

NEGOTIATED RULEMAKING COMMITTEE
8th Regulatory Negotiation Meeting
Wright Brothers Memorial, Kill Devil Hills, NC
November 14-15, 2008
Draft Final Agenda

GOALS

- Updates
- Shared learning about sea turtles
- Overview of NPS draft Environmental Impact Statement Alternatives
- Understand and consider implications of NPS DEIS Alternatives for Committee's work
- Continue subcommittee work
- Provide opportunity for public comment
- Plan for upcoming meetings
- Other

Friday, November 14

- 8:00 Gathering and Coffee
- 8:30 Welcome to All and Opening of the Meeting, *Mike Murray, NPS, Designated Federal Official (DFO)*
- 8:40 Review meeting objectives and agenda
Facilitators and Agenda Planning Committee
- 9:00 Brief Updates
 - Videotaping
 - NEPA process
 - Socio-Economic Study
- 9:30 Sea Turtles
 - Presentation by FWS
 - Q&A
 - What does this mean for the ORV management plan and the Committee?
- 12:00 Public Comment
(Up to 4 minutes per person, with 5 minutes total at the end of the public session for any brief responses from Committee members to the public comments)
- Specific comments are requested on the following --*
- Turtle management at CAHA
- 12:45 Lunch (provided for principals and alternates)
- 1:30 NPS Overview of draft Environmental Impact Statement alternatives
 - Presentation
 - Q&A
- 2:45 Break

3:00 Small Group Discussion of implications of NPS DEIS Alternatives for Committee work (*See list of topics and small groups*)

4:30 Small Group Report Outs

4:50 Break

5:00 Additional Public Comment Session (*if not completed before lunch*)
(Up to 4 minutes per person, with 5 minutes total at the end of the public session for any brief responses from Committee members to the public comments)

Specific comments are requested on the following --

- What's promising in the NPS DEIS Alternatives that the Committee might consider?
- How might the Committee use, combine, and/or improve these alternatives to build a Committee preferred alternative?

Following Public Comment Adjourn for the Day

Saturday, November 15

8:00 Gathering and Coffee

8:30 Reflections on Day I and agenda review

8:45 Continue Discussions in Subcommittees (*See list of discussion topics and subcommittees*)

11:00 Small Group Report Outs

12:00 Public Comment
(Up to 4 minutes per person, with 5 minutes total at the end of the public session for any brief responses from Committee members to the public comments)

Specific comments are requested on the following --

- What's promising in the NPS DEIS Alternatives that the Committee might consider?
- How might the Committee use, combine, and/or improve these alternatives to build a Committee preferred alternative?
- Safety closures

12:45 Working Lunch (provided for principals and alternates)

1:00 Subcommittee Meetings (*See list of discussion topics and subcommittees*)

2:15 Brief Status Reports from each Subcommittee to the Full Committee

2:45 Planning for Future Meetings

- Confirm Subcommittee assignments and deadlines

- Agenda topics for December meeting
- Additional subcommittee/work group work?
- Other?

3:45 Approve September Meeting Summary

3:50 Summary and Closing Remarks

4:00 Adjourn

DRAFT

**NEGOTIATED RULEMAKING COMMITTEE
8th Regulatory Negotiation Meeting
Wright Brothers Memorial, Kill Devil Hills, NC
November 14-15, 2008**

DISCUSSION TOPICS – SMALL GROUPS AND SUBCOMMITTEES

Friday Afternoon

Each small group (*see group list below*) will go through all three of the NPS DEIS action alternatives. Each action alternative will be assigned a location and a facilitator. The three groups will have approximately 30 minutes to discuss one of the three NPS alternatives, and then move to the next location and alternative. The facilitator will keep track of the ideas from each of the small groups and present the report to the full Committee. Questions to be addressed:

1. What’s promising in the alternative and why?
2. What’s the biggest problem with the alternative and why?

If a principal is not in attendance, the alternate will participate in the small group discussion in place of the principal. If the principal is at the meeting, alternates may accompany their principal and provide input to the small group through the principal or observe another small group.

<u>Alternative C</u>	<u>Alternative D</u>	<u>Alternative E</u>
Facilitator:	Facilitator:	Facilitator:
NPS:	NPS:	NPS:
Location:	Location:	Location:

Saturday Morning

Continue discussion of the NPS DEIS action alternatives in Subcommittees: Natural Resources; Permits, Passes, Fees; Routes and Areas; Vehicle Characteristics and Operations.

Each subcommittee group will focus on a different set of management activities pertinent to the subcommittee and the “other” activities not currently covered by a subcommittee. (*See list of Management Activities.*) For this discussion, the Routes and Areas subcommittee will cover Village Closures and the Vehicle Characteristics and Operations subcommittee will cover Safety Closures and other topics. Questions to be addressed:

1. What should the Committee use, improve build on from the NPS DEIS action alternatives as part of a Committee consensus alternative?
2. What, if anything, should the Committee adopt from the NPS DEIS action alternatives to incorporate into the consensus alternative?
3. What are the major disagreements and how might they be handled?
4. What management activities, if any, are not being adequately addressed by the Committee and which subcommittee should they be assigned to?

DRAFT

A principal who is not a member of a subcommittee may participate in one of the subcommittees of his or her choosing. Please stay with the same subcommittee for the both the morning and afternoon sessions. Alternates may accompany their principal and provide input to the subcommittee through the principal or observe another subcommittee.

<u>Subcommittee</u>	<u>Location</u>
Natural Resources	
Permits, Passes, Fees	
Routes and Areas	
Vehicle Characteristics/Operations	

Saturday Afternoon

Continue discussion in Subcommittees. Questions to be addressed:

1. Considering the Committee feedback, what can we use, improve, build on from the NPS DEIS action alternatives as part of a Committee consensus alternative?
2. Considering the Committee feedback, what are the most important disagreements that we need to focus on?
3. Next steps for the subcommittee

Small Groups on Friday

Group 1

Carla Boucher
Derb Carter
Larry Hardham
Michael Peele
Pete Benjamin
Sonny Duke
Steve Kayota
Warren Judge
Wayne Mathis

Group 2

Bob Eakes
David Scott Esham
Destry Jarvis
Jim Keene
Jim Lyons
Judy Swartwood
Robert Milne
Trip Forman
Walker Golder

Group 3

David Allen
Frank Folb
Jason Rylander
Jeffrey Wells
John Alley
Patrick Paquette
Renee Cahoon
Ricky Davis
Scott Leggat

0075853

**NPS ORV Management Alternatives
Cape Hatteras National Seashore
Negotiated Rulemaking Committee Meeting
November 14, 2008**

(with revisions made 11/20/08)





National Park Service

NPS Organic Act - 16 U.S.C. § 1 et seq.

- “...the fundamental purpose of said parks... is to conserve the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

NPS Management Policies 2006, Section 1.4.3

- When there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant.



National Park Service

“Conservation is to be predominant” is how courts have consistently interpreted the Organic Act

- For example, one court recently noted, in the context of snowmobile use at Yellowstone, that:**

“Enjoyment is qualified in the Organic Act in a way that conservation is not. . . This is not blanket permission to have fun in the parks in any way the NPS sees fit. . . [T]he “enjoyment” referenced in the Organic Act is not enjoyment for its own sake, or even enjoyment of the parks generally, but rather the enjoyment of “the scenery and natural and historic objects and the wildlife” in the parks in a manner that will allow future generations to enjoy them as well. *Greater Yellowstone Coalition v. Kempthorne*, Civ. No. 07-2111 (EGS) (September 15, 2008)



National Park Service

CAHA Enabling Legislation - 16 U.S.C § 459a

- Administration, protection and development of the Seashore are subject to sections 1 – 4 of 16 U.S.C.
- Legal residents of the villages have the right to earn a livelihood by fishing
- Except for certain portions of the area, deemed to be especially adaptable for recreational uses, which shall be developed for such uses as needed, the area shall be permanently reserved as a primitive wilderness and no development for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in the area.



Fishing
in
1935





National Park Service

Use of ORVs on Public Lands

EO 11644 (1972) as amended by EO 11989 (1979)

- Each agency shall develop regulations that designate areas and trails on which ORVs may be permitted. ORV areas and trails shall be located to minimize:
 - Damage to soil, watershed, vegetation, and other resources
 - Harassment of wildlife or significant disruption of wildlife habitats
 - Conflicts between ORV use and other existing or proposed recreational uses
 - To ensure the compatibility of such uses with existing conditions in populated areas

36 CFR § 4.10 (b)

- Designated ORV routes and areas shall be promulgated as special regulation and comply with EO 11644



National Park Service

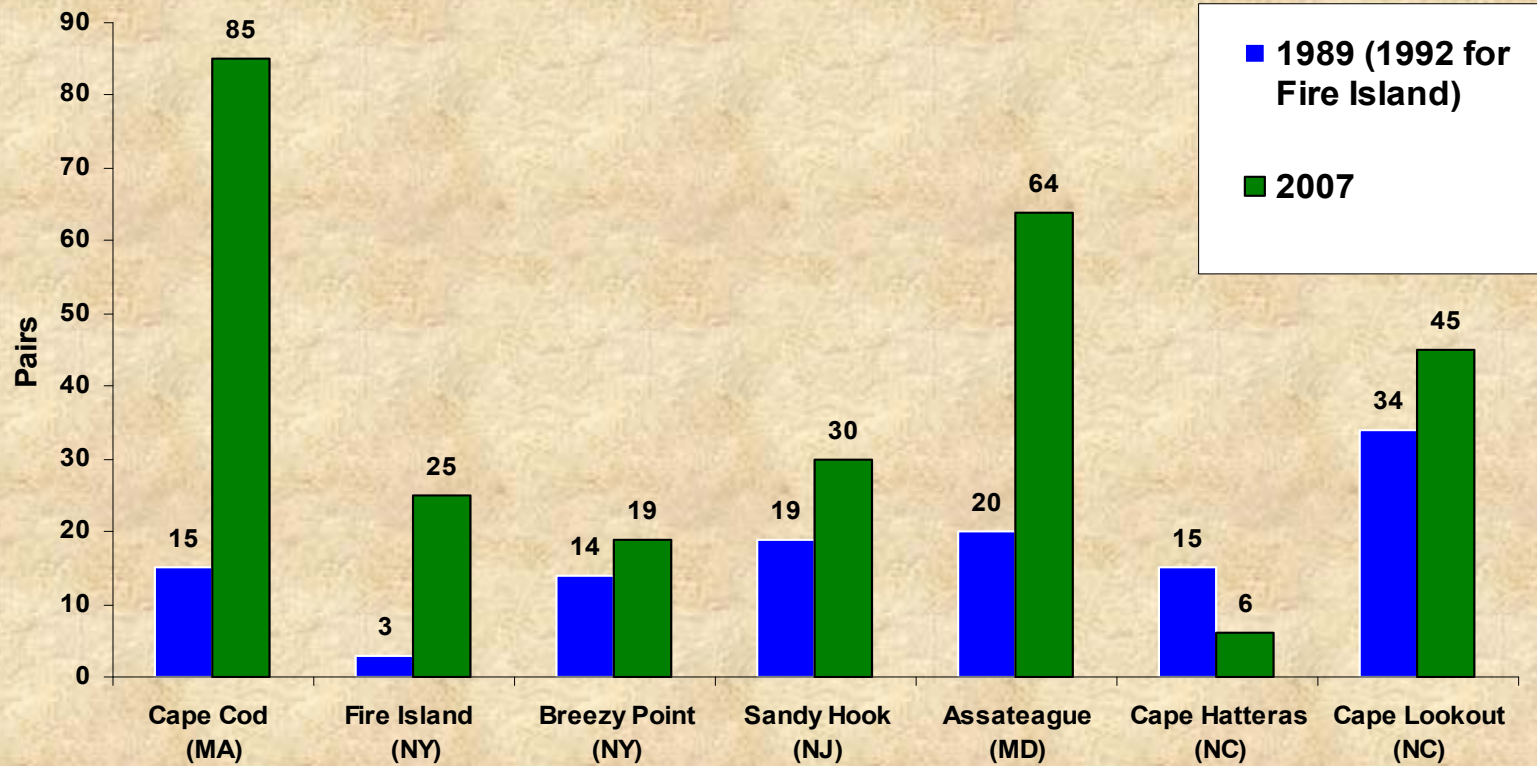
Current Status of ORV Management at CAHA

- NPS has not met the requirements of the EO's or the NPS regulation on ORV use (i.e., has not completed an ORV management plan or special regulation at CAHA)
- Long-term trend: Increased ORV use and decreased shorebird nesting success
- NPS issued "Interim Strategy" in 2006 to provide resource protection guidance until long-term plan and regulation could be completed
- 2007 Court Order: "...where the Park Service fails to create a plan for ORV use, ORV is prohibited." (*U.S. v. Matei*, No. 2:07-M-1075-BO, July 17, 2007)
- Lawsuit on the Interim Strategy resulted in Consent Decree in April 2008

National Park Service



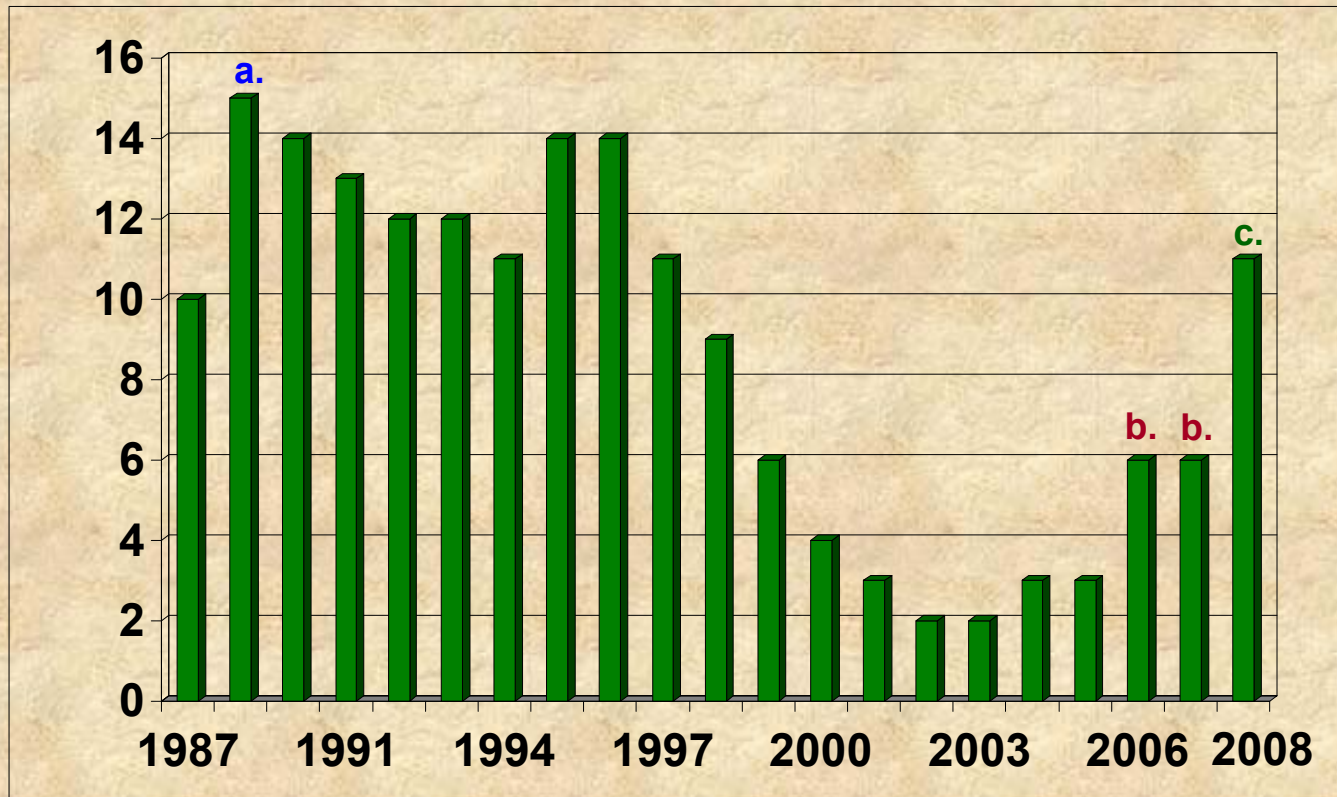
Abundance of Breeding Piping Plovers, Atlantic Coast National Park Service Units 1989 vs. 2007





