

# OFF-ROAD VEHICLE ACTIVITY REPORT

## CAPE COD NATIONAL SEASHORE

### 2022

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## Executive Summary

On April 10, 2022, the ORV office opened for permit sales. Beach conditions allowed for approximately 0.9 miles of corridor to be available when the corridor opened on April 15<sup>th</sup>. Up to 3.0 miles of beach was open during the spring and early summer.

Flexible management was utilized along the Oversand Corridor for the first time in 2022. The use of flexible management allowed approximately 1 mile of beach to remain open from May 22<sup>nd</sup> through June 17<sup>th</sup>. There was a total closure of the corridor from June 18<sup>th</sup> through August 5<sup>th</sup>. Following the total closure up to 5.2 miles of corridor was open with sections between Exit 8 and High Head restricted due to beach conditions. Head of the Meadow access did not open due to impassible beach conditions just north of the access.

There were a total of 3555 permits sold in 2022. Of those, 1759 permits were annual ORV & SCV permits. 1796 combined weekly permits were sold. Revenue decreased slightly in 2022 as compared to 2021.

The seashore documented 116 pair of piping plovers nesting within the park. 189 piping plover chicks fledged from these pairs resulting in a productivity of 1.63 chicks per pair. Along the Oversand Corridor 52 pairs of plovers were documented fledging a total of 102 chicks.

21 violation notices and 42 warnings were issued along the ORV Corridor. The greatest number of violation notices continue to be issued to non-permit holders for Failure to Possess an Oversand Permit.

## Regulatory History

Since the creation of Cape Cod National Seashore in 1961, Off-Road Vehicle (ORV) operations have been strictly regulated. During the 1960's and 1970's, ORV trails and routes were extensive. Almost the entire outer beach from Long Point in Provincetown to Nauset Inlet in Eastham was available for ORV use. Additionally, an extensive system of inner routes and trails behind the primary dune (i.e., landward) existed in Provincetown and North Truro. In 1978, Eastham closed the route between Coast Guard Beach and Nauset Inlet because the Blizzard of '78 had destroyed the available ORV route. At approximately the same time, Wellfleet Town Meeting banned the use of ORV's on their beaches between June 15 and September 15. Then in the early 1980's Wellfleet closed the outer beach to ORV use year-round. As a result, the ORV route on the back beach was limited to the area from the Wellfleet-Truro town line north to Long Point in Provincetown.

In 1980, the Conservation Law Foundation (CLF) sued the Seashore for what the CLF believed were inadequate controls over ORV driving within the Seashore. The Seashore created a new ORV management plan that addressed a variety of concerns. The ORV Management Plan of 1981 closed all inner routes and trails to the public except for dune cottage residents or their caretakers, dune tour operations, and National Park Service patrols. The 1981 plan also limited the ORV route on the back beach from Hatches Harbor to the Wellfleet town line, and only allowed ORV operation on the beach from Head of the Meadow in Truro to the Wellfleet town line at night.

In 1984, the judge hearing the CLF suit in Boston ruled that the Seashore's 1981 plan was adequate and suggested the plan could be improved but did not require that the plan be changed. Following the judge's suggestion, the ORV Management Plan of 1985 was implemented. The 1985 plan permanently closed the portion of the ORV corridor between High Head in Truro and the Wellfleet town line. It further restricted the use of ORV's by creating a season for general operation between April 15 and November 15. ORV's could operate on the beach between November 16 and April 14 only for the purposes of accessing town shellfish beds, picking up flotsam and jetsam, or in the case of dune cottage residents or their caretakers for accessing their cottage. A limited access pass (LAP) was required for these uses and no travel was permitted within 2 hours of high tide.

In 1986, the Piping Plover (*Charadrius melodus*), a small beach-nesting shorebird, was federally listed as a threatened species. The Seashore was required by law to protect threatened and endangered species occurring within the park. The Seashore began to routinely close portions of the existing ORV corridor when Piping Plover chicks were present. As the plover population on the Seashore increased, the amount of ORV corridor decreased during June and July each year. In 1995, as little as 0.3 mi. of ORV corridor was available for several weeks.

