

0019368

From: [Sandra Hamilton](#)
To: [Otto, Dana](#)
Subject: RE: FW: Cape Hatteras Wetlands
Date: 11/21/2005 01:25 PM

Yes, and the answers are --- if we are proposing new adverse effects then we need a SOF; if we are proposing a continuation of existing adverse effects, we do not need a SOF, especially if there will be a net beneficial impact on wetlands. Regarding possible adverse effects on soundside fishermen of ORV closures: this doesn't require an SOF, only adverse effects on wetlands (not on people using them to fish) requires an SOF. One other point raised it's important to get the definition correct (using the Cowardin reference), intertidal area up to extreme high lunar tide (for the shoreline area).

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To: <Sandra_Hamilton@nps.gov>

cc:

Subject: RE: FW: Cape Hatteras Wetlands

11/20/2005 11:21 PM EST

Sandy,

Did you all ever speak with WRD regarding the need for an SOF?

Thanks...

Dana Otto, AICP
202.550.4595

-----Original Message-----

From: Sandra_Hamilton@nps.gov [mailto:Sandra_Hamilton@nps.gov]

Sent: Monday, October 10, 2005 2:05 PM
To: Otto, Dana
Cc: Gorder, Joel; Gutman, Lori; Michael_B_Edwards@nps.gov;
Sarah_Bransom@nps.gov; Cauley, Shannon
Subject: Re: FW: Cape Hatteras Wetlands

Thanks for the information, Dana. It's my understanding that, in some areas, vehicles drive in the wetland area (including the wrack line) when there is not a sufficiently wide corridor between the wrack line and 20 feet seaward from the toe of the dunes, but I will need to check with the park to be sure. And I think some of the research at CACO has indicated adverse effects on the wrack community and intertidal inverts from compression when vehicles drive over these areas repeatedly. If so, this may (or may not) call for a wetlands SOF. I doubt the posts would be an issue (other than aesthetic).

I don't think impacts on recreation (fishing) from closing soundside wetland areas to driving would call for a wetlands SOF but would instead be analyzed in Chapter 4 under recreation impacts.

We will check with WRD (and the park) on this come Tues. when everyone is back at work (today's a federal holiday) and get back to you.

Sandy

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Subject: FW: Cape

Hatteras Wetlands

Shannon researched the wetlands question...please see his response below.

Overall, we discussed the need for an SOF would be unlikely; however, if you have no objections, we would like to contact WRD just to confirm.

Let

me know if you would like us to proceed with that. Thanks.

Dana Otto, AICP
202.550.4595

From: Cauley, Shannon
Sent: Friday, October 07, 2005 6:14 PM
To: Otto, Dana
Subject: RE: Cape Hatteras Wetlands

Dana,

Hope this makes sense:

Based on the Cowardin Classification System the marine system, which is a wetland classification includes, but is not limited to, the landward

limit

of tidal inundation, including the splash zones of breaking waves. The landward limit of tidal inundation is measured based on the "extreme high

water of spring tides". The Piping Plover Management and Protection Protocols refer to low-wave energy moist substrate habitats (MOSH) including intertidal mudflats and sandflats as foraging habitat for the plover. These areas are within the landward limit of tidal inundation and

would be considered wetland habitats (both ocean and sound side) within the

marine system. Dry sand flats (referenced in the protocols) would not be

considered wetlands if they are above the extent of tidal inundation during

the extreme high water of spring tides.

Ephemeral pools, although not specifically identified in the Cowardin Classification System, would be considered wetlands.

Based on the Cowardin classification system, a wetland must have one or more of the following attributes:

1.) at least periodically, the habitat supports predominately hydrophytic

vegetation (wetland vegetation);

2.) the substrate is predominately undrained hydric soil; or

3.) the substrate is non-soil and is saturated with water, or covered by shallow water at some time during the growing season.

