

LIMITATION OF PERMITS

ON OFF-ROAD VEHICLES

FIRE ISLAND NATIONAL SEASHORE

Environmental Assessment
Proposed Rule 36 CFR Part 7
Limitation on Number of Permits
Fire Island National Seashore
New York

Prepared by
Fire Island National Seashore
National Park Service
Department of the Interior

December 1983

FOREWORD:

The Fire Island National Seashore General Management Plan (GMP) and Environmental Impact Statement (EIS) were approved in 1978. These documents discuss vehicle use and regulations, and include a statement that the National Park Service will conduct additional research to determine the ecological and erosional effects that may result from such vehicle use.

Direction for management of Fire Island and its surrounding waters is outlined in Fire Island National Seashore's enabling legislation, Public Law 88-587 (see Appendix A), which became law on September 11, 1964, and states that Fire Island National Seashore is established "...for the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes and other natural features..." Within Section 2(e) of this same Public Law, the Secretary of the Interior is directed to allow the communities delineated on the boundary map (identified as map No. OGP-0002) to continue and Section 5 states that the Secretary shall permit hunting, fishing and shellfishing.

Operation of motor vehicles within Fire Island National Seashore is covered in 36 CFR Section 7.20(a) (see Appendix B) and Subsection (8) designates that the Superintendent is authorized to limit the number of vehicle permits as he deems necessary for resource protection, public safety or visitor enjoyment. This Subsection describes the factors that shall be used in establishing such limits. A proposed rule to limit permits was published in the Federal Register on July 25, 1983 (see Appendix C).

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I. NEED FOR ACTION

The Superintendent of Fire Island National Seashore has been asked by several Island communities to establish the vehicle permit limits necessary to maintain a specific number of year-round residents. This need was expressed for fire control and to prevent theft and vandalism to the approximately 3,800 residences and structures which would be relatively unprotected if residential permits were to be continually reduced as set forth in the Fire Island National Seashore GMP.

From a review of the historic use patterns, combined with review of the 1981 Fire Island National Seashore off-road vehicle study and subsequent public involvement, a set of limits for all categories of use was established and published as a proposed rule on July 25, 1983. At present there are no permit number restrictions on any category of use; but there is a limit of one round trip per vehicle per day as specified in 36 CFR 7.20(a)(10)(ii). This restriction is felt to be unduly restrictive by the year-round residents and by recreation permit holders.

II. EXISTING SITUATION

During 1977 and 1978, the Fire Island National Seashore General Management Plan (GMP) and accompanying Environmental Impact Statement (EIS) were published and approved. These documents contain a complete discussion of all vehicle access to the Seashore and the need to control this use. Copies of these documents are available for review at Seashore Headquarters in Patchogue, New York.

Fire Island National Seashore comprises 26 miles of a 32 mile barrier island and the waters surrounding this portion of the island. Fire Island is four and a half miles south of the mid section of Long Island and slightly over 50 miles east of New York City.

Due to the worldwide warming trend, the seas are slowly rising, causing a northward migration of the island and an eroding beach condition. Past studies by the University of Massachusetts, Rutgers University and others have shown that there are two distinct annual beach conditions as is graphically depicted in Appendix D.

Because of the dynamic nature of the island, and specifically of the dunes and beach, the possibility of human induced erosion must be reduced as much as possible. Furthermore, since the island dunes form a major protective barrier from Atlantic storms for Fire Island and Long Island communities, they must be protected.

Impacts on the dunes come from many sources, one of which can be the use of off-road vehicles (ORVs). In the continuing effort to protect these island resources, ORV regulations are deemed necessary.

In late 1976 an Assessment of Alternatives for motor vehicle regulations was published by the North Atlantic Region and distributed for public review. In March 1977 the Superintendent reviewed these alter-

natives and released the National Park Service's decision in a review of alternatives and negative declaration. These documents are available at Seashore Headquarters in Patchogue.

In response to the commitment of a maximum of 30 recreational vehicles being allowed on the beach at any one time in the EIS, a study entitled "The Effects of Off-Road Vehicles on Beach and Dune Systems, Fire Island National Seashore" was initiated in 1978 and the final report was published in 1981. Management of the Seashore is based on this and other scientific studies and will continue to be in the future. Should any new data be developed that indicates that current management practices should be changed in order to further protect the environment, the temporary closure authority (36 CFR 2.6(b)(2)) will be used until the pertinent regulation(s) can be rewritten. The 1981 study was unable to substantiate the commitment of a maximum of 30 vehicles on the beach at one time. Copies can be obtained at Seashore Headquarters in Patchogue.

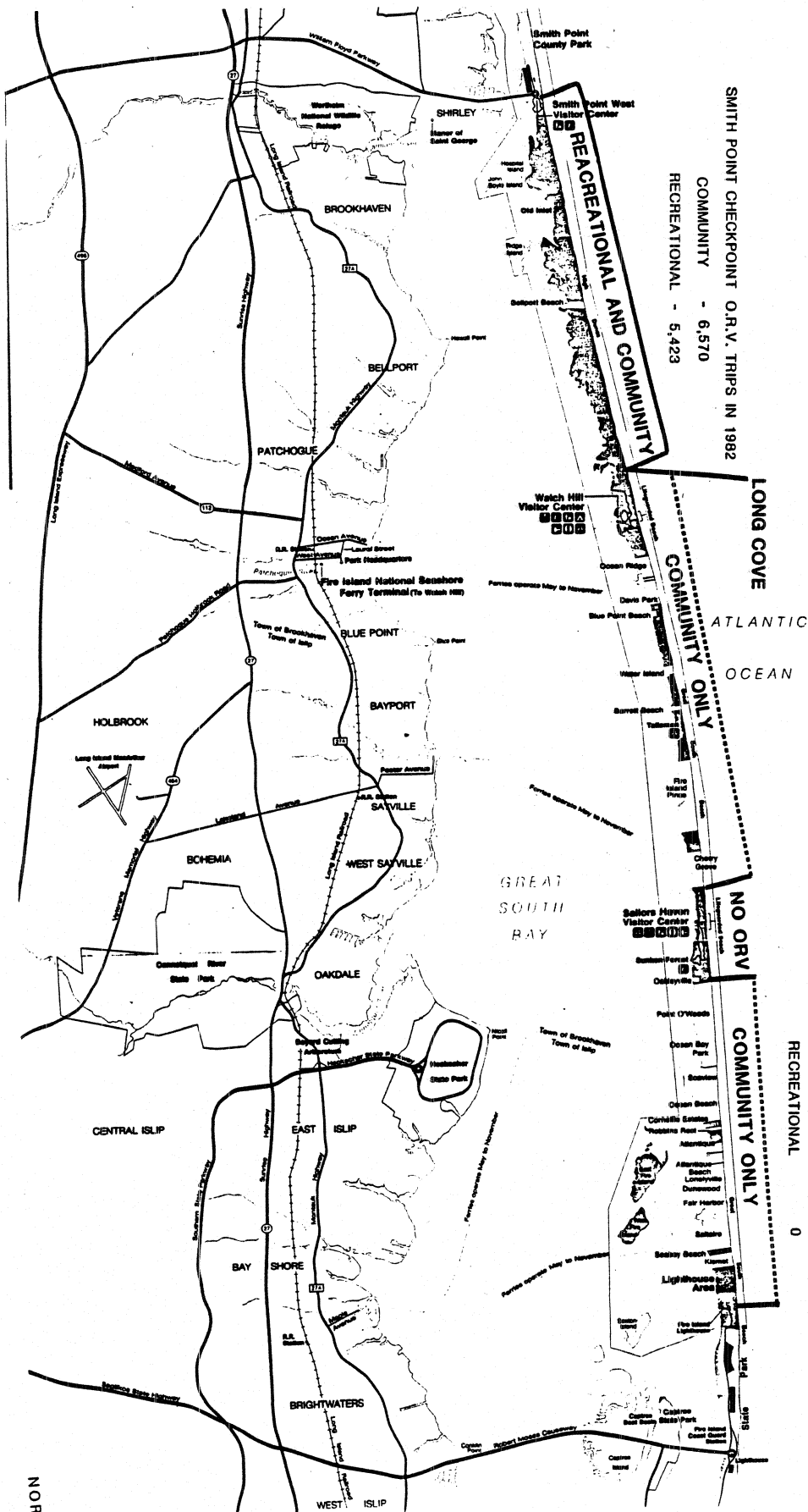
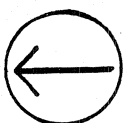
In compliance with the 1978 GMP, total vehicle traffic on Seashore lands has been decreased from 66,678 trips in 1977 to 50,680 trips in 1982. This is in spite of the fact that both the State and County parks on Fire Island were closed to recreation ORVs for most of 1982. This closure to recreation ORVs caused an increase at Fire Island National Seashore of almost 2,000 vehicles during 1982.

From November 5, 1982, through April 29, 1983, the beach access was closed due to high water conditions a total of 51 times. This was done for the safety of the visiting public using ORVs and to prevent their driving on the beach grass and/or the dune face. A definition of the toe of the dune was suggested by Anders and Leatherman that

involves the protection of not only the beach grass, but also their rhizomes (roots) as well. Additional study of this suggestion has resulted in the establishment of a 20 foot zone seaward of the edge of the beach grass in which no driving is permitted.

A set of permit limitations was written and released for comment on September 1980. Comments were sought and a revised document was released in January 1981. Comments were again sought and the document was reviewed and released as a proposed rule on July 25, 1983 (see Appendix C).

FIRE ISLAND NATIONAL SEASHORE **OFF ROAD USE ZONES AND 1982 TRAFFIC VOLUMES**



NORTH

III. ALTERNATIVES CONSIDERED

A. Alternative A: No Action, Existing Regulations Continue (See Appendix B)

The existing regulations contained in 36 CFR 7.20(a) were published in 1977 and became effective on January 1, 1978. When these regulations were written, the information needed to establish limits on the permitted uses was not available, so Subsection (8) was not completed at that time.

Under existing regulations, there are no limits as to the total number of permits that may be issued or the number of vehicles permitted on the beach at any one time. There are limitations on the dates, times and areas of travel and only one round trip per vehicle per day is permitted.