National Park Service

Number of Piping Plover Breeding Pairs
at Cape Hatteras National Seashore
1987 - 2008



a. Historic high

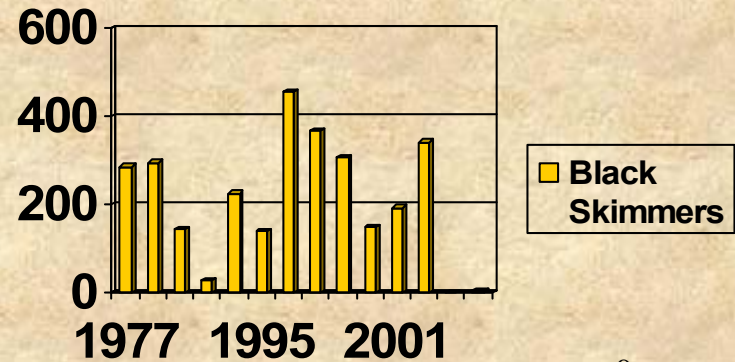
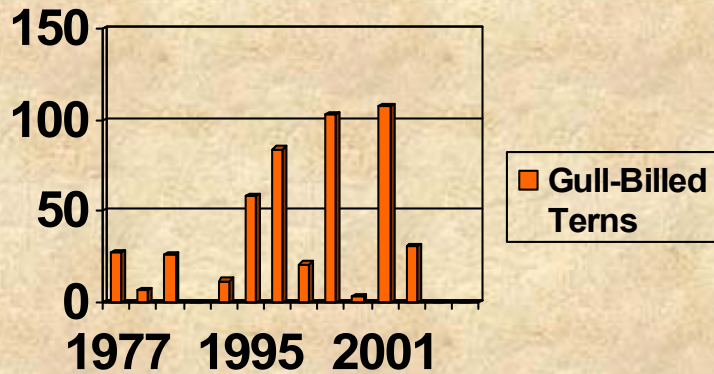
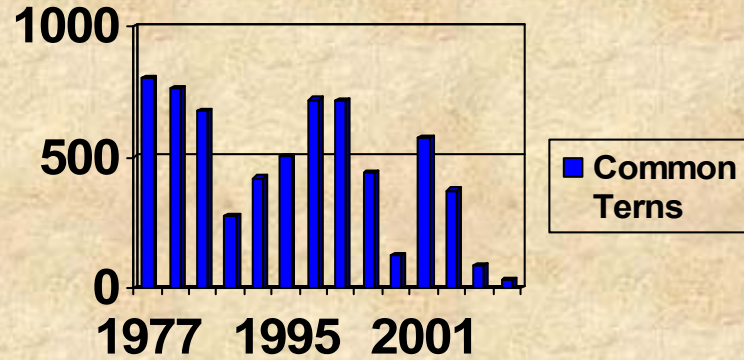
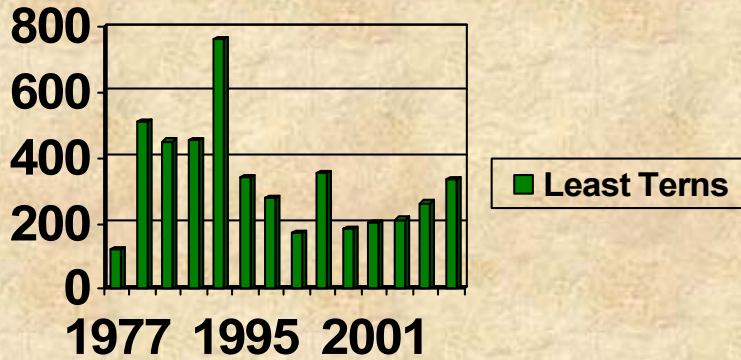
b. Interim Strategy

c. Consent Decree



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Colonial Waterbird Nests at Cape Hatteras National Seashore 1977 - 2008





National Park Service

Two Parallel Planning Processes with Civic Engagement NEPA – ORV Management Plan/EIS

- Public scoping Jan-Mar 2007 (4,000+ comments)
- Alternatives Options Workbook public comment period Jan-Feb 2008 (800+ comments)

Current
status

▶ NPS NEPA Alternatives prepared. Impact analysis underway

- Fall 2009 – NPS release Draft EIS for public comment
- Deadline for ROD – 31 Dec 2010

Regulatory Negotiation (RegNeg)

- Committee established Dec 2007. Six 2-day meetings have been held. Public comment period each day at each meeting. Subcommittee work between meetings

Current
status

▶ NPS NEPA Alternatives released to RegNeg Committee before mid-Nov meeting

- Meetings planned – Dec, Jan (2), and Feb (final meeting)
- Deadline for Final Rule – 1 Apr 2011



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NEPA Alternatives

- NPS has developed full range of reasonable alternatives to be evaluated in the DEIS. Currently working on impact analysis for those alternatives
- RegNeg Committee to develop one consensus alternative that NPS will use as the basis for the proposed rule and as the preferred alternative in the DEIS
- When/if the Committee reaches a preliminary consensus, a preliminary NEPA impact analysis will be prepared and shared with the Committee. Based on the impact analysis, the Committee will be able to adjust the preliminary consensus before it makes its final recommendation



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“No Action” Alternatives (serve as baselines)

Alternative A: Interim Strategy

- Does not address EO requirements
- EA found it would result in long-term adverse impacts to species; BO found incidental take was expected and the piping plover population would remain low
- Access is somewhat unpredictable
- Requires 10.5 FTE of RM staff to implement

Alternative B: Consent Decree

- Does not address EO requirements
- Access is unpredictable and unreliable
- Requires 13.5 FTE of RM staff to implement



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NPS Action Alternatives

C. Seasonal Management

D. Increased Predictability and Simplified Management

E. Variable Access and Maximum Management





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NPS Action Alternatives – Features common to all

- ORV areas/routes designated in accordance with EO requirements; sensitive “resource areas” are identified
- Desired Future Condition of resources is identified
- Species Management (SM) measures are identified (2 levels)
 - SM1: less intensive management effort (larger buffers; no ORV or ped. access in Resource Areas under SM1)
 - SM2: more intensive management (more flexible buffers)
- Year-round vehicle-free areas for low density visitor experience of natural beach environment
- Night driving restrictions during sea turtle nesting season (May 1 – Nov 15)
- ORV special use permit required, with an education requirement and a permit fee subject to cost recovery
- Overcrowding (carrying capacity) is addressed
- New access points and parking areas are identified
- Commercial fishing vehicles exempted from some ORV restrictions if not in conflict w/ resource protection



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Alternative C: Seasonal Management

- Designates ORV routes/areas largely based on the seasonal resource and visitor use characteristics of various Seashore areas. Includes:
 - Year-round ORV routes/areas in locations without sensitive resources or high pedestrian use
 - Seasonal non-ORV areas (become seasonal ORV routes/areas in the off-season) at locations with seasonally sensitive resources (e.g., breeding season at spits and points) or high density pedestrian use (e.g., village beaches)
 - Year-round non-ORV areas



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Alternative C *(continued)*

- **SM1 species management at most locations; except SM2 at some spits & Cape Point**
- **Standard dates for all seasonal ORV closures (Mar 15 – Oct 14)**
- **Beach driving prohibited 7 p.m. to 7 a.m. during turtle nesting season**
- **Seasonal ORV carrying capacity (# of vehicles per mile)**
- **Requires 13.5 FTE of RM staff to implement**
- **Consistent dates of seasonal ORV restrictions provide predictability and operational efficiency**

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Alternative D: Increased Predictability/Simplified Mgt

- Designates ORV routes/areas only where sensitive resources or high pedestrian use generally do not occur year-round (i.e., where seasonal or other closures are not likely to be needed). Includes:
 - Year-round ORV routes/areas in locations without sensitive resources or high pedestrian use
 - Year-round non-ORV areas; open to pedestrian use, except when resource closures in effect. Includes all village beaches and spits and points
- Eliminates most seasonal changes in routes and areas. Increases predictability of where and when ORV use is allowed. Simplifies management and operations

National Park Service



Alternative D *(continued)*

- **SM1 species management at all locations**
- **Beach driving prohibited 7 p.m. to 7 a.m. during turtle nesting season**
- **ORV permit has simpler educational requirement than Alternatives C or E**
- **One-vehicle deep parking restriction to address carrying capacity**
- **Eliminates NPS-imposed “safety closures” by relying on ORV drivers to judge whether an area is too narrow to drive safely**
- **Requires 12.0 FTE of RM staff to implement**



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ALTERNATIVE E: VARIABLE ACCESS AND MAXIMUM MANAGEMENT

- Designates ORV routes/areas with the most complexity and intensive management requirements. Includes:
 - Year-round ORV routes/areas where sensitive resources or high pedestrian use generally do not occur
 - Seasonal ORV routes/areas in some sensitive resource areas only during the non-breeding season and in congested pedestrian areas open to ORVs only in the off-season
 - Restricted seasonal ORV routes at three key sites (Bodie Island Spit, Cape Point and South Point) with a conditional “pass-through” ORV corridor during the breeding season. Relies on increased monitoring to detect species activity necessitating closure of the route
 - Year-round non-ORV areas



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Alternative E *(continued)*

- **SM1 species management at most locations; except SM2 at spits and Cape Point**
- **Standard dates to close to ORVs the identified Resource Areas during breeding season (March 15 – August 31)**
- **Standard dates to close to ORVs areas with seasonally high levels of pedestrian use (April 1 – October 31)**
- **Beach driving prohibited 10 p.m. to 6 a.m. during turtle nesting season. Areas with low density of turtle nests open to night driving Sept 16 - Nov 15**

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Alternative E *(continued)*

- Enhances options for pedestrian access to Bodie Island Spit and South Point Ocracoke by promoting water taxi service when closed to ORVs
- Research project, with adaptive management component, to restore habitat lost due to changes in man-manipulated environment (e.g., Cape Point)
- Seasonal ORV closures at spits and Cape Point will be 6 weeks shorter than under Alternative C
- Intensive management will result in more frequent unpredictable closures and less predictability for the visitor, with increased possibility of access to popular sites during the breeding season
- Requires 15.0 FTE of RM staff to implement

