

OFF-ROAD VEHICLE ACTIVITY REPORT

CAPE COD NATIONAL SEASHORE

2007

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TABLE OF CONTENTS

Off-Road Vehicle Activity

Regulatory History	3
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2007 ORV Management Actions and Activities

Regulatory and Policy Changes	6
Number and Type of Permits Issued	6
Seasonal Permit Process	7
Weekly Permit Process	8
Temporary ORV Corridor Closures	8
Piping Plover Breeding Success	10
Education	10
Enforcement	11

Off Road Vehicle Activity Cape Cod National Seashore 2007 Report

Regulatory History

Since the creation of Cape Cod National Seashore (CACO) in 1961, Off-Road Vehicle (ORV) operations have been strictly regulated. During the 1960's and 1970's, ORV trails and routes were extensive. Almost the entire outer beach from Long Point in Provincetown to Nauset Inlet in Eastham was available for ORV use. Additionally, an extensive system of inner routes and trails behind the primary dune existed in Provincetown and North Truro. In 1978, Eastham closed the route between Coast Guard Beach and Nauset Inlet because the Blizzard of '78 destroyed the available ORV route. At approximately the same time, Wellfleet Town Meeting banned the use of ORV's on their beaches between June 15 and September 15. In the early 1980's Wellfleet closed the outer beach to ORV use year-round. As a result, the ORV route on the back beach was limited to the area from the Wellfleet-Truro town line north to Long Point in Provincetown.

In 1980, the Conservation Law Foundation (CLF) sued the Cape Cod National Seashore because they believed there were inadequate controls over ORV driving within the Seashore. The Seashore created a new ORV management plan that addressed a variety of concerns. The ORV Management Plan of 1981 closed all inner dune routes and trails to the public except for dune cottage residents or their caretakers, dune tour operations, and National Park Service patrols. The 1981 plan also limited the ORV route on the back beach from Hatches Harbor to the Wellfleet town line, and only allowed ORV operation on the beach from Head of the Meadow in Truro to the Wellfleet town line at night.

In 1984, the judge hearing the CLF suit in Boston ruled that the Seashore's 1981 plan was adequate and suggested the plan could be improved but did not require that the plan be changed. Following the judge's suggestion, the ORV Management Plan of 1985 was implemented. The 1985 plan permanently closed the portion of the ORV corridor between High Head in Truro and the Wellfleet town line. It further restricted the use of ORV's by creating a season for general operation between April 15 and November 15. ORV's could operate on the beach between November 16 and April 14 only for the purposes of accessing town shellfish beds, picking up flotsam and jetsam, or in the case of dune cottage residents or their caretakers for accessing their cottage. A Limited Access Pass (LAP) was required and no travel was permitted within 2 hours of high tide.

In 1986, the Piping Plover (*Charadrius melodus*), a small beach-nesting shorebird, was federally listed as a threatened species. CACO was required by law to protect threatened and endangered species occurring within the park. The Seashore began to routinely close portions of the existing ORV corridor when Piping Plover chicks were present. As the plover population on the Seashore increased, the amount of ORV corridor decreased during June and July each year. In 1995, as little as 0.3 miles of ORV corridor was available for several weeks.

The need for new regulation was motivated by a number of events including management issues related to the inflexibility of the existing rule to deal with changing conditions on the beach. In

1995, the Seashore entered into a negotiated rule-making process along with 22 agencies, organizations, and interest groups with long-term interests and involvement in ORV management at the Seashore. Members from the environmental, mobile sports fishing, ORV communities, representatives from the U.S. Fish and Wildlife Service, Massachusetts Division of Fisheries and Wildlife, and the six towns in which the Seashore's boundary lies comprised the rule-making committee. These groups met over a period of three months with the objective of reaching consensus on a new ORV management plan. In November 1995, the committee presented a proposed rule for ORV Management at Cape Cod National Seashore. The rule was published in the Federal Register for public comment and became codified into 36 CFR in 1998 (36 CFR 7.67).