B. Alternative B: Establish Limits on All Off-Road Vehicle (ORV) Categories Except Recreational Vehicles

This alternative was printed in the Federal Register on July 25, 1983, as a proposed rule (see Appendix C). It would establish limits on all ORV uses for the support of the established island residences and would release year-round residents from the one round trip per day limit in paragraph 7.20(a)(10)(ii).

Under this proposed rule, neither the number of recreational vehicle permits issued nor the number of vehicles allowed on the beach at any one time would be limited. This proposed rule would also release recreational ORVs from the one round trip per day limit of paragraph 7.20(a)(10)(ii) and would revise the landward limit of use to the toe of the dunes.

No new part-time resident permits would be issued.

C. Alternative C: Establish Limits on All ORV Categories Including Hunting and Fishing ORVs and Define Toe of the Dune

Under this alternative, the number of ORV permits issued in support of the established island residences would be the same as those defined in the July 25, 1983, proposed rule. The round trip limit of one per day would be revised to two per day for year-round residents and hunting and fishing ORVs. New year-round permit preference would be for those residents that also work full-time on Fire Island. Only one year-round resident permit would be allowed per household.

The landward beach limit of travel by all ORVs would be not closer than 20 feet from the southern line of beach grass along the dunes (see Appendix D).

Recreational vehicles would be defined as for hunting and fishing only and permits for these vehicles would remain unlimited. There would, however, be a limit of 30 recreation vehicles on the beach, from Smith Point to Long Cove, at any one time.

One round trip per month would be allowed each non-resident homeowner, with homes in areas and times not having adequate alternate access, in order to check their property.

IV. ENVIRONMENTAL IMPACTS OF ALTERNATIVES

A. Alternative A: No Action

With no action, the number of permits and, therefore, the number of trips is potentially unlimited. In keeping with the spirit and direction of the GMP, this would not achieve the goal "to limit the general operation of all classes of vehicles on Fire Island (p. 39)." In keeping with the purpose of revising the regulations, the vehicle use must prove"...necessary for resource protection, public safety, or visitor enjoyment (36 CFR 7.20(a)(8)."

During the past six years, the statistics of community and recreational ORV uses have been tabulated as well as the number of permits issued. These tabulations are included in Appendix E.

While the unlimited numbers of permits issued would not effect the island per se, regular use of the unlimited numbers of permits would have negative impacts on the National Seashore resources and visitor enjoyment. These negative impacts could result in the dedication of large natural areas for parking of vehicles, an increase in noise, and an increase in pedestrian-vehicle conflicts.

B. Alternative B: Establish Limits on All ORV Categories Except Recreational Vehicles

During the period since the January 1978 regulations were invoked, the pattern of community ORV permits has stabilized and their numbers are presented in the July 25, 1983, proposed rule. No scientific evidence has been able to substantiate that the continued proper use at the existing levels has shown accelerated erosional impact on the beach face, and, therefore, no specific

numbers are established. In keeping with the GMP guidelines, the overall impact would be a slow decrease in total permits issued, as there would be no new part-time permits issued.

The removal of the one round trip per vehicle per day restriction for year-round residents will not significantly increase impacts to the island resources, since reasonable additional trips are already being routinely approved. The removal of the one round trip restriction for recreational ORVs appears reasonable as these users would be encouraged to avoid high tide by leaving the beach knowing that they would be able to return as soon as travel is again safe. This would also have a positive effect upon the beach grasses and dunes, since they would be damaged if the visitor stayed long enough to be forced to drive higher than the toe of the dune to avoid the rising tide.

C. Alternative C: Establish Limits on All ORV Categories Including Hunting and Fishing ORVs and Define Toe of the Dune

With this alternative the limitation on the area of travel would assure that vehicular use would not damage the growth of beach grass rhizomes (growth roots). Beach access was closed 51 times during the winter of 1982-83, using the prevention of visible beach grass destruction as the restriction. With the rhizome zone being included as part of the dune, additional beach closures would probably be necessary and, therefore, an overall decrease in beach use would occur. If vehicles stay out of the rhizome zone, both biological and other dune building processes would be preserved from ORV impact.

The round trip limit of two per vehicle per day for both the year-round resident and the hunting and fishing user would match historic use patterns and would avoid use during the high tide periods, thus making the protection of the rhizome zone mentioned above enforceable.

The environmental and historic reasons for the limitation on other community uses are the same as in Alternative B. Having a limit of 30 recreational ORVs on the beach at any one time would assure the limiting of potential confrontations between vehicle users and pedestrians. However, the 1981 Anders and Leatherman study does not support the 1977 EIS proposed limit of 30 recreational vehicles at any one time either from an ecological standpoint or a geomorphological one. In addition, recreational vehicles would be defined as only those ORVs specifically used in the pursuit of hunting and fishing, thereby eliminating the user just out for a ride on the beach.

V. INTERRELATIONSHIP WITH OTHER REGULATIONS, JURISDICTIONS OR PROPOSALS

All existing Federal vehicle regulations in 36 CFR 7.20(a) would continue to be in effect under each of the proposed alternatives. Changes in local limitations would not effect the upper limitations set in this section of the Fire Island National Seashore vehicle regulations. The establishing of vehicle permit limitations would insure continuance of Island uses as established in Public Law 88-587 (Fire Island National Seashore's enabling legislation) and directed in the 1978 General Management Plan. The alternative finally chosen should have no effect on the Fire Island Wilderness area and every effort would be made to insure the continued protection of the Wilderness area. Executive Orders 11644 and 11989 (see Appendix F) have been addressed with the completion of this assessment and the Anders and Leatherman study of Fire Island National Seashore ORV use which was published in 1981.

VI. AGENCIES AND INDIVIDUALS CONSULTED

In September 1980 a draft of a document entitled "Criteria for Issuance of Permits" was circulated to community related organizations for comment. As approximately 90% of the ORV trips were accomplished for support of the communities, it was felt that organizational and community leaders were the people that would be the most immediately affected. Those contacted included the Fire Island Association, Fire Island National Seashore Advisory Board, Fire Island Year-Round Residents Association, the property owners association of each of the unincorporated communities, ferry boat operators and the administrators of each of the two incorporated villages and two incorporated towns.

Comments were received and on January 23, 1981, a revised draft was again circulated for comment. On July 17 and August 14, 1982, meetings with local communities and organizational leaders were held in Ocean Beach, their comments on the drafts compiled, and the July 25, 1983, proposed rule produced.

Comments from representatives of several environmental groups have indicated that further changes need to be made. For this reason, the environmental assessment will be circulated and the comment period on the July 25, 1983, proposed rule extended to December 30, 1983.

VII. PREPARERS

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VIII. APPENDICES

A - Public Law 88-587

B - 36 CFR Section 7.20(a)

C - Proposed Rule 36 CFR 7.20(a), July 25, 1983

D - Schematic of Beach Driving Area

E - Vehicle Use Tabulations

F - Executive Order 11644 and Executive Order 11989

G - Bibliography

PUBLIC LAW 88-587
88th Congress, S. 1365
September 11, 1964

AN ACT
TO ESTABLISH THE FIRE ISLAND NATIONAL SEASHORE,
AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) for the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York, which possess high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population, the Secretary of the Interior is authorized to establish an area to be known as the "Fire Island National Seashore".

(b) The boundaries of the national seashore shall extend from the easterly boundary of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wet lands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay, all as delineated on a map identified as "Fire Island National Seashore No. OGP-0002", dated June 1964. The Secretary shall file said map with the Federal Register, and it may also be examined in the offices of the Department of the Interior.

SECTION 2

(a) The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as appropriated funds become available for the purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise, the lands, waters, and other property, and improvements thereon and any interest therein, within the boundaries of the seashore as established under Section 1 of this Act. Any property or interest therein owned by the State of New York, by Suffolk County, or by any other political subdivision of said State may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by this Act, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(b) When the Secretary determines that lands and waters or interests therein have been acquired by the United States in sufficient quantity to provide an administrative unit, he shall declare the establishment of the Fire Island National Seashore by publication of notice in the Federal Register.

**Fire Island
National
Seashore
Establishment**

Boundaries

**Acquisition of
land.
78 Stat. 928
78 Stat. 929**

**Publication in
Federal Register**

SECTION 2 (continued)

(c) The Secretary shall pay not more than the fair market value, as determined by him, for any land or interest therein acquired by purchase.

(d) When acquiring land by exchange the Secretary may accept title to any nonfederally owned land located within the boundaries of the national seashore and convey to the grantor any federally owned land under the jurisdiction of the Secretary. The lands so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the lands exchanged.

(e) With one exception the Secretary shall not acquire any privately owned improved property or interests therein within the boundaries of the seashore or any property or interests therein within the communities delineated on the boundary map mentioned in Section 1, except beach or waters and adjoining land within such communities which the Secretary determines are needed for public access to the beach, without the consent of the owners so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is satisfactory to the Secretary. The sole exception to this limitation on the power of the Secretary to condemn improved property where appropriate zoning ordinances exists shall be in the approximately eight-mile area from the easterly boundary of the Brookhaven town park at Davis Park, in the town of Brookhaven, to the westerly boundary of the Smith Point County Park. In this area only, when the Secretary deems it advisable for carrying out the purposes of this Act or to improve the contiguity of the park land and ease its administration, the Secretary may acquire any land or improvements therein by condemnation. In every case in which the Secretary exercises this right of condemnation of improved property the beneficial owner or owners (not being a corporation) of any improved property so condemned, provided he, she, or they held the same or a greater estate in the property on July 1, 1963, may elect as a condition of such acquisition by the Secretary any one of the following three alternatives:

- (1) that the Secretary shall take the said property in fee simple absolute and pay the fair market value thereof as of the date of such taking;
- (2) that the owner or owners shall retain a life estate in said property, measured on the life of the sole owner or on the life of any one person among multiple owners (notice of the person so designated to be filed in writing with the Secretary within six months after the taking) or on the life of the survivor in title of any estate held on July 1, 1963, as a tenancy by the entirety. The price in such case shall be diminished by the actuarial fair market value of the life estate retained, determined on the basis of standard actuarial methods;
- (3) that the owner or owners shall retain an estate for twenty-five years. The price in this case shall likewise be diminished by the value of the estate retained.

