

4312-52

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-SER-CAHA-22533; PPSECAHAS0, PPMSPD1Z.YM0000]

RIN 1024-AE33

Special Regulations; Areas of the National Park System, Cape Hatteras National Seashore – Off-Road Vehicle Management

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) amends its special regulation for off-road vehicle (ORV) use at Cape Hatteras National Seashore, North Carolina, to revise the times that certain beaches open to ORV use in the morning, to extend the dates that certain seasonal ORV routes are open in the fall and spring, and to modify the size and location of certain vehicle-free areas. The NPS was required to consider these changes by section 3057 of the National Defense Authorization Act for Fiscal Year 2015. The NPS also amends this special regulation to allow the Superintendent to issue ORV permits for different lengths of time than are currently allowed, and to remove an ORV route designation on Ocracoke Island to allow vehicle access to a soundside area without the requirement of an ORV permit.

DATES: This rule is effective on January 20, 2017.

FOR FURTHER INFORMATION CONTACT: Superintendent, Cape Hatteras National Seashore, 1401 National Park Drive, Manteo, North Carolina 27954. Phone 252-475-9032.

SUPPLEMENTARY INFORMATION:

Background

Description of Cape Hatteras National Seashore

Situated along the Outer Banks of North Carolina, Cape Hatteras National Seashore (Seashore or park) was authorized by Congress in 1937 and established in 1953 as the nation's first national seashore. Consisting of more than thirty thousand acres distributed along approximately 67 miles of shoreline, the Seashore is part of a dynamic barrier island system.

The Seashore contains important wildlife habitat created by dynamic environmental processes. Several species listed under the Endangered Species Act, including the piping plover, rufa subspecies of the red knot, and five species of sea turtles, are found within the park. The Seashore also serves as a popular recreation destination where users participate in a variety of activities.

Authority and Jurisdiction to Promulgate Regulations

In the NPS Organic Act (54 U.S.C. 100101), Congress granted the NPS broad authority to regulate the use of areas under its jurisdiction. The Organic Act authorizes the Secretary of the Interior, acting through the NPS, to “prescribe such regulations as the Secretary considers necessary or proper for the use and management of [National Park] System units.” 54 U.S.C. 100751(a).

Off-Road Motor Vehicle Regulation

Executive Order 11644, Use of Off-Road Vehicles on the Public Lands, was issued in 1972 in response to the widespread and rapidly increasing off-road driving on public lands “often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity.” Executive Order 11644 was amended by Executive Order 11989 in 1977, and together they are jointly referred to in this rule as the “E.O.” The E.O. requires Federal agencies that allow motorized vehicle use in off-road areas to designate specific areas and routes on public lands where the use of motorized vehicles may be permitted and to minimize user conflicts and resource impacts.

The NPS regulation at 36 CFR 4.10(b) implements the E.O. and requires that routes and areas designated for ORV use be promulgated as special regulations and that the designation of routes and areas must comply with 36 CFR 1.5 and E.O. 11644. It also states that ORV routes and areas may be designated only in national recreation areas, national seashores, national lakeshores, and national preserves. This rule is consistent with these authorities and with Section 8.2.3.1 (Motorized Off-road Vehicle Use) of NPS Management Policies 2006, available at: <http://www.nps.gov/policy/mp/policies.html>.

Recent ORV Management at Cape Hatteras National Seashore

In 2010, the NPS completed the Off-Road Vehicle Management Plan and Environmental Impact Statement (ORV FEIS) for ORV use at the Seashore to guide the management and use of ORVs at the Seashore. As a part of the selected alternative, certain elements of the ORV FEIS were implemented through rulemaking. The final rule for ORV management at the Seashore was published in the Federal Register on January 23, 2012 (77 FR 3123) (2012 Final Rule).