The Committee agreed to a variety of mutual concerns (see Federal Register 63:9143-9148 for the complete final rule). ORV use remained limited to April 15 through November 15. The designated route was established, including the back beach from Hatches Harbor to High Head in Truro. The portion of beach from Exit 8 to High Head would be closed from April 1 to July 20. The area from Coast Guard Beach in Truro to Longnook Beach in Truro would be open for the purpose of night fishing, and the area from High Head to Head of the Meadow Beach, including the access at Head of the Meadow, would be open from July 1 through August 31 (Figure 1.1). Plover nesting and other resource or public safety issues could require that all or portions of the corridor be closed for indefinite periods of time. The amount of open ORV corridor is typically less in the beginning of the season than in August due to the terms of the negotiated rule. Up to 8.5 miles of ORV corridor, with an additional 2.0 miles of ORV corridor available during evening hours at Coast Guard Beach, could potentially be open in late July and August, depending on shorebird nesting activities on portion of the corridor and condition of beach cuts.

The negotiated rule also addressed NPS responsibilities for monitoring the use and condition of the oversand routes for the purpose of reviewing the effects on natural, cultural and aesthetic resources of vehicles in designated corridors. The rule further stated that information gathered from this process would be used as the basis for an annual report to the Secretary and the public describing the results of the monitoring conducted. This document represents the ninth annual ORV monitoring report as required by the negotiated rule.

The negotiated rule set a limit of 3400 ORV permits as the maximum amount to be sold annually. The rule specified that the 3400 permits were to be a combination of both annual oversand and self-contained vehicle (SCV) permits. In 1998, the first year that the negotiated rule was implemented, this cap was reached in the first week of September. Many people, who traditionally came to Cape Cod in September and October to fish, were unable to purchase a permit. In 1999, in order to allow a more equitable distribution of permits throughout the season, the Seashore converted 200 of the 3400 permits available into rotating weekly permits based on the rationale that some of the people who purchase annual permits actually use the permit for 7 days or less. No more than 200 weekly permits were active at any one time so as not to exceed the 3400 permit cap from 1999 until 2004. From 1999 until 2004, the 3200 annual permits sold out on progressively earlier dates each year and there has been a corresponding increase in the number of weekly permits sold during the summer months. Annual permits went on sale on April 10th each year and sold out in late July 1999, early July 2000, late June 2001, May 24, 2002, April 26, 2003, and April 19, 2004.

The Seashore's shorebird management plays a significant role in the recovery of this species accounting for nearly 10% of the Atlantic Coast population of plovers. These protection

measures along with other management actions taken has allowed plover populations within the Seashore to increase from 18 pairs in 1985 to more than 70 pairs in recent years.