(f) The term "improved property" as used in this Act shall mean any building, the construction of which was begun before July 1, 1963, and such amount of land, not in excess of two acres in the case of a residence or ten acres in the case of a commercial or industrial use, on which the building is situated as the Secretary considers reasonably necessary to the use of the building: *Provided*, That the Secretary may exclude from improved properties any beach or waters, together with so much of the land adjoining such beach or waters, as he deems necessary for public access thereto.

SECTION 3

(a) In order to carry out the provisions of section 2, the Secretary shall issue regulations, which may be amended from time to time, specifying standards that are consistent with the purposes of this Act for zoning ordinances which must meet his approval.

(b) The standards specified in such regulations shall have the object of (1) prohibiting new com-

78 Stat 929

78 Stat 930

"Improved
property"

Regulations

SECTION 3 (continued)

mercial or industrial uses, other than commercial or industrial uses which the Secretary considers are consistent with the purposes of this Act, of all property within the national seashore, and (2) promoting the protection and development for purposes of this Act of the land within the national seashore by means of acreage, frontage, and setback requirements.

(c) Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provisions that he considers adverse to the protection and development, in accordance with the purposes of this Act, of the area comprising the national seashore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) If any improved property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this Act, is made the subject of a variance under, or becomes for any reason an exception to, such zoning ordinance, or is subject to any variance, exception, or use that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time of passage of such ordinance, the suspension of the Secretary's authority to acquire such improved property by condemnation shall automatically cease.

(f) The Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

78 Stat. 930
78 Stat. 931

SECTION 4

(a) Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a term that is not more than twenty-five years. The value of the reserved right shall be deducted from the fair market value paid for the property.

(b) A right of use and occupancy reserved pursuant to this section shall be subject to termination by the Secretary upon his determination that the use and occupancy is not consistent with an applicable zoning ordinance approved by the Secretary in accordance with the provisions of Section 3 of this Act, and upon tender to the owner of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

Owners Use
of Property

SECTION 5

The Secretary shall permit hunting, fishing, and shell-fishing on lands and waters under his administrative jurisdiction within the Fire Island National Seashore in accordance with the laws of New York and the United States of America, except that the Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. Any regulations of the Secretary under this Section shall be issued after consultation with the Conservation Department of the State of New York.

Hunting and
Fishing

SECTION 6

The Secretary may accept and use for purposes of this Act any real or personal property or moneys that may be donated for such purposes.

**Sunken
Forest
Preserve**

SECTION 7.

(a) The Secretary shall administer and protect the Fire Island National Seashore with the primary aim of conserving the natural resources located there. The area known as the Sunken Forest Preserve shall be preserved from bay to ocean in as nearly its present state as possible, without developing roads therein, but continuing the present access by those trails already existing and limiting new access to similar trails limited in number to those necessary to allow visitors to explore and appreciate this section of the seashore.

(b) Access to that section of the seashore lying between the easterly boundary of the Brookhaven town park at Davis Park and the westerly boundary of the Smith Point County Park shall be provided by ferries and footpaths only, and no roads shall be constructed in this section except such minimum roads as may be necessary for park maintenance vehicles. No development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this section of the seashore as well as that set forth in the preceding paragraph in as nearly their present state and condition as possible.

(c) In administering, protecting, and developing the entire Fire Island National Seashore, the Secretary shall be guided by the provisions of this Act and the applicable provisions of the laws relating to the national park system, and the Secretary may utilize any other statutory authority available to him for the conservation and development of natural resources to the extent he finds that such authority will further the purposes of this Act. Appropriate user fees may be collected notwithstanding any limitation on such authority by any provision of law.

**Shore erosion
control
78 Stat. 931
78 Stat. 932**

SECTION 8

(a) The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures on lands within the Fire Island National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the Army and that is consistent with the purposes of this Act.

(b) The Secretary shall also contribute the necessary land which may be required at any future date for the construction of one new inlet across Fire Island in such location as may be feasible in accordance with plans for such an inlet which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and that is consistent with the purposes of this Act.

**Fire Island
National Ad-
visory Com-
mission
Establishment**

SECTION 9

(a) There is hereby established a Fire Island National Seashore Advisory Commission (hereinafter referred to as the Commission). The Commission shall terminate on the tenth anniversary of the date of this Act or on the declaration, pursuant to Section 2 (b) of this Act, of the establishment of the Fire Island National Seashore, whichever occurs first. The Commission shall consist of fifteen members, each appointed for a term of two years by the Secretary, as follows:

(1) Ten members to be appointed from recommendations made by each of the town boards of Suffolk County, New York, one member from the recommendations made by each such board;

(2) Two additional members to be appointed from recommendations of the town boards of the towns of Islip and Brookhaven, Suffolk County, New York;

(3) One member to be appointed from the recommendation of the Governor of the State of New York;

(4) One member to be appointed from the recommendation of the county executive of Suffolk County, New York;

(5) One member to be designated by the Secretary.

SECTION 9 (continued)

- (b) The Secretary shall designate one member to be Chairman.
- (c) A member of the Commission shall serve without compensation.
- (d) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.
- (e) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Fire Island National Seashore and shall consult with the members with respect to carrying out the provisions of Sections 2, 3, and 4 of this Act.
- (f)
 - (1) Any member of the Advisory Commission appointed under this Act shall be exempted, with respect to such appointment from the operation of Sections 281, 283, 284, and 1914 of title 18 of the United States Code and Section 190 of the Revised Statutes (5 U.S.C. 99) except as otherwise specified in paragraph (2) of this subsection.
 - (2) The exemption granted by paragraph (1) of this subsection shall not extend--
 - (i) to the receipt of payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or
 - (ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

Conflict of
interest

76 Stat. 1126

78 Stat. 932
78 Stat. 933

SECTION 10

There is hereby authorized to be appropriated not more than \$16,000,000 for the acquisition of lands and interests in land pursuant to this Act.

Appropriation

APPROVED SEPTEMBER 11, 1964.

Public Law 94 - 578

October 21, 1976

AN ACT

To provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I -- ACQUISITION CEILING INCREASES

SEC. 101. The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

(5) FIRE ISLAND NATIONAL SEASHORE, NEW YORK: Section 10 of the Act of September 11, 1964 (78 Stat. 928) is amended by changing "\$16,000,000" to "\$18,000,000".

PUBLIC LAW 95 - 625

95th Congress

November 10, 1978

AN ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act may be cited as the "National Parks and Recreation Act of 1978".

TITLE III - BOUNDARY CHANGES

SEC. 322. Fire Island National Seashore

(a) Subsection 1 (b) of the Act of September 11, 1964 (78 Stat. 928), as amended, is further amended to read as follows:

"(b) The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as 'Fire Island National Seashore', numbered OGP-0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior."

(b) Section 2 of such Act is amended by adding the following new subsection at the end thereof:

"(g) The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state."

(c) Section 7 (b) of such Act is amended by striking the phrase "Brookhaven town park at" and inserting in lieu thereof: "Ocean Ridge portion of".

(d) Section 10 of such Act is amended by striking "\$18,000,000", and inserting in lieu thereof "\$23,000,000".

Boundaries
16 USC 459e.

Map, publication in Federal Register

Undeveloped tracts and property.
16 USC 459e-1

16 USC 459e-6

16 USC 459e-9

Appendix B.

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE,
DEPARTMENT OF THE INTERIORPART 7—SPECIAL REGULATIONS, AREAS
OF THE NATIONAL PARK SYSTEMFire Island National Seashore, New York;
Vehicle Use Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This amendment prescribes the routes within Fire Island National Seashore on which the off-road operation of motor vehicles is permitted. It also revises the current regulations pertaining to permits for vehicles used on these routes by establishing clear standards for the issuance of these permits. Revised restrictions on the travel which will be allowed by vehicles under permit are also included in the regulations.

DATES: This amendment shall become effective on January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard W. Marks, Superintendent,
Fire Island National Seashore, telephone 516-289-4810.

SUPPLEMENTARY INFORMATION: On July 12, 1977, the National Park Service published a notice of proposed rulemaking for amended vehicle use regulations for Fire Island National Seashore (42 FR 35859). These proposed regulations were intended to provide a greater degree of control over vehicle use within the Seashore, use which has increased greatly in recent years, despite existing regulations.

A period of 30 days after publication of the proposed regulations was originally provided for public comment. This period was later extended for an additional 30 days in order to allow for additional participation in the rulemaking process.

In all, 87 written comments were received during the 60 days provided, with 9 additional comments arriving after this period. Of this total of 96 comments, 68 were generally in favor of the regulations, while 28 opposed them.

All comments received were carefully analyzed, particularly those that included specific suggestions for changes in the regulations. From these suggestions and from further study of the proposal,

it was determined that a number of changes to the regulations should be made. These changes are primarily clarifications and are not expected to have significant effects on the application of the regulations.

CHANGES MADE

The following is a discussion of the changes which have been made, other than minor editorial revisions.

Definition of residents. On the basis of comments received and further study of the situation, it was determined that the definition of the term "residents" contained in subparagraph (a)(1)(viii) of the proposed regulations was inadequate. This has been rectified in the final regulation by tightly defining those who will be considered "year-round residents" and who, therefore, have travel needs which are different from other categories of users. A definition of "part-time residents" has also been supplied in order to identify those persons who are domiciled on the island but who, because they do not reside there year-round, must meet additional requirements in order to qualify for a permit.

Route descriptions. The description of the route known as the "Burma Road," found in subparagraph (a)(2)(iv), was expanded to indicate that it may be used by fire and law enforcement vehicles, as well as public utility vehicles. This description was also changed to more accurately identify the route as being an intermittent one.

Alternative transportation. Subparagraph (a)(3)(iii), which deals with the location of transportation terminals which will be considered to determine available alternative transportation, has been modified by deleting the requirement for a plank or surfaced pathway between the terminal and the island point of origin or destination. This was found to be necessary to avoid situations in which a location very close to a terminal would have to be considered as not providing alternative transportation, when the only requirement lacking would be a very short length of pathway.