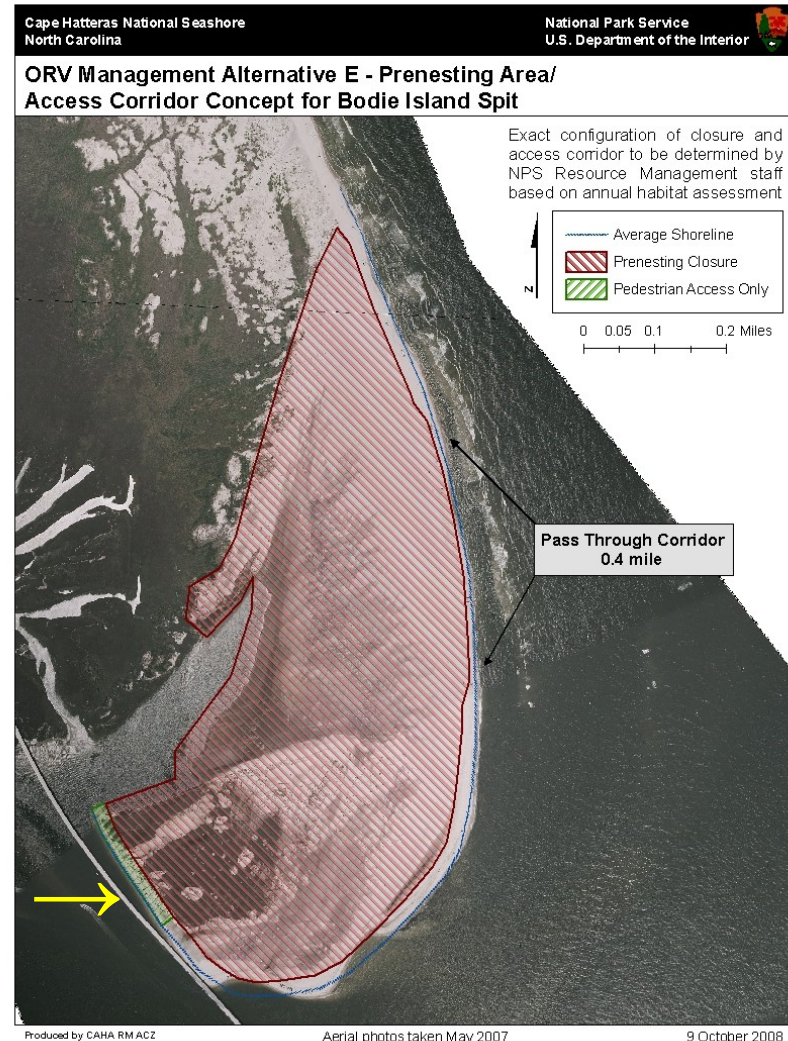
National Park Service



Alternative E - Bodie Is. Spit

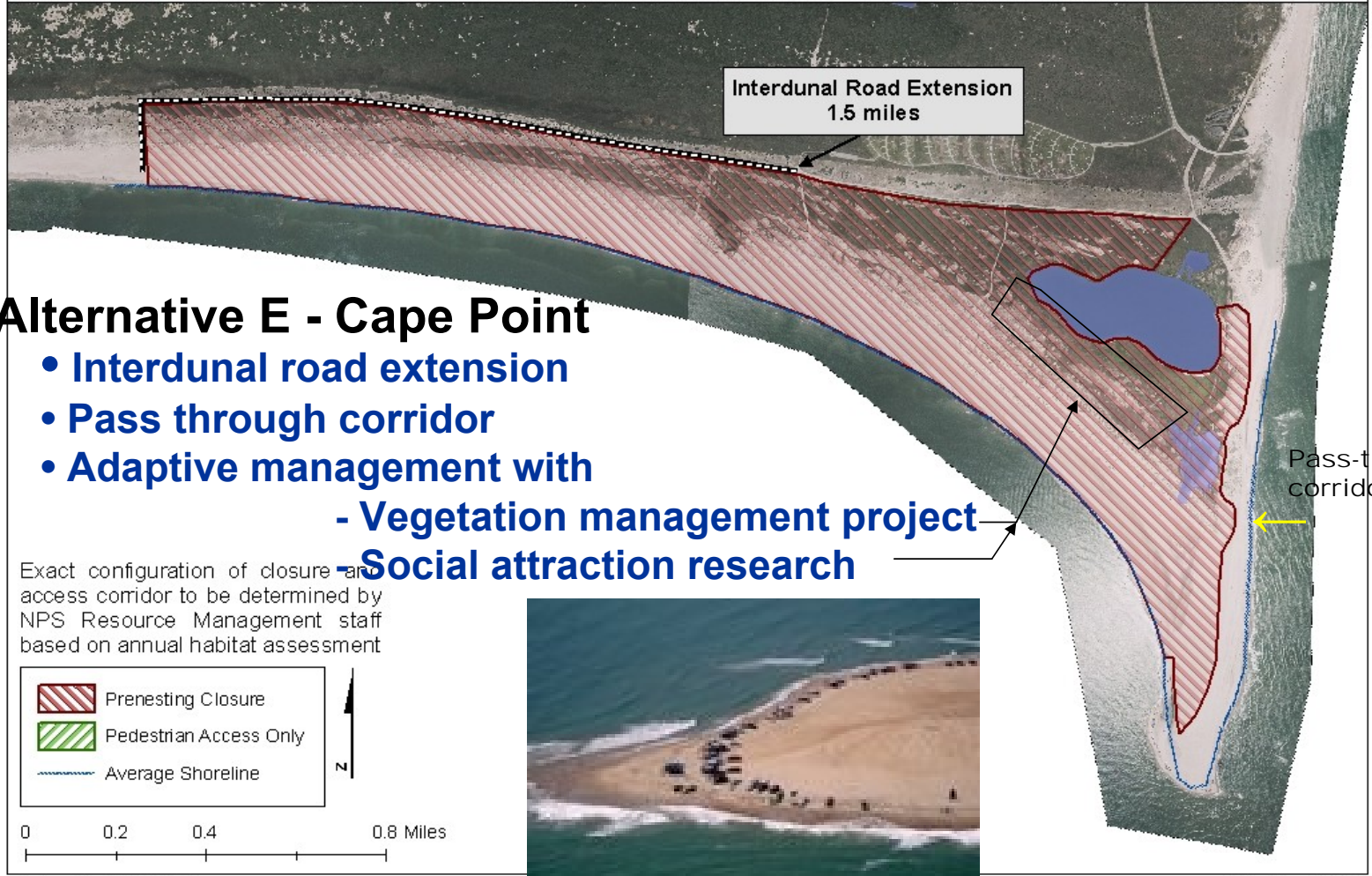
- **Pass-through corridor subject to closure, if needed, to prevent disturbance to nesting birds and when unfledged chicks are present**
- **Water taxi option**

Possible Water
Taxi Landing Zone





ORV Management Alternative E - Prenesting Area/Access Corridor Concept for Cape Point

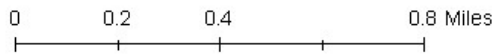


Alternative E - Cape Point

- Interdunal road extension
- Pass through corridor
- Adaptive management with
 - Vegetation management project
 - Social attraction research

Exact configuration of closure and access corridor to be determined by NPS Resource Management staff based on annual habitat assessment

	Prenesting Closure
	Pedestrian Access Only
	Average Shoreline



National Park Service



Cape Hatteras National Seashore
North Carolina

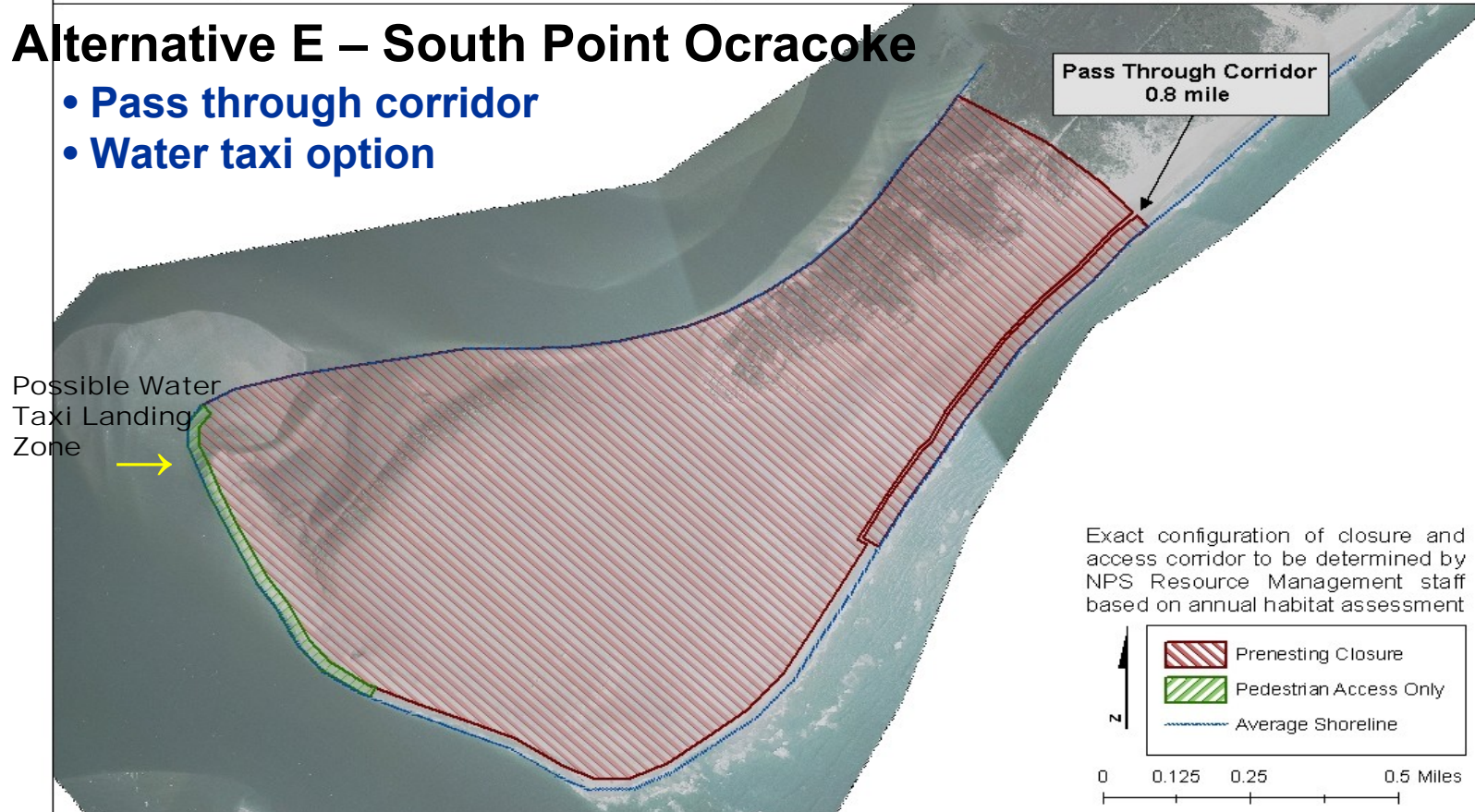
National Park Service
U.S. Department of the Interior



ORV Management Alternative E - Prenesting Area/Access Corridor Concept for South Point

Alternative E – South Point Ocracoke

- Pass through corridor
- Water taxi option



Produced by CAHA RM ACZ

Aerial photos taken May 2007

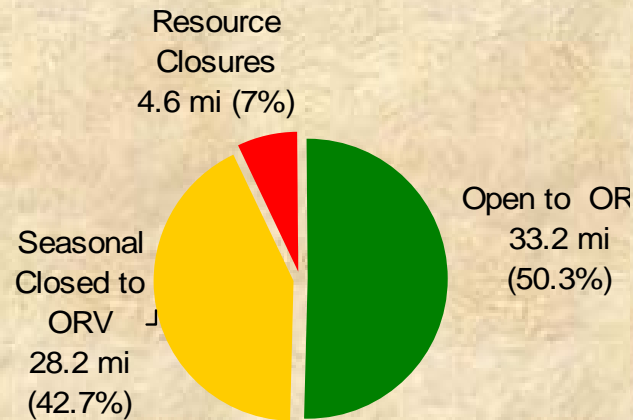
9 October 2008

National Park Service

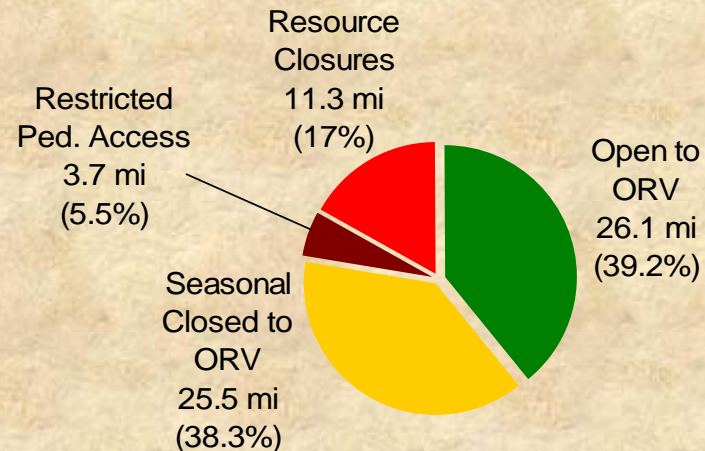


Comparison by % Total Beach Miles

Alternative A Interim Strategy - July 07



Alternative B Consent Decree - July 08



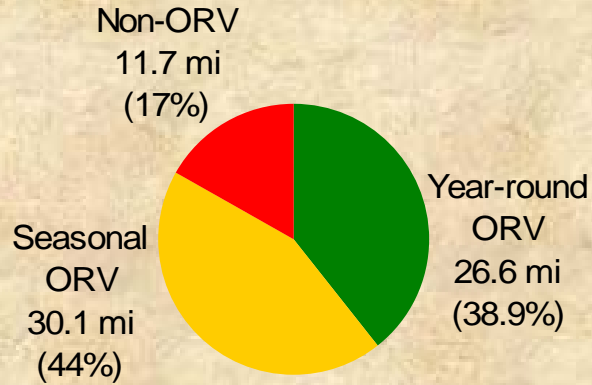
(Alt B graph revised 11/20/08)

Note: Mileages shown do not include Pea Island NWR. This statement added 11/20/08.



National Park Service

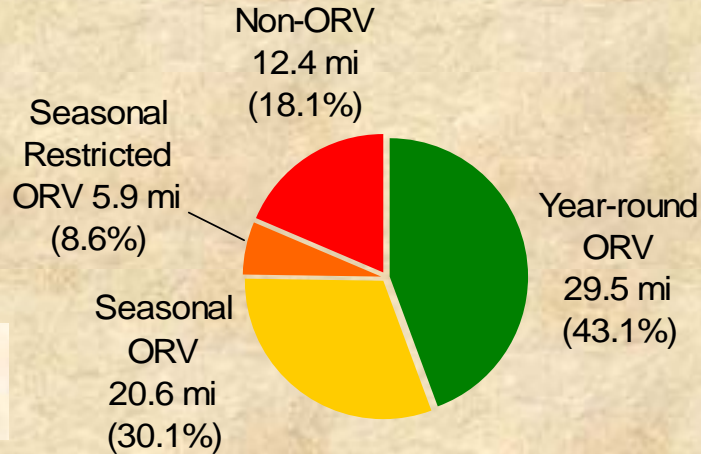
Alternative C



Alternative D



Alternative E

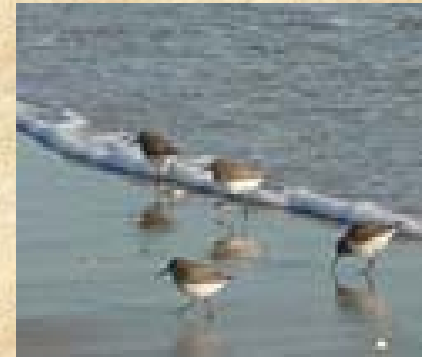
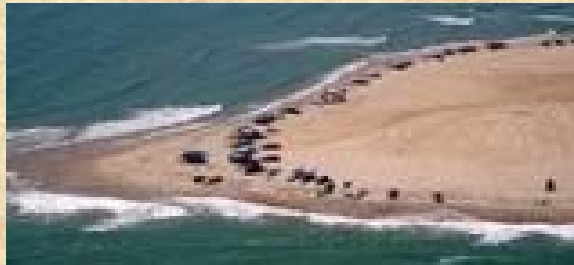


Note: Mileages shown do not include Pea Island NWR. This statement added 11/20/08.



National Park Service

Thank you for your time and attention!



