

shall be made by submission of a completed Claims Collection Litigation Report (CCLR), accompanied by a signed Certificate of Indebtedness. Claims of less than the minimum amount shall not be referred unless litigation to collect such smaller claims is important to ensure compliance with TRICARE's policies or programs; the claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to the referring office for enforcement; or the debtor has the clear ability to pay the claim and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under state and Federal law and judicial remedies available to the Government.

(2) *Preservation of evidence.* The Director, TMA, or a designee will take such action as is necessary to ensure that all files, records and exhibits on claims referred, hereunder, are properly preserved.

(i) *Claims involving indication of fraud, filing of false claims or misrepresentation.* Any case in which there is an indication of fraud, the filing of a false claim or misrepresentation on the part of the debtor or any party having an interest in the claim, shall be promptly referred to the Director, TMA, or designee. The Director, TMA, or a designee, will investigate and evaluate the case and either refers the case to an appropriate investigative law enforcement agency or return the claim for other appropriate administrative action, including collection action under this section. Payment on all TRICARE beneficiary or provider claims in which fraud, filing false claims or misrepresentation is suspected will be suspended until the Director, TMA, or designee, authorizes payment or denial of the claims. Collection action on all claims in which a suspicion of fraud, misrepresentation or filing false claims arises, will be suspended pending referral to the appropriate law enforcement agencies by the Director, TMA, or a designee. Only the Department of Justice has authority to compromise, suspend or terminate collection of such debts.

Dated: December 14, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Establishment of Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management, Cape Hatteras National Seashore

AGENCY: National Park Service (NPS), Interior.

ACTION: Notice of establishment and Notice of the first and second meetings of the Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore.

SUMMARY: The Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore (Seashore) is established under the authority of 16 U.S.C. 1a-2(c), and in accordance with the Negotiated Rulemaking Act, 5 U.S.C. 561-570. The establishment of this Committee is in the public interest and supports the NPS in performing its duties and responsibilities under the NPS Organic Act, 16 U.S.C. 1 *et seq.*; Executive Order 11644, as amended by Executive Order 11989; 36 CFR 4.10; the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; the enabling legislation for the Seashore, 16 U.S.C. 459 *et seq.*; and other legal authorities.

An unusual combination of events in the preparation, approval, and transmission of this notice has resulted in the publication of this notice less than 15 days before the date of the first meeting and official date of establishment. The National Park Service has made extraordinary efforts to provide other forms of notification to all Committee members and to the public.

DATES: The Committee will hold its first meeting on January 3-4, 2008, from 8:30 a.m. to 5:30 p.m. on January 3, and from 8:30 a.m. to 3:30 p.m. on January 4. The meetings on both days will be held at the Avon Fire Hall, 40159 Harbor Drive, Avon, North Carolina 27915.

The Committee will hold its second meeting on February 26-27, 2008, from 8:30 a.m. to 5:30 p.m. on February 26, and from 8:30 a.m. to 3:30 p.m. on February 27. The meetings on both days will be held at the Ramada Inn, 1701 South Virginia Dare Trail, Kill Devil Hills, North Carolina 27948.

FOR FURTHER INFORMATION CONTACT: Mike Murray, Superintendent, Outer Banks Group, 1401 National Park Drive, Manteo, North Carolina 27954, (252) 473-2111, ext. 148.

SUPPLEMENTARY INFORMATION: The Committee's function is to assist directly in the development of special regulations for management of off-road vehicles (ORVs) at Cape Hatteras National Seashore (Seashore). Executive Order 11644, as amended by Executive Order 11989, requires certain Federal agencies to publish regulations that provide for administrative designation of the specific areas and trails on which ORV use may be permitted. In response, the NPS published a general regulation at 36 CFR 4.10, which provides that each park that designates routes and areas for ORV use must do so by promulgating a special regulation specific to that park. It also provides that the designation of routes and areas shall comply with Executive Order 11644, and 36 CFR 1.5 regarding closures. Members of the Committee will negotiate to reach consensus on concepts and language to be used as the basis for a proposed special regulation, to be published by the NPS in the **Federal Register**, governing ORV use at the Seashore. The duties of the Committee are solely advisory.

