

OFF-ROAD VEHICLE
LAW ENFORCEMENT MANAGEMENT
ACTIONS AND ACTIVITIES

2009

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¹ Note: The charts and tables on pp. 6-10 of the report provide the total numbers of violator contacts for all law enforcement activities throughout the Seashore, and not just for violations committed by off-road vehicle (ORV) users. The law enforcement staff does not keep separate statistics for violations by user group. (Footnote added 2/08/10)

OFF ROAD VEHICLE MANAGEMENT ACTIONS AND ACTIVITIES

LEGAL, REGULATORY AND POLICY HISTORY

National Park Service Organic Act (16 USC 1et seq.)

Cape Hatteras National Seashore Enabling Legislation (1937), as amended

Executive Order 11644, as amended. (ORV management)

36 CFR 4.10 (b). Travel on park roads and designated routes

NPS Management Policies (2006) Sec 1.5

Other applicable legislation to include Executive Orders 13186 & 11989, Migratory Bird Treaty Act, National Environmental Policy Act, Endangered Species Act.

BACKGROUND

August 25, 1916 - The Organic Act (16 U.S.C. 123, and 4; 39 Stat. 535) - The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

August 17, 1937 – Cape Hatteras National Seashore authorized (H.R. 7022, 50 Stat 669), to preserve for public use and enjoyment the lands and water that occupy the major portion of the North Carolina barrier islands between Whalebone Junction and Ocracoke Inlet for the benefit and enjoyment of the people. The legislation provided that except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project of plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in this area. (amended 1940)

February 8, 1972 – President Nixon issues Executive Order No. 11644, "...to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote safety of all users of those lands, and to minimize conflicts among the various users of those lands." Additionally, instructed the heads of federal land management agencies to designate "...the specific areas and trails on public lands on which the use of off-road vehicles may be permitted and areas in which the use of off-road vehicles may not be permitted."

May 24, 1977 – President Carter issued Executive Order No. 11989, which amended the previous Executive Order directing agency heads "...shall, whenever (they determine) that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such times as they determine that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence."

November, 1978 – In response to Executive Orders, Cape Hatteras National Seashore prepared and released a draft interim management plan for off-road vehicle use at Cape Hatteras National Seashore. The draft plan included public workshops and written comments by the public to the park. The plan was never approved.

May 17, 2004 – Superintendent Lawrence A. Belli signed Superintendent's Order #07 to provide Off-Road Vehicle (ORV) management guidance until an ORV Management Plan and special regulation was prepared, approved, and implemented. This policy was a result of Hurricane Isabel (September 18, 2003), which caused overwash and flattening of dunes, exposing areas of the park to ORV use that had once been protected by dunes. Superintendent's Order #07 was revised in 2006 by Superintendent Mike Murray.

January 18, 2006 – In response to anticipated legal action, Cape Hatteras National Seashore developed the Interim Species Management Strategy (Interim Strategy) to provide resource protections guidance for certain shorebirds and all turtles until an off-road vehicle plan and regulation could be developed.

October 18, 2007 – A lawsuit was brought by the Defenders of Wildlife and National Audubon Society against the National Park Service challenging the Interim Strategy, alleging that it did not provide adequate protection of protected species, including threatened or endangered species from the impacts off-road vehicle use at Cape Hatteras National Seashore. A third group, Hyde County North Carolina, Dare County North Carolina and the Cape Hatteras Access Preservation Alliance was recognized as Intervener-Defendants by the United States District Court for the Eastern District of North Carolina.

April 30, 2008 – A settlement agreement among all parties was reached and Federal District Court Judge Terrence Boyle signed a consent decree. The Consent Decree modified the Interim Strategy and is to be implemented until an ORV plan and special regulation are completed by December 31, 2010 and April 1, 2011, respectively.

May 1, 2008 to present- NPS has implemented resource protection measures prescribed by the Consent Decree.

The Consent Decree included the following measures: increased frequency and degree of monitoring and protection of certain shorebird and all sea turtle species; establishment and enforcement on buffers around breeding and nesting areas; marking, monitoring, and enforcing pedestrian and ORV use corridors on the park's 70 miles of shoreline; installing an ORV free zone in the ocean backshore areas; and implementing a prohibition on night driving during the sea turtle nesting season. In response to the Consent Decree requirements, the following ORV management actions and activities were taken:

Pre-nesting Areas and Buffer Zones

These areas were established and monitored by resource staff according to Consent Decree requirements. Other staff included generalist park rangers, maintenance and law enforcement assisted where needed. Law Enforcement Rangers responded where needed to assist in installation and extension of buffers, violations, investigations and the enforcement of beach closures evacuation of areas to be closed and night driving enforcement.

Ocean Backshore Closures - A backshore closure was delineated in all locations not in front of villages and outside of pre-nesting areas previously described and open to ORV use, per the requirements identified in the Consent Decree.

Night Driving - Non-essential (non-administrative) ORV use was prohibited between 10 p.m. and 6 a.m. from May 1 to November 15, 2008. Between September 16 and November 15, vehicle access was allowed through an established permit system. A permit application was made available, including an education component and language restricting light use.

Information and Education - In May 2008, new signage was ordered with language that clearly communicated applicable regulations, including beach regulation and driving information, a 24 hour phone line for reporting violations and emergencies, and violator penalty information. Information was made available on the park's website identifying the consent decree obligations. Signs were installed at ORV access point by May 2009. The Interpretive Division assisted by developing educational components that explained the Consent Decree and its implementation including: several supporting web pages on the park website, temporary displays for all visitor centers, a site bulletin for visitor handout, ORV ramp bulletin boards, and a partner-based ORV beach driving brochure and night driving permit brochure. In addition, the park published a weekly beach access report and, in coordination with the Outer Banks Visitor's Bureau, developed a Google Earth upload of maps for current ORV access information.

