

NEGOTIATED RULEMAKING COMMITTEE
9th Regulatory Negotiation Meeting
Wright Brothers Memorial, Kill Devil Hills, NC
December 11-12, 2008

Draft Final Agenda

Objectives

- Updates since last meeting
- Review, and reach or interim consensus on concepts on, Vehicle Characteristics and Operations and Permits, Passes, Fees proposals
- Discuss routes and areas proposals and natural resources issues
- Identify additional Subcommittee work before January meeting
- Provide opportunity for public comment
- Plan for upcoming meetings
- Other?

Thursday, December 11

- 8:00 Gathering and Coffee
- 8:30 Welcome to All and Opening of the Meeting, *Mike Murray, NPS, Designated Federal Official (DFO)*
- 8:35 Review Meeting Objectives and Agenda, *Facilitators and Agenda Planning Subcommittee*
- 8:45 Brief Updates Since the Last Meeting
- 8:50 Vehicle Characteristics Proposals
- Subcommittee report
 - Discuss outstanding issues
 - Interim consensus on concepts?
 - Is the subcommittee finished?
- 9:30 Permits, Passes, Fees Proposals
- Subcommittee report
 - Discuss outstanding issues
 - Interim consensus on concepts?
 - Is the subcommittee finished?
- 10:15 Break
- 10:30 Natural Resources and Routes and Areas Discussions (*in small groups*)
- Bodie Island to top of Buxton
 - Buxton to Hatteras Spit
 - Ocracoke

Discussion topics for each group:

Natural Resources

- Turtles and night driving restrictions
- Special considerations for the Spits and Points
- Pre-Nesting and Winter closure dates

- Species management for the Committee's consensus alternative (based on SM1 and SM2 in the NPS DEIS Alternatives)

Routes and Areas

- Compare the two subgroup proposals – how can they be merged to form one proposal
- Criteria for pedestrian only areas
- Anything in Alt. E we can use?
- What can the subcommittee address or narrow down for the January meeting?

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

Specific comments are requested on the following --

- Vehicle Characteristics proposals
- Permits, Passes, Fees proposals

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

1:30 Continue Natural Resources/Routes and Areas Discussions (*in small groups*)

3:50 Caucus meetings

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 a brief response from Committee members to the public comments)

Following Public Comment Adjourn for the Day

Friday, December 12

8:00 Gathering and Coffee

8:30 Reflections on Day I and agenda review

8:45 Continue Natural Resources/Routes and Areas Discussions (*in small groups*)

10:30 Break

10:45 Continue Natural Resources/Routes and Areas Discussions (*in small groups*)

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

Specific comments are requested on the following --

- Ideas raised in the routes and areas or natural resources discussions

- What's promising in the NPS DEIS Alternatives that the Committee might consider?

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

1:30 Brief Reports from Small Groups and Plenary Discussion

- What's promising?
- Disagreements and reasons?
- Consensus?

3:15 Review Committee's Progress Using the NPS Alternatives Management Activity Matrix

3:30 Planning for Future Meetings

- Confirm Subcommittee assignments and deadlines
- Agenda topics for January meeting
- Additional subcommittee/work group work?
- Other?

