

Cape Hatteras Access Preservation Alliance
P.O. Box 1355
Buxton, NC 27920

March 08, 2016

Mr. David Hallac
Superintendent, Cape Hatteras National Seashore
1401 National Park Drive
Manteo, North Carolina 27954

Subject: EA for the Consideration of Modifications to the Final Rule for ORV Management

Dear Superintendent Hallac:

Representatives of the Cape Hatteras Access Preservation Alliance (CHAPA) (Outer Banks Preservation Association, North Carolina Beach Buggy Association, Cape Hatteras Anglers Club and representatives of the Hatteras Island business community) have reviewed the *Consideration of Modifications to the Final Rule for ORV Management Environmental Assessment* (EA) published by the National Park Service (NPS) in February, 2016. In response to the NPS request for public comments, we have prepared this document and attachment for your consideration.

Since the 1977 presidential order and before the formal adoption of the REG-NEG process in 2007, CHAPA has worked with NPS to establish an ORV Rule that would both insure resource protection and allow maximum access for both pedestrians and ORVs. The ORV Rule making process was turned into a resource plan that insured failure of the intended ORV Plan. We have repeatedly compromised our positions in an effort to resolve differences with other groups and NPS. Vehicle access has been reduced from 67 miles to 28 miles plus seasonal routes of 13 miles all of which are subject to closure during nesting seasons which for the most part occur during the prime tourist seasons. Additionally, the number of access ramps has been reduced from 27 to 20.

CHAPA recognizes elements in action alternatives 1, 2 and 3 will positively impact the visitor experience at the Cape Hatteras National Seashore; but, no alternative fully adopts the suggestions for changes to the Final ORV rule submitted in August, 2015 during the public scoping process conducted by NPS. Several modifications must be made to the ultimately chosen alternative to achieve the objectives of the legislation which led to this process.

The attached "Comparison of Alternatives Table" provides information to explain CHAPA's positions. It is a copy of "Table 1. Alternatives Summary" (EA page 51) modified to include a column which documents for comparison the CHAPA suggestions submitted in the 2015 scoping process. CHAPA believes those suggestions submitted in 2015 remain appropriate today.

The five areas of the Final Rule considered for modifications in the EA are discussed below.

(1) Morning Beach Openings -

EA Alternative 3 proposal for priority beaches to be opened daily at 6:00 a.m. is the same as the CHAPA recommendation made in 2015. Our goal was to provide access to high priority ORV routes as soon after sunrise as possible, recognizing that the daily turtle patrol required at least ambient light to complete its inspection before the ramp could be opened to ORVs.

EA Alternative 2 is an acceptable variation to our recommendation and would achieve CHAPA's goal. It provides morning access at the same relative time to sunrise throughout the summer as days grow shorter. This alternative would continue to provide a window of ambient light for turtle patrol to complete its daily inspection.

All EA alternatives designate ramps 2, 4, 25, 27, 43, 44, 48, 49, 70, and 72 as priority routes. NPS added ramps 25, 27 and 70 to those requested for designation by CHAPA. CHAPA supports these additions as improvements to the visitor experience.

CHAPA also recommended that night closures of beaches to ORVs not occur until 10:00 pm. We understand the staffing challenges to rake sand in front of nest within the hatch window to maintain daytime ORV access. We recommend that NPS further study data within the planned science workshops to determine opportunities to mitigate these risks to provide evening access until 10:00 p.m.

Conclusion: CHAPA supports alternative 3 but find NPS Preferred Alternative 2 acceptable for morning beach openings, with 10:00 p.m. closings until additional scientific study is conducted.

(2) Seasonal Off-Road Vehicle Routes -

The EA alternative 3 proposal to extend seasonal routes four weeks in the spring and fall in front of villages (Oct 1 – Apr 30) is the same as the CHAPA recommendation. CHAPA further recommended that seasonal routes not in front of villages be extended to run from September 1 through April 30.

The EA preferred alternative 2 proposes extending seasonal use two weeks in the spring and fall in front of villages and Ocracoke campground (Oct 15 – Apr 14).

Neither EA alternative proposed changes to the dates for seasonal routes not in front of villages (Bodie Island Spit, Spur Road, South Point Trail) would continue to be open from Sep 15 – Mar 14).

