

From: [Bruce Peacock](#)
To: [Sandra Hamilton](#); [Mike Murray](#)
Cc: [Carol Mansfield](#); [Loomis, Ross](#)
Subject: Re: RFA text
Date: 12/07/2009 10:32 AM

All - as a general rule, I believe including more information (the indirect costs) is a good thing so that we cannot be accused of including only selected data.

Bruce

▼ [Sandra Hamilton](#)

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

From: Sandra Hamilton
Sent: 12/04/2009 11:32 AM MST
To: Mike Murray
Cc: Bruce Peacock; "Mansfield, Carol A." <carolm@rti.org>; "Loomis, Ross" <rloomis@rti.org>
Subject: Re: RFA text

Thanks, Mike. Those clarifications are helpful. As I understand from talking with Carol, the visitor intercept study will provide some useful data for making inferences about indirect impacts because it asks about potential changes in visitors' decisions to visit based on how ORVs are managed. That information will be included in the FEIS socio-economic impact analysis.

Carol / Bruce: given Mike's clarifications below, would the proposed rule have any direct impacts? If there are no direct impacts, then is it an option to certify in the proposed rule that there aren't any and we're done? Since the certification can be challenged in court, we'd want to get the SOL advice first.


Sandy

Sandy Hamilton
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▼ [Mike Murray/CAHA/NPS](#)

**Mike
Murray/CAHA/NPS**

12/04/2009 10:42 AM

To: Sandra Hamilton/DENVER/NPS@NPS
cc: Bruce_Peacock@nps.gov, "Mansfield, Carol A." <carolm@rti.org>, "Loomis, Ross" <rloomis@rti.org>
Subject: Re: RFA text 

Sandy,

In principle, I agree with you that the community would prefer to see all expected financial impacts identified and analyzed. I don't really understand how the "good public policy" analysis of indirect costs would work, so do not have an opinion on it. What would "indirect costs" be and for whom? Would indirect costs include if, because of the permit fee requirement, fewer people coming in ORVs, then there would be fewer customers, or customers that spend fewer dollars per visit, for businesses catering to people in ORVs? While that may be a valid assumption, I have no idea how one could possibly estimate and analyze it, based on what we know now. If "indirect impacts" are something else, it isn't clear to me what that would be.

We do need to clarify several items regarding direct costs (see comments below in RED underlined, etc.):

In Cape Hatteras, the only direct impacts would be for

1. Commercial fishermen – their access to the beach could be regulated (access is currently regulated -they cannot enter resource closures; under the preferred alternative, the number/size of resource closures during the breeding season could be different, but would roughly approximate what has occurred under the consent decree), and they might have to buy a permit to drive on the beach (there is no fee for the commercial fishing permit and we do not plan to charge a fee for it under any alternative).
2. businesses that may need to buy permits to drive on the beach (for example, to deliver surf boards or kite boards) (We had not really thought about this specific circumstance since so few "businesses" operate vehicles on the beach (can only think of one off-hand). In any case, such businesses are already required to have a commercial use authorization, which has a fee. That would not change. After talking with Paul Stevens about this, we would likely incorporate any ORV requirement into the CUA, rather than charge the operator for two kinds of permits. In other words, I don;t think the ORV permit fee would directly impact CUA holders.

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▼ Sandra Hamilton/DENVER/NPS

Sandra Hamilton/DENVER/NPS

12/04/2009 12:08 PM

To "Mansfield, Carol A." <carolm@rti.org>, Mike Murray/CAHA/NPS@NPS
 cc Bruce_Peacock@nps.gov, "Mansfield, Carol A." <carolm@rti.org>, "Loomis, Ross" <rloomis@rti.org>
 Subject Re: RFA text 

Hello All,

Good question: I think the local community will want to see indirect costs to local business acknowledged somewhere (probably everywhere). I think in discussion at the reg-neg we said that economic effects on local businesses, motels, will be considered and analyzed though I don't recall that we specified where. They are discussed in the DEIS. Will they be discussed in the b/c analysis?

MIKE: See Carol's email below. This is about the initial regulatory flexibility analysis required for regulations that goes to the Small Business Administration for comment and is published at the same time as the proposed rule. As I understand it, public comment is invited on the initial regulatory flexibility analysis as well as the proposed rule, and NPS responds to public comments on the initial regulatory flexibility analysis when it publishes the final regulatory flexibility analysis, which is often included in the final rule (or it can be published separately at the same time as the final rule). Do you have thoughts on whether we should go the extra mile for "good public policy" and include indirect costs in the regulatory flexibility analysis?

Clarification: Commerical fisherment would not be required to get an ORV permit under any of the action alternatives (see below). The no action alternatives (A and B) do not have an ORV permit. Under all alternatives commercial fishermen would continue to operate under a special use permit (SUP) as they are now. I don't know if there is a charge for the SUP, but will ask the park and let you know.

ALTERNATIVE A	ALTERNATIVE B	ALTERNATIVE C	ALTERNATIVE D	ALTERNATIVE E	ALTERNATIVE F
Commercial fishing at the Seashore is authorized and	Same as alternative A, plus:	Same as alternative A, except:	Same as alternative C.	Same as alternative C.	Same as alternative C.

<p>managed under a special-use permit in accordance with 36 CFR 7.58(b). Commercial fishing vehicles are considered <i>non-essential vehicles</i> and are not authorized to enter resource closures. Permitted commercial fishermen are authorized to enter other areas that are closed to recreational ORV use, including seasonal closures and safety closures, but are not authorized to enter lifeguarded beaches.</p>	<p>Commercial fishing vehicles are subject to the night-driving restriction in the consent decree.</p>	<p>Commercial fishermen would not be required to obtain an ORV permit that would be required for recreational ORVs.</p> <p>Commercial fishing vehicles would be authorized to enter non-ORV areas, except for full resource closures and lifeguarded beaches.</p> <p>In areas outside of existing resource closures, the Superintendent would be able to modify the hours of night-driving restrictions by +/- two hours, subject to terms and conditions of the fishing permit, for commercial fishermen who are actively engaged in authorized commercial fishing activity and can produce fish house receipts from the past</p>			
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		30 days. Such modifications would be subject to periodic review.			
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▼ ["Mansfield, Carol A." <carolm@rti.org>](mailto:carolm@rti.org)

"Mansfield, Carol A."
<carolm@rti.org>

To <Bruce_Peacock@nps.gov>,
<Sandra_Hamilton@nps.gov>

12/04/2009 09:18 AM

cc "Mansfield, Carol A." <carolm@rti.org>, "Loomis, Ross" <rloomis@rti.org>

Subject RFA text

Hi Sandy and Bruce,

Sandy and I talked yesterday about the small business impact analysis for Cape Hatteras. In the past for Yellowstone and other parks we have done the RFAs using the estimated indirect impacts on the businesses. Reading through the RFA guidance document, it seems to say pretty clearly that under the law you only need to consider direct impacts and you don't need to consider indirect impacts. However, the guidance document also says "The Office of Advocacy believes it is good public policy to perform an analysis even when the impacts are indirect. (p. 20)"

In Cape Hatteras, the only direct impacts would be for

1. Commercial fishermen – their access to the beach could be regulated and they might have to buy a permit to drive on the beach.
2. businesses that may need to buy permits to drive on the beach (for example, to deliver surf boards or kite boards).

Otherwise, I think the other impacts are indirect.

What do you all think we should do? We could write up the RFA for only commercial fishermen and businesses that might need to buy permits OR we could write the RFA including some estimate of indirect costs.

Carol

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