

## Oregon Parks and Recreation Commission

June 14, 2023

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Agenda Item: 9a

**Action**

Public Comment Allowed: **No**

Topic: Request to Adopt Scenic Bikeways Rulemaking OAR 736-009-0020 to 736-009-0030

Presented by: Clint Culpepper, Cycle Oregon – Scenic Bikeways Coordinator  
Jo Niehaus, Policy Analyst

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### **Background:**

The Scenic Bikeways Program was established in 2009 as the first program in the United States with official state-designated bike routes with printable maps, GPS cue sheets and on-road signage to showcase beautiful scenery, state history and local communities along bike routes.

Currently the program is managed by Cycle Oregon, a non-profit dedicated to transforming individuals and communities through bicycling to preserve and protect the special places in Oregon while supporting community development cycling projects throughout the state. Cycle Oregon is in its second year of its 2-year contract to administer the Scenic Bikeways program.

Staff request permission to adopt amendments to administrative rules governing the formation of the Scenic Bikeways Committee and establishment process of the Scenic Bikeways under Chapter 736 Division 9 (OAR 736-009-0020, OAR 736-009-0025, OAR 736-009-0030).

A Rules Advisory Committee met on March 29, 2023 for this rulemaking. The RAC was composed of interested parties representing county commissions, Safe Routes to Schools, Oregon Department of Transportation, Oregon Destination Association, Oregon Bicycle and Pedestrian Advisory Committee, local governments, Oregon Recreation Trails Advisory Council, equestrians, cyclists with disabilities and cyclists from historically underrepresented populations. The RAC also included OPRD staff and Cycle Oregon serving as subject matter experts. The RAC discussed all of the proposed changes and ultimately made further suggestions that staff implemented:

- Increase diversity and participation in the committee by adding two additional at-large seats and widening participation to a representative appointed by the Oregon Recreation Trails Advisory Council (ORTAC) and Oregon Bicycle and Pedestrian Advisory Committee (OBPAC).
- Clarify and streamline the committee's process by defining more clearly the group's quorum and process for recommendation designation.

- Additional evaluation criteria were also added so potential future designations analyze the potential impacts on existing recreation and use.
- Definitions updated to include “improved public way” in order to open up qualifying bikeways to include surfaces other than “paved.”
- The definition for “bicycle path” also expanded to include public ways that allow for bicycles including e-bicycles that are operator propelled or electric assisted. This definition will also be extended to identify wheelchair use and other adaptive equipment to accommodate accessible shared-use options.

A public hearing was held on the evening of April 19, 2023. The only formal comment from the hearing was also submitted in writing, please see page 6 on Attachment C to this agenda item. Three formal written comments were submitted from the open comment period from April 3, 2023 through May 19, 2023. All of the comments referenced items outside of the rulemaking and have been referred back to OPRD Staff and Cycle Oregon to address. All comments and agency response are included in Attachment C of this agenda item.

Overall this rulemaking seeks to better serve Oregonians through widening definitions to allow for maximum participation from a more diverse array of participants and to protect recreation access for differently-abled individuals and different types of cyclists.

**Prior Action by Commission:** The Commission approved opening the rules during the February 2023 meeting.

**Action Requested:** Staff request permission to adopt rulemaking on amendments to OAR 736-009-0020 to 736-009-0030 to update Scenic Bikeways rules.

**Attachments:** 9a Attachment A Marked copy of proposed rules; 9a Attachment B Clean copy of proposed rules; 9a Attachment C Public comments received and agency responses.

**Prepared by:** Jo Niehaus, Policy Analyst

## 9a Attachment A Marked Copy

736-009-0025

### Oregon Scenic Bikeways Committee

(1) The director shall appoint a Scenic Bikeways Advisory Committee composed of ~~up to 13~~ 11 members.

