use generally, or the use of certain classes of e-bikes, would be inappropriate on certain roads or trails. While the BLM believes that increasing public access to public lands through the use of e-bikes would generally be appropriate on roads and trails upon which mechanized, non-motorized use is permitted, there are certain instances where that is not the case. For example, some trails may be particularly steep or narrow and the use of an e-bike at speeds higher than originally intended could present a danger to some users. In some situations, legislation or a presidential proclamation may restrict motorized use of a trail. Another example of where e-bike use might be limited is a non-motorized trail that originates on BLM public land and feeds into a trail system under the jurisdiction of another agency that does not allow e-bike use on that trail. Proposed paragraph (d) of this section would allow the BLM the flexibility to utilize local knowledge and determine the propriety of e-bike use on site-specific basis.

Under new paragraph (d) of this section, e-bikes being used on roads and trails where mechanized, non-motorized use is allowed pursuant to a decision by an authorized officer will be given the same rights and privileges of a traditional, non-motorized bicycle and

will be subject to all of the duties of a traditional, non-motorized bicycle. While the BLM intends for this proposed rule to increase accessibility to public lands, e-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed. For example, e-bikes would not be allowed on roads or trails or in areas where traditional, non-motorized bicycle travel is prohibited, such as in designated wilderness.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

The proposed rule addresses how the BLM would allow visitors to operate e-bikes on public lands and directs the BLM to specifically address e-bike usage in future land-use planning or implementation-level decisions. The proposed rule would amend 43 CFR 8340.0–5 to define class 1, 2, and 3 of e-bikes. The proposed rule would direct authorized officers to generally allow, through subsequent decision-making in a land-use planning or implementation-level decision, Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, where appropriate. The proposed rule, where certain criteria are

met, would exclude e-bikes from the definition of off-road vehicle.

The proposed rule would not be self-executing. The proposed rule, in and of itself, would not change existing allowances for e-bike usage on BLM-administered public lands. It would neither allow e-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of e-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. While the BLM intends for this proposed rule to increase accessibility to public lands, e-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed.

The BLM reviewed the requirements of the proposed rule and determined that it would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. For more

detailed information, see the Economic and Threshold analysis prepared for this proposed rule. This analysis has been posted in the docket for the proposed rule on the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Searchbox, enter “RIN 1004–AE72”, click the “Search” button, open the Docket Folder, and look under Supporting Documents.

Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

The BLM has complied with E.O. 13771 and the OMB implementation guidance for that order.¹ The proposed rule is not a significant regulation action as defined by E.O. 12866 or a significant guidance document. Therefore, the proposed rule is not an “E.O. 13771 regulatory action,” as defined by OMB guidance. As such, the proposed rule is not subject to the requirements of E.O. 13771.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number

of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The RFA generally requires that Federal agencies prepare a regulatory flexibility analysis for rules subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), if the rule would have a significant economic impact, whether detrimental or beneficial, on a substantial number of small entities. See 5 U.S.C. 601–612. Congress enacted the RFA to ensure that government regulations do not unnecessarily or disproportionately burden small entities. Small entities include small businesses, small governmental jurisdictions, and small not-for-profit enterprises. The proposed rule is most likely to affect entities that participate in biking and other outdoor recreation. The industries most likely to be directly affected are listed in SBA Size Standards Table that follows, including the relevant SBA size standards.

SBA SIZE STANDARDS TABLE

Industry	NAICS Code	Size standards in millions of dollars
Sporting Goods Stores	451110	\$16.5
Scenic and Sightseeing Transportation, Land	487110	8.0
Recreational Goods Rental	532284	8.0

Based on these thresholds, the proposed rule may affect small entities. In addition to determining whether a substantial number of small entities are likely to be affected by this proposed rule, the BLM must also determine whether the proposed rule is anticipated to have a significant economic impact on those small entities. The proposed rule is most likely to affect entities that participate in biking and other outdoor recreation. The industries most likely to be directly affected include sporting goods stores, scenic and sightseeing land transportation, and recreational goods rental. The BLM generally expects that the proposed rule would facilitate increased recreational opportunities on public lands, although these impacts would occur after future site-specific decisions, not as a direct result of the proposed rule. For these reasons, the magnitude of the impact on any individual or group, including small

entities, is expected to be negligible. There is no reason to expect that these changes would place an undue burden on any specific individual or group, including small entities.

Based on the available information, we conclude that the proposed rule will not have a significant impact on a substantial number of small entities. Therefore, a final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more. The proposed rule would not have a direct and quantifiable economic impact, but is intended to increase

recreational opportunities on public lands.

- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This proposed rule would add a definition for e-bikes, direct the BLM to consider how they should be managed on public lands in future land-use planning and implementation-level decisions, and exclude e-bikes from the definition of off-road vehicle when certain criteria are met.

- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The BLM expects this rule to facilitate additional recreational opportunities on public lands, which would be beneficial

¹ Executive Office of the President, Office of Management and Budget, Executive Order 13771, January 30, 2017. 82 FR 9339. Available at [https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-](https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-02451.pdf)

02451.pdf. See also, OMB Memorandum “Regulatory Policy Officers at Executive Departments and Agencies Managing and Executive Directors of Certain Agencies and Commissions,”

April 5, 2017. Available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf>.

to local economies on impacted public lands.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The BLM will coordinate with impacted entities, as necessary and appropriate, when it makes land use planning decisions regarding the use of e-bikes on public lands in a particular area. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This proposed rule would only impact public lands and how they are managed by the BLM regarding the use of e-bikes. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The BLM would coordinate with State and local governments, as appropriate, when making future planning decisions under this rule regarding the use of e-bikes on public lands. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The DOI strives to strengthen its government-to-government relationship

with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. This rulemaking is an administrative change that directs the BLM to address e-bike use in future land-use planning or implementation-level decisions. The proposed rule does not change existing allowances for e-bike usage on BLM-administered public lands. The rulemaking does not commit the agency to undertake any specific action, and the BLM retains the discretion to authorize e-bike use where appropriate. Tribal consultation would occur as required on a project-specific basis as potential e-bike opportunities are considered by the BLM.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (PRA) is not required.

National Environmental Policy Act

The BLM does not believe that this rule would constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule, as proposed, would be categorically excluded from further analysis or documentation under NEPA in accordance with 43 CFR 46.210(i), which applies to:

Policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case basis.

This proposed rule would not change the existing allowances for e-bike usage on public lands. It would neither allow e-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of e-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. The proposed rule

would (i) add a new definition for e-bikes; (ii) direct the BLM to specifically address e-bike usage in future land-use planning or implementation-level decisions; and (iii) set forth specific criteria for when e-bikes may be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a). Before the public could use e-bikes on any roads or trails that are not currently opened to off-road vehicle use, an authorized officer of the BLM would have to issue a land-use planning or implementation-level decision allowing for such use. That decision would have to comply with applicable law, including NEPA. As such, the proposed rule is administrative and procedural in nature and would not result in any environmental effects. Moreover, the environmental effects associated with future land-use planning or implementation-level decisions that do allow increased e-bike use are too speculative or conjectural at this time to lend themselves to meaningful analysis. Any environmental effects associated with future decisions would be subject to the NEPA process on a case-by-case basis. The BLM has also determined, as a preliminary matter, that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. This proposed rule would not directly impact any allowed uses on public lands, only generally directs the BLM to consider allowing their use on existing trails and roads and in those areas where traditional bicycles are allowed. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in the

ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Author

The principal author(s) of this rule are Evan Glenn and David Jeppesen, Recreation and Visitor Services Division; Rebecca Moore, Branch of Decision Support; Scott Whitesides, Branch of Planning and NEPA; Britta Nelson, National Conservation Lands Division; Charles Yudson, Division of Regulatory Affairs; assisted by the Office of the Solicitor, Ryan Sklar.

Casey Hammond,

Acting Assistant Secretary, Land and Minerals Management.

List of Subjects in 43 CFR Part 8340

Public lands, Recreation and recreation areas, Traffic regulations.

43 CFR Chapter II

For the reasons set out in the preamble, the Bureau of Land Management proposes to amend 43 CFR part 8340 as follows:

PART 8340—OFF-ROAD VEHICLES

■ 1. The authority citation for part 8340 continues to read as follows:

Authority: 43 U.S.C. 1201, 43 U.S.C. 315a, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 4601–6a, 16 U.S.C. 1241 *et seq.*, and 43 U.S.C. 1701 *et seq.*

Subpart 8340—General

■ 2. Revise § 8340.0–5 to read as follows:

§ 8340.0–5 Definitions.

As used in this part:

(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 nonamphibious 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;
- (5) E-bikes, as defined in paragraph (j) of this section:

(i) While being used on roads and trails upon which mechanized, non-motorized use is allowed;

(ii) That are not being used in a manner where the motor is being used exclusively to propel the E-bike; and

(iii) Where the authorized officer has expressly determined, as part of a land-use planning or implementation-level decision, that E-bikes should be treated the same as non-motorized bicycles; and

(6) Any combat or combat support vehicle when used in times of national defense emergencies.

(b) *Public lands* means any lands the surface of which is administered by the Bureau of Land Management.

(c) *Bureau* means the Bureau of Land Management.

(d) *Official use* means use by an employee, agent, or designated representative of the Federal Government or one of its contractors, in the course of his employment, agency, or representation.

(e) *Planning system* means the approach provided in Bureau regulations, directives and manuals to formulate multiple use plans for the public lands. This approach provides for public participation within the system.

(f) *Open area* means an area where all types of vehicle use is permitted at all times, anywhere in the area subject to the operating regulations and vehicle standards set forth in subparts 8341 and 8342 of this title.

(g) *Limited area* means an area restricted at certain times, in certain areas, and/or to certain vehicular use. These restrictions may be of any type, but can generally be accommodated within the following type of categories: Numbers of vehicles; types of vehicles; time or season of vehicle use; permitted or licensed use only; use on existing roads and trails; use on designated roads and trails; and other restrictions.

(h) *Closed area* means an area where off-road vehicle use is prohibited. Use of off-road vehicles in closed areas may be allowed for certain reasons; however, such use shall be made only with the approval of the authorized officer.

(i) *Spark arrester* is any device which traps or destroys 80 percent or more of the exhaust particles to which it is subjected.

(j) *Electric bicycle* (also known as an E-bike) means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts (1 h.p.) that meets the requirements of one of the following three classes:

(1) Class 1 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the

bicycle reaches the speed of 20 miles per hour.

(2) Class 2 electric bicycle shall mean an electric bicycle 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.

(3) Class 3 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

Subpart 8342—Designation of Areas and Trails

■ 3. Amend § 8342.2 by adding paragraph (d) to read as follows:

§ 8342.2 Designation procedures.

* * * * *

(d) *E-bikes*. (1) Authorized officers should generally allow, as part of a land-use planning or implementation-level decision, E-bikes whose motorized features are being used to assist human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, unless the authorized officer determines that E-bike use would be inappropriate on such roads or trails; and

(2) If the authorized officer allows E-bikes in accordance with this paragraph (d), an E-bike user shall be afforded all the rights and privileges, and be subject to all of the duties, of user of a non-motorized bicycle.

[FR Doc. 2020-07099 Filed 4-9-20; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1548

[Docket No. TSA-2020-0001]

Air Cargo Security Options To Mitigate Costs of Compliance With International Security Requirements

AGENCY: Transportation Security Administration, DHS.

ACTION: Request for information (RFI).

SUMMARY: The Transportation Security Administration (TSA) requests information from the public, specifically the air cargo industry (including manufacturers, shippers, suppliers, warehouses, e-commerce fulfillment centers, third-party logistics providers,



WASHINGTON'S E-BIKE LAW FOR THE ROAD

- » E-bikes are regulated like bicycles. The same rules of the road apply to both e-bikes and human-powered bicycles.
- » E-bikes are not subject to the registration, licensing, or insurance requirements that apply to motor vehicles.
- » Washington designates three classes of e-bikes:
 - » **Class 1:** Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.
 - » **Class 2:** Bicycle equipped with a throttle-actuated motor, that ceases to provide assistance when the e-bike reaches 20 mph.
 - » **Class 3:** Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 28 mph.

- » Class 1 and 2 e-bikes are allowed on bike paths and improved trails; while class 3 e-bikes are not, unless the local agency authorizes them. When in doubt, check with your town, city, or county for local regulations.
- » Persons under 16 years of age may not ride a Class 3 e-bike, unless they are riding as a passenger.
- » The use of electric bicycles on singletrack mountain bike trails is determined by the agency or local authority which jurisdiction over that land. Check with your local land manager for information about access.

* The following Washington laws are referenced: RCW 2 46.04.169, 46.04.071, 46.20.500, 46.61.710 and 46.37.

eMTB GUIDELINES

- » On federal, state, county and local trails, e-mountain bike (eMTB) access varies significantly.
- » Generally, any natural surface trail that is designated as open to both motorized and non-motorized uses is also open to eMTBs.
- » eMTBs may not be allowed on trails managed for non-motorized activities.
- » Do not ride your eMTB in areas where the local rules are unclear. Ride legally and only on authorized trails to show that mountain bikers are responsible trail users.
- » When in doubt, ask your local land manager about access to specific trails. Local land rules change frequently.

WASHINGTON'S E-BIKE LAW FOR TRAILS

- » **LOCAL:** Consult your local land management agency.
- » **STATE:** The Washington Recreation and Conservation Office does not currently have an eMTB policy but expects to regulate them similarly to motorized vehicles. Contact the department for the most up to date information. PeopleForBikes is monitoring this policy and will update this document as needed.
- » **FEDERAL:** On federal lands, eMTBs are considered motorized vehicles and have access to motorized trails. Contact the U.S. Forest Service Pacific Northwest Regional Office or the BLM Washington State Office for more information.