In accordance with the Negotiated Rulemaking Act, 5 U.S.C. 561-570, a Notice of Intent to Establish a Negotiated Rulemaking Advisory Committee was published in the **Federal Register** on June 28, 2007, providing a 30-day public comment period which concluded July 30, 2007. The NPS received 143 comment letters or comment entries in the NPS Planning, Environment, and Public Comment (PEPC) on-line system during the comment period.

Responses to Comments Suggesting Additions to the Committee

The NPS received comments from a number of nonresident owners and renters of vacation homes asking that representatives of the Hatteras Landing Homeowners Association, Inc., and the Hatteras Island Homeowners Coalition be appointed as members of the Committee to represent their interests (nonresident property owners/renters and pedestrian and safety issues respectively) and to better balance the representation of interests on the Committee. One commenter noted that Hatteras Island is a premier surfing destination on the East Coast, and asked that NPS consider appointing a local resident from the Eastern Surfers Association or a representative from the Surfrider Foundation to represent interests of surfers.

Response

The NPS is aware that a balanced Committee is necessary for discussions

to be meaningful and fair. The Negotiated Rulemaking Act states that a Federal agency considering negotiated rulemaking must determine that there are a limited number of identifiable interests that will be significantly affected by the rule, and that there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who can adequately represent the interests identified. The Act also states that a Federal agency can use the services of a "convener" to make these determinations. The NPS, working through the U.S. Institute for Environmental Conflict Resolution, contracted with the Consensus Building Institute and Fisher Collaborative Services, which subsequently assisted in identifying interests that would be significantly affected by a proposed rule, and representatives of those interests. The Cape Hatteras National Seashore: Negotiated Rulemaking Feasibility Report (Feasibility Report) noted that there is no Outer Banks-wide organization that represents nonresident property owners and that there is no known, local or regional organized group whose primary interest is pedestrian beach use and public safety. The NPS agrees that nonresident homeowner and pedestrian-only areas interests are underrepresented in its initial proposal. Accordingly, NPS has recommended that the Hatteras Landing Homeowners Association be given a seat on the Committee with its president, Jeffrey Wells, appointed as a member to represent the interests of nonresident homeowners. The NPS has further recommended that the Hatteras Island Homeowners Coalition be given a seat on the Committee with its president, Stephen Kayota, appointed as a member to represent pedestrian and safety interests.

The Surfrider Foundation and the Eastern Surfing Association promote conservation and protection of ocean and coastal environments from pollution. Because the conservation and environmental protection interest is represented by other groups with similar perspectives, NPS determined that the interests of surfers would be represented adequately by the other conservation/environmental groups and that the access and experience interests, which are also important to surfers, would be represented adequately by other groups in the user category such as the Cape Hatteras Recreational Alliance and the Watersports Industry Association.

Comments Suggesting Restructuring the Committee

Several comments stated that the Committee was not balanced, citing the overlapping group memberships of a number of the ORV and recreational fishing proponent members. One comment suggested that a smaller and more balanced Committee should be created. Some comments suggested removing proposed members perceived as argumentative, biased, and not willing to look for consensus.

A Commenter also suggested that the two proposed representatives from the Watersports Industry Association be replaced by representatives from the Eastern Surfing Association or the Surfrider Foundation to represent interests of surfers. This comment questioned the appropriateness of appointing individuals with vested business interests in access to the beach for business purposes and stated that the Watersports Industry Association does not have a broad base of support for the sports enjoyed on Hatteras and Ocracoke.

Response

The NPS understands that a number of representatives have overlapping memberships in different groups. The Feasibility Report also noted this overlap while recognizing that, even though there are common interests, each member also represents a different perspective and interest that needs to be represented for the Committee to negotiate a proposed rule that will consider all interests. All interest groups significantly affected by the ORV regulation must be involved in any meaningful negotiation. Moreover, the final membership proposed must represent a balance of interests. The NPS believes that the final composition of the Committee will accomplish these purposes.

