

OFF-ROAD VEHICLE ACTIVITY REPORT

CAPE COD NATIONAL SEASHORE

2020

Prepared by: Russ Hughes, Park Ranger

Reviewed by: /s/ Ryan Wright /s/
Deputy Chief Ranger

 /s/ Ryan Wright (Acting) /s/
Chief Ranger

Approved by: /s/ Brian Carlstrom /s/ Date: 3/30/21
Superintendent

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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 22nd 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.

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 to 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.

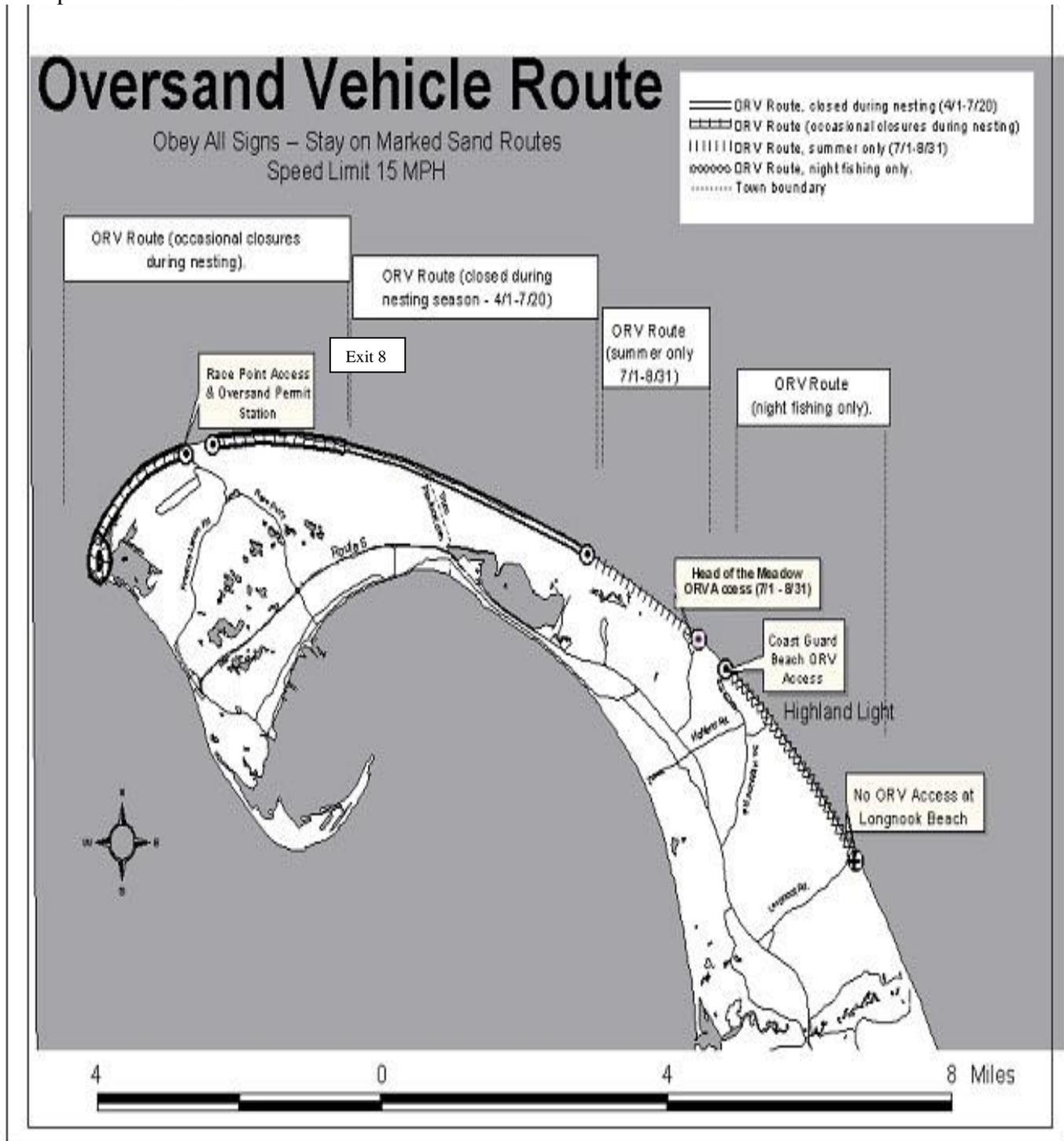


Figure 1.1 Map of the current oversand vehicle routes defined by the negotiated rule, Cape Cod National Seashore.

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. 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. There was a total closure of the corridor from July 20th through July 24th. From May 26th until August 9th there was less than a half mile of corridor open.

The 2018 season had fairly good weather. Head of the Meadow and Coast Guard Beach night fishing accesses remained closed for the entire season due to beach conditions. There was a total closure of the corridor from June 26th through June 30th.

The 2019 season saw the longest period of total closure since the Negotiated Rule went into effect in 1998. The corridor entered near closure on June 16th. Daytime use of the ORV corridor closed on June 28th and the entire corridor was closed from July 5th – August 4th.

In 2020 the COVID-19 pandemic caused the opening of the corridor to be delayed. The corridor and permit office opened for the season on June 3rd. Due to the delayed opening many piping plover broods had nested which in combination with beach conditions resulted in SCV's not

being allowed on the corridor until late summer. The corridor entered near closure on June 19th and the entire corridor was closed from July 4th- July 29th. While in a complete or near closure (>0.5 mile of corridor open) the \$25 entrance fee is waived at Herring Cove and Race Point, beaches for vehicles that have a current Cape Cod National Seashore over sand permit.