GREAT eMTB RIDES IN WASHINGTON

- » **Boundary Trail**
Morton | 30.5 miles
- » **North Fork of Asotin Creek**
Asotin | 23.8 miles



With an e-bike, bicyclists can ride more often, farther, and for more trips.

Electric bicycles are designed to be as safe as traditional bicycles, do not compromise consumer safety, and benefit bicyclists who may be discouraged from riding a traditional bicycle due to limited physical fitness, age, disability or convenience.

In many states, e-bikes are regulated under antiquated laws primarily aimed at combustion engine vehicles such as mopeds or scooters. PeopleForBikes is clarifying state laws governing the use of e-bikes in the U.S. Every state's law is different, but the objective is to ensure that low-speed e-bikes are regulated similarly to traditional, human-powered bicycles.

Learn more at [PeopleForBikes.org/e-bikes](https://www.peopleforbikes.org/e-bikes)

- » Blogs and webinars
- » E-bike laws around the country
- » E-bike statistics and research
- » Buying guide
- » Retailer materials
- » eMTB management resources

TABLE 1 TO SUBPART AA OF PART 63—EXISTING SOURCE EMISSION LIMITS ^{a b}

For the following existing sources . . .	You must meet the emission limits for the specified pollutant . . .		
	Total fluorides	Total particulate	Mercury
Wet-Process Phosphoric Acid Line	0.020 lb/ton of equivalent P ₂ O ₅ feed.	2,150 lb/ton of phosphate rock feed. 0.181 g/dscm.	0.23 mg/dscm corrected to 3 percent oxygen. ^e
Superphosphoric Acid Process Line ^c	0.010 lb/ton of equivalent P ₂ O ₅ feed.		
Superphosphoric Acid Submerged	0.020 lb/ton of equivalent P ₂ O ₅ feed.		
Line with a Submerged Combustion Process		
Phosphate Rock Dryer		
Phosphate Rock Calciner	9.0E-04 lb/ton of rock feed ^d ..		

^a The existing source compliance data is June 10, 2002, except as noted.

^b During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.602(f).

^c Beginning on August 19, 2018, you must include oxidation reactors in superphosphoric acid process lines when determining compliance with the total fluorides limit.

^d Compliance date is August 19, 2015.

^e Compliance date is [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

[FR Doc. 2020-06930 Filed 4-6-20; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 27

[Docket No. FWS-HQ-NWRS-2019-0109; FXRS1263090000-201-FF09R81000]

RIN 1018-BE68

National Wildlife Refuge System; Use of Electric Bicycles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, have adopted a policy, and we propose to adopt consistent regulations, pertaining to the use of electric bicycles (otherwise known as “e-bikes”). These proposed changes are intended to increase recreational opportunities for all Americans, especially for people with physical limitations. We solicit comments on proposed regulations that will provide guidance and controls for the use of e-bikes on the National Wildlife Refuge System.

DATES: Written comments will be accepted through June 8, 2020.

ADDRESSES: You may submit comments, identified by Docket No. FWS-HQ-NWRS-2019-0109 by any one of the following methods:

- *Federal e-rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-HQ-NWRS-2019-0109.

- *Mail:* Address comment to Public Comments Processing, Attn: Docket No. FWS-HQ-NWRS-2019-0109; U.S. Fish and Wildlife Service; MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041.

- *Hand-deliver:* U.S. Fish and Wildlife Service; MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Maggie O’Connell, National Wildlife Refuge System—Branch Chief for Visitor Services, 703-358-1883, maggie_ococonnell@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee), governs the administration and public use of refuges, and the Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4) governs the administration and public use of refuges and hatcheries. The National Wildlife Refuge System Administration Act closes national wildlife refuges in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use upon a determination that the use is compatible with the purposes of the refuge and the National Wildlife Refuge System mission. The action also must be in accordance with the provisions of all laws applicable, consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest.

These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of

present and future generations of Americans. The Refuge System is an unparalleled network of 568 national wildlife refuges and 38 wetland management districts. More than 59 million Americans visit refuges every year. You can find at least one refuge in every State and every U.S. territory, and within a 1-hour drive of most major cities.

The U.S. Fish and Wildlife Service (FWS) administers the Refuge System via regulations contained in title 50 of the Code of Federal Regulations (CFR). These regulations help to protect the natural and cultural resources of refuges, and to protect visitors and property within those lands. In their current form, these regulations generally prohibit visitors from utilizing motorized vehicles on refuges other than on designated routes.

Electric Bicycles

Secretary’s Order 3376 directs Department of the Interior (DOI) bureaus to begin the process of obtaining public input on proposed new regulations that will clarify that operators of low-speed electric bicycles (e-bikes) should enjoy the same access as conventional bicycles, consistent with other Federal and State laws. Refuge managers will have the ability in the short term to utilize the flexibility they have under current regulations to accommodate this new technology, that assists riders as they pedal, in a way that allows them to enjoy the bicycling experience.

DOI’s guidance will enable visitors to use these bicycles with a small electric motor (not more than 1 horsepower) power assist in the same manner as traditional bicycles. The operator of an e-bike may use the small electric motor

only to assist pedal propulsion. The motor may not be used to propel an e-bike without the rider also pedaling.

A majority of States have adopted e-bike policies, most following model legislation that allows for the three classes of e-bikes to have access to bicycle trails. The DOI e-bike guidance seeks to provide consistency with the State and local rules where possible.

In 2019, approximately 1.4 million people bicycled at 197 national wildlife refuges. The Refuge System's new e-bike guidance provides expanded options for visitors who wish to ride a bicycle and who may be limited by fitness level or ability.

Similar to traditional bicycles, e-bikes are not allowed in designated wilderness areas and may not be appropriate for back-country trails. The focus of the DOI guidance is on expanding the traditional bicycling experience to those who enjoy the reduction of effort provided by this new e-bike technology. Local refuge and land managers will limit, restrict, or impose conditions on bicycle use and e-bike use where necessary to manage visitor use conflicts and ensure visitor safety and resource protection.

E-bikes make bicycle travel easier and more efficient, because they allow bicyclists to travel farther with less effort. When used as an alternative to gasoline- or diesel-powered modes of transportation, e-bikes can reduce greenhouse gas emissions and fossil fuel consumption, improve air quality, and support active modes of transportation for visitors. Similar to traditional bicycles, e-bikes can decrease traffic congestion, reduce the demand for vehicle parking spaces, and increase the number and visibility of cyclists on the road.

This Proposed Rule

The regulations in 50 CFR part 27 pertain to prohibited acts on refuge lands. The current regulations in § 27.31 generally prohibit use of any motorized or other vehicles, including those used on air, water, ice, or snow, on national wildlife refuges except on designated routes of travel, as indicated by the appropriate traffic control signs or signals and in designated areas posted or delineated on maps by the refuge manager.

Under the proposed amendment, which is set forth at the end of this document, e-bikes would be allowed where other types of bicycles are allowed, and e-bikes would not be allowed where other types of bicycles are prohibited. DOI proposes to adopt a definition of "e-bike" that is informed by the definition of "low-speed electric

bicycle" found at 15 U.S.C. 2085 and that meets the requirements of one of three classes of e-bikes.

Request for Comments

You may submit comments and materials on this proposed rule by any one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked by the date specified in **DATES**.

We will post your entire comment on <http://www.regulations.gov>. Before including personal identifying information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Compliance With Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This proposed rule is an Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) deregulatory action.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

In 2019, there were approximately 1.4 million bicycle visits on 197 refuges (34.6 percent of all refuges). Of these 197 refuges, 136 refuges had fewer than 1,000 bicycle visits. These visits comprised approximately 2 percent (=2.34%) of total recreational visits for the Refuge System.

Under the proposed rule, recreational activities on refuges could be expanded by allowing e-bikes where determined by the appropriate refuge manager. As a result, recreational visitation at these stations may change. The extent of any increase would likely be dependent upon factors such as whether current bicyclists change from using traditional bicycles to e-bikes, whether walking/hiking visits change to e-bike visits, or whether other recreational visitors decrease visits due to increased conflicts. The impact of these potential factors is uncertain. However, we estimate that increasing opportunities for e-bikes would correspond with less than 2 percent of the average recreational visits due to the small percentage of current bicycling visits.

Small businesses within the retail trade industry (such as hotels, gas

stations, sporting equipment stores, and similar businesses) may be affected by some increased or decreased station visitation due to the proposed rule. A large percentage of these retail trade establishments in the local communities near national wildlife refuges and national fish hatcheries qualify as small businesses. We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule would have a significant economic effect on a substantial number of small entities in any region or nationally.

Therefore, we certify that this proposed rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

- Would not have an annual effect on the economy of \$100 million or more.
- Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications. This rule would affect only visitors at national wildlife refuges.

Federalism (Executive Order 13132)

In accordance with E.O. 13132, this proposed rule does not require the preparation of a federalism assessment.

Civil Justice Reform (Executive Order 12988)

In accordance with E.O. 12988, the Department of the Interior has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This proposed rule does not contain information collection requirements, and a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We are required under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) to assess the impact of any Federal action significantly affecting the quality of the human environment, health, and safety. We have determined that the proposed rule falls under the class of actions covered by the following Department of the Interior categorical exclusion: "Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case." (43 CFR 46.210(i)). Under the proposed rule, a refuge manager must first make a determination that e-bike use is a compatible use before allowing e-bike use on a national wildlife refuge. This determination must be made on a case-by-case basis. Therefore, the environmental impacts of the proposed rule are too speculative to lead to meaningful analysis at this time. The Service will assess the environmental impacts of e-bike use in compliance with NEPA at the time a refuge manager determines whether e-bike use is compatible.

Government-to-Government Relationship With Tribes

In accordance with E.O. 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249), the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22961), and 512 DM 2, we will consult with federally recognized tribal governments to jointly evaluate and

address the potential effects, if any, of the proposed regulatory action.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- Be logically organized;
- Use the active voice to address readers directly;
- Use clear language rather than jargon;
- Be divided into short sections and sentences; and
- Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 27

Wildlife refuges.

Proposed Regulation Promulgation

In consideration of the foregoing, we propose to amend part 27, subchapter C of chapter I, title 50 of the Code of Federal Regulations as follows:

PART 27—PROHIBITED ACTS

- 1. The authority citation for part 27 continues to read as follows:

Authority: 5 U.S.C. 685, 752, 690d; 16 U.S.C. 460k, 460l–6d, 664, 668dd, 685, 690d, 715i, 715s, 725; 43 U.S.C. 315a.

Subpart C—Disturbing Violations: With Vehicles

- 2. Amend § 27.31 by redesignating paragraph (m) as paragraph (n) and adding a new paragraph (m) to read as follows:

§ 27.31 General provisions regarding vehicles.

* * * * *

(m) If the refuge manager determines that electric bicycle (also known as an e-bike) use is a compatible use on roads or trails, any person using the motorized features of an e-bike as an assist to human propulsion shall be afforded all the rights and privileges, and be subject to all of the duties, of the operators of non-motorized bicycles on roads and trails. An e-bike is a two- or three-wheeled electric bicycle with fully

operable pedals and an electric motor of not more than 750 watts (1 h.p.) that meets the requirements of one of the following three classes:

(1) Class 1 e-bike shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) Class 2 e-bike shall mean an electric bicycle 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.

(3) Class 3 e-bike shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to

provide assistance when the bicycle reaches the speed of 28 miles per hour.

* * * * *

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020-07167 Filed 4-6-20; 8:45 am]

BILLING CODE 4333-15-P

with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting three days that would prohibit entry in the Lake Shore State Park Lagoon within the Milwaukee Harbor during the swim portion of a triathlon. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T09–0207 to read as follows:

§ 100.T09–0207 Special Local Regulation; USA Triathlon, Milwaukee Harbor, Milwaukee, WI

(a) *Regulated area.* This area includes all waters of the Lake Shore State Park Lagoon in the Milwaukee Harbor within an area bound by coordinates 43°02.20' N, 087°53.69' W, then south to 43°01.75' N, 087°53.71' W, then southwest to 43°01.73' N, 087°53.96' W, then northeast to 43°02.20' N, 087°53.83' W, then east to point of origin.

(b) *Special Local Regulations.* (1) The regulations in this section, along with the regulations of § 100.901, apply to this marine event. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Captain of the Port Lake Michigan (COTP) or the Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP or the Patrol Commander on VHF–FM Channel 16 to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the COTP or the Patrol Commander.

(c) *Effective dates.* These regulations are in effect from 8 a.m. on August 7, 2020 through 2 p.m. on August 9, 2020. Public notice of specific enforcement times will be made available through Broadcast Notice to Mariners.

Dated: April 1, 2020.

T.J. Stuhlfreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2020–07244 Filed 4–7–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 4

[NPS–WASO–REGS; 29978; GPO Deposit Account 4311H2]

RIN 1024–AE61

General Provisions; Electric Bicycles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes regulations governing the use of electric bicycles, or e-bikes, within the National Park System. This rule would define the term “electric bicycle” and establish rules for how electric bicycles may be used. This rule would implement Secretary of the Interior Order 3376, “Increasing Recreational Opportunities through the use of

Electric Bikes,” on lands administered by the National Park Service.

DATES: Comments on the proposed rule must be received by June 8, 2020.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE61, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for “1024-AE61”. Follow the instructions for submitting comments.

(2) *By hard copy:* Mail or hand deliver to: Jay Calhoun, Regulations Program Manager, National Park Service, 1849 C Street NW, MS-2472, Washington, DC 20240.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the RIN 1024-AE61 for this rulemaking. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. Comments received may be posted without change to www.regulations.gov, including any personal information provided. The NPS seeks meaningful public input on this rule. The intent of this action is to address an emerging technology in a manner that accommodates visitors and increases opportunities for the public to recreate within and travel through the National Park System, while at the same time protecting the resources and values that draw millions of visitors each year.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov and search for “1024-AE61”.

