

**Response to Comments on Amendments to
302 CMR 11, 302 CMR 12**

**Commonwealth of Massachusetts
Department of Conservation and Recreation**

Response to Comment on Amendments to:

**302 CMR 11: Parkways, Traffic, and Pedestrian Rules
302 CMR 12: Parks and Recreation Rules**

June 10, 2022

Regulatory Authority

**M.G.L. c. 21, § 1; M.G.L. c. 132A, §§2D, 7, 7A;
M.G.L. c. 92, §§33, 34B, 35, 35A, 37, 38, 41, 95A;
St. 1981, chapter 746; St. 2003, chapter 41;
St. 2011, chapter 68, § 29**

Background and Purpose

The Massachusetts Department of Conservation and Recreation (DCR) proposed amendments to 302 CMR 11: *Parkways, Traffic, and Pedestrian Rules* and 302 CMR 12: *Parks and Recreation Rules* relative to the regulation of motorized bicycles (sometimes known as “e-bikes”). Current DCR regulations prohibit the use of “power-assisted” bicycles on DCR property “unless the operator holds a valid motor vehicle license and the vehicle is equipped for legal operation on Massachusetts public ways” (*see* 302 CMR 12.14(14)). Recognizing the growing popularity of e-bikes, DCR seeks to authorize the use of Class 1 e-bikes on certain types of paths (improved paths that measure 8 feet or wider). Under the amended regulation, e-bikes will not be permitted on any natural surface trails where motor vehicles are not permitted, regardless of width. DCR is finalizing the regulations as follows: (a) incorporating a three-tier classification of e-bikes (*see Definitions* sections); (b) permitting Class 1 e-bikes on improved paths that are 8 feet or wider; (c) permitting Class 1, Class 2, and Class 3 e-bikes where vehicular traffic is permitted (including bike lanes on roadways).

Public Comment Process

In 2016, DCR proposed extensive amendments to 302 CMR 11 in order to consolidate certain regulations of DCR’s predecessor agencies, Metropolitan District Commission (MDC) [350 CMR 3.00, 350 CMR 4.00, 350 CMR 5.00] and Department of Environmental Management (DEM) [304 CMR 12], into one regulation at 302 CMR 11.00. (The current version of 302 CMR 11.00 is limited to rules related to applying for and issuing Construction and Access Permits.) The proposed amendments were sought in order to consolidate, define, and regulate all parkways, ways, and roadways under the care and control of DCR similarly, thereby ending conflicts among MDC and DEM regulations and providing the traveling public with a single set

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of rules regulating the use of DCR transportation assets. One amendment was proposed to 302 CMR 12, which would clarify that in certain circumstances, permission could be granted to groups to hold certain special events, such as motor cross rallies, on DCR property without requiring that bikers be licensed. (For instance, young motor cross dirt bikers who were permitted by the Office of Law Enforcement through off-highway vehicle registration and safety courses would be able to participate in rallies.) No comments were received relative to the amendments proposed for 302 CMR 11 or 302 CMR 12. However, comments were received relative to the use of electric bicycles/motorized bicycles (“e-bikes”) on DCR properties.

DCR issued a second draft regulation containing e-bike provisions and sought additional public input on the proposed regulations which would permit pedal-assist e-bikes (so-called “class 1” e-bikes) on improved surface trails that are at least 8 feet wide and on dirt roads on which vehicular traffic is permitted. Public hearings were held in Holyoke on June 27, 2019 and in Brighton on July 2, 2019. Public hearing notices were published in the *Massachusetts Register* on June 14, 2019 and in the *Boston Herald*, *Worcester Telegram*, and *Berkshire Eagle* on June 4, 2019. Additionally, interested parties were notified via electronic mail. The public comment period ran from June 25, 2019 until July 24, 2019. Generally, DCR received 171 comments opposed to the proposed amendments and 98 comments supportive of the proposed amendments.

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Comments and Responses

Comment: E-bikes tend to go fast on paved paths; their speed should be regulated.