2020 ORV MANAGEMENT ACTIONS AND ACTIVITIES

Regulatory and Policy Changes

In 2020 due to the COVID-19 pandemic the ORV office and corridor opened June 3rd. Safety measures were implemented including for the first-time having mail-in renewals for annual permit holders. Social distancing guidelines were put in place to allow for the safety of staff and visitors at the ORV Permit Office.

Parking restrictions implemented in 2018 for SUV's utilizing parking at Province Lands Visitor Center while the SCV Areas were closed remained in effect.

The Hatches Harbor spit continued to be managed as it has since 2012. The spit was symbolically fenced as potential nesting habitat from April 1 to June 30. Two pairs of plovers had nests in the area and Hatches Harbor opened to vehicles on July 29th.

Number and Type of Permits Issued

Permit sales in 2020 were affected by the ORV office being closed for the first 7 weeks of the season due to the COVID-19 pandemic. Once the office opened for sales the addition of mail-in renewals for annual permit holders allowed sales to get back on track. While the number of pairs of breeding plovers decreased in 2020, the number of fledged chicks increased. Total permit sales revenue increased by 15.41% when compared to 2019 sales. Revenue increased by \$47,225.00 over 2019 revenue. The seasonal ORV and SCV permits increased from 1,454 during the 2019 season to 1,521 in 2020, an increase of 67 permits or 4.6%. The weekly ORV permits were up from 1613 in 2019 to 2362 in 2020, an increase of 749 permits or 31.8%. There were 78 seasonal SCV, and 53 weekly SCV permits sold in 2020. Seasonal Self-Contained Vehicle (SCV) and weekly SCV sales were similar to 2019 sales, with a decrease of 8.3% in annual sales and an increase of 17% in weekly sales.