June 04, 2009 - The court approved a stipulation and order modifying the consent decree, which included the following: Paragraph 23 of the consent decree provided for the automatic expansion of pre-nesting areas and buffers, if, in the opinion of NPS, a confirmed deliberate act that disturbs or harasses wildlife or vandalizes fencing, nests, or plants, is documented by NPS personnel. The stipulation modified paragraph 23 in that if information provided by the public, or information obtained by NPS from other sources, leads to the apprehension of a violator, NPS is not required to expand the buffer. If the buffer has been expanded due to a violation and information provided by the public, or information obtained by NPS from other sources, leads to the apprehension of a violator, NPS, in its discretion, may retract the expanded buffer. In 2009, ten (10) such deliberate violations were documented (see table below) and none of the violators were reported by the public or apprehended by NPS.

2009 Deliberate Violations of Resource Protection Areas

Date of Incident	Date of Press Release	Location of Incident
Sat/Sun, March 21 or 22	Tues., March 24	South Point – 1.9 mi. S of R72
Saturday, March 28	Tues., March 31	Hatteras Inlet – southern Pole Rd
Saturday, March 28	Tues., March 31	South Beach – 1.4 mi. E of R45
Saturday, June 27	Mon., June 29	R-23 – Ramp itself & area directly in front of the ramp
Saturday, June 27	Mon., June 29	R-27 – 1 mile north and 1 mile south of the ramp
Saturday, July 25	Wed., July 29	(turtle) 1.2 mi. So. Rodanthe Pier (Waves)
Monday, August 17	No PR issued	R23 – ramp barricades moved
Tuesday, August 18	Tues., Aug 18	R23 – 3 rd violation at site
Wed., August 19	Friday, Aug 21	R23 – 4 th violation at site
Thurs., Sept. 3	Friday, Sept. 4	(turtle) north of R49

The stipulation also added a new paragraph to the consent decree, which was inserted before paragraph 28, that allowed NPS to authorize permitted commercial net fishermen to operate vehicles on the beach outside of existing resource closures, during the hours of 5 a.m. to 6 a.m. from May 1 through September 15, on Bodie Island between Ramps 1 and 4, Hatteras Island, and Ocracoke Island. NPS implemented the new paragraph by issuing a special use permit with specific terms and conditions related to the provisions of the stipulation. A total of three (3) permits were issued in 2009.

Enforcement

NPS Consent Decree implementation incident objectives included protection of the public, employees and incident personnel. To meet this objective strategies were developed to include: scheduled law enforcement patrols throughout the park near nesting areas and resource closures; responding to emergency incidents; briefings provided to orient incoming and existing staff on field operations, contingency plans and safety; visitor contacts including educational, verbal, and written law enforcement contacts; and providing general information to the public on resource protection, vehicle and traffic, beach and water safety.

Effect and Result

The total number of law enforcement contacts documented in weekly district reports reflected 2,668 for calendar year 2009.

The total resource protection violation related contacts, which included citations, written and verbal warnings, has increased from 1,237 in 2006 to 1,534 in 2009. This increase was attributed to the continuation of the 2008 practice of documenting verbal contacts.

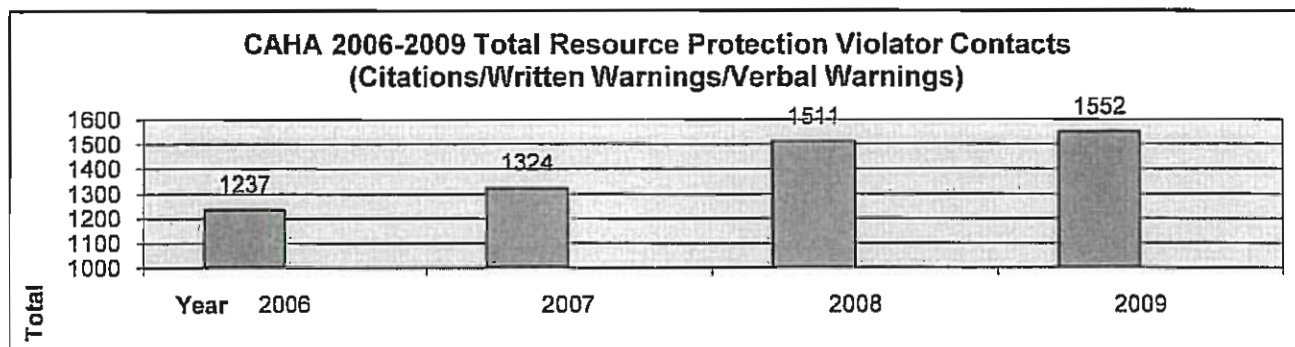
The total number of vehicle and traffic safety violation related contacts has increased from 1017 in 2006 to 1154 in 2009. This being the second year of scheduled beach closures to night driving (10 p.m. to 6 a.m.) from May 1 to September 15 and by restricted permit from September 16 to November 15, in part, has attributed to the increase in 2009.

ENFORCEMENT CAHA 2006-2009 Violator Contact Totals (Resc Prot/Vehicle&Traffic)

The three graphs below represent total incidents for calendar year 2006, 2007, 2008, 2009. The first graph A represents total resource protection, public use incidents. The second graph B represents total vehicle & traffic safety incidents. The third graph C represents total number of all incidents at Cape Hatteras National Seashore.

