

BRIEF SUMMARY: Permits, pass, licenses and cards

Work Group Call, Tuesday, 3/11/08

The participants discussed the following issues and offer this summary as background on the topic to the full group. Please note that the discussion in no way suggests participants agree with the use of permits, passes, licenses, or cards at this time.

If used, permits, pass, fees and licenses might have to consider one or more of the following, underlying issues or choices. Some noted that some or all of the following might be addressed by means other than permits or passes. It was also noted that commercial fishing would need its own treatment/approach given its role in the original legislation for the Seashore. Underlying themes include:

- The federal regulatory authority and its guidance/restrictions under which permit or pass is issued?
- Fees, if any, and if so, how much, if differentiated, and to what end?
- What restrictions, if any -- times, use, location, numbers, what kind of user?
- What requirements, if any -- educational, where posted, carried, etc.?
- Duration -- annual, daily, seasonal?
- Access – both in terms of obtaining one and where it can be used?
- Fairness – in terms of access and costs across user groups and demographic groups?
- Enforcement – how they may be used to manage/minimize scofflaws or “bad actors”?

Permit: a permit is usually considered a written authorization that allows activities otherwise regulated or prohibited. The NPS has special use permitting authority that is very broad and NPS can issue any number and kind of special permits (i.e., weddings, fishing tournaments, commercial services, back country camping, sand fencing, boardwalk construction). NPS may retain all of special use permit fees to support its program, ranging from supporting/building facilities, law enforcement, and other personnel resources. Permits do not have to be linked to fees, number limitations, or other attributes, though they can be.

Passes: a pass is a means to allow passage or access. Entrance or amenity fees (for campgrounds, etc.) are essentially a type of pass (you pay, you pass). Though the NPS has been charging for entrance fees to some parks for many decades (considered a kind of pass), Congress sought to bring all federal land agencies into some consistency with the Federal Lands Recreation Enhancement Act (FLREA).

The use of passes triggers FLREA which in turn triggers such requirements as: 1) development of a business plan; 2) conditions have to be met for area where pass is required (such as parking lots, bath house, toilets, ramps, interpretive services); 3) fees collected can be retained by local Park not to exceed 80% of that collected; 4) dollars collected restricted to be spent on costs of collecting fees and special projects approved by NPS above local Park level (but not for ancillary personnel costs like cleaning up trash at a campground with a fee/pass is not considered a fundable item with these monies). Generally, fees collected from passes limit local Parks' flexibility in using/spending more so than special permits.

Licenses: license typically allows an activity such as hunting, fishing, and driving licenses. These are typically issues by states or municipalities and not a term typically used by the NPS.

Card: perhaps similar to pass -- an identification paper or means of some sort.

Comments and Concerns noted:

Comments and concerns are noted below. Please note that some statements are in contradiction to others and thus reflect the range of views in the discussion, not areas of agreement.

Permits

- Permits might legally acknowledge and therefore protect lawfulness of permitted activities.
- Permits might be used to restrict, limit, or overly constrain activities over time.
- Permits are a fundamental element of an ORV management plan/system, but can be highly tailored, limited in intent/purpose, and their purpose/components negotiable.
- An effective ORV management plan/system can be developed without permits, licenses, passes or cards. In short, permits may not be necessary at all depending on other regulations that could or may be adopted.

Entrance Fees/Passes

- CAHA not likely to charge entrance fee/pass because of multiple access points to beach itself, state ownership of Highway 12 as a key access point to Park (though Park administratively responsible for 5 miles of Highway 12 on Bodie Island), and Highway 12 is an access means to significant number of private properties, businesses, and communities.
- CAHA could establish a north and south entry point (Bodie Island and Ocracoke), charge an entry/entrance fee, have a means to address impacts on residents of villages, and thus fairly charge all users, regardless of how they use the Park.
- Any system must take into account residents that are living inside or surrounded by the park boundaries (such residents' access has been addressed at other Parks like Yellowstone and Fire Island through various means). A daily entrance fee would affect residents adversely.

Sequence of Negotiating Issues

- This issues cannot be discussed in any depth until: 1) the purpose, goals or intent of what a permit, pass, license or card system would achieve; 2) where driving can and cannot occur is determined geographically and temporally. ORV management tools are designed to manage responsible operation in areas open to ORV use. There is real negotiation needed to determine that area, and since that is a fundamental question, negotiating other issues without knowing the actual land/areas/routes designation will be very difficult.
- The issue can be discussed separate and distinct from where driving may take place because these are or can be more generalized tools. It is not necessary to determine when and where ORVs might be permitted before permits can be addressed. These are two separate issues, they can be addressed separately, and decisions regarding permits can be made without defining when and where ORVs might be permitted.

Other

- It was noted that it is important to distinguish between access means (i.e., ORV, by foot, other) and intent of the access (fishing, bird watching, surfing, shelling, etc.).
- It would be possible to give ORV permits with preference to certain kinds of predominate, intended activities, like recreational fishing.
- Permits, passes, or other means, IF ever used, have to take into account fairness and not single out or target particular uses or intents.
- Concern that beaches in front of villages are being treated as special uses for adjacent residents only, which is not in keeping with public access and a national park.