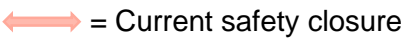
3:45 November Meeting Summary

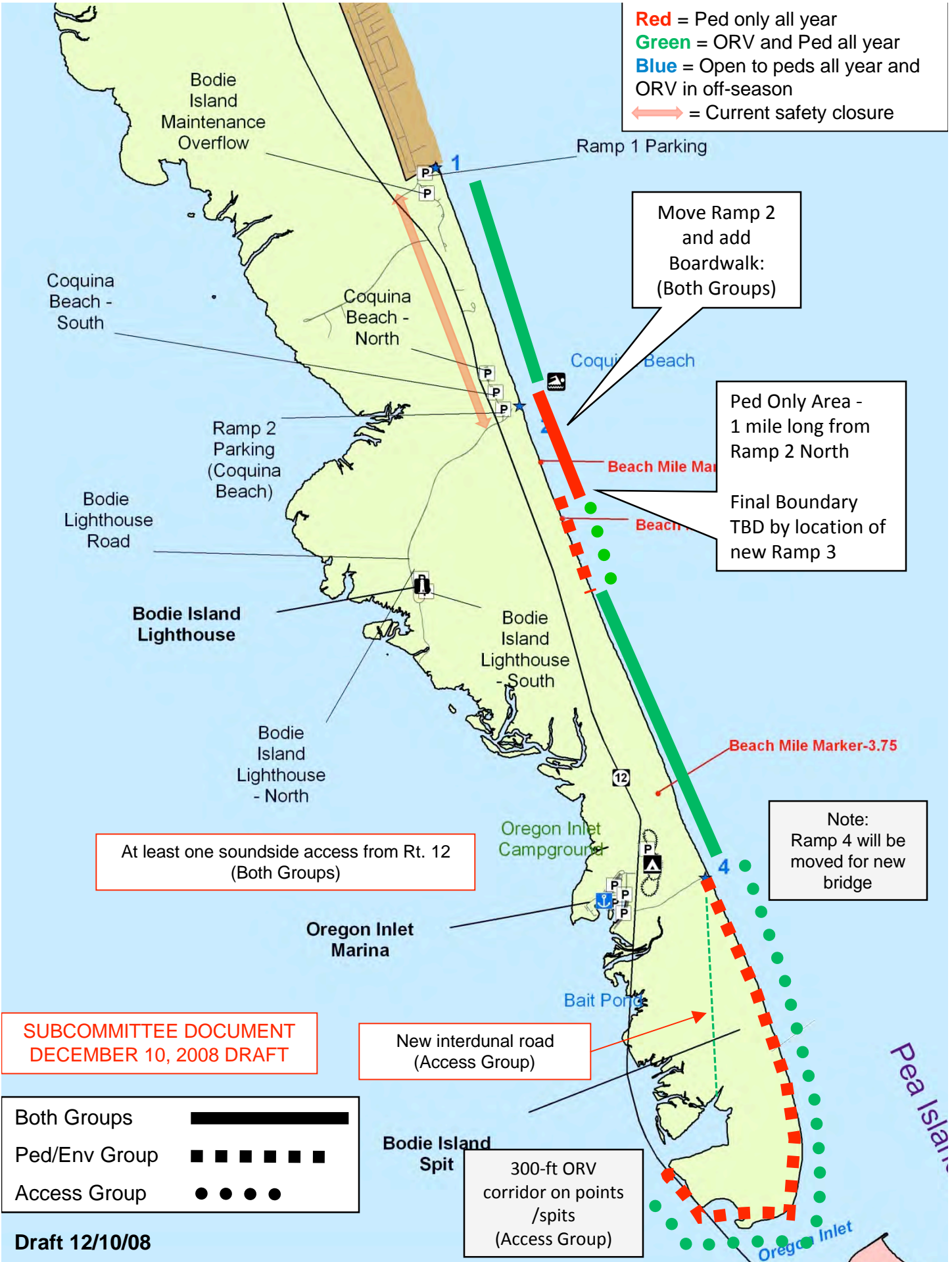
3:50 Summary and Closing Remarks

4:00 Adjourn

ORV Routes and Areas Subcommittee
ORV Routes and Areas and Pedestrian Areas Maps
December 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 3




Note: Ramp 4 will be moved for new bridge

At least one soundside access from Rt. 12 (Both Groups)

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New interdunal road (Access Group)

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

Both Groups 
 Ped/Env Group 
 Access Group 

Draft 12/10/08

0076132

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)

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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 new Ramp 32 across from Kinakeet parking area (Both Groups)

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 (Both Groups)

Haulover

New ramp south of Haulover ?

New ramp #41 with parking (Both Group)