Response: DCR appreciates this comment and notes that existing regulations require that riders keep to the right and follow other safety measures on DCR property. In addition, as revised, the regulations prohibit the use of electric bicycles on trails that provide assistance at speeds above 20 mph (i.e., Class 2 and Class 3 electric bicycles are prohibited on trails).

Comment: E-bikes should not be allowed in bike lanes on busy streets.

Response: DCR appreciates this comment but encourages the lawful use of bike lanes.

Comment: Regulations should follow 3-class model system that defines classes 1, 2, and 3 e-bikes.

Response: DCR appreciates this comment. Recognizing that the definition of “pedal-assist electric bicycle” is very similar to that of a so-called “class 1” e-bike, DCR has included a definition of electric bicycles that incorporates the 3 classes commonly used in the industry and codified in the Infrastructure Investment and Jobs Act of 2021 (23 U.S.C. s. 217). The regulation permits the use of class 1 e-bikes on improved paths that are 8 feet or wider, as well as in places where vehicular traffic is permitted (including bicycle lanes on roadways); the use of class 2 and class 3 e-bikes will be limited to places where vehicular traffic is permitted (including bicycle lanes on roadways).

Comment: Because there is legislation pending in the General Court, DCR should wait to amend its regulations until after that legislation has been acted upon.

Response: DCR appreciates this comment but would prefer to allow the limited use of e-bikes now and revisit the regulations if enacted legislation renders it necessary.

Comment: Class 1 e-bikes should be permitted on off-road, natural surface trails.

Response: DCR appreciates this comment but will not permit any e-bikes on natural surface trails, regardless of width, as additional study is needed to determine their impact on trails and compatibility with other trail users. DCR is committed to protecting natural resources while balancing demand for outdoor recreation and associated technologies. DCR will continue to learn through the latest research and studies that seek to quantify the impact of new uses on natural resources.

Comment: E-bikes do not do any more damage to natural surface trails than traditional bicycles and should therefore be permitted on all types of trails.

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Response: DCR appreciates this comment but will not permit any e-bikes on natural surface trails, regardless of width, as additional study is needed to determine their impact on trails.

Comment: Class 1 e-bikes should be permitted wherever traditional bicycles are allowed.

Response: DCR appreciates this comment, but will allow class 1 e-bikes only on improved surface trails that are 8 feet or wider, as additional study is needed before e-bikes will be permitted on natural surface trails. DCR is committed to protecting our natural resources while balancing demand for outdoor recreation and associated technologies. DCR will continue to study and learn more about the use of e-bikes on different surfaces, as well as the compatibility of e-bikes with other trail users.

Comment: E-bikes enable more people of varying physical abilities to participate in mountain biking and other types of riding.

Response: DCR appreciates this comment, but will permit class 1 e-bikes only on improved surface trails that are greater than or equal to 8 feet wide, as additional study is needed before e-bikes will be permitted on natural surface trails. DCR is committed to protecting our natural resources while balancing demand for outdoor recreation and associated technologies, and will continue to study and learn more about the use of e-bikes on different surfaces, as well as the compatibility of e-bikes with other trail users.

Comment: Instead of regulating the type of conveyance, DCR should regulate how one behaves on and operates a conveyance, such as regulating speed.

Response: DCR appreciates this comment, and has decided to concentrate on e-bikes at this time. E-bike operators will be subject to existing regulations against excessive speed and reckless behavior, and regulating e-bikes provides DCR with another tool to manage public resources.

Comment: In addition to permitting class 1 e-bikes everywhere traditional bicycles are allowed, class 2 and class 3 e-bikes should be allowed on DCR property “where appropriate.”

Response: DCR appreciates this comment, and will, in addition to permitting class 1 e-bikes on improved paths that are 8 feet or wider, permit the operation of class 2 and class 3 e-bikes where vehicular traffic is permitted (including bicycles lanes on DCR roadways).

Comment: DCR should conduct research and analysis relating to the effects of various classes of e-bikes on various types of terrain before amending its regulations.