FOR FURTHER INFORMATION CONTACT: Jay Calhoun, Regulations Program Manager, National Park Service; (202) 513-7112; waso_regulations@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

Use and Management of Bicycles

Bicycling is a popular recreational activity in many units of the National Park System. Cyclists of all skill levels and ages enjoy riding on park roads and designated bicycle trails for scenery, exercise, and adventure. Visitors bicycle alone, with friends, or with family. From leisurely rides to challenging alpine climbs, bicycles offer spectacular opportunities to experience the resources of the National Park System.

National Park Service (NPS) regulations at 36 CFR 4.30 govern the use of bicycles on NPS-administered

lands. These regulations identify where bicycles are allowed, manage how bicycles may be used, and allow superintendents to restrict bicycle use when necessary. Bicycles are allowed on park roads and parking areas open to public motor vehicles. Bicycles are also allowed on administrative roads that are closed to motor vehicle use by the public but open to motor vehicle use by the NPS for administrative purposes, but only after the superintendent determines that such bicycle use is consistent with protection of the park area’s natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. The use of bicycles on trails is subject to a thorough approval and review process. When bicycle use is proposed for a new or existing trail, the NPS must complete a planning process that evaluates bicycle use on the specific trail, including impacts to trail surface and soil conditions, maintenance costs, safety considerations, potential user conflicts, and methods to protect resources and mitigate impacts. For both new and existing trails, the NPS must complete an environmental assessment or environmental impact statement that concludes that bicycle use on the trail will have no significant impacts. The superintendent must prepare and the regional director must approve the same written determination that is required for allowing bicycles on administrative roads. Each of these documents must be made available for public review and comment. For new trails outside of developed areas, the NPS must publish a special regulation designating the trail for bicycle use, which is subject to a separate public comment period.

Adherence to the procedures in these regulations helps ensure that bicycles are allowed only in locations where, in the judgment of the NPS, their use is appropriate and will not cause unacceptable impacts. The NPS has completed the process required by these regulations in many NPS units, including the following that have special regulations designating trails for bicycle use: Rocky Mountain National Park, Saguro National Park, Cuyahoga Valley National Park, Hot Springs National Park, Grand Teton National Park, Mammoth Cave National Park, Sleeping Bear Dunes National Lakeshore, New River Gorge National River, Chattahoochee River National Recreation Area, Bryce Canyon National Park, Pea Ridge National Military Park, and Golden Gate National Recreation Area.

Introduction of Electric Bicycles

While bicycling has been a decades-long tradition in many park areas, the appearance of electric bicycles, or e-bikes, is a relatively new phenomenon. An e-bike is a bicycle with a small electric motor that provides power to help move the bicycle. As they have become more popular both on and off NPS-managed lands, the NPS has recognized the need to address this emerging form of recreation so that it can exercise clear management authority over e-bikes and provide clarity to visitors and stakeholders such as visitor service providers.

Similar to traditional bicycles, the NPS believes that, with proper management, the use of e-bikes may be an appropriate activity in many park areas. E-bikes advance the NPS’s “Healthy Parks Healthy People” goals to promote national parks as a health resource.¹ Specifically, e-bikes can increase bicycle access to and within parks. E-bikes make bicycle travel easier and more efficient because they allow bicyclists to travel farther with less effort. E-bikes can expand the option of bicycling to more people by providing a new option for those who want to ride a bicycle but might not otherwise do so because of physical fitness, age, or convenience, especially at high altitude or in hilly or strenuous terrain. Also, when used as an alternative to gasoline- or diesel-powered modes of transportation, e-bikes can reduce greenhouse gas emissions and fossil fuel consumption, improve air quality, and support active modes of transportation for park staff and visitors. Similar to traditional bicycles, e-bikes can decrease traffic congestion, reduce the demand for vehicle parking spaces, and increase the number and visibility of cyclists on the road.

Policy Direction for Managing E-Bikes

Secretary’s Order 3376

On August 29, 2019, Secretary of the Interior Bernhardt signed Secretary’s Order 3376, “Increasing Recreational Opportunities through the use of Electric Bikes.” The purpose of this Order is to increase recreational opportunities for all Americans, especially those with physical limitations, and to encourage the enjoyment of lands and waters managed by the Department of the Interior. The Order emphasizes the potential for e-bikes to reduce the physical demands of

¹ For more information about how the NPS promotes the health and well-being of park visitors through the Healthy Parks Healthy People movement, visit <https://www.nps.gov/subjects/health/and/safety/health-benefits-of-parks.htm>.

operating a bicycle and therefore expand access to recreational opportunities, particularly for those with limitations stemming from age, illness, disability or fitness, and in more challenging environments, such as high altitudes or hilly terrain. E-bikes have an electric motor yet are operable in a similar manner to traditional bicycles and in many cases appear indistinguishable from them. For these reasons, the Order acknowledges there is regulatory uncertainty regarding whether e-bikes should be managed similar to other types of bicycles, or, alternatively, considered motor vehicles. The Order states that this regulatory uncertainty has led to inconsistent management of e-bikes across the Department and, in some cases, served to decrease access to Federally owned lands by users of e-bikes. In order to address these concerns, the Order directs the NPS and other Department of the Interior agencies to define e-bikes separately from motor vehicles and to allow them where other types of bicycles are allowed.

NPS Policy Memorandum 19–01

On August 30, 2019, the Deputy Director of the NPS, Exercising the Authority of the Director, issued Policy Memorandum 19–01, Electric Bicycles. This policy satisfies a requirement in the Secretary's Order that all Department of the Interior agencies adopt policy and provide appropriate public guidance regarding the use of e-bikes on public lands that conforms to the policy direction set forth in the Order.

The Memorandum defines an e-bike as “a two- or three-wheeled cycle with fully operable pedals and an electric motor of less than 750 watts that provides propulsion assistance.” This definition is consistent with the definition of “low speed electric bicycle” in the Consumer Product Safety Act (15 U.S.C. 2085), currently the only federal statutory definition of e-bikes, except that the definition in the Memorandum does not include the statutory requirement that an e-bike may not reach 20 mph on a paved level surface, when powered solely by the motor while ridden by an operator who weighs less than 170 pounds. Instead, the Memorandum, consistent with the Secretary's Order and many states that have promulgated regulations for e-bikes, refers to a three-class system that limits the maximum assisted speed of an e-bike:

- *Class 1 electric bicycle* means an electric bicycle equipped with a motor that provides assistance only when the

rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

- *Class 2 electric bicycle* means an electric bicycle 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.

- *Class 3 electric bicycle* means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

Consistent with the Order, the Memorandum announces a policy that e-bikes are allowed where traditional bicycles are allowed and that e-bikes are not allowed where traditional bicycles are prohibited. The Memorandum refers to regulations for bicycles in paragraphs (f), (g), and (h) of 36 CFR 4.30 that relate to closures and other use restrictions, other requirements, and prohibited acts. The Memorandum requires that these provisions also govern the use of e-bikes so that the use of e-bikes and bicycles are generally regulated in the same manner.

Paragraph (f) of section 4.30 allows superintendents to limit or restrict or impose conditions on bicycle use or close any park road, trail, or portion thereof to bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The Memorandum authorizes superintendents to limit or restrict or impose conditions on e-bike use for the same reasons, provided the public is notified through one or more methods listed in 36 CFR 1.7. When using this authority, the Memorandum advises superintendents to understand state and local rules addressing e-bikes so that the use of e-bikes within a park area is not restricted more than in adjacent jurisdictions, to the extent possible.

Paragraph (g) of section 4.30 states that bicycle use is subject to certain NPS regulations that apply to motor vehicles. Specifically, bicycle use is subject to regulations in sections 4.12 (Traffic control devices), 4.13 (Obstructing traffic), 4.20 (Right of way), 4.21 (Speed limits), 4.22 (Unsafe operation), 4.23 (Operating under the influence of alcohol or drugs). The Memorandum applies these provisions in the same manner to e-bikes. Paragraph (g) also states that, unless specifically addressed by NPS regulations, the use of a bicycle is governed by state law, which is adopted and made part of section 4.30. The Memorandum requires superintendents to adopt state law in

the same manner for e-bikes. State laws concerning the definition, safety operation, and licensing of e-bikes vary from state to state. A growing number of states use the three-class system to differentiate between the models and top assisted speeds of e-bikes.

Paragraph (h) of section 4.30 prohibits possessing a bicycle in wilderness and contains safety regulations for the use of bicycles. Specifically, paragraphs (h)(3)–(5) establish rules relating to operation during periods of low visibility, abreast of another bicycle, and with an open container of alcohol. The Memorandum applies these provisions in the same manner to e-bikes.

The Memorandum directs the superintendents of any NPS unit with e-bikes present to implement the actions required by the policy using their regulatory authority in 36 CFR 1.5(a)(2). This authority allows superintendents to designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity. As of the date this proposed rule, more than 380 units of the National Park System have implemented the e-bike policy under the authority in 36 CFR 1.5(a)(2) and have published notice of this action in the park-specific compilation of management actions required by 36 CFR 1.7(b), referred to as the superintendent's compendium. This means that for each of these NPS units, e-bikes are already allowed subject to the rules governing them that are set out in the compendium.

Proposed Rule

As explained above, Secretary's Order 3376 directs the NPS to develop a proposed rule to revise 36 CFR 1.4 and any associated regulations to be consistent with the Order. Specifically, the Order directs the NPS to add a definition for e-bikes consistent with 15 U.S.C. 2085, and expressly exempt all e-bikes as defined in the Order from the definition of motor vehicles.

This rule would accomplish these directives. The rule would amend 36 CFR 1.4 to add a new definition of “electric bicycle” that is the same as the definition used in the Policy Memorandum, with one minor difference. The definition in the Memorandum refers to the definition in the Consumer Product Safety Act (15 U.S.C. 2085) that limits the power of the motor to less than 750 watts. Many manufacturers sell e-bikes with motors having exactly 750 watts. In order to avoid the unintended consequence of excluding many devices from the regulatory definition of an e-bike due to a one watt difference in power, the definition of e-bikes in the proposed

rule would include devices of not more than 750 watts.

The rule would explicitly exclude e-bikes from the definition of “motor vehicle” found at 36 CFR 1.4. This would make it clear that, except as stated in section 4.30(g), e-bikes are not subject to the regulations in 36 CFR part 4 that apply to the use of motor vehicles. The NPS does not need to change the existing definition of “bicycle” to distinguish them from e-bikes because the definition of bicycle includes only those devices that are “solely human powered.” E-bikes are excluded from this definition because they have an electric motor that helps power the device.

Consistent with the Secretary’s Order and the Policy Memorandum, the proposed rule would state that e-bikes may be allowed on roads, parking areas, administrative roads and trails that are open to traditional bicycles. The rule would also state that superintendents will designate the areas open to e-bikes and notify the public pursuant to 36 CFR 1.7. E-bikes would not be allowed in other locations. E-bikes would be allowed on administrative roads and trails where bicycles are allowed without the need to undertake the procedural steps in paragraphs (b)–(e) of section 4.30 that were required when traditional bicycles were first allowed in those locations. If a park superintendent proposes to designate an administrative road or trail for e-bike use where traditional bicycles are not yet allowed, the superintendent would need to follow the procedural steps required by paragraphs (b)–(e) in order to designate those locations for bicycle and e-bike use.

Although they will be defined differently, the proposed rule would apply certain regulations that govern the use of bicycles to the use of e-bikes in the same manner as the Policy Memorandum. These regulations are explained in more detail above and include rules of operation and adoption of state law to the extent not addressed by NPS regulations. The rule would also give superintendents the authority to limit or restrict e-bike use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. If warranted by these criteria, superintendents may use this authority to manage e-bikes, or particular classes of e-bikes, differently than traditional bicycles in particular locations. For example, a superintendent could determine that a trail open to traditional bicycles should not be open to e-bikes, or should be open to class 1 e-bikes only. Every

restriction or closure that limits the use of e-bikes will be supported by a written record explaining the basis for such action. The record will explain why e-bikes are managed differently than traditional bicycles if that is the effect of the restriction or closure. All such restrictions and closures should be listed in the superintendent’s compendium (or written compilation) of discretionary actions referred to in 36 CFR 1.7(b).

Except for administrative actions taken by the NPS in limited circumstances, the Wilderness Act prohibits mechanical transport in wilderness areas designated by Congress. 16 U.S.C. 1133(c). Accordingly, paragraph (h)(2) of section 4.30 prohibits possessing a bicycle, a form of mechanical transport, in a wilderness area established by Federal statute. For the same reason, the rule would prohibit the possession of e-bikes in designated wilderness areas, even though this prohibition already exists under the Wilderness Act.

Except on park roads and other locations where the use of motor vehicles by the public is allowed, the rule would prohibit an operator from using the electric motor to move an e-bike without pedaling. This restriction is consistent with the Policy Memorandum and intended to allow the public to use e-bikes for transportation and recreation in a similar manner to traditional bicycles. It would only affect the use of class 2 e-bikes, which have a motor that may be used exclusively to propel the e-bike. The NPS specifically requests comment on whether this restriction is appropriate or workable. Alternatively, the NPS could allow superintendents to implement this restriction at the park level if necessary in specific locations.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty,

and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M–17–21). This rule would address regulatory uncertainty regarding the use of electric bicycles in the National Park System by clearly stating that they may be used where traditional bicycles are allowed.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled “Draft Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Regulations Addressing the Designation of Electric Bicycle Use in Units of the National Park System”. The report may be viewed online at www.regulations.gov by searching for “1024–AE61”.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2). This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The

rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects the use of electric bicycles on federally-administered lands. It has no outside effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of

Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. The NPS has determined the rule is categorically excluded under 43 CFR 46.210(i) which applies to "policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case."