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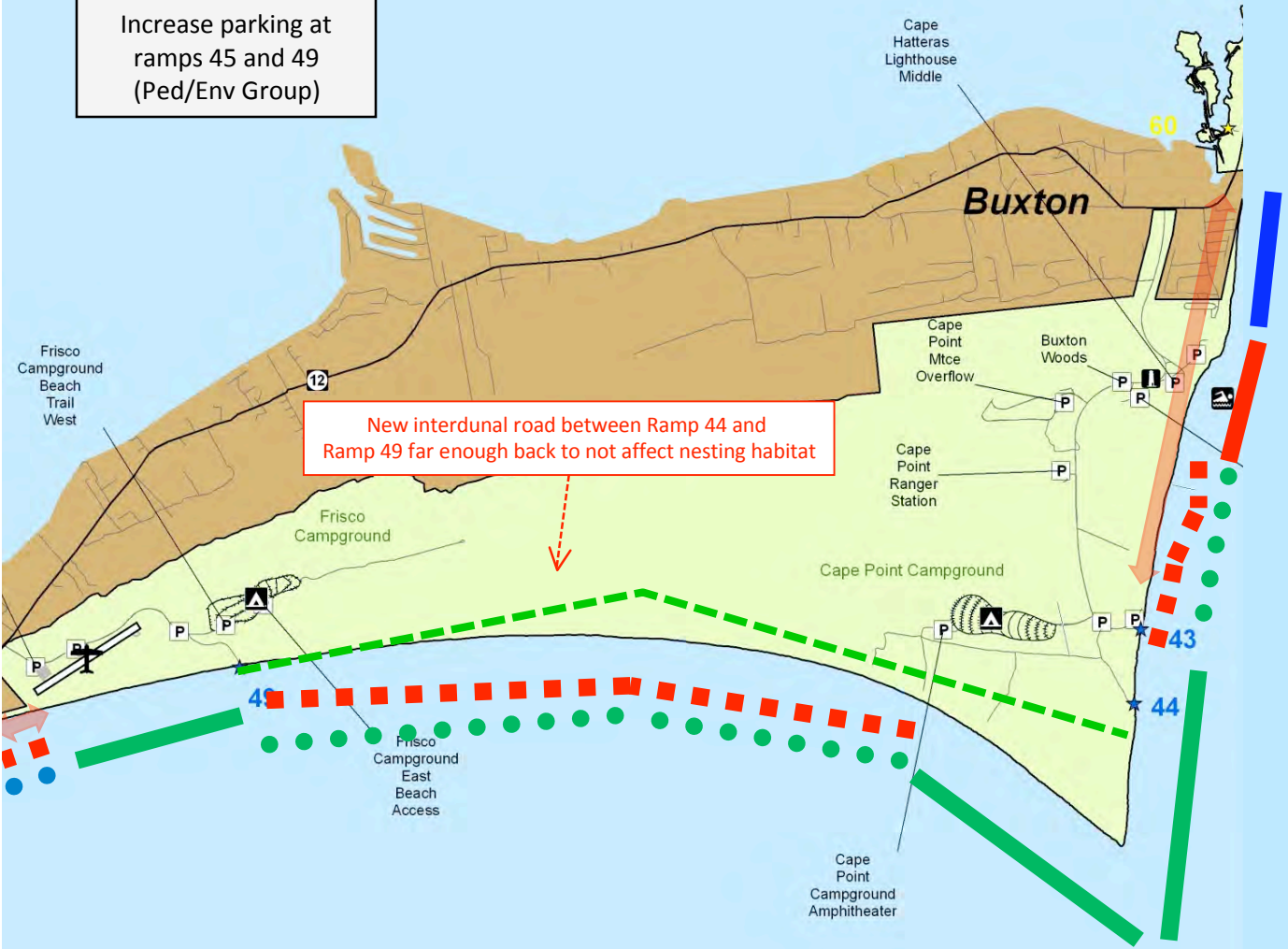
Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
↔ = Current safety closure


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

New interdunal road between Ramp 44
and Ramp 49 far enough back to not affect nesting habitat

