

**CAHA NEGOTIATED RULEMAKING COMMITTEE  
WORKING DOCUMENT**

NOTE: THE VILLAGE SUBCOMMITTEE MAY DEVELOP ADDITIONAL  
RECOMMENDATIONS CONCERNING THE VILLAGES.

**ORV SAFETY CLOSURE**

*PURPOSE:* Ensuring the safety of the public when natural conditions within a specific area of CAHA present a clear and imminent threat of (a) significant bodily injury or death to the driving public or other CAHA users or (b) significant damage to personal property, primarily vehicles and their contents.

*SCOPE:* May be applied within any routes, trails, and areas designated for ORV driving.

*TRIGGERS FOR CLOSURE:* Conditions listed below may trigger an ORV Safety Closure in the event of a clear and imminent threat of significant bodily injury or death; and/or damage to personal property, primarily vehicles and their contents. Examples of hazards that could justify a closure include, but are not limited to:

- deep beach cuts which block the beach from dune to surf with no obvious way around;
- obstacles, such as exposed stumps, shipwrecks, or debris that cannot be safely by-passed or that block the entire width of the beach and cannot be easily removed;
- severe beach slope that puts vehicles in an unsafe gradient position that increases the chances of the loss of vehicular control.
- A high concentration of pedestrian users coupled with a narrow beach

Triggers do not include:

- a narrow beach, by itself;
- tides which block access through portions of beaches occur periodically and predictably and are an obvious, easily avoidable hazard;
- hazards blocking only a portion of the beach, where safe passage is available around the hazard.

While the above criteria provide the rationale for what does or does not constitute an "safety closure," the Superintendent retains the authority under 36 CFR §1.5 (a) to close all or a portion of a park area to all public use or to a specific use or activity, based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities. For any such closures implemented, the public will be notified in accordance with the public notice requirements identified in 36 CFR § 1.7.

**SUBCOMMITTEE DOCUMENT**  
FROM 12/12/08 COMMITTEE MEETING

*CAHA PERSONNEL ACTION:* Providing for the public safety is the responsibility of all CAHA employees. The following is expected of CAHA personnel.

- Law enforcement (LE) rangers should have the authority to enact closures consistent with the triggers noted above.
- Non-emergency service staff, when encountering safety hazards, should establish initial safety precautions and contact the LE ranger staff to evaluate the situation and establish any necessary ORV Safety Closures.
- Where hazards block only a portion of the beach, staff will mark and post the hazard to direct ORV traffic safely around the hazard.

*MONITORING:* ORV Safety Closures shall be monitored on a weekly basis.

*DEMARCATIION:* ORV Safety Closures shall be clearly marked by carsonite posts and signs indicating the area is closed to ORV use. The signs used for this purpose shall indicate that safety is the reason for the closure.

*ORV SAFETY CLOSURE NOTIFICATION AND CONTINUANCE:* Any employee initiating an emergency ORV safety closure will notify their supervisor immediately. The Superintendent and Division Chief will be notified as soon as possible of any such emergency ORV safety closure. As soon as possible after the initial closure has been established, but no later than one week, the employee will complete a "Closure Request Form" and submit the form for final approval through the chain of command. Such form should include the coordinates of the closure, the specific reasons for the closure, the dates of action, and the employee taking action. Completion of a "Closure Request Form" will only be required when a complete beach closure is established and does not apply to any modification of the ORV corridor width that does not preclude access. As long as the area is closed, the form shall be updated weekly to include a brief description of the condition of the area based on the weekly monitoring.

*TRIGGERS FOR RE-OPENING:* Sufficient diminishment, reduction or elimination of the conditions and hazards described under *TRIGGERS FOR CLOSURE* would constitute the trigger for re-opening a closure. ORV safety closures are intended to be in effect only as long as visitor safety or personal property is clearly and imminently threatened.

*STAKEHOLDER INPUT:* The Park shall establish and maintain a standing stakeholder advisory [FACA] committee with representatives from various sections/geographies of the Park representing diverse and balanced interests to provide input to the Park on, among other things, safety closures and openings.

## **PEDESTRIAN SAFETY**

Due to ambient level of natural sounds on the beach (from surf, wind, etc.), and other inherent distractions in the beach setting, pedestrians may not be attentive to or aware of moving vehicles (ORVs) on the beach, especially those vehicles approaching from the sides or from behind. It is the legal responsibility of the ORV operator to always give pedestrians the right of way on the beach. The following federal regulations currently apply to motor vehicle operation in the vicinity of pedestrians:

### **36 CFR § 4.20 *RIGHT OF WAY***

An operator of a motor vehicle shall yield the right of way to pedestrians, (saddle and pack animals, and vehicles drawn by animals). Failure to yield the right of way is prohibited.

### **36 CFR § 4.22 *UNSAFE OPERATION***

(b) The following are prohibited:

(3) Failing to maintain that degree of control of a motor vehicle necessary to avoid danger to persons, property or wildlife.

In addition, the following (new) measures apply (*assuming a parkwide ORV speed limit of 15 mph*):

- 1) When approaching or passing a pedestrian(s) on the beach, ORVs shall move to the landward side of the available ORV driving corridor to the extent practicable without driving on the toe of the dune or the dune itself in order to yield the wider portion of the beach corridor to the pedestrian(s).
- 2) ORVs shall slow to 5 mph (or the slowest possible speed to maintain traction without exceeding the overall speed limit) when traveling within 10 meters (30 ft) or less of pedestrians at any location on the beach at any time of year.
- 3) Pedestrians should not block access ramps and should use pedestrian ramps/boardwalks where available. If a pedestrian walkover is not available, pedestrians should walk to the side of ORV ramps, not in the tire tracks.