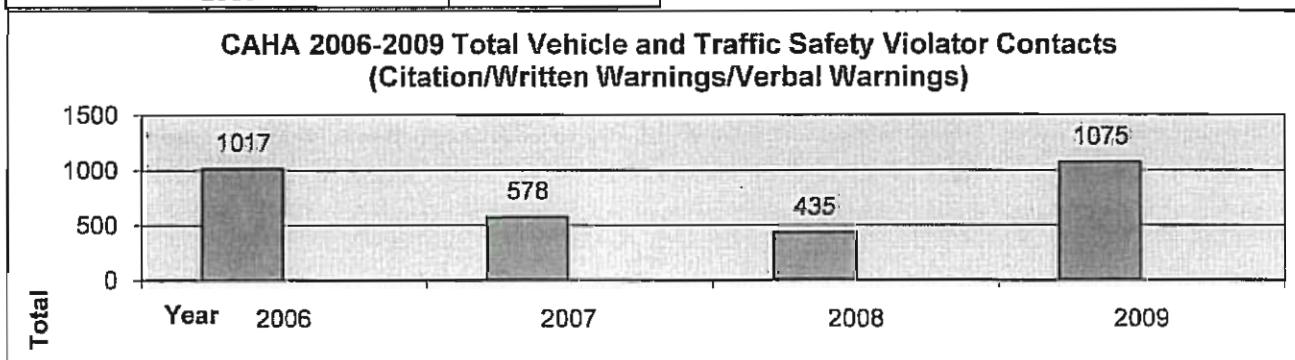
Total 2006-2008 Resource Protection Contacts	
2006	1237
2007	1324
2008	1511
2009	1552

Table A



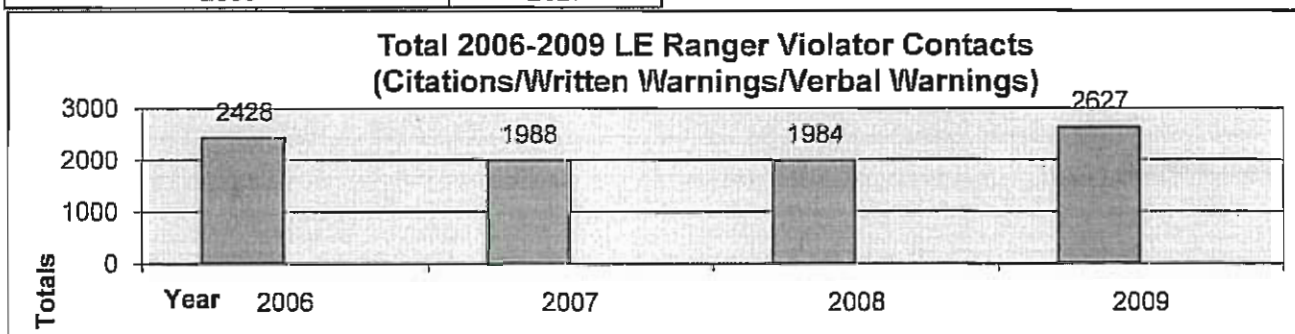
Total 2006-2009 Traffic & Vehicle Safety Contacts	
2006	1017
2007	578
2008	435
2009	1075