Many units of the National Park System already allow the use of e-bikes where traditional bicycles are allowed under the direction of the Policy Memorandum. The Policy Memorandum required those units to evaluate the environmental impacts of allowing e-bikes under NEPA. Because traditional bicycles were already an established presence in areas where e-bikes were recently allowed, traditional bicycles were part of the baseline of existing conditions from which the environmental impacts of e-bikes were measured. Therefore, the impacts potentially caused by the implementation of the Policy Memorandum were limited only to those impacts from e-bikes that differ from the existing impacts of traditional bicycles. As a result, for most units a categorical exclusion has applied.

For those units that have already allowed e-bikes under the Policy Memorandum, this rule is administrative and legal in nature because it would simply clarify that superintendents have the authority to allow e-bikes in units, but does not change the management of e-bikes or require any action because the general statements in park compendiums that e-bikes are allowed wherever traditional bicycles are allowed would constitute a designation under this rule.

In some units of the National Park System, the superintendent may have not yet opened bicycle trails to e-bikes, or may have closed a location to the use of e-bikes or otherwise restricted their use. In these units, any future decision

to allow e-bikes in a new location or manner will be subject to an evaluation of the environmental impacts of that decision at that time. This will also be true for locations where, in the future, traditional bicycles and e-bikes are introduced for the first time. If a park superintendent proposes to designate an administrative road or trail for e-bike use where traditional bicycles are not yet allowed, the superintendent will need to follow the same procedural steps in order to designate those locations for bicycle and e-bike use. In both of the circumstances described above, the environmental effects of this rule are too speculative or conjectural at this time to lend themselves to meaningful analysis, and those later designations will be subject to the NEPA process.

The NPS has also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 4

National Parks, Traffic Regulations.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR parts 1 and 4 as set forth below:

PART 1—GENERAL PROVISIONS

- 1. The authority citation for part 1 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

- 2. Amend § 1.4 by adding, in alphabetical order, a definition for "Electric bicycle" and revising the definition for "Motor vehicle" to read as follows:

§ 1.4 What terms do I need to know?

(a) * * *

* * * * *

Electric bicycle means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts that meets the requirements of one of the following three classes:

(1) "Class 1 electric bicycle" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) "Class 2 electric bicycle" shall mean an electric bicycle 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.

(3) "Class 3 electric bicycle" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

* * * * *

Motor vehicle means every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated on rails or water, except an electric bicycle, a snowmobile, and a motorized wheelchair.

* * * * *

PART 4—VEHICLES AND TRAFFIC SAFETY

■ 3. The authority citation for part 4 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 4. Amend § 4.30 by adding paragraph (i) to read as follows:

§ 4.30 Bicycles

* * * * *

(i) *Electric bicycles.*

(1) The use of an electric bicycle may be allowed on park roads, parking areas, and administrative roads and trails that are otherwise open to bicycles. The Superintendent will designate the areas open to electric bicycles and notify the public pursuant to 36 CFR 1.7.

(2) The use of an electric bicycle is prohibited in locations not designated by the Superintendent under paragraph (i)(1) of this section.

(3) Except where use of motor vehicles by the public is allowed, using the electric motor to move an electric bicycle without pedaling is prohibited.

(4) Possessing an electric bicycle in a wilderness area established by Federal statute is prohibited.

(5) A person operating or possessing an electric bicycle is subject to the following sections of this part that apply to bicycles: Sections 4.12, 4.13, 4.20, 4.21, 4.22, 4.23, and 4.30(h)(3)–(5).

(6) Except as specified in this section, the use of an electric bicycle is governed

by State law, which is adopted and made a part of this section. Any act in violation of State law adopted by this paragraph is prohibited.

(7) Superintendents may limit or restrict or impose conditions on electric bicycle use, or may close any park road, parking area, administrative road, trail, or portion thereof to such electric bicycle use, or terminate such condition, closure, limit or restriction after:

(i) Taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives; and

(ii) Notifying the public through one or more methods listed in 36 CFR 1.7, including in the superintendent's compendium (or written compilation) of discretionary actions referred to in section 1.7(b).

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–07163 Filed 4–7–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF DEFENSE

48 CFR Parts 203, 205, 211, 212, 217, 219, 225, 228, 236, 237, 246, 250, and 252

[Docket DARS–2020–0002]

RIN 0750–AK76

Defense Federal Acquisition Regulation Supplement: Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2019–D036)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement 41 U.S.C. 1908, Inflation adjustment of acquisition-related dollar thresholds. This statute requires an adjustment every five years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. DoD is also proposing to use the same methodology to adjust some nonstatutory DFARS acquisition-related thresholds in 2020.

DATES: Comments on the proposed rule should be submitted in writing to the

address shown below on or before June 8, 2020, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2019–D036, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for "DFARS Case 2019–D036." Select "Comment Now" and follow the instructions to submit a comment. Please include your name, company name (if any), and "DFARS Case 2019–D036" on any attached document.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2019–D036 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Kimberly R. Ziegler, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Instructions: Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly R. Ziegler, telephone 571–372–6095.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to amend multiple DFARS parts to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every five years (on October 1 of each year evenly divisible by five) of statutory acquisition-related thresholds for inflation, using the Consumer Price Index (CPI) for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see Federal Acquisition Regulation (FAR) 1.109). As a matter of policy, DoD is also proposing to use the same methodology to adjust some nonstatutory DFARS acquisition-related thresholds on October 1, 2020. FAR case 2019–013 proposes comparable changes to acquisition-related thresholds in the FAR.

This is the fourth review of DFARS acquisition-related thresholds since the statute was enacted on October 28, 2004 (section 807 of the National Defense Authorization Act for FY 2004). The last review was conducted under DFARS case 2014–D025. The final rule was published under that case in the **Federal**

From: [Mark Smith](#)
To: [Emmerson, Kendel \(PacifiCorp\)](#)
Subject: [INTERNET] Fwd: Pedal Assist Bicycles
Date: Thursday, October 22, 2020 10:13:53 AM
Attachments: [RCW 46.04.169 Electric-assisted bicycle—Class 1 electric-assisted bicycle—Class 2 electric-assisted bicycle—Class 3 electric-assisted bicycle..html](#)
[NPS-2020-0001-0001_content.pdf](#)
[BLM-2020-0001-0001_content.pdf](#)
[FWS-HQ-NWRS-2019-0109-0001_content.pdf](#)
[E-Bike-Law-Handouts WA 2020.pdf](#)

**** REMEMBER SAIL WHEN READING EMAIL ****

Sender	The sender of this email is ecoparkman@gmail.com using a friendly name of Mark Smith . Are you expecting the message? Is this different from the message sender displayed above?
Attachments	Does this message contain attachments? Yes If yes, are you expecting them? RCW 46.04.169_ Electric-assisted bicycle—Class 1 electric-assisted bicycle—Class 2 electric-assisted bicycle—Class 3 electric-assisted bicycle..html , NPS-2020-0001-0001_content.pdf , BLM-2020-0001-0001_content.pdf , FWS-HQ-NWRS-2019-0109-0001_content.pdf , E-Bike-Law-Handouts_WA_2020.pdf
Internet Tag	Messages from the Internet should have [INTERNET] added to the subject.
Links	Does this message contain links? No Check links before clicking them or removing BLOCKED in the browser.
Cybersecurity risk assessment: Medium	

Kendel Emmerson,

Please find below my email request sent to Mr Clapp, the Citizen representative to PacifiCorp TCC Group.

Todd Olsen also suggested that I send you the same information, regarding my request for the TCC Group to review your decision to disallow pedal assist bicycles (E-Bikes) access on roads closed to motorized vehicles, but open to bicycles. I have also attached information regarding current RCW's. Washington State Law and other State and Federal agency decisions regarding Pedal Assist Bicycles (E-Bike).

I am happy to discuss this matter in greater detail with you at your convenience.

Thank you for your prompt attention to this matter,

Mark Smith,
 Eco Park Resort, at Mt St Helens,
 Bakcou E-Bike Dealer
 360-749-4050

----- Forwarded message -----
From: **Mark Smith** <ecoparkman@gmail.com>
Date: Wed, Oct 21, 2020 at 12:44 PM
Subject: Pedal Assist Bicycles

To: <jmcmacle@gmail.com>

Mr John Clapp,

RE : TCC Pedal Assist Bicycle Use Decision

My name is Mark Smith, I was given your name from Todd Olsen, I understand that you are the Citizen Representative to Pacificcorp's TCC group.

I own and operate Eco Park Resort, at Mt St Helens, I am an E-bike rider and dealer, while there is much concern and information regarding E-bike capabilities, power and speed, I find most E-Bike owners are older users using them to continue outdoor activities. My E-Bike owners ride them safely and slow, using the pedal assist to give them the ability, insurance and confidence to participate in outdoor recreation in their later years.

While they do provide pedal assistance with an electric motor, with limited battery power, you still have to pedal. They provide a smooth, controlled work out and rider experience. Talking to my owners, most ride the same distances as they did on conventional mountain bikes, averaging 6-12 miles. And, while E-Bike manufactures claim distances of 25 to 30 mile distances, we see the averages of battery life more in the area of 6 to 12, dependent on the elevation gain on roads and trails.

E-bikes are evolving and are proving to provide recreational access to people who may not have the physical capability to ride a conventional mountain bike, but still want to be able to access and experience outdoor recreation. It is important that all land management bodies and jurisdictions are provided with the latest information and facts surrounding them so that they can make responsible decisions for all recreational user groups.

Being a dealer I have demo bikes in stock and would be happy to provide them for you to ride and evaluate them for yourself.

I look forward to providing information and sharing my opinion and concerns with the TCC group. I am confident that once all the facts and information are presented that a decision will be made to benefit all user groups with regards to access on recreational land Pacific Corp Controls.

I have attached information regarding E-Bike use in our State and Federal Lands.

Thank you in advance for taking the time to read this email, please contact me if you have any questions or concerns.

Mark Smith,
Eco Park Resort, at Mt St Helens
360-749-4050

DATES: The comment period for the advance notice of proposed rulemaking published February 14, 2020, at 85 FR 8516, is extended. Comments should be received on or before July 14, 2020.

ADDRESSES: Submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* docket@access-board.gov. Include docket number ATBCB–2020–0002 in the subject line of the message.

- *Fax:* 202–272–0081.

- *Mail or Hand Delivery/Courier:* Office of Technical and Information Services, U.S. Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004–1111.

All comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Technical information: Juliet Shoultz, (202) 272–0045, Email: shoultz@access-board.gov. Legal information: Wendy Marshall, (202) 272–0043, marshall@access-board.gov.

SUPPLEMENTARY INFORMATION: On February 14, 2020, the Architectural and Transportation Barriers Compliance Board (Access Board) issued an advance notice of proposed rulemaking to begin the process of updating its existing accessibility guidelines for rail vehicles covered by the Americans with Disabilities Act. See 85 FR 8516, February 14, 2020. In that document, the Access Board requested comments by May 14, 2020.

On March 26, 2020, the American Public Transit Association (APTA) requested that the 90-day comment period be extended for an additional 60 days to allow for a more thorough, careful review of the 25 technical questions posed by the Board. APTA continued that “given the pandemic and national emergency declarations, our members who are concerned about this issue have been pulled away to work on essential functions. Thus, the additional time would allow APTA members to collaborate and develop thoughtful responses to the Access Board’s questions.”

Although the Access Board has already provided a 90-day comment period and held a public hearing on the ANPRM, the Board will provide additional time for the public to submit comments.

David M. Capozzi,
Executive Director.

[FR Doc. 2020–07292 Filed 4–9–20; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8340

[LLWO430000.L12200000.XM0000.20x 24 1A]

RIN 1004–AE72

Increasing Recreational Opportunities Through the Use of Electric Bikes

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its off-road vehicle regulations to add a definition for electric bikes (e-bikes) and, where certain criteria are met and an authorized officer expressly determines through a formal decision that e-bikes should be treated the same as non-motorized bicycles, expressly exempt those e-bikes from the definition of off-road vehicles. This proposed change would facilitate increased recreational opportunities for all Americans, especially those with physical limitations, and would encourage the enjoyment of lands and waters managed by the BLM.

DATES: Please submit comments on or before June 9, 2020.

ADDRESSES: You may submit comments, identified by the number RIN 1004–AE72, by any of the following methods:

—*Mail/Personal or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, Mail Stop 2134 LM, 1849 C St. NW, Attention: RIN 1004–AE72, Washington, DC 20240.

—*Federal eRulemaking portal:* <http://www.regulations.gov>. In the Searchbox, enter “RIN 1004–AE72” and click the Search button. Follow the instruction at this website.

FOR FURTHER INFORMATION CONTACT:

Britta Nelson, National Conservation Lands and Community Partnerships, 303–236–0539. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Executive Summary

- I. Public Comment Procedures
- II. Background
- III. Discussion of the Proposed Rule
- IV. Procedural Matters

I. Public Comment Procedures

You may submit comments, identified by the number RIN 1004–AE72, by any of the methods described in the **ADDRESSES** section.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and
2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM is not obligated to consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at the address listed under “**ADDRESSES:** Personal or messenger delivery” during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

II. Background

The Federal Land Policy and Management Act (FLPMA) directs the BLM to manage public lands it administers for multiple use and sustained yield (unless otherwise provided by law) and to provide for outdoor recreation (43 U.S.C. 1701). Many visitors bicycle on BLM-managed public lands. Improvements in bicycle technology have made bicycling an option for more people and have made public lands more accessible to cyclists. One bicycle design modification growing in popularity is the addition of a small electric motor that provides an electric power assist to the operation of the bicycle and reduces the physical

exertion demands of the rider. Electric bicycles (also known as e-bikes) are available in an ever-expanding range of design types (urban commuter, full suspension mountain, fat-tire, gear hauler bikes, etc.) and electric assist capabilities (limited by speed, wattage, output algorithms, etc.). E-bikes are commonly used in different capacities, such as transportation and recreation. While they come in many varieties, the proposed rule focuses on Class 1, 2, and 3 e-bikes.