On December 19, 2014, the President signed the National Defense Authorization Act for Fiscal Year 2015 (2014 Act). Section 3057 of the 2014 Act requires the Secretary of the Interior to consider three specific changes to the 2012 Final Rule regarding:

- Morning opening times of beaches that are closed to ORV use at night;
- Extending the dates for seasonal ORV routes; and
- The size and location of vehicle-free areas (VFAs).

On February 17, 2016, the NPS published the Consideration of Modifications to the Final Rule for Off-Road Vehicle Management Environmental Assessment (EA). The EA evaluated:

- The times that beach routes open to ORV use in the mornings;
- Extending the dates that seasonal ORV routes are open in the fall and spring; and

- Modifying the size and location of VFAs.

The EA also considered:

- Issuing ORV permits for different lengths of time;
- Revising some ORV route designations; and
- Providing access improvements for soundside locations on Ocracoke Island.

The EA, which contains a full description of the purpose and need for taking action, scoping, the alternatives considered, maps and the environmental impacts associated with the project, may be viewed on the NPS planning web site at <http://parkplanning.nps.gov/caha-orv-ea> under the “Document List” link. Public comments on the EA were accepted until March 18, 2016. The EA resulted in a Finding of No Significant Impact (FONSI) that was signed on December 19, 2016 and is available at <http://parkplanning.nps.gov/caha-orv-ea> under the “Document List” link.

Summary of Public Comments on the Proposed Rule

The NPS published a proposed rule on August 22, 2016 (81 FR 56550). The NPS accepted comments through the mail, hand delivery, and the Federal eRulemaking Portal at <http://www.regulations.gov>. Comments were accepted through October 21, 2016. After considering the public comments and after additional review, the NPS did not make any changes to the proposed rule. A summary of comments and NPS responses is provided below.

Beach Opening Times

1. Comment: Several commenters requested that all beaches or priority beaches at the Seashore be opened to ORV use at 6:00 a.m. or earlier when nighttime driving is restricted.

NPS Response: The rule states that ORV use is not allowed on designated routes in sea turtle nesting habitat before 6:00 a.m. between May 1 and September 14, and between September

15 and November 15 if sea turtles remain. This will ensure that there will be sufficient light for resource management staff to safely and properly complete their morning surveys for nesting activities. The actual opening times are not stated in the rule. They will be published by the NPS annually based on the civil twilight time at sunrise and sunset for each month that nighttime ORV restrictions are in place. Civil twilight is the period of time before sunrise and after sunset when the sun is less than 6 degrees below the horizon when there is enough visibility to conduct ordinary outdoor activities. From May through October these times range from 5:20 a.m. to 6:50 a.m. Allowing ORV access before 6:00 a.m. for the months when nighttime driving is restricted would not provide resource management staff enough light to complete their morning beach surveys properly.

2. *Comment:* One commenter was concerned that the rule does not identify criteria for setting the morning beach opening times and designating priority beaches that may open before 7:00 a.m. The commenter requested the NPS identify the priority beaches in the rule.

NPS Response: The location and times of priority beach openings are intentionally omitted from the rule to provide NPS management with the flexibility to adapt to changes in visitation patterns and workload associated with the demonstrated variability of wildlife nesting on beaches. The priority beaches are identified in the FONSI and will also be included in the Superintendent's Compendium and published annually in the park's ORV Brochure. After reviewing each season's visitation patterns, Seashore conditions, and wildlife nesting activity, the NPS will publish information about opening times for priority beaches.

3. *Comment:* Several commenters stated that having different opening times for different months and different beaches could confuse visitors.

NPS Response: The NPS understands this concern and intends to provide clear

information and direction for all Seashore visitors. The NPS will clearly notify the public about opening times and locations by several methods. Priority beaches and opening times will be published at the beginning of each season in the Superintendent's Compendium, the ORV Brochure, and on the park website (www.nps.gov/caha). The website also provides a daily update on which ORV routes are open or closed due to wildlife nesting activities or Seashore conditions.