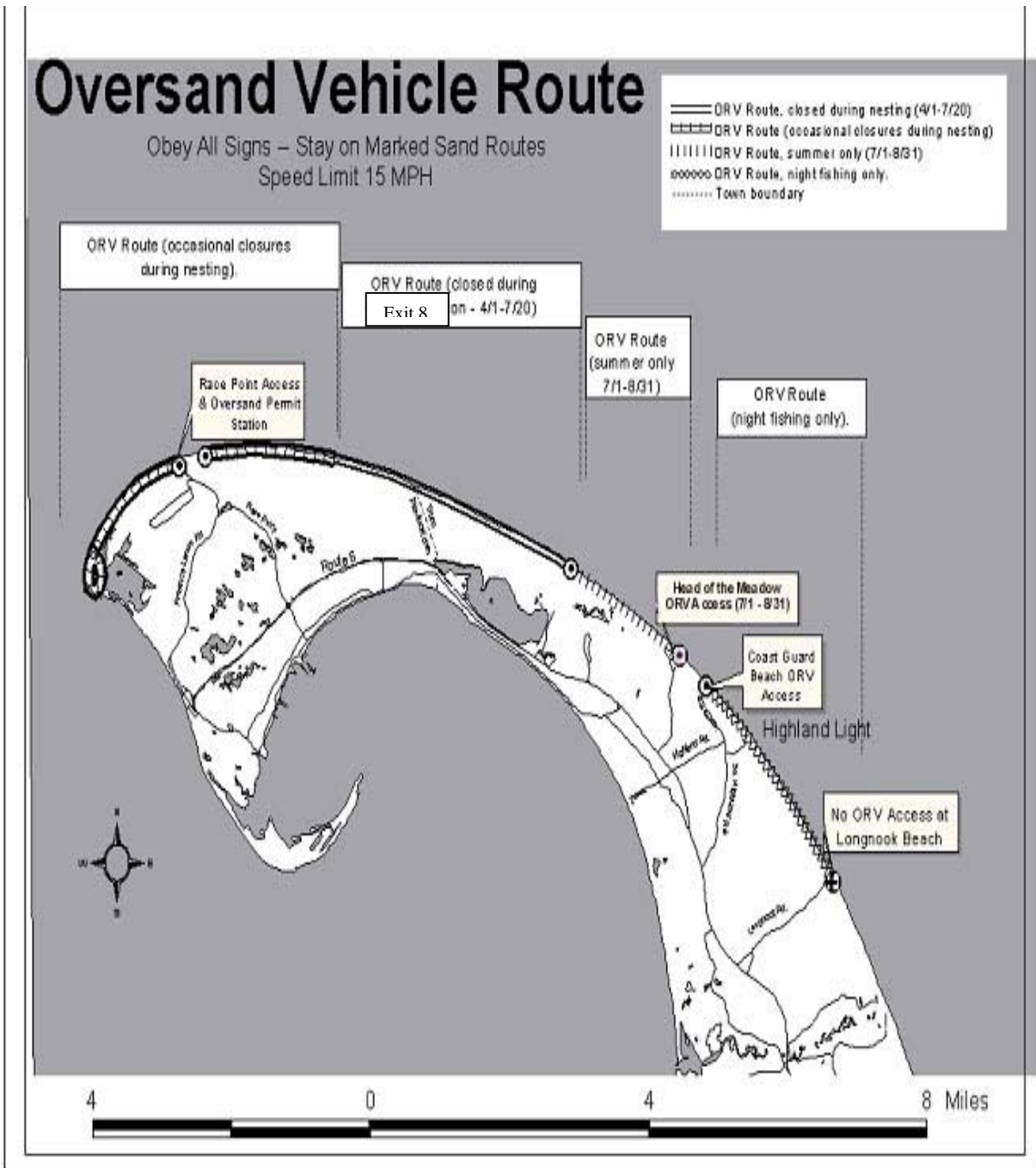


Figure 1.1 Map of the current oversand vehicle routes defined by the negotiated rule, Cape Cod National Seashore.

In 2004, the seasonal permit sales process was overwhelmed by the turnout of people. Permits went on sale April 10th. The 3,200 seasonal permits were sold out in 10 days. Three public meetings were held in 2004, to seek input to improve the permit sales distribution system. Seven changes were incorporated into the permit sales process for the 2005 season.

In 2005, the seven changes created a smooth seasonal permit sales process. By the end of the 2005 season, 261 seasonal permits were still available and the weekly permits did not sell out on any days. The Park implemented all changes on a trial basis in 2005. In 2005, the results of changes made to ORV permit sales were overwhelmingly positive and were implemented on a permanent basis.

In 2006, the sales process continued to run smoothly. Seasonal permits were available throughout the season and there were adequate weekly permits available each day. The ORV corridor was completely closed for daytime recreational use for the first time. There was a near to total closure from June 11 – July 12. The Seashore began efforts to explore possible alternatives that would allow for adaptive management alternatives. On July 18th, the Seashore hosted an informational public meeting on the ORV closures during the 2006 season on July 18. On December 9th, the Seashore's Citizens Advisory Commission hosted an ORV and Piping Plover Public Meeting and Workshop.

2007 ORV MANAGEMENT ACTIONS AND ACTIVITIES

Regulatory and Policy Changes

On June 5, 2007, the Seashore completed work on an Environmental Assessment (EA) to improve ORV access, while maintaining piping plover protection. There was extensive public involvement and assistance in developing the EA. The Selected Alternative from the EA provide three management options to improve access to the ORV Corridor if there was a near (<0.5 mile) or total daytime ORV corridor closure. The three alternatives were as follows:

1. Open the ORV corridor at High Head to the north prior to July 21st and the ORV corridor to the south prior to July 1st if vehicular use does not impact piping plover nesting activity.
2. Open the ORV corridor north of the Head of the Meadow access prior to July 1st if vehicular use does not impact piping plover nesting activity.
3. Open the ORV corridor at Coast Guard (Truro) to day use for vehicles. This alternative is available until June 30 due to the narrowness of the beach and the number of pedestrians that use this area after June 30.