Beach Driving and Sea Turtles

Sandy MacPherson
National Sea Turtle Coordinator
U.S. Fish and Wildlife Service



Sandra L. MacPherson

- BS & MS in Wildlife & Fisheries Science
- 23 years working on Endangered Species issues
- 15 years as the Service's Sea Turtle Coordinator
 - Oversight of sea turtle recovery efforts on U.S. nesting beaches
 - Loggerhead Recovery Team member
 - Loggerhead Turtle Expert Working Group member
 - Loggerhead Biological Review Team member
 - Marine Turtle Conservation Act Grants Committee member
 - Key liaison with the National Marine Fisheries Service
 - Key participant in the development of two beach driving Habitat Conservation Plans

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Loggerhead



Green



Leatherback



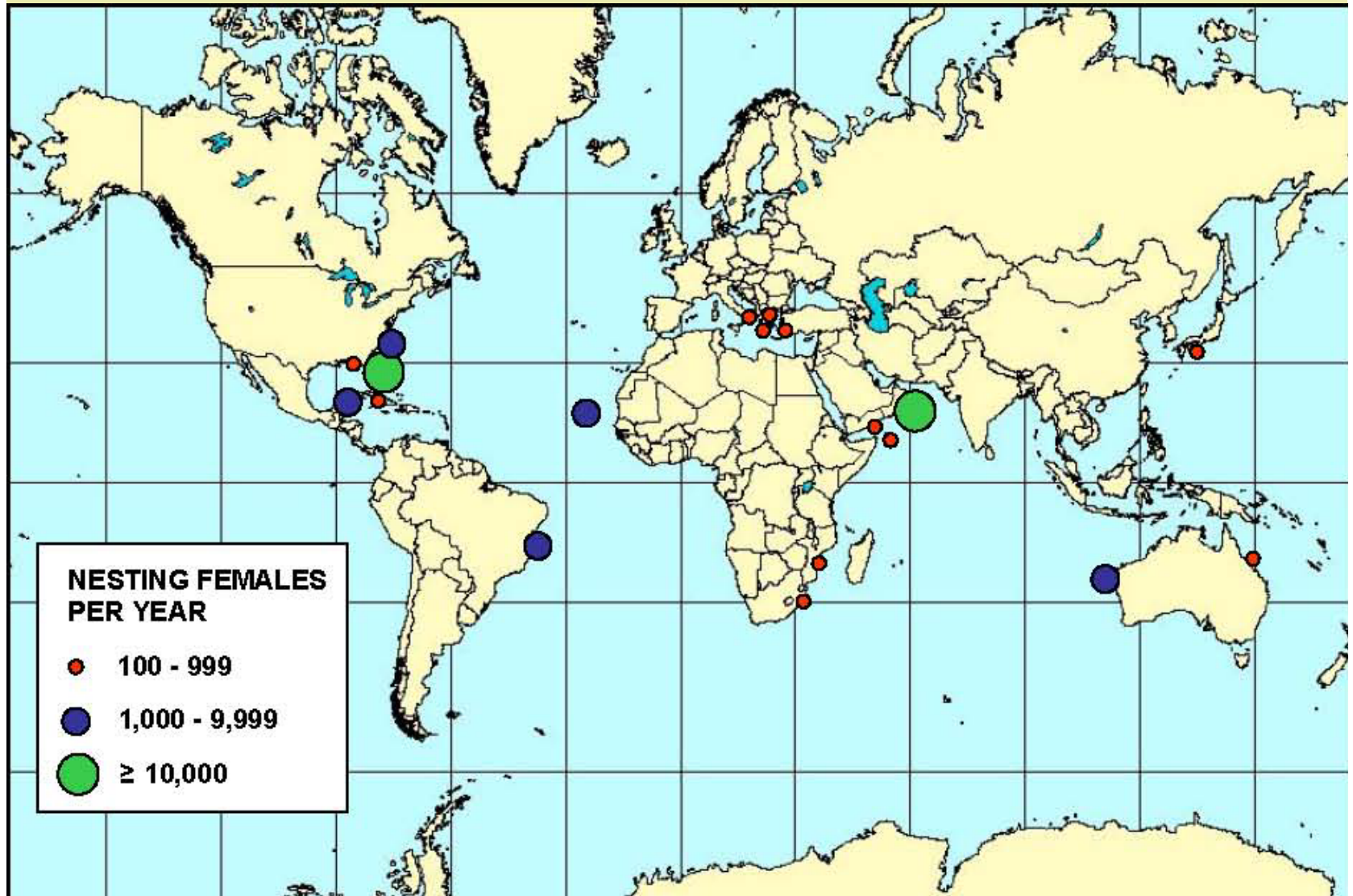
Hawksbill



Kemp's Ridley



Global distribution of loggerhead nesting assemblages

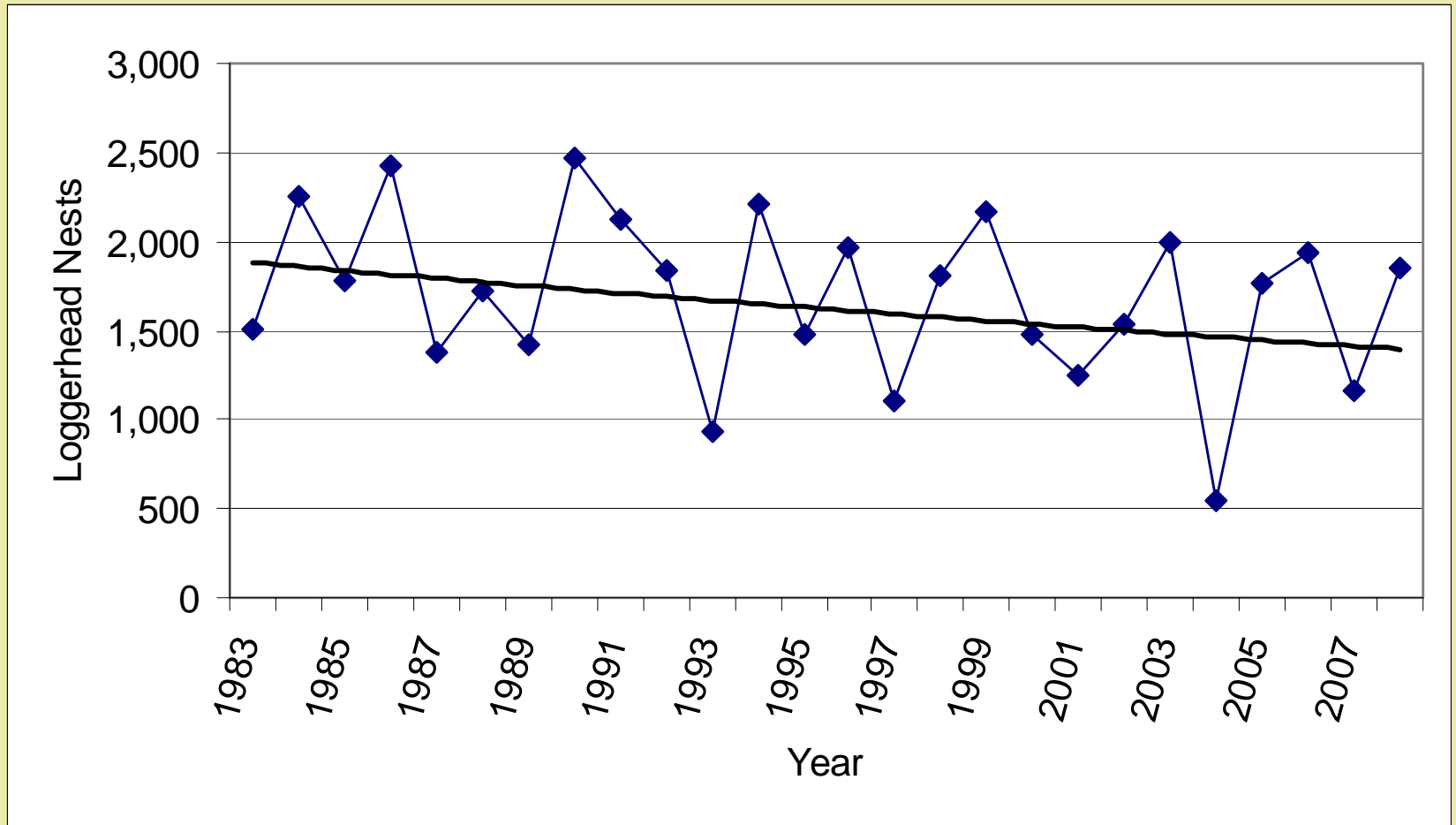


Georgia - South Carolina - North Carolina



0075885

Loggerhead Northern Recovery Unit Population Trend



0075886

Beach Driving and Sea Turtles

Potential Impacts

DIRECT

- Deterrence to Nesting
- Decreased Nesting Success
- Collisions with Turtles
- Crushing of Nests
- Entrapment in Tire Ruts
- Disorientation by Vehicle Lights

0075888

Deterrence to Nesting



0075889

Aborted Nesting Attempts



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Collisions



0075891



Misorientation in Ruts



0075892

Disorientation by vehicle lights



Potential Impacts

INDIRECT

- Compaction
- Contaminants
- Dune vegetation

0075894

Compaction



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Contaminants



0075896

Impacts to Dune Vegetation



0075897

Solutions

Why Don't We Relocate All the Sea Turtle Nests?

Exceptions:

- The nest is laid below the average high tide line where regular inundation will result in embryonic mortality.
- The nest is laid in an area known to be susceptible to erosion during the nest incubation period.
- The nest is laid under a sloughing escarpment and is subject to being buried deeply.

0075900

Nest Relocation: Handling Mortality

Nest Relocation: Changes to the Incubation Environment

- Incubation Temperature
- Gas Exchange
- Moisture Content
- Hatching Success
- Hatchling Emergence

Changes to Incubation Environment

- **Temperature**
- Gas Exchange
- Moisture Content

Changes to Incubation Environment

- Temperature
- Gas Exchange
- Moisture Content

Changes to Incubation Environment

- Temperature
- Gas Exchange
- Moisture Content

Moisture Content Influences:

- Nitrogen excretion
- Mobilization of calcium
- Mobilization of yolk nutrients
- Hatchling size
- Energy reserves in the yolk at hatching
- Locomotory ability of hatchlings

**Why Don't We Breed Turtles
in Captivity and Release
Them in the Wild?**

Reduced Reproductive Success

- Farm-reared turtles have had significantly lower hatching success than turtles that originated from the wild
- Farm-reared turtles, thus, may be less reproductively successful than wild stock

Disease

- Common in captive-reared turtles
- Release of captive-reared turtles might introduce or spread diseases among wild populations

Behavioral Modification

- Captive-reared turtles don't behave like wild turtles making them more susceptible to mortality in the wild
- May interfere with homing mechanisms and other biological mechanisms

Genetics

- Alteration of the genetics of wild populations

*In 1990, the National Research Council's Committee on Sea Turtle Conservation determined that captive breeding of sea turtles "would be a method of last resort, and a risky one at best, because captive animals in an aquarium or zoo retain only a portion of the genetic material of their species in the wild."

What's Been Done to Address Beach Driving and Sea Turtle Interactions Elsewhere?

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The Volusia County Experience

0075913



Volusia County

0075914

THE ATTRACTION CONTINUES



HCP PHILOSOPHY

Separate Turtles from Vehicles

- Vehicle Access Times
- Beach Management Areas
 - Natural (30.4 km)
 - Transitional (18.8 km)
 - Urban (8.0 km)
- Conservation Zones

HCP PHILOSOPHY

Separate Turtles from Vehicles

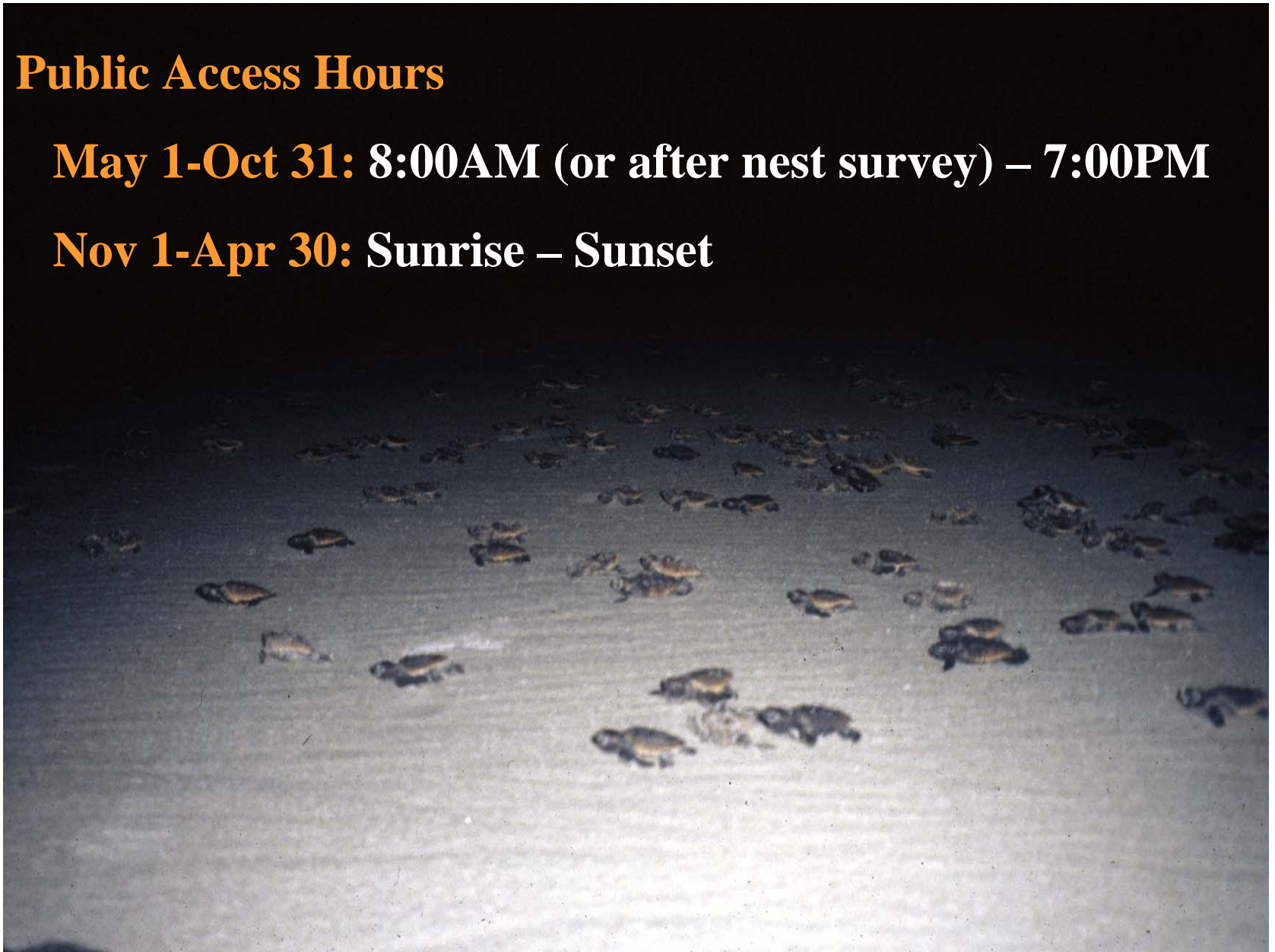
- **Vehicle Access Times**
- Beach Management Areas
 - Natural (30.4 km)
 - Transitional (18.8 km)
 - Urban (8.0 km)
- Conservation Zones

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Public Access Hours

May 1-Oct 31: 8:00AM (or after nest survey) – 7:00PM

Nov 1-Apr 30: Sunrise – Sunset



HCP PHILOSOPHY

Separate Turtles from Vehicles

- Vehicle Access Times
- Beach Management Areas
 - Natural (30.4 km)
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 - Urban (8.0 km)
- Conservation Zones

HCP PHILOSOPHY

Separate Turtles from Vehicles

- Vehicle Access Times
- Beach Management Areas
 - Natural (30.4 km)
 - Transitional (18.8 km)
 - Urban (8.0 km)
- **Conservation Zones**

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CONSERVATION ZONE BUILDING DUNES



Conservation Zone Width
15 Feet in Urban Area
30 Feet in Other Public Driving Areas

Conservation Zone

Driving and Parking Inside CZ is Prohibited

Additional HCP Provisions

MINIMIZATION

- Mark and Protect All Nests
- Conduct Rut Removal Program
- Train Beach Personnel Annually
- Conduct a Public Education Program