Dates for Use of Seasonal ORV Routes

4. *Comment:* Several commenters suggested a variety of dates when seasonal ORV routes around the villages and Ocracoke Campground should be opened for ORV use. Commenters also requested expanded use periods for seasonal ORV routes that are not in front of villages or the Ocracoke Campground.

NPS Response: Extending the seasonal ORV route periods for six weeks or more was considered and dismissed during the EA process due to the higher visitation rates and larger staff requirements that would be needed to manage active turtle and bird nests during those periods. Because of wildlife nesting activity in the spring and late summer, the NPS's emphasis on providing a diversity of visitor experiences, and the importance of managing the workload of NPS staff, the rule does not make any changes to the dates for seasonal ORV routes other than the routes in front of villages and the Ocracoke Campground.

5. *Comment:* One commenter requested that the NPS open ORV routes on the Friday before spring break week if that date falls before the opening date identified in the rule.

NPS Response: The NPS considered this request, but there is no standard school spring break vacation week and this period varies substantially throughout the country. Opening the Friday before spring break would increase management complexity and make it more difficult to

notify the public about the opening dates for the ORV season.

Size and Location of Vehicle Free Areas (VFAs)

6. *Comment:* Commenters suggested a wide variety of modifications to the VFAs. Some commenters recommended prohibiting beach driving or increasing the number and size of VFAs. Other commenters sought substantial reductions of VFA mileage. Many commenters suggested changes to VFAs at specific ramps and routes throughout the Seashore, especially in and around the Cape Point area. One commenter requested that no changes to the existing VFAs be made, noting these are nesting areas where seasonal ORV use would introduce additional harassment of wildlife, disruption of habitat, and visitor conflicts.

NPS Response: When considering the modifications to the VFAs, the NPS began with the existing VFAs as a baseline, considered each of the VFAs along the Seashore, and identified particular places where changes could be made while remaining consistent with management requirements at the Seashore. Although the rule does not establish any VFAs directly, the rule includes changes to designated ORV routes that result in corresponding changes to the size and location of VFAs at the Seashore. The rule changes certain ORV routes to allow greater access on each of the islands without substantially impacting the balance of visitor opportunities, the complexity of staff workload, public safety, or sensitive wildlife species. Protective wildlife buffers will be in place, regardless of route designation, to protect beach nesting species both within ORV routes and VFAs. The specific changes to VFAs resulting from the rule will not change the implementation and effectiveness of these buffers. The VFAs at the Seashore, as modified by the rule, continue to allow for large areas where pedestrians can utilize the beach without ORVs.

7. *Comment:* One commenter requested Ramp 2 – which the NPS proposed to open to

ORV use in the proposed rule – be used only seasonally, or that the NPS designate the first ¼ mile of the ORV route (south of Ramp 2) as a pass through only zone with no ORV parking allowed. The commenter suggested that these changes to the proposed rule would avoid visitor conflicts.

NPS Response: The realignment of Ramp 2 to the south, along with the construction of a pedestrian walkway (also accessible by people with disabilities) near the Coquina Beach bathhouse, should alleviate any potential safety issues associated with reopening Ramp 2 to ORV use. There are currently additional walking paths other than Ramp 2 that provide pedestrian access to Coquina Beach that will alleviate visitor conflicts. The NPS will post signs that direct pedestrians to those locations to avoid user conflicts on the realigned ramp. Following the opening of a realigned Ramp 2, the NPS will evaluate any visitor use conflicts and may implement an appropriately-sized no stopping zone if necessary.

Permit Durations

8. *Comment:* One commenter requested that the NPS specify the proposed changes to permit durations in the rule, rather than in the Superintendent’s Compendium.

NPS Response: Given the highly dynamic nature of the Seashore and tourism in the area, the NPS believes that it is prudent to provide management flexibility to NPS staff regarding the length of permits as circumstances change over time.

Other Access Improvements

9. *Comment:* One commenter noted that redesignating Ramp 45 as a park road – a management action that was included in the EA – should have been stated in the proposed rule. The commenter raised concerns that designating an ORV route as a park road would set a precedent and could potential result in larger re-designations in the future.