CHAPA continues to propose that seasonal ORV routes be opened by October 1 in the fall. As a point of reference, seasonal ORV access on Nags Head beaches (with higher pedestrian counts and more visitors than the Seashore) begins on October 1. As explained in the suggestions submitted in 2015, the visitor experience will benefit from the extension of seasonal routes in the fall with no increased risk to wildlife since avian nesting season will have ended by that time.

Conclusion: CHAPA supports Alternative 3.

(3) Vehicle Free Areas -

CHAPA believes that Vehicle Free Areas (VFAs) as currently instituted within the seashore severely limit the visitor experience. The EA proposes minimal changes to Vehicle Free Areas (VFA) at four locations.

The alternatives proposed within the EA will only provide minimal improvements to the visitor experience. CHAPA proposed changes to twelve seashore locations during the 2015 scoping process. These changes were described in detail in the documents submitted at that time. CHAPA believes integration of these proposals into whichever alternative is chosen is appropriate and necessary. The following table compares the impact of alternatives 2 and 3 and CHAPA’s recommendations to VFAs and ORV routes currently in effect.

	No Action	Alternative 2	Alternative 3	CHAPA
VFA	26.0 mi	- 3 mi = 23.0 mi	- 4 mi = 22.0 mi	- 7.5 mi = 18.5 mi
Beachfront Seasonal ORV route	13.0 mi	+ 2 mi = 15.0 mi	+ 3 mi = 16.0 mi	+ 6.0 mi = 19.0 mi
Beachfront year-round ORV route	25.2 mi	+ 1 mi = 26.2 mi	+ 1 mi = 26.2 mi	+ 1.5 mi = 26.7 mi
Pole, Spur, Cable Crossing roads	2.8 mi	2.8 mi	2.8 mi	2.8 mi
Total miles Considered	67.0 mi	67.0 mi	67.0 mi	67.0 mi

The CHAPA proposals are intended to improve the visitor experience to the seashore without impairing resource protection. The proposed re-designation of 1.5 miles of VFAs to year-round access has specifically been identified for locations that are not typically used by nesting birds. Conversely, the proposed 6.0 miles of VFAs proposed for re-designation to seasonal access were not proposed for year-round access in recognition of their importance during the nesting season.

Having lost 40 miles of ORV access routes since the Presidential order of 1977, the NPS’s proposal to reopen 3.0 miles (1.0 year-round, 2.0 seasonal) is in no way an indication of their willingness to recognize the importance of recreation as intended in the founding documents and recent legislation.

Observations over the past four years indicate VFAs are seldom used even during the busiest months of the year. CHAPA recommends that NPS initiate a continuing study of actual monthly visitor counts and uses within each VFA to validate that these areas are being used to an extent that justifies the level of year-round closures in place.

The following table compares CHAPA recommendations to the current state and to EA alternatives 2 and 3.

Route	Length	Current Designation	Alternative 2	Alternative 3	CHAPA Recommendations
Ramp 1 S (right)	.5 mi	VFA	VFA	VFA	Seasonal
Ramp 2 S (right)	.5 mi	VFA	Year-round	Year-round	Year-round
Ramp 4 S (right) at spit	.75 mi	VFA	VFA	VFA	Seasonal
Ramp 23 N (left)	.5 mi	Seasonal	Seasonal	Seasonal	Year-round
Ramp 23 S (right)	1.5 mi	VFA	Seasonal	Seasonal	Seasonal
Ramp 32 S (right)	1.0 mi	VFA	VFA	Seasonal	Seasonal
Ramp 34 N (left)	1.0 mi	VFA	Seasonal	Seasonal	Seasonal
Ramp 43 N (left)	.6 mi	VFA	VFA	VFA	Seasonal
Ramp 45 E (left)	1.2 mi	VFA	VFA	VFA	VFA with Special Circumstances
Ramp 45 W (right)	1.3 mi	VFA	VFA	VFA	Seasonal
Ramp 48 E (left)	.5 mi	VFA	VFA	VFA	Year-round
Ramp 59 E (left)	.5 mi	VFA	Year-round	Year-round	Year-round

CHAPA recommends seven VFAs to be re-designated as seasonal and three to be re-designated as year-round. One seasonal route is proposed to be re-designated year-round. One VFA is proposed to be re-designated as VFA with Special Circumstances.

- CHAPA recommends that Ramp 45 E (left)(1.2 mi) be re-designated a VFA with Special Circumstances with a provision that would allow the superintendent, using recommended adaptive management principles, to temporarily designate an ORV corridor to provide access to Cape Point when circumstances prevent ORV access via Ramp 44 S (right).

