

Arborway Coalition

BiodiversityWorks

Charles River Conservancy

April 29, 2021

Concerned Citizens of Franklin County

Environmental League of Massachusetts

Commissioner Jim Montgomery
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 9th Floor
Boston, MA 02114

Friends of Ellisville Marsh, Inc. (Plymouth, MA)

Friends of Mohawk Trail State Forest

RE: Policy recommendation on proposed amendments to DCR electric bicycle regulations, submitted to the Department of Conservation and Recreation

Friends of Peru State Forest

Dear Commissioner Montgomery:

Friends of the Blue Hills

It has come to our attention that the Department of Conservation and Recreation (DCR) is on the verge of amending the Code of Massachusetts Regulations (CMR) that would categorize Class 1 electric bicycles (e-bikes) as bicycles, and therefore allow their broad use on natural-surface trails.

Friends of the Middlesex Fells Reservation

Friends of Upton State Forest

We urge DCR to enact the e-bike regulations it originally proposed in 2019, to protect the safety of park users and to avoid environmental degradation, as follows:

Friends of Whitehall

Magazine Beach Partners

“Pedal-assist electric bicycles are not permitted on DCR trails that are less than 8 feet in width, and on dirt roads that are not open to vehicular traffic. Pedal assist-assist electric bicycles are not permitted on any natural surface trails, regardless of width or other conditions.” (See [here](#)), page 30, section 12:12 (4).)

Mass Audubon

Mystic River Watershed Association

RESTORE: The North Woods

To consider the use of e-bikes where they might be appropriate, we suggest that DCR develop a process to address the use of Class 1 electric bicycles on a property-by-property basis if requested by the public, which would include an environmental and safety analysis outlined in detail below.

Sierra Club Massachusetts

Southeastern Massachusetts Pine Barrens Alliance

Vineyard Conservation Society

Only after developing, funding, and executing actions to address and mitigate identified impacts should DCR authorize Class 1 electric bicycles on a DCR property.

Our opposition to this CMR change is predicated on the following rationale, with further details provided in the “Rationale and References” section:

1. Operating e-bikes on narrow, dirt, and natural-surface trails will increase safety risks for riders and other park users.
2. Operating e-bikes on narrow, dirt, and natural-surface trails is highly likely to accelerate environmental damage in sensitive areas.
3. DCR lacks the capacity to enforce this new use on its properties.
4. DCR must conduct an environmental and safety analysis of e-bike impacts.

We recognize that electric bikes (e-bikes) have the potential to be a beneficial resource for people to commute, recreate, and promote physical and mental health, especially for people who are less physically able. We also acknowledge their constructive role in State efforts to reduce carbon emissions and meet climate-change targets. However, we are concerned that DCR’s proposed approach to regulating e-bikes will not adequately address safety issues and environmental impact, and lack of enforcement capacity will likely lead to harm to visitors and the natural environment.

RATIONALE AND REFERENCES

1. Operating e-bikes on narrow, dirt, and natural-surface trails will increase safety risks for riders and other park users

E-bikes have been in use for decades, but the combination of e-bike and mountain bike features to develop electric mountain bikes (eMTBs) is a new and emerging recreational technology. eMTB technology is so new that the relative safety of eMTBs to riders and other park users versus traditional bicycles is not well understood. However, several facts suggest increased safety risks are likely.

- Class 1 eMTBs can travel up to 20 mph assisted by an electric motor, significantly faster than most other non-motorized trail users. This speed differential increases the likelihood of collisions compared to non-motorized bicycles.
- DCR properties include biking trails that demand considerable technical skill, and adding speed to an already challenging track is likely to result in more bikers losing control and injuring themselves and possibly others.
- Greater speed and near-silent operation also increase the disturbance e-bikes cause as they approach other users, either from behind or via poor sight-lines of forested trails. A 2020 Friends of the Middlesex Fells member survey found that many Fells visitors experience negative interactions with bikers, and some visitors have even been displaced from using certain trails due to these interactions (especially families with young children). If e-bikes are allowed, it is likely that negative interactions will intensify and other users will be displaced further from shared-use trails.

- A recent study shows that “e-bikes carry a higher risk of severe injuries” (see

<https://www.reuters.com/article/us-health-ebike-injuries/e-bikes-show-distinct-pattern-of-severe-injuries-idUSKBN1YTOMV>). This higher risk of severe injuries, combined with the potential for crashes to occur sometimes miles away from accessible roadways, represents a significant additional burden on emergency first responders who may be called upon to evacuate seriously injured e-bikers.