(a) The following committee members shall be nominated by their respective directors for appointment:

(A) A representative of the Oregon Tourism Commission (dba Travel Oregon);

(B) A representative from the Oregon Department of Transportation;

(C) A representative of a Federal lands management agency; and

(D) A ~~member of representative appointed by of~~ the Oregon Bicycle and Pedestrian Advisory Committee established pursuant to ORS 366.112

(b) The following committee members shall be appointed by the director:

(A) A representative of Oregon Destination ~~Marketing Organizations~~ Association;

(B) A ~~liaison from representative appointed by of~~ the Oregon Recreation Trails Advisory Council (ORTAC) established pursuant to ORS 390.977;

(C) A representative of counties who the director shall ~~be~~ selected in consultation with the Association of Oregon Counties;

(D) A representative of cities who the director shall ~~be~~ selected in consultation with the League of Oregon Cities; and

(E) ~~Three Up to five~~ Five at-large members, with at least one member who represents a historically underrepresented community and one member who represents persons with disabilities. the disability community.

(2) Committee members appointed under subsection (1)(b) may serve two consecutive four-year terms on the committee.

(3) The director shall appoint the chair from the committee membership, considering the recommendations of the committee.

(4) The committee shall meet at times and places specified by the call of the director.

~~(5) A majority of the members of the committee constitutes a quorum for the transaction of business.~~

(5) A simple majority of committee members appointed under subsections (1)(a) and (b) constitutes a quorum for the transaction of business.

(6) Function and Duties of Scenic Bikeways Committee:

(a) The committee shall evaluate proposed Oregon Scenic Bikeways against the criteria provided in OAR 736-009-0030 and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2). The committee shall make a recommendation to the director on each application for a proposed Oregon Scenic Bikeway.

(b) The committee shall evaluate each Oregon Scenic Bikeway route at least once every five years. The committee may recommend that the department improve, remove, or reroute portions of a route no longer meeting the criteria for an Oregon Scenic Bikeway.

**Statutory/Other Authority:** ORS 390.971(8)

**Statutes/Other Implemented:** ORS 390.956, 390.959, 390.962, 390.968 & 390.971

**History:**

PRD 2-2016, f. & cert. ef. 5-2-16

PRD 21-2009, f. & cert. ef. 12-8-09

PRD 7-2008, f. & cert. ef. 9-15-08

### **736-009-0030**

#### **Establishing Oregon Scenic Bikeways**

Pursuant to ORS 390.962(1), the department prescribes the criteria in this rule in addition to those provided in the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2), for the designation of Oregon Scenic Bikeways.

(1) Oregon Scenic Bikeways may be comprised of bicycle paths, designated transportation corridors or a combination thereof. Oregon Scenic Bikeways may include route sections located in or near existing rights-of-way for roads or highways.

(2) Oregon Scenic Bikeways may be linear, loop, or a combination of linear and loop routes that are routes of ~~superior~~ scenic quality that inspire people to experience Oregon's natural beauty and cultural heritage by bicycle.

(3) Pursuant to ORS 390.962(1), an Oregon Scenic Bikeway may be located:

(a) Over public land with the consent of each governmental entity having jurisdiction over the lands designated; or

(b) Over privately-owned lands in the manner and subject to the limitations provided in ORS 390.950 to 390.989 and 390.995(2).

(4) The Department will periodically call for Bikeway applications.

(5) Evaluation of Applications

(a) To be considered as an Oregon Scenic Bikeway, a proponent must submit to the department a completed Oregon Scenic Bikeway Application form in the format specified by the department.

(b) The department will review each Oregon Scenic Bikeway proposal for completeness, including whether the application adequately addresses the considerations provided in ORS 390.965(2). The department will provide all complete, eligible applications to the committee. Incomplete or ineligible applications will be returned to the proponents with an explanation of the deficiencies.

(c) The committee will consider routes for designation based on the criteria provided in sections (1)–(3) of this rule and the Oregon Recreation Trails System Act, ORS 390.950 to 390.989 and 390.995(2).

(d) The committee shall conduct a field review of the proposed route, to include a review conducted on bicycles by no less than three (3) members of the committee.

(e) The committee shall score the route against criteria established in the Oregon Recreation Trails System Act, ORS 390.950 through 390.989 and 390.995, and this rule, including but not limited to:

(A) Emphasis on use of public lands,

(B) Minimizing adverse effects on adjacent landowners,

(C) Harmony with and complement to established forest, agricultural, or other use plans, and

(D) Any natural features, agriculture, forest, unusual or unique landforms, vegetation, water components, scenic beauty and interest, as well as amenities available to the route.