The integration of a small electric motor onto bicycles has reduced the physical demand required to operate an e-bike and, in turn, has increased the public's access to recreational opportunities, including for people with limitations stemming from age, illness, disability or fitness, and in more challenging environments, such as high altitudes or mountainous terrain. The integration of a small electric motor onto bicycles has also created uncertainty regarding whether e-bikes should be treated in the same manner as other types of bicycles or as motorized vehicles subject to the BLM's off-road vehicle regulations at 43 CFR part 8340.

On August 29, 2019, the Secretary of the Interior issued Secretary's Order (S.O.) 3376 to address regulatory uncertainty on how agencies within the Department of the Interior should manage e-bikes. Specifically, S.O. 3376 set forth the policy of the Department of the Interior that e-bikes should be allowed where other, non-motorized types of bicycles are allowed and not allowed where other, non-motorized types of bicycles are prohibited. S.O. 3376 directs the BLM to revise its off-road vehicle regulations at 43 CFR 8340.0–5 to be consistent with S.O. 3376. The National Park Service, Fish and Wildlife Service, and Bureau of Reclamation are also revising their regulations for consistency with S.O. 3376.

III. Discussion of Proposed Rule

Existing BLM regulations do not explicitly address the use of e-bikes on public lands. However, under the BLM's current Travel and Transportation Management Manual (MS–1626), e-bikes are managed as off-road vehicles, as defined at 43 CFR 8340.0–5(a), and are allowed only in those areas and on those roads or trails that are designated as open or limited to off-road vehicle use. Additionally, e-bikes currently must be operated in accordance with the regulations governing off-road vehicle use at 43 CFR subpart 8341.

The proposed rule would direct authorized officers to generally allow, through subsequent decision-making,

Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, where appropriate. The authorization for Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion to be used on roads and trails upon which mechanized, non-motorized use is allowed, would be included in a land-use planning or implementation-level decision. Such decisions would be made in accordance with applicable legal requirements, including compliance with the National Environmental Policy Act (NEPA). Under the proposed rule, where an authorized officer determines that Class 1, 2, and 3 e-bikes should be allowed on roads and trails upon which mechanized, non-motorized use is allowed, such e-bikes would be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) and would not be subject to the regulatory requirements in 43 CFR part 8340. Additionally, e-bikes excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) would be afforded all the rights and privileges, and be subject to all of the duties, of a non-motorized bicycle. Under the proposed rule, authorized officers would not allow e-bikes where mechanized, non-motorized bicycles are prohibited.

A primary objective of the BLM's travel and transportation management is to establish a long-term, sustainable, multimodal travel network and transportation system that addresses the need for public, authorized, and administrative access to and across BLM-managed lands and related waters. Travel management planning occurs as part of regional or site-specific land use and implementation decisions. Such decisions typically involve public participation and must comply with NEPA. Travel management is an ongoing and dynamic process through which roads and trails for different modes of travel can be added and/or subtracted from the available travel system at any time through the appropriate planning and NEPA processes. These changes may be necessary based on access needs, resource objectives, and impacts to natural resources or the human environment. Any such decisions are made through an amendment to the existing land use plan, or through implementation level actions for a travel management plan.

Under current land use plans and travel management plans, the use of off-road vehicles (and, therefore, e-bikes) is currently allowed on the majority of

roads and trails on BLM-administered public lands. The proposed rule would have no effect on the use of e-bikes and other motorized vehicles on such roads and trails; e-bikes, which the BLM currently manages as off-road vehicles, and other motorized vehicles could continue to use roads and trails upon which off-road vehicle use is currently allowed. However, the proposed rule would, by directing authorized officers to allow certain e-bike use where mechanized, non-motorized bicycle use is allowed, facilitate an increase in recreational opportunities for all Americans, especially those with physical limitations, and encourage the enjoyment of the Department of the Interior (DOI)-managed lands and waters.

The BLM expects that the changes directed by the proposed rule would result in an increase in e-bike ridership on public lands. The BLM recognizes that the appeal of many BLM-managed roads and trails to cyclists is the opportunity to experience a challenging road or trail which may have inherently limited ridership. Under the proposed rule, the use of an e-bike could cause increased ridership on these roads or trails. To address site-specific issues, the BLM would consider the environmental impacts from the use of e-bikes through a subsequent analysis. E-bike use would be subject to the governing land use plans, including conditions of use that may be specific to an area. The BLM requests information from the public on the potential social and physical impacts of e-bike use on public lands.

§ 8340.0–5 Definitions

The proposed rule would add a new definition for electric bicycles, or e-bikes, and define three classifications of e-bikes (see new paragraph (j) of this section). The proposed rule would also exclude e-bikes from the definition of off-road vehicle, pursuant to subsequent action by an authorized officer, where specific criteria are met (see new paragraph (a)(5) of this section).

Paragraph (a) of this section defines an off-road vehicle as “any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain . . .” and includes 5 exceptions. The proposed rule would move existing paragraph (a)(5) of this section to (a)(6) and add a new (a)(5) that addresses e-bikes. Under proposed paragraph (a)(5) of this section, an e-bike would be excluded from the definition of off-road vehicle if: (1) The e-bike is being used on roads and trails where mechanized, non-motorized use is allowed; (2) the e-bike

is not being used in a manner where the motor is being used exclusively to propel the e-bike; and (3) an authorized officer has expressly determined, as part of a land-use planning or implementation-level decision, that e-bikes should be treated the same as non-motorized bicycles on such roads and trails.

Notably, some e-bikes are capable of propulsion without pedaling. For example, 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 at 43 CFR 8340.0–5(a) and would continue to be regulated as off-road vehicles.

New paragraph (j) of this section includes the definition for electric bicycles, or e-bikes. E-bikes may have 2 or 3 wheels and must have fully operable pedals. The electric motor for an e-bike may not exceed 750 watts (one horsepower). E-bikes must fall into one of three classes, as described in paragraphs (j)(1) through (3) of this section.

Proposed paragraph (j)(1) describes class 1 e-bikes, which are equipped with a motor that only provides assistance when the rider is pedaling and ceases to provide assistance when the speed of the bicycle reaches 20 miles per hour.

Proposed paragraph (j)(2) of this section describes class 2 e-bikes, which have a motor that in addition to pedal assistance, can propel the bicycle without pedaling. This propulsion and pedal assistance ceases to provide assistance when the speed of the bicycle reaches 20 miles per hour.

Proposed paragraph (j)(3) of this section describes class 3 e-bikes, which have a motor that only provides assistance when the rider is pedaling and ceases to provide assistance when the speed of the bicycle reaches 28 miles per hour.

The definition of e-bike in proposed paragraph (j), including the three classes of e-bikes included in that definition, is consistent with other DOI agencies which are also proposing revisions to their regulations to address e-bike use. The BLM believes that having the same definition as other DOI agencies will ensure consistent implementation across public lands administered by the DOI and help coordination with other local, State, and Federal agencies.

Considering that this technology is new and evolving, the BLM requests information from the public on use of Class 1, 2, and 3 e-bikes on roads and trails on public land.

Subpart 8342—Designation of Areas and Trails

Section 8342.2 Designation Procedures

The proposed rule would add a new paragraph (d) to this section that addresses how the BLM would issue decisions to authorize the use of e-bikes on public lands. Authorized officers would generally be encouraged to authorize the use of e-bikes whose motorized features are being used to assist human propulsion on roads and trails upon which mechanized, non-motorized use is allowed. The proposed rule provides authorized officers with discretion, however, to determine that the use of e-bikes (or certain classes of e-bikes) would be inappropriate on roads or trails.

This proposed rule would not, on its own, change the existing allowances for e-bike usage on BLM-administered public lands. In other words, no additional e-bike use would be allowed on BLM-administered public lands as a direct result of this proposed rule becoming effective. Rather, the proposed rule directs the BLM to specifically consider e-bike usage in future land use planning or implementation-level decisions. This new paragraph also provides the authorized officer with discretion to determine whether e-bike use generally, or the use of certain classes of e-bikes, would be inappropriate on certain roads or trails. While the BLM believes that increasing public access to public lands through the use of e-bikes would generally be appropriate on roads and trails upon which mechanized, non-motorized use is permitted, there are certain instances where that is not the case. For example, some trails may be particularly steep or narrow and the use of an e-bike at speeds higher than originally intended could present a danger to some users. In some situations, legislation or a presidential proclamation may restrict motorized use of a trail. Another example of where e-bike use might be limited is a non-motorized trail that originates on BLM public land and feeds into a trail system under the jurisdiction of another agency that does not allow e-bike use on that trail. Proposed paragraph (d) of this section would allow the BLM the flexibility to utilize local knowledge and determine the propriety of e-bike use on site-specific basis.

Under new paragraph (d) of this section, e-bikes being used on roads and trails where mechanized, non-motorized use is allowed pursuant to a decision by an authorized officer will be given the same rights and privileges of a traditional, non-motorized bicycle and

will be subject to all of the duties of a traditional, non-motorized bicycle. While the BLM intends for this proposed rule to increase accessibility to public lands, e-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed. For example, e-bikes would not be allowed on roads or trails or in areas where traditional, non-motorized bicycle travel is prohibited, such as in designated wilderness.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

The proposed rule addresses how the BLM would allow visitors to operate e-bikes on public lands and directs the BLM to specifically address e-bike usage in future land-use planning or implementation-level decisions. The proposed rule would amend 43 CFR 8340.0–5 to define class 1, 2, and 3 of e-bikes. The proposed rule would direct authorized officers to generally allow, through subsequent decision-making in a land-use planning or implementation-level decision, Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, where appropriate. The proposed rule, where certain criteria are

met, would exclude e-bikes from the definition of off-road vehicle.

The proposed rule would not be self-executing. The proposed rule, in and of itself, would not change existing allowances for e-bike usage on BLM-administered public lands. It would neither allow e-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of e-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. While the BLM intends for this proposed rule to increase accessibility to public lands, e-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed.

The BLM reviewed the requirements of the proposed rule and determined that it would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. For more

detailed information, see the Economic and Threshold analysis prepared for this proposed rule. This analysis has been posted in the docket for the proposed rule on the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Searchbox, enter “RIN 1004–AE72”, click the “Search” button, open the Docket Folder, and look under Supporting Documents.

Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

The BLM has complied with E.O. 13771 and the OMB implementation guidance for that order.¹ The proposed rule is not a significant regulation action as defined by E.O. 12866 or a significant guidance document. Therefore, the proposed rule is not an “E.O. 13771 regulatory action,” as defined by OMB guidance. As such, the proposed rule is not subject to the requirements of E.O. 13771.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number

of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The RFA generally requires that Federal agencies prepare a regulatory flexibility analysis for rules subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), if the rule would have a significant economic impact, whether detrimental or beneficial, on a substantial number of small entities. See 5 U.S.C. 601–612. Congress enacted the RFA to ensure that government regulations do not unnecessarily or disproportionately burden small entities. Small entities include small businesses, small governmental jurisdictions, and small not-for-profit enterprises. The proposed rule is most likely to affect entities that participate in biking and other outdoor recreation. The industries most likely to be directly affected are listed in SBA Size Standards Table that follows, including the relevant SBA size standards.

SBA SIZE STANDARDS TABLE

Industry	NAICS Code	Size standards in millions of dollars
Sporting Goods Stores	451110	\$16.5
Scenic and Sightseeing Transportation, Land	487110	8.0
Recreational Goods Rental	532284	8.0

Based on these thresholds, the proposed rule may affect small entities. In addition to determining whether a substantial number of small entities are likely to be affected by this proposed rule, the BLM must also determine whether the proposed rule is anticipated to have a significant economic impact on those small entities. The proposed rule is most likely to affect entities that participate in biking and other outdoor recreation. The industries most likely to be directly affected include sporting goods stores, scenic and sightseeing land transportation, and recreational goods rental. The BLM generally expects that the proposed rule would facilitate increased recreational opportunities on public lands, although these impacts would occur after future site-specific decisions, not as a direct result of the proposed rule. For these reasons, the magnitude of the impact on any individual or group, including small

entities, is expected to be negligible. There is no reason to expect that these changes would place an undue burden on any specific individual or group, including small entities.

Based on the available information, we conclude that the proposed rule will not have a significant impact on a substantial number of small entities. Therefore, a final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more. The proposed rule would not have a direct and quantifiable economic impact, but is intended to increase

recreational opportunities on public lands.

- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This proposed rule would add a definition for e-bikes, direct the BLM to consider how they should be managed on public lands in future land-use planning and implementation-level decisions, and exclude e-bikes from the definition of off-road vehicle when certain criteria are met.

- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The BLM expects this rule to facilitate additional recreational opportunities on public lands, which would be beneficial

¹ Executive Office of the President, Office of Management and Budget, Executive Order 13771, January 30, 2017. 82 FR 9339. Available at [https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-](https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-02451.pdf)

02451.pdf. See also, OMB Memorandum “Regulatory Policy Officers at Executive Departments and Agencies Managing and Executive Directors of Certain Agencies and Commissions,”

April 5, 2017. Available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf>.

to local economies on impacted public lands.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The BLM will coordinate with impacted entities, as necessary and appropriate, when it makes land use planning decisions regarding the use of e-bikes on public lands in a particular area. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This proposed rule would only impact public lands and how they are managed by the BLM regarding the use of e-bikes. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The BLM would coordinate with State and local governments, as appropriate, when making future planning decisions under this rule regarding the use of e-bikes on public lands. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The DOI strives to strengthen its government-to-government relationship

with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. This rulemaking is an administrative change that directs the BLM to address e-bike use in future land-use planning or implementation-level decisions. The proposed rule does not change existing allowances for e-bike usage on BLM-administered public lands. The rulemaking does not commit the agency to undertake any specific action, and the BLM retains the discretion to authorize e-bike use where appropriate. Tribal consultation would occur as required on a project-specific basis as potential e-bike opportunities are considered by the BLM.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (PRA) is not required.

