

From: [Mike Murray](#)
To: [Ona Ferguson](#)
Cc: [Paul Stevens](#)
Subject: Re: safety closure document
Date: 11/21/2008 01:58 PM
Attachments: [Safety Closures rev.11.21.08.mbm.doc](#)

Ona,

After the recent Committee discussion and inability to reach a consensus on a beach width for Safety Closures in front of villages in the off-season, my suggestion is that the Committee consider a different approach. The real issue, I believe, is an interest that ORV operators consistently show appropriate concern for the safety of pedestrians on the beach any where and at any time of year. As the discussion revealed, no particular beach width alone (whether it be 40 ft? 50 ft? 60 ft?) will guarantee pedestrian safety. My suggestion is that the Subcommittee put aside discussion of beach width and add a general section on Pedestrian Safety to their working document. Since the current section is titled "ORV Safety Closures," I think we need to create a separate section on "Pedestrian Safety" to highlight it as its own separate and distinct issue. I think this approach would better comply with the intent of the Executive Orders as a way of dealing with pedestrian safety concerns, since it would apply anywhere there is ORV use and not just in front of the villages in the off-season.

The concept is simple and supported by a multitude of existing regulations: Vehicle operators (in this case ORV operators) must yield the right-of-way to pedestrians on the beach any time and any where. "Pedestrians have the right-of-way" is a universal regulatory requirement in virtually all State traffic codes. Perhaps, in the relatively unconfined setting of beach driving (no sidewalks or pedestrian crosswalks, etc.), ORV operators have forgotten that is the law. I can attest that there is regional variation in how well drivers respect giving pedestrians the right-of-way. In California, where I lived 9 years, drivers are very proactive about yielding the right-of-way as soon as a pedestrian approaches the edge of the road. In Massachusetts and apparently in NC, I can say that drivers are not so proactive about it and often don't slow down or stop until the pedestrian is already in the cross walk.

Beach driving is obviously different than a city street, since the ORV corridor can vary in width and has no center line or "traffic lanes" to confine vehicles to a certain portion of the beach, and has no designated walk-ways to confine pedestrians. We could enhance the concept of "pedestrians have the right-of-way" by establishing basic "rules of the road" to provide for pedestrian safety regardless of beach width. For example, we could require that ORVs pass on the landward side of pedestrians on the beach, as far away as the available ORV corridor allows, and slow down if the ORV will come within 10 meters or less of the pedestrian when passing them. Perhaps this approach would appeal to both pedestrian safety advocates (since it acknowledges that pedestrian safety is a concern and addresses it with a parkwide approach), as well as to ORV advocates (since village beach access during the off-season is not tied to any particular beach width - it is tied to an expectation that ORV operators responsibly watch out for pedestrians).

See attached draft as a suggested starting point for negotiating new language. Feel free to share to, negotiate changes and adapt it as the Subcommittee sees fit.



Safety Closures rev.11.21.08.mbm.doc

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▼ [Ona Ferguson <oferguson@cbuilding.org>](mailto:oferguson@cbuilding.org)

Ona Ferguson
<oferguson@cbuilding.org> To <Mike_Murray@nps.gov>
cc
11/20/2008 05:44 PM Subject Re: safety closure document

Mike,
Sure, here you go.
Ona

On 11/20/08 5:21 pm, "Mike_Murray@nps.gov" <Mike_Murray@nps.gov> wrote:

>
> Ona,
>
> Would you please send me an electronic copy of the safety
closure document
> that was handed out at the meeting (DRAFT, rev 11/15/08). A
Word
> document, rather than PDF, is preferred, so I can edit the
section on
> Safety Closures in Front of Villages (i.e., to draft an
alternate approach
> to Pedestrian Safety, rather than basing it on beach width -
40 ft? 50 ft?
> 60 ft?, etc.).
>
> Thanks,
>
> Mike Murray
> Superintendent
> Cape Hatteras NS/ Wright Brothers NMem/ Ft. Raleigh NHS
> (w) 252-473-2111, ext. 148
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[attachment "Safety Closures_081115.doc" deleted by Mike
Murray/CAHA/NPS]

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III.A. ORV SAFETY CLOSURE

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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.

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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.

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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

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to direct ORV traffic safely around the hazard.

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.

IIIB. PEDESTRIAN SAFETY

Due to ambient level of natural sounds on the beach (from surf, wind, etc.), and other inherent distractions in the beach setting, pedestrians may not be attentive to or aware of moving vehicles (ORVs) on the beach, especially those vehicles approaching from the sides or from behind. It is the legal responsibility of the ORV operator to always give pedestrians the right of way on the beach. The following federal regulations currently apply to motor vehicle operation in the vicinity of pedestrians:

36 CFR § 4.20 **Right of Way.** An operator of a motor vehicle shall yield the right of way to pedestrians, (saddle and pack animals, and vehicles drawn by animals). Failure to yield the right of way is prohibited.

36 CFR § 4.22 **Unsafe Operation.**

(b) The following are prohibited:

(3) **Failing to maintain that degree of control of a motor vehicle necessary to avoid danger to persons, property or wildlife.**

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In addition, the following (new) measures apply (assuming a parkwide ORV speed limit of 15 mph):

1.) When approaching or passing a pedestrian(s) on the beach, ORVs shall move to the landward side of the available ORV driving corridor to the extent practicable in order to yield the wider portion of the beach corridor to the pedestrian(s).

2.) ORVs shall slow to 5 mph when traveling within 10 meters (30 ft) or less of pedestrians at any location on the beach at any time of year.

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