

OFF-ROAD VEHICLE ACTIVITY REPORT

CAPE COD NATIONAL SEASHORE

2017

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Regulatory History

Since the creation of Cape Cod National Seashore 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 (i.e., landward) existed in Provincetown and North Truro. In 1978, Eastham closed the route between Coast Guard Beach and Nauset Inlet because the Blizzard of '78 had 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. Then 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 Seashore for what the CLF believed 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 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 for these uses 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. The Seashore 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 mi. 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. To revise the regulation, 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, and ORV communities along with 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 10.5 miles of ORV corridor could potentially be open in late July and August, depending on the availability of the High Head portion of the corridor, condition of beach cuts and would require all plover chicks on the South Beach fledged.

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 of the Interior and the public describing the results of the monitoring conducted. This document represents the 18th 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, the 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 order to allow a more equitable distribution of permits throughout the season in 1999, 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 10 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.

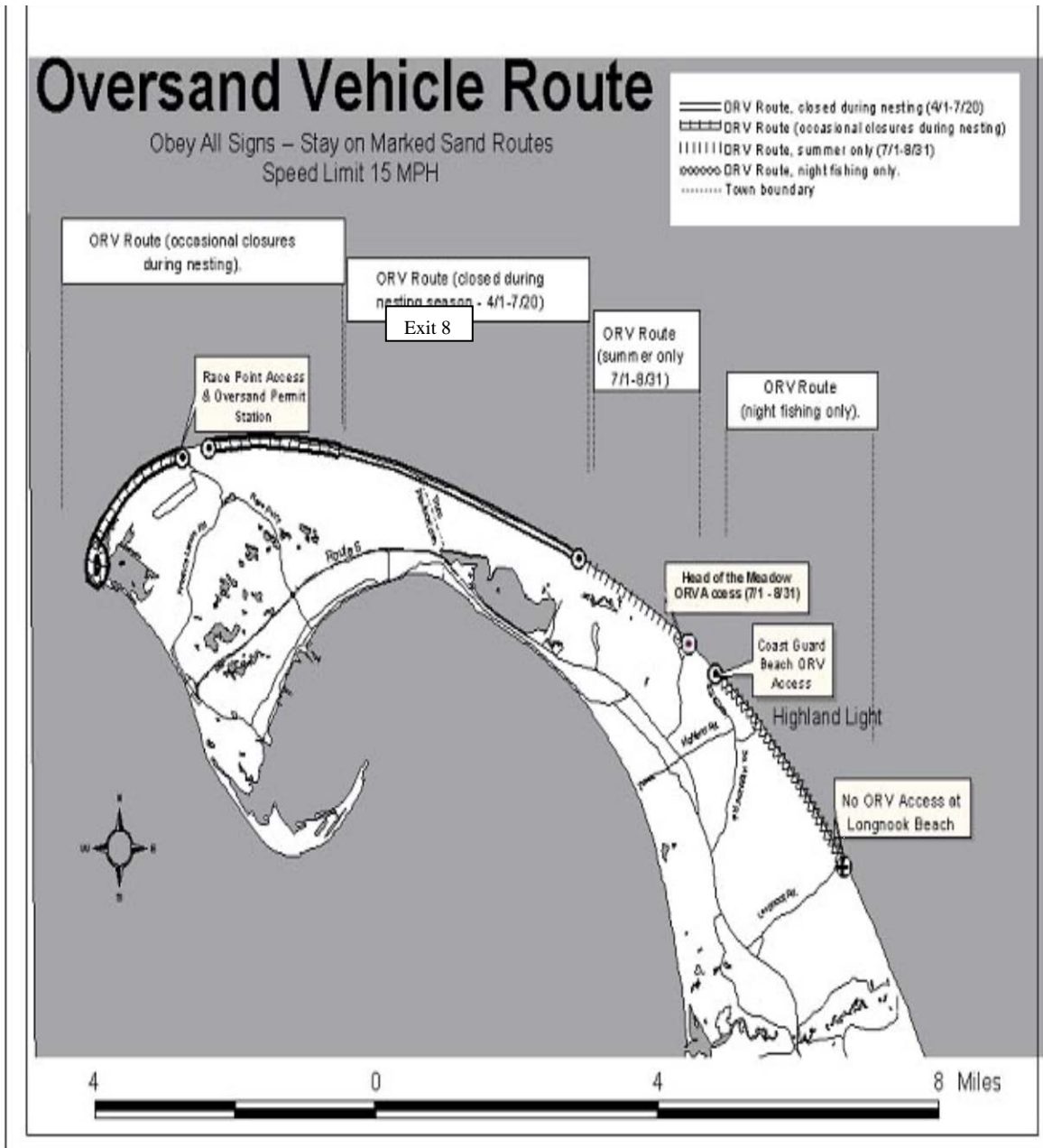


Figure 1.1 Map of the current oversand vehicle routes defined by the negotiated rule, Cape Cod National Seashore.