A fourth alternative, creating an ORV corridor north of the Herring Cove Beach parking lot, is permitted under the 2007 ORV EA. However, this alternative requires a regulatory change before it becomes a possible option.

Number and Type of Permits Issued

In 2007, total permit sales were down 12% as compared to total permit sales in 2006. This followed a 15% decline in total permit sales from the 2005 to 2006 season. Permit sale declines were experienced in three of the four permit types. Only the sale of SCV weekly permits increased. The decline in total permit sales over the last two years can be attributed to the total or near total ORV corridor closures experienced in 2006 and 2007 (see figure 1.4). The total number of permits sold in 2007 was slightly fewer than total permit sales in 1999.

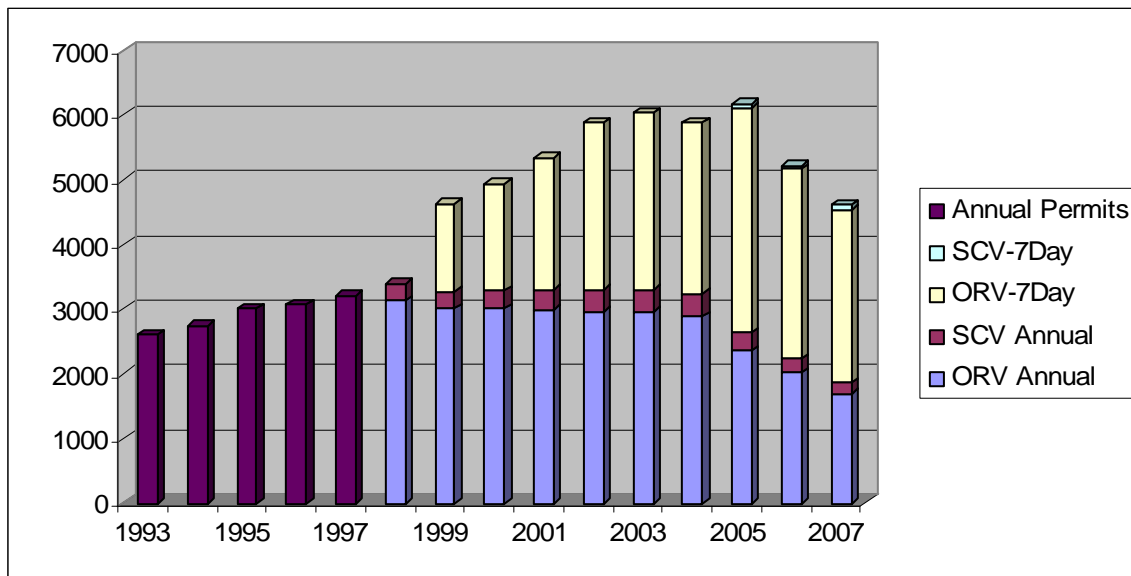


Figure 1.2 Recent history of permit issuance in the ORV program at Cape Cod National Seashore.

In 2007, 1,868 annual permits were issued out of 3,000 permits that were available (Figure 1.3). There were 1,697 annual ORV permits sold and 171 annual SCV permits sold. In addition to the annual permits, there were 2,659 ORV weekly permits and 89 SCV weekly permits issued. In 2007, the total number of permits issued was 4,616.

Year	Annual ORV Permits	Annual SCV Permits	Total Annual Permits	7-Day ORV Permits	7-Day SCV Permits	Date that the seasonal cap was reached
2007	1,697	171	1,868	2,659	89	NA (3000)
2006	2,021	221	2,242	2,936	49	NA (3000)
2005	2,361	280	2,641	3,463	60	NA (3000)
2004	2,881	353	3,234	2,644	N/A	19 April (3200)
2003	2,951	349	3,300	2,739	N/A	26 April (3200)
2002	2,957	335	3,292	2,592	N/A	24 May (3200)
2001	2,990	314	3,304	2,026	N/A	27 June (3200)
2000	3,003	285	3,288	1,649	N/A	8 July (3200)
1999	3,006	259	3,265	1,367	N/A	26 July (3200)
1998	3,125	275	3,400	N/A*	N/A	3 Sept (3400)

Figure 1.3 Permit issuance in the ORV program at Cape Cod National Seashore.