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

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

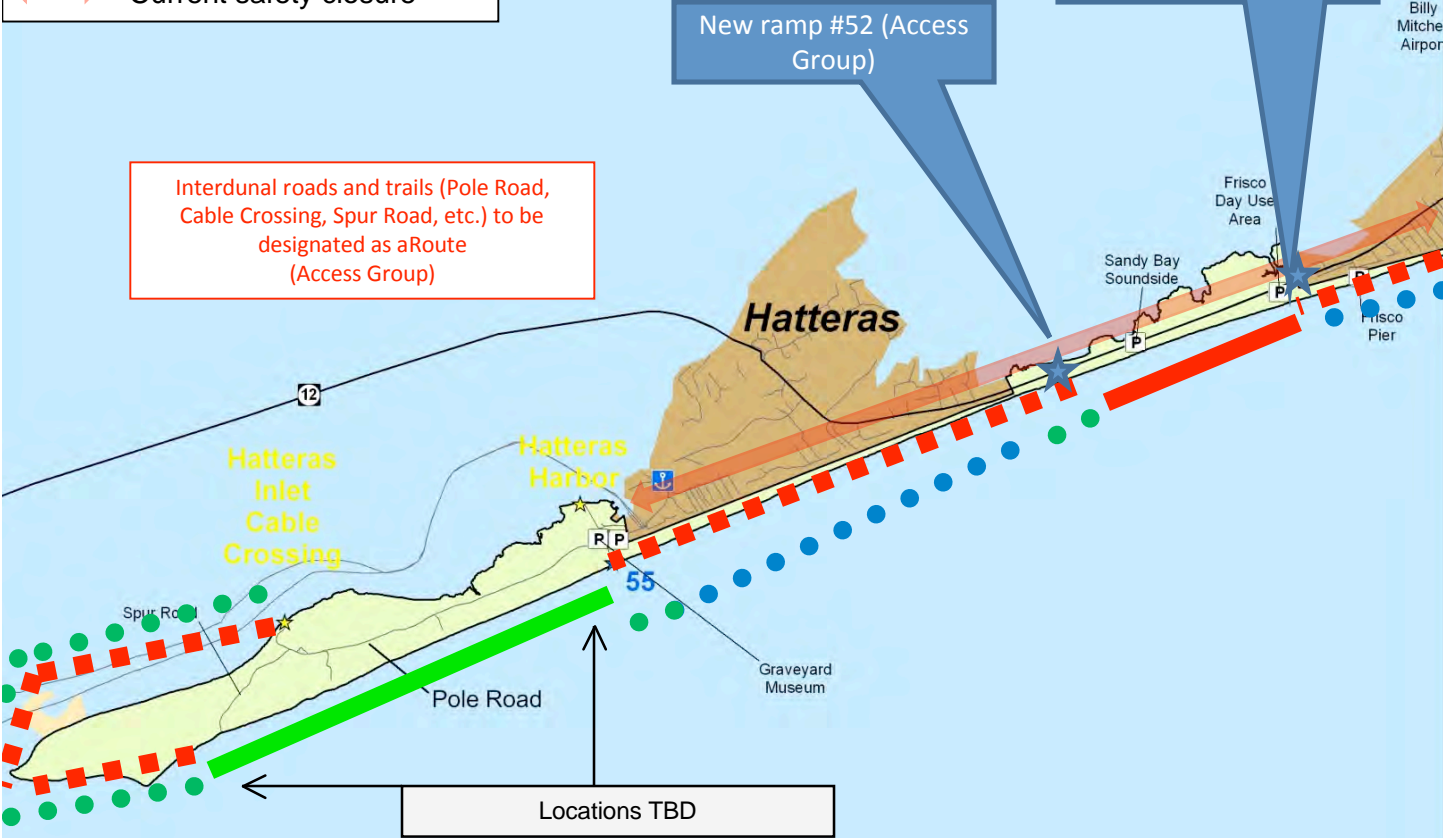


Red = Ped only all year
Green = ORV and Ped all year
Blue = Open to peds all year and ORV in off-season
 = Current safety closure

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




New ramp #52 (Access Group)

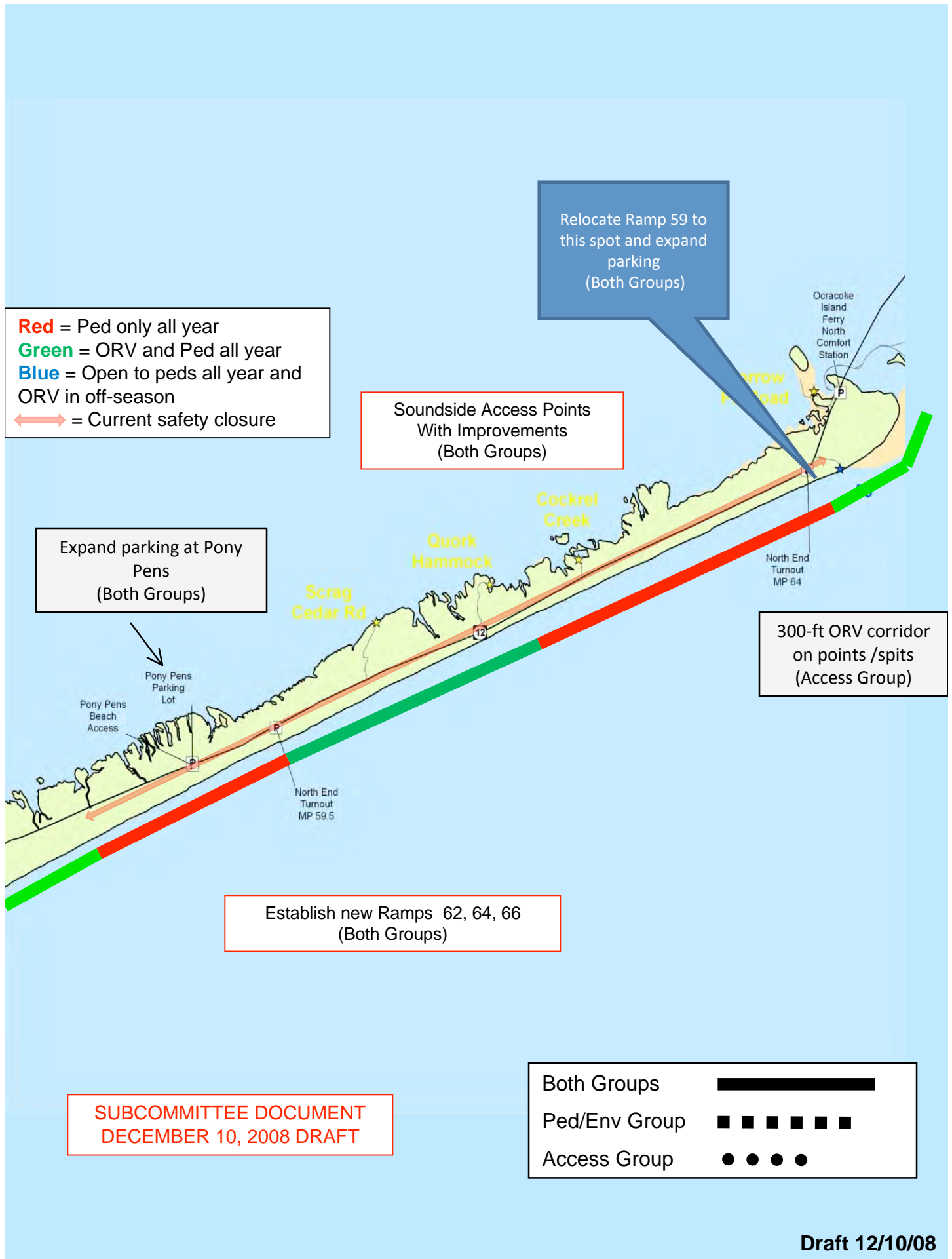
New ramp #51 (Both groups)