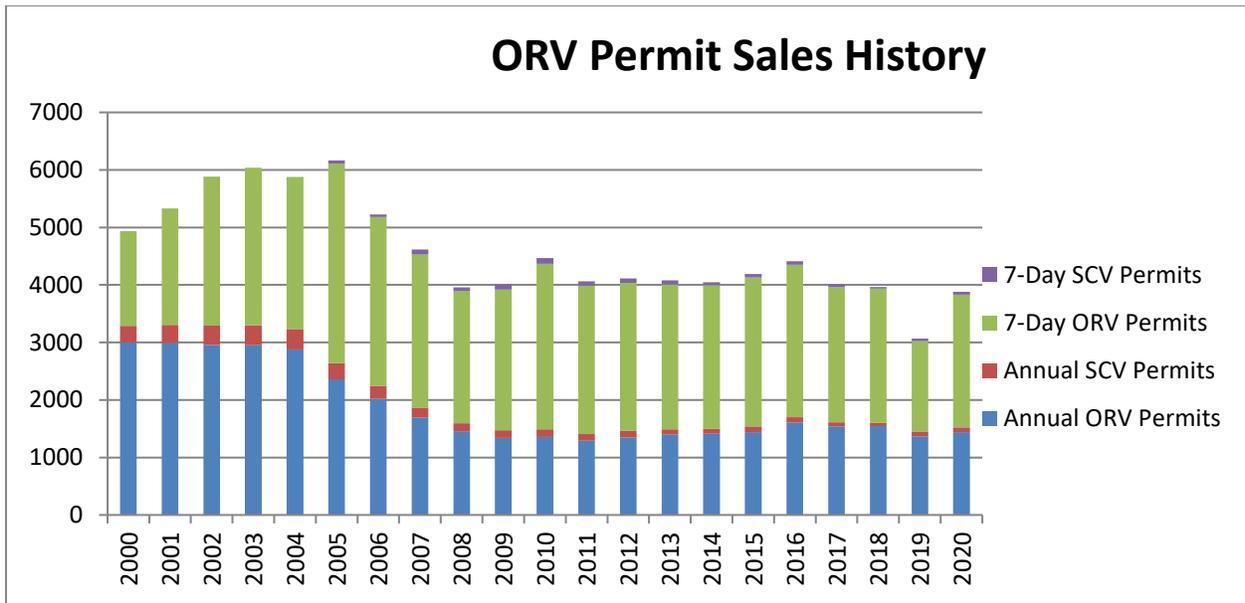


Figure 1.2 Bar graph of recent history of permit issuance in the ORV program.

Seasonal and Weekly Permit Process

During the 2020 season, 1,521 seasonal permits were issued out of the 3,000 seasonal permits that were available. Of the 1,521 seasonal permits sold, 1,443 were issued to seasonal ORV operators and 78 were issued to seasonal SCV operators. In addition to the seasonal permits, there were 2309 ORV weekly permits issued and 53 SCV weekly permits issued in 2020, bringing the total number of permits issued in 2020 to 3883. Overall permit sales were up in 2020 and were a closer to numbers seen in 2018.

Permit sales began on Wednesday, June 3, 2020. Permit sales went very smoothly again, as was the case since changes were made to the permit sales process in 2005. Seasonal permits last sold out in 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
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
2018	1544	57	1601	2333	32	3966
2019	1369	85	1454	1569	44	3067
2020	1443	78	1521	2309	53	3883

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 4th –29th, due to several piping plover broods that were within 0.2 miles of all ORV access routes.

Head of the Meadow ORV access road remained closed for the entire season due to beach and access conditions. When the corridor opened in June on the Race Point South portion of the corridor, narrow beach conditions combined with nesting piping plovers precluded this section from opening. Later in the summer a large beach cut south of exit 9 restricted travel to High Head.