Permit issuance standards. A clarifying change was made in the language of subparagraph (a)(6), which states criteria which will be considered in issuing permits. In the proposal, one criterion had been stated to be "the existence of other permits issued to the applicant." This was felt to be unclear as to the time being referred to. Therefore, this phrase has been changed to speak of "the present or past issuance of other permits to the applicant." This more correctly states the relationship of an applicant's permit status to the decision as to whether or not a permit will be issued. In this same subparagraph, language has been added to make it clear that limitations on numbers of permits will also be a consideration.

Vehicle size limitations. The proposed restriction on vehicle capacity, in (a)(7)

(iii), used an outdated concept of vehicle size class identification. The intention of this provision was to allow the use, in most situations, of vehicles no larger than what is still frequently referred to as a "one-ton truck." Inasmuch as such vehicles now have rated capacities well in excess of 2,000 pounds, the proposed wording was incorrect. In order to establish a clear and more correct requirement, this provision has been revised to establish a limit of 10,000 pounds for the rated gross vehicle weight of permitted vehicles.

Travel closure periods. For those times or situations in which there is no alternative transportation available, subparagraph (a)(10)(ii) places limitations upon the travel that can be performed. As proposed, during the period from June 14 through September 14 any travel which was authorized due to a lack of alternative transportation could not be performed between 9 a.m. and 6 p.m. of any day. This has been modified to further restrict the periods when summer driving is permitted. Now, in addition to the daytime restrictions, travel will be prohibited at all hours on the weekends, from Friday night to Monday morning. In effect, this means that those few persons who are permitted to drive due to a lack of alternative transportation in the summertime may do so only between the hours of 6 p.m. and 9 a.m. on Monday, Tuesday, Wednesday, and Thursday nights and the following mornings.

Fire and law enforcement vehicles. It was not the intent of the proposed regulations to subject these vehicles to the restrictions of subparagraph (a)(10). However, the construction of the regulations did not make this clear. This situation has been corrected through a specific exemption in this subparagraph, relating to firefighting apparatus and law enforcement vehicles.

EFFECTIVE DATE

In as much as permits issued under existing regulations have been extended several times and expire on December 31, 1977, good cause has been found to have these revised regulations effective January 1, 1978, rather than delaying implementation for the full 30 day period normally provided after publication of a final rule. Affected persons were, through the proposed rulemaking, made aware of the changes which will be brought about by this amendment nearly 6 months prior to this effective date.

NOTE.—The National Park Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

DANIEL J. TOBIN,
Associate Director,
Management and Operations.

In consideration of the foregoing, paragraph (a) of § 7.20 of Title 36, Code of Federal Regulations, is hereby amended to read as follows:

§ 7.20 Fire Island National Seashore.

(a) *Operation of motor vehicles.* (1) *Definitions.* The following definitions shall apply to all provisions of this paragraph (a):

(i) "Act" means the Act of September 11, 1964 (Pub. L. 88-587, 78 Stat. 928, 16 U.S.C. § 459e et seq.), or as the same may be amended or supplemented, which authorizes the establishment of the Seashore.

(ii) "Seashore lands" means any lands or interests in lands owned or hereafter acquired by the United States within the authorized boundaries of the Seashore. It shall also mean any lands or interests in lands owned by the United States which are on the island, outside the authorized boundaries of the Seashore, and managed for recreational purposes by the National Park Service pursuant to an agreement with another Federal agency.

(iii) "Island" means the entirety of Fire Island, New York, without regard for property ownership, jurisdiction, or the boundaries of Fire Island National Seashore.

(iv) "Mainland" means the land of Long Island, N.Y.

(v) "Motor vehicle" means a device which is self-propelled by internal combustion or electrical energy and in, upon, or by which any person or material is or may be transported on land.

(vi) "Dune crossing" means an access route over a primary dune which has been designated and appropriately posted.

(vii) "Public utility vehicle" means any motor vehicle operated and owned or leased by a public utility or public service company franchised or licensed to supply, on the island, electricity, water, or telephone service, while that vehicle is in use for supplying such service.

(viii) "Year-round residents" means those persons who are legally domiciled on the island and who, in addition, physically reside in their fixed and permanent homes on the island continuously, except for brief and occasional absences, for 12 months of the year.

(ix) "Part-time residents" means those persons who are legally domiciled on the island, but who physically reside in their fixed and permanent homes on the island continuously for less than 12 months of the year.

(x) "Service vehicle" means any motor vehicle other than a public utility vehicle, whose use on the island is essential to the continued use of residences on the island. This may include vehicles used for the following purposes, while in use for such purposes:

(A) Transporting heating fuel and bottled gas.

(B) Construction, repair, or maintenance of structures and plumbing, heating, or electrical facilities.

(C) Sanitation or refuse removal.

(D) Transporting material to individuals and to retail business establishments on the island.

(xi) "Official vehicle" means any motor vehicle operated and owned or leased by a Federal, State, or local governmental agency, except for law enforcement vehicles and fire fighting apparatus, while that vehicle is being used to transact the official business of that agency.

(2) *Routes for motor vehicle travel.* No motor vehicle may be operated on Seashore lands except on routes designated for that purpose and subject to the limitations of this paragraph (a). The following are the routes for off-road motor vehicle travel on Seashore lands, which shall be designated on a map available at the office of the Superintendent or by the posting of signs where appropriate:

(i) The Atlantic Ocean beach on the south shore of Fire Island, within the Seashore boundaries, from the mean high water mark to the water's edge.

(ii) A 0.5 mile route in the interior of the island, crossing the "Lighthouse Tract" from the easterly end of the paved road in the Robert Moses State Park to the eastern boundary of the Tract.

(iii) A 300 foot interior route from the eastern boundary of the detached eastern section of Robert Moses State Park to the western boundary of the community of Lighthouse Shores, across the land commonly referred to as the "Greenburg Tract."

(iv) An interior route which extends intermittently the length of the island, commonly referred to as the "Burma Road," for limited travel by public utility and law enforcement vehicles and fire fighting apparatus.

(v) Posted dune crossings from the beach to the "Burma Road" or to pathways within the island communities.

(3) *Alternative means of transportation.* In providing for access to the island, the Superintendent shall require maximum possible reliance on those means of transportation which are other than private motor vehicles and which have the minimum feasible impact on Seashore lands. As used in this paragraph (a), the term "alternative transportation" shall mean a waterborne conveyance that is licensed for hire and that provides a reasonable means of transportation between the mainland and the island. Such alternative transportation shall be deemed to exist for each particular factual situation in which:

(i) The schedule of the transportation service in question permits departure from an island terminal before 9 a.m. and departure from a mainland terminal after 5 p.m. on the same day; and

(ii) When the interval between the earliest and latest service provided by the transportation service in question on any day exceeds 8 hours, such service provides at least one round trip between the mainland and the island during that interval; and

(iii) The island transportation terminal in question is no more than one mile from the point of origin or destination on the island or from a point on the island to which access by motor vehicle is permitted; and

(iv) The mode of transportation in question is adequate to carry the person or object to be transported.

(4) *Permit required.* No motor vehicle, other than a piece of firefighting apparatus or a motor vehicle operated and owned or leased by a duly constituted law enforcement agency having jurisdiction within the Seashore, shall be operated on Seashore lands without a valid permit issued by the Superintendent.

(5) *Permit eligibility.* Any person, firm, partnership, corporation, organization, or agency falling within the categories listed below may apply to the Superintendent for a permit, using a form to be supplied for that purpose. The following will be eligible to submit permit applications:

(i) Those persons who are year-round residents.

(ii) Those persons who are part-time residents and who can demonstrate that access by motor vehicle is essential to their residency because of an ambulatory or other severe handicap, a serious health consideration, or lack of alternative transportation.

(iii) Those persons, firms, partnerships, corporations, organizations, or agencies which provide services essential to the occupancy of residences on the island.

(iv) Those persons who desire access by motor vehicle to Seashore lands in order to engage in fishing or hunting thereon, provided such access is compatible with conservation and preservation of Seashore resources.

(v) Those owners of estates in real property located on the island who have a demonstrated need for access to that property on days when there is no alternative transportation.

(6) *Standards for issuance of permits.* Permits will not be issued for the convenience of travel on Seashore lands. The Superintendent shall approve an application for a motor vehicle permit with appropriate limitations and restrictions or deny the application, in accordance with the provisions of this paragraph (a).

Permits will be issued only for those motor vehicles whose travel on Seashore lands is deemed by the Superintendent to be essential to the management or enjoyment of Seashore resources, or to the occupancy of residences or the ownership of real property on the island. In making this determination, the Superintendent shall consider the purposes of the Act in providing for the conservation and preservation of the natural resources of the Seashore and for the enjoyment of these resources by the public; the scope and purpose of such travel; the availability of alternative transportation on the day or days when the applicant for a permit requests to travel on Seashore lands; the present or past issuance of other permits to the applicant; any limitations on numbers of permits established pursuant to subparagraph (8); and, in the case of public utility, service, and official vehicles, the feasibility of basing such vehicles and related equipment on the island rather than the mainland.

(7) *Vehicle restrictions.* Any motor vehicle whose owner or operator has been found to qualify for a permit, according to the standards set forth in subparagraphs (5) and (6), must, prior to the issuance of such permit:

(i) Have a valid permit or other authorization for operation on the island issued by the local government agency or agencies within whose jurisdiction the travel is to be performed, if such permission or authorization is required by such agency or agencies.

(ii) Be capable of four-wheel drive operation.

(iii) Have a rated gross vehicle weight not in excess of 10,000 pounds, unless the use of a larger vehicle will result in a reduction of overall motor vehicle travel.

(iv) Meet the requirements of §§ 4.12, 4.19(e), 4.20, and 4.21 of this chapter and conform to all applicable State laws regarding licensing, registration, inspection, insurance, and required equipment.