Table B

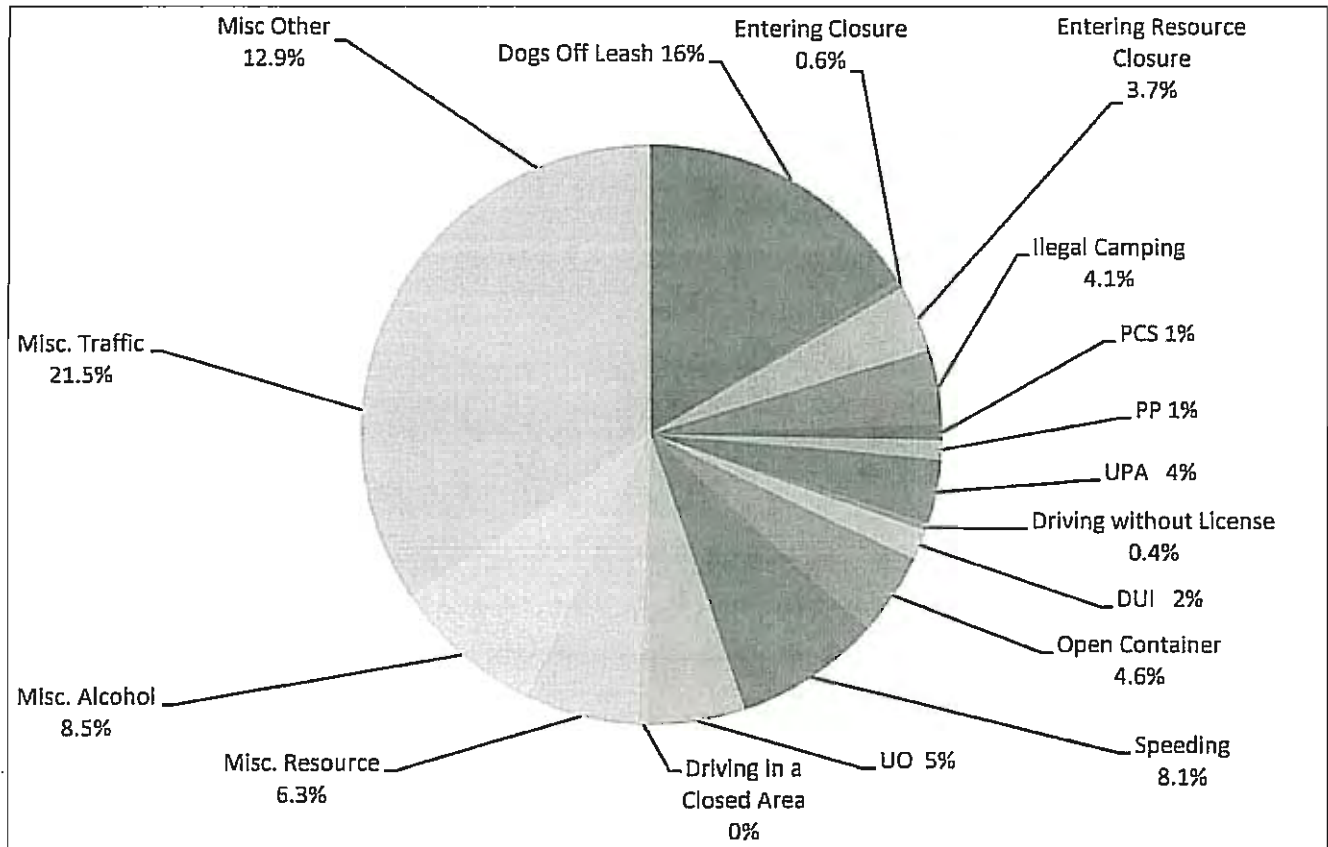


Total 2006-2009 LE Ranger Contacts	
2006	2428
2007	1988
2008	1984
2009	2627

Table C



**Cape Hatteras National Seashore total number and percentages for resource
protections, public use and vehicle & traffic safety contacts for the calendar year
2009.**

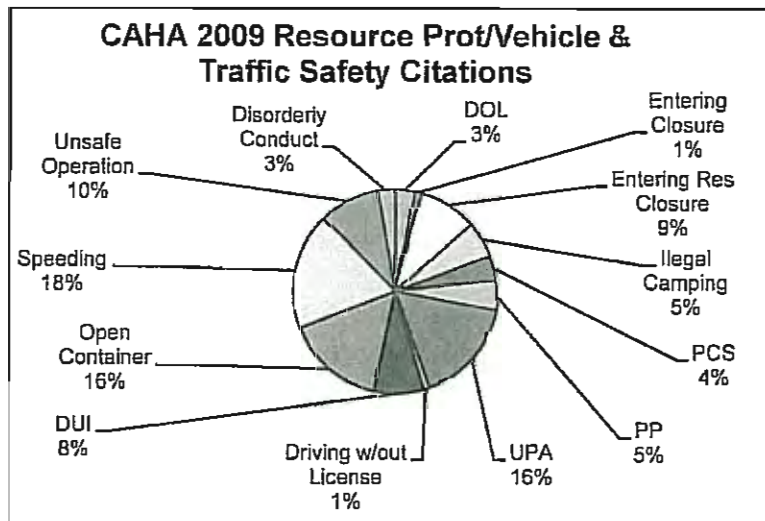


Written Warnings/Citations/Verbal Warnings

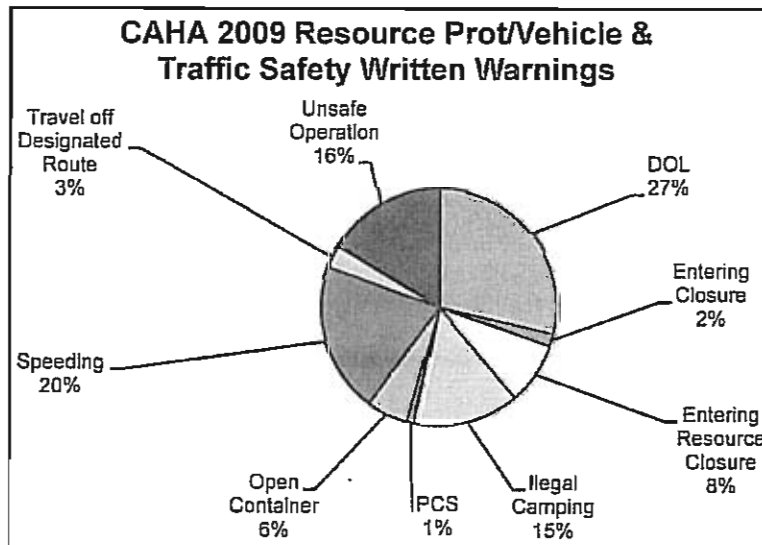
Dog Off Leash (DOL)	422
Entering Closure	15
Entering Resource Closure	98
Illegal Camping	108
Possession of Controlled Substances (PCS)	23
Possession of Paraphernalia (PP)	27
Underage Possession of Alcohol (UPA)	95
Driving without License	10
Driving Under the Influence (DUI)	45
Open Container	121
Speeding	212
Unsafe Operation (UO)	141
Disorderly Conduct	16
Misc. Resource	165
Misc. Alcohol	224
Misc. Traffic	566
Misc Other	339
Total	2627

ENFORCEMENT CAHA 2009 Resource Protection/Vehicle & Traffic Safety Total Violator Contacts