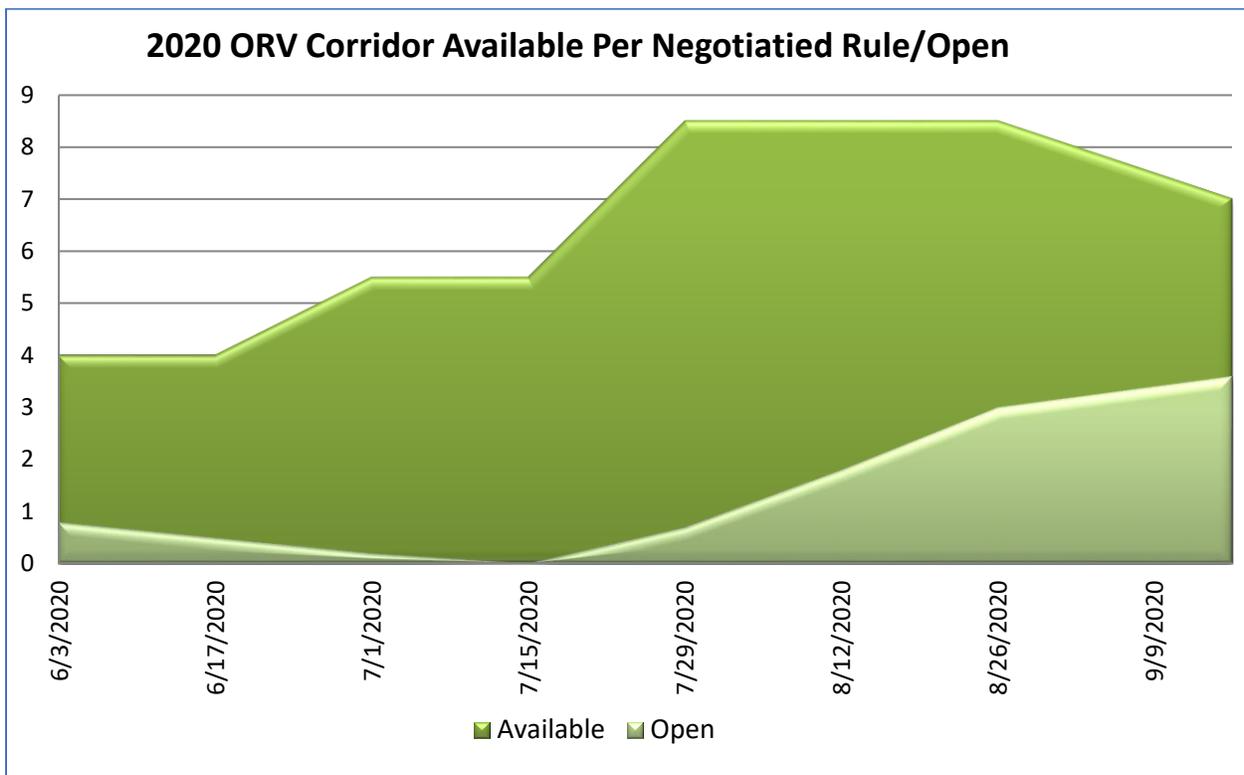


Figure 1.4 Chart showing available per Negotiated Rule and open ORV corridor for the 2020 season

See Figure 1.1 to see dates sections of the corridor are available as defined by negotiated rule.

Synopsis of 2020 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 – June 2	0 mi open	All access points Closed SCV Areas Closed Due to COVID-19 Restrictions
June 3 – June 13	0.8 mi open	RPN – Open (.8 mi) RPS – Closed SCV Areas RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed
June 14 – June 16	0.5 mi open	RPN – Open (.5 mi) RPS – Closed SCV Areas RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed
June 17 – June 18	0.2 mi open	RPN – Open (.2 mi) RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Closed Hatches Harbor – Closed
June 19 – July 3	0.2 mi open	RPN – Closed RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Closed Hatches Harbor – Closed High Head – Open (0.2 mi)
July 4 – July 28	Total Closure	All access points Closed SCV Areas Closed