* weekly permits not sold

Seasonal (Annual) Permit Process

Seasonal permits went on sale Wednesday, March 26, 2007. Permit sales went very smoothly, as was the case each year since the 2005 permit sales changes. Everyone that came out to acquire a permit, with the appropriate vehicle equipment, was accommodated.

Weekly Permit Process

Two hundred of the 3,400 ORV permits are made available through an Advanced Sales System. ORV users are able to buy weekly permits for any week in the 2007 season, starting March 1st, through the Advanced Sales System. After weekly advanced sales forms were processed, the permittee was contacted and provided a confirmation number. The computerized reservation system continued to work well. The 200 weekly permits, available through the Advanced Sales System, were adequate to cover the demand during all weeks in the 2007 season.

Two hundred, of the 3,400 ORV permits, are made available for walk-ins at the Oversand Station. These permits are sold on a first-come, first-served basis. On days when there were Advanced Sales weekly permits still available, they were added to the 200 permits sold at the Oversand Station. The 200 weekly permits, made available to walk-ins at the Oversand Station, were adequate to cover the demand during all weeks in the 2007 season.

Weekly permits were made available to SCV users through the Advanced Sales System (March 1) or to walk-ins on a first-come first-served basis in 2007. SCV's are limited on the beach to a maximum of 100 units. Blackout dates for weekly SCV permits were created before the July 4th weekend and Labor Day weekend. All 100 spaces were taken during the winter lottery for the two Holiday weekends. The weekly SCV permits were not issued if there were less than seven days remaining before the Holiday weekend.

Temporary ORV Corridor Closures

The ORV corridor, for a second year in a row, completely closed for daytime recreational use. There was less than 0.2 miles of corridor open for 14 days in 2007 as compared to 31 day in 2006. The 17-day decrease occurred because management was able to utilized one of the options made available in the 2007 ORV EA. A section of ORV corridor north and south of the High Head access was opened on June 15. This area was utilized until July 13. The corridor would have had less than 0.3 miles open for 32 days instead of 14 days if the additional options were not available.

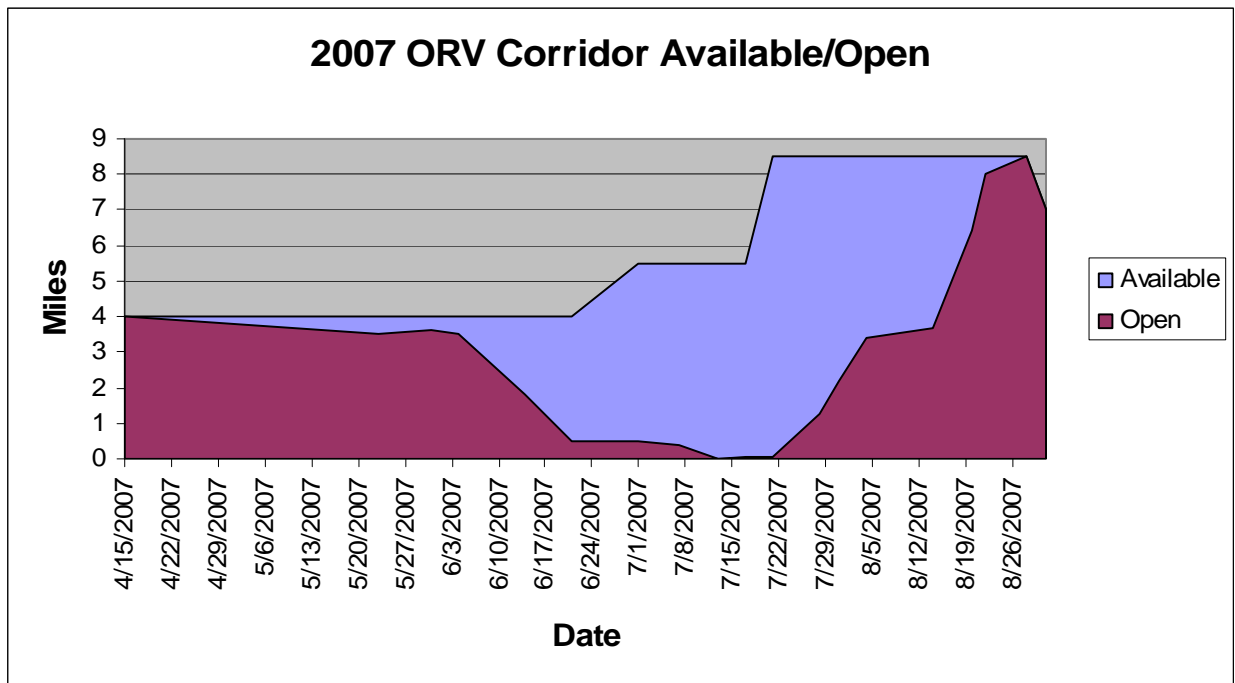


Figure 1.4 Chart showing available and open ORV corridor for the 2007 season.