NPS Response: Old Ramp 45 is an existing park road currently closed to vehicle traffic. The road continues to be maintained with culverts and a hard packed pervious surface. Unlike the designation of a route for ORV use, NPS regulations do not require a special regulation to reopen a park road to motor vehicle use. Reopening this road for vehicular use will not affect any other route or road within the Seashore.

The Final Rule

This rule implements the selected action in the FONSI and amends the special regulation for ORV use at the Seashore as it relates to:

- The morning opening times of beaches that are closed to ORV use at night;
- The dates that some seasonal ORV routes are open in the fall and spring;
- The size and location of VFAs;
- The duration of ORV permits; and
- Other access improvements.

Beach Opening Times

The rule states that ORV use is not allowed on designated routes in sea turtle nesting habitat (ocean intertidal zone, ocean backshore, dunes) before 6:00 a.m. between May 1 and September 14, and between September 15 and November 15 if sea turtles remain. Instead of establishing opening times for each ORV route in the rule, the NPS will publish the opening times for each route on an annual basis in the Superintendent's Compendium and on the park website (www.nps.gov/caha). This will give the Superintendent the flexibility to adjust opening times each year based on changing conditions at the Seashore and the ability of park staff to patrol and complete resource management inventories on beaches before they are opened to vehicle use. The NPS expects that most ORV routes will continue to open at 7:00 a.m. The NPS

may open certain “priority” beach routes to ORV use before 7:00 a.m., but no earlier than 6:00 a.m. This will allow ORV users to access the more popular beaches earlier in the morning. NPS resource staff will patrol these “priority” beaches before opening so that park resources are protected even though earlier access will be allowed.

Dates for Use of Seasonal ORV Routes

The rule extends the dates for ORV use of seasonal designated routes in front of the villages of Rodanthe, Waves, Salvo, Avon, Frisco, and Hatteras and the Ocracoke Campground. These routes will open two weeks earlier in the fall and close two weeks later in the spring, making these seasonal routes open to ORV use from October 15 through April 14. These seasonal extensions are in areas and at times of the year which will not result in measurable impacts to sensitive wildlife, visitor experience, safety, or workload complexity for park staff.

Size and Location of VFAs

The changes in the rule to designated ORV routes will modify the size and location of VFAs and improve ORV access in some locations. This rule makes the following changes to the designated ORV routes at the Seashore. Ramps 2.5 and 59.5 will not be constructed and are therefore removed from the chart of designated ORV routes. Ramp 2 will be restored to ORV use, extending the existing ORV route approximately 0.5 miles to the north and providing ORV access to the route from either ramp 4 or ramp 2. Ramp 59 will continue to be open to ORV use, extending the existing year-round ORV route approximately 0.5 miles. The seasonal ORV route at ramp 34 will be extended approximately 1 mile to the north and the seasonal ORV route at ramp 23 will be extended approximately 1.5 miles to the south. These changes will slightly increase ORV access on each of the islands without measurably impacting visitor experience, safety, sensitive wildlife species, or the workload complexity for NPS staff.

Permit Durations

The existing regulations for the Seashore state that annual permits are valid for the calendar year for which they are issued, and that seven-day permits are valid from the date of issue. This rule removes this provision and instead states that ORV permits are valid for the dates specified in the permit. The Superintendent will publish the standard duration of permits in the Compendium and on the park's website (www.nps.gov/caha). The standard duration of permits may be changed from time to time based upon circumstances at the Seashore and visitation patterns. To start, however, ORV permits will be valid for one year from the date of issuance instead of being valid for the calendar year of issuance, and the existing 7-day ORV permit will be replaced by a 10-day ORV permit. The 10-day ORV permit will allow many ORV users to access the beaches over two weekends, depending upon when they arrive at the Seashore.

The NPS intends to continue to recover the costs of administering the ORV permit program under 54 U.S.C. 103104.

Access Improvements - Ocracoke Island

The NPS is removing the existing ORV route designation along Devil Shoals Road (also referred to as Dump Station Road). An ORV permit will no longer be required to travel this road because motor vehicles are allowed on park roads without a permit under general NPS regulations. This route is therefore removed as a designated ORV route in the rule. Devil Shoals Road is an existing dirt road located across North Carolina State Highway 12 from the Ocracoke Campground that has been maintained as part of the park's road network. This road meets NPS road design standards as a Class II connector road that can provide normal passenger vehicle access to park areas of scenic and recreational interest on a dirt/gravel surface. This change allows for limited vehicular soundside access on Ocracoke Island without the requirement to

purchase an ORV permit.

Access Improvements - Hatteras Island

This rule extends the existing Cape Point bypass route south of ramp 44 by approximately 0.4 miles to the north so that it joins with ramp 44. This rule also extends the existing bypass route by approximately 600 feet to the south to provide additional ORV access near Cape Point when the ORV route along the beach is closed for safety or resource protection.

Other Updates

This rule makes several changes to the language in the existing ORV regulation to clarify and more accurately reflect existing conditions. Ramp 25.5 is renamed “ramp 25”; ramp 32.5 is renamed “ramp 32”; ramp 47.5 is renamed “ramp 48”; the description of the soundside ORV route at Little Kinnakeet is changed to reflect that it begins just west of the Kinnakeet lifesaving structures; and additional details are added to further clarify where existing routes terminate (e.g. the routes adjacent to ramps 32, 48, and 63 do not end exactly at the ramp). These clarifying changes do not increase or decrease ORV access at the Seashore.

Maps

The changes to routes and ramps made as a result of this rule are available at <http://parkplanning.nps.gov/caha-orv-ea>.

Compliance with Other Laws, Executive Orders, and Department Policy

Use of Off-Road Vehicles on the Public Lands (Executive Order 11644).

As discussed previously, the E.O. applies to ORV use on federal public lands that is not authorized under a valid lease, permit, contract, or license. Section 3(4) of E.O. 11644 provides that ORV “areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or

scenic values.” Since the E.O. clearly was not intended to prohibit all ORV use everywhere in these units, the term “adversely affect” does not have the same meaning as the somewhat similar terms “adverse impact” or “adverse effect” commonly used in the National Environmental Policy Act of 1969 (NEPA). Under NEPA, a procedural statute that provides for the study of environmental impacts, the term “adverse effect” refers to any effect, no matter how minor or negligible.

Section 3(4) of the E.O., by contrast, does not prescribe procedures or any particular means of analysis. It concerns substantive management decisions, and must instead be read in the context of the authorities applicable to such decisions. The Seashore is an area of the National Park System. Therefore, the NPS interprets the E.O. term “adversely affect” consistent with its NPS Management Policies 2006. These policies require the NPS to allow only “appropriate uses” of parks and to avoid “unacceptable impacts” to park resources or values. The NPS has evaluated this rule and confirmed that it complies with these policies.

Specifically, this rule will not impede the attainment of the Seashore’s desired future conditions for natural and cultural resources as identified in the ORV FEIS. The NPS has determined this rule will not unreasonably interfere with the atmosphere of peace and tranquility, or the natural soundscape maintained in natural locations within the Seashore. Therefore, within the context of the E.O., ORV use on the ORV routes amended by this rule (which are also subject to safety and resource closures and other species management measures that will be implemented under this rule) will not adversely affect the natural, aesthetic, or scenic values of the Seashore.

Section 8(a) of the E.O. requires NPS to monitor the effects of the use of off-road vehicles on lands under its jurisdiction. On the basis of the information gathered, NPS shall from

time to time amend or rescind designations of areas or other actions taken pursuant to the E.O. as necessary to further the policy of the E.O. The existing ORV FEIS and Record of Decision identify monitoring and resource protection procedures, and desired future conditions to provide for the ongoing and future evaluation of impacts of ORV use on protected resources. The Superintendent has the authority under this rule and under 36 CFR 1.5 to close portions of the Seashore as needed to protect park resources and values, and public health and safety.