National Environmental Policy Act

The BLM does not believe that this rule would constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule, as proposed, would be categorically excluded from further analysis or documentation under NEPA in accordance with 43 CFR 46.210(i), which applies to:

Policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case basis.

This proposed rule would not change the existing allowances for e-bike usage on public lands. It would neither allow e-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of e-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. The proposed rule

would (i) add a new definition for e-bikes; (ii) direct the BLM to specifically address e-bike usage in future land-use planning or implementation-level decisions; and (iii) set forth specific criteria for when e-bikes may be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a). Before the public could use e-bikes on any roads or trails that are not currently opened to off-road vehicle use, an authorized officer of the BLM would have to issue a land-use planning or implementation-level decision allowing for such use. That decision would have to comply with applicable law, including NEPA. As such, the proposed rule is administrative and procedural in nature and would not result in any environmental effects. Moreover, the environmental effects associated with future land-use planning or implementation-level decisions that do allow increased e-bike use are too speculative or conjectural at this time to lend themselves to meaningful analysis. Any environmental effects associated with future decisions would be subject to the NEPA process on a case-by-case basis. The BLM has also determined, as a preliminary matter, that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. This proposed rule would not directly impact any allowed uses on public lands, only generally directs the BLM to consider allowing their use on existing trails and roads and in those areas where traditional bicycles are allowed. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in the

ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Author

The principal author(s) of this rule are Evan Glenn and David Jeppesen, Recreation and Visitor Services Division; Rebecca Moore, Branch of Decision Support; Scott Whitesides, Branch of Planning and NEPA; Britta Nelson, National Conservation Lands Division; Charles Yudson, Division of Regulatory Affairs; assisted by the Office of the Solicitor, Ryan Sklar.

Casey Hammond,

Acting Assistant Secretary, Land and Minerals Management.

List of Subjects in 43 CFR Part 8340

Public lands, Recreation and recreation areas, Traffic regulations.

43 CFR Chapter II

For the reasons set out in the preamble, the Bureau of Land Management proposes to amend 43 CFR part 8340 as follows:

PART 8340—OFF-ROAD VEHICLES

■ 1. The authority citation for part 8340 continues to read as follows:

Authority: 43 U.S.C. 1201, 43 U.S.C. 315a, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 4601–6a, 16 U.S.C. 1241 *et seq.*, and 43 U.S.C. 1701 *et seq.*

Subpart 8340—General

■ 2. Revise § 8340.0–5 to read as follows:

§ 8340.0–5 Definitions.

As used in this part:

(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 nonamphibious 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;
- (5) E-bikes, as defined in paragraph (j) of this section:

(i) While being used on roads and trails upon which mechanized, non-motorized use is allowed;

(ii) That are not being used in a manner where the motor is being used exclusively to propel the E-bike; and

(iii) Where the authorized officer has expressly determined, as part of a land-use planning or implementation-level decision, that E-bikes should be treated the same as non-motorized bicycles; and

(6) Any combat or combat support vehicle when used in times of national defense emergencies.

(b) *Public lands* means any lands the surface of which is administered by the Bureau of Land Management.

(c) *Bureau* means the Bureau of Land Management.

(d) *Official use* means use by an employee, agent, or designated representative of the Federal Government or one of its contractors, in the course of his employment, agency, or representation.

(e) *Planning system* means the approach provided in Bureau regulations, directives and manuals to formulate multiple use plans for the public lands. This approach provides for public participation within the system.

(f) *Open area* means an area where all types of vehicle use is permitted at all times, anywhere in the area subject to the operating regulations and vehicle standards set forth in subparts 8341 and 8342 of this title.

(g) *Limited area* means an area restricted at certain times, in certain areas, and/or to certain vehicular use. These restrictions may be of any type, but can generally be accommodated within the following type of categories: Numbers of vehicles; types of vehicles; time or season of vehicle use; permitted or licensed use only; use on existing roads and trails; use on designated roads and trails; and other restrictions.

(h) *Closed area* means an area where off-road vehicle use is prohibited. Use of off-road vehicles in closed areas may be allowed for certain reasons; however, such use shall be made only with the approval of the authorized officer.

(i) *Spark arrester* is any device which traps or destroys 80 percent or more of the exhaust particles to which it is subjected.

(j) *Electric bicycle* (also known as an E-bike) means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts (1 h.p.) that meets the requirements of one of the following three classes:

(1) Class 1 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the

bicycle reaches the speed of 20 miles per hour.

(2) Class 2 electric bicycle shall mean an electric bicycle 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.

(3) Class 3 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

Subpart 8342—Designation of Areas and Trails

■ 3. Amend § 8342.2 by adding paragraph (d) to read as follows:

§ 8342.2 Designation procedures.

* * * * *

(d) *E-bikes*. (1) Authorized officers should generally allow, as part of a land-use planning or implementation-level decision, E-bikes whose motorized features are being used to assist human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, unless the authorized officer determines that E-bike use would be inappropriate on such roads or trails; and

(2) If the authorized officer allows E-bikes in accordance with this paragraph (d), an E-bike user shall be afforded all the rights and privileges, and be subject to all of the duties, of user of a non-motorized bicycle.

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1548

[Docket No. TSA-2020-0001]

Air Cargo Security Options To Mitigate Costs of Compliance With International Security Requirements

AGENCY: Transportation Security Administration, DHS.

ACTION: Request for information (RFI).

SUMMARY: The Transportation Security Administration (TSA) requests information from the public, specifically the air cargo industry (including manufacturers, shippers, suppliers, warehouses, e-commerce fulfillment centers, third-party logistics providers,



WASHINGTON'S E-BIKE LAW FOR THE ROAD

- » E-bikes are regulated like bicycles. The same rules of the road apply to both e-bikes and human-powered bicycles.
- » E-bikes are not subject to the registration, licensing, or insurance requirements that apply to motor vehicles.
- » Washington designates three classes of e-bikes:
 - » **Class 1:** Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.
 - » **Class 2:** Bicycle equipped with a throttle-actuated motor, that ceases to provide assistance when the e-bike reaches 20 mph.
 - » **Class 3:** Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 28 mph.

- » Class 1 and 2 e-bikes are allowed on bike paths and improved trails; while class 3 e-bikes are not, unless the local agency authorizes them. When in doubt, check with your town, city, or county for local regulations.
- » Persons under 16 years of age may not ride a Class 3 e-bike, unless they are riding as a passenger.
- » The use of electric bicycles on singletrack mountain bike trails is determined by the agency or local authority which jurisdiction over that land. Check with your local land manager for information about access.

* The following Washington laws are referenced: RCW 2 46.04.169, 46.04.071, 46.20.500, 46.61.710 and 46.37.

eMTB GUIDELINES

- » On federal, state, county and local trails, e-mountain bike (eMTB) access varies significantly.
- » Generally, any natural surface trail that is designated as open to both motorized and non-motorized uses is also open to eMTBs.
- » eMTBs may not be allowed on trails managed for non-motorized activities.
- » Do not ride your eMTB in areas where the local rules are unclear. Ride legally and only on authorized trails to show that mountain bikers are responsible trail users.
- » When in doubt, ask your local land manager about access to specific trails. Local land rules change frequently.

WASHINGTON'S E-BIKE LAW FOR TRAILS

- » **LOCAL:** Consult your local land management agency.
- » **STATE:** The Washington Recreation and Conservation Office does not currently have an eMTB policy but expects to regulate them similarly to motorized vehicles. Contact the department for the most up to date information. PeopleForBikes is monitoring this policy and will update this document as needed.
- » **FEDERAL:** On federal lands, eMTBs are considered motorized vehicles and have access to motorized trails. Contact the U.S. Forest Service Pacific Northwest Regional Office or the BLM Washington State Office for more information.

GREAT eMTB RIDES IN WASHINGTON

- » **Boundary Trail**
Morton | 30.5 miles
- » **North Fork of Asotin Creek**
Asotin | 23.8 miles



With an e-bike, bicyclists can ride more often, farther, and for more trips.

Electric bicycles are designed to be as safe as traditional bicycles, do not compromise consumer safety, and benefit bicyclists who may be discouraged from riding a traditional bicycle due to limited physical fitness, age, disability or convenience.

In many states, e-bikes are regulated under antiquated laws primarily aimed at combustion engine vehicles such as mopeds or scooters. PeopleForBikes is clarifying state laws governing the use of e-bikes in the U.S. Every state's law is different, but the objective is to ensure that low-speed e-bikes are regulated similarly to traditional, human-powered bicycles.

Learn more at [PeopleForBikes.org/e-bikes](https://peopleforbikes.org/e-bikes)

- » Blogs and webinars
- » E-bike laws around the country
- » E-bike statistics and research
- » Buying guide
- » Retailer materials
- » eMTB management resources

TABLE 1 TO SUBPART AA OF PART 63—EXISTING SOURCE EMISSION LIMITS ^{a b}

For the following existing sources . . .	You must meet the emission limits for the specified pollutant . . .		
	Total fluorides	Total particulate	Mercury
Wet-Process Phosphoric Acid Line	0.020 lb/ton of equivalent P ₂ O ₅ feed.	2,150 lb/ton of phosphate rock feed. 0.181 g/dscm.	0.23 mg/dscm corrected to 3 percent oxygen. ^e
Superphosphoric Acid Process Line ^c	0.010 lb/ton of equivalent P ₂ O ₅ feed.		
Superphosphoric Acid Submerged	0.020 lb/ton of equivalent P ₂ O ₅ feed.		
Line with a Submerged Combustion Process		
Phosphate Rock Dryer		
Phosphate Rock Calciner	9.0E-04 lb/ton of rock feed ^d ..		

^a The existing source compliance data is June 10, 2002, except as noted.

^b During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.602(f).

^c Beginning on August 19, 2018, you must include oxidation reactors in superphosphoric acid process lines when determining compliance with the total fluorides limit.

^d Compliance date is August 19, 2015.

^e Compliance date is [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

[FR Doc. 2020-06930 Filed 4-6-20; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 27

[Docket No. FWS-HQ-NWRS-2019-0109; FXRS1263090000-201-FF09R81000]

RIN 1018-BE68

National Wildlife Refuge System; Use of Electric Bicycles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, have adopted a policy, and we propose to adopt consistent regulations, pertaining to the use of electric bicycles (otherwise known as “e-bikes”). These proposed changes are intended to increase recreational opportunities for all Americans, especially for people with physical limitations. We solicit comments on proposed regulations that will provide guidance and controls for the use of e-bikes on the National Wildlife Refuge System.

DATES: Written comments will be accepted through June 8, 2020.

ADDRESSES: You may submit comments, identified by Docket No. FWS-HQ-NWRS-2019-0109 by any one of the following methods:

- *Federal e-rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-HQ-NWRS-2019-0109.

- *Mail:* Address comment to Public Comments Processing, Attn: Docket No. FWS-HQ-NWRS-2019-0109; U.S. Fish and Wildlife Service; MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041.

- *Hand-deliver:* U.S. Fish and Wildlife Service; MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Maggie O’Connell, National Wildlife Refuge System—Branch Chief for Visitor Services, 703-358-1883, maggie_ococonnell@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee), governs the administration and public use of refuges, and the Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4) governs the administration and public use of refuges and hatcheries. The National Wildlife Refuge System Administration Act closes national wildlife refuges in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use upon a determination that the use is compatible with the purposes of the refuge and the National Wildlife Refuge System mission. The action also must be in accordance with the provisions of all laws applicable, consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest.

These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of

present and future generations of Americans. The Refuge System is an unparalleled network of 568 national wildlife refuges and 38 wetland management districts. More than 59 million Americans visit refuges every year. You can find at least one refuge in every State and every U.S. territory, and within a 1-hour drive of most major cities.

The U.S. Fish and Wildlife Service (FWS) administers the Refuge System via regulations contained in title 50 of the Code of Federal Regulations (CFR). These regulations help to protect the natural and cultural resources of refuges, and to protect visitors and property within those lands. In their current form, these regulations generally prohibit visitors from utilizing motorized vehicles on refuges other than on designated routes.

Electric Bicycles

Secretary’s Order 3376 directs Department of the Interior (DOI) bureaus to begin the process of obtaining public input on proposed new regulations that will clarify that operators of low-speed electric bicycles (e-bikes) should enjoy the same access as conventional bicycles, consistent with other Federal and State laws. Refuge managers will have the ability in the short term to utilize the flexibility they have under current regulations to accommodate this new technology, that assists riders as they pedal, in a way that allows them to enjoy the bicycling experience.

DOI’s guidance will enable visitors to use these bicycles with a small electric motor (not more than 1 horsepower) power assist in the same manner as traditional bicycles. The operator of an e-bike may use the small electric motor

only to assist pedal propulsion. The motor may not be used to propel an e-bike without the rider also pedaling.

A majority of States have adopted e-bike policies, most following model legislation that allows for the three classes of e-bikes to have access to bicycle trails. The DOI e-bike guidance seeks to provide consistency with the State and local rules where possible.

In 2019, approximately 1.4 million people bicycled at 197 national wildlife refuges. The Refuge System's new e-bike guidance provides expanded options for visitors who wish to ride a bicycle and who may be limited by fitness level or ability.