The following are highlights of the closings and openings for the ORV corridor:

April 15: The corridor opened for the season. There was 3.5 miles of corridor opened. There was 0.5 miles of beach that did not open initially due to narrow and steep beach conditions from the north end of Hatches Harbor to an area just east of the crossover road.

May 23: Hatches Harbor closed due to a plover nest that was established approximately six feet off the Pole Line Road and the existing closure that was in affect due to narrow and steep beach conditions on the outer beach around the point.

June 4 – 15: Race Point North corridor gradually closed due to plover nest hatchings.

June 22: Race Point South corridor closed due to a plover nest hatching near the access. A section of 0.5 miles of corridor was opened north and south of the High Head access. This was one of the three options made available by the 2007 ORV EA. Beach parking lot fees were waived. A part of the open corridor was utilized as a SCV area. The third tear of the Race Point Beach parking lot was used as a SCV overflow area. This was due to the limited amount of wide beach available for SCV units at High Head. The maximum number of SCV units accommodated at High Head was 30.

July 1: The overflow SCV area at Race Point Beach was moved to the outer loop of the Province Lands Visitor Center parking lot.

July 13: A plover brood with unfledged chicks moved to the High Head access area. The access was closed. This shut down all daytime ORV corridor access. Part of the Pilgrim Heights parking lot was used as a SCV area, along with the previously opened SCV area at the Province Lands Visitor Center.

July 18: A small beach parking area became available at the Race Point North access due to a plover nest fledging just south of the access and a second brood moving further up the Race Point North beach.

July 28: Plover chicks fledged from the broods along the Pole Line Road and in Hatches Harbor. The ORV corridor in the Hatches Harbor area and the northern section of Race Point North were reopened. This area was accessible via the Pole Line Road. A Self-Contained Vehicle area was set up in the section of corridor either side of the Race Point North access.

July 31: The entire Race Point North ORV corridor reopened due to plover broods fledging. The Race Point SCV area was expanded.

August 4: The High Head access reopened and an additional 1.2 miles of ORV corridor was made available due to an unsuccessful plover brood.

August 20: Race Point South access reopened and an additional 2.7 miles of ORV corridor was made available due to a plover brood fledging.

August 27: An additional 1.3 miles of Race Point South ORV corridor was made available due to a plover brood fledging.

August 29: The entire ORV corridor was open due to the last plover brood fledging near Head of the Meadow Beach.

Piping Plover Breeding Success

(For more detailed information reference *Monitoring and Management of Piping Plovers and Colonial Waterbirds at Cape Cod National Seashore 2007*)

In 2007, Cape Cod National Seashore documented 85 nesting plover pairs, a total of 113 nests were found and 143 chicks fledged. The plover productivity rate, a number derived by dividing the total number of chicks fledged by the total number of plover nesting pairs, was 1.68 in 2007. This was the highest productivity rate recorded in the Seashore since 2001. There were 35 nesting pairs observed, 43 nests were found and 51 chicks were documented as fledged in the vicinity of the 10.5 mile ORV corridor. These numbers were slightly above the mean, from 2000 to present, in all three categories.

Education

All hills and areas identified as bottlenecks along the ORV corridor were posted with safety related advisory signs. There was a continued effort to educate ORV users in the “Low and Slow” (low tire pressure and slow vehicle speed) concept. For the sixth year, the information/regulation brochure, the handouts, signs and information posted at the ORV Permit Station emphasized that ORV users follow the “low and slow” advice. ORV information and regulations were posted on the bulletin boards at the Oversand Office and at the Race Point air-up lot. Both bulletin boards were updated throughout the season and displayed current ORV route information. Plover information, seal information, and ORV special activity/event information was also posted at these locations. The Seashore maintains an on-line web page that

has links to extensive ORV information, which has a map showing current ORV corridor information. The Seashore maintains a 24-hour telephone message line, which is updated as needed throughout the year, to provide users with current ORV corridor information. And a weekly email is sent to individuals and organizations during the plover nesting season to disseminate current ORV corridor information. Rangers were involved in numerous beach cleanups during patrols or with user groups like the Massachusetts Beach Buggy Association.



