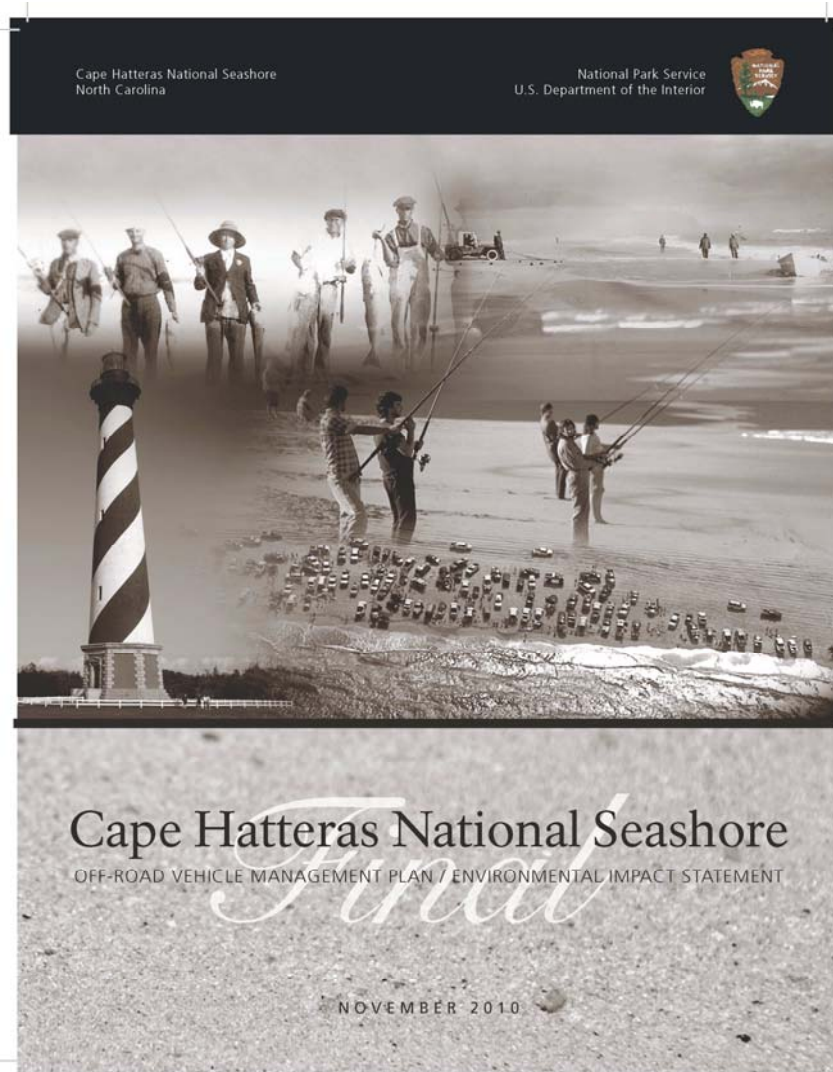


Cape Hatteras National Seashore Progress Report on Off-Road Vehicle Management Plan/EIS and Special Regulation Status as of January 28, 2011



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I. INTRODUCTION

- The National Park Service (NPS) signed the Record of Decision (ROD) for the Cape Hatteras National Seashore Off-Road Vehicle Management Plan / Final Environmental Impact Statement (FEIS) on December 20, 2010.
- To implement those portions of the ROD that require a regulation to be effective, the NPS is proposing to amend its special regulation for Cape Hatteras National Seashore (Seashore), North Carolina to designate routes where off-road vehicles (ORVs) may be used.
- The intended effect of this proposed rule is to carefully manage ORV use at the Seashore to protect and preserve natural and cultural resources and natural processes, to provide a variety of visitor use experiences while minimizing conflicts among various users, and to promote the safety of all visitors.

II. BACKGROUND

- Executive Order 11644 of 1972, amended by Executive Order 11989 of 1977, requires federal agencies permitting ORV use on federal lands to publish regulations designating specific trails and areas for this use. The NPS implemented these executive orders in 36 C.F.R. § 4.10, which provides that routes and areas designated for ORV use shall be promulgated as special (i.e., park specific) regulations.
- ORVs have operated on the Seashore's beaches since before the park was established, but the required special regulation has never been issued. Since the Seashore was established, ORV use has increased and breeding populations of native shorebird species, including the federal listed threatened piping plover and several state listed species, have declined. Unrestricted night driving has had the potential to adversely affect sea turtle nesting activities.
- The Seashore is home to important habitats created by the Seashore's dynamic environmental processes, including habitat for several federally listed species including the piping plover, three species of sea turtles, and seabeach amaranth. These habitats are also home to numerous other protected species, such as the American oystercatcher, black skimmer, Wilson's plover and several species of tern, as well as other wildlife. NPS is required to conserve and protect all of these species, as well as the other resources and values of the Seashore.
- The Seashore also provides a variety of visitor experiences. It is a long, essentially linear park, visitation is high, and parking spaces near roads are limited. Some popular beach sites, particularly those near the inlets and Cape Point, are a distance from established or possible parking spaces. ORVs have long served as a primary form of access for many portions of the beach in the Seashore, and continue to be the most practical available means of access and parking for many visitors.
- In January 2006, NPS released an Interim Protected Species Management Strategy/EA (Interim Strategy) to provide guidance for protected species management until an ORV management plan and special regulation could be developed. In October 2007, Defenders of Wildlife, National Audubon Society, and Southern Environmental Law Center filed a complaint to challenge the Interim Strategy. Dare and Hyde Counties and the Cape Hatteras Access Preservation Alliance (a coalition of ORV and fishing groups) intervened.

- As a result of the settlement of the litigation on the Seashore's Interim Strategy, ORV use at the Seashore has been managed since May 1, 2008 under a consent decree/court order until an ORV management plan/environmental impact statement and special regulation are completed.
- NPS published a draft ORV management plan / environmental impact statement (DEIS) in March 2010, a final ORV management plan / environmental impact statement (FEIS) in November 2010, and a Record of Decision (ROD) on December 20, 2010.
- The "selected action" in the ROD establishes both ORV routes and vehicle free areas and provides visitors to the Seashore with a wide variety of access opportunities for both ORV and pedestrian users while protecting shorebirds, sea turtles, seabeach amaranth, and other wildlife species at the Seashore.

III. CURRENT STATUS

- To implement those portions of the ROD that require a regulation to be effective, the NPS is preparing a proposed rule to amend the Seashore's special regulations in order to designate routes where ORVs may be used.
- The intended effect of the proposed rule is to carefully manage ORV use in the Seashore to protect and preserve natural and cultural resources, provide a variety of visitor use experiences, minimize conflicts among various users, and promote the safety of all visitors.
- The Seashore is operating under the consent decree until the final rule (special regulation) is completed. The consent decree deadline for publishing the final rule is April 1, 2011; however, the NPS has notified the parties to the litigation and the Court that it is not likely to complete the final rule until summer 2011 with plan implementation beginning in fall 2011.
- The proposed rule package was submitted to the NPS Regulations Office in Washington on January 26, 2011 to begin the formal internal review process by NPS, DOI and OMB.
- As soon as the internal review process is completed, the proposed rule will be published in the Federal Register, which will begin a 60-day public comment period. Following analysis of the public comments, which could take several months to complete after the public comment period closes, NPS will prepare the final rule for internal review, followed by publication of the final rule in the Federal Register.