The single most important ORV access route at the Seashore is the area that encompasses Cape Point. The Final Rule designates only one ORV route, Ramp 44 S (right) for access to the Point.

Prior to the Final Rule, Ramp 45 E (left) provided a secondary route to Cape Point. The designation of 4 miles of beach between Cape Point and ramp 48 as a Vehicle Free Area (VFA) in the Final Rule removed this secondary route permanently. Should flooding or erosion occur unabated on the route from Ramp 44, future ORV access to Cape Point would be prohibited until a multi-year revised rule making process is completed.

Notwithstanding closures due to wildlife protection buffers during avian breeding season, Cape Point access via this one remaining designated route is closed periodically due to the effects of weather events such as nor'easters, extreme flooding, temporary (or possibly permanent) erosion problems, and turtle nests within the hatch window in the fall. Events during the fall and winter of 2015 are prime examples of the dynamic environment that can change dramatically in a matter of hours.

The VFA with Special Circumstances designation for Ramp 45 E (left) will recognize that the Superintendent has the authority to adaptively and positively manage access as conditions change at the Seashore just as he has the authority to adaptively manage resource protection measures as conditions change. The superintendent should use this authority to provide an ORV corridor through the VFA on a temporary basis to ensure access to the Point is not prevented when access via Ramp 44 is not feasible. The temporary ORV corridor would be subject to the same resource management guidelines used to establish buffers and corridors in seasonal and year round ORV routes throughout the Seashore.

- Ramp 1 – South (right): Change 800 meters (.5 miles) VFA to Seasonal access

This area abuts the South Nags head beach which is seasonally open to ORVs. This access would provide added convenience for visitors who stay in Nags Head / Kitty Hawk / Kill Devil Hills during the fall and winter months.

- Ramp 2 – South (right): Change 800 meters (.5 miles) VFA to Year Round ORV access

Alternatives 1, 2 and 3 include this proposal. This change will help alleviate ORV crowding at Ramp 4 and will obviate the need for building a new ramp south of the existing ramp.

Ramp 2 is located at the southern end of the parking lot. Reopening Ramp 2 will also facilitate “park and ride” which many visitors use as a means to take family groups into the ORV areas.

This proposal assumes Ramp 4 will remain open thereby providing a north and south egress to the year round ORV area. When construction of the new Oregon Inlet Bridge occurs, NPS may be required to make additional changes to the configuration or replacement of Ramp 4 to insure adequate access.

- Ramp 4 – South (right) at Spit: Change 1,200 meters (.75 miles) VFA to Seasonal Access

This is an extremely popular location for the fall visitors that come to fish at Cape Hatteras. This change will allow access to the spit after the summer nesting season has completed.

- Ramp 23 – North (left): Change 800 meters (.5 miles) Seasonal Access to Year Round Access

This change will provide more convenient summer ORV access to residents and visitors in the Rodanthe/Waves/Salvo area. The area is seldom used now and its closure contributes to crowding at Ramps 25 and 27.

- Ramp 23 – South (right): Change 2,250 meters (1.4 miles) VFA to Seasonal Access

Alternatives 2 and 3 include this proposal. This is an extremely popular location for the fall visitors that come to fish at Cape Hatteras. This change will allow access to this section of beach after the summer tourists have departed and nesting season has completed.

- Ramp 32 – South (right): Change 1,550 meters (1.0 miles) VFA to Seasonal Access

Alternative 3 includes this proposal. This location is extremely popular for the fall visitors that come to fish at Cape Hatteras. This change will allow access to this section of beach after the summer tourists have departed and nesting season has completed.

- Ramp 34 – North (left): Change 1,550 meters (1.0 miles) VFA to Seasonal Access

Alternatives 2 and 3 include this proposal. This is an extremely popular location for the fall visitors that come to fish at Cape Hatteras. This change will allow access to this section of beach after the summer tourists have departed and nesting season has completed.

- Buxton – Ramp 43 (left)– North: Change 1,000 meters (.6 miles) VFA to Seasonal Access

This change will help alleviate the crowded conditions that occur on Ramps 43 and 44 during the summer as resource closures occur. This is an extremely popular location for summer and fall visitors that come to fish at Cape Hatteras and which cannot be easily accessed without ORV.