"NPS activities that have the potential to have adverse impacts on wetlands

are subject to the provisions of E.O. 11990 as implemented through Director's Order #77-1. Such activities may include: 1) acquiring, managing, and disposing of NPS lands and facilities; 2) construction and related development activities; 3) permitting activities as provided for under NPS regulatory authorities; and 4) activities, programs, or planning

efforts affecting use of NPS lands."

"The basic test for determining if a proposed action will have adverse impacts on wetlands is if the activity has the potential to degrade any of the natural and beneficial ecological, social/cultural, and other functions and values of wetlands. Activities may require compliance due to direct impacts (e.g., location of a structure or fill in a wetland) or due to indirect impacts (e.g., secondary or offsite impacts that reach into wetlands). Examples of activities with the potential to have adverse impacts on wetlands include drainage, water diversion, pumping, flooding, dredging, channelizing, filling, nutrient enrichment, diking, impounding, placing of structures or other facilities, livestock grazing, and other activities that degrade natural wetland processes, functions, or values."

"Examples of wetland degradation include modifying flow, circulation, hydroperiod, or other aspects of the hydrologic regime; degrading natural biotic communities and processes including native plant and animal communities, habitat quality, floral and faunal productivity, and natural biodiversity; and degrading social/cultural values such as aesthetics, education, historical values, archeological resources, recreation, and scientific research."

All NPS proposed actions that have the potential to have adverse impacts on wetlands require appropriate NEPA documentation. An EA that identifies a preferred alternative that will have adverse impacts on wetlands must be accompanied by Statement of Findings. The only potential impacts to wetlands associated with the management and protection protocols would be associated with the placement of posts for stringed symbolic fencing through wetland habitats. Based on observation the posts are like stakes and would have no impacts on wetlands. It is likely that fencing would be placed around and not through wetlands.

The only other direct impact that I can think of would be if traffic was diverted into wetlands as a result of necessity to get around restricted areas. I can't imagine that this would be done intentionally.

I am not sure if restriction of the use of shorelines (within the intertidal zone) or back bay areas considered to be wetlands for recreational purposes would be considered enough of a degradation of wetland values to trigger the need for a SOF. That's an interpretation that NPS would have to do. The exception below would likely cover the loss

of wetland value associated with recreational use. The recreational value

loss that I am thinking of would be related to restricting fishing on both

the ocean side and soundside shoreline areas.

There are no exceptions in D.O.77 that directly exempt species management

plans, but Section 4.2.A.1.e. exempts: "Actions designed specifically for

the purpose of restoring degraded (or completely lost) natural wetland, stream, riparian, or other aquatic habitats or ecological processes. For purposes of this exception, restoration refers to reestablishing environments in which natural ecological processes can, to the extent practicable, function at the site as they did prior to disturbance.

Temporary wetland disturbances that are directly associated with and necessary for implementing the restoration are allowed under this exception. Actions causing a cumulative total of up to 0.25 acres of new long-term adverse impacts on natural wetlands may be allowed under this exception if they are directly associated with and necessary for the restoration (e.g., small structures or berms)."

-----Original Message-----

From: Otto, Dana

Sent: Friday, October 07, 2005 10:48 AM

To: Cauley, Shannon

Cc: Gutman, Lori; Gorder, Joel; Smith, Spence; Podolsky, Richard

Subject: Cape Hatteras Wetlands

Importance: High

Shannon,

I was reviewing impact thresholds and impact topics with Sarah yesterday and wetlands is one of our major habitat areas...we think.

Here's the confusion: the habitat listed in the protected species management protocols for piping plover, American oystercatcher and other colonial waterbirds includes intertidal mudflats, sand flats, and ephemeral pools. First, we need to confirm if these are considered wetlands under Cowardin. Second, if they are wetlands and we are proposing to implement a species management plan, establishing management guidelines related to breeding and foraging habitats, do we need to do a Statement of Findings for wetlands?

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