

**Charter**  
**2007**  
***Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management  
at Cape Hatteras National Seashore***

**A. DESIGNATION.**

The official designation of the committee is the Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore.

**B. PURPOSE AND FUNCTION.**

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 National Park Service (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.

**C. OBJECTIVES AND SCOPE OF THIS ACTIVITY.**

The Committee will serve as an integral part in the NPS development of a proposed special regulation for ORV management at the Seashore. With the participation of knowledgeable affected parties, the NPS expects to develop a practical approach to addressing ORV management and visitor experience issues related to 1) access to beach areas for fishing and other recreational activities; 2) provision of a variety of visitor experiences on the beach, including both ORV and non-ORV experiences; 3) public safety; and 4) protection of beach environments and their associated plant and wildlife communities.

Within the constraints of NPS statutory and policy responsibilities to conserve natural and cultural resources and values and to provide for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Committee will evaluate and address key issues possibly including, but not limited to 1) the designation of specific ORV routes and areas, 2) the periods of the year and times of day during which ORVs may be operated on those routes and areas, 3) other conditions that govern the operation of ORVs

at the Seashore, and 4) other management options for accessing the beach (e.g., walkovers and shuttles). Special ORV regulations for the Seashore would identify criteria used to designate appropriate ORV use areas and routes and would establish consistent ORV management practices and procedures that include the ability to adjust ORV management in response to changes in the Seashore's dynamic physical and biological environment.

The Committee may also provide input, though not necessarily a consensus recommendation, on aspects of protected species management that may affect or be affected by ORV management and that are within the scope of the draft ORV Management Plan/Environmental Impact Statement being prepared concurrently with the proposed special regulations or that directly relate to the implementation of the Seashore's 2007 Interim Protected Species Management Plan. The NPS does not intend to establish a collaborative National Environmental Policy Act (NEPA) process, but rather to encourage information flow between the two processes at appropriate points. The primary focus of the Committee's work will be developing a consensus recommendation on the proposed special regulations.

#### D. MEMBERSHIP.

1. To achieve balanced membership among diverse national, regional, and local interests, membership of the Committee will consist of 30 representatives. Members will be appointed by the Secretary of the Interior (Secretary), and will represent the following interests:
  - a. User groups that have an active and ongoing interest in the management of the Seashore (such as ORV, open access, birding and recreational fishing groups, and other user groups);
  - b. Civic and homeowner associations;
  - c. Commercial fishermen;
  - d. Environmental and natural resource conservation groups;
  - e. Tourism, Visitation, and Business organizations; and
  - f. Federal, State, and county governments.
2. In addition to the principal representatives, alternate representatives will be appointed where possible to 1) ensure adequate representation when principal representatives are unable to attend, and 2) allow for broader participation. If a principal representative and alternate represent different organizations, then they shall be expected to represent the interests of both organizations in their Committee participation.

3. Principals and alternates are appointed for the duration of the negotiation. Any member vacancy on the Committee will be filled by the alternate for that member. If both alternate and principal representative cannot serve, the NPS will endeavor to find a replacement representative to maintain the overall balance of the Committee.
4. Members of the Committee will serve without compensation. However, while away from their homes or regular places of business, members attending Committee meetings approved by the Designated Federal Official (DFO) (see F.2 below) may be allowed reimbursement for actual travel expenses, not to exceed those permitted by the General Services Administration's rules for Federal travelers, in the same manner as persons employed intermittently in government service under section 5703 of title 5 of the United States Code (5 U.S.C § 5703).
5. Poor attendance, lack of participation, not participating in good faith, or other significant violations of the ground rules adopted by the Committee are grounds for a decision by DFO to recommend to the Secretary that a member be removed from the Committee.

E. ETHICS RESPONSIBILITIES OF MEMBERS.

No Committee or subcommittee member shall participate in any specific party matter including a lease, license, permit, contract, claim, agreement, or related litigation with the Department of the Interior in which the member has a direct financial interest.

F. ADMINISTRATION.

1. CHARTER.

The Committee is subject to the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2, and shall take no action unless the charter filing requirements of Sections 9 and 14(b) of FACA have been complied with. The Committee is subject to biennial review and will terminate in accordance with Section G below, unless, before that time, the charter is renewed in accordance with Section 14 of FACA.

2. DESIGNATED FEDERAL OFFICIAL.

The Committee reports to the Superintendent of the Seashore, Manteo, North Carolina. The Superintendent, or in the Superintendent's absence, the Seashore's Chief of Resource Management, will serve as the DFO for purposes of Section 10 of FACA to oversee the management of the Committee. The DFO will be present at all meetings and is authorized to adjourn any meeting whenever he or she determines it to be in the public interest to do so.

3. SUPPORT AND COSTS.

Support for the Committee is provided by the NPS, which may pay for the rental of meeting space, necessary materials and supplies for the meetings, and the services of recording the content of those meetings. The estimated annual operating cost of the Committee, depending on the number of meetings held, is \$220,000.

4. CHAIRPERSON. The DFO will serve as Chair of the Committee.

5. TECHNICAL ADVISORS.

The Chair may accept technical assistance from representatives of other organizations. Areas in which technical assistance may be requested could include beach driving etiquette and outreach, pedestrian access, handicapped access, safety, and protected species. Technical advisors have no authority to make decisions on behalf of the Committee, nor can they report directly to the NPS.

6. WORK GROUPS/SUBCOMMITTEES.

The Committee, in consultation with the DFO, is authorized to form work groups or subcommittees for any purpose consistent with this charter, including issues such as communications and outreach, vehicle equipment and operations, bypasses and alternate routes, or criteria for designating routes and trails. Such work groups shall report back to the full Committee. They have no authority to make decisions on behalf of the full Committee, and they do not report directly to the NPS.

7. MEETINGS AND ANTICIPATED SCHEDULE.

The Committee is expected to meet approximately eight times during its term with a similar number of additional subcommittee meetings, but fewer or more meetings may be held, if necessary. When the schedule is further defined, it will be closely coordinated with the schedule of the concurrent NEPA process.

All meetings will be held at the call of the Chair, after consultation with the Committee. Committee meetings will be called, announced by publication in the *Federal Register*, and held in accordance with the requirements of FACA. Among other provisions, FACA requires open meetings and an opportunity for interested persons to file comments before and after meetings, and make statements during the meeting, to the extent that time permits.

F. DURATION AND DATE OF TERMINATION.

The Committee will terminate on the date the ORV management regulation is published in the *Federal Register*, or 2 years (24 months) after the Committee is established, whichever comes first, unless its charter is renewed in accordance with Section 14 of FACA (see F.1 above) or the Committee is terminated.

G. AUTHORITY.

The Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National 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; 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.

Dirk Kempthorne  
Secretary of the Interior

November 26, 2007  
Date Signed

DATE CHARTER FILED \_\_\_\_\_

The filing date of this first charter constitutes the date of establishment of the Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore.