

STATE OF NEW HAMPSHIRE

INTER-DEPARTMENT COMMUNICATION

Date: September 2, 2014

From: Erik Paddleford, Bicycle/ Pedestrian Technician
Rail and Transit Bureau

Subject: NHDOT Bicycle Pedestrian Transportation Advisory Committee
(BPTAC) – TE Funded Trails Recommendation

To: Christopher Clement
Commissioner

THRU: Patrick Herlihy,  Director, Aeronautics, Rail and Transit

Shelley Winters 
Administrator, Bureau of Rail
and Transit

The NHDOT Bicycle and Pedestrian Transportation Advisory Committee (BPTAC) has become aware of the use of a TE funded rail trail by non-motorized users.

This issue came to light initially through a local bicycle advocate sending information to BPTAC members. BPTAC looked into the issue relative to the Claremont rail trail in the City of Claremont and the historical ATV trail use.

FHWA closed the 2.7 mile section of trail built with TE funds to ATV's earlier in the spring. The City would like to continue to allow ATV use on the trail, as it has for the last 14 years, and has applied for a waiver to do so from FHWA.

FHWA will defer to their local branch with input from NHDOT to make a final decision on whether or not to grant this waiver.

The attached recommendation summarizes the discussions and views of the BPTAC on this matter and respectfully submits this recommendation for your review and would welcome the opportunity to discuss this recommendation with you further.

Att.
cc: N. Coates (Chair, BPTAC)

NHDOT Bicycle Pedestrian Transportation Advisory Committee

August 18, 2014

Christopher D. Clement
Commissioner
New Hampshire Department of Transportation
7 Hazen Drive
Concord, NH 03301

The NH Bicycle and Pedestrian Transportation Policy Advisory Committee (BPTAC) has discussed and reviewed the situation in the City of Claremont relative to the use of motorized vehicles on the Sugar River Rail Trail. At issue is a 2.7-mile portion of the rail trail that is owned by the City of Claremont. The portion of the rail trail is adjacent to Washington Street and was purchased and/or constructed with "Transportation Enhancement" funds. It has been reported that this portion of the trail is being used by "all-terrain vehicles" (ATVs). The City has been advised that because this portion of the trail was built using Section 217 Federal funds, the trail is subject to the following provision in U.S. Code Title 23, Section 217:

(h) Use Of Motorized Vehicles.--Motorized vehicles may not be permitted (BPTAC emphasis added) on trails and pedestrian walkways under this section, except for --

1. maintenance purposes;
2. when snow conditions and State or local regulations permit, snowmobiles;
3. motorized wheelchairs;
4. when State or local regulations permit, electric bicycles;
5. and such other circumstances as the Secretary deems appropriate.

Funds provided by the Federal Highway Administration for TE (and now TAP) are designated for specific activities, including pedestrian and bicycle infrastructure, scenic and historic preservation and rehabilitation, landscaping and environmental mitigation among others. As noted above, most motorized vehicles are specifically excluded.

We believe that the Federal policy recognizes the potential safety issues associated with motorized vehicles like ATVs in areas that appeal to walkers, joggers and cyclists. Further, by contributing noise, fumes and erosion, ATVs and similar vehicles are contrary to the stated criteria of preservation and environmental mitigation associated with the fund's designation. Lastly, because the trail is located in an urban setting, it provides a safe route for persons engaged in active transportation.

BPTAC Summary Opinion

In general, BPTAC contends that granting waivers to allow ATVs on rail trails purchased and/or constructed using TE/TAP funds is contrary to the provisions set in U.S. Code Title 23, Section 217 and will set a precedent leading to other such requests in the future. Second, because rail trails are increasingly contributing to people choosing to walk and bike over driving as a transportation option, the BPTAC strongly discourages granting of such waivers. We respectfully request that this and such waiver requests be denied.