

0030421

From: [Mike Murray](#)
To: [Doug Wetmore](#)
Cc: [Paul Stevens](#); [Cyndy Holda](#)
Subject: Fw: CAHA proposed rule
Date: 01/08/2011 07:28 AM

Doug,

We probably should consider using the language from the FEIS, Table 8, page 109 to describe the ORV corridor in the proposed rule. Suggested language shown in BLUE. I'm open to NOT including the extra language, since it makes the definition somewhat lengthy, but defer to the Solicitors or the Regs office on it. Maybe there is some way to incorporate it by reference to the FEIS.

ORV corridor means the actual physical limits of the ORV route in the Seashore. The ORV corridor generally runs from the toe of the dune or the vegetation line on the landward side to **the water line** on the seaward side. The ORV corridor will usually be marked by posts on the landward side (the seaward side of the corridor is not posted). **Where the ocean beach is at least 30 meters wide above the high tide line, the corridor would be posted 10 meters seaward of the toe of the dune to provide an ocean backshore closure.**

Mike Murray
Superintendent
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS
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----- Forwarded by Mike Murray/CAHA/NPS on 01/08/2011 09:01 AM -----

Mike Murray/CAHA/NPS

01/06/2011 10:13 PM

To: Doug Wetmore/DENVER/NPS@NPS
cc: Paul Stevens/CAHA/NPS@NPS, Cyndy Holda/CAHA/NPS@NPS
Subject: Re: CAHA proposed rule 

Doug, See comments, edits in BLUE.

Rule Text (with edit): Businesses operating in the Seashore under a commercial use authorization or **commercial fisherman operating under a commercial fishing** special use permit would not need an ORV permit.

Jason's comment: Why are SUPs mentioned here? When would a business operate under a special use permit? I don't see any provision for that. The SUP provisions apply to NCDOT, fishing tournament participants, and disabled family member drop-offs.

Mike's explanation: p. 8 lines 21-23 mentions "commercial fishing special use permit" (technically the commercial fishing permit is a kind of SUP)

Rule Text: *ORV corridor* means the actual physical limits of the ORV route in the Seashore. The ORV corridor generally runs from the toe of the dune or the vegetation line on the landward side to **water line** on the seaward side. The ORV corridor will usually be marked by posts on the landward side (the seaward side of the corridor is not posted). ~~ORV corridors on the ocean beach are marked on the landward side by posts seaward of the toe of dune or vegetation line to the high tide line (the seaward side of the corridor is not posted).~~

Jason's comment (in addition to deleting the last sentence and adding the 2nd sentence): We say the corridor=the physical limits, and that we will mark it on the landward side, but we never actually define or explain HOW we determine or set the physical limits. This seems like a problem: for example, what if someone egregiously drove outside the corridor in an area where our posts were messed up? How could we cite him? I've suggested language that would work better, assuming it's correct, though someone needs to fill in the seaward boundary description—I forget which line we use.

Mike's comment: The FEIS Table 8 talks about the corridor being 10 meters from the toe of the dune in certain situations. Do we need to incorporate that language (instead of simply "the toe of the dune" in the reg? (Sorry, I don't have the information with me.)

Rule Text: (vi) *Hours of operation.* From November 16 – April 30, all designated routes are open 24 hours a day. From May 1 – November 15, designated routes, **as described in section (11)**, in sea turtle nesting habitat (ocean intertidal zone, ocean backshore, dunes) are open 7 a.m. to 9 p.m.,

Jason's comment (about the sea turtle nesting habitat text): We need to explain both here and in the rule how people are to know which routes these are. Will it be included on the general route maps? Some other map?

Mike's comments: Not sure I understand the question. Section 11 talks about the routes being shown on maps, as well as providing the tables identifying the routes. The night driving restriction applies to those portions of routes that include the ocean beach, etc.

I hope this answers it. If not, it will have to wait until next week.

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-----Doug Wetmore/DENVER/NPS wrote: -----

To: Mike Murray/CAHA/NPS@NPS
From: Doug Wetmore/DENVER/NPS
Date: 01/06/2011 04:55PM
cc: Paul Stevens/CAHA/NPS@NPS, Cyndy Holda/CAHA/NPS@NPS
Subject: Re: CAHA proposed rule

Hi Mike. I've cut and pasted the sections from the rule that were tagged for park input. I also attached a Word 2003 and pdf version.