2. Operating e-bikes on narrow, dirt, and natural-surface trails is highly likely to accelerate environmental damage in sensitive areas

It is our understanding that DCR will propose a change to e-bike regulations that would include Class 1 e-bikes in the regulatory definition of a bicycle. DCR has informed us that this pending definition change, and resulting draft regulations allowing Class 1 e-bikes on all trails currently accessible to traditional bicycles, is a result of patterning DCR policy after a December 2020 National Park Service (NPS) rulemaking that concluded that “impacts from e-bikes are similar to impacts from traditional bicycles” (see <https://www.govinfo.gov/content/pkg/FR-2020-11-02/pdf/2020-22129.pdf>).

However, the NPS rulemaking, by order of Secretary of the Interior Bernhardt in August 29, 2019, justifies this conclusion principally upon one small-scale study from western Oregon, produced by the International Mountain Biking Association and prepared for the Bicycle Product Suppliers Association (see https://b.3cdn.net/bikes/c3fe8a28f1a0f32317_g3m6bdt7g.pdf). Although NPS cites this study to claim “similar impacts” and thus exempts the rulemaking from environmental review, the study itself states: “This small study represents a very limited set of site and user conditions, the results of which may or may not be replicated in other locations and test conditions. No broad conclusions should be made from the observations presented” (page 16) and further concludes, “more research is needed before conclusions can be drawn regarding the environmental impacts of Class 1 eMTBs as compared with traditional mountain bicycles” (page 23).

This specious argument by NPS to avoid environmental review has not gone unnoticed. The organization Public Employees for Environmental Responsibility (PEER) and others filed a complaint in the United States District Court (District of Columbia), charging that Department of the Interior (DOI) staff failed to take the environmental impact assessment steps required by federal law before allowing e-bikes in National Parks (see https://www.nationalparkstraveler.org/sites/default/files/attachments/12_5_19_final_e-bikes_complaint.pdf) and on March 30, a federal court ruled the suit will be heard in full (see <https://www.peer.org/suit-to-bar-e-bikes-from-park-trails-gets-greenlight/>). DCR should not follow the DOI in flawed rulemaking that may subject the state to litigation.

3. DCR lacks the capacity to enforce this new use on its properties

DCR admits that due to chronic staff capacity issues, it has little to no enforcement capability or presence on DCR trail systems. Allowing Class 1 e-bikes on DCR property will result in an expanded need for enforcement presence, especially to enforce speed limits on shared trails to ensure visitor safety. Further, the lack of DCR ranger presence and enforcement will likely result in an expansion of illegal use of Class 2 and Class 3 e-bikes on DCR properties, which represent even greater risk, as they are throttle-controlled, and Class 3 e-bikes can reach speeds up to 28mph or greater (see <https://www.juicedbikes.com/pages/what-it-is-the-top-speed>).

4. DCR must conduct an environmental and safety analysis of e-bike impacts

Before e-bikes are allowed on DCR property, an environmental impact analysis must be completed. Areas of analysis must include:

- Erosion of ground surfaces;
- Suitability of trail segments to accommodate e-bikes safely;
- Degradation of habitat;
- Habitat fragmentation;
- Wildlife disturbance;
- Cumulative impacts to the natural environment;
- Recreational impact of e-bike introduction on multi-use trails; and
- Visitor safety.

Instead of expanding use of DCR properties through this proposed regulation change, DCR should prioritize enforcement of existing rules, improve signage and education, close unapproved and illegal trails, and work with partners to accomplish conservation goals.

Thank you for the opportunity to provide these recommendations to DCR's draft e-bike regulations.

Sincerely,

Arborway Coalition
BiodiversityWorks
Charles River Conservancy
Concerned Citizens of Franklin County
Environmental League of Massachusetts
Friends of Ellenville Marsh, Inc. (Plymouth, MA)
Friends of Mohawk Trail State Forest
Friends of Peru State Forest
Friends of the Blue Hills
Friends of the Middlesex Fells Reservation
Friends of Upton State Forest
Friends of Whitehall State Park
Magazine Beach Partners
Mass Audubon
Mystic River Watershed Association
RESTORE: The North Woods (Wendell State Forest)
Sierra Club Massachusetts
Southeastern Massachusetts Pine Barrens Alliance
Vineyard Conservation Society

CC:

Nick Connors, DCR Deputy Commissioner (nick.connors@state.ma.us)
Secretary Kathleen A. Theoharides, Executive Office of Energy and Environmental Affairs
(kathleen.theoharides@mass.gov)
Governor Charlie Baker (via <https://www.mass.gov/forms/email-the-governors-office>)

Nate Walton, DCR Stewardship Council Chair (nywalton@gmail.com)

NOTE: To correspond on this communication, please contact Chris Redfern (Executive Director, Friends of the Middlesex Fells Reservation, chris.redfern@fells.org) and Judy Lehrer Jacobs (Executive Director, Friends of the Blue Hills Reservation, judy@friendsofthebluehills.org).