MITIGATION

- Lighting Management
- Operation of a Turtle Rehab Facility

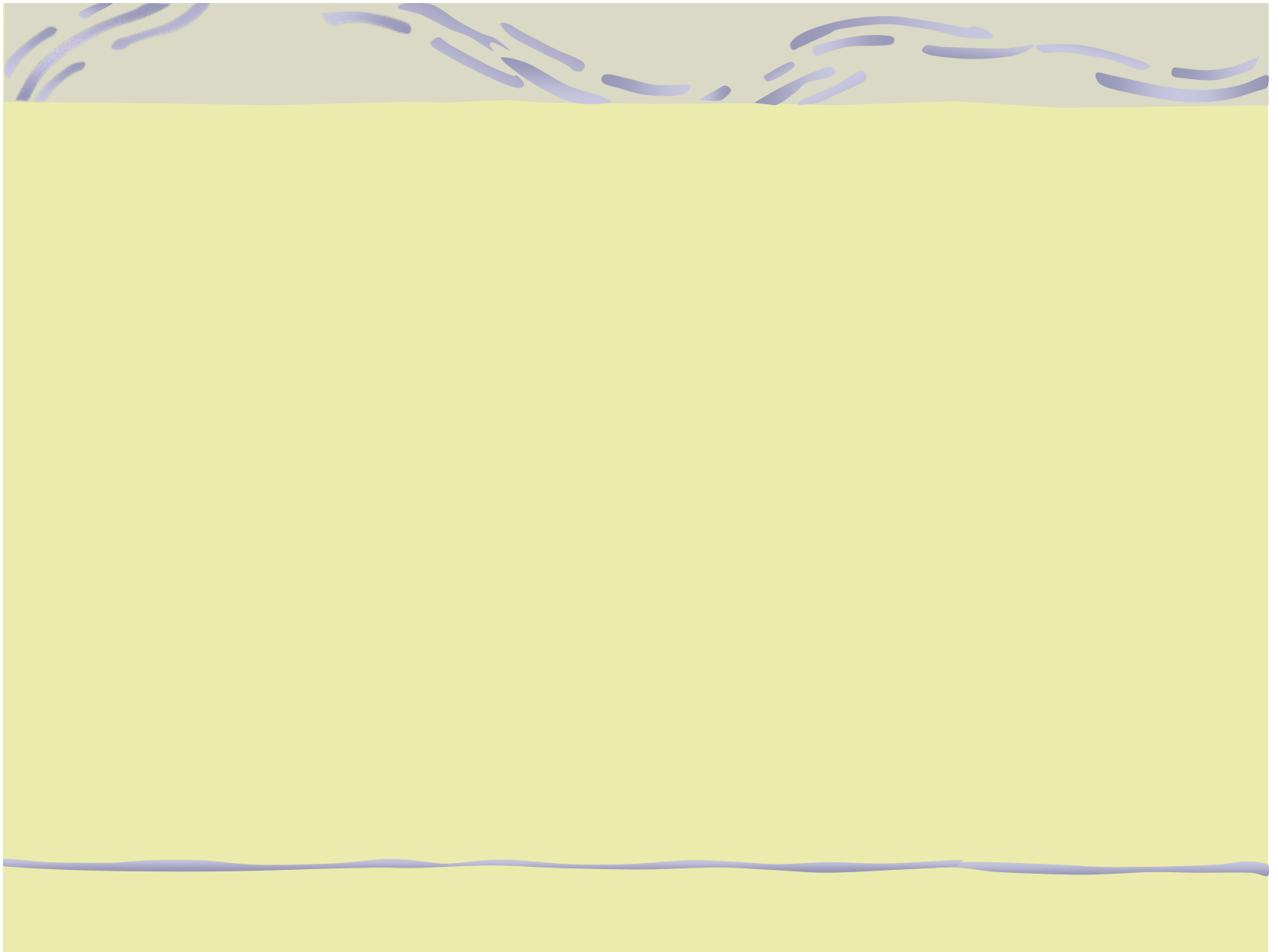
Documented Direct Impacts 1997 - 2007

- Adults (Nighttime or Daytime) – 0
- Unmarked Nests – 1 (Beach Safety, 1999)
- Marked Nests – 0
- Hatchlings (Daytime Emergence) – 3 (1998)
- Hatchlings (Nighttime Emergence) – 3 (Beach Safety, 2 in 1999 and 1 in 2001)
- Hatchling/Rut Encounters – avg. 2.4/yr (only 2 since 2002)
- Washbacks – 7 (1 in 2006 and 6 in 2007)

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Recovery Plan Comparison

Demographic Recovery Criteria

- 1991 Plan - The adult female population in Florida is increasing and in North Carolina, South Carolina, and Georgia, it has returned to pre-listing nesting levels (NC=800 nests/season; SC=10,000 nests/season; GA=2,000 nests/season). The above conditions must be met with data from standardized surveys which continue for at least 5 years after delisting.
- 2008 Draft Plan - For the Northern Recovery Unit: There is statistical confidence (95%) that the annual rate of increase over a generation time of 50 years is 2% or greater resulting in a total annual number of nests of 14,000 or greater for this recovery unit (approximate distribution of nests is NC=14% [2,000], SC=66% [9,200], and GA=20% [2,800]). This increase in number of nests must be a result of corresponding increases in number of nesting females (estimated from nests, clutch frequency, and remigration interval).

Recovery Plan Actions

611. Eliminate nest management techniques that are not scientifically based.

6111. Evaluate the effects of nest management activities on nest productivity, hatchling fitness, and sex ratios and develop scientifically based standardized protocols for nest management.

6112. Implement scientifically based standardized protocols for nest management.

6113. Use the least manipulative method to protect nests.

6114. Discontinue the use of hatcheries as a nest management technique.

Recovery Plan Actions

- 612. Minimize and control vehicular traffic on nesting beaches.
 - 6121. Prohibit nighttime driving on beaches during the loggerhead nesting season.
 - 6122. Ensure that the linear kilometers of nesting beach where vehicular traffic is permitted does not increase above 2006 levels.
 - 6123. Manage daytime driving to minimize impacts to loggerheads.

Recovery Plan Actions

- 614. Minimize harassment of nesting females and hatchlings.
 - 6141. Evaluate the extent and effects of harassment of nesting females and hatchlings and develop management recommendations.
 - 6142. Conduct public education campaigns to minimize harassment of nesting females and hatchlings.
 - 6143. Increase the number of interpretive turtle walks to meet demand and minimize overall disturbance to nesting females and hatchlings.
 - 6144. Enforce laws to minimize harassment of nesting females and hatchlings.

Recovery Plan Actions

41. Reduce nest predation.

- 411. Reduce the annual rate of mammalian predation to at or below 10% of nests within each recovery unit using ecologically sound predator control programs.
- 412. Control fire ants on and adjacent to loggerhead nesting beaches.

Recovery Plan Actions

25. Minimize effects of light pollution on hatchlings and nesting females.
 251. Develop, fully implement, and effectively enforce light management plans to address direct and indirect (e.g., sky glow, uplighting) artificial lighting on nesting beaches.
 2511. Implement and enforce lighting ordinances on lands under local government jurisdiction.
 2512. Implement and enforce lighting management plans on all lands under state and Federal jurisdiction.
 252. Evaluate the extent of hatchling disorientation on nesting beaches based on standardized surveys.
 253. Prosecute individuals or entities responsible for nesting female or hatchling disorientation under the Endangered Species Act or appropriate state laws.

Areas where Beach Driving Occurs

- NE FL - Nassau, Duval, St. Johns, & Volusia Cos.
- NW FL - Gulf Co.
- GA - Cumberland, Little Cumberland, and Sapelo Islands
- NC - Fort Fisher State Recreation Area, Carolina Beach, Freeman Park, Onslow Beach, Emerald Isle, Indian Beach/Salter Path, Pine Knoll Shores, Atlantic Beach, Cape Lookout National Seashore, Cape Hatteras National Seashore, Nag's Head, Kill Devil Hills, Town of Duck, and Currituck Banks
- VA - Chincoteague NWR and Wallops Island

Committee Feedback on NPS Action Alternatives

Nov 14, 2008 – Small Group Work

Compiled by Facilitation Team

Cape Hatteras National Seashore Negotiated Rulemaking

Alternative C - Benefits

- Conceptually manages based on what's happening in the Park
- Locations for protecting breeding birds as shown on maps
- Predictability of dates
- Easier to manage than Alt. E
- Additional ramps and facilities
- Annual permit runs from date of purchase
- Use of SM2

Alternative C - Benefits

- Year round Non-ORV areas
- Night driving ban and hours
- Easy to communicate
- Mandatory education requirements better than Alt D
- Seasonal dates include pre-nesting of birds and very end of turtles

Alternative C - Concerns

- Concept (what's happening in the park) was not translated into mgt activities
- Closing Spits and Points
- Potential Sea Turtle Areas
- Safety Closures
 - Monitoring every two weeks not often enough
 - Should be up to driver (as in Alt D)
- Seasonal dates too early
- No corridors for pre-nesting areas

Alternative C - Concerns

- Not as flexible or provide as much access as Alt E
- Carrying Capacity
 - Focuses on safety, which is only one factor, and excludes environment and social
 - Less parking allowed on Ocracoke
 - Two year periodic review not often enough
 - Establishes full capacity without knowing the actual capacity
- No measurable objective criteria for changing once plan finalized

Alternative C - Concerns

Hours of Allowable ORV Operation on Beach

- Night Driving
 - Ban inappropriate and unnecessary
 - Hours
 - Under and over inclusive
 - Miss sunset and sunrise
 - Nov 15 too late -- only 7% of turtles nest after Oct 31
 - Law enforcement
 - Access soundside then go onto beach after patrol leaves (e.g. Pole Road)
- Villages
 - No ORVs in front of Villages at any time

Alternative C - Concerns

- Rodanthe Pedestrian Area impractical and does not have high aesthetic value
- Access to Ramp 4 unclear
- Resource protection
 - Dates, times, monitoring frequency
 - SM1 does not include physical boundaries (less monitoring)
- Need better definition of camping (36 CFR §1.4 insufficient)
- Nothing good in Alt C

Alternative C - Ideas

- County purchase of condemned property at Pea Island-Rodanthe boundary for pedestrian area
- Set density numbers using actual data from prior years, use an average after a few years
- Use data from rental agencies to set dates for village closures
- Treat all villages the same (Hours for Allowable ORV Operations on Beach)
- SM2 buffers should be based on science and what's done in other park units

Alternative C - Ideas

- Carrying Capacity
 - Use multiplier of 150% of vehicles per mile
 - Use different calculation/approach
 - Link vehicle free areas to determination

All Alternatives

- Permit Requirements
 - Should be the same for all alternatives
 - Exam raises numerous problems (e.g. languages)
- Night Driving
 - Determine restrictions based on light and vehicle movement rather than hours
 - Use sunset to sunrise (or 30 minutes before and after) and post tables at park entry/access points

Alternative D - Benefits

- Predictability/simplicity/simple to understand
- Requires less staffing/least costly to NPS/easy to administer
- Establish boardwalks by pedestrian areas
- Education for the permit/no exam
- Permit geared toward the driver
- 7am driving start time gives rangers time to discover turtle nests
- No safety closures – don't dictate safety choices
- Ban on night driving
- Nice areas for pedestrian access and resources
- Maximum species protection/best resource protection
- Same sound side access
- Most consistent with the USGS maximum protocols
- None

Alternative D - Concerns

- Least flexibility for management
- Concern about implications of no safety closure
- Night driving dates: Nov unnecessary, inflexible
- Takes the heart out of areas enjoyed by recreational fishing
- Closes points, spits and villages to ORVs year round
- Education less thorough because no test
- Large economic impact to communities
- All X areas on matrix are SM1
- Carrying capacity – needs to be better defined, apply to high-pedestrian use areas, parking 2 deep is by choice

Alternative D - Ideas

- Add parking for walking over at night
- Add ramp 47
- Want objective, measurable criteria for changing designations over time
- Open more of Ramp 1-Oregon Inlet to ORVs
- Better define sea turtle nesting
- Why are the night driving times 7-7? Connect to daylight hours or science. Consider concept of healing beach where wind/waves have time to smooth ruts before night.

Alternative D - Ideas

- Passes: add a 1-2 week pass, make it 12-month
- Use more typical buffers even if less predictable
- Be sure habitat annual review looks at historical data
- Clarify resource protection measures – birds nest outside resource areas?
- Corrections: Map conflict (maps 6-7), dates inconsistent in resource protection/ORV maps

Alternative E - Benefits

- The most promising in terms of a conceptual basis for building Committee agreement.
- Utilizes adaptive management.
- Most flexible, adaptive and innovative.
- Strong education component
- Access corridors seeking to protect natural resources and access. Doesn't draw rigid "lines in the sand" as much.

Alternative E - Concerns

- Confusing and complicated; may be hard for public to understand.
 - Most expensive and resource intensive to implement.
 - Routes and Areas
 - Year round closure of Ramp 27 to 30? 45 to 47?
 - Sound side ramps closed with parking lot development– shouldn't close all – makes access harder
 - Not enough pedestrian-only areas on Hatteras.
 - Not enough ORV routes/areas on Ocracoke.
 - Needs a means for changing areas/details with measurable, objective criteria.
 - Don't like if ORV access closed, a pedestrian-only area opened to driving.
- Pedestrians
- Insufficient “segmenting” of pedestrian areas across the geography.

Alternative E - Concerns

- Closure Dates and Times
 - Village seasonal closure dates – 4/1 to 10/31, some view as too restrictive. Data can be hard to interpret.
 - November 15 for turtles seems late in the season.
 - Bird closures until 8/31 generically seems to much.
- Natural Resources
 - Winter habitat and FWS critical habitat designation – too much discretion for NPS without clearer criteria, etc.?
 - In some monitoring scenarios, every 2 weeks too little.
 - Lots of questions about resource tables.
 - Opening at 6 AM doesn't allow for turtle patrols first.
 - Pass thrus may pose some natural resource concerns
 - Is 10 PM closing sufficient for hatchlings who may hatch before 10?
 - Total ban on nighttime driving across Park a problem. Can't we do something more nuanced?

Alternative E - Concerns

- Carrying capacity!?
 - Parking 1 deep subject to interpretation
 - Parking needs to be variable given wind, families, etc.
 - Seems like based on safety and not other required criteria (natural resource and social carrying capacity)
 - Don't like Ocracoke getting the least capacity, especially if routes severely restricted.
- Will a water taxi really be viable – wind, shallow draft, landing difficulties?

Alternative E - Ideas

- Even with night time restrictions, still need night time patrols/enforcement.
- Specific routes need to be worked out to meet the specific needs of the Committee.
- Extend Cape Point access strip around end further to allow for break wave and red drum fishing.
- What about pedestrian area from Buxton north?
- What about developing parking in north end of Rodanthe?
- Couldn't we develop some kind of rolling average year density trigger for seasonal village closures based on actual beach usage, not who is staying in units, which is an imperfect measure?
- What about a land taxi – trained drivers, permitted, allowing more access?

Alternative E - Questions

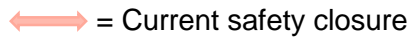
- How can we ensure the infrastructure is in place at the time the restrictions are put in place?
- What if we don't get the necessary additional money to make this one work?