The area currently used as the lifeguard protected swimming beach will remain VFA and not be affected by this change.

- Ramp 45 – West (right): Change 2,050 meters (1.30 miles) VFA to Seasonal Access

This is an extremely popular location for the fall visitors that come to fish at Cape Hatteras. This change will allow access to this section of beach after the summer tourists have departed and nesting season has completed. The proposal to change this area to Seasonal Access rather than to Year Round Access recognizes that the area is on the fringe of high density nesting activity which may spill over. Seasonal designation will ease the difficulties of managing the resources while still allowing visitor access during the fall fishing season.

- Ramp 48 – East (left): Change 800 meters (.5 miles) at eastern boundary of Ramp 48 from VFA to Year Round Access

This change will increase the size of the year round access area east of Ramp 48 by .5 miles. The Ramp 48/49 route is one of the most popular ORV destinations during the summer for visitors who do not have direct ocean access at their rental homes or

motels. It is frequently overcrowded. The additional access proposed will help alleviate the overcrowding which occurs here. The area proposed is also removed from the high density nesting area further to the east, reducing the likelihood of temporary resource protection closures.

- Ramp 59 – East (left): Change 800 meters (.5 miles) VFA to Year Round ORV access

Alternatives 1, 2 and 3 include this proposal. This change will increase public access at a very popular area and will obviate the need for building a new ramp south of the existing ramp.

Conclusion: The modifications proposed in Alternatives 2 and 3 are not adequate to accomplish the objectives of the legislation which required the examination of the VFAs designated in the Final Rule. Additional VFAs should be re-designated as seasonal ORV routes. Ramp 45 should be re-designated a VFA with Special Circumstances.

(4) ORV Permits -

CHAPA supports Alternative 2. We believe that changing the annual permit from a calendar year to a year from date of issue will be a significant improvement to the process for visitors.

We believe replacing the 7 day permit with a 10 day permit will be viewed favorably by visitors. Other terms, such as three day or two week permits should be evaluated by NPS to determine if they would add value to the visitor experience.

Conclusion: CHAPA supports NPS Preferred Alternative 2. Alternatives 1 or 3 would also accomplish the goal to improve the visitor experience. NPS should adopt the alternative that can be most efficiently implemented and enforced.

(5) Access Improvements -

Access improvements proposed in NPS preferred Alternative 2 and Alternative 3 are similar to some of the recommendations made by CHAPA in 2015 and will add value to the visitor/ORV experience.

Modifications to the Ramp 44 S (right) bypass route to fully extend from where the dune line begins at Ramp 44 on the north end to where it ends on the south end will provide visitor access to Cape Point during times of extreme high tide and erosion which this area seems to experience more and more frequently every year.

Road improvements and construction of parking areas at Bitter Wash Creek and Devil Shoals Road will add much needed soundside access on Ocracoke Island.

Re-designation of Ramp 45 as a park road and construction of a parking area at its terminus will improve pedestrian access to the hook to the west of Cape Point.

Several additional access improvement projects were recommended by CHAPA in 2015. These projects should be added to the recommended alternative.

- Soundside Access – Bodie Island

No sound side access, pedestrian or ORV, is available on Bodie Island. Several locations are present that could easily accommodate such access. This proposal, made by several commenters, received no discussion either pro or con and deserves the attention of NPS to accommodate the many visitors from the villages north of the Seashore boundaries. CHAPA proposes that a project be added to provide soundside access on Bodie Island.

- Two Way Ramps – Oceanside and Soundside

All ramps within the seashore should be built to accommodate two-way traffic to improve visitor safety.

Conclusion: CHAPA supports NPS Preferred Alternative 2 and suggests it be expanded to provide soundside access on Bodie Island.

CHAPA believes the proposals made in this document are consistent with the language and intent of the legislation. We believe these proposals will not impair resource protection efforts. We believe these proposals can be implemented with minimal impact to NPS resources. And most importantly, we believe these proposals will significantly improve the visitor experience through greater access as intended by Congress.

We are available to discuss these proposals at your convenience.