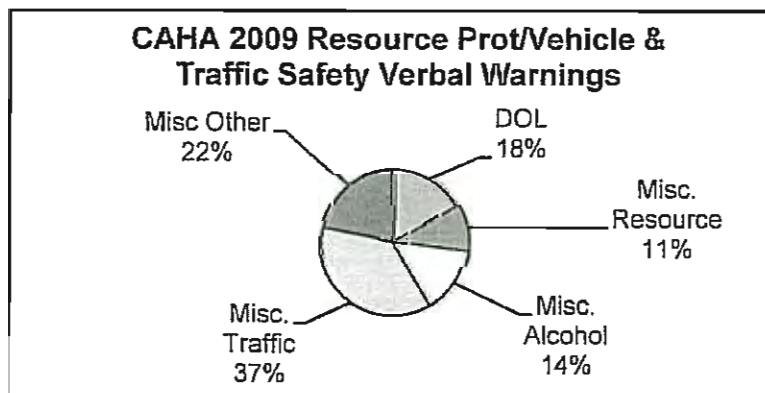
The three diagrams below represent the total number and percentages of resource protection, public use and vehicle & traffic safety violator contacts documented at CAHA for calendar year 2009. They are identified by citations, written warnings and verbal warnings. This does not include boating & water use activities, mutual aid or specific regulation incidents.



Citations	
Dog Off Leash (DOL)	18
Entering Closure	6
Entering Res Closure	54
Illegal Camping	32
Possession of Controlled Substances (PCS)	23
Possession of Paraphernalia (PP)	27
Underage Possession of Alcohol (UPA)	95
Driving w/out License	5
Driving Under the Influence (DUI)	45
Open Container	90
Speeding	105
Unsafe Operation	55
Disorderly Conduct	16
TOTAL	571



Written Warnings	
Dog Off Leash (DOL)	150
Entering Closure	9
Entering Resource Closure	44
Illegal Camping	76
Driving without License	5
Open Container	31
Speeding	107
Travel off Designated Route	16
Unsafe Operation	86
TOTAL	524

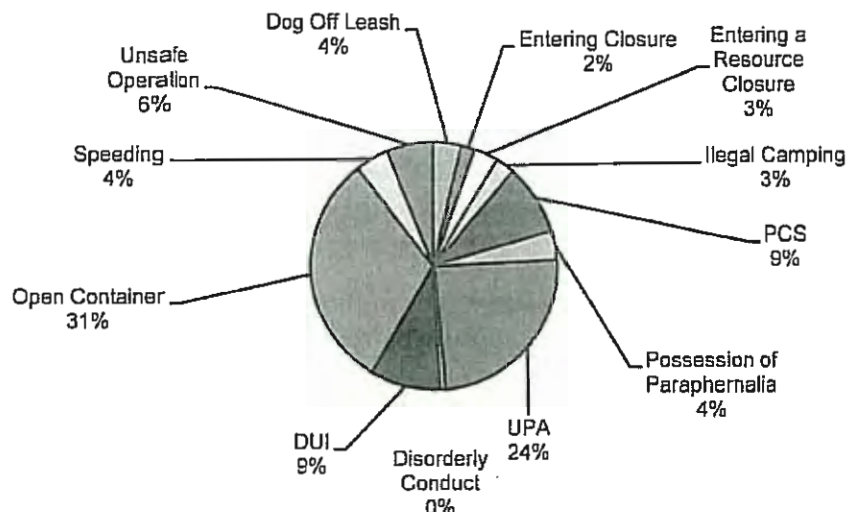


Verbal Warnings	
Dogs off Leash (DOL)	254
Misc. Resource	165
Misc. Alcohol	224
Misc. Traffic	566
Misc Other	339
TOTAL	1548

DISTRICT Bodie Island 2009 Resource Protection/Vehicle & Traffic Safety Violator Contacts

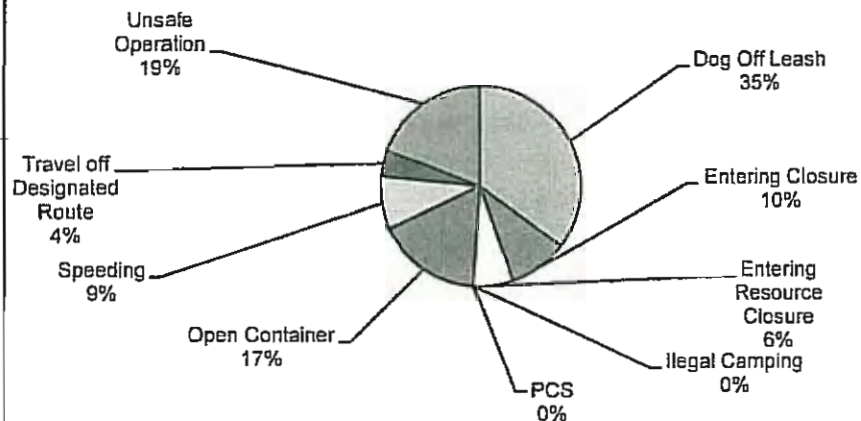
The information provided below represents the total number and percentages for resource protection, public use and vehicle & traffic safety violator contacts for the Bodie Island District in calendar year 2009. These are identified by citations, written warnings and verbal warnings.