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, in 2006, was completely closed for daytime recreational use for the first time, and there was a near total closure from June 11 – July 12. The Seashore began efforts to explore possible options, which would allow for adaptive management alternatives. The Seashore hosted an informational public meeting on the ORV closures on July 18, 2006. The Cape Cod National Seashore Advisory Commission hosted an ORV and Piping Plover Public Meeting and Workshop in December, 2016

In 2007 the Seashore completed an Environmental Assessment (EA) to improve ORV access while maintaining piping plover protection. The Selected Alternative from the EA provided three management options to improve access to the ORV Corridor if there was a near (<0.5 miles) or total daytime ORV corridor closure. On June 22, the three ORV accesses near Race Point Beach closed and 0.5 miles of corridor was opened at the High Head access, which was one of the options made available from the 2007 ORV EA. High Head remained open until July 13, when a total daytime closure occurred. Hatches Harbor was closed from May 28 through July 27, due to a plover nest that was established six feet from the Pole Line Road, and then due to protection of unfledged plover chicks. In 2007 the entire ORV corridor reopened on August 29.

In 2008 a portion of the ORV corridor remained open during the bird nesting season. This was the first time this had happened since 2005 and was directly attributed to the 2007 ORV EA.

From 2009 to 2012 additional changes were made to provide increased resource protection on the ORV corridor. The ORV management regulations have remained unchanged during these years.

In 2013, there was a total closure of the ORV corridor due to the government shutdown from October 1, 2013 through October 17, 2013. High tides and on shore winds also forced a two day closure on November 3-4, 2013.

During 2014 the ORV route was closed two times for extreme spring high tides on April 19th, and again on April 25 – May 1. Tropical storm Arthur forced a total closure from July 4-8, one of the busiest weekends of the summer. In the fall, a nor'easter closed the corridor for two days on November 2nd and 3rd.

The summer of 2015 was one of the warmest summers in recent memory. Beach days were abundant, and visitors were rewarded with sunny days throughout the summer on the ORV corridor. A strong coastal storm caused a near total closure of the corridor on Oct. 1, 2015. However a very small area at the Crossover Road and Hatches Harbor remained open for fishermen.

Great beach weather continued for the summer of 2016. The Cape received little rain over the entire summer. There were no total closures on the corridor during the 2016 season due to storms or high tide events. Portions of Race Point north remained impassable, due to cuts in the beach that have been there for several years.

During the spring and summer 2017 season the weather was generally cooler, with more rainy days than the previous year. High Head and Head of the Meadow ORV access roads remained

closed for the entire season due to beach conditions and access challenges. There was a total closure of the corridor from July 20th through July 24th, due to three unfledged piping plover chicks that had moved from the end of the Pole Line Road to the Crossover Road. From May 26th until August 9th there was less than a half mile of corridor open. While in a complete or near closure (>0.5 mile of corridor open) the \$20 entrance fee is waived at Herring Cove, Race Point, and Head of the Meadow beaches for vehicles that have a current Cape Cod National Seashore over sand permit.

2017 ORV MANAGEMENT ACTIONS AND ACTIVITIES

Regulatory and Policy Changes

After a meeting with U. S. Fish & Wildlife in 2012, it was determined that all of the Hatches Harbor spit would be symbolically fenced as potential nesting habitat from April 1 through June 30. This closure went into effect in 2012 and remained in effect through 2017. On August 10, 2017 Hatches Harbor spit opened for the season, and remained open through November 15th.

Number and Type of Permits Issued

The summer of 2017 was cooler in general than last year, and uneventful except for tropical storm Jose which arrived off the coast of Cape Cod from Monday September 18th through Wednesday September 20th. Total permit sales revenue decreased by 8.9% when compared to 2016 sales. Revenue decreased by \$29,550.00 over 2016 revenue. The seasonal ORV permits decreased from 1,699 during the 2016 season to 1,614 in 2017, a decrease of 85 permits or 5.0%. The weekly ORV permits were down from 2,710 in 2016 to 2,401 in 2017, a decrease of 309 permits or 11.4%. There were 76 seasonal SCV, and 50 weekly SCV permits sold in 2017. Seasonal SCV and weekly SCV sales were well below 2016 sales, with a decrease of 17.39% and 10.71% respectively.