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. It directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA).

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 et seq.). This certification is based on information contained in a report entitled, "Benefit-Cost and Regulatory Flexibility Analyses: Special Regulations of Off-Road Motor Vehicles at Cape Hatteras National Seashore", available for

public review at: <http://parkplanning.nps.gov/caha-orv-ea>. According to that report, no entities, small or large, are directly regulated by this rule, which regulates visitors' use of ORVs. The courts have held that the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates them. Therefore, agencies must assess the impacts on directly regulated entities, but are not required to analyze in a regulatory flexibility analysis the indirect effects from rules on small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA).

This rule is not a major rule under 5 U.S.C. 804(2) of the SBREFA. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA).

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. The designated ORV routes are located entirely within the Seashore, and will not result in direct expenditure by State, local, or tribal governments. This rule addresses public use of NPS lands, and imposes no requirements on other agencies or governments. Therefore, a statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630).

This rule does not effect a taking of private property or otherwise have taking

implications under Executive Order 12630. Access to private property located within or adjacent to the Seashore will not be affected, and this rule does not regulate uses of private property.

Therefore, a takings implication assessment is not required.

Federalism (Executive Order 13132).

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects use of NPS-administered lands and imposes no requirements on other agencies or governments. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988).

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian tribes (Executive Order 13175 and Department Policy).

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.).

This rule does not contain any new collection of information that requires approval by

Office of Management and Budget (OMB) under the PRA of 1995. OMB has approved the information collection requirements associated with NPS Special Park Use Permits and has assigned OMB Control Number 1024-0026 (expires 12/31/2016 and in accordance with 5 CFR 1320.10, the agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB). We estimate the annual burden associated with this information collection to be 8,500 hours per year. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA).

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because the NPS issued a FONSI. The EA and FONSI are available at <http://parkplanning.nps.gov/caha-orv-ea> under the “Document List” link. These documents contain a full description of the alternatives that were considered, the environmental impacts associated with the project, public involvement, and other supporting documentation. The NPS considered public comments made on the EA in drafting this rule. The NPS has evaluated substantive comments received on the proposed rule to develop the final rule.

Effects on the Energy Supply (Executive Order 13211).

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Drafting Information:

The primary authors of this regulation were Russel J. Wilson, Chief Regulations, Jurisdiction and Special Park Uses, National Park Service; and Jay Calhoun, Regulations Program Specialist, National Park Service.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Amend § 7.58 by revising paragraphs (c)(2)(iv) and (c)(9), the paragraph (c)(12) subject heading, and paragraph (c)(12)(i) to read as follows:

§ 7.58 Cape Hatteras National Seashore.

* * * * *

(c) * * *.

(2) * * *.

(iv) ORV permits are valid for the dates specified on the permit. The public will be notified of any changes to ORV permit durations through one or more of the methods listed in § 1.7(a) of this chapter.

* * * * *

(9) *ORV routes.* The following tables indicate designated ORV routes. The following ramps are designated for off-road use to provide access to ocean beaches: 2, 4, 23, 25, 27, 30, 32, 34, 38, 43, 44, 48, 49, 55, 59, 63, 67, 68, 70, and 72. Designated ORV routes and ramps are subject to resource, safety, seasonal, and other closures implemented under § 7.58(c)(10).

Soundside ORV access ramps are described in the table below. For a village beach to be open to ORV use during the winter season, it must be at least 20 meters (66 feet) wide from the toe of the

dune seaward to mean high tide line. Maps showing designated routes and ramps are available in the Office of the Superintendent and on the Seashore website.