The NPS has been advised by the Department of the Interior ethics office that appointment to a negotiated rulemaking committee of individuals with interests in access to the beach for business purposes is acceptable. Further, ethics rules relating to advisory committees will be discussed at an early meeting of the Committee to ensure that members understand them. Finally, NPS agrees that the Watersports Industry Association is concerned with a broader spectrum of activities than are enjoyed at Cape Hatteras National Seashore, but notes that those activities, such as surfing, enjoyed on Hatteras and Ocracoke are included within its interests.

Comments on Committee Purpose and Process

Comments were received on additional factors surrounding the establishment of the Committee. Broadly categorized, these comments addressed: the willingness of members to negotiate and reach consensus, and proposed procedures and guidelines for the Committee.

Response

Committee members are required to negotiate in good faith, including considering others' perspectives and approaching negotiations with an open mind. Every proposed Committee member has agreed to do this. Also, to police itself, the Committee will adopt ground rules to enhance its ability to negotiate and reach consensus. Finally, the NPS Designated Federal Official for the Committee has the authority to recommend to the Secretary that a member who is not negotiating in good faith be removed from the Committee.

The procedures and guidelines for the Committee that one commenter proposed are similar to those recommended by the Feasibility Report with which the NPS has concurred. The NPS expects that the Committee will consider these procedures and guidelines when it adopts its ground rules.

Additional Comments

A number of comments were received that did not address the establishment, scope or membership of the negotiated rulemaking Committee, but did address the general issue of ORVs at Cape Hatteras National Seashore. Those comments fell into the following categories: Support or opposition for different levels of ORV access; options for specific elements of an ORV management plan; opinions on the meaning of the Seashore's enabling legislation; support for strict enforcement and penalties for violations of ORV regulations; concerns about visitor safety and beach driving; park values, including recreational surf-fishing, enjoyment of wildlife and nature, opportunity for family bonding, and enjoyment of the park's beaches; potential impacts of ORV management on socioeconomics, visitor use and experience, wildlife and wildlife habitat, and topographic conditions; the recent U.S. District Court Order; the Interim Protected Species Management Strategy/Environmental Assessment; and the proposed critical habitat designation.

Response

The NPS is preparing an ORV Management Plan and associated environmental impact statement that will evaluate a full range of reasonable alternatives for ORV management at Cape Hatteras National Seashore. The NPS will take these comments into consideration when preparing the plan.

Committee Membership

The Secretary of the Interior has appointed the following primary and alternate members to the Committee:

Civic and Homeowner Associations:

1. Rodanthe-Waves-Salvo Civic Association, member C.A. Duke, alternate Pat Weston (Greater Kinnakeet Shores Homeowners, Inc., and Rodanthe-Waves-Salvo Civic Association).

2. Avon Property Owners Association, member Frank Folb, alternate Pat Weston (Greater Kinnakeet Shores Homeowners, Inc., and Rodanthe-Waves-Salvo Civic Association).

3. Hatteras Island Homeowners Coalition, member Steven Kayota, alternate Vincenzo Sanguineti (Hatteras Island Homeowners Coalition).

4. Hatteras Village Civic Association, member Roy Kingery.

5. Hatteras Landing Homeowners Association, Inc., member Jeffrey Wells.

Commercial Fishermen:

6. North Carolina Fisheries Association, Michael Peele, alternate William Foster (North Carolina Fisheries Association).

Environmental and Natural Resource Conservation Groups, State/Regional/Local:

7. Southern Environmental Law Center, member Derb Carter, alternate Michelle Nowlin (Southern Environmental Law Center).

8. North Carolina Audubon, member Walker Golder, alternate Sidney Maddock (National Audubon Society).

Environmental and Natural Resource Conservation Groups, National:

9. Coalition of National Park Service Retirees, member Robert Milne, alternate Dwight Rettie (Coalition of National Park Service Retirees).