(E) Minimizing adverse effects and conflicts between other existing recreation user types.

(f) Based on the application, field review and scoring the committee shall determine if the route qualifies to be recommended for designation as an Oregon Scenic Bikeway.

(g) The committee will forward recommendations for designation to ORTAC for ~~consultation during an ORTAC public meeting.~~

(h) The committee will forward recommendations for designation to the director for approval to advance to the designation process.

(i) If the committee does not recommend designating the route as an Oregon Scenic Bikeway, it shall provide comments and recommendations to the proponent. The proponent may reapply to the department only after fully addressing the recommendations of the committee.

(6) Designation Process:

(a) The Proponent must submit to the department a completed Bikeway Plan in the format specified by the department.

(b) The department shall hold public meetings on the recommended designation as provided in ORS 390.965(1).

(c) The committee shall provide each recommendation for designation as an Oregon Scenic Bikeway to the director.

(d) After the public meetings required in subsection (b) the director shall either:

(A) Submit the committee's recommendation to the commission for approval or denial of the proposed Oregon Scenic Bikeway; or

(B) Request that the committee provide further consideration of issues presented in the public meeting.

#### (7) Scenic Bikeway Management

(a) The department will enter into written cooperative agreements with landowners, federal agencies, other state agencies, local governments, private organizations and individuals as necessary to ensure that the development, signing, operation, maintenance, location or relocation of the trail meet the Oregon Scenic Bikeway Standards.

(b) The department shall evaluate each Oregon Scenic Bikeway at least once every five (5) years. The department will provide the committee an evaluation of the Scenic Bikeway including any significant changes on the route that would diminish its scenic qualities and the strength of the local proponent group. Upon review, the committee may recommend:

(A) The trail be improved to meet the standards of state designation; or

(B) Removal of Oregon Scenic Bikeway designation when or if the route no longer meets the criteria.

(c) Signing and Publication of Oregon Scenic Bikeway.

(A) Consistent with the requirements of ORS 390.959, the department will establish sign standards and coordinate sign placement for all routes that the commission designates as an Oregon Scenic Bikeway.

(B) The department will publish on its web page and make available standardized route maps for all Oregon Scenic Bikeways.

**Statutory/Other Authority:** ORS 390.971(8)

**Statutes/Other Implemented:** ORS 390.956, 390.959, 390.962, 390.968 & 390.971

**History:**

PRD 2-2016, f. & cert. ef. 5-2-16

PRD 21-2009, f. & cert. ef. 12-8-09

PRD 7-2008, f. & cert. ef. 9-15-08

## 736-009-0020

### Definitions

For purposes of this division, unless the context requires otherwise:

- (1) “Agriculture/Forestry” means crops, wineries, vineyards, ranches, fisheries, orchards, nurseries, old-growth and reforested lands.
- (2) “Amenities” may include potable water, lodging, camping, restrooms, bike shops, equipment storage, charging stations, restaurants and grocery stores.
- (3) “Commission” means the Oregon Parks and Recreation Commission.
- (4) “Committee” means the eleven-member Scenic Bikeway Committee appointed by the director to recommend the establishment and designation of Oregon Scenic Bikeways to the department.
- (5) “Council” means the Oregon Recreation Trails Advisory Council.
- (6) “Department” means the Oregon Parks and Recreation Department.
- (7) “Director” means the Oregon Parks and Recreation Director appointed under ORS 390.127.
- (8) “Landform” means topography that becomes more interesting as it gets steeper or more massive, or more severely sculptured. Outstanding landforms may be monumental or artistic and subtle.
- (9) “Landscape” means a combination of outdoor, manmade, natural, and agricultural features within a view shed.
- (10) “Linear Route” means a route that progresses from a starting to an ending point. The beginning and end of a linear route do not meet, but may connect to another route or a destination point.
- (11) “Loop Route” means a route that starts and ends at the same location or connects to another cycling route that returns to the starting point.
- (12) “Natural Features” means non-manmade attractions including geologic formations, wildlife sites, waterfalls, lake basins, old-growth stands, and mountain meadows.
- (13) “Oregon Recreation Trail” means any trail established and designated by the department pursuant to the Oregon Recreation Trails System Act.
- (14) “Oregon Regional Trail” means any trail that connects communities, recreation sites or other trail systems and provides close-to-home recreational opportunities.
- (15) “Oregon Scenic Bikeway” means a route designated for bicyclists under ORS 390.962.
- (16) “Oregon Scenic Trail” means trails that provide access to and enjoyment of significant scenic natural views and features.