(8) *Limitations on numbers of permits.* The Superintendent is authorized to limit the total number of permits for motor vehicle travel on Seashore lands, and/or to limit the number of permits issued for each category of eligible applicants listed in subparagraph (5), as he deems necessary for resource protection, public safety, or visitor enjoyment. In establishing such limits, the Superintendent shall utilize such factors as the type of use or purpose for which travel is authorized, the availability of other means of transportation, limits established by local jurisdictions, historic patterns of use, multiplicity of existing permits held by individuals, esthetic and scenic values, visitor uses, safety, soil, weather, erosion, terrain, wildlife, vegetation, noise, and management capabilities. Before making a final decision to adopt any limitation authorized by this subparagraph, notice of such intention shall be made through posting or news releases, and publication in the "FEDERAL REGISTER," and the public shall be provided a period of 30 days in which to comment upon the proposed limitation.

(9) *Permit limitations.* (i) No permit issued under these regulations shall be valid for more than one year. The Superintendent may issue permits for lesser periods, as appropriate for the travel required or the time of year at which a permit is issued.

(ii) Permits for public utility, service, and official vehicles shall specify the number of vehicles and identify each vehicle whose use is authorized thereby. Permits for other motor vehicles will apply only to the single, specific vehicle for which issued.

(iii) Permits are not transferable to another motor vehicle or to a new owner or lessee of the vehicle for which issued.

(iv) Permits may specify a single or multiple uses or purposes for which travel on Seashore lands is permitted. The limitations and restrictions on authorized travel set forth in subparagraph (10) of this paragraph shall apply, however, depending upon the specific use

or purpose for which a permitted motor vehicle is being utilized at the time of travel.

(v) Permits may contain such other limitations or conditions as the Superintendent deems necessary for resource protection, public safety, or visitor enjoyment. Limitations may include, but will not be limited to, restrictions on locations where vehicle travel is authorized and times, dates, or frequency of travel, in accordance with the provisions of this paragraph (a).

(10) *Authorized travel.* (i) Except as specifically provided elsewhere in this subparagraph (10), travel across Seashore lands by motor vehicles with valid permits will be authorized only on those days in which the island location, which is the point of origin or destination of travel or is another point to which access by motor vehicle is permitted, is not served by alternative transportation.

When alternative transportation services satisfy the definition of alternative transportation in subparagraph (3), the schedule of transportation services available for the island community or communities named in the permit application shall determine the days when travel is not authorized for the motor vehicle to which that permit applies.

(ii) On any day on which travel by motor vehicle is authorized due to a lack of alternative transportation, travel shall be limited to not more than one round trip per vehicle per day between the mainland and the island, and may be performed at any time except the following periods:

(A) From 9 a.m. to 6 p.m. on all Saturdays, Sundays, and national holidays from May 1 through June 13 and from September 15 through October 31.

(B) From 9 a.m. to 6 p.m. on all weekdays, and from 6 p.m. Friday to 9 a.m. the following Monday on all weekends, from June 14 through September 14.

(iii) The Superintendent may, for situations where the restrictions in subparagraph (ii) would create a severe hardship, authorize additional trips or travel at other hours.

(iv) In the case of public utility, service, and official vehicles for which permits have been issued, the Superintendent may authorize travel on Seashore lands at any time that he determines travel by such vehicles is essential, notwithstanding the above limitations and restrictions on authorized travel.

(v) Authorization for travel pursuant to subparagraphs (iii) and (iv) above shall be made only by the terms and conditions of the permit, for recurring travel, or by written permission from the Superintendent, for single occasions.

(vi) In an emergency involving the protection of life or a threatened substantial loss of property, travel by a motor vehicle which is under permit is authorized at any time.

(vii) The Superintendent may suspend any travel by motor vehicle otherwise permitted under this paragraph (a) when in his judgment such travel is inconsistent with the purpose of the Act or when such factors as weather, tides,

or other physical conditions render travel hazardous or would endanger Seashore resources. Such suspension of travel shall be announced by the posting of appropriate signs or verbal order of the Superintendent.

(viii) In accordance with the procedures set forth in § 2.6(b) of this chapter, the Superintendent may establish a limit on the number of motor vehicles permitted on any portion of, or the entirety of, the Seashore lands at any one time when such limits are required in the interests of public safety, protection of the resources of the area, or coordination with other visitor uses.

(ix) The provisions of this subparagraph (10) shall not apply to firefighting apparatus or to motor vehicles operated and owned or leased by a duly constituted law enforcement agency having jurisdiction within the Seashore.

(11) *Rules of travel.* (i) When two motor vehicles approach from opposite directions in the same track on Seashore lands, both operators shall reduce speed and the operator with the water to his left shall yield the right of way by turning out of the track to the right.

(ii) No motor vehicle shall be operated on any portion of a dune on Seashore lands except at dune crossings.

(iii) No person shall operate a motor vehicle on Seashore lands at a speed in excess of 20 miles per hour.

(iv) The speed of any motor vehicle being operated on Seashore lands shall be reduced to five miles per hour upon approaching or passing within 100 feet of any person not in a motor vehicle, or when passing through or over any dune crossings.

(12) *Violations.* (i) Failure to comply with the conditions of any permit issued pursuant to this paragraph will constitute a violation of these regulations.

(ii) In addition to any penalty required by § 1.3(a) of this chapter for a violation of regulations in this paragraph, the Superintendent may suspend or revoke the permit of a motor vehicle involved in such a violation.

[FR Doc. 77-35464 Filed 12-12-77; 8:45 am]

Appendix C

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Fire Island National Seashore, New York; Motor Vehicle Travel on Seashore Lands

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to revise its regulations governing motor vehicle travel at Fire Island National Seashore, New York. The existing regulation authorizes but does not establish specific limits on vehicle permits, causing uncertainty and inaccessibility for interested and otherwise qualified applicants. The proposed regulation will provide island residents, governments, businesses and recreational users with explicit limits and instructions under which permits may be obtained.

DATES: Written comments, suggestions or objections will be accepted until August 24, 1983.

ADDRESSES: Comments should be directed to: Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772.

FOR FURTHER INFORMATION CONTACT: John A. Hauptman, Superintendent, Fire Island National Seashore, Telephone: (516) 289-4810.

SUPPLEMENTARY INFORMATION:**Background**

On December 13, 1977 (42 FR 82483), the National Park Service amended 36 CFR 7.20(a), pertaining to motor vehicle use at Fire Island National Seashore, by identifying the off-road routes and generally revising and clarifying the existing regulations. Included within the 1977 revision was a new paragraph (8), which stated "The Superintendent is authorized to limit the total number of permits for motor vehicle travel on Seashore lands, and/or to limit the number of permits issued for each category of eligible applicants. * * * This authority is based on primary management objectives for the Seashore, i.e., "resource protection,

public safety, or visitor enjoyment." To establish limits "the Superintendent shall utilize such factors as the type of use or purpose for which travel is authorized, the availability of other means of transportation, limits established by local jurisdictions, historic patterns of use, multiplicity of existing permits held by individuals, esthetic and scenic values, visitor uses, safety, soil, weather, erosion, terrain, wildlife, vegetation, noise and management capabilities."

With these factors in mind, the park staff prepared a draft "Criteria for Issuance of Permits," which was circulated in September 1980 to community and organization leaders. Based on received comments, the draft was revised and on January 23, 1981, again sent to community leaders and interested organizations. The Superintendent held meetings on Fire Island with local property owner organizations, town and village government staffs, and affected visitor groups. The meetings occurred on July 17 and August 14, 1982. Meeting comments and letters received served as the basis for further revisions to the draft, which now culminates in the publication of this proposed rule.

By setting specific limits on the numbers and/or use of motor vehicle permits at Fire Island National Seashore, the proposed rule seeks to complete the process begun by the 1977 regulation to implement an effective and equitable means of regulating vehicle use on Seashore lands. The National Park Service has withheld the issuance of additional resident permits pending the placement of these limits. In addition to setting limits, however, it should be observed that the process originally described in § 7.20(a)(8) for instituting or adjusting limits on vehicle permits is being amended. Under existing regulations, the Superintendent may set new permit levels by publication of a notice in the *Federal Register*. Permit limits would, thus, not be part of the regulation itself. The proposed rule requires that limitations may be established only by amending 36 CFR 7.20(a)(8), with a full opportunity for public notice and comment prior to the adoption of any final change in the regulation. The level of public interest shown in the course of developing this proposed rule has persuaded the National Park Service that this change in the method of setting or altering future limits on vehicle use is warranted.

Consistent with this change in process, the initial limits will be incorporated with 7.20(a)(8) as follows, according to eligible applicant category:

(1) Year-round residents, as defined in 36 CFR 7.20(a)(1)(viii), will be limited to no more than 145 permits.

(2) Part-time residents, as defined in 36 CFR 7.20(a)(1)(ix), will only receive permits if they held such permits as of January 1, 1978.

(3) Holders, or their lessees, of retained rights of use and occupancy on lands acquired by the National Park Service in the so-called "Eight-Mile Zone" will receive permits consistent with the terms by which the right of use and occupancy is retained.

(4) Public utility and service vehicles shall receive not more than 30 permits.

(5) Construction and business vehicles shall be limited to not more than 80 permits at any one time on a first-come, first-served basis.

(6) Municipal employees, working on a full-time basis for any of the two municipal villages or 15 unincorporated towns are eligible to receive permits, not to exceed five per village or community; additional permits may be granted on a case-by-case basis if community need can be documented.

(7) Recreational vehicles are restricted to use of the eastern portion of Fire Island National Seashore between Smith Point and Long Cove, below the toe of the dune; the number of available permits is unlimited.

Where required, no application for a permit will be processed without prior approval from the Towns of Islip or Brookhaven and/or the incorporated Villages of Ocean Beach or Saltaire.

The National Park Service considered the possibility of allowing these permits to be transferrable. During the numerous public meetings held, this issue was raised. The National Park Service found that this choice was deemed not to be a valid alternative because all control would be lost if the permits were allowed to be transferred. Under the proposed permit system, only individuals with particular needs will have access to the island. This is in keeping with the Congressional intent, as interpreted by Federal courts, to limit access in an effort to preserve this delicate barrier island. The Service welcomes comments on this decision and on other alternative regulatory schemes.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Donald H. Weir, Fire Island National Seashore, New York; and Arthur E. Eck, Division of Ranger Activities and Protection, Washington, D.C.