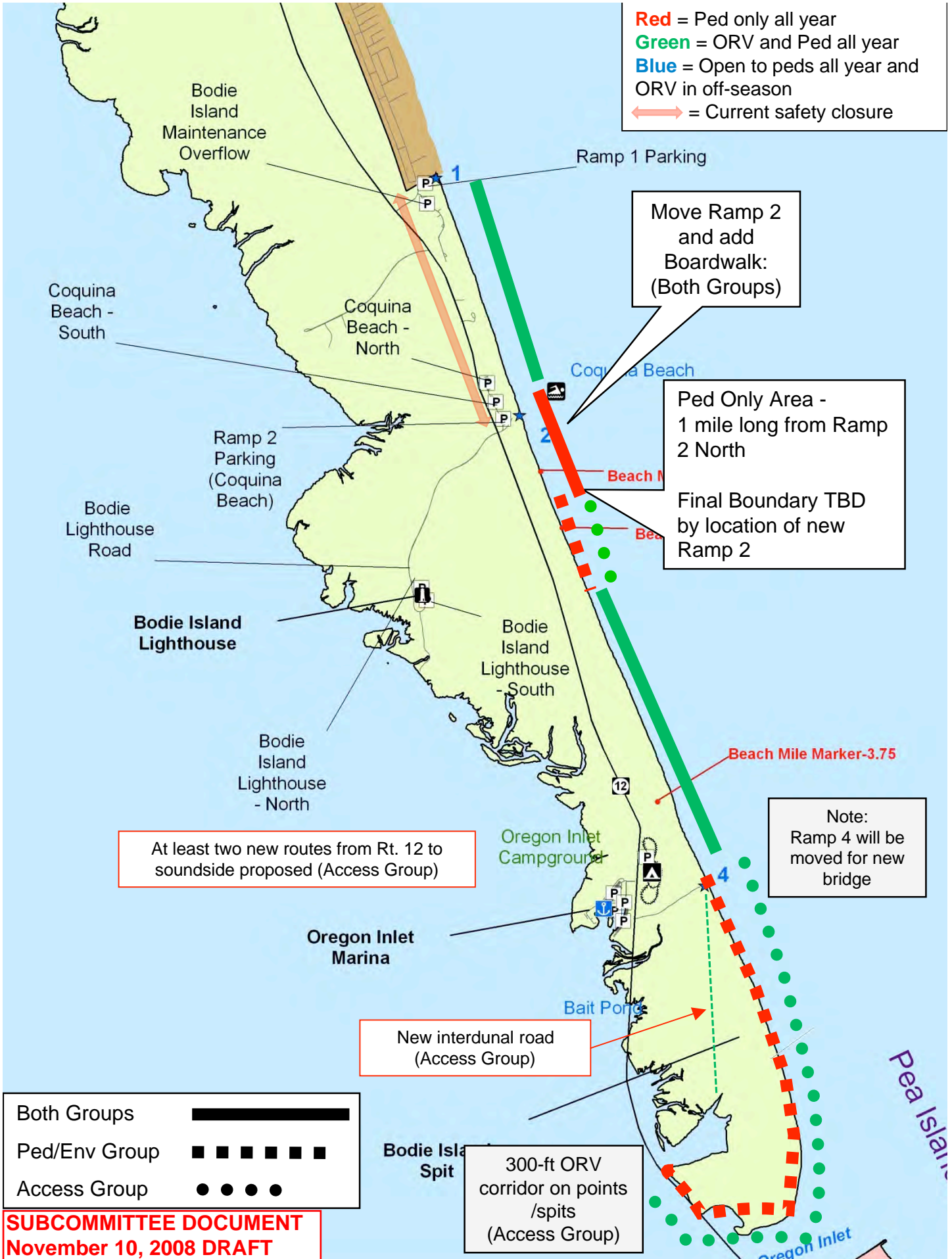
ORV Routes and Areas Subcommittee

ORV Routes and Areas and Pedestrian Areas Maps

November 10, 2008 DRAFT

- The following maps are a work in progress by the Routes and Areas Subcommittee.
- The maps display key information contained in the Access and Pedestrian-Environmental subgroup proposals sent to the Committee on October 28, 2008 (and previously released publicly). The Pedestrian-Environmental subgroup proposal also was distributed to the Committee at the September meeting. Please note the maps do not contain all of the information presented in the proposals, and readers of the maps are requested to review the maps in conjunction with the two subgroup proposals.
- The proposed Routes and Areas shown on the maps are not to scale; the exact locations TBD. Proposed interdunal roads are shown as a placeholder and do not reflect actual locations. Safety Closures shown on the maps are based on the 09/08 Beach Access Report.
- The Subcommittee is developing a working definition for determining where ORV and pedestrian-only areas begin and end, based on (1) the recognition that NPS will determine the exact locations of new ramps, boardwalks, and parking facilities; (2) the recommendation that each pedestrian-only area needs a boardwalk (or walkover) over the dunes for pedestrian and ORV safety; and (3) initially using the ramps as the dividing line until a walkover is constructed, and then the dividing line would be fixed along a line located halfway between the ramp and the walkover.
- The Subcommittee proposes adding a boardwalk at ramps and parking areas where there will be a pedestrian only area for pedestrian and ORV safety. The maps currently show adding boardwalks at Ramps 2 and 30. Additional boardwalks are proposed at Ramps 23, 49 (subject to NPS determination about moving the ramp or parking) and 59.
- While the maps show fixed locations for the Ped-Env subgroup's proposed pedestrian only areas, their proposal provides a flexible approach for the location of some pedestrian only areas. The Ped-Env subgroup's proposal designated seven areas of high ecological value, and provided that four of the seven would be pedestrian only, and one of the seven pedestrian only for at least the 1/2 mile closest to the inlet. The proposed criteria for choosing between the seven include the numbers of birds and habitat quality. For example, while the Hatteras Inlet map shows the ORV closure on the east side of the inlet and no closure on the west side, the route/no route status could shift based on an annual evaluation of the criteria.
- *The maps do not reflect Committee consensus or individual Committee member concurrence on the specific terms, provisions, or locations.*

Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure



Move Ramp 2 and add Boardwalk: (Both Groups)




Ped Only Area - 1 mile long from Ramp 2 North
 Final Boundary TBD by location of new Ramp 2


At least two new routes from Rt. 12 to soundside proposed (Access Group)

Note: Ramp 4 will be moved for new bridge

New interdunal road (Access Group)

300-ft ORV corridor on points /spits (Access Group)

Both Groups	
Ped/Env Group	
Access Group	


Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure

Re-establish Ramp 20 (Access Group)

Establish Ramps 24, 25, 26, 28, 29 (Access Group)

Sound-side: Ramps 46, 48 open for Ped and ORV access (Access Group)



Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure

Little Kinnakeet

Establish Boardwalk (Both Groups)




Sound-side: Ramps Little Kinnakeet (1, 2, 3) and 52, 53, 54 open for ped and ORV access (Access Group)

Establish Ramps 31, 32, 33 (Access Group)

Avon

Avon Pier

See narrative for proposed sound side access from south of Avon to Hatteras Inlet (Access Group)


Both Groups	
Ped/Env Group	
Access Group	

New ramp #39 (Access Group)

Haulover

New ramp south of Haulover (Ped-Env)




New ramp #41 (Access Group)

Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure

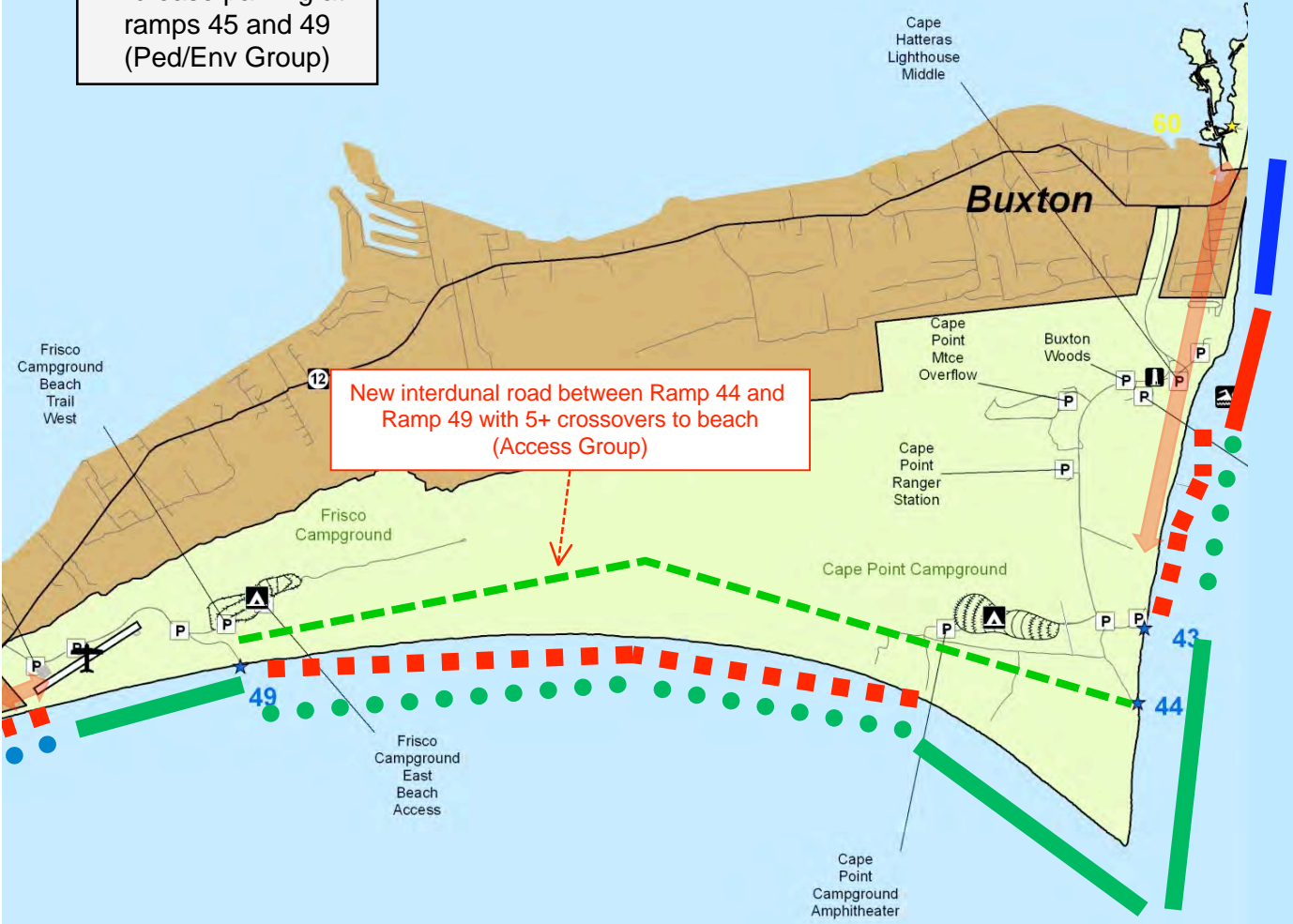
Increase parking at ramps 45 and 49 (Ped/Env Group)


New interdunal road between Ramp 44 and Ramp 49 with 5+ crossovers to beach (Access Group)

300-ft ORV corridor on points /spits (Access Group)

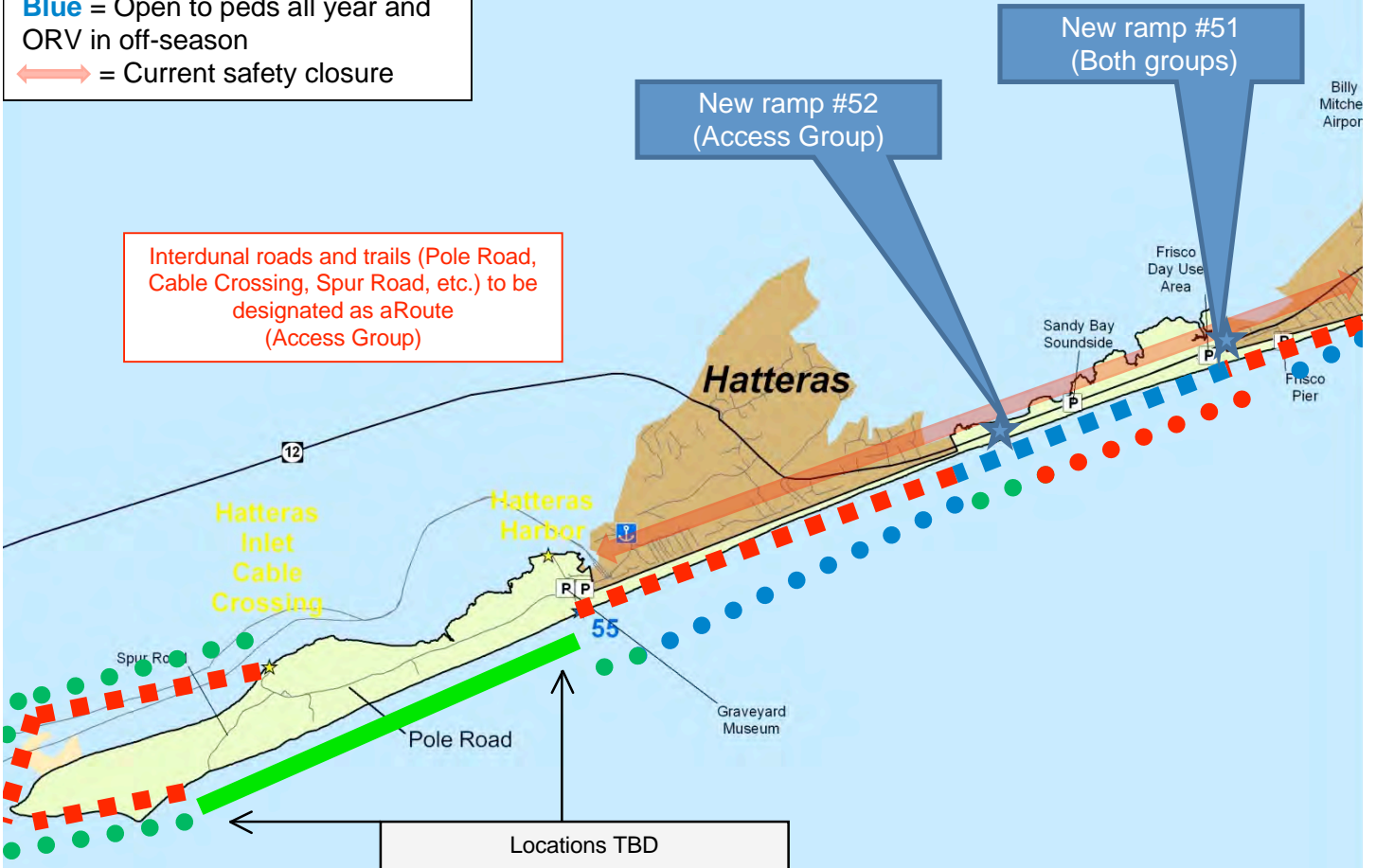
Both Groups	
Ped/Env Group	
Access Group	