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

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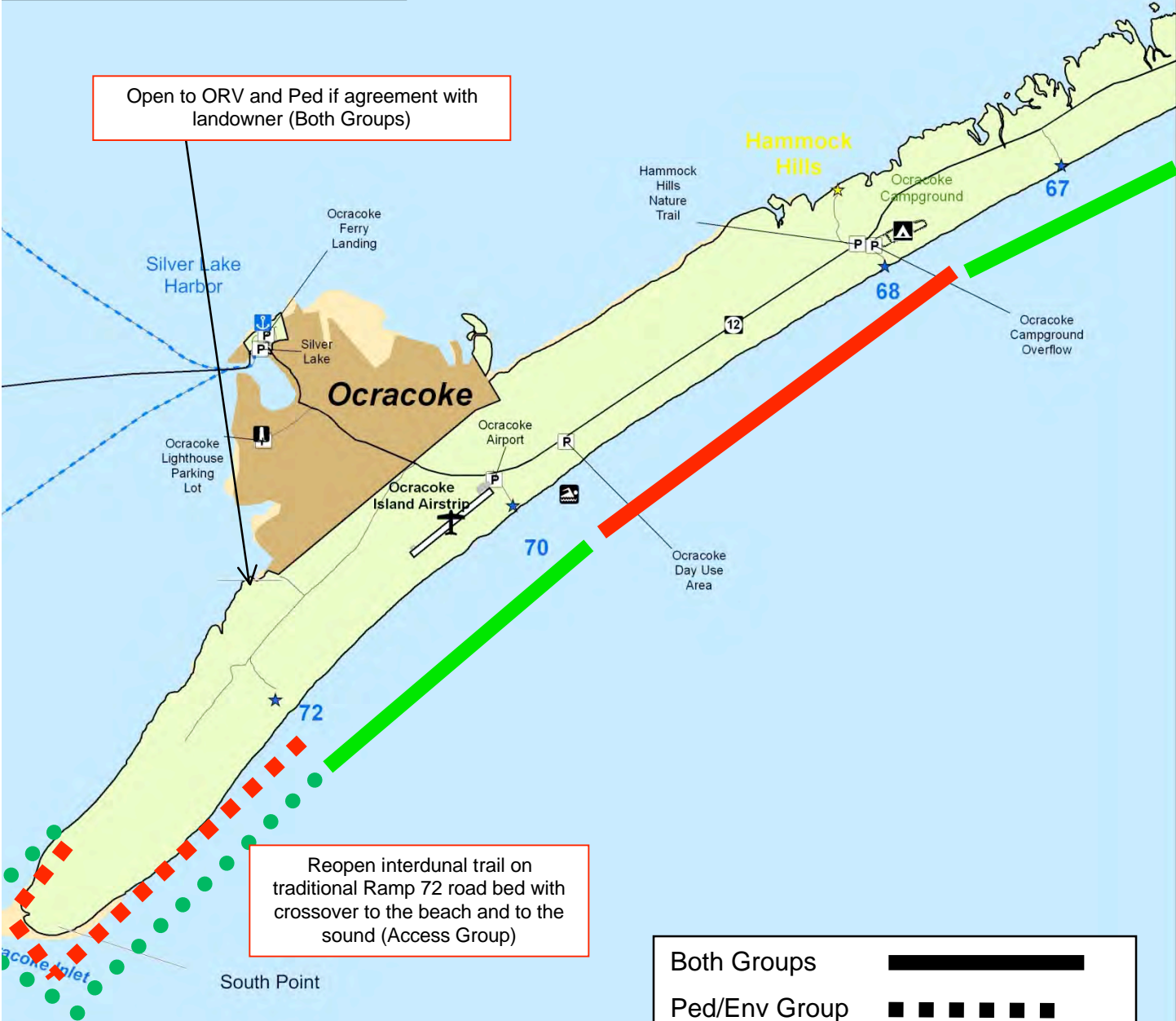
Both Groups	
Ped/Env Group	
Access Group	