Response: DCR appreciates this comment, but would prefer to allow the limited use of e-bikes now, as noted in the proposed amendments. DCR is committed to protecting our natural

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resources while balancing demand for outdoor recreation and associated technologies, and will continue to study and learn more about the impact of e-bikes on different surfaces as well as compatibility with other trail users.

Comment: A number of other states allow e-bikes on natural surface trails; Massachusetts should follow suit.

Response: DCR appreciates this comment but will permit class 1 e-bikes only on improved paths 8 feet or greater in width at this time.

Comment: A speedometer should be required on all conveyances with motors (bikes, scooters, etc.).

Response: DCR appreciates this comment, but requiring certain safety equipment on bikes and other conveyances is not within the agency's purview.

Comment: All public paths should be widened and striped.

Response: DCR appreciates this comment but the state of public pathways is not within the scope of the proposed amendments.

Comment: Whether or not to permit e-bikes on DCR property should be determined on a property-by-property (or trail-by-trail) basis, based on the conditions of a particular location.

Response: DCR appreciates this comment but will permit class 1 e-bikes on all improved paths that are 8 feet or greater in width (unless there is a sign posted to the contrary). DCR believes that it is appropriate to establish default rules that apply to all property, but which can be amended on a case-by-case basis by, for instance, posting signage. DCR is committed to protecting our natural resources while balancing demand for outdoor recreation and associated technologies, and will continue to study and learn more about the use of e-bikes on different surfaces, as well as compatibility with other trail users.

Comment: E-bikes are too fast for narrow, natural surface trails, and should be treated as motorized vehicles.

Response: DCR appreciates this comment. E-bikes will not be allowed on natural surface trails at this time. However, DCR will permit e-bikes on improved paths that are 8 feet or greater in width (class 1) and where vehicular traffic is allowed, including bike lanes on DCR roadways (classes 1, 2, 3).

Comment: E-bikes should not be permitted on natural surface trails, as they will cause erosion

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on single tracks.

Response: DCR appreciates this comment and will not permit e-bikes on natural surface trails at this time.

Comment: E-bikes should be treated as motorized vehicles.

Response: DCR appreciates this comment but will not treat e-bikes as motorized vehicles, choosing, instead, to adopt the widely accepted three-tier classification system for e-bikes. All e-bikes will be permitted where motor vehicles are permitted, as well as in bike lanes on DCR roadways.

Comment: Permitting e-bikes on DCR property will create conflict between e-bike users and non-motorized users of trails.

Response: DCR appreciates this comment and will permit class 1 e-bikes only on improved paths that are at least 8 feet wide. Regulatory provisions require that all users of trails, including e-bike riders, operate in a safe manner, with appropriate safety equipment, and with adherence to all regulatory signs and pavement markings. (See 302 CMR 12.12.) DCR believes that these limitations and provisions will address potential conflicts among trail users. Additionally, DCR will continue to study e-bikes to determine their impact on trails and compatibility with other trail users.

List of Commenters

Dayle Acquilano
Michael Alfano
Patrick Allen
Michael Amaral
Joan Angelo
Appalachian Mountain Club (Heather Clish)
Cameron Arroyo
Rob Auffrey
Todd Balf
Emily Balkam
Christopher Ball
Andrew Bates
bdarling324
Jason Bell
Andy Bellak
Erich Benedix
Berkshire Bike and Board
Jake Berry
Chuck Berube