(17) “Bicycle Path” means a paved or improved public way ~~trail~~ along a road or an independent right-of-way used by individuals operating a bicycle or electric assisted bicycle, pedestrians (including joggers, skaters and users of wheelchairs), and other adaptive equipment ~~bicyclists, pedestrians, joggers, skaters,~~ and other non-motorized travelers.

(18) “Paved” means a hard surface such as concrete, asphalt cement concrete (A/C) or other stable bituminous surface.

(19) “Improved Public Way” means a legally documented right of way firm and stable maintained or compacted surface road facility that could include a graded gravel surface.

~~(2019)~~ “Proponent” means a group, organization, or individual who proposes the designation of an Oregon Recreation Trail.

~~(219)~~ “Public Land” means any lands owned or leased by the federal government, this state or any political subdivision thereof.

~~(221)~~ “Route” means a combination of streets and paths used to travel to destinations or in corridors for transportation or recreation.

~~(232)~~ “Scenic” means an abundance and variety of aesthetically-pleasing manmade or natural elements along the route.

~~(243)~~ “Trail Corridor” means the land associated with the use agreement, easement or right-of-way upon which the trail lies.

~~(254)~~ “Unique” means relatively rare or unusual as applied to a resource or combination of features within a geographic region.

~~(265)~~ “Vegetation” means forest, prairies, orchards, active farm cropland and tree farms with a variety of patterns, form and textures created by plant life, and small scale vegetation features that add striking and intriguing detail elements to the landscape.

~~(276)~~ “Water” means ocean, rivers, lakes, streams, waterfalls, rapids, marshes, estuaries, bays, canals and harbors that add movement or serenity to a scene, or the degree to which water dominates the scene.

**Statutory/Other Authority:** ORS 390.124

**Statutes/Other Implemented:** ORS 390.950 – 390.989

**History:**

PRD 21-2009, f. & cert. ef. 12-8-09

PRD 7-2008, f. & cert. ef. 9-15-08



## **9a Attachment B Clean copy of scenic bikeways rules**

**736-009-0025**

### **Oregon Scenic Bikeways Committee**

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(26) “Vegetation” means forest, prairies, orchards, active farm cropland and tree farms with a variety of patterns, form and textures created by plant life, and small scale vegetation features that add striking and intriguing detail elements to the landscape.

(27) “Water” means ocean, rivers, lakes, streams, waterfalls, rapids, marshes, estuaries, bays, canals and harbors that add movement or serenity to a scene, or the degree to which water dominates the scene.

**Statutory/Other Authority:** ORS 390.124

**Statutes/Other Implemented:** ORS 390.950 – 390.989

**History:**

PRD 21-2009, f. & cert. ef. 12-8-09

PRD 7-2008, f. & cert. ef. 9-15-08



## **Rulemaking: Scenic Bikeways**

**Public comments received between comment period opening  
April 3, 2023 and closing May 19, 2023 5 p.m.**





# Submit a public comment on a rule

Oregon Parks and Recreation Department

**Proposed rule change:**

**Oregon Scenic Bikeways Rules**

**Commenter name (if provided):**

Tom Sayre

**Date comment received:**

April 4, 2023 06:31 PM

**Commenter email (if provided):**

tomdsayre@gmail.com

**Location (if provided):** Warrenton , OR

**Public comment:**

The term, bicycle, appears throughout these rules, including within the proposed changes.

I realize this recommendation will have agency-wide implications, but it's time to update the term "bicycle" to "cycle" for three reasons.

- Bicycle is not inclusive as many people use recumbents, handcycles, and tricycles.
- Bicycle is an archaic term that has been used for over 150 years. The English language continually evolves to address current needs and this should too.
- Perhaps most importantly, by referencing "cycles" instead of "bicycles", it may change the way we think about cycling and could lead to better design considerations.

Perhaps OPRD's Diversity, Equity & Inclusion Coordinator could weigh-in on this?