Respectfully submitted,

David M. Scarborough, Treasurer
Outer Banks Preservation Association
Cape Hatteras Access Preservation Alliance

This letter and attachments are fully endorsed by:

The Outer Banks Preservation Association (OBPA)
The North Carolina Beach Buggy Association (NCBBA)
The Cape Hatteras Anglers Club (CHAC)

Attachment

cc: The Honorable Richard Burr
United States Senate
Washington, DC 20510

The Honorable Thom Tillis
United States Senate
Washington, DC 20510

The Honorable Walter B. Jones
House of Representatives
Washington, DC 20515

Mr. Pete Benjamin
Field Supervisor, U.S. Fish and Wildlife Service
P.O. Box 33726
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Mr. Gordon Myers
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Mr. Warren Judge
Dare County Commissioner
PO Box 1000
Manteo NC 27954

Comparison of Alternatives Table

Alternative	No Action Alternative	Alternative 1	Alternative 2 NPS Preferred	Alternative 3	CHAPA - 8/2015 Recommendations Confirmed 3/2016
Morning beach openings	All beaches would continue to open to ORV use at 7:00 a.m.	Open priority routes (Ramps 2, 4, 25, 27, 43, 44, 48, 49, 70, and 72) at 6:30 a.m. All non-priority routes open at 7:00 a.m.	Priority routes (same beaches as in alternative 1) open at 6:00 a.m. May, June July; open at 6:30 a.m. August and September; open at 7:00 a.m. Oct–Nov. 15 All non-priority routes open at 7:00 a.m.	Priority routes (same beaches as in alternative 1) open at 6:00 a.m. All non-priority routes open at 7:00 a.m.	Same as Alternative 3 (ramps 25, 27, 70 were not requested as priority). Also recommended routes remain open until 10:00 pm.
Seasonal ORV routes	No change from existing management Villages/Ocracoke campground open seasonally to ORVs (Nov 1–Mar 31) ; Routes not at villages (Sep 15 – Mar 15)	Extend seasonal ORV use two weeks in spring and fall in front of Villages and Ocracoke campground (Oct 15–Apr 14)	Same as alternative 1 (Oct 15– Apr 14)	Extend seasonal ORV use by four weeks in spring and fall in front of Villages and Ocracoke campground (Oct 1–Apr 30)	Same as Alternative 3, plus extend seasonal routes not at villages to Sep 1 – Apr 30.
Vehicle-free areas	No change from existing management	Restore Ramp 2 and use Ramp 59, extending each existing year-round ORV route approximately 0.5 mile in both locations	Same as alternative 1, plus: VFA south of Ramp 23 (1.5 miles) would be redesignated as a seasonal ORV route; a portion of the VFA north of Ramp 34 (1 mile) would be redesignated as a seasonal ORV route, and Ramp 45 designated as a park road	Same as alternative 2, except: the entire VFA at Ramp 34 (north) would be redesignated as a seasonal ORV route (2 miles)	Same as Alternative 3, plus: Redesignate VFAs at ramp 1 south(.5 mi), Bodie Island spit (.75 mi), ramp 43 north (.6 mi), ramp 45 west (1.3 mi) as seasonal ORV routes; ramp 48 east (.5 miles) as year round. Redesignate ramp 23 north (.5 mi currently designated as seasonal) as year round route.
Access improvements	None	Road improvements and parking area installation at Bitter Wash Creek and Devil Shoals Road sites; both are designated as park roads	Same as alternative 1, plus: Extend bypass road north to Ramp 44 for 0.4 mile, and install a parking area near Ramp 45	Same as alternative 2	Same as Alternative 2,(parking area at ramp 45 was not requested) plus: Provisions for temporary ORV corridor from Ramp 45 to Cape Point when conditions prevent access from the east beach and when risk to wildlife not present; Ssoundside access on Bodie Island.
Permits	7-day, annual by calendar year	Annual by date of issue, 7-day permit, and 14-day permits available	Annual by date of issue, and 10day permits available	Annual by date of issue, 3day, 7-day, and 14-day permits available	Same as Alternative 2
Total VFA and ORV route mileage	28 miles of year-round ORV routes 13 miles of seasonal ORV routes 26 miles of VFAs	29 miles of year-round ORV routes 13 miles of seasonal ORV routes 25 miles of VFAs	29 miles of year-round ORV routes 15 miles of seasonal ORV routes 23 miles of VFAs	29 miles of year-round ORV routes 16 miles of seasonal ORV routes 22 miles of VFAs	26.7 miles of year round of year round Oceanfront ORV routes , 19 miles of seasonal ORV routes, 18.5 mi of VFAs. (NPS year round routes include 2.8 miles which are not Oceanfront access)