Bodie Island 2009 Resource Prot/Vehicle & Traffic Safety Violator Citations



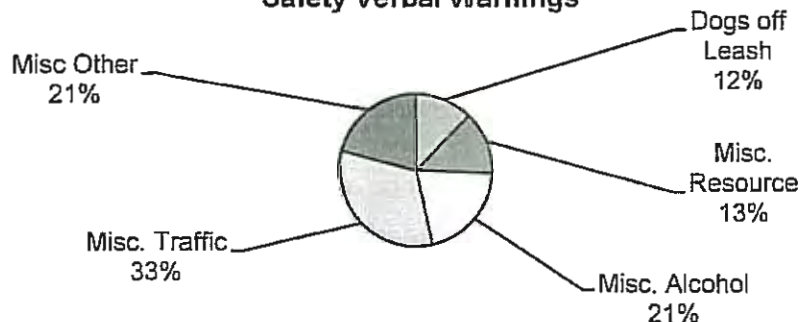
Citations	
Dog Off Leash	6
Entering Closure	3
Entering a Resource Closure	5
Illegal Camping	4
Possession of Controlled Substance (PCS)	15
Possession of Paraphernalia	6
Underage Possession of Alcohol (UPA)	39
Driving w/out License	1
Driving Under the Influence (DUI)	15
Open Container	50
Speeding	7
Unsafe Operation	10
Disorderly Conduct	0
TOTAL	161

Bodie Island 2009 Resource Prot/Vehicle & Traffic Safety Written Warnings



Written Warnings	
Dog Off Leash	33
Entering Closure	9
Entering Resource Closure	6
Illegal Camping	0
Possession of Controlled Substance (PCS)	0
Driving without a license	0
Open Container	16
Speeding	8
Travel off Designated Route	4
Unsafe Operation	18
TOTAL	94

Bodie Island 2009 Resource Prot/Vehicle & Traffic Safety Verbal Warnings

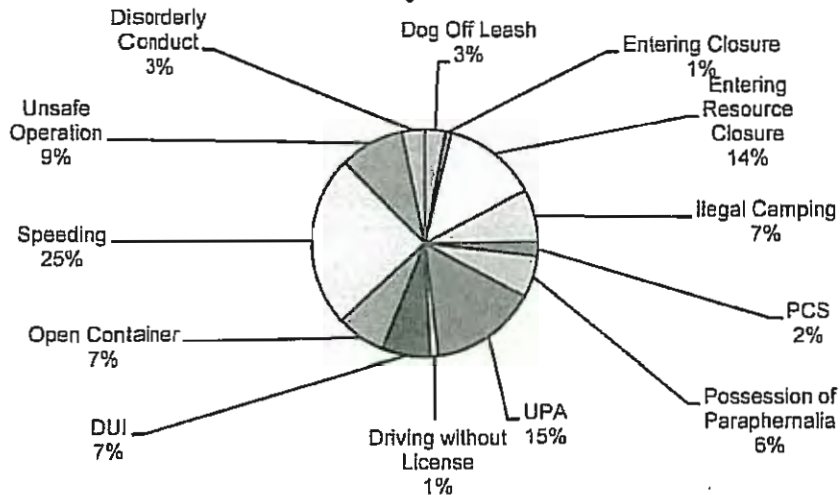


Verbal Warnings	
Dogs off Leash	58
Misc. Resource	63
Misc. Alcohol	100
Misc. Traffic	155
Misc Other	99
TOTAL	475

DISTRICT Hatteras Island 2009 Resource Protection/Vehicle & Traffic Safety Violator Contacts

The information provided below represents the total number and percentages for resource protection, public use and vehicle & traffic safety violator contacts for the Hatteras Island District in calendar year 2009. These are identified by citations, written warnings and verbal warnings.

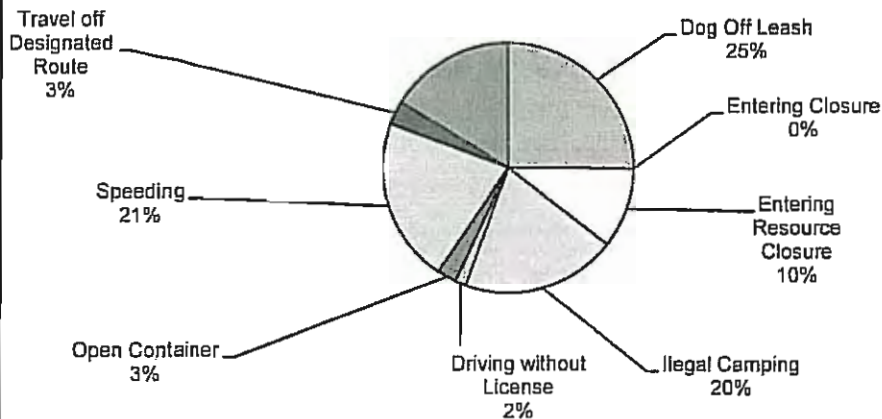
Hatteras Island 2009 Resource Prot/Vehicle & Traffic Safety Citations



Citations

Dog Off Leash	10
Entering Closure	3
Entering Resource Closure	46
Illegal Camping	25
Possession of Controlled Substance (PCS)	7
Possession of Paraphernalia	20
Underage Possession of Alcohol (UPA)	52
Driving without License	4
Driving Under the Influence (DUI)	23
Open Container	24
Speeding	83
Unsafe Operation	31
Disorderly Conduct	11
TOTAL	339

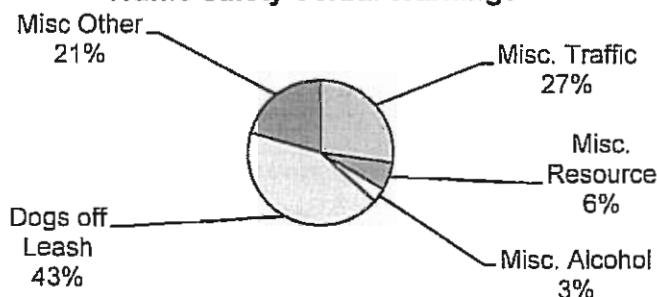
Hatteras Island 2009 Resource Prot/Vehicle & Traffic Safety Written Warnings



