

PERMIT/PASS/FEE CONCEPTUAL FRAMEWORK**Draft 10/26/08**

The Cape Hatteras National Seashore Beach Permit and Pass system will:

- Provide education to all or most users of the beach;
- Ensure equity across beach users;
- Encourage and support appropriate beach behavior; and,
- Collect fees for compliance and enforcement, operations, maintenance and improvements, related to ORV and pedestrian use of beaches and associated facilities.

The permit and pass system will be comprised of:

- A special use permit for off-road vehicle driving; and,
- An entrance pass for *parking* in National Park lots that provide pedestrian access to the beach.

The permit and pass system will include a fee. This fee will be equitable across both the permit and entrance pass. The following details this two-prong approach. The ORV permit will also be accepted for parking in NPS lots in lieu of the entrance pass.

The special use permit is authorized and guided by:

- 16 USC 3a - (PL 103-1138, Title I, November 11, 1993, 107 Stat. 1387)
- *NPS Management Policies 2006* Section 8.6

The entrance pass is authorized and guided by:

- Federal Lands Recreation Enhancement Act (FLREA) – (16 USC 6801-6814; PL108-447, Division J, Title VIII)
- *NPS Management Policies 2006* § 8.2.6
- NPS Director's Order 22 (DO-22) and Reference Manual 22 (RM-22): Recreation Fees

Special Use Permit

The Off-Road Driving Special Use Permit is required for all off-road vehicles or operators regardless of time of day or time of year or location of use.

- A *driver-issued* permit would require that the driver carry some kind of permit (i.e., a hang tag). This is the best way to ensure the operator of the vehicle has met the requirements and education attached to the particular permit.

- A *vehicle-issued* permit would be assigned to the registered owner of the vehicle and the permitted vehicle would be identified by some kind of sticker affixed to the vehicle. The permittee could allow others to operate the permitted vehicle (similar to the registered owner of a boat allowing others to operate his/her boat); however, anyone operating the vehicle would be held responsible for compliance with the regulations, so it puts some burden of responsibility on the registered owner to ensure that any other operators who are allowed to use the vehicle are aware of the regulations.

Permits would be available on a *weekly, monthly or annual* basis. There would be no numerical limit on the number of permits issued.

Education is required in order to obtain a permit. The applicant is required to read information and/or watch an educational video that provides education on park regulations, vehicle characteristics, vehicle operation, natural resource protection, and instruction on how to access information on the current status of beach access. Education will include significant information focused on natural resource protection/mitigation. Educational materials will make clear that the Superintendent shall have authority to close ad hoc any part of the beach for safety, resource purposes (chiefly birds, turtles, and certain endangered grasses), and when conditions of crowding or undue stress on the resource show that reasonable limits have been reached. The applicant is required to sign the brochure or a form noting they had watched the video.

Every vehicle on the beach must carry the *required minimum equipment*.

Permits could be *available* in-person at a limited number of stations, and/or at special computer kiosks that could be established at various locations throughout the Outer Banks. For instance, local in-person permit distribution locations could include: the Whalebone Junction Welcome Center, NPS Buxton Ranger Station or Lighthouse Visitor Center, and the NPS Ocracoke Ranger Station or Visitor Center. Local government, welcome centers, and/or interested businesses such as area hotels, bait and tackle shops, outfitters, and tour operators could also make permits available. Permits should be available by Internet, if feasible.

Law enforcement will periodically patrol the beach and issue tickets for failure to be permitted, excessive speeding, and so forth. The special use permit can be revoked for a “major violation” (needs to be defined) and/or a number of “minor “ violations. Violations that endanger people or damage wildlife may result in loss of obtaining special use permit. A standard system of fines and penalties is approved by the U.S. District Court, announced by NPS, and listed in required educational information.

The Park will keep *accurate records* of the number and types of permits issued each time period, and keep cumulative totals as the year progresses, by week, month, season, and annually. NPS will retain basic, appropriate registration data on each permittee when they apply the first time, and annually add any record of violations. In the second year of the

program, every driver with an unblemished, violation free record may apply for permit renewal through the mail, with no additional administrative process required. If there are new educational materials, this can be sent to each applicant with the renewal sticker(s) and card(s).

The park should prepare and distribute an *annual report* to document the number and type(s) of permits issued, the amount of fee revenue received, a summary of how the fee revenue was expended, any significant issues or changes that were implemented in the permit program, and the number and types of violations committed by (or the number of violation notices issued to) both permitted and unpermitted ORV users.

Entrance Pass

The Entrance Pass is required for all users of NPS parking facilities that provide access to the beach. These may include both centralized, developed parking facilities, such as those at the life guarded beaches, as well as at less developed parking facilities on federal lands.

Passes may be issued to a vehicle or individuals. Passes would be available on a *weekly, monthly or annual* basis. Passes shall be *displayed* clearly on the dashboard or in the window of the vehicle.

Education is required in order to obtain a pass. The applicant is required to read information that provides education on park regulations, natural resource protection, pedestrian safety, and instruction on how to access information on the current status of beach access.

Education will include significant information focused on natural resource protection/mitigation. Educational materials will make clear that the Superintendent shall have authority to close ad hoc any part of the beach for safety, resource purposes (chiefly birds, turtles, and certain endangered grasses), and when conditions of crowding or undue stress on the resource show that reasonable limits have been reached. The applicant is required to sign the brochure.

Passes might be *obtained* on kiosks or stations to the entrance of more major parking facilities (such as at the life guarded beaches), via self-pay electronic stations, and or in more remote locations, via self-pay means such as in-ground metal tubes other secure deposit containers. America the Beautiful/National Parks and Federal Recreation Lands Passes will be accepted as the parking entrance pass. The ORV permit will also be accepted for parking in NPS lots in lieu of the entrance pass.

Law enforcement would periodically patrol parking lots and issue tickets for failure to pay, as needed.

The Park will keep *accurate records* of the number of passes issued each time period, and keep cumulative totals as the year progresses, by week, month, season, and annually. The park will also prepare and distribute an *annual report* to document the number and type(s) of passes

issued, the amount of fee revenue received, a summary of how the fee revenue was expended, any significant issues or changes that were implemented in the program.

Commerical Fishing

Commercial fishing activity within Cape Hatteras National Seashore is regulated by 36 CFR 7.58 (b); however, that section does not address ORV use by commercial fishermen. In the new ORV regulation, ORV use by commercial fishermen could be addressed as follows:

- Commercial fishing vehicles/operators must obtain an ORV permit to drive on the beach (*Comment: As a practical matter, NPS could issue single, combination fishing/ORV permit to commercial fishermen.*)
- The Superintendent shall waive permit fees for commercial fishermen.
- The Superintendent may exempt commercial fishermen, who are actively engaged in authorized commercial fishing activity, from restrictions or requirements applicable to recreational ORV use, provided such exemptions do not jeopardize public safety or resource protection and as long as such exemptions are authorized subject to the terms and conditions of a permit.