

0031977

From: [Mike Murray](#)
To: [AJ North](#)
Cc: [Russ Wilson](#); [Doug Wetmore](#); mike.stevens@sol.doi.gov; jason.waanders@sol.doi.gov
Subject: Re: Fw: Review of responses to OMB on CAHA ORV rule
Date: 01/04/2012 10:09 AM
Attachments: [Justification for Effective Date of Feb 15.docx](#)

AJ,

Thanks for the update. If for some reason, the rule does not get published until Jan 17th or later, I ask that we add (include) a justification in the preamble for the rule taking effect on February 15, 2012.

Attached is a previous draft justification, which was included in the November 1, 2011 "final draft of final rule" under the heading of "Administrative Procedure Act" in the preamble right after the section on "Effects on the Energy Supply (E.O. 13211)". Note: The APA section was subsequently dropped from the preamble, but this earlier draft may be useful as a starting point for the justification, if needed. (If the rule is published on Jan 13th or earlier, then the justification would not be needed.)



Justification for Effective Date of Feb 15.docx

Mike Murray
Superintendent
Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS
(w) 252-473-2111, ext. 148
(c) 252-216-5520
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▼ [AJ North/WASO/NPS](#)

AJ North/WASO/NPS

01/04/2012 10:22 AM

To: [Russ Wilson/WASO/NPS@NPS](#), [Mike Murray/CAHA/NPS@NPS](#)
cc
Subject: Re: Fw: Review of responses to OMB on CAHA ORV rule 

Mark Lawyer (Exec Sec) spoke to Nathan Frey yesterday. Nathan indicated they have everything they need to complete their review and that the review would be concluded in time to publish as agreed upon. Once we receive notice from OMB it needs ASFWP's signatures and clearance from the Secretary's office.

January 15th falls on a Sunday and Monday the 16th is a Federal Holiday. Publication on Friday the 13th on the normal publication schedule will require delivery to the Fed Reg prior to 1400 on January 10th. We can possibly gain a day with request for emergency publication but no guarantees. Publication on the 17th, normal schedule requires delivery prior to 1400 on the 11th as Fed Reg does not publish on Sat/Sun/Hol. I'll ask Mark to urge completion of the review ASAP.

A.J. North
NPS Regulations - WASO
202-208-5268 (o)
202-365-2008 (c)

-----Russ Wilson/WASO/NPS wrote: -----

To: Mike Murray/CAHA/NPS@NPS
From: Russ Wilson/WASO/NPS
Date: 01/03/2012 05:18PM
cc: "AJ North" <AJ_North@nps.gov>
Subject: Re: Fw: Review of responses to OMB on CAHA ORV rule

Mike,

I'm at U Mass teaching. I think we're okay -- AJ is watching your rule.

Russ

Mike Murray

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

From: Mike Murray
Sent: 01/03/2012 08:36 AM EST
To: Russ Wilson
Cc: AJ North
Subject: Re: Fw: Review of responses to OMB on CAHA ORV rule

Thanks Russ. I hope you had a happy holiday and got some time off.

The edits in response to OMB comments look good to me. Do you need anything from me on this?

Mike Murray
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Russ Wilson/WASO/NPS

**Russ
Wilson/WASO/NPS**

To Mike Murray/CAHA/NPS@NPS

12/29/2011 11:08
AM

cc AJ North/WASO/NPS@NPS

Subject Fw: Review of responses to OMB on
CAHA ORV rule

Mike,

0031979

I'm forwarding this FYI. When Jason worked on the document most of Doug and my edits were "accepted" and just appear as regular text. As they are in response to OMB's comments they are located in then vicinity of the comment.

Russ

Russel J. Wilson
Chief, Regulations and Special Park Uses

National Park Service
Washington Office
1849 C Street, NW, MS-3122
Washington, DC 20240

202 208-4206 phone

202 208-4178 fax

----- Forwarded by Russ Wilson/WASO/NPS on 12/29/2011 11:06 AM -----

**Russ
Wilson/WASO/NPS**

To John Strylowski

12/29/2011 11:00
AM

cc AJ North/WASO/NPS@NPS

Subject Fw: Review of responses to OMB on
CAHA ORV rule

John,

Please see the attachment at the bottom. I wasn't in yesterday. If I had been I would have sent this then. There is one last issue to talk about. Please call me. If I'm not at me desk my cell is 202.281.8443.

Russ

Russel J. Wilson
Chief, Regulations and Special Park Uses

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Washington, DC 20240

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----- Forwarded by Russ Wilson/WASO/NPS on 12/29/2011 10:56 AM -----

"Waanders, Jason"
<JASON.WAANDERS@sol.doi.gov>

To "Wilson, Russel J."
<Russ_Wilson@nps.gov>

12/27/2011 05:20 PM

0031980

cc "North, Arthur"
<AJ_North@nps.gov>

Subject RE: Review of responses
to OMB on CAHA ORV
rule

Here are my edits. Nice job on these.

Jason Waanders

U.S. Department of the Interior, Office of the Solicitor

1849 C Street, NW, Room 5319

Washington, DC 20240

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jason.waanders@sol.doi.gov

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0031981

From: Russ_Wilson@nps.gov [mailto:Russ_Wilson@nps.gov]
Sent: Friday, December 23, 2011 1:19 PM
To: Waanders, Jason
Cc: North, Arthur
Subject: Review of responses to OMB on CAHA ORV rule

Jason,

See attached for your review. Nathan is back from vacation on 12/28 so hopefully we can submit it then. Thanks.

Russel J. Wilson
Chief, Regulations and Special Park Uses

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Washington, DC 20240

202 208-4206 phone
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[attachment "2011_12_22 OMB comments w-NPS responses JMW.docx" deleted
by Russ Wilson/WASO/NPS]

Administrative Procedure Act

This rule is effective on February 15, 2012. Under 5 U.S.C. § 553(d), new rules ordinarily go into effect no less than thirty days after publication in the Federal Register, except under specified circumstances, including a finding by the agency that there is good cause for making the rule effective earlier. For this regulation, the NPS has determined under 5 U.S.C. § 553(d) and 318 DM 6.25 that this rule should be effective no later than February 15, 2012. The NPS has found that good cause exists for this effective date, for the following reasons:

(1) The Record of Decision (ROD) for the Cape Hatteras ORV Plan/Final Environmental Impact Statement (plan/FEIS), upon which this rule is based, was signed on December 20, 2010, and the public was informed of the availability of the plan/FEIS and ROD through notice in the *Federal Register* on December 28, 2010. Therefore, by February 15, 2012, the public already will have had 415 days notice of the NPS decision.

(2) An integral part of the plan/EIS and rule is the species management strategies described in the ORV management plan/EIS, which were developed to manage ORV use in a manner conducive to the protection of the migratory birds and sea turtle species that rely on the Seashore's beach habitat for nesting. The shorebird breeding season at the Seashore begins in early March. Implementation of the rule and the associated species management strategies would be most effective if the designated ORV routes and ORV permit and education requirements were implemented, and signs reflecting the new requirements were to be installed, prior to the start of the breeding season. A significant change in management procedures and information regarding ORV requirements implemented after the breeding season begins would compromise the efficiency and effectiveness of ORV management and species protection at the Seashore and be confusing to Seashore visitors.

(3) There would be no benefit to the public in delaying the effective date of this rule, given that there has already been substantial notice, including the court approved deadline for completion of the rule, that the Seashore will be operating under the new ORV rule for the 2012 breeding season.

The above-described harms to the public resulting from a procedural delay of this rule should therefore be avoided, and an effective date of February 15, 2012, is warranted.