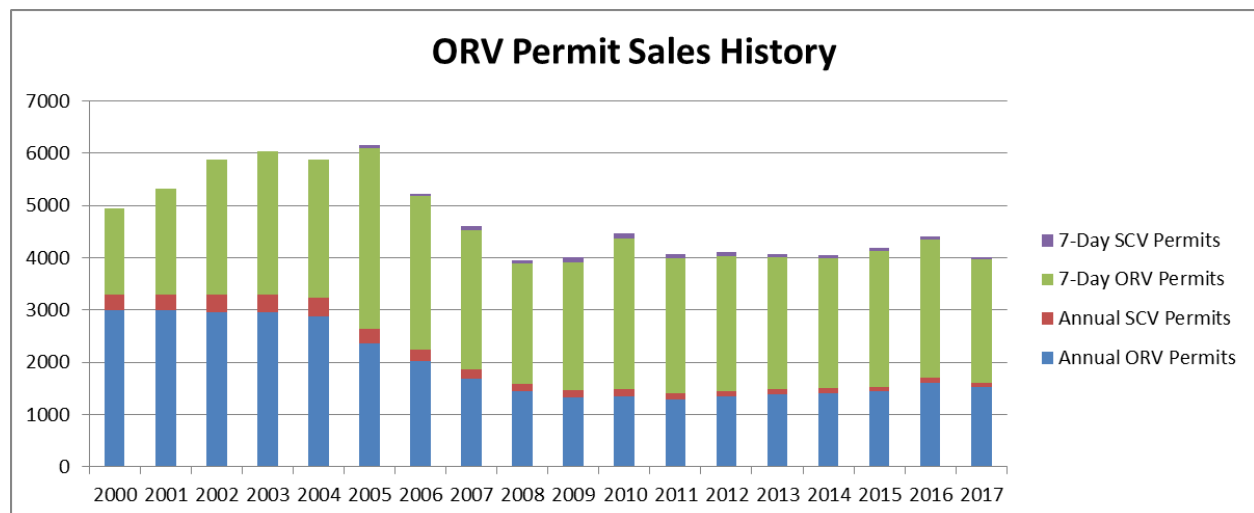


Figure 1.2 Bar graph of recent history of permit issuance in the ORV program.

Seasonal and Weekly Permit Process

During the 2017 season, 1,614 seasonal permits were issued out of the 3,000 seasonal permits that were available. Of the 1,614 seasonal permits sold, 1,538 were issued to seasonal ORV operators and 76 were issued to seasonal SCV operators. In addition to the seasonal permits, there were 2,351 ORV weekly permits issued and 50 SCV weekly permits issued in 2017,

bringing the total number of permits issued in 2017 to 4,015. Overall permit sales were down in 2017, and it was the lowest year for sales over the previous 5 years.

Permit sales began on Monday, April 10, 2017. Permit sales went very smoothly again, as was the case since changes were made to the permit sales process in 2005. Seasonal permits have not sold out since 2004, when all 3,200 available seasonal permits sold out in 10 days.

| YEAR | Seasonal ORV Permits | Seasonal SCV Permits | Total Seasonal Permits | Weekly ORV Permits | Weekly SCV Permits | Total Permits Sold |
|------|----------------------|----------------------|------------------------|--------------------|--------------------|--------------------|
| 2000 | 3003 | 285 | 3288 | 1649 | *N/A | 4937 |
| 2001 | 2990 | 314 | 3304 | 2026 | *N/A | 5330 |
| 2002 | 2957 | 335 | 3292 | 2592 | *N/A | 5884 |
| 2003 | 2951 | 349 | 3300 | 2739 | *N/A | 6039 |
| 2004 | 2881 | 353 | 3234 | 2644 | *N/A | 5878 |
| 2005 | 2361 | 280 | 2641 | 3463 | 60 | 6164 |
| 2006 | 2021 | 221 | 2242 | 2936 | 49 | 5227 |
| 2007 | 1697 | 171 | 1868 | 2659 | 89 | 4616 |
| 2008 | 1457 | 141 | 1598 | 2294 | 65 | 3957 |
| 2009 | 1342 | 133 | 1473 | 2437 | 86 | 3998 |
| 2010 | 1355 | 137 | 1492 | 2873 | 104 | 4469 |
| 2011 | 1293 | 115 | 1408 | 2576 | 81 | 4065 |
| 2012 | 1347 | 113 | 1460 | 2577 | 75 | 4112 |
| 2013 | 1397 | 95 | 1492 | 2514 | 76 | 4082 |
| 2014 | 1414 | 88 | 1502 | 2495 | 52 | 4049 |
| 2015 | 1443 | 95 | 1538 | 2590 | 61 | 4189 |
| 2016 | 1607 | 92 | 1699 | 2654 | 56 | 4409 |
| 2017 | 1538 | 76 | 1614 | 2351 | 50 | 4015 |