Paperwork Reduction Act

The information collection requirements needed to issue permits pursuant to § 7.20(a)(8) will be submitted to the Office of Management and Budget for approval as required under 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a "major rule" under Executive Order 12291 and certifies that the document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The initial economic effect of this rule is expected to be approximately \$40,000 to \$50,000 as several full-time residents, now ineligible, qualify for vehicle permits and acquire off-road vehicles for their use. There will be no additional budget or personnel requirements on Federal, State or local governments as permit application procedures and off-road vehicle control measures are already in effect.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service prepared an Environmental Assessment in 1978, and received extensive public comment, that considers the operation of motor vehicles at Fire Island National Seashore. A copy of the assessment is available at the address noted above.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. § 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend 36 CFR Part 7 by revising paragraph (a)(8) of § 7.20 to read as follows:

§ 7.20 Fire Island National Seashore.

(a) * * *

(8) *Limitations on numbers of permits.*

(i) The Superintendent is authorized to limit the total number of permits for

motor vehicle travel on Seashore lands, and/or limit the number of permits issued for each category of eligible applicants listed in paragraph (a)(5) of this section, as he deems necessary for resource protection, public safety, or visitor enjoyment. In establishing or revising such limits, the Superintendent shall utilize such factors as the type of use or purpose for which travel is authorized, the availability of other means of transportation, limits established by local jurisdictions, historic patterns of use, multiplicity of existing permits held by individuals, esthetic and scenic values, visitor uses, safety, soil, weather, erosion, terrain, wildlife, vegetation, noise, and management capabilities. Any change in limitation shall be made by amendment to this paragraph, and shall be preceded by posting of notices or news releases, with no less than 30 days for public comment on the proposed changes.

(ii) No application for a permit will be processed without prior approval from the Towns of Islip or Brookhaven and/or the incorporated Villages of Ocean Beach or Saltaire, as needed.

(iii) Limitations on permits for motor vehicle travel on Seashore lands, according to eligible applicant category, are as follows:

(A) *Year-round residents.* Permits shall be issued to year-round residents as defined in paragraph (a)(1)(viii) of this section, provided the total number of permits does not exceed 145 in this category. Applications from non-property owners to travel to and from residences on Fire Island will only be accepted from those persons who were year-round residents as of January 1, 1978. The one round trip per vehicle per day provision in paragraph (a)(10)(ii) of this section shall be waived for travel for residential purposes (not business) under this permit category. Full-time residents unable to obtain permits due to the limit established, shall be placed on a waiting list which will utilize the date of receipt of their application to determine their position on the list. Permit applications will be mailed by the National Park Service to eligible renewers by December 1, and must be returned no later than January 31 of the permit year. Applications received after the above date will be considered new applicants and placed on the waiting list.

(B) *Part-time residents.* Permits shall be issued only to those part-time residents, as defined in paragraph (a)(1)(ix) of this section, who held such permits as of January 1, 1978. Part-time residents who become year-round residents shall be eligible to apply for

and receive year-round permits in the manner described in paragraph (a)(8)(iii)(A) of this section.

(C) Holders of retained rights.

Holders, or their lessors, of retained rights of use and occupancy for properties acquired by the National Park Service in the eight-mile area described by the Act, shall be issued permits consistent with the terms under which the right of use and occupancy is retained.

(D) Public utility and service vehicles.

Public utility vehicles and service vehicles involved in the delivery of heating fuel and/or bottled gas, solid waste disposal, and other essential services as determined by the communities, and approved by the Superintendent, shall be apportioned permits to allow minimal service needs to each community. The number of permits in this category shall not exceed 30.

(E) Construction and business vehicles. Builders and contractors involved in construction and/or repairs

at Island locations and operators or employees of year-round businesses on the Island, may be permitted access to job site on a 30-day per job basis.

Vehicles in this category may remain at job sites and are to be removed upon completion of the job. All transport of supplies, materials, and crews shall be done by use of the nearest available ferry, freight or other over-water transport methods, when water transport is possible. The number of permits in this category shall not exceed 80 and shall be granted on a first-application basis. Those unable to obtain permitted access due to the number limit shall be placed on a waiting list which will utilize the date of receipt of application to determine their position on the list. Full-time construction firms and year-round businesses are eligible for one-year letter permits so long as they remain year-round.

(F) Municipal employees. Full time employees of the two municipal villages or of the 15 unincorporated communities

identified in the Act are eligible for permits if such employment necessitates Island residence. The number of permits in this category will be limited to no more than five (5) per village or community. Applications beyond this number shall be reviewed, case-by-case, and granted on the basis of documented community need.

(G) Recreational vehicles.

Recreational vehicles may be authorized for travel from Smith Point to Long Cove as described in paragraph (a)(2)(i) of this section. The landward limit of use in this area is the toe of the dunes. The one round trip per vehicle per day provision in paragraph (a)(10)(ii) of this section shall be waived for recreational travel under this permit category.

* * * * *

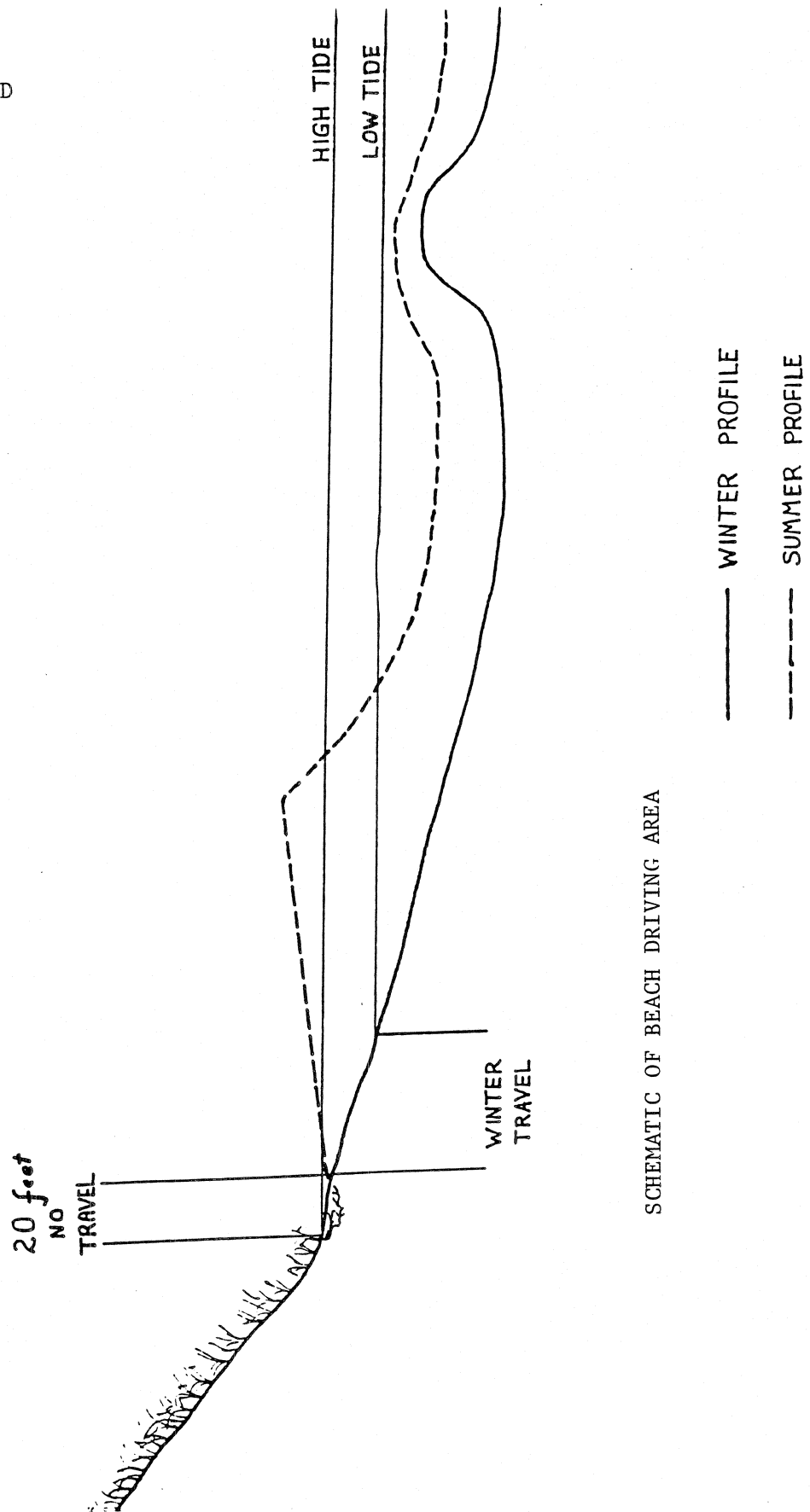
Dated: April 6, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-20023 Filed 7-22-83; 8:45 am]

BILLING CODE 4310-70-M



SCHEMATIC OF BEACH DRIVING AREA

Appendix E

BEACH CLOSURES DUE TO HIGH TIDE NOVEMBER 1982 THRU APRIL 1983

FIRE ISLAND NATIONAL SEASHORE

<u>DATE</u>	<u>BEACH CLOSED</u>	<u>BEACH OPEN</u>	<u>TOTAL HOURS PER DAY</u>	<u>TOTAL HOURS PER MONTH</u>
11/05/82	0845	1300	5 hrs 15 min	16 hrs 5 min
11/22/82	1010	1330	3 hrs 20 min	
11/23/82	0950	1620	7 hrs 30 min	
12/01/82	0815	1000	1 hr 45 min	18 hrs 15 min
12/06/82	0925	1455	5 hrs 30 min	
12/16/82	0855	1130	2 hrs 25 min	
12/17/82	0815	1030	2 hrs 15 min	
12/18/82	0840	1100	2 hrs 20 min	
12/21/82	0930	1300	3 hrs 30 min	
01/11/83	0400 1435	0950 2035	11 hrs 50 min	31 hrs 35 min
01/12/83	1840	2300	4 hrs 20 min	
01/28/83	0745 1630	0910 2030	5 hrs 30 min	
01/29/83	0700	1030	3 hrs 30 min	
01/30/83	0715	1030	3 hrs 15 min	
01/31/83	0715	1025	3 hrs 10 min	
02/03/83	0830	1400	5 hrs 30 min	115 hrs 10 min
02/04/83	1245	1400	1 hr 15 min	
02/07/83	1000		24 hrs	
02/11/83	0000	2400	24 hrs	
02/12/83	0000	2400	24 hrs	