Similar to traditional bicycles, e-bikes are not allowed in designated wilderness areas and may not be appropriate for back-country trails. The focus of the DOI guidance is on expanding the traditional bicycling experience to those who enjoy the reduction of effort provided by this new e-bike technology. Local refuge and land managers will limit, restrict, or impose conditions on bicycle use and e-bike use where necessary to manage visitor use conflicts and ensure visitor safety and resource protection.

E-bikes make bicycle travel easier and more efficient, because they allow bicyclists to travel farther with less effort. When used as an alternative to gasoline- or diesel-powered modes of transportation, e-bikes can reduce greenhouse gas emissions and fossil fuel consumption, improve air quality, and support active modes of transportation for visitors. Similar to traditional bicycles, e-bikes can decrease traffic congestion, reduce the demand for vehicle parking spaces, and increase the number and visibility of cyclists on the road.

This Proposed Rule

The regulations in 50 CFR part 27 pertain to prohibited acts on refuge lands. The current regulations in § 27.31 generally prohibit use of any motorized or other vehicles, including those used on air, water, ice, or snow, on national wildlife refuges except on designated routes of travel, as indicated by the appropriate traffic control signs or signals and in designated areas posted or delineated on maps by the refuge manager.

Under the proposed amendment, which is set forth at the end of this document, e-bikes would be allowed where other types of bicycles are allowed, and e-bikes would not be allowed where other types of bicycles are prohibited. DOI proposes to adopt a definition of "e-bike" that is informed by the definition of "low-speed electric

bicycle" found at 15 U.S.C. 2085 and that meets the requirements of one of three classes of e-bikes.

Request for Comments

You may submit comments and materials on this proposed rule by any one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked by the date specified in **DATES**.

We will post your entire comment on <http://www.regulations.gov>. Before including personal identifying information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Compliance With Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This proposed rule is an Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) deregulatory action.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

In 2019, there were approximately 1.4 million bicycle visits on 197 refuges (34.6 percent of all refuges). Of these 197 refuges, 136 refuges had fewer than 1,000 bicycle visits. These visits comprised approximately 2 percent (=2.34%) of total recreational visits for the Refuge System.

Under the proposed rule, recreational activities on refuges could be expanded by allowing e-bikes where determined by the appropriate refuge manager. As a result, recreational visitation at these stations may change. The extent of any increase would likely be dependent upon factors such as whether current bicyclists change from using traditional bicycles to e-bikes, whether walking/hiking visits change to e-bike visits, or whether other recreational visitors decrease visits due to increased conflicts. The impact of these potential factors is uncertain. However, we estimate that increasing opportunities for e-bikes would correspond with less than 2 percent of the average recreational visits due to the small percentage of current bicycling visits.

Small businesses within the retail trade industry (such as hotels, gas

stations, sporting equipment stores, and similar businesses) may be affected by some increased or decreased station visitation due to the proposed rule. A large percentage of these retail trade establishments in the local communities near national wildlife refuges and national fish hatcheries qualify as small businesses. We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule would have a significant economic effect on a substantial number of small entities in any region or nationally.

Therefore, we certify that this proposed rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

- a. Would not have an annual effect on the economy of \$100 million or more.
- b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications. This rule would affect only visitors at national wildlife refuges.

Federalism (Executive Order 13132)

In accordance with E.O. 13132, this proposed rule does not require the preparation of a federalism assessment.

Civil Justice Reform (Executive Order 12988)

In accordance with E.O. 12988, the Department of the Interior has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This proposed rule does not contain information collection requirements, and a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We are required under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) to assess the impact of any Federal action significantly affecting the quality of the human environment, health, and safety. We have determined that the proposed rule falls under the class of actions covered by the following Department of the Interior categorical exclusion: "Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case." (43 CFR 46.210(i)). Under the proposed rule, a refuge manager must first make a determination that e-bike use is a compatible use before allowing e-bike use on a national wildlife refuge. This determination must be made on a case-by-case basis. Therefore, the environmental impacts of the proposed rule are too speculative to lead to meaningful analysis at this time. The Service will assess the environmental impacts of e-bike use in compliance with NEPA at the time a refuge manager determines whether e-bike use is compatible.

Government-to-Government Relationship With Tribes

In accordance with E.O. 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249), the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22961), and 512 DM 2, we will consult with federally recognized tribal governments to jointly evaluate and

address the potential effects, if any, of the proposed regulatory action.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 27

Wildlife refuges.

Proposed Regulation Promulgation

In consideration of the foregoing, we propose to amend part 27, subchapter C of chapter I, title 50 of the Code of Federal Regulations as follows:

PART 27—PROHIBITED ACTS

- 1. The authority citation for part 27 continues to read as follows:

Authority: 5 U.S.C. 685, 752, 690d; 16 U.S.C. 460k, 460l–6d, 664, 668dd, 685, 690d, 715i, 715s, 725; 43 U.S.C. 315a.

Subpart C—Disturbing Violations: With Vehicles

- 2. Amend § 27.31 by redesignating paragraph (m) as paragraph (n) and adding a new paragraph (m) to read as follows:

§ 27.31 General provisions regarding vehicles.

* * * * *

(m) If the refuge manager determines that electric bicycle (also known as an e-bike) use is a compatible use on roads or trails, any person using the motorized features of an e-bike as an assist to human propulsion shall be afforded all the rights and privileges, and be subject to all of the duties, of the operators of non-motorized bicycles on roads and trails. An e-bike is a two- or three-wheeled electric bicycle with fully

operable pedals and an electric motor of not more than 750 watts (1 h.p.) that meets the requirements of one of the following three classes:

(1) Class 1 e-bike shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) Class 2 e-bike shall mean an electric bicycle 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.

(3) Class 3 e-bike shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to

provide assistance when the bicycle reaches the speed of 28 miles per hour.

* * * * *

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020-07167 Filed 4-6-20; 8:45 am]

BILLING CODE 4333-15-P

with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting three days that would prohibit entry in the Lake Shore State Park Lagoon within the Milwaukee Harbor during the swim portion of a triathlon. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T09–0207 to read as follows:

§ 100.T09–0207 Special Local Regulation; USA Triathlon, Milwaukee Harbor, Milwaukee, WI

(a) *Regulated area.* This area includes all waters of the Lake Shore State Park Lagoon in the Milwaukee Harbor within an area bound by coordinates 43°02.20' N, 087°53.69' W, then south to 43°01.75' N, 087°53.71' W, then southwest to 43°01.73' N, 087°53.96' W, then northeast to 43°02.20' N, 087°53.83' W, then east to point of origin.

(b) *Special Local Regulations.* (1) The regulations in this section, along with the regulations of § 100.901, apply to this marine event. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Captain of the Port Lake Michigan (COTP) or the Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP or the Patrol Commander on VHF–FM Channel 16 to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the COTP or the Patrol Commander.

(c) *Effective dates.* These regulations are in effect from 8 a.m. on August 7, 2020 through 2 p.m. on August 9, 2020. Public notice of specific enforcement times will be made available through Broadcast Notice to Mariners.

Dated: April 1, 2020.

T.J. Stuhlfreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2020–07244 Filed 4–7–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 4

[NPS–WASO–REGS; 29978; GPO Deposit Account 4311H2]

RIN 1024–AE61

General Provisions; Electric Bicycles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes regulations governing the use of electric bicycles, or e-bikes, within the National Park System. This rule would define the term “electric bicycle” and establish rules for how electric bicycles may be used. This rule would implement Secretary of the Interior Order 3376, “Increasing Recreational Opportunities through the use of

Electric Bikes,” on lands administered by the National Park Service.

DATES: Comments on the proposed rule must be received by June 8, 2020.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE61, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for “1024-AE61”. Follow the instructions for submitting comments.

(2) *By hard copy:* Mail or hand deliver to: Jay Calhoun, Regulations Program Manager, National Park Service, 1849 C Street NW, MS-2472, Washington, DC 20240.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the RIN 1024-AE61 for this rulemaking. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. Comments received may be posted without change to www.regulations.gov, including any personal information provided. The NPS seeks meaningful public input on this rule. The intent of this action is to address an emerging technology in a manner that accommodates visitors and increases opportunities for the public to recreate within and travel through the National Park System, while at the same time protecting the resources and values that draw millions of visitors each year.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov and search for “1024-AE61”.

FOR FURTHER INFORMATION CONTACT: Jay Calhoun, Regulations Program Manager, National Park Service; (202) 513-7112; waso_regulations@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

Use and Management of Bicycles

Bicycling is a popular recreational activity in many units of the National Park System. Cyclists of all skill levels and ages enjoy riding on park roads and designated bicycle trails for scenery, exercise, and adventure. Visitors bicycle alone, with friends, or with family. From leisurely rides to challenging alpine climbs, bicycles offer spectacular opportunities to experience the resources of the National Park System.

National Park Service (NPS) regulations at 36 CFR 4.30 govern the use of bicycles on NPS-administered

lands. These regulations identify where bicycles are allowed, manage how bicycles may be used, and allow superintendents to restrict bicycle use when necessary. Bicycles are allowed on park roads and parking areas open to public motor vehicles. Bicycles are also allowed on administrative roads that are closed to motor vehicle use by the public but open to motor vehicle use by the NPS for administrative purposes, but only after the superintendent determines that such bicycle use is consistent with protection of the park area’s natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. The use of bicycles on trails is subject to a thorough approval and review process. When bicycle use is proposed for a new or existing trail, the NPS must complete a planning process that evaluates bicycle use on the specific trail, including impacts to trail surface and soil conditions, maintenance costs, safety considerations, potential user conflicts, and methods to protect resources and mitigate impacts. For both new and existing trails, the NPS must complete an environmental assessment or environmental impact statement that concludes that bicycle use on the trail will have no significant impacts. The superintendent must prepare and the regional director must approve the same written determination that is required for allowing bicycles on administrative roads. Each of these documents must be made available for public review and comment. For new trails outside of developed areas, the NPS must publish a special regulation designating the trail for bicycle use, which is subject to a separate public comment period.

Adherence to the procedures in these regulations helps ensure that bicycles are allowed only in locations where, in the judgment of the NPS, their use is appropriate and will not cause unacceptable impacts. The NPS has completed the process required by these regulations in many NPS units, including the following that have special regulations designating trails for bicycle use: Rocky Mountain National Park, Saguro National Park, Cuyahoga Valley National Park, Hot Springs National Park, Grand Teton National Park, Mammoth Cave National Park, Sleeping Bear Dunes National Lakeshore, New River Gorge National River, Chattahoochee River National Recreation Area, Bryce Canyon National Park, Pea Ridge National Military Park, and Golden Gate National Recreation Area.

Introduction of Electric Bicycles

While bicycling has been a decades-long tradition in many park areas, the appearance of electric bicycles, or e-bikes, is a relatively new phenomenon. An e-bike is a bicycle with a small electric motor that provides power to help move the bicycle. As they have become more popular both on and off NPS-managed lands, the NPS has recognized the need to address this emerging form of recreation so that it can exercise clear management authority over e-bikes and provide clarity to visitors and stakeholders such as visitor service providers.

Similar to traditional bicycles, the NPS believes that, with proper management, the use of e-bikes may be an appropriate activity in many park areas. E-bikes advance the NPS’s “Healthy Parks Healthy People” goals to promote national parks as a health resource.¹ Specifically, e-bikes can increase bicycle access to and within parks. E-bikes make bicycle travel easier and more efficient because they allow bicyclists to travel farther with less effort. E-bikes can expand the option of bicycling to more people by providing a new option for those who want to ride a bicycle but might not otherwise do so because of physical fitness, age, or convenience, especially at high altitude or in hilly or strenuous terrain. Also, when used as an alternative to gasoline- or diesel-powered modes of transportation, e-bikes can reduce greenhouse gas emissions and fossil fuel consumption, improve air quality, and support active modes of transportation for park staff and visitors. Similar to traditional bicycles, e-bikes can decrease traffic congestion, reduce the demand for vehicle parking spaces, and increase the number and visibility of cyclists on the road.

Policy Direction for Managing E-Bikes

Secretary’s Order 3376

On August 29, 2019, Secretary of the Interior Bernhardt signed Secretary’s Order 3376, “Increasing Recreational Opportunities through the use of Electric Bikes.” The purpose of this Order is to increase recreational opportunities for all Americans, especially those with physical limitations, and to encourage the enjoyment of lands and waters managed by the Department of the Interior. The Order emphasizes the potential for e-bikes to reduce the physical demands of

¹ For more information about how the NPS promotes the health and well-being of park visitors through the Healthy Parks Healthy People movement, visit <https://www.nps.gov/subjects/health/and/safety/health-benefits-of-parks.htm>.

operating a bicycle and therefore expand access to recreational opportunities, particularly for those with limitations stemming from age, illness, disability or fitness, and in more challenging environments, such as high altitudes or hilly terrain. E-bikes have an electric motor yet are operable in a similar manner to traditional bicycles and in many cases appear indistinguishable from them. For these reasons, the Order acknowledges there is regulatory uncertainty regarding whether e-bikes should be managed similar to other types of bicycles, or, alternatively, considered motor vehicles. The Order states that this regulatory uncertainty has led to inconsistent management of e-bikes across the Department and, in some cases, served to decrease access to Federally owned lands by users of e-bikes. In order to address these concerns, the Order directs the NPS and other Department of the Interior agencies to define e-bikes separately from motor vehicles and to allow them where other types of bicycles are allowed.

NPS Policy Memorandum 19–01

On August 30, 2019, the Deputy Director of the NPS, Exercising the Authority of the Director, issued Policy Memorandum 19–01, Electric Bicycles. This policy satisfies a requirement in the Secretary's Order that all Department of the Interior agencies adopt policy and provide appropriate public guidance regarding the use of e-bikes on public lands that conforms to the policy direction set forth in the Order.