Figure 1.3 Permit Sales History

* weekly permits not sold

Temporary ORV Corridor Closures

There was a total closure of the ORV corridor from July 20-24, due to a piping plover brood with 3 unfledged chicks that moved from the end of the Pole Line Road, to the Crossover Road. Both High Head and Head of the Meadow ORV access roads remained closed for the entire season due to beach and access conditions. High Head was closed at the beach entrance due to severe erosion and a narrow beach. Head of the Meadow remained closed due to the condition of the access road and beach conditions.

Due to the beach accreting sand north of the Race Point North access, ORV permittees were able to drive from the Race Point North access to Hatches Harbor, for the first time in many years on September 1, 2017. On the Race Point South portion of the corridor, a large beach cut just south of exit 8 restricted travels to High Head.

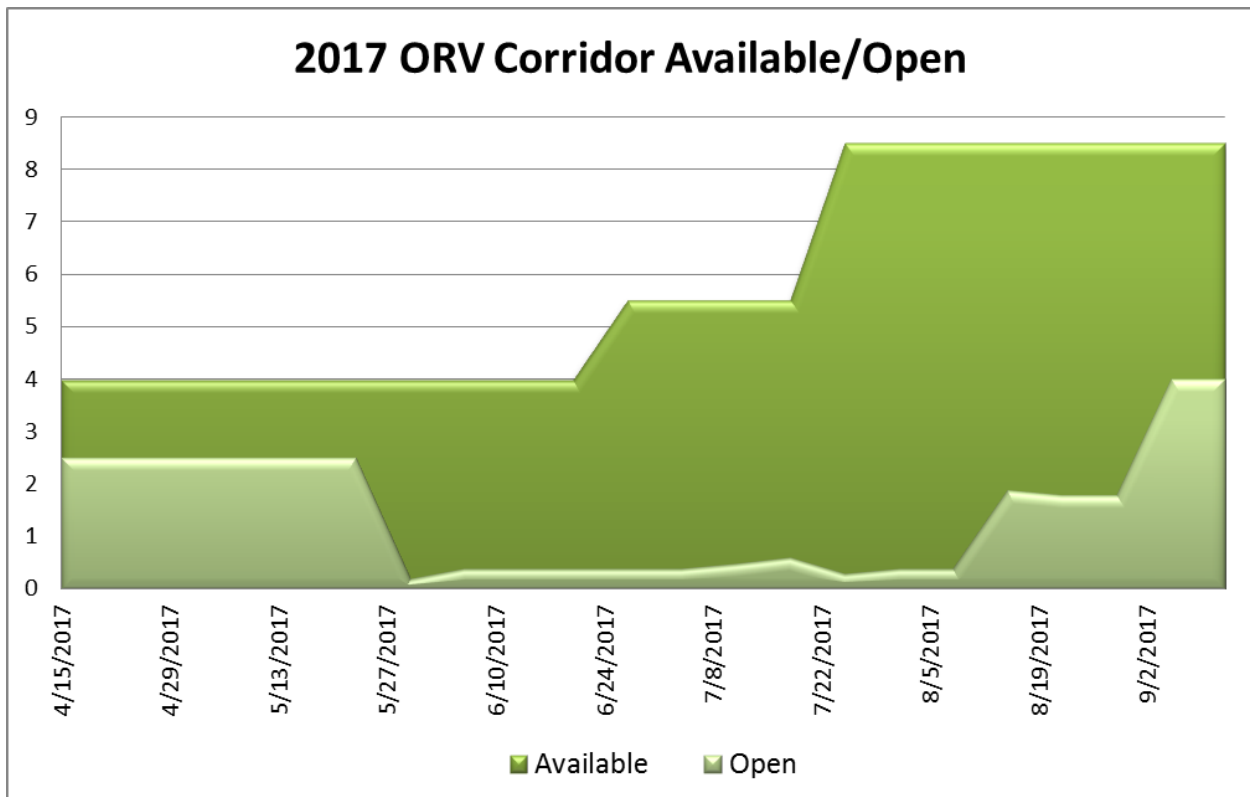


Figure 1.4 Chart showing available and open ORV corridor for the 2017 season

Synopsis of 2017 ORV Corridor Openings and Closings

Coast Guard Night Fishing not included

Race Point North (RPN) includes the area from RPN Access to Hatches Harbor

| | | |
|-------------------|-------------|--|
| April 15 – May 13 | 2.5 mi open | RPN – Open (.7 mi) RPS – Open (1.8 mi) SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed |
| May 14 – May 15 | 2.0 mi open | RPN – Open (.2 mi) at Crossover Rd. RPS – Open (1.8 mi) SCV Area RPN – Open SCV Area RPS - Closed Pole Line – Open Hatches Harbor – Closed |

| | | |
|------------------|-------------|--|
| May 16 – May 24 | 2.3 mi open | RPN – Open (.7 mi) RPS – Open (1.6 mi) SCV Areas RPN – Open SCV Area RPS - Closed Pole Line – Open Hatches Harbor – Closed |
| May 25 | 2.0 mi open | RPN – Open (.2 mi) at Crossover Rd. RPS – Open (1.8 mi) SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed |
| May 26 – June 3 | .2 mi open | RPN – Open (.2 mi) at Crossover Rd. RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed |
| June 4 – June 29 | .4 mi open | RPN – Open (.4 mi) at Crossover Rd. RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed |

| | | |
|-------------------|---------------|--|
| June 30 | .2 mi open | RPN – Open (.2 mi) at Crossover Rd. RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open to Crossover Rd. ONLY Hatches Harbor – Closed |
| July 1 – July 8 | .4 mi open | RPN – Open (.4 mi) at Crossover Rd. RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open to Crossover ONLY Hatches Harbor – Closed |
| July 9 – July 19 | .6 mi open | RPN – Open (.6 mi) at Crossover Rd. RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open to Crossover ONLY Hatches Harbor – Closed |
| July 20 – July 24 | Total Closure | All access points Closed SCV Areas Closed |

| | | |
|-----------------------|--------|---|
| July 25 – July 27 | .3 mi | RPN – Closed RPS – Open (.3 mi) SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Closed Hatches Harbor – Closed |
| July 28 – August 9 | .4 mi | RPN – Closed RPS – Open (.4 mi) SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Closed Hatches Harbor – Closed |
| August 10 | 1.7 mi | RPN – Open 1.3mi at Crossover Road RPS – Open (.4 mi) SCV Area RPN – Closed SCV Area RPS – Open (.2) SCV open areas included in total mileage Pole Line –Open Hatches Harbor – Open |
| August 11 – August 21 | 1.9 mi | RPN – Open (1.5 mi) RPS – Open (.4 mi) SCV Area RPN – Open (.1) SCV Area RPS – Open (.2) SCV open areas included in total mileage Pole Line – Open Hatches Harbor – Open |

| | | |
|-----------------------|--------|---|
| August 22 – August 25 | 1.8 mi | RPN – Open (1.4 mi) RPS – Open (.4 mi) SCV Area RPN – Open (less .1mi) SCV Area RPS – Open (.2) SCV open areas included in total mileage Pole Line – Open Hatches Harbor – Open |
| August 26 – August 31 | 1.8 mi | RPN – Open (1.4 mi) RPS – Open (.4 mi) SCV Area RPN – Closed SCV Area RPS – Open (.2) SCV open areas included in total mileage Pole Line – Open Hatches Harbor – Open |
| Sept. 1 – Sept. 19 | 4.0 mi | RPN – Open (2.2 mi) RPS – Open (1.8 mi) SCV Area RPN – Open SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open |
| Sept. 20 – Sept. 21 | 2.2 mi | RPN – Open (2.2 mi) RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open |