<u>DATE</u>	<u>BEACH CLOSED</u>	<u>BEACH OPEN</u>	<u>TOTAL HOURS PER DAY</u>	<u>TOTAL HOURS PER MONTH</u>
02/15/83	0740	1015	2 hrs 35 min	See previous page
02/16/83	0805	1025	2 hrs 20 min	
02/17/83	0800	1200	4 hrs	
02/19/83	0830	1500	6 hrs 30 min	
02/20/83	1115	1315	2 hrs	
02/21/83	1115	1430	3 hrs 15 min	
02/22/83	1245	1615	3 hrs 30 min	
02/26/83	1830	2030	2 hrs	
02/27/83	1415	2400	10 hrs 15 min	
03/02/83	0745	1205	4 hrs 20 min	44 hrs 35 min
03/08/83	1330	1530	2 hrs	
03/10/83	0700	0900	2 hrs	
03/11/83	1400	2000	6 hrs	
03/12/83	0830 1640	1000 2100	5 hrs 50 min	
03/18/83	0630	1430	8 hrs	
03/19/83	1015	1345	3 hrs 30 min	
03/20/83	0825	1430	6 hrs 5 min	
03/21/83	0945	1325	3 hrs 40 min	
03/28/83	0840	1040	2 hrs	
03/29/83	0915	1025	1 hr 10 min	
04/03/83	0900	1300	5 hrs	36 hrs 30 min
04/09/83	1605	1800	1 hr 55 min	
04/15/83	0700	1130	4 hrs 30 min	
04/16/83	0930	1145	2 hrs 15 min	
04/17/83	1015	1300	2 hrs 45 min	
04/18/83	0900	1200	3 hrs	
04/19/83	0925	1315	3 hrs 15 min	
04/20/83	1155	1400	2 hrs 5 min	
04/25/83	0900	1140	2 hrs 40 min	
04/26/83	0700	1130	4 hrs 30 min	
04/29/83	1900	2300	4 hrs	

RECREATION VEHICLES

VEHICLE COUNT SUMMARY

SMITH POINT CHECKPOINT

MONTH	Y E A R (S)											
	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
JANUARY	484	221	78	192	284	210	103	389				
FEBRUARY	501	284	176	129	281	248	224	331				
MARCH	642	306	391	316	320	256	277	584				
APRIL	1,014	383	315	437	311	337	485	662				
MAY	114	244	314	366	200	188	101	230				
JUNE	0	0	37	165	0	75	51	129				
JULY	0	0	0	0	0	0	0	0				
AUGUST	0	0	0	0	0	0	0	0				
SEPTEMBER	1,202	485	366	331	346	332	242	419				
OCTOBER	1,614	861	521	356	1,058	929	1,805	828				
NOVEMBER	921	320	434	697	970	562	2,034					
DECEMBER	266	244	267	239	231	298	235					
TOTALS	6,758	3,348	2,899	3,228	4,002	3,435	5,302					

NON-RECREATION VEHICLES

VEHICLE COUNT SUMMARY

SMITH POINT CHECKPOINT

MONTH	Y E A R (S)												
	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	
JANUARY	1,185	1,442	1,113	1,698	1,512	1,480	891	967					
FEBRUARY	1,189	1,609	1,409	1,091	1,280	1,262	803	759					
MARCH	1,133	1,749	2,116	1,734	754	978	800	522					
APRIL	928	1,120	859	772	596	737	543	381					
MAY	1,385	1,061	674	814	408	552	469	378					
JUNE	1,370	837	615	693	413	402	350	480					
JULY	952	1,025	777	579	583	457	392	486					
AUGUST	777	595	821	547	473	381	373	484					
SEPTEMBER	855	517	640	524	500	344	366	466					
OCTOBER	1,207	2,586	559	745	497	466	423	348					
NOVEMBER	1,399	1,132	1,095	908	734	612	486						
DECEMBER	1,459	1,208	1,575	1,012	989	1,627	674						
TOTALS	13,839	14,881	12,253	11,117	8,739	9,298	6,570						

NON-RECREATION VEHICLES

VEHICLE COUNT SUMMARY

WEST DISTRICT CHECKPOINT

MONTH	Y E A R (S)											
	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
JANUARY	10,616	5,354	3,333	5,990	6,386	6,313	4,196	4,778				
FEBRUARY	11,785	4,075	2,809	5,495	6,597	5,019	4,835	4,009				
MARCH	10,390	9,436	5,184	9,124	6,276	5,513	5,707	5,324				
APRIL	5,098	4,947	5,153	7,718	5,054	4,225	5,145	5,190				
MAY	7,942	5,513	3,795	4,202	2,745	2,615	2,855	3,468				
JUNE	3,034	2,962	2,007	1,703	1,207	1,004	890	1,043				
JULY	3,092	1,434	1,538	1,082	1,307	490	399	358				
AUGUST	3,254	1,268	978	1,211	1,388	454	338	406				
SEPTEMBER	2,955	2,470	1,363	1,756	2,148	1,217	1,857	1,754				
OCTOBER	6,420	3,365	2,768	4,923	4,906	2,977	3,944	4,394				
NOVEMBER	6,029	3,574	4,171	6,531	5,561	3,462	4,572					
DECEMBER	5,826	2,427	4,950	6,608	5,929	3,823	4,070					
TOTALS	76,441	46,825	38,054	56,343	49,504	37,112	38,798					

The attached statistical data is placed at your disposal to aid in arriving at equitable and realistic use of ORV's at Fire Island National Seashore. The charts are put together for each month of the year as follows:

<u>Total for month</u>	<u>High use/ Day</u> <u>Low use</u>
<u>Total use for weekends</u> Av. use/day for weekends	Av/day of month

The compilation of yearly data is worked out below.

	<u>Smith Point Recreation</u>	<u>Smith Point Non-Recreation</u>	<u>Lighthouse Non-Recreation</u>	<u>Total Non-Recreation</u>	<u>Recreation %Non-Recreation</u>
1977	3,348	16,505	46,825	63,330	5.43
1978	2,899	12,253	38,054	50,307	5.76
1979	3,228	11,117	56,343	67,460	4.79
1980	4,002	8,739	49,504	58,243	6.87
1981	3,435	9,298	37,112	46,410	7.40
1982	*5,302	6,570	38,808	45,378	11.68

*1982-Robert Moses State Park and Smith Point County Park closed to driving for recreation purposes.

	SMITH POINT RECREATION		SMITH POINT NON-RECREATION		LIGHTHOUSE NON-RECREATION	
JANUARY	78	$\frac{17}{0}$	1113	$\frac{80}{0}$	3338	$\frac{182}{23}$
	44/4.9	2.5	185/20.6	35.9	829/92.1	107.7
FEBRUARY	176	$\frac{42}{0}$	1409	$\frac{80}{0}$	2809	$\frac{190}{0}$
	130/16.3	6.3	395/49.4	50.3	860/107.5	100/3
MARCH	391	$\frac{90}{0}$	2116	$\frac{112}{15}$	5184	$\frac{241}{86}$
	256/32	12.6	350/43.8	69.9	1095/136.9	167.2
APRIL	315	$\frac{30}{0}$	859	$\frac{50}{0}$	5153	$\frac{418}{23}$
	213/21.3	10.5	288/28.8	28.6	1486/148.6	171.8
MAY	314	$\frac{30}{2}$	674	$\frac{34}{6}$	3795	$\frac{244}{36}$
	134/16.8	10.1	138/17.3	21.7	501/62.6	122.4
JUNE	37	$\frac{7}{0}$	615	$\frac{34}{6}$	2007	UNA
	10/1.3	1.2	183/22.9	20.5	UNA	66.9
JULY	0	0	777	$\frac{44}{8}$	1538	$\frac{89}{12}$
	0	0	192/19.2	25.1	311/31.1	49.6
AUGUST	0	0	821	$\frac{59}{6}$	978	$\frac{50}{11}$
	0	0	185/23.1	26.5	181/22.6	31.5
SEPTEMBER	366	$\frac{56}{10}$	640	$\frac{31}{8}$	1363	$\frac{119}{3}$
(15-30)	138/35.6	24.4	227/25.2	21.3	87/9.7	45.4
OCTBOER	521	$\frac{33}{6}$	559	$\frac{30}{6}$	2768	$\frac{131}{27}$
	157/17.4	16.8	117/13.0	18.0	445/49.4	89.3
NOVEMBER	434	$\frac{57}{0}$	1095	$\frac{61}{21}$	4171	$\frac{196}{81}$
	217/27.1	14.5	273/34.1	36.5	987/123.4	139.0
DECEMBER	267	$\frac{39}{0}$	1575	$\frac{111}{5}$	4950	$\frac{249}{80}$
	164/16.4	8.6	290/29.0	50.8	1376/137.6	159.7

	SMITH POINT RECREATION		SMITH POINT NON-RECREATION		LIGHTHOUSE NON-RECREATION	
JANUARY	192	$\frac{36}{0}$	1698	$\frac{109}{10}$	5990	$\frac{331}{100}$
	106/13.3	6.2	275/34.4	54.8	1063/132.9	193.2
FEBRUARY	129	$\frac{43}{0}$	1091	$\frac{71}{2}$	5495	$\frac{399}{72}$
	103/12.9	4.6	283/35.4	39.0	1616/202.0	232.0
MARCH	316	$\frac{52}{0}$	1734	$\frac{73}{34}$	9124	$\frac{432}{169}$
	202/22.4	35.1	408/45.3	55.9	1937/215.2	294.3
APRIL	437	$\frac{62}{1}$	772	$\frac{48}{10}$	7718	$\frac{364}{78}$
	244/27.1	14.6	167/18.6	25.7	1451/161.2	257.3
MAY	366	$\frac{30}{0}$	814	$\frac{43}{7}$	4202	$\frac{338}{22}$
	60/7.5	11.8	153/19.1	26.3	402/50.3	135.5
JUNE	165	$\frac{25}{4}$	693	$\frac{40}{9}$	1703	$\frac{165}{5}$
(1-14)	23/5.8	11.8	170/18.9	23.1	262/29.1	56.8
JULY	0	0	579	$\frac{32}{9}$	1082	$\frac{67}{1}$
	0	0	123/13.7	18.7	187/20.8	34.9
AUGUST	0	0	547	$\frac{27}{8}$	1211	$\frac{67}{18}$
	0	0	107/13.4	17.6	203/25.4	39.1
SEPTEMBER	331	$\frac{40}{9}$	524	$\frac{35}{6}$	1756	$\frac{132}{5}$
(16-30)	66/13.2	11.0	143/14.3	17.5	324/32.4	58.5
OCTOBER	356	$\frac{32}{0}$	745	$\frac{38}{15}$	4923	$\frac{351}{29}$
	47/5.9	11.5	163/20.4	24.0	826/103.3	158.8
NOVEMBER	697	$\frac{89}{3}$	908	$\frac{45}{9}$	6531	$\frac{435}{67}$
	385/48.1	23.2	215/26.9	30.3	1156/144.5	217.7
DECEMBER	239	$\frac{38}{0}$	1012	$\frac{58}{4}$	6608	$\frac{319}{93}$
	160/16.0	7.7	297/29.7	32.6	1678/167.8	213.2