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

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

Both Groups	
Ped/Env Group	
Access Group	

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FOR DISCUSSION PURPOSES ONLY

IIIA. ORV SAFETY CLOSURE

PURPOSE: Ensuring the safety of the driving public when natural conditions within a specific area of CAHA 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 by-passed 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.

While the above criteria provide the rationale for what does or does not constitute an "safety closure," the Superintendent retains the authority under 36 CFR §1.5 (a) to close all or a portion of a park area to all public use or to a specific use or activity, based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities. For any such closures implemented, the public will be notified in accordance with the public notice requirements identified in 36 CFR § 1.7.

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.

DEMARCATIION: ORV Safety Closures shall be clearly marked by carsonite posts and signs indicating the area is closed to ORV use. The signs used for this purpose shall indicate that safety is the reason for the closure.

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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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.

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 without driving on the toe of the dune or the dune itself in order to yield the wider portion of the beach corridor to the pedestrian(s).
- 2) ORVs shall slow to 5 mph (or the slowest possible speed to maintain traction without exceeding the overall speed limit) when traveling within 10 meters (30 ft) or less of pedestrians at any location on the beach at any time of year.
- 3) Pedestrians should not block access ramps and should use pedestrian ramps/boardwalks where available. If a pedestrian walkover is not available, pedestrians should walk to the side of ORV ramps, not in the tire tracks.

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Working Document DRAFT 12/09/08**

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).

Vehicle Characteristics, Equipment and Operations Subcommittee
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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

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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 it's right side has the right of way.

SELF-CONTAINED VEHICLE CAMPING: To be determined.

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

This document is a working draft for discussion. It does not reflect Committee consensus or individual Committee member concurrence on the specific terms and provisions.

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- 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)

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Self-Contained Vehicle Camping on Cape Hatteras National Seashore

NOTE: The following is a recommendation being considered by the Cape Hatteras National Seashore (CAHA) Off-Road Vehicle Driving Negotiated Rulemaking Committee. The Committee is looking for comments on the recommendation by those who may be affected by such a potential regulation. The intent of the recommendation is to provide a unique and limited beach experience, maintain consistency with similar activities in other National Parks, and encourage and support recreational activity and local businesses.

Self contained vehicle camping is allowed in CAHA and will be managed under a **special use permit** system. The special use permit will be an addition to any other broad beach access permit or pass system required.

The special use permit will include a **fee** whose price will be determined under NPS rules, regulations, and policies regarding a value of service determination.

Self contained vehicle camping is **limited** to designated areas in the beach environment only. At all designated times there will be at least one designated area on each of the three islands (Bodie, Hatteras & Ocracoke) contained within CAHA. These areas include Oregon Inlet, Cape Point Campground, and Ocracoke Campground.

For the purpose of this CAHA-specific regulation, a self-contained vehicle camper is defined as follows:

- Self contained vehicle campers must meet the ORV characteristics and requirements.
- Self contained vehicles must be 4WD only. 2WD campers are prohibited.
- Self contained vehicles are limited to a maximum length of thirty feet (30') including front racks and rear decks.
- Self contained vehicles must have a self-contained water or chemical toilet and a separate permanently installed holding tank for both black and grey water, each with a minimum capacity of 3 days waste.
- Tents and camping trailers are prohibited.

There will be no limit to the total number of available self contained vehicle permits.

