

**Fire Island National Seashore**  
**Negotiated Rulemaking Advisory Committee for**  
**Off-Road Driving Regulations**  
**Groundrules**

I. Mission Statement

The Committee was established pursuant to the **Negotiated** Rulemaking Act of 1990 (5 U.S.C. 561-570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing non-recreation off-road vehicle use at Fire Island National Seashore.

II. Participation

A. The Committee consists of the member organizations or stakeholder groups.

A. Each Committee member organization or stakeholder group shall be represented by a principal and may also be represented by an alternate. The principal shall represent such member organization for the purposes of determining consensus. Alternates will serve as representatives for their member organization in the absence of the principal.

C. Additional member organizations may join the Committee. Any requests for membership shall be approved by consensus of the Committee under such conditions as may be established at the time. Participation in Committee discussions may begin immediately upon the Committee's consensus decision to include the new member organization and its representative. However, formal membership is provisional upon appointment by the Secretary of Interior.

III. Decision Making

A. The Committee will operate by consensus, meaning that there must be no dissent by any representative in order for the Committee to be considered to have achieved consensus. Thus, no representative can be outvoted. Representatives should not block or withhold consensus unless they have serious reservations with the approach or solution that is proposed for consensus. Absence will be equivalent to not dissenting. If representatives disagree with the approach or solution

proposed, they should make every effort to offer an alternative satisfactory to all members. All consensus agreements reached during the negotiations are assumed to be tentative agreements until representatives on the Committee agree to make them final agreements.

#### IV. Agreement

A. The goal of the Committee is to develop a Consensus Agreement that reflects a final consensus by the Committee on the content of a proposed rule. The proposed rule, based on the Consensus Agreement, will be published in the Federal Register.

If allowed by law, public review for any required National Environmental Policy Act (NEPA) process will be concurrent with publication of the proposed rule for public comment. The National Park Service will present the consensus-based rule language as the preferred alternative in any mandated NEPA process.

- A. If the Committee reaches a final consensus on all issues, the National Park Service will use the Consensus Agreement as the basis for its notice of proposed rulemaking. Prior to submitting it for publication in the Federal Register the National Park Service will circulate the draft proposed rule language to the Committee to check for consistency with the Consensus Agreement. The mediators will be available to work with the Committee to help resolve any differences of opinion about consistency. If informal discussion does not resolve the differences, the Committee may be reconvened to resolve outstanding issues.
- B. After the Committee concurs that the proposed rule language is consistent with the Consensus Agreement, the National Park Service will submit the proposed rule language for publication in the Federal Register. Committee member organizations and their representatives will refrain from commenting negatively on the consensus-based language during the rulemaking and any associated processes.

D. To the extent the Committee reaches final consensus on some but not all the issues, the National Park Service will use such a partial Consensus Agreement as the basis for its proposed rulemaking. Committee member organizations and their representatives shall retain their right to comment negatively on those aspects of such notice of proposed rulemaking that are not based on a final consensus.

E. The National Park Service will use the Consensus Agreement as the basis for its notice of proposed rulemaking unless changes are made as a result of direction of the Office of Management and Budget, the Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act or the President. If the National Park Service is directed to make such changes, the National Park Service will notify the Committee and other interested members of the public of the changes and reasons for those changes on a timely basis. If the National Park Service makes such changes, the National Park Service will identify the changes made subsequent to

consensus in the notice of proposed rulemaking.

#### V. Committee Meetings

- A. The negotiations will be conducted under the Federal Advisory Committee Act (FACA). All meetings of the full Committee will be announced in the Federal Register prior to the meeting and will be open to the public. Members of the public will be permitted to file written comments on Committee proceedings. Brief opportunities for oral public comment will be provided at each meeting. Those unable to attend the public comment period at a meeting may submit brief written comments that will be read aloud. The time and manner of such comments shall be as determined by the mediators.
- B. Summaries of Committee meetings will be prepared by the mediators and, after review and approval by the Committee, will be made available to the public. The summaries will identify points of tentative agreement and final agreement and generally be written without attribution.
- C. Caucuses for the purpose of consultation may be requested of the mediators at any time by any representative on the Committee.
- C. The mediators will be responsible for developing an agenda for all meetings of the Committee. This agenda will be developed in consultation with the Committee.

#### VI. Safeguards for Members and Representatives on the Committee

- A. Any member of the Advisory Committee may withdraw from the negotiations at any time by notifying the mediators in writing.
- B. All members and representatives must act in good faith in all aspects of these negotiations.
- C. Members and their representatives on the Advisory Committee will limit their discussions with the press to the overall objectives and progress of the negotiations. Committee members and their representatives on the Committee will not attribute statements to others involved in this negotiated rulemaking nor attempt to speak on behalf of the Committee as a whole

#### VII. Additional Roles and Responsibilities of Representatives

- A. Representatives on the Committee agree to:
  - o Keep their constituencies informed about the Committee's deliberations and to actively seek their input;
  - o Attend all of the scheduled meetings, and arrive at the meetings prepared to discuss the issues on the agenda, having reviewed the documents distributed in advance; and,
  - o Strive throughout the process to bridge gaps in understanding, to seek resolution of differences, and to pursue the goal of achieving consensus on the content of the regulations under discussion.
- A. In order to facilitate an open and collaborative discussion, the participants in this negotiated rulemaking also agree to abide by the following rules:
  - o Only one person will speak at a time and no one will interrupt when another person is speaking;
  - o Each person will express his or her organization's and constituents' views rather than speaking for other Committee participants; and,
  - o Each person will refrain from making personal attacks, will make every effort to stay on track with the agenda, and avoid grandstanding and digressions in order to move the negotiations forward.

### VIII. Meeting Facilitation

- A. The mediators will serve at the discretion of the full Committee. The mediators will be responsible for helping to ensure that the process runs smoothly, developing meeting agendas, preparing and distributing draft and final summaries, and helping the parties resolve their differences and achieve consensus on the issues to be addressed by the Committee.
- B. The mediators will be available to facilitate Committee sessions and caucuses.
- C. The mediators will be available to consult confidentially with Committee participants during or between meetings.
- D. The mediators will abide by the Ethical Standards of the Association of Conflict Resolution. In part, these standards require that: "The neutral must maintain impartiality toward all parties. Impartiality means freedom from favoritism or bias either by word or by action and a commitment to serve all parties as opposed to a single party."

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