Figure 1.5 Beach cleanup

Enforcement

Numerous educational and informal law enforcement contacts were made on a daily basis to help educate the ORV users about Seashore regulations and ethical use of the ORV corridor. Rangers were involved in numerous visitor assists on the ORV corridor, which included stuck vehicles, vehicles with rolled tires, lost visitors, etc.



Figure 1.6 Stuck vehicle

Enforcement actions continued to be one tool of a multi-pronged approach in this effort. A continued emphasis was placed on driver and visitor safety in 2007.

There was a total of 90 violation notices issued to ORV visitors in 2007, up from 59 issued during the 2006 season.

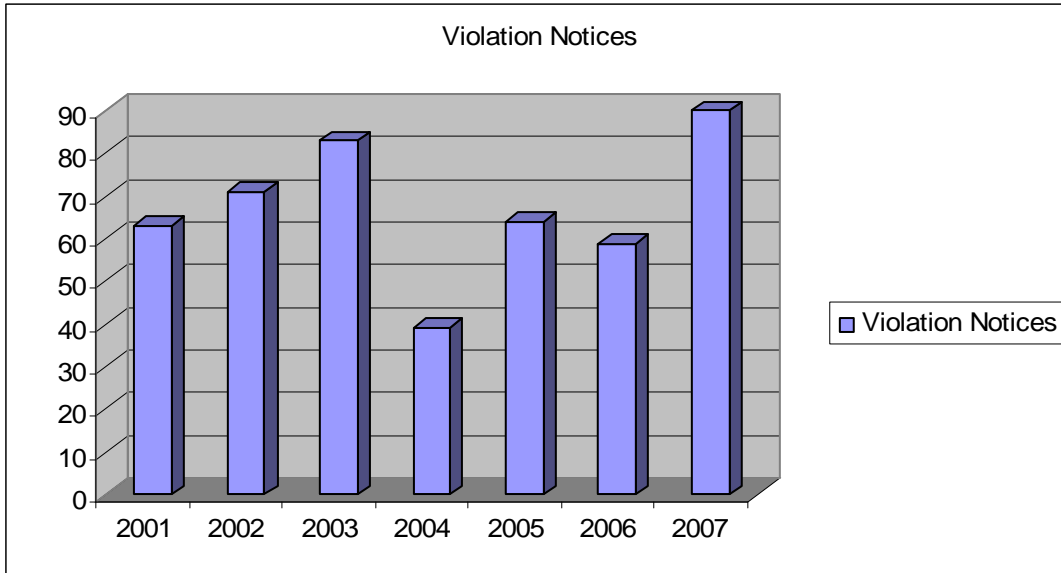


Figure 1.7 Violation Notices Associated with ORV Activities.

There were 48 violation notices issued (53%) for safety infractions relating to driver impairment including operating under the influence of alcohol (OUI), open container of alcohol and controlled substance possession. This was up from 30 violation notices issued for similar offences during the 2006 season.

There were 18 violation notices issued for driving a vehicle on the ORV corridor without a permit. This category was in line with numbers experienced in past seasons.

2007 ORV Violation Notices

Violation Category	Number Issued
Open Container	24
No ORV Permit	18
Controlled Substance	14
OUI/BAC/Refusal	10
Camping Violations	5
Public Nudity	3
Pet Off Leash	2
Closure Violations	2
Other	12

Figure 1.6 Violation Notice Numbers by Category.

A concerted effort has been made over the last two years to address the safety concern of drivers operating vehicles while impaired. This effort was been district wide and not ORV corridor specific. These efforts will continue in the future to ensure the Seashore remains a safe place to visit.

Permitted users were once again a significant and important ally in the protection and management of the ORV program. Their continued diligence in noting and reporting non-permitted vehicles, illegal driving behavior, resource related concerns, and other aspects of

resource and visitor protection was an extremely valuable and important part of the ORV program. Without this voluntary partnership, the ORV program would not be near as successful.