Written Warnings

Dog Off Leash	90
Entering Closure	0
Entering Resource Closure	37
Illegal Camping	72
Possession of Controlled Substance (PCS)	0
Driving without License	5
Open Container	9
Speeding	76
Travel off Designated Route	11
Unsafe Operation	58
TOTAL	358

Hatteras Island 2009 Resource Prot/Vehicle & Traffic Safety Verbal Warnings



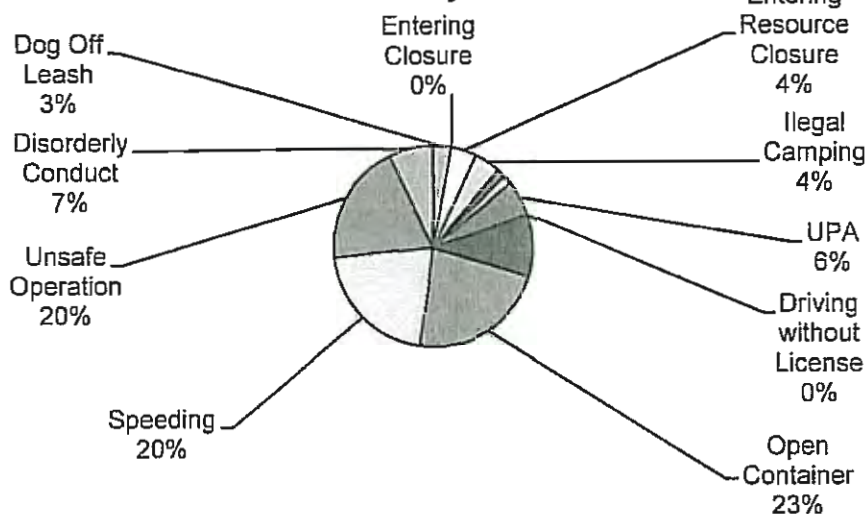
Verbal Warnings

Dogs off Leash	143
Misc. Resource	48
Misc. Alcohol	102
Misc. Traffic	260
Misc Other	153
TOTAL	706

DISTRICT Ocracoke Island 2009 Resource Protection/Vehicle & Traffic Safety Violator Contacts

The information provided below represents the total number and percentages for resource protection, public use and vehicle & traffic safety violator contacts for the Ocracoke Island District in calendar year 2009. These are identified by citations, written warnings and verbal warnings.

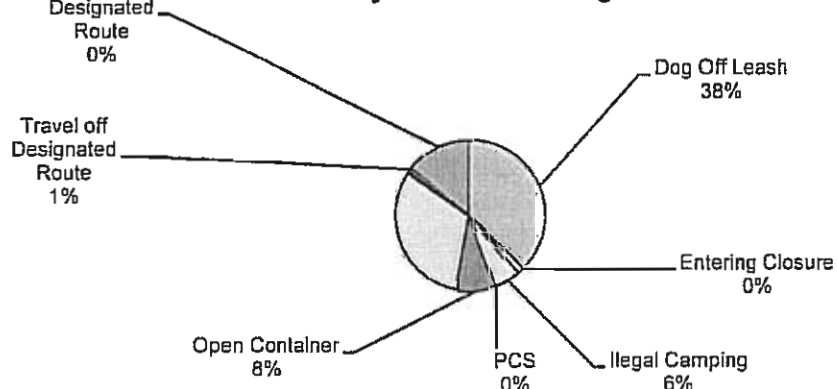
Ocracoke Island 2009 Resource Prot/Vehicle & Traffic Safety Citations



Citations

Dog Off Leash	2
Entering Closure	0
Entering Resource Closure	3
Illegal Camping	3
Possession of Controlled Substance (PCS)	1
Possession of Paraphernalia	1
Underage Possession of Alcohol (UPA)	4
Driving without License	0
Driving Under the Influence (DUI)	7
Open Container	16
Speeding	15
Unsafe Operation	14
Disorderly Conduct	5
TOTAL	71

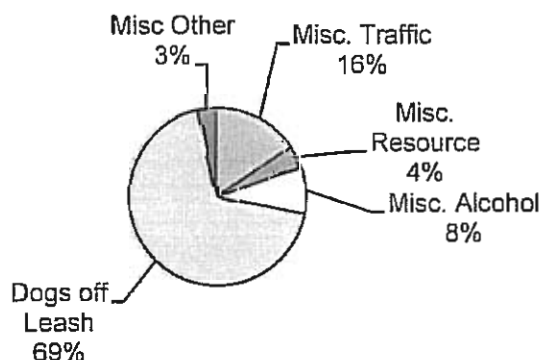
Ocracoke Island 2009 Resource Prot/Vehicle & Traffic Safety Written Warnings



Written Warnings

Dog Off Leash	27
Entering Closure	0
Entering Resource Closure	1
Illegal Camping	4
Possession of Controlled Substance (PCS)	0
Driving without License	0
Open Container	6
Speeding	23
Travel off Designated Route	1
Unsafe Operation	10
TOTAL	72