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November 10, 2008 DRAFT






Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure

Interdunal roads and trails (Pole Road, Cable Crossing, Spur Road, etc.) to be designated as a Route (Access Group)



300-ft ORV corridor on points /spits (Access Group)

Both Groups	
Ped/Env Group	
Access Group	

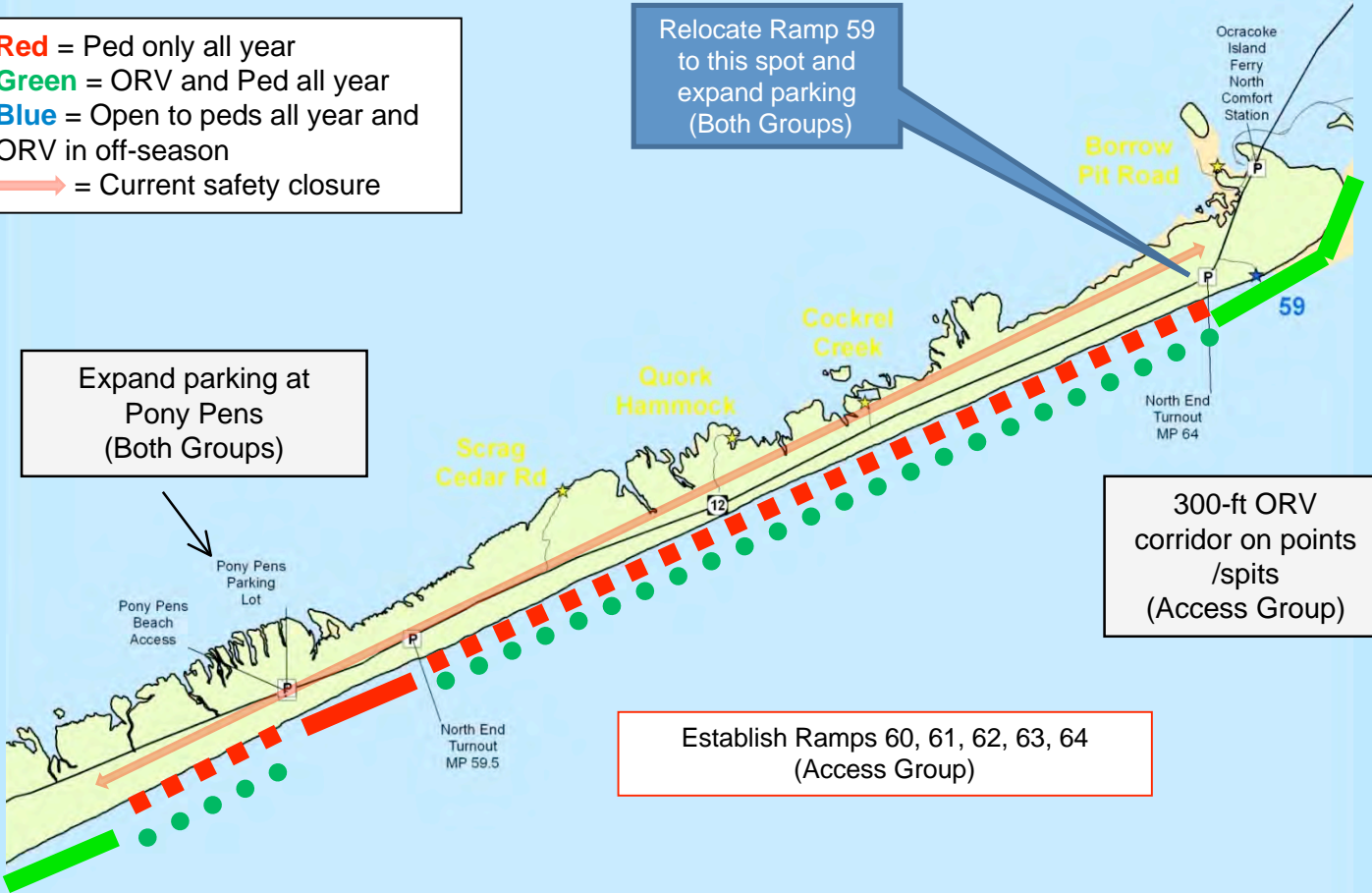
Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
↔ = Current safety closure

Relocate Ramp 59 to this spot and expand parking (Both Groups)

Expand parking at Pony Pens (Both Groups)

300-ft ORV corridor on points /spits (Access Group)

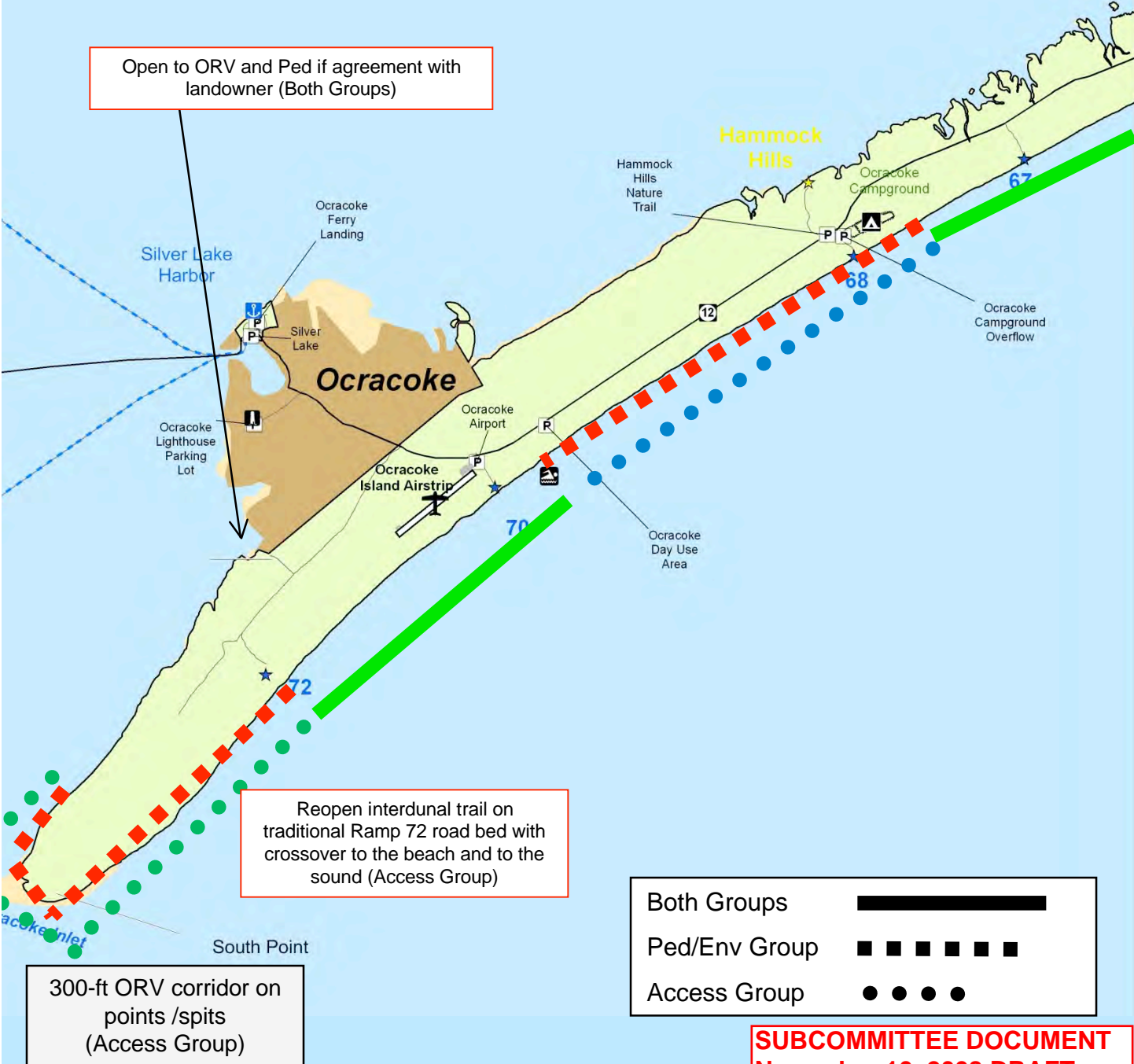
Establish Ramps 60, 61, 62, 63, 64 (Access Group)






Both Groups ██████████
Ped/Env Group ██████████
Access Group ●●●●

Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure

Open to ORV and Ped if agreement with landowner (Both Groups)



Reopen interdunal trail on traditional Ramp 72 road bed with crossover to the beach and to the sound (Access Group)

Both Groups 
 Ped/Env Group 
 Access Group 

300-ft ORV corridor on points /spits (Access Group)

PERMIT/PASS/FEE CONCEPTUAL FRAMEWORK
Draft 11/14/08

Conceptual Approach

The Cape Hatteras National Seashore (CAHA) Beach Permit and/or Pass system will be established under the following principles:

- Share responsibility across users for natural resource protection;
- Equitable and reasonable fees across users;
- Equitable, single point, effective education;
- Equitable and easy access to the system;
- A tailored solution to CAHA meeting all legal requirements.

The goals of the CAHA Beach Permit/Pass system will be to:

- Encourage and support appropriate beach behavior;
- Provide education to as many users of the beach as possible;
- Collect fees for compliance and enforcement, operations, maintenance and improvements, related to ORV and pedestrian use of beaches and associated facilities (cost recovery);
- Provide an enforcement mechanism for individual acts and behavior that threatens people, resources, and general enjoyment of the beach by all.

Key Characteristics

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

The intent is to permit/pass those *individuals* who access the beach via federal parking lots and/or ramps. The permit/pass will be issued to individuals because the purpose of the system is to encourage education and appropriate action and behavior. The point of control will be the vehicle (the permit/pass will be displayed on or in the vehicle). Anyone operating (drivers) or using the vehicle (passengers) would be held responsible for compliance with the regulations.

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, natural resource protection, vehicle characteristics, vehicle operation 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

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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. The brochure shall include the terms and conditions of the permit/pass.

For vehicles driving onto the beach, they will be required to carry the *required minimum equipment* detailed elsewhere.

Permits/passes would be *available* via the Internet and in-person at a limited number of stations that could be established at various locations throughout the Outer Banks. For instance, local in-person NPS 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. In any case, they should be available in at least one physical location each on Bodie, Hatteras, and Ocracoke Islands. It may also be possible to have local government, welcome centers, and/or interested businesses such as area hotels, bait and tackle shops, outfitters, and tour operators sell permits/passes via the internet for members of the public. Such non-NPS permit stations are not intended to become vendors by collecting any fees that may be associated with the pass/permit (if any) but rather will solely provide computer and Internet connections for the convenience of the public.

Law enforcement will periodically patrol the beach and beach parking lots and issue tickets for failure to be authorized, excessive speeding, and so forth. The permit/pass 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 access, pending approval by the court. 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/passes 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 individual when they apply the first time, and annually add any record of violations.

The park should prepare and distribute an *annual report* to document the number and type(s) of permits/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, and the number and types of violations committed by (or the number of violation notices issued to) both permitted and unpermitted beach users.

Legal Authorities

The following are statutes and policies that may apply to the permit/pass system put in place.

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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

Implementation

There are three potential mechanisms for implementing the above system as described. Given the complexities of federal regulations, policies, and guidance, the subcommittee has explored all three. These three mechanisms are:

- A special use permit
- A “combined” system that includes:
 - A special use permit for off-road vehicle driving; and
 - An entrance pass implemented at parking facilities for pedestrian access to the beach.
- An entrance pass

A *special use permit* for beach users of NPS ramps and beach access parking lots would be preferred because: 1) it would be one kind of permit tailored under special use permit authority to the unique needs of Cape Hatteras National Seashore; 2) allow the Park to retain 100% of the revenue to enhance and support the principles and goals of the system. Such a special use permit is justified because: 1) the beach, as opposed to the Park as a whole, requires special on-going management in terms of public safety and natural resource protection; 2) the beach requires special facilities for use including ramps, boardwalks, restrooms, and so forth; 3) education is essential for on-going natural resource protection; 4) the majority of users of the beach fall into a class of special uses putting unique and identifiable demands upon resources distinguishable from the general public.

A *combined system* would include a special use permit for beach drivers and an entrance pass system for beach pedestrians accessing the beach via federal parking facilities. The system would charge the same fee for both the permit and the pass. Since the entrance pass fees are set nationally, they would need to reflect this consistency across NPS units. This bifurcated approach is more awkward and complex to administer than a single special use permit. However, it would ensure beach users accessing the beach via federal property (ramps or lots), have education and shared responsibility for beach and natural resource protection.

An *entrance pass*, obtained via the Internet or in-person, with the point of compliance at federal parking lots, ramps, and the beach (NOT on Highway 12), could provide some of the same benefits as the above approaches. However, such an approach does not have the tailoring possible under special use permits and under current federal law, CAHA can only retain 80% of revenue and the use of that revenue is significantly restricted.

Commercial 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 a pass/permit to drive on the beach (*Comment: As a practical matter, NPS could issue single, combination fishing/beach access permit/pass to commercial fishermen.*)
- The Superintendent shall waive permit fees for commercial fishermen, as long as federal law allows.
- The Superintendent may exempt commercial fishermen, who are actively engaged in authorized commercial fishing activity, from restrictions or requirements applicable to recreational beach 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/pass and as long as such is allowed by federal law.

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FOR DISCUSSION PURPOSES ONLY

rev 11/15/08

IIIA. ORV SAFETY CLOSURE

PURPOSE: Ensuring the safety of the driving public when natural conditions within CAHA or in a specific area present a clear and imminent threat of (a) significant bodily injury or death to the driving public or other CAHA users or (b) significant damage to personal property, primarily vehicles and their contents.

SCOPE: May be applied within any routes, trails, and areas designated for ORV driving.

TRIGGERS FOR CLOSURE: Conditions listed below may trigger an ORV Safety Closure in the event of a clear and imminent threat of significant bodily injury or death; and/or damage to personal property, primarily vehicles and their contents. Examples of hazards that could justify a closure include, but are not limited to:

- deep beach cuts which block the beach from dune to surf with no obvious way around;
- obstacles, such as exposed stumps, shipwrecks, or debris that cannot be safely bypassed or that block the entire width of the beach and cannot be easily removed;
- severe beach slope that puts vehicles in an unsafe gradient position that increases the chances of the loss of vehicular control.

Triggers do not include:

- a narrow beach, by itself;
- tides which block access through portions of beaches occur periodically and predictably and are an obvious, easily avoidable hazard;
- hazards blocking only a portion of the beach, where safe passage is available around the hazard.

(If beaches are open to ORV use in front of the villages during the winter...)

SAFETY CLOSURES IN FRONT OF VILLAGES DURING THE WINTER: In addition to ORV safety closure triggers listed above, additional conditions listed below may trigger an ORV safety closure in front of villages during the winter when seasonal closures are removed:

- To allow for pedestrian safety and the free movement of traffic, when a minimum 40 ft (12 m) width of beach is not present between the mean high tide line and the toe of the dune.