The need for new regulation was motivated by several events including management issues related to the inflexibility of the existing rule to deal with changing conditions on the beach. To revise the regulation, in 1995, the Seashore entered into a negotiated rule-making process along with 22 agencies, organizations, and interest groups with long-term interests and involvement in ORV management at the Seashore. Members from the environmental, mobile sports fishing, and ORV communities along with representatives from the U.S. Fish and Wildlife Service, Massachusetts Division of Fisheries and Wildlife, and the six towns in which the Seashore's boundary lies, comprised the rule-making committee. These groups met over a period of three

months with the objective of reaching consensus on a new ORV management plan. In November 1995, the committee presented a proposed rule for ORV Management at Cape Cod National Seashore. The rule was published in the Federal Register for public comment and became codified into 36 CFR in 1998 (36 CFR 7.67).

The Committee agreed to a variety of mutual concerns (see Federal Register 63:9143-9148 for the complete final rule). ORV use remained limited to April 15 through November 15. The designated route was established, including the back beach from Hatches Harbor to High Head in Truro. The portion of beach from Exit 8 to High Head would be closed from April 1 to July 20. The area from Coast Guard Beach in Truro to Longnook Beach in Truro would be open for the purpose of night fishing, and the area from High Head to Head of the Meadow Beach, including the access at Head of the Meadow, would be open from July 1 through August 31 (Figure 1). Plover nesting and other resource or public safety issues could require that all or portions of the corridor be closed for indefinite periods of time. The amount of open ORV corridor is typically less in the beginning of the season than in August due to the terms of the negotiated rule. Up to 10.5 miles of ORV corridor could potentially be open in late July and August, depending on the availability of the High Head portion of the corridor, condition of beach cuts and would require all plover chicks on the South Beach fledged.

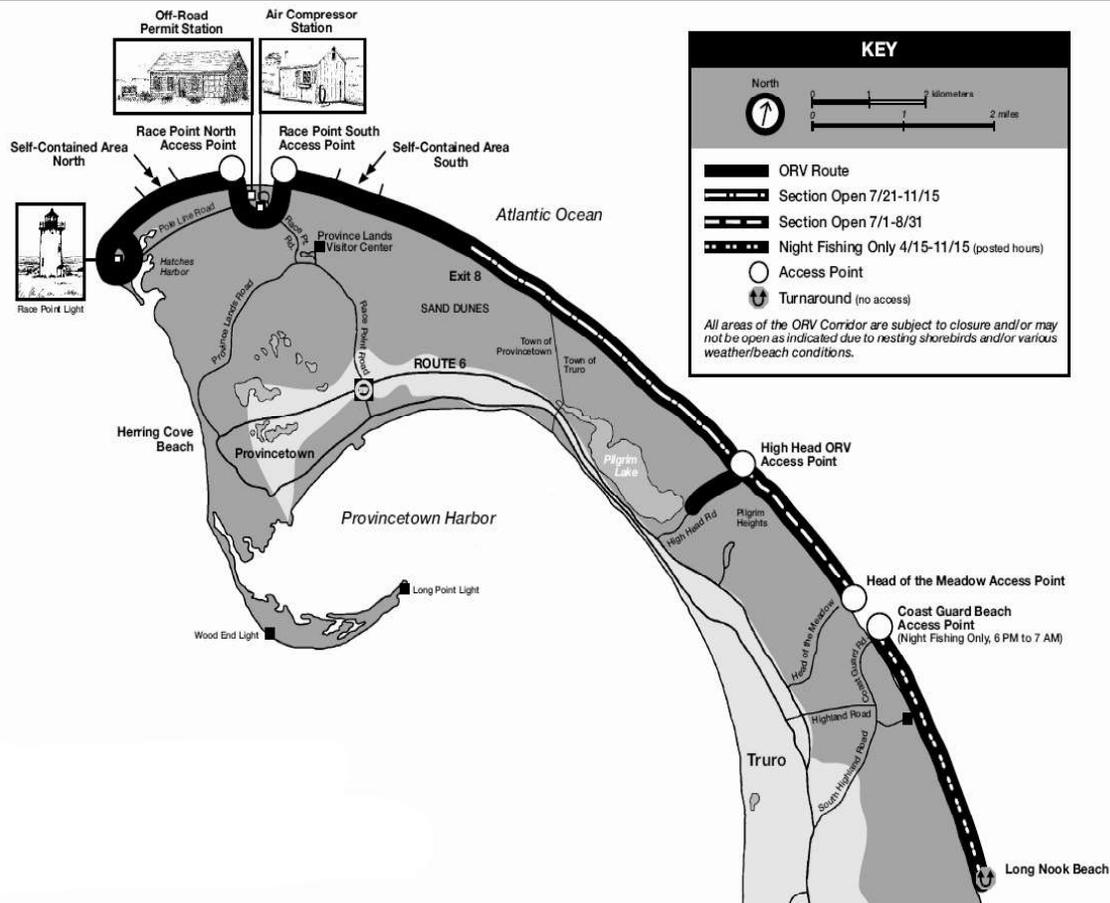
The negotiated rule also addressed NPS responsibilities for monitoring the use and condition of the oversand routes (see map in Figure 1) for the purpose of reviewing the effects on natural, cultural, and aesthetic resources of vehicles in designated corridors. The rule further stated that information gathered from this process would be used as the basis for an annual report to the Secretary of the Interior and the public describing the results of the monitoring conducted. This document represents the 21st annual ORV monitoring report as required by the negotiated rule.