The number of self contained vehicle campers allowed to camp in CAHA at any one time will be **limited by the space available** in the designated self contained vehicle camping areas. The camping space limits are as follows:

- Oregon Inlet: 100 spaces
- Cape Point Campground: 100 spaces
- Ocracoke Campground: 50 spaces

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Other than the parking space for self-contained vehicles, the **NPS will provide no additional services** (such as drinking water, waste disposal, etc.). The experience is intended to be a primitive, beach camping experience within appropriate self-contained vehicles. When possible, the only access to the camping will be via a four-wheel drive only path or road (i.e., access to Cape Point Campground only via the interdunal road).

Such camping will be allowed annually from November 1 until March 31.

Self-contained camping permits will be offered either weekly or annually.

There will be a self-contained camping limit of no more than seven consecutive days/six nights) in any one visit.

There will be a self-contained camping limit of no more than **one visit per month**.

All self-contained beach camping spaces are available on a **first-come, first-served basis**.

All self-contained vehicles arriving for an overnight stay must **check in/register** via a system to be determined before going onto the beach. An overnight authorization must be displayed at all times the vehicle is in the designated self contained camping area.

Self-contained vehicles **MUST** exit the beach **after each 72 consecutive hours** in order to empty holding tanks and gray water at an established septage dumping facility.

Any self contained vehicle that is found to be camping in a non-designated area will be banned from obtaining any ORV related permit at CAHA for a period of no less than five years.

Generally, the NPS will work to discourage illegal camping on any and all NPS properties via signage, education, information, and/or other appropriate and effective means



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

ORV RegNeg Comments
Carl Classen, County Manager, Hyde County
December 11, 2008

Thank you all for your hard work on a very tough, very complex issue. The law setting up the Cape Hatteras National Seashore reflects that complexity by noting the need to balance of visitors (meaning all Americans), villagers, and the fish and fowl. Conservation means conserving all of them. Tough balance. You have a tough job.

The beaches of Ocracoke Island are essential to the survival of Ocracoke village and critically important to the survival of Hyde County. Half of Hyde County's entire assessed value is based in the tiny village of Ocracoke. More than 97% percent of all the occupancy tax collected in Hyde County is collected in Ocracoke Village. 800 of the County's 5,000 residents – or 16% of the County's population live year-round in Ocracoke village while the 1,000 homes there represent 33% of the County's dwelling units. No specific figures are available, but – based upon the two preceding figures and the 1.3 million visitors last year arriving by ferry – I estimate that approximately 75% of all Hyde County's sales tax is collected in Ocracoke Village.

Does the closing of beaches hurt Ocracoke? Of course. Can it be quantified? That's tough because it's hard to know how many people never came or who wrote our Island off their vacation list due to all the bad publicity about “beach closures.” Just a 10% reduction, though, means a big impact. If the occupancy tax revenue is reduced by just 10%, that is the total amount granted to the Ocracoke Youth Center and 33% of this year's allocation to the Ocracoke Health Center. Will there be fewer kids or fewer sick people? Not likely. Those revenues will need to be made up by general property tax payers.

Unlike National Parks, we have villages in this park and the economies and quality of life in these villages is directly related to the sea. Access to the beaches is a critical part of what makes Ocracoke special. The following is just another example:

This morning, I spent an hour with the manager of the Ocracoke Fish House (Hardy Plyler, who is also a commercial fisherman); with Commissioner Gene Ballance (who is another commercial fisherman); and with a local volunteer. The three of them were trying to keep a Golden Leaf project in budget that is helping to keep alive the last fish house on Ocracoke Island. Without the fish house, just like without access to fishing from the beaches, a character of Ocracoke will die. Losing that character hurts not only the fisherman, but also the businesses that support the fishing industry and the guests who come to see this rare, vanishing slice of American culture.

Lastly, let me make several points in relative to the proposals I have seen:

- **If fees are required, the revenues should only be used for increased levels of service and should not supplant existing budgets.** To make any of the compromises work, more law enforcement and biotech staff is needed. Fee revenue should be targeted to make those increased staffing levels happen.