When seasonal closures are removed in front of villages during the winter, an automatic 15 mph speed limit will be implemented, unless otherwise posted. This will assist in providing for visitor safety on narrow beach areas in front of villages where pedestrian activity occurs.

CAHA PERSONNEL ACTION: Providing for the public safety is the responsibility of all CAHA employees. The following is expected of CAHA personnel.

- Law enforcement (LE) rangers should have the authority to enact closures consistent with the triggers noted above.
- Non-emergency service staff, when encountering safety hazards, should establish initial safety precautions and contact the LE ranger staff to evaluate the situation and establish any necessary ORV Safety Closures.
- Where hazards block only a portion of the beach, staff will mark and post the hazard to direct ORV traffic safely around the hazard.

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MONITORING: ORV Safety Closures shall be monitored on a weekly basis.

MARKATION: ORV Safety Closures shall be clearly marked by carsonite posts and signs indicating the area is closed to ORV use.

ORV SAFETY CLOSURE NOTIFICATION AND CONTINUANCE: Any employee initiating an emergency ORV safety closure will notify their supervisor immediately. The Superintendent and Division Chief will be notified as soon as possible of any such emergency ORV safety closure. As soon as possible after the initial closure has been established, but no later than one week, the employee will complete a "Closure Request Form" and submit the form for final approval through the chain of command. Such form should include the coordinates of the closure, the specific reasons for the closure, the dates of action, and the employee taking action. Completion of a "Closure Request Form" will only be required when a complete beach closure is established and does not apply to any modification of the ORV corridor width that does not preclude access. As long as the area is closed, the form shall be updated weekly to include a brief description of the condition of the area based on the weekly monitoring.

TRIGGERS FOR RE-OPENING: Sufficient diminishment, reduction or elimination of the conditions and hazards described under *TRIGGERS FOR CLOSURE* would constitute the trigger for re-opening a closure. ORV safety closures are intended to be in effect only as long as visitor safety or personal property is clearly and imminently threatened.

STAKEHOLDER INPUT: The Park shall establish and maintain a standing ORV committee with representatives from various sections/geographies of the Park representing diverse interests to provide advice to the Park on policy related to safety closures and openings.

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CAHA Off-Road Vehicle Driving Regulatory Negotiation
Vehicle Characteristics, Equipment and Operations Subcommittee
Working Document DRAFT 11/15/08

Please note that these are options and ideas developed by the Subcommittee. The written document is to be understood in the context of the detailed deliberations had by the subcommittee. Because both the writer and written word are imperfect, there may be points below that are unclear or confusing. We ask the Committee reader's to consider this document in that light, and to ask questions for clarification and understanding before moving to assumptions or conclusions that may not be intended by this Subcommittee.

This document was developed through conference calls and emails. Conference calls were held on July 22, August 1, August 11, August 28, October 20 and October 27.

The members of this Subcommittee are: Renee Cahoon, Derb Carter, Jim Keene, Neal Moore, Patrick Paquette and Paul Stevens.

I. GENERAL

ENFORCEMENT: Such regulation shall be enforced by the NPS according to graduated law enforcement principles.

STAKEHOLDER INPUT: The Park shall establish and maintain a standing stakeholder advisory [FACA] committee with representatives from various sections/geographies of the Park representing diverse and balanced interests to provide input to the Park on, among other things, ORV-related issues via a standing ORV subcommittee.

EXEMPT VEHICLES: Essential vehicles are allowed in non-ORV areas, and within resource closures subject to guidelines in Essential Vehicles section of Appendix G of the U.S. Fish and Wildlife Service Piping Plover (*Charadrius melodus*), Atlantic Coast Population, Revised Recovery Plan (USFWS 1996a, as cited in the strategy/EA). To the extent practicable, emergency response vehicle operators will consult with trained resources management staff regarding protected species before driving into or through resource closures; however, prior consultation may not always be practical.

In the event of an emergency, the protection of human life takes precedence over all other management activities.

Essential vehicles will avoid driving within turtle nest closures.

COMMERCIAL FISHING: Commercial fishermen shall be exempt from these regulations. ORV operations by commercial fishermen will be addressed in the Commercial Fishing CFR (CFR 7.58).

SUBCOMMITTEE DOCUMENT

CAHA Off-Road Vehicle Driving Regulatory Negotiation
Vehicle Characteristics, Equipment and Operations Subcommittee
Working Document DRAFT 11/15/08

II. VEHICLE CHARACTERISTICS

PURPOSE: Manage and regulate the type of vehicle allowed to drive on CAHA beaches.

SCOPE: Applied for all driving on all routes, trails, and areas designated for ORV driving.

VEHICLE CHARACTERISTICS: All vehicles must exhibit the following characteristics to drive on the Park's beaches. Drivers are responsible for ensuring their vehicles meet these characteristics.

1. All vehicles must be registered, licensed, and insured and comply with inspection regulations within the state, country or province where the vehicle is registered.
2. Four-wheel drive vehicles are allowed.
3. Two wheel drive vehicles are allowed after the operator obtains a special use permit.
4. Motorcycles are prohibited on the ocean beachfront.
5. ATVs are prohibited.
6. The Park Superintendent will determine the acceptability of new or state of the art vehicles (those that are not listed in items 2-5) for driving on CAHA as needed, with input from the standing advisory group and/or state law.
7. There is a three axle maximum for vehicles (this is the axle maximum for the powered vehicle only and does not include the additional number of axles on towed trailers).
8. Any trailers are limited to no more than two axles.
9. The maximum vehicle length is thirty (30') feet (this is the maximum length for the powered vehicle and does not include the additional length of a towed trailer).
10. Tires must be U.S. Department of Transportation listed and/or approved tires only.

III. REQUIRED AND RECOMMENDED EQUIPMENT

PURPOSE: To identify special equipment required and recommended to safely operate a vehicle on the beach

REQUIRED EQUIPMENT: All vehicles operated on the beach shall contain the following required equipment.

1. A low-pressure tire gauge effective down to 5 psi.
2. A shovel
3. A jack
4. A jack support

SUBCOMMITTEE DOCUMENT

CAHA Off-Road Vehicle Driving Regulatory Negotiation
Vehicle Characteristics, Equipment and Operations Subcommittee
Working Document DRAFT 11/15/08

5. Trash bag or container
6. A flashlight
7. Copy of the current ORV regulations and map.

HIGHLY RECOMMENDED EQUIPMENT: The following equipment is recommended but not required.

1. A full size spare tire
2. First aid kit
3. Fire extinguisher
4. Tow strap with loop ends, no hooks, with a rating capacity at or above the GVW of item being recovered or moved unless vehicle is equipped with an operable electric or hand winch

IV. VEHICLE OPERATIONS

PURPOSE: Ensuring the safety of all public users of the Park and protection of Park resources.

SCOPE: Applied for all driving on all routes, trails, and areas designated for ORV driving.

DRIVER'S LICENSE: All drivers must carry a valid driver's license.

SPEED LIMITS: The speed limit on CAHA beaches is 15 mph year-round, unless otherwise posted.

TIRE PRESSURE: When driving on designated routes, tire pressure must be lowered sufficiently to maintain adequate traction within the posted speed limit. Twenty (20) psi is recommended for most vehicles. The softer the sand, the lower the pressure needed. When you return to paved roads, inflate the tires to normal as soon as possible.

RIGHT OF WAY: Right of way shall be as follows:

1. A vehicle exiting the beach via a Ramp or Interdunal Road has the right of way until reaching state-regulated roads.
2. When traveling parallel to the ocean or sound, the vehicle with the water to its right side has the right of way.

SELF-CONTAINED VEHICLE CAMPING: Self-contained vehicle camping is allowed under a special use permit, with regulations to be developed comparable to those at other National Seashores. Self-contained vehicle camping will be offered on each island in designated areas to be determined by NPS.

SUBCOMMITTEE DOCUMENT

CAHA Off-Road Vehicle Driving Regulatory Negotiation
Vehicle Characteristics, Equipment and Operations Subcommittee
Working Document DRAFT 11/15/08

OTHER RELEVANT REGULATIONS: Other pertinent and relevant federal or state regulations include:

- Camping is only allowed at designated areas. (36 CFR 2.10)
- Obstructing traffic on park roads is prohibited. (36 CFR 4.13)
- Driving under the influence of alcohol or drugs is prohibited. (36 CFR 4.23)
- All drivers and passengers are required to wear seatbelts. (36 CFR 4.15)
- A valid state driver's license is required for all operators of motor vehicles on park roads. (36 CFR 4.2)
- Operating a motor vehicle without due care or at a speed greater than which is reasonable and prudent considering wildlife, traffic, weather, road and light conditions and road character is prohibited. (36 CFR 4.22)
- Operators of motor vehicles involved in accidents resulting in property damage, personal injury, or death shall immediately report the accident to park rangers. (36 CFR 4.4)
- The operators of authorized emergency vehicles, when responding to an emergency or when pursuing or apprehending an actual or suspected violator of the law may disregard traffic control divides, exceed the speed limit, and obstruct traffic. (36 CFR 4.3)



Groundrules for the Public at CAHA Negotiated Rulemaking Meetings

To ensure a productive meeting and enable the RegNeg Committee to do its work, we request that the public follow these groundrules. There are three public comment periods set aside on the agenda. Please focus your comments on the topics listed on the agenda.

- ✓ **Please hold your comments for the public comment periods**
- ✓ **Be creative and propose solutions**
- ✓ **Express your own views**
- ✓ **Encourage civility and respect for all**
 - ◆ **Focus on the problem, not the people**
 - ◆ **Disagree, without being disagreeable**
 - ◆ **Refrain from personal attacks**
 - ◆ **Refrain from expressing approval or disapproval of other comments**

**Written comment for the Committee may be sent to:
Designated Federal Official, 1401 National Park Drive,
Manteo, NC 27954; or CAHA_Superintendent@nps.gov**

**INTRAGUILD PREDATION
ON SEA TURTLE NESTING BEACHES
by Brandon Barton**

In Florida, raccoons (*Procyon lotor*) are removed from loggerhead (*Caretta caretta*) nesting beaches to decrease egg predation. However, raccoons are also predators of ghost crabs (*Ocypode quadrata*), and ghost crabs also consume a large number of loggerhead eggs annually. Research conducted for my Masters degree demonstrated that intraguild predation by raccoons limited ghost crab populations and that raccoon removal resulted in higher densities of ghost crabs. Areas where raccoons were not abundant because of trapping still had the highest rates of total egg predation because of dense ghost crab populations. I am currently collaborating with researchers at the University of Central Florida to answer a question that arose during this project: why was raccoon predation highest where raccoon abundance was lowest? We believe that raccoons can easily locate sea turtle nests that have been attacked by ghost crabs because chemical cues are transmitted through the ghost crabs burrow and to the beach surface. Thus, as ghost crab density increases following raccoon removal, any remaining raccoons will be more efficient at finding sea turtle nests by following ghost crabs to the eggs. We are also using a long-term dataset to further address the effects of raccoon and ghost crab predation on sea turtle conservation.

Peer-reviewed publications

Barton, B. T. and J. D. Roth (*In review*). Implications of intraguild predation for sea turtle nest protection.

Barton, B. T. and J. D. Roth (2007). Raccoon removal on sea turtle nesting beaches. *Journal of Wildlife Management* 71:1234-1237.

Schmitz, O. J., H. P. Jones and B. T. Barton (2007). Scavengers. *Encyclopedia of Ecology*. Elsevier, UK.

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Reg-Neg Public Comment

Submitted By Alan Pitt

11/14-15/2008

To: NPS CHNSRA Supt. Mike Murray, et al.

After reviewing the "2008 11Nov 03 - Summary List of Options from Workbook Comments", as well as the "2008 11Nov 05 - ORV EIS Alternatives" in relation to the pending ORV Management plan for CHNSRA, I would like to submit this comment:

I cast my vote for the "Alt A & B" alternative, as it will provide both adequate species protection as well as expanded access routes and ramps for visitors. Creation of new ramps and opening old and new interdunal roads will allow for more flexible access as well as superior species protection, and will be far more affordable to implement than any of the other alternatives presented.

I simply cannot see where the money necessary to implement "Alt's C-E" options, and also dislike the Year-Round closures for many popular areas associated with these alternatives.

I also dislike the fact the NGO's in the guise of Environmental Groups are setting policy for the entirety of our National Seashore Recreation Area, and believe they have no place in this discussion beyond the advisory level.

It has been my understanding that the recent Consent Decree was not to be used as an environmental building block for this committee's recommendations. It has been, and the environmental groups are asking for far more closures and restrictions than in the agreement *all sides* signed in the spring of 2008 creating said Consent Decree.


I most certainly do not believe it either prudent or scientific for these NGO's to claim "Victory" over a one-summer study. I am also angered at their very apparent lack of concern for the livelihood of locals whose very livelihood depends on visitors to the area.

I am quite disappointed at the DOI for its abandonment of the American people in this matter. They have consistently turned their backs on local citizens and visitors alike, allowing this whole situation to deteriorate beginning as far back as 1978. The DOI and the NPS have created this issue, and the American Taxpayer is paying the price for it.

I wish nothing more that to have adequate species protections in place alongside fair, reasonable, and flexible access for ORV's and pedestrians alike. I do not think the science supports human elimination from CHNSRA via turning huge tracts of it into "Wilderness Study Areas".

As a 15 year property owner in the Frisco area, I have seen the volatility that exists on the beaches of CHNSRA, and cannot imagine areas that are constantly subjected to ocean overwash should be closed permanently. We must have an ORV plan that is reflective of the ever changing environment that Hatteras Island is, and always has been.

Humans are not the enemy of species in CHNSRA, Nature itself is.

 11/13/08

Hello, I'm Kim Mosher, Resident and Artist of Buxton, NC.

I'm speaking today as the Treasurer of the Hatteras Island Arts & Crafts Guild.

I would like to speak on behalf of the **Scholarship Recipients** that have benefited from our scholarship program.

There has been a **significant decline** in the amount of funds raised since the **non scientific** Audubon & Defenders of Wildlife's lawsuit in 2008.

The visitors and tourist that enjoy participating in our Arts & Craft Shows, give willingly, to support our cultural and historical past, as well as our Scholarship Fund.

Our children's educational future has been directly & negatively impacted by this legal matter, **wrongly** introduced by Audubon and Defenders of Wildlife.

There as been **NO** consideration given to the future impact of this legal matter on the Children of Hatteras Island or their community.

Mike, we are an isolated community within this National Recreational Park, basically we ARE AN ISLAND WITHIN AN ISLAND.

Our Cultural Existence is endangered and the National Park Service and you will be held responsible for the future of our unique island communities.

Kim Mosher

Also, The NCBB Ass. conducts 4 Clean-ups (3 Beach & 1 Hwy) a year. Why has Audubon & D.O.W. never had a clean-up here? Since they seem to be so concerned.