The negotiated rule set a limit of 3,400 ORV permits as the maximum amount to be sold annually. The rule specified that the 3,400 permits were to be a combination of both annual oversand and self-contained vehicle (SCV) permits. In 1998, the first year that the negotiated rule was implemented, the cap was reached in the first week of September. Many people who traditionally came to Cape Cod in September and October to fish were unable to purchase a permit. In order to allow a more equitable distribution of permits throughout the season in 1999, the Seashore converted 200 of the 3,400 permits available into rotating weekly permits based on the rationale that some of the people who purchase annual permits actually use the permit for 7 days or less. No more than 200 weekly permits were active at any one time so as not to exceed the 3400-permit cap from 1999 until 2004. From 1999 until 2004, the 3,200 annual permits sold out on progressively earlier dates each year and there has been a corresponding increase in the number of weekly permits sold during the summer months. Annual permits went on sale on April 10 each year and sold out in late July 1999, early July 2000, late June 2001, May 24, 2002, April 26, 2003, and April 19, 2004.

In 2006 the sales process continued to run smoothly. Seasonal permits were available throughout the season and there were adequate weekly permits available each day. The ORV corridor, in 2006, was completely closed for daytime recreational use for the first time, and there was a near to total closure from June 11 – July 12. The Seashore began efforts to explore possible options, which would allow for adaptive management alternatives. The Seashore hosted an informational public meeting on the ORV closures on July 18, 2006. The Cape Cod National

Seashore Advisory Commission hosted an ORV and Piping Plover Public Meeting and Workshop in December.

## OFF-ROAD VEHICLE ROUTE



**Figure 1. Map of the current oversand vehicle routes defined by the negotiated rule, Cape Cod National Seashore.**

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

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

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

In 2013, there was a total closure of the ORV corridor due to the government shutdown from October 1, 2013, through October 17, 2013.

From 2014-2016 ORV management remained unchanged. There were temporary closures of the corridor due to storms during the season.

During the spring and summer 2017 season the weather was generally cooler, with more rainy days than the previous year. High Head and Head of the Meadow ORV access roads remained closed for the entire season. There was a total closure of the corridor from July 20<sup>th</sup> through July 24<sup>th</sup>. From May 26<sup>th</sup> until August 9<sup>th</sup> there was less than a half mile of corridor open.

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

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

In 2020 the COVID-19 pandemic caused the opening of the corridor to be delayed. The corridor and permit office opened for the season on June 3<sup>rd</sup>. Due to the delayed opening many piping plover broods had nested which, in combination with beach conditions, resulted in SCV's not being allowed on the corridor until late summer. The corridor entered near closure on June 19<sup>th</sup> and the entire corridor was closed from July 4<sup>th</sup>- July 29<sup>th</sup>.

In 2021 the oversand operation returned to business as usual with permit sales opening on April 10<sup>th</sup> and the corridor opening on April 15<sup>th</sup>. A nor'easter Memorial Day weekend resulted in many piping plover nests to be lost and elongated the breeding season. The entire corridor was closed from June 18<sup>th</sup> – August 11<sup>th</sup>.

During the 2022 season Flexible management was implemented for the first time within the ORV corridor. A nest adjacent to the Race Point South access was flexibly managed allowing vehicles to travel within 14 meters of the nest. This management decision allowed the South access to remain open for 27 days until the nest hatched.

## **2022 ORV MANAGEMENT ACTIONS AND ACTIVITIES**

### **Regulatory and Policy Changes**

In June of 2021 the US Fish & Wildlife service signed off on the biological opinion related to the 2018 Shorebird Management Plan. This allows the park to explore using flexible management with up to 5 pairs of piping plovers