10. Defenders of Wildlife, member Jason Rylander, alternate Andrew Hawley (Defenders of Wildlife).

11. Natural Resources Defense Council and The Wilderness Society, member Destry Jarvis, alternate Leslie Jones (The Wilderness Society).

12. The Nature Conservancy, member Sam Pearsall, alternate Aaron McCall (The Nature Conservancy).

Government, County:

13. Dare County, member Warren Judge, alternate Lee Wrenn (Dare County).

14. Hyde County, member David Scott Esham, alternate Eugene Ballance (Hyde County).

Government, Federal:

15. Cape Hatteras National Seashore, member Michael Murray, alternate Thayer Broili (Cape Hatteras National Seashore).

16. U.S. Fish and Wildlife Service, member Pete Benjamin, alternate David Rabon (U.S. Fish and Wildlife Service).

Government, State:

17. North Carolina Marine Fisheries Commission, member Wayne Mathis, alternate Sara Winslow (North Carolina Marine Fisheries Commission).

18. North Carolina Wildlife Resources Commission, member David Allen, alternate Susan Cameron (North Carolina Wildlife Resources Commission).

Tourism, Visitation, and Business organizations:

19. Cape Hatteras Business Allies, member Judy Swartwood, alternate David Goodwin (Cape Hatteras Business Allies).

20. Outer Banks Chamber of Commerce, member Scott Leggat, alternate Sam Hagedon (Outer Banks Chamber of Commerce).

21. Outer Banks Visitors Bureau, member Carolyn McCormick, alternate Renee Cahoon (Outer Banks Chamber of Commerce).

User Groups, OVR Use:

22. North Carolina Beach Buggy Association, member Jim Keene, alternate David Joyner (North Carolina Beach Buggy Association).

23. United Four Wheel Drive Associations, member Carla Boucher, alternate Lyle Piner (United Four Wheel Drive Associations).

User Groups, Open Access:

24. Outer Banks Preservation Association, member John Alley, alternate John Couch (Outer Banks Preservation Association).

User Groups, Other Users:

25. Cape Hatteras Bird Club, member Ricky Davis, alternate Raymond Moore (Cape Hatteras Bird Club).

26. Cape Hatteras Recreational Alliance, member Jim Lyons, alternate Burnham Gould, Jr. (Cape Hatteras Recreational Alliance).

27. Water Sports Industry Association, member Trip Forman, alternate Matt Nuzzo (Water Sports Industry Association).

User Groups, Recreational Fishing:

28. American Sportfishing Association, member Bob Eakes, alternate Patricia Doerr (American Sportfishing Association).

29. Cape Hatteras Anglers Club, member Larry Hardham, alternate Robert Davis (Cape Hatteras Anglers Club).

30. Recreational Fishing Alliance, member Patrick Paquette, alternate Ronald Bounds (Recreational Fishing Alliance).

In accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, copies of the Committee's charter will be filed with the appropriate committees of Congress and with the Library of Congress.

Notice of First and Second Meeting:

Notice is hereby given, in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App 1, section 10), of the first and second meeting of the Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore. (See **DATES** section.)

These, and any subsequent meetings, will be held for the following reason: to work with the National Park Service to assist in potentially developing special regulations for ORV management at Cape Hatteras National Seashore.

The proposed agenda for the first and second meeting of the Committee may contain the following items: FACA Ethics Briefing, Managing Administrative Record, Review FACA Charter, Discuss and Approve Groundrules, NEPA Update, Subcommittee Update, Alternatives Discussion, Review and Approve Workplan, and Public Comment. However, the Committee may modify its agenda during the course of its work. The meetings are open to the public. Interested persons may provide brief oral/written comments to the Committee during the public comment period of the meeting or file written comments with the Park Superintendent.

Certification

I hereby certify that the administrative establishment of the Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Act of August 25, 1916, 16 U.S.C. 1 *et seq.*, and other statutes relating to the administration of the National Park System.

Dated: November 26, 2007.

Dirk Kempthorne,

Secretary of the Interior.

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