**Agency response:** The agency's administrative rule definitions and word choice for "bicycle" cannot currently change to "cycle" in order to stay consistent with existing statutory definitions. This comment has triggered OPRD Staff to contact Oregon Department of Transportation to see if any rule definition updates are upcoming and that we can follow in suit to stay in line with state statutes. Thank you for the public comment.



# Submit a public comment on a rule

Oregon Parks and Recreation Department

**Proposed rule change:**

**Oregon Scenic Bikeways Rules**

**Commenter name (if provided):**

Michelle Petersen

**Date comment received:**

April 4, 2023 08:31 AM

**Commenter email (if provided):**

lilhrtbrkngri@yahoo.com

**Location (if provided):** Redmond, OR

**Public comment:**

As someone who uses most of these "Scenic" routes to go camping I am finding it that the bicyclist are in the road ways on blind corners on roads with speed limits of up to 50 mph. When creating rules for these Scenic Bike Routes please consider this and make sure there are shoulders wide enough and maintained for bicyclist and motorist safety. It is very scary to be pulling a 30ft travel trailer going 45 mph and come around a corner to a pack of bicycles in the middle of the road doing 5-10 mph. DEADLY combo!

**Agency response:** This public comment is not specific to the administrative rules at hand. This commenter's concern is valid and OPRD staff and the Scenic Bikeways Committee will continue to prioritize safety when evaluating potential scenic bikeways. Thank you for the public comment.



# Submit a public comment on a rule

Oregon Parks and Recreation Department

**Proposed rule change:**

**Oregon Scenic Bikeways Rules**

**Date comment received:**

April 21, 2023 12:22 PM

**Commenter name (if provided):**

Paul Lieberman

**Commenter email (if provided):**

president@mvbc.com

**Location (if provided):** Corvallis, OR

**Public comment:**

After reading your proposed rule changes apply to scenic bikeways definitions, committee makeup and committee processes, and include:

- expanding the number of public at-large seats on the Scenic Bikeways Committee.
- changing required committee affiliation criteria.
- clarifying the committee quorum.
- clarifying establishment of new route process and expanding the definitions.
- amending the definition of "Bicycle Path" to "Improved Public Ways".
- adding accessibility language to include electric assisted bicycles, wheelchairs and other adaptive equipment.
- expanding the criteria for establishing new routes by adding the following: "minimizing adverse effects and conflicts between other existing recreation user types."

I have to say this does not seem at all constructive to me. As far as I can tell the Scenic Bikeway Program has been paralyzed and without leadership for at least 5 years. It has been that long since I proposed rerouting the WWSB along the highway 34 bike path to the traffic light at Peoria Road to avoid the extremely dangerous crossing at White Oak Road. Every year I follow up, and every year I am told it's in the queue. Right now riders are forced to cross 4 lanes of busy traffic going 60 mph or faster on highway 34. Are you just waiting for someone to be killed to fix it? Especially when the fix is so trivial and just involves moving a couple of signs.

Speaking of people being killed, you may be aware that an Albany woman was killed by a car on the WWSB just outside of Albany last year. Have any steps been taken? Has anyone from the Scenic Bikeway program contacted the Linn County Sheriff to find out what's being done to make this road safer for cyclists?

The new rules I would like to see the scenic bikeway committee discussing would be less bureaucratic in nature and more action oriented. Your number one concern should be the safety of the riders out on these routes you have already created. My ideal would be big signs for drivers "Entering scenic bikeway, speed limit 35 MPH, Yield to cyclists". Is this even close to being on anyone's radar? If we are not working diligently to make these roads safer for cyclists we have no business promoting them as scenic bikeways. I'd rather see you scrap the scenic bikeway program and focus on separated bikeways like rail trails that are off limits to cars.

In short, I think safety should be your main concern, and I do not think changing rules and definitions are going to make the existing scenic bikeways any safer.

**Agency response:** This commenter has already been connected with the Scenic Bikeways Committee and coordinator. The specific bikeway mentioned in the comment and the review of reroutes is outside of the current rulemaking. Reroutes will be determined by the committee and safety is always a priority when evaluating potential scenic bikeways. Thank you for the public comment.