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Bruce Biewald
Scott Blackwell
Corey Bollier
Bill Boles
Nick Bonfatti
Charles Boston
James Bothwell
Ray Bowden
Gary Briere
Matthew Brook
Jason Brown
Jacob Buckley-Fortin
Donald Burn
Jerry Callen
Craig Carbone
Brian Carlson
Rick Carlson
David Cassady
Michael Charney, MD
Patrick Clapp
Frank Clouse
Darren Cole
Lewis Collins
Dylan Comb
Todd Consentino
Matthew Cornell
Richard Crampton
David Creedon
Hayden Crilley
Peter Crimmin
Adam Crossman
Hon. Julian Cyr (Cape and Islands District)
Jan Devereux, Vice Mayor, City of Cambridge
Henry Devlin
Hon. Sal DiDomenico (Middlesex and Suffolk District)
Peter DiGregorio
Mike Duclos
Matthew Duggan
Seth Eisenbraun
Tim Eliassen
Jay Elling
Gregory Ely
Peggy Enders
Karen English
Suzy Enos
Alex Epstein
Sean Erickson
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Jonathan Falcetti
Hon. Tricia Farley-Bouvier (3rd Berkshire District)
Edward Faulkner
Wayne Feiden
Hon. Dylan Fernandes (Barnstable, Dukes, Nantucket District)
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Nate Fillmore
Shawn Fitzgibbons
Tom Fortmann
Ron Fousek
Drew Frayre
Alex Frieden
Edward Futcher
Kalman Gacs
Stephanie Galaitsi
Stephen Gammon
Tony Gavelis
Zander Geopfert
Adam Glick
Joyce Goggins
Patrick Goguen
Calvin Goldsmith
James Goodman
Walter Goodridge
Harold Green
Doug Greenfield
Michael Hakuta
Christopher Hall
Brian Hall
Andrew Hally
Dan Hamilton
John Hann
Nathan Hardy
Paul Harrington
Chris Harris
Jennifer Harvey
Maureen Hautaniemi
Claude Hawks
Hon. Jonathan Hecht (29th Middlesex District)
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Georgene Herschbach
Robert Hoefer
Sean Hogan
Chris Holden
Nicholas Holland
Lee Hollenbeck
Chett Hopkins

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Dan Houston
Kimberley Hunt
Curtis Jackson
David Jamison
Chris Johnson
Jeff Johnson
Thouis Jones
Jim Jutras
Emily Kassis
Thomas Kelly
Michael Kelley
Tom Kellner
Richard Kerver
Grace Kessenich
Omar Khudari
Zachary King
David King
Paul Knight
Muris Kobaslija
Ira Krepchin
Jayson Lacasse
Landry's Bicycles (Jack Johnson)
Lane VP
Jennifer LauchlanBrent LeBlanc
David LeBlanc Susan Lee
Terry Lee
Mary and Dibba Lerret
Bob Lesko
Henry Lieberman
Jan Lindsay
Andrew Lindsay
Leah Lindsay
Nick Linsky
Christopher Lucy
Victor Lum
Daniel MacDonald
Adam MacNeill
Julia Magnusson
Mike Maina
Mark
Henry Martone
Peter Martone
Massachusetts Bicycle Coalition (Galen Mook)
Erica Mattison
Jonathan Mauterer
Nat McAllister
Jay McBain
Colin McCarthy

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Jarad McCauley
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Mark McDonald
Thomas McKenna
Mark and Sarah McKusick
Richard McLarney
Marty Meterko
Christina Michuad
Jessica Mink
George Mitchell
Paul Mitchell
Terry Morose
Brandon Morphew
Andy Morris-Friedman
Jason Morse
Scott Mullen
Gary Muntz
Kevin Murray
Dan Mushrush

Matthew Myette
Zachary Nagle
New England Mountain Bike Association
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Brian Noonan
Chris Patrick
John Pelletier
People For Bikes (Morgan Lommele)
John Pepper
Carlos Peralta
Christopher Perham
Bill Perry
Jana Pickard-Richardson
Plaine's Bike Ski Snowboard
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Don Podolski
Russell Polsgrove
Gabriel Porter-Henry
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Carol Lee Rawn
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Daniel Reid
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Sujit Sitole
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Chris Stark
Stephen
Charley Stevenson
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Dan Streeter
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Rebecca Tabaczynski
Jim Tennermann
Mark Thayer
Amanda Thompson
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Don Topaz
James Tozza
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John Ustas
Valley BikeShare Steering Committee
Patria Vandermark

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Walk Boston (Brendan Kearney)
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Jeffrey Wardle
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Sara Wasserman
Joel Weber
Ruth Wheeler
Elizabeth Wickis
Matt Wilcox
George Willard, Jr.
Chad Wolfson
Ian Woloschin
Alan Wright
Vivian Youngberg
David Zizza