	SMITH POINT RECREATION		SMITH POINT NON-RECREATION		LIGHTHOUSE NON-RECREATION	
JANUARY	284	$\frac{116}{0}$	1512	$\frac{67}{12}$	6386	$\frac{268}{73}$
	210/26.3	9.2	292/36.5	48.8	1340/167.5	206
FEBRUARY	281	$\frac{46}{0}$	1280	$\frac{68}{22}$	6597	$\frac{278}{140}$
	213/26/6	9.8	286/35.8	44.1	1692/211.5	227.5
MARCH	320	$\frac{101}{0}$	754	$\frac{68}{0}$	6276	$\frac{418}{82}$
	295/29.5	10.3	183/18.3	24.3	1581/158.1	202.5
APRIL	1	$\frac{1}{0}$	596	$\frac{39}{2}$	5054	$\frac{253}{70}$
	1/.1	.03	147/18.4	19.9	672/84	168.5
MAY	0	0	408	$\frac{33}{2}$	2745	$\frac{169}{64}$
	0	0	76/8.4	13.2	473/52.6	88.5
JUNE	0	0	413	$\frac{29}{0}$	1207	$\frac{80}{0}$
	0	0	70/7.8	13.8	272/34	40.2
JULY	0	0	583	$\frac{44}{8}$	1307	$\frac{95}{47}$
	0	0	114/14.3	72.9	239/29.9	42.2
AUGUST	0	0	473	$\frac{28}{2}$	1388	$\frac{79}{12}$
	0	0	145/14.5	15.3	324/32.4	44.8
SEPTEMBER	346	$\frac{51}{0}$	500	$\frac{33}{5}$	2148	$\frac{143}{4}$
	(2 wkends) 51/12.8	23.1	82/10.3	16.7	379/47.4	71.6
OCTBOER	1058	$\frac{87}{0}$	497	$\frac{30}{0}$	4906	422
	182/22.8	34.1	67/8.4	16.0	1075/134.4	158.3
NOVEMBER	970	$\frac{115}{0}$	734	$\frac{36}{7}$	5561	$\frac{231}{95}$
	572/57.2	32.3	216/21.6	24.5	1481/148.1	185.4
DECEMBER	231	$\frac{46}{0}$	989	$\frac{59}{8}$	5929	$\frac{241}{112}$
	143/17.9	7.5	206/25.8	31.9	1344/168	191.3

	SMITH POINT RECREATION		SMITH POINT NON-RECREATION		LIGHTHOUSE NON-RECREATION	
JANUARY	210	$\frac{28}{0}$	1480	$\frac{81}{10}$	6313	$\frac{283}{81}$
	146/16.2	6.8/day	322/35.8	47.7/day	1498/166.4	203.6/day
FEBRUARY	248	$\frac{52}{0}$	1262	$\frac{96}{20}$	5019	$\frac{235}{102}$
	197/24.6	8.9/day	263/32.9	45.1/day	1313/164.1	179.3/day
MARCH	256	$\frac{58}{0}$	978	$\frac{50}{16}$	5513	$\frac{220}{101}$
	191/21.2	8.2/day	249/27.7	31.5/day	1448/160.9	177.8/day
APRIL	337	$\frac{58}{0}$	737	$\frac{40}{13}$	4225	$\frac{186}{71}$
	221/27.6	11.2/day	176/22	24.6/day	968/121	140.8/day
MAY	188	$\frac{24}{0}$	552	$\frac{31}{9}$	2615	$\frac{152}{8}$
	19/1.9	6.1/day	127/12.7	17.8/day	366/36.6	84.4/day
JUNE	75	$\frac{12}{0}$	402	$\frac{28}{8}$	1004	$\frac{68}{4}$
	2/.3	2.7/day	82/10.3	14.4/day	106/13.3	33.5/day
JULY	0	0	457	$\frac{29}{4}$	490	$\frac{29}{0}$
	0	0	54/6.8	14.7/day	95/11.9	15.8/day
AUGUST	0	0	381	$\frac{25}{3}$	454	$\frac{30}{5}$
	0	0	71/7.1	12.3/day	71/7.1	14.6/day
SEPTEMBER	332	$\frac{46}{0}$	344	$\frac{27}{2}$	1217	$\frac{99}{6}$
	45/5.6	11.1/day	50/6.3	11.5/day	181/22.6	40.6/day
OCTOBER	929	$\frac{57}{2}$	466	$\frac{34}{0}$	2977	$\frac{131}{37}$
	267/29.7	30.0/day	74/8.2	15.0/day	570/63	96/day
NOVEMBER	562	$\frac{67}{3}$	612	$\frac{34}{6}$	3462	$\frac{171}{58}$
	154/19.3	18.7/day	113/14.1	20.4/day	877/109.6	115.4/day
DECEMBER	298	$\frac{46}{0}$	1627	$\frac{212}{5}$	3823	$\frac{213}{61}$
	158/19.8	9.6/day	624/78	52.5/day	873/109.1	123.3/day

	SMITH POINT RECREATION		SMITH POINT NON-RECREATION		LIGHTHOUSE NON-RECREATION	
JANUARY	103	$\frac{26}{0}$	891	$\frac{50}{9}$	4196	$\frac{224}{42}$
	65/6.5	3.3/day	178/17.8	28.7/day	967/96.7	135.4/day
FEBRUARY	224	$\frac{29}{0}$	803	$\frac{59}{11}$	4835	$\frac{250}{88}$
	164/205	8/day	185/22.8	28.7/day	1083/135.4	172.7/day
MARCH	277	$\frac{76}{0}$	800	$\frac{46}{11}$	5707	$\frac{255}{108}$
	199/24.9	8.9/day	174/21.8	25.8/day	1164/145.5	184.1/day
APRIL	485	$\frac{135}{0}$	543	$\frac{36}{3}$	5145	$\frac{245}{41}$
	363/45.8	16.2/day	133/16.6	18.1/day	1117/139.6	171.5/day
MAY	101	$\frac{12}{0}$	469	$\frac{40}{0}$	2855	$\frac{201}{1}$
	9/.9	3.3/day	95/9.5	15.1/day	283/28.3	92.1/day
JUNE	51		350		890	$\frac{90}{4}$
		1.7/day		11.7/day	69/8.6	28.7/day
JULY	0		392	$\frac{26}{1}$	399	$\frac{39}{4}$
			40/4.4	12.6/day	65/7.2	12.9/day
AUGUST	0		373	$\frac{27}{1}$	338	$\frac{22}{1}$
			30/.96	12.0/day	43/5.4	11/day
SEPTEMBER	242	$\frac{36}{0}$	366	$\frac{27}{2}$	1857	$\frac{149}{2}$
	45/5.6	8.1/day	20/2.5	12.2/day	119/14.9	59.9/day
OCTOBER	1805	$\frac{228}{6}$	423	$\frac{25}{3}$	3944	$\frac{208}{15}$
	811/81.1	58.2/day	87/8.7	13.6/day	589/58.9	127.2/day
NOVEMBER	2034	$\frac{212}{10}$	486	$\frac{30}{6}$	4572	$\frac{208}{80}$
	833/110	67.8/day	84/10.5	16.2/day	835/104.4	152.4/day
DECEMBER	235	$\frac{35}{0}$	674	$\frac{46}{1}$	4070	$\frac{205}{46}$
	124/15.5	7.6/day	71/8.75	21.74/day	743/92.9	131.3/day

Executive Orders

EXECUTIVE ORDER 11644

Use of Off-Road Vehicles on the Public Lands

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

SECTION 1. *Purpose.* It is the purpose of this order 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 the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC 2. *Definitions.* As used in this order, the term:

(1) “public lands” means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as “Land Between the Lakes,” and (C) lands under the custody and control of the Secretary of Defense;

(2) “respective agency head” means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) “off-road vehicle” means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A)

any registered motorboat, (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) “official use” means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC 3. *Zones of Use.* (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of 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, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

SEC. 4. *Operating Conditions.* Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

SEC. 5. *Public Information.* The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

SEC. 6. *Enforcement.* The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

SEC. 7. *Consultation.* Before issuing the regulations or administrative instructions required by this order or designating areas or trails as required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Atomic Energy Commission.

SEC. 8. *Monitoring of Effects and Review.* (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designations of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

RICHARD NIXON

THE WHITE HOUSE,
February 8, 1972

EXECUTIVE ORDER 11989

Off-Road Vehicles on Public Lands

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to clarify agency authority to define zones of use by off-road vehicles on public lands, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), Executive Order No. 11644 of February 8, 1972, is hereby amended as follows:

SECTION 1. Clause (B) of Section 2(3) of Executive Order No. 11644, setting forth an exclusion from the definition of off-road vehicles, is amended to read "(B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and".

SEC. 2. Add the following new Section to Executive Order No. 11644:

"SEC. 9. *Special Protection of the Public Lands.* (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines 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 time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

"(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order."

JIMMY CARTER

THE WHITE HOUSE,
May 24, 1977

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