

## OFF-ROAD VEHICLE USE AT CAPE HATTERAS NATIONAL SEASHORE

Prepared by the National Audubon Society, Defenders of Wildlife,  
and Southern Environmental Law Center  
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The National Park Service has issued its final Regulation governing Off-Road Vehicle (ORV) use at Cape Hatteras National Seashore, based on a plan described in its Record of Decision issued December 12, 2011. The regulation went into effect on February 15, 2012. The Park Service issued the regulation in compliance with federal laws (Executive Order 11644 and 36 C.F.R. §4.10) and a consent decree entered in a federal lawsuit. The laws require it to publish regulations that designate routes and areas for ORV driving that will protect the Seashore's natural resources from harm caused by ORV use and reconcile conflicts between ORV use and other uses of the Seashore.



**Ocracoke Inlet**

Misleading information has been propagated by factions interested in promoting beach driving over other uses of the Seashore. These myths, and the truth behind them, include:

**Myth:** *Restrictions on beach driving harm the local economy.*

**Truth:** Driving restrictions do not appear to have harmed tourism under the consent decree. While claims of economic harm are unconfirmed and anecdotal, verifiable statistics published by the State as well as Dare County itself show that:

- Dare County visitor occupancy receipts in 2010 exceeded receipts in all prior years. Even though data for December is not available, occupancy receipts in 2011 have already exceeded 2010.<sup>1</sup>
- Indeed, visitor spending on lodging in all four years in which the Seashore was managed under the consent decree (2008-2011) were higher than any year since the Outer Banks Visitors Bureau began recording occupancy statistics in 1993. Total occupancy grossed over \$367 million in 2011 (even without December) – the most the Outer Banks Visitors Bureau has ever recorded for a single year.<sup>2</sup>

- Likewise, Hatteras Island visitors spent a record-setting \$27.8 million on lodging during July 2010, which exceeded July 2009 by 18.5 percent and surpassed all preceding years. That record-setting trend continued in 2011, with July's occupancy receipts on Hatteras Island setting a *new* high of \$29,587,938, surpassing July 2010 by 6.26%.<sup>3</sup>
- Beyond lodging, tourism spending generally also increased in Dare County in 2008, when ORV management under the consent decree commenced. Tourists spent 1.9% more in 2008 than in 2007.<sup>4</sup>
- All told, visitor occupancy and tourism spending is generally trending upwards since the consent decree went into effect.

Dare County achieved these results despite the nationwide recession, high gas prices, Hurricane Irene's destruction of the only road connection to Cape Hatteras, and a public relations campaign funded by Dare County to advertise its beaches as closed to the public.<sup>5</sup>

**Myth:** *Beach driving is the predominant use of the Seashore and is essential to its enjoyment.*

**Truth:** A 2008 study by the U.S. Fish and Wildlife Service concluded that only 2.7 to 4.0 percent of the approximately 2.5 million visitors each year are ORV users and that restrictions on beach driving would likely significantly increase visitation by other categories of visitors.<sup>6</sup> Other studies confirm that the vast majority of visitors to the Seashore engage in activities other than beach driving.<sup>7</sup>



**Bodie Island Spit with ORVs**

Finally, the NPS reported that the majority of people who commented on the draft rules wrote in favor of greater restrictions on beach driving and/or greater protections for wildlife.<sup>8</sup> Rather than limiting access to the beach, the NPS's new rule will better serve these visitors, and will improve the public's access to the Seashore by creating new parking areas and pedestrian walkovers.



**Bodie Island Spit without ORVs**

**Myth:** *The number of miles of beach designated as "vehicle free" in the new regulation is unreasonably large.*

**Truth:** Most other national seashores either have regulations in place to manage and restrict ORV use or do not allow ORV use at all; only Cape Lookout National Seashore continues to allow beach driving without a regulation in place. Canaveral, Cumberland Island, Gulf Islands, and Point Reyes National Seashores all prohibit virtually<sup>9</sup> all ORVs use. Assateague Island, Cape Cod, Fire Island, and Padre Island National

Seashores all have regulations restricting ORV use, and all of those except Padre Island allow driving on a much smaller percentage of the beach than does the new Hatteras rule. Thus, if anything, the number of miles of Cape Hatteras beaches set aside for ORV use in the new regulation is disproportionately large.

