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**From:** [Patrick Field](#)  
**To:** [HATPERMITS](#)  
**Bcc:** [Mike Murray](#)  
**Subject:** Permits/Passes Subcommittee further information  
**Date:** 11/10/2008 05:21 AM  
**Attachments:** [Permit-Passes.11.05.08.WASO comments on SUPs.pdf](#)  
[CAHA Considerations Regarding New Beach Access Fee.pdf](#)

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ALL

Please find attached feedback from NPS Washington regarding the latest draft of permits/passes and please see Mike's note below. We'll talk more about this on Thursday at 3 PM at the Visitor's Bureau.

PAT FIELD

Attached is NPS feedback on the latest Permits/Passes proposal, provided by the Washington Office (WASO) Fee program Management staff. These comments relate only to the entrance fee.

(See attached file: CAHA Considerations Regarding New Beach Access Fee.pdf)

On the special use permit (SUP) side of the issue, I also received feedback from the NPS SUP coordinator, who raised some concerns about the last section on commercial fishermen. Preliminary feedback from the Solicitors is that those concerns are resolvable and we can conform to the intent of the last section (but may need some technical revision of language). See attached:

(See attached file: Permit-Passes.11.05.08.WASO comments on SUPs.pdf)

Okay to share the comments with subcommittee. I must say that the level of support and responsiveness from the WASO staff on short notice is unprecedented (i.e., is far above what we should expect) in my experience. In my judgment, the level of interest reflects the high level of concern NPS policy advisors have with us attempting to implement two kinds of fees under two different fee authorities.

## Considerations Regarding New Beach Access Fee for CAHA

- Per NPS policy and REA, establishing an access fee for CAHA needs to be an entrance fee and should be called an entrance fee to reduce confusion to the visitor. A “parking fee” has been approved only in a few instances for the NPS such as metered parking in urban areas to discourage commuter parking. In order for an entrance fee to be established several issues must be considered:
  - The park must honor and sell interagency passes (per REA – any park charging an entrance fee must honor and sell the passes.) This could be a logistical challenge regarding where the passes could be available. Automated fee machines at this time can only produce a receipt which must be exchanged for a pass at another location.
  - The prices for entrance fees need to align with the current NPS pricing structure which for CAHA is “Group 2” (\$7 pp/\$15 per vehicle/\$30 annual pass.) The length of stay for per person or per vehicle may be established by the park (usually 1-7 days). Currently the current servicewide entrance fee structure does not include a monthly pass. This would be a modification to the structure that would need further discussion in order to maintain a consistent model for pricing.
  - Civic engagement is required by REA to vet proposed fees with the public and get feedback before any new fee is implemented. The Director has placed a moratorium on all new fees and fee increases at this time, especially for controversial fees. This may or may not be a factor depending upon the timeframe and political climate when you implement.
  
- Establishing third party agreements for sales of entrance fees, permits etc. will require some coordination and consideration
  - If outside parties are selling permits for NPS under Special Park Use there are certain limits on how the money is spent to recover costs for management of the program. It may not cover a commission for an outside vendor to sell the product, provide education etc.
  - For outside vendors to sell entrance products a fee management agreement is required. Standardized templates and parameters for these agreements are being developed at this time and will include commission levels, refund policies etc. The issue is complicated because of the requirement to sell and issue the interagency passes. There needs to be a reasonable option for visitors to obtain the senior or access pass from government staff due to documentation requirements.
  
- Numerous logistical considerations must be examined for both collection of fees for permits and compliance of who has entrance passes/permits
  - Cost of developing hangtags and stickers. Work done with the interagency passes will help. GPO must do the printing.
  - Coordination of fee collection function and education goal may be a little challenging at non staffed sites

- There are restrictions in FLREA about charging fees on non-federal lands (adjacent parking areas). A solicitor should be consulted on this issue.
  - Costs of staff (fee collection, compliance), equipment, inventory, deposit requirements, accountability needs, security, internet access/phone lines for automated fee machines or kiosk or visitor center for credit card use and deposits (TGANet), must all be considered.
  - Compliance for the required permits/entrance passes may take additional staff and logistics to avoid complaints from the public.
- Expenditures of Fee Revenue
    - The park should already be familiar with expenditure policies, deferred maintenance requirements, use of the comprehensive plan, cost of collection parameters etc., but it would be in the park's best interest to educate all parties interested in how the funds will be used about the expenditure categories as authorized by law and current NPS policies regarding expenditure parameters.

**PERMIT/PASS/FEE CONCEPTUAL FRAMEWORK**

**Draft 11/5/08**

**Issues to be discussed**

- How do we best balance easy access to the permit/pass (internet, self-serve kiosks, etc.) and sufficient and effective education?
- Can we be creative enough to find a way to have a single permit/pass, rather than two separate ones (one for beach access and one for entrance to beach parking) that is described below?

**Approach**

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 may 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 the same across both the permit and entrance pass (the charge for a permit or a pass would be the same amount). The ORV permit will be accepted for parking in NPS lots in lieu of the entrance pass (i.e., the permit serves as both a beach driving permit and entrance pass).

The following details this possible two-prong approach.

The special use permit is authorized and guided by:

- 16 USC ~~1-4~~
- *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

**Comment:** 16 USC 3a applies only and specifically to the legal authority for collecting and retaining cost recovery fees. The authority for issuing special use permits derives from the broader set of references.

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**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.

**Comment:** The brochure or form should include the terms and conditions applicable to the permit, since that is what LE staff will be enforcing.

Every vehicle on the beach must carry the *required minimum equipment* as detailed in the terms and conditions of the permit.

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

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operators could also make permits available. Permits should be available by Internet, if feasible.

**Comment:** Wherever the permits are made available, it is important that the park obtain a signature agreeing to the terms and conditions of the permit.

*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 future special use permits. A standard system of fines and penalties is approved by the U.S. District Court, announced by NPS, and listed in required educational information.

**Comment:** Being denied the ability to obtain a permit in the future is a penalty and would need to be part of the penalties approved by the court.

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).

**Comment:** Accurate records can only be maintained with the cooperation of any off-site non-NPS permitting locations.

The park should prepare and distribute an *annual report* to document the number and type(s) of permits issued, the amount of cost recovery 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.

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**Comment:** It needs to be made clear that cost recovery simply reimburses the park for costs incurred in the management of the permitting program. There really are no discretionary expenditures.

**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 smaller, more scattered 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.

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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.

**Comment:** Need to confirm legal basis for waiving fees for this group

**Comment:** Need to confirm legal basis for waiving conditions for one user group and not another.

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