When is the route open?	Where is the route located?
BODIE ISLAND- DESIGNATED ROUTES	
Year Round	Ramp 2 to 0.2 miles south of ramp 4.
September 15 – March 14	0.2 miles south of ramp 4 to the eastern confluence of the Atlantic Ocean and Oregon Inlet.
HATTERAS ISLAND- DESIGNATED ROUTES	
Year Round	1.5 miles south of ramp 23 to ramp 27.
	Ramp 30 to approximately 0.3 miles south of ramp 32
	The following soundside ORV access routes from NC Highway 12 to Pamlico Sound between the villages of Salvo and Avon: soundside ramps 46, 48, 52, 53, 54. The soundside ORV access at Little Kinnakeet starts just to the west of the Kinnakeet lifesaving structures and continues to the sound.
	Ramp 38 to 1.5 miles south of ramp 38.
	The following soundside ORV access routes from NC Highway 12 to Pamlico Sound between the villages of Avon and Buxton: soundside ramps 57, 58, 59, and 60
	0.4 miles north of ramp 43 to Cape Point to 0.3 miles west of “the hook.”
	Bypass which extends due south from the opening at ramp 44, running continuously behind the dunes until the bypass connects with the beach.
	Interdunal route (“Inside Road”) from intersection with Lighthouse Road (i.e. ramp 44) to ramp 49, with one spur route from the interdunal route to ramp 48
	Just east of Ramp 48 to east Frisco boundary.
	A soundside ORV access route from Museum Drive to Pamlico Sound near Coast Guard Station Hatteras Inlet
	Pole Road from Museum Drive to Spur Road to Pamlico Sound, with one spur route, commonly known as Cable Crossing, to

	Pamlico Sound and four spur routes to the ORV route below.
	Ramp 55 southwest along the ocean beach for 1.6 miles, ending at the intersection with the route commonly known as Bone Road.
October 15 – April 14	0.1 mile south of Rodanthe Pier to 1.5 mile south of ramp 23 1.0 mile north of ramp 34 to ramp 38 (Avon) East Frisco boundary to west Frisco boundary (Frisco village beach) East Hatteras boundary to ramp 55 (Hatteras village beach)
OCRACOKE ISLAND- DESIGNATED ROUTES	
Year Round	Ramp 59 to just southwest of ramp 63 Routes from NC Highway 12 to Pamlico Sound located north of the Pony Pens, commonly known as Prong Road, Barrow Pit Road, and Scrag Cedar Road. 1.0 mile northeast of ramp 67 to 0.5 mile northeast of ramp 68 0.4 miles northeast of ramp 70 to Ocracoke inlet From ramp 72 to a pedestrian trail to Pamlico Sound, commonly known as Shirley’s Lane
October 15 – April 14	0.5 mile northeast of ramp 68 to ramp 68 (Ocracoke Campground area)
September 15 – March 14	A route 0.6 mile south of ramp 72 from the beach route to a pedestrian trail to Pamlico Sound A route at the north end of South Point spit from the beach route to Pamlico Sound

* * * * *

(12) *Hours of Operation/Night-Driving Restrictions.* (i) Hours of operation and night-driving restrictions are listed in the following table:

HOURS of OPERATION/NIGHT DRIVING RESTRICTIONS
--

When are the restrictions in place?	Where are the restrictions in place?
November 16 – April 30	All designated ORV routes are open 24 hours a day.
May 1 – September 14	Designated ORV routes in sea turtle nesting habitat (ocean intertidal zone, ocean backshore, dunes) are closed at 9:00 p.m. and open no earlier than 6:00 a.m. The Seashore will publish exact opening times on an annual basis.
September 15 – November 15	Designated ORV routes in sea turtle nesting habitat (ocean intertidal zone, ocean backshore, dunes) are closed at 9:00 p.m. and open no earlier than 6:00 a.m., but the Superintendent may open designated ORV routes, or portions of the routes, 24 hours a day if no turtle nests remain. The Seashore will publish exact opening times on an annual basis.

* * * * *

Michael Bean
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 2016-30735 Filed: 12/20/2016 8:45 am; Publication Date: 12/21/2016]