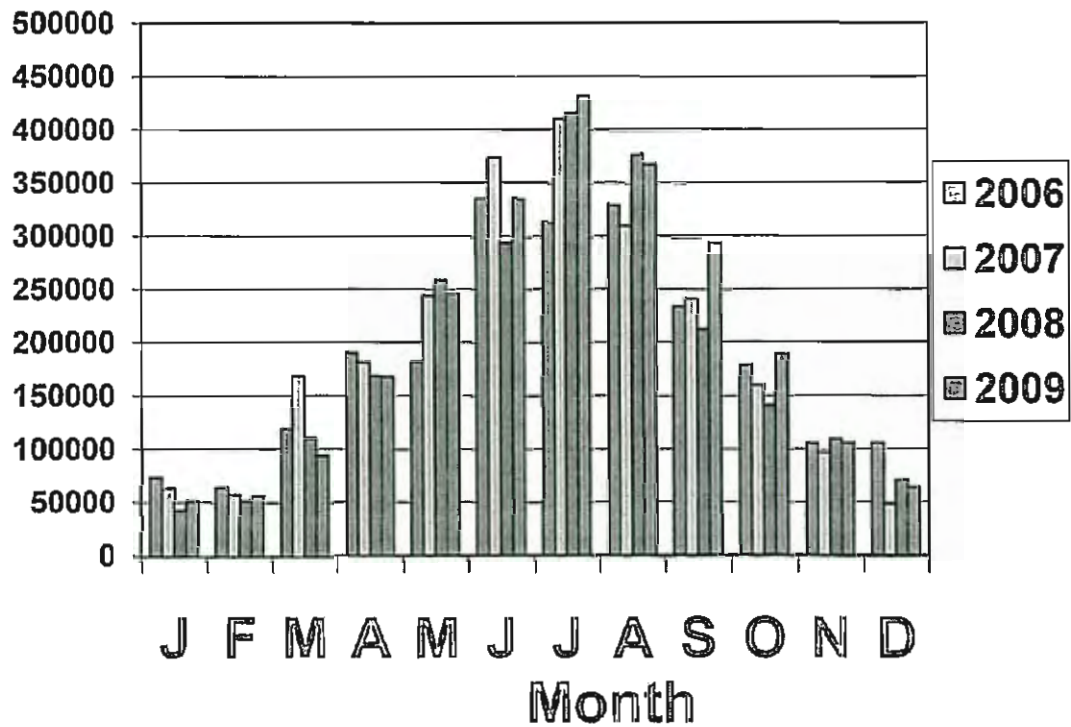
Ocracoke Island 2009 Resource Prot/Vehicle & Traffic Safety Verbal Warnings



Verbal Warnings

Dogs off Leash	53
Misc. Resource	54
Misc. Alcohol	22
Misc. Traffic	151
Misc Other	87
TOTAL	367

Cape Hatteras National Seashore Visitation 2006-2009



Year	MONTH											
	J	F	M	A	M	J	J	A	S	O	N	D
2006	73284	64510	119195	190575	182144	335866	313194	329836	233994	177725	105887	106190
2007	63073	56892	167919	181584	244211	373472	409996	310481	240804	159694	97061	48026
2008	42855	51822	110554	168645	258465	295335	415752	376977	212708	141377	109481	71147
2009	51546	56032	94677	168247	246315	335232	431772	368429	293443	188710	106080	63979
Number of Visitors												

EDUCATION

Beach Driving Brochure

- An informative brochure on the rules, regulations, and safety tips concerning Off-Road Vehicle (ORV) beach driving within the Cape Hatteras National Seashore. These brochures are available at any Cape Hatteras National Seashore Visitor Center or Outer Banks Visitors Bureau Welcome Center, as well as local tackle shops and realty offices.
- Beach Driving brochures also provide a detailed map for locating beach access ramps, seasonal closure areas, campgrounds, and other points of interest concerning ORV and beach access.


Night Beach Driving Permit

- September 16 to November 15-A signed Night Beach Driving Permit is required to be visible on the dashboard of vehicles for night driving between the hours of 10 p.m. and 6 a.m. Hard copies are available at an Cape Hatteras National Seashore Visitor Center or Outer Banks Visitors Bureau Welcome Center, as well as local tackle shops and realty office. Electronic copies are also made available for download through the Park's website. (www.nps.gov/caha)
- November 16 to April 30
Night driving is allowed at all hours. No permit is needed.
- May 1 to September 15
Night driving is prohibited from 10 p.m. until 6 a.m. Signs advising the public of the regulation are posted at all beach access ramps in the Cape Hatteras Seashore. To further advise the visiting public, an electronic message board is placed at the main entrance to the Seashore on Highway 12 that alerts the public to the prohibition of beach driving from 10 p.m. through 6 p.m.
- Night time driving permits distributed by Rangers, or tackle shops and visitor contact stations: 5,295. Interpretation reports the total # of "hit counts" for permits on the park website between, 15 September through 15 November 2009, was 2,170. Totals - 7,456.

National Park Service
U.S. Department of the Interior
Cape Hatteras National Seashore

**BEACH DRIVING at
Cape Hatteras National Seashore**

Cape Hatteras National Seashore contains a wealth of natural and cultural resources. The use of off-road vehicles (ORVs) is a traditional way for visitors to enjoy the Seashore's ocean beaches and soundside waters. To provide for both visitor enjoyment and the protection of park resources, please observe the following regulations and recommendations when using ORVs at the Seashore.



National Park Service
U.S. Department of the Interior
Cape Hatteras National Seashore

**NIGHT BEACH DRIVING
PERMIT**
SEPT. 16 - NOV. 15

Permit Procedures:

1. Read Sections #1, #2 and #3 inside this permit brochure.
2. Sign and date below.
3. Place this permit on your vehicle dashboard in plain view while driving on seashore beaches from 10 p.m. to 6 a.m.

I have read and understand
Sections #1, #2 and #3 of this permit.

Signature _____

Name _____ (please print)

Date _____

Persons violating any of the conditions
and/or requirements of the permit may be
subject to civil and/or criminal penalties
and revocation of this permit.

08/2009