July 29 – August 7	0.7 mi open	RPN – Open (0.7 mi) RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open High Head – Closed
August 8 – August 24	1.8 mi open	RPN – Open (0.7 mi) RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open High Head – Open (1.1 mi)
August 25 – August 27	3.0 mi open	RPN – Open (0.9 mi) RPS – Open (1.0 mi) SCV Area RPN – Closed SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open High Head – Open (1.1 mi)
August 28	3.5 mi open	RPN – Open (1.4 mi) RPS – Open (1.0 mi) SCV Area RPN – Open SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open High Head – Open (1.1mi)
August 29 – September 5	4.4 mi open	RPN – Open (1.7 mi) RPS – Open (1.6 mi) SCV Area RPN – Open SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open High Head – Open (1.1 mi)

September 6	4.6 mi	RPN – Open (1.9 mi) RPS – Open (1.6 mi) SCV Area RPN – Open SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open High Head – Open (1.1 mi)
September 7 – September 17	3.6 mi	RPN – Open (1.9 mi) RPS – Open (1.5 mi) SCV Area RPN – Open SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open High Head – Open (0.2 mi)
September 18	1.7 mi	RPN – Open (1.7 mi) RPS – Closed SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open High Head – Closed
September 19 – September 21	0.9 mi	RPN – Open (0.9 mi) RPS – Closed SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open High Head – Closed
September 22 – September 23	Total Closure	Corridor Closed due to High Surf Conditions

September 24- October 3	1.4 mi	RPN – Open (0.9 mi) RPS – Open (0 mi) SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open High Head – Open (0.5 mi)
October 4 – October 10	4.4 mi	RPN – Open (1.9 mi) RPS – Open (2.0 mi) SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Open High Head – Open (0.5 mi)
October 11 - November 15	4.2 mi	RPN – Open (1.7 mi) RPS – Open (2.0 mi) SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Open Hatches Harbor – Closed High Head – Open (0.5 mi)
November 16 – Corridor Closed – Limited Access Pass goes into effect.		

Piping Plover Breeding Success

In 2020, Cape Cod National Seashore staff documented a total of 92 nesting pairs of piping plovers. There were 171 documented plover chicks that fledged in 2020. This was compared to 151 fledged plover chicks that fledged from 88 nesting pairs in 2019. The productivity rate for piping plovers at the National Seashore in 2020 was 1.86. In the north district of the National Seashore there were 64 nesting pairs of piping plovers and 131 plover chicks fledged. The piping plover productivity rate in the north district was 2.05 during the 2020 breeding season. The national seashore falls within the New England Recovery Unit of the Atlantic Coast Piping Plover Recovery Plan, which has a recovery goal of 625 breeding pairs (maintained for five years) and a five-year average productivity goal of 1.5 chicks fledged per pair. (For more detailed information reference *Monitoring and Management of Piping Plovers and Colonial Waterbirds at Cape Cod National Seashore 2020*)

Education and Safety

In 2020 the practice of handing out rack cards continued to aid in educating visitors about shorebird management in the seashore. This card was handed out with every issued ORV permit as well as at beach entry stations.

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. Shorebird, seal and shark information as well as ORV special activity or event information was also posted.

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 daily to help inform and educate the ORV users about National Seashore regulations and appropriate use of the ORV corridor. Enforcement actions continued to be one tool of a multi-pronged approach in this education effort.

There were a total of 24 violation notices issued to ORV visitors in 2020, equal to the 24 issued during the 2019 season. Many of these violations occurred on the Pole Line Road access, additional signage was added to the entrance to discourage visitors from entering.

Of the 24 violation notices issued, 17 were for failure to possess an ORV permit, an increase from 2019. This means 7 of the violation notices were issued to the 4,015 ORV users that purchased a permit. Warning notices increased with 43 in 2020 compared to 32 in 2019. The two charts below show citations and written warnings issued to visitors on the ORV corridor in 2020.