- **Limiting beach access should be based on science.** If there were few nests on the north end of Ocracoke, then don't limit access. If there are few nests before May 1 or after July 31, don't limit beach access unless evidence is documented. When beach access is to be limited, keep the buffer reasonable. 1,000 meters is not scientifically based nor is reasonable. I know this is a political process but use science as much as possible.
- **Bust the people who violate the enclosures.** It was a mistake to expand enclosures just because someone violated the boundary. Unless someone is caught, it's impossible to know who actually broke the boundary. The ORV driver may have been a misguided fisherman or an ill-informed birder. Enforce the law against individuals; don't criminalize all beach users.
- **Use volunteers for monitoring nests.** On a personal note, I was a member of NEST (Network for Endangered Sea Turtles) for 7 years and that group of volunteers does a great job helping the turtles while also helping the local economy. NEST volunteers educate people about the importance of sea turtles and provide data to the State and federal government. Another sea turtle volunteer group operates on Pea Island. Only Hatteras Island and Ocracoke don't have volunteer turtle groups; though I have been told a volunteer group used to operate on Ocracoke. Please let interested volunteers help. As a marine mammal stranding volunteer, I have spent hours on the sad watch of a beached common dolphin and then saw it mercifully euthanized. Utilize the many people in our communities who want to help the animals and fish but who also want to help keep our wonderful culture alive.
- **Keep up the excellent Internet-based mapping by the National Park Service.** Those maps allow guests and villagers to know what is open and what is not. The service was appreciated this past summer and will be critical in the future
- **To the National Park Service, I plead, "Open up the Sound side on Ocracoke"** to help take pressure off the beaches – especially in those locations where beach access is limited to just pedestrians or boaters.
- I believe the discussions between Commissioner Ballance, David Esham and the environmental groups have been productive in developing useful alternatives ideas for Ocracoke Island. These commonsensical people seem to have come to a general understanding and I applaud them for that effort. I hope that they will continue meeting and find a good compromise that conserves our villages, our quality of life, and our fish and animals.

Thank you for allowing me to make these comments.

Carl Classen
County Manager, Hyde County

To the National Park Service Negotiated Rulemaking Committee.
December 12, 2008

My name is Michael Gery and I live on Roanoke Island. I appreciate the opportunity to speak to the committee today. I speak for myself alone, but I do know there are many others who feel as I do about trying to keep as much of our national seashore as natural as possible so that people can see an ocean beach in its natural state. Experiencing a natural ocean beach is not so easy to do these days. But that's why this national seashore was established: to protect and maintain a beach for people to enjoy far into the future. And even those who opposed it back then probably would admit today that Cape Hatteras National Seashore is one of the best things to have happened to this area.

But since the popularity and subsequent invasion of SUVs beginning about 30 years ago, the experience of seeing a natural beach here has not only been threatened but is no longer possible in large sections of the Cape Hatteras National Seashore.

All we're asking is to return more of this beach to the peace and quiet it's supposed to have, and that means more stretches closed year-round to motorized vehicles. It does not mean closing the beach to people or to recreation or to fishing. We keep hearing our county commissioners, our tourist bureau, and some in the business community saying that the Park Service and environmental organizations have closed the beaches or have threatened to close them. These statements are not only irresponsible, they also are dangerous. And they may have kept many, many families from visiting here recently.

The Park Service has never once closed this beach to anyone who wanted to walk on it.

In fact, the Park Service has worked very hard to keep that access free and open, and to maintain these beaches so future generations can appreciate the beauty of this place.

Driving on the Cape Hatteras National Seashore beach has never been a right. It has been a privilege. The responsible beach-driving people – the ones who respect the beach and its regulations, and who help keep it clean and natural – understand it is their privilege to drive on the beach. It's way past time that the National Park Service, as it has in parks nationwide, institutes a permit and fee system for driving on the beach here. Just as we pay for a license to drive on the highways or to fish in the coastal waters as a way to maintain and protect the roads, the fisheries and the waters so others besides us can use and enjoy them in the years to come, people should pay for the privilege to drive on the beach and take responsibility for maintaining and protecting the beach.

It's been interesting to see how this committee has drawn sides, generally speaking, between those representing their own narrow self-interest and those representing the interest of the general public. The Audubon Society, The Natural Resources Defense Council, the Southern Environmental Law Center, are longtime, respectable organizations who have consistently upheld their commitments to represent constituencies larger than narrow recreational or business interests. And it's interesting that some of their most vocal opponents continually belittle the role of science and

research in this process. Criticizing those who carefully report their research findings is like telling your doctors they don't know what their talking about when they say "I can't say this for sure, but if you continue smoking cigarettes, you might face health problems."

The historic events of this fall – the economic crisis and the national election – seemed to send a very clear signal to all Americans. That message is that it is no longer in our best interest to behave like bulls in a china shop, or like bullies on a playground, whether overseas or in our own backyard. It seemed to say that the real American character respects our neighbors and our communities, our history, our beliefs, our environment and our system of government. So we are a majority now who look forward to a new administration in Washington that will reflect that true, respectful American character. We look forward to a new administration that will restore dignity to the Department of the Interior and will allow the National Park Service to do what it does best: to once again manage and protect this national treasure we have in our backyard.

Michael E.C. Gery
Manteo, NC