**Myth:** *There is no evidence that ORVs harm nesting birds and sea turtles.*

**Truth:** Evidence from Cape Hatteras confirms that ORVs can have significant impacts on birds and sea turtles. A recent study found that nine American oystercatcher chicks were found directly killed by vehicles on Cape Hatteras National Seashore from 1995 to 2007.<sup>10</sup> Because those chicks were discovered by chance, the authors of the study determined that those nine were a “fraction of the number of chicks killed by vehicles.”<sup>11</sup> ORVs also indirectly impact survival of chicks by degrading their habitat in myriad ways and making chicks more vulnerable to predators; the same study showed that, when ORVs were excluded from nesting areas at Cape Hatteras, 47 percent of chicks survived, while the presence of an ORV lane on the beach reduced the survival rate to only 27 percent of chicks.



**Piping Plover with chick and eggs**

Sea turtles are also vulnerable. In June 2010, an ORV drove over and killed a threatened loggerhead sea turtle that had come ashore to nest. That same night, an ORV destroyed eggs in another sea turtle nest.<sup>12</sup>



**NPS photo of Loggerhead killed by ORV in June 2010 on Ocracoke Island**

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<sup>1</sup> [http://www.outerbanks.org/pdf/Gross\\_Occupancy\\_Summary\\_receipts.pdf](http://www.outerbanks.org/pdf/Gross_Occupancy_Summary_receipts.pdf).

<sup>2</sup> [http://www.outerbanks.org/pdf/Gross\\_Occupancy\\_Summary\\_receipts.pdf](http://www.outerbanks.org/pdf/Gross_Occupancy_Summary_receipts.pdf);

<http://outerbanksvoice.com/2011/03/22/highs-set-for-local-and-state-tourist-spending/>

<sup>3</sup> <http://outerbanksvoice.com/2010/09/16/occupancy-dollars-hit-an-all-time-high/>

<sup>4</sup> [http://www.outerbanks.org/visitor\\_services/press\\_room/press\\_releases/2008\\_Dare\\_County\\_Tourism\\_Figures.pdf](http://www.outerbanks.org/visitor_services/press_room/press_releases/2008_Dare_County_Tourism_Figures.pdf)

<sup>5</sup> Catherine Kozak, "Dare County Beach Access Campaign Goes Online," *Virginian Pilot*, Feb. 13, 2009, available at: <http://eyeondare.blogspot.com/2009/10/prudent-fiscal-policy.html>; see also <http://hamptonroads.com/2009/02/dare-county-nc-goes-online-beachaccess-campaign>.

<sup>6</sup> Industrial Economics, Inc., "Economic Analysis of Critical Habitat Designation for the Wintering Piping Plover," prepared for U.S. Fish & Wildlife Service (Sept. 23, 2008) at 2-12 – 2-13, 2-17.

<sup>7</sup> FEIS at 281-284

<sup>8</sup> Erin James, "Nobody's Happy Over Off-Road Vehicle Plan on Shoreline," *Virginian Pilot*, Nov. 21, 2010, available at: <http://hamptonroads.com/2010/11/nobodys-happy-over-offroad-vehicle-plan-shoreline>. See also statistics on DEIS comments, available from National Park Service.

<sup>9</sup> On Cumberland Island National Seashore, only "retained rights" holders and the few residents can obtain a beach-driving permit. The NPS allows only those permit holders to drive according to their individual rights, but the general public is not allowed to drive on the island.

<sup>10</sup> Theodore R. Simons & Shiloh Shulte, *American Oystercatcher (Haematopus palliatus) research and monitoring in North Carolina: 2007 Annual Report* at 24.

<sup>11</sup> *Id.*

<sup>12</sup> National Park Service, Cape Hatteras National Seashore Resource Management Field Summary for June 17-June 23, 2010.