The Memorandum defines an e-bike as “a two- or three-wheeled cycle with fully operable pedals and an electric motor of less than 750 watts that provides propulsion assistance.” This definition is consistent with the definition of “low speed electric bicycle” in the Consumer Product Safety Act (15 U.S.C. 2085), currently the only federal statutory definition of e-bikes, except that the definition in the Memorandum does not include the statutory requirement that an e-bike may not reach 20 mph on a paved level surface, when powered solely by the motor while ridden by an operator who weighs less than 170 pounds. Instead, the Memorandum, consistent with the Secretary's Order and many states that have promulgated regulations for e-bikes, refers to a three-class system that limits the maximum assisted speed of an e-bike:

- *Class 1 electric bicycle* means an electric bicycle equipped with a motor that provides assistance only when the

rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

- *Class 2 electric bicycle* means an electric bicycle 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.

- *Class 3 electric bicycle* means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

Consistent with the Order, the Memorandum announces a policy that e-bikes are allowed where traditional bicycles are allowed and that e-bikes are not allowed where traditional bicycles are prohibited. The Memorandum refers to regulations for bicycles in paragraphs (f), (g), and (h) of 36 CFR 4.30 that relate to closures and other use restrictions, other requirements, and prohibited acts. The Memorandum requires that these provisions also govern the use of e-bikes so that the use of e-bikes and bicycles are generally regulated in the same manner.

Paragraph (f) of section 4.30 allows superintendents to limit or restrict or impose conditions on bicycle use or close any park road, trail, or portion thereof to bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The Memorandum authorizes superintendents to limit or restrict or impose conditions on e-bike use for the same reasons, provided the public is notified through one or more methods listed in 36 CFR 1.7. When using this authority, the Memorandum advises superintendents to understand state and local rules addressing e-bikes so that the use of e-bikes within a park area is not restricted more than in adjacent jurisdictions, to the extent possible.

Paragraph (g) of section 4.30 states that bicycle use is subject to certain NPS regulations that apply to motor vehicles. Specifically, bicycle use is subject to regulations in sections 4.12 (Traffic control devices), 4.13 (Obstructing traffic), 4.20 (Right of way), 4.21 (Speed limits), 4.22 (Unsafe operation), 4.23 (Operating under the influence of alcohol or drugs). The Memorandum applies these provisions in the same manner to e-bikes. Paragraph (g) also states that, unless specifically addressed by NPS regulations, the use of a bicycle is governed by state law, which is adopted and made part of section 4.30. The Memorandum requires superintendents to adopt state law in

the same manner for e-bikes. State laws concerning the definition, safety operation, and licensing of e-bikes vary from state to state. A growing number of states use the three-class system to differentiate between the models and top assisted speeds of e-bikes.

Paragraph (h) of section 4.30 prohibits possessing a bicycle in wilderness and contains safety regulations for the use of bicycles. Specifically, paragraphs (h)(3)–(5) establish rules relating to operation during periods of low visibility, abreast of another bicycle, and with an open container of alcohol. The Memorandum applies these provisions in the same manner to e-bikes.

The Memorandum directs the superintendents of any NPS unit with e-bikes present to implement the actions required by the policy using their regulatory authority in 36 CFR 1.5(a)(2). This authority allows superintendents to designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity. As of the date this proposed rule, more than 380 units of the National Park System have implemented the e-bike policy under the authority in 36 CFR 1.5(a)(2) and have published notice of this action in the park-specific compilation of management actions required by 36 CFR 1.7(b), referred to as the superintendent's compendium. This means that for each of these NPS units, e-bikes are already allowed subject to the rules governing them that are set out in the compendium.

Proposed Rule

As explained above, Secretary's Order 3376 directs the NPS to develop a proposed rule to revise 36 CFR 1.4 and any associated regulations to be consistent with the Order. Specifically, the Order directs the NPS to add a definition for e-bikes consistent with 15 U.S.C. 2085, and expressly exempt all e-bikes as defined in the Order from the definition of motor vehicles.

This rule would accomplish these directives. The rule would amend 36 CFR 1.4 to add a new definition of “electric bicycle” that is the same as the definition used in the Policy Memorandum, with one minor difference. The definition in the Memorandum refers to the definition in the Consumer Product Safety Act (15 U.S.C. 2085) that limits the power of the motor to less than 750 watts. Many manufacturers sell e-bikes with motors having exactly 750 watts. In order to avoid the unintended consequence of excluding many devices from the regulatory definition of an e-bike due to a one watt difference in power, the definition of e-bikes in the proposed

rule would include devices of not more than 750 watts.

The rule would explicitly exclude e-bikes from the definition of “motor vehicle” found at 36 CFR 1.4. This would make it clear that, except as stated in section 4.30(g), e-bikes are not subject to the regulations in 36 CFR part 4 that apply to the use of motor vehicles. The NPS does not need to change the existing definition of “bicycle” to distinguish them from e-bikes because the definition of bicycle includes only those devices that are “solely human powered.” E-bikes are excluded from this definition because they have an electric motor that helps power the device.

Consistent with the Secretary’s Order and the Policy Memorandum, the proposed rule would state that e-bikes may be allowed on roads, parking areas, administrative roads and trails that are open to traditional bicycles. The rule would also state that superintendents will designate the areas open to e-bikes and notify the public pursuant to 36 CFR 1.7. E-bikes would not be allowed in other locations. E-bikes would be allowed on administrative roads and trails where bicycles are allowed without the need to undertake the procedural steps in paragraphs (b)–(e) of section 4.30 that were required when traditional bicycles were first allowed in those locations. If a park superintendent proposes to designate an administrative road or trail for e-bike use where traditional bicycles are not yet allowed, the superintendent would need to follow the procedural steps required by paragraphs (b)–(e) in order to designate those locations for bicycle and e-bike use.

Although they will be defined differently, the proposed rule would apply certain regulations that govern the use of bicycles to the use of e-bikes in the same manner as the Policy Memorandum. These regulations are explained in more detail above and include rules of operation and adoption of state law to the extent not addressed by NPS regulations. The rule would also give superintendents the authority to limit or restrict e-bike use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. If warranted by these criteria, superintendents may use this authority to manage e-bikes, or particular classes of e-bikes, differently than traditional bicycles in particular locations. For example, a superintendent could determine that a trail open to traditional bicycles should not be open to e-bikes, or should be open to class 1 e-bikes only. Every

restriction or closure that limits the use of e-bikes will be supported by a written record explaining the basis for such action. The record will explain why e-bikes are managed differently than traditional bicycles if that is the effect of the restriction or closure. All such restrictions and closures should be listed in the superintendent’s compendium (or written compilation) of discretionary actions referred to in 36 CFR 1.7(b).

Except for administrative actions taken by the NPS in limited circumstances, the Wilderness Act prohibits mechanical transport in wilderness areas designated by Congress. 16 U.S.C. 1133(c). Accordingly, paragraph (h)(2) of section 4.30 prohibits possessing a bicycle, a form of mechanical transport, in a wilderness area established by Federal statute. For the same reason, the rule would prohibit the possession of e-bikes in designated wilderness areas, even though this prohibition already exists under the Wilderness Act.

Except on park roads and other locations where the use of motor vehicles by the public is allowed, the rule would prohibit an operator from using the electric motor to move an e-bike without pedaling. This restriction is consistent with the Policy Memorandum and intended to allow the public to use e-bikes for transportation and recreation in a similar manner to traditional bicycles. It would only affect the use of class 2 e-bikes, which have a motor that may be used exclusively to propel the e-bike. The NPS specifically requests comment on whether this restriction is appropriate or workable. Alternatively, the NPS could allow superintendents to implement this restriction at the park level if necessary in specific locations.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty,

and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M–17–21). This rule would address regulatory uncertainty regarding the use of electric bicycles in the National Park System by clearly stating that they may be used where traditional bicycles are allowed.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled “Draft Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Regulations Addressing the Designation of Electric Bicycle Use in Units of the National Park System”. The report may be viewed online at www.regulations.gov by searching for “1024–AE61”.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2). This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The

rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects the use of electric bicycles on federally-administered lands. It has no outside effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of

Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. The NPS has determined the rule is categorically excluded under 43 CFR 46.210(i) which applies to "policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case."

Many units of the National Park System already allow the use of e-bikes where traditional bicycles are allowed under the direction of the Policy Memorandum. The Policy Memorandum required those units to evaluate the environmental impacts of allowing e-bikes under NEPA. Because traditional bicycles were already an established presence in areas where e-bikes were recently allowed, traditional bicycles were part of the baseline of existing conditions from which the environmental impacts of e-bikes were measured. Therefore, the impacts potentially caused by the implementation of the Policy Memorandum were limited only to those impacts from e-bikes that differ from the existing impacts of traditional bicycles. As a result, for most units a categorical exclusion has applied.

For those units that have already allowed e-bikes under the Policy Memorandum, this rule is administrative and legal in nature because it would simply clarify that superintendents have the authority to allow e-bikes in units, but does not change the management of e-bikes or require any action because the general statements in park compendiums that e-bikes are allowed wherever traditional bicycles are allowed would constitute a designation under this rule.

In some units of the National Park System, the superintendent may have not yet opened bicycle trails to e-bikes, or may have closed a location to the use of e-bikes or otherwise restricted their use. In these units, any future decision

to allow e-bikes in a new location or manner will be subject to an evaluation of the environmental impacts of that decision at that time. This will also be true for locations where, in the future, traditional bicycles and e-bikes are introduced for the first time. If a park superintendent proposes to designate an administrative road or trail for e-bike use where traditional bicycles are not yet allowed, the superintendent will need to follow the same procedural steps in order to designate those locations for bicycle and e-bike use. In both of the circumstances described above, the environmental effects of this rule are too speculative or conjectural at this time to lend themselves to meaningful analysis, and those later designations will be subject to the NEPA process.

The NPS has also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 4

National Parks, Traffic Regulations.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR parts 1 and 4 as set forth below:

PART 1—GENERAL PROVISIONS

- 1. The authority citation for part 1 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

- 2. Amend § 1.4 by adding, in alphabetical order, a definition for "Electric bicycle" and revising the definition for "Motor vehicle" to read as follows:

§ 1.4 What terms do I need to know?

(a) * * *

* * * * *

Electric bicycle means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts that meets the requirements of one of the following three classes:

(1) "Class 1 electric bicycle" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) "Class 2 electric bicycle" shall mean an electric bicycle 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.

(3) "Class 3 electric bicycle" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

* * * * *

Motor vehicle means every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated on rails or water, except an electric bicycle, a snowmobile, and a motorized wheelchair.

* * * * *

PART 4—VEHICLES AND TRAFFIC SAFETY

■ 3. The authority citation for part 4 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 4. Amend § 4.30 by adding paragraph (i) to read as follows:

§ 4.30 Bicycles

* * * * *

(i) *Electric bicycles.*

(1) The use of an electric bicycle may be allowed on park roads, parking areas, and administrative roads and trails that are otherwise open to bicycles. The Superintendent will designate the areas open to electric bicycles and notify the public pursuant to 36 CFR 1.7.

(2) The use of an electric bicycle is prohibited in locations not designated by the Superintendent under paragraph (i)(1) of this section.

(3) Except where use of motor vehicles by the public is allowed, using the electric motor to move an electric bicycle without pedaling is prohibited.

(4) Possessing an electric bicycle in a wilderness area established by Federal statute is prohibited.

(5) A person operating or possessing an electric bicycle is subject to the following sections of this part that apply to bicycles: Sections 4.12, 4.13, 4.20, 4.21, 4.22, 4.23, and 4.30(h)(3)–(5).

(6) Except as specified in this section, the use of an electric bicycle is governed

by State law, which is adopted and made a part of this section. Any act in violation of State law adopted by this paragraph is prohibited.

(7) Superintendents may limit or restrict or impose conditions on electric bicycle use, or may close any park road, parking area, administrative road, trail, or portion thereof to such electric bicycle use, or terminate such condition, closure, limit or restriction after:

(i) Taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives; and

(ii) Notifying the public through one or more methods listed in 36 CFR 1.7, including in the superintendent's compendium (or written compilation) of discretionary actions referred to in section 1.7(b).

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–07163 Filed 4–7–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF DEFENSE

48 CFR Parts 203, 205, 211, 212, 217, 219, 225, 228, 236, 237, 246, 250, and 252

[Docket DARS–2020–0002]

RIN 0750–AK76

Defense Federal Acquisition Regulation Supplement: Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2019–D036)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement 41 U.S.C. 1908, Inflation adjustment of acquisition-related dollar thresholds. This statute requires an adjustment every five years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. DoD is also proposing to use the same methodology to adjust some nonstatutory DFARS acquisition-related thresholds in 2020.

DATES: Comments on the proposed rule should be submitted in writing to the

address shown below on or before June 8, 2020, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2019–D036, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for "DFARS Case 2019–D036." Select "Comment Now" and follow the instructions to submit a comment. Please include your name, company name (if any), and "DFARS Case 2019–D036" on any attached document.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2019–D036 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Kimberly R. Ziegler, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Instructions: Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly R. Ziegler, telephone 571–372–6095.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to amend multiple DFARS parts to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every five years (on October 1 of each year evenly divisible by five) of statutory acquisition-related thresholds for inflation, using the Consumer Price Index (CPI) for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see Federal Acquisition Regulation (FAR) 1.109). As a matter of policy, DoD is also proposing to use the same methodology to adjust some nonstatutory DFARS acquisition-related thresholds on October 1, 2020. FAR case 2019–013 proposes comparable changes to acquisition-related thresholds in the FAR.

This is the fourth review of DFARS acquisition-related thresholds since the statute was enacted on October 28, 2004 (section 807 of the National Defense Authorization Act for FY 2004). The last review was conducted under DFARS case 2014–D025. The final rule was published under that case in the **Federal**