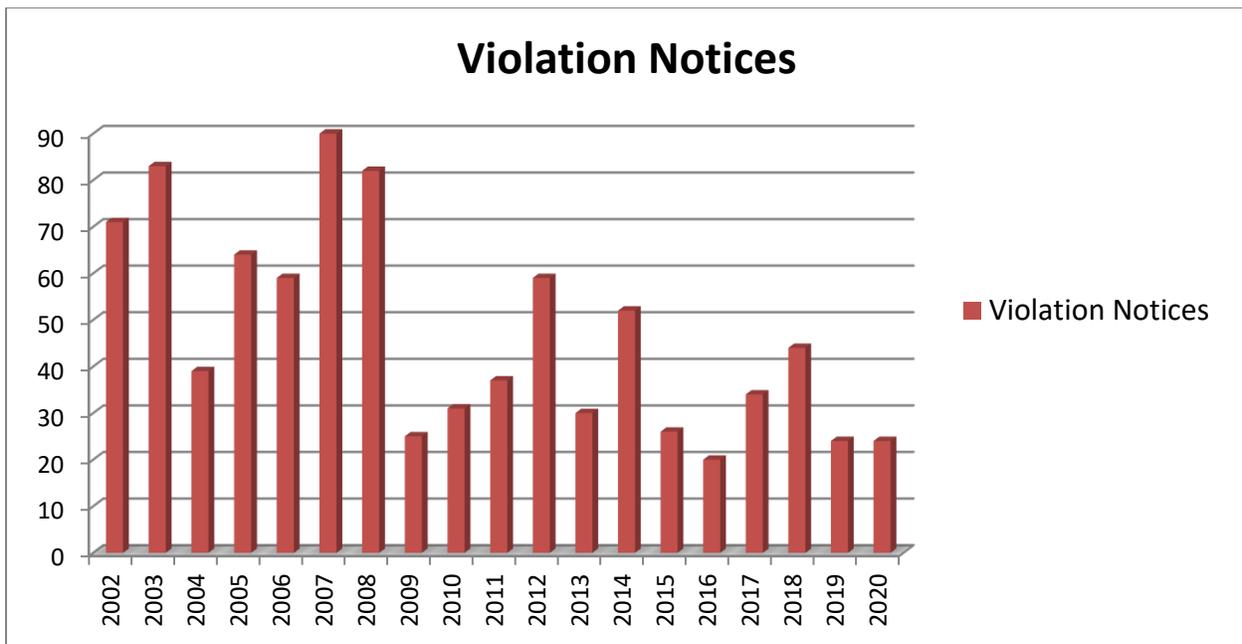


Figure 1.5 Violation Notices on the ORV Corridor

2020 Violation Notices		2020 Written Warnings	
Failure to Possess ORV Permit	17	Failure to Possess ORV Permit	9
Closure	2	Closure	4
Driving Outside Designated Area	1	Violation Terms of Permit	4
Violation of Terms of Permit	1	Pet Off Leash/Closed Area	19
Driving Off Route	1	Expired Permit	1
Camping	1	Disturbing Plants	2
Equipment	1	Driving off Route	1
		Riding on Exterior of Vehicle	4
TOTAL	24	TOTAL	43

Figure 1.6 Violation Notices and Warnings Issued on the ORV Corridor in 2020*

***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

Due to the COVID-19 pandemic annual Massachusetts Beach Buggy Association sponsored beach clean-ups were canceled. A less formal fall beach clean-up was held, and small groups of volunteers spread out and cleaned sections of beach from Hatches Harbor to Exit 8. A section of the Pole Line Road had snow fence added. Sand was also removed from stairs between the Race Point Beach parking lot and the Race Point Ranger Station. Several truckloads of trash were removed from the beach. Approximately 33 members volunteered approximately 100 hours.

In 2020 for the first time a mail-in renewal application for annual permit holders was implemented due to COVID 19 safety precautions. This allowed for staff and permit holders to have less face to face contact, as well as reduced the time people needed to spend in line waiting for permits. We look to improve on this well received process in 2021.