Please let me know if this works for you. Thanks.

Rule Text : Businesses operating in the Seashore under a commercial use authorization or special use permit would not need an ORV permit.

Jason's comment: Why are SUPs mentioned here? When would a business operate under a special use permit? I don't see any provision for that. The SUP provisions apply to NCDOT, fishing tournament participants, and disabled family member drop-offs.

Rule Text: *ORV corridor* means the actual physical limits of the ORV route in the Seashore. The ORV corridor generally runs from the toe of the dune or the vegetation line on the landward side to XXXX on the seaward side. The ORV corridor will usually be marked by posts on the landward side (the seaward side of the corridor is not posted). ~~**ORV corridors on the ocean beach are marked on the landward side by posts seaward of the toe of dune or vegetation line to the high tide line (the seaward side of the corridor is not posted).**~~

Jason's comment (in addition to deleting the last sentence and adding the 2nd sentence): We say the corridor=the physical limits, and that we will mark it on the landward side, but we never actually define or explain HOW we determine or set the physical limits. This seems like a problem: for example, what if someone egregiously drove outside the corridor in an area where our posts were messed up? How could we cite him? I've suggested language that would work better, assuming it's correct, though someone needs to fill in the seaward boundary description—I forget which line we use.

Rule Text: (vi) *Hours of operation.* From November 16 – April 30, all designated routes are open 24 hours a day. From May 1 – November 15, designated routes in sea turtle nesting habitat (ocean intertidal zone, ocean backshore, dunes) are open 7 a.m. to 9 p.m.,

Jason's comment (about the sea turtle nesting habitat text): We need to explain both here and in the rule how people are to know which routes these are. Will it be included on the general route maps? Some other map?

Doug Wetmore
Environmental Protection Specialist
National Park Service - Environmental Quality Division
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Cell: (303) 968-5214

Mike Murray/CAHA/NPS

**Mike
Murray/CAHA/NPS**

01/05/2011 07:15 PM

To Doug
Wetmore/DENVER/NPS@NPS

cc JASON.WAANDERS@sol.doi.gov,
Mike.Stevens@sol.doi.gov, Paul
Stevens/CAHA/NPS@NPS, Jami
Hammond/Atlanta/NPS@NPS, AJ
North/WASO/NPS@NPS, David
Jacob/DENVER/NPS@NPS

Subject Re: CAHA proposed rule

Doug

I am out of the office the rest of the week and cannot open the PR attachment from the motel computer. Please either:

1) Send questions/issues to me as email text and I can respond tomorrow night; or

2) See if Paul Stevens can respond/resolve the issues for the park. If Paul thinks there are clear-cut resolutions, then it is fine with me.

Otherwise, I may not be able to respond until next week sometime.

Thanks,

Mike Murray
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-----Doug Wetmore/DENVER/NPS wrote: -----

To: Mike Murray/CAHA/NPS@NPS, JASON.WAANDERS@sol.doi.gov,
Mike.Stevens@sol.doi.gov, Paul Stevens/CAHA/NPS@NPS, Jami
Hammond/Atlanta/NPS@NPS, AJ North/WASO/NPS@NPS
From: Doug Wetmore/DENVER/NPS
Date: 01/04/2011 02:03PM
cc: David Jacob/DENVER/NPS@NPS
Subject: CAHA proposed rule

Please see the attached proposed rule for CAHA ORV, with revisions based on comments received. Note that there are a few outstanding items that require input from the park.

I've also attached the communications plan and briefing statement that will accompany the rule when it goes to AJ North.

Please send me any final comments and then we can get this going through the process.

Thanks.

Doug Wetmore
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[attachment "CAHA Draft PR 1-4-2011.docx" removed by Mike Murray/CAHA/NPS]
[attachment "Communications Plan CAHA ORV Prop Rule NOA_12-20_2010.doc"
removed by Mike Murray/CAHA/NPS]

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[attachment "Briefing Statement CAHA ORV Prop Rule NOA_1-4-2010.docx" removed by Mike Murray/CAHA/NPS]

[attachment "CAHA Draft PR 1-4-2011.pdf" removed by Mike Murray/CAHA/NPS]
[attachment "CAHA Draft PR 1-4-2011 word 2003.doc" removed by Mike Murray/CAHA/NPS]