Tropical Storm Jose off the coast from Monday 9/18 through Friday 9/22

| | | |
|---|--------|--|
| Sept. 22 – Sept. 23 | 1.0 mi | RPN – Open (1.0 mi) at Crossover Rd RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open |
| Sept. 24 | 2.2 mi | RPN – Open (2.2 mi) RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open |
| Sept. 25 – Sept. 28 | 2.2 mi | RPN – Open (2.2 mi) RPS – Closed SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open |
| Sept. 29 – October 6 | 4.0 mi | RPN – Open (2.2 mi) RPS – Open (1.8 mi) SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open |
| October 7 – November 15 | 4.0 mi | RPN – Open (2.2 mi) RPS – Open (1.8 mi) SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open |
| November 16 – Corridor Closed – Limited Access Pass goes into effect. | | |

Piping Plover Breeding Success

In 2017, Cape Cod National Seashore staff documented a total of 66 nesting pairs of piping plovers. There were 119 documented plover chicks that fledged in 2017. This was compared to 124 fledged plover chicks that fledged from 66 nesting pairs in 2016. The productivity rate for piping plovers at the National Seashore in 2016 was 1.80. In the north district of the National Seashore there were 40 nesting pairs of piping plovers and 80 plover chicks fledged. The piping plover productivity rate in the north district was 2.0 during the 2017 breeding season. (For more detailed information reference *Monitoring and Management of Piping Plovers and Colonial Waterbirds at Cape Cod National Seashore 2017*)

Education and Safety

In 2017 informing the public through social media continued to enhance the communication of ORV information to the public. Updates and changes to the Oversand portion of the Cape Cod National Seashore website were made which brought them into compliance with new digital accessibility guidelines and policy.

Recent NPS web analytics have shown that fifty percent of visitors that used the Cape Cod National Seashore social media sites did so to access ORV information. Social Media has proven to be an important tool in visitor interactions. The Facebook page has over 2,800 followers and we continue to look for ways to improve this method of communication. We will continue to utilize social media avenues to educate and update ORV users on current beach issues, conditions, and restrictions.

A small portion of the Pole Line Rd was rerouted in 2017 to move vehicle traffic out of an area that had become susceptible to flooding during lunar tides and storm events. The former road was blocked off to vehicle use and is returning to its native state.

All hills and areas identified with limited visibility along the ORV corridor were posted with safety related advisory signs. New mirrors were installed on both the Pole Line Rd access as well as the Race Point South access. There was a continued effort to educate ORV users in the “Low and Slow” (low tire pressure and slow vehicle speed) concept. All access areas were posted with informational signs. The information/regulation brochure, the handouts, signs and information posted at the ORV Permit Station all emphasized that ORV users follow the “low and slow” advice.

ORV information and regulations were posted on the bulletin boards at the oversand permit building 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 or event information was also posted.

An actual delineator post with signage was placed in the lobby of the ORV permit office throughout the 2017 season. While visitors were obtaining their permit, they were informed about the closures on the upper beach and were shown the actual post with signage that delineated this closure.

Permitted users were once again a significant and important ally in the education and enforcement efforts of the ORV program. Their continued diligence in noting and reporting non-permitted vehicles, illegal driving behavior, and resource related concerns, and other aspects of resource and visitor protection, was an extremely valuable and important part of the ORV

program. Many of the seasoned ORV users also help educate and instruct newer users on ORV operations. Without this voluntary partnership, the ORV program would not be as successful.

Enforcement

Numerous ORV contacts were made on a daily basis to help inform and educate the ORV users about regulations and appropriate use of the ORV corridor. Enforcement actions continue to be one tool of a multi-pronged approach in our education effort.

There were a total of 34 violation notices issued to ORV visitors in 2017, up from 20 issued during the 2016 season. Many of these violations occurred on the Pole Line Road access. In response additional signage was added to the entrance of the Pole Line Road access to prevent visitors from entering without a permit.

During 2017 there were a total of 34 violation notices issued, 31 were for failure to possess an ORV permit, which was a marked increase from 13 in 2016. Additionally, warning notices increased from 10 in 2016 to 18 in 2017. The two charts below show citations and written warnings issued to visitors on the ORV corridor in 2017.

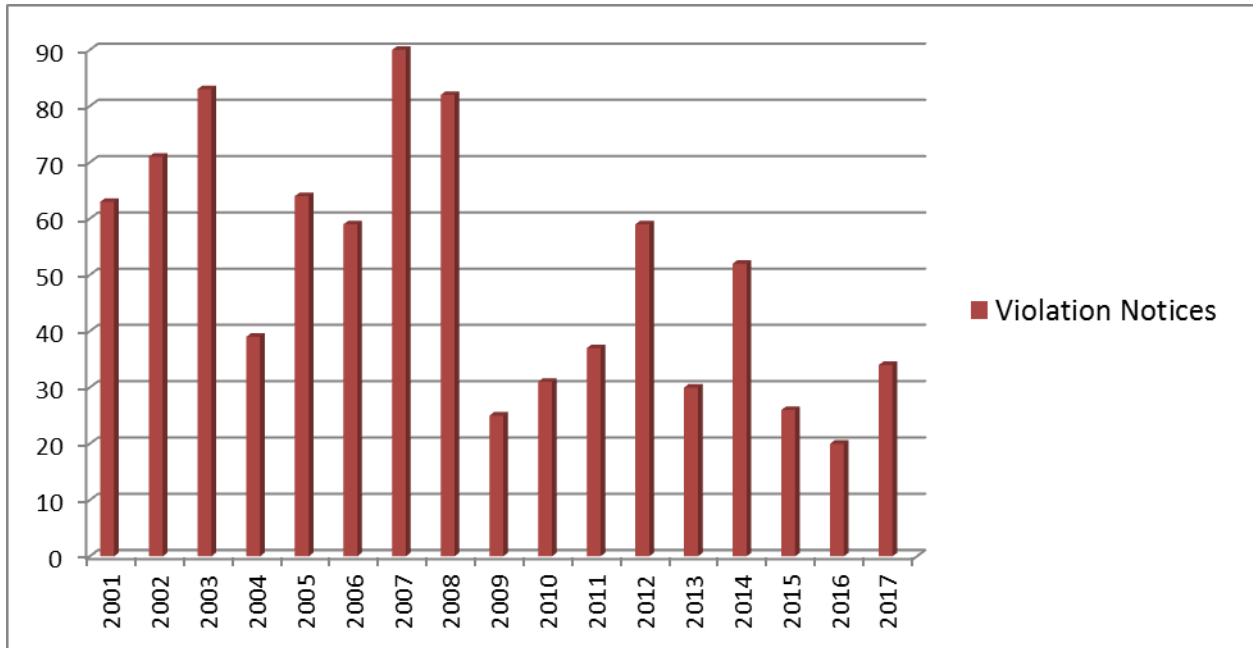


Figure 1.5 Violation Notices on the ORV Corridor

| 2017 Violation Notices | | 2017 Written Warnings | |
|---|-----------|--|-----------|
| Failure to Possess ORV Permit | 31 | Failure to Possess ORV Permit | 10 |
| Passenger on Exterior of Vehicle | 1 | Operation without Insurance | 1 |
| Controlled Substance | 1 | Operation outside Designated Area | 4 |
| Driving Outside Designated Area | 1 | Violation Terms of Permit | 1 |
| | | Controlled Substance | 2 |
| | | | |
| | | | |
| TOTAL | 34 | TOTAL | 18 |

Figure 1.6 Violation Notices and Warnings Issued on the ORV Corridor in 2016*

***ORV permit holders or persons entering the corridor in a vehicle without a permit are included in statistics. Violations issued to pedestrians not associated with the oversand operation were mostly culled out of these statistics.**

Improvements

During the Massachusetts Beach Buggy Association (MBBA) sponsored spring beach conservation project, areas of the beach that were closed due to symbolic fencing were made available to be cleaned, as long as no shorebirds were nearby. An impassible section of the Pole Line Road was improved and opened following the manual movement of sand. Sand was also removed from stairs between the Race Point Beach parking lot and the Race Point Ranger Station. During the MBBA fall cleanup several areas that were closed due to beach conditions were made accessible for the cleanup. Volunteers were also able to clean up debris on the upper beaches, since the symbolic fencing for shorebird nesting was down. Many truckloads of trash were removed from the beach on these project days. Approximately 113 members volunteered approximately 352 hours during these two project days.

A new bulletin board was purchased to be installed at the air station for the start of the 2018 season. Equipment was purchased for the air station, including three new heavy duty air hoses, air chucks, and four new stainless steel mirrors for blind areas on the ORV access roads. All new informational signs for each of the six ORV Access points have been purchased and will be installed in the spring of 2018. Two signs for each access, one designating it as the Oversand Route, and the other naming that particular route. At the end of the 2017 season, efforts were made to allow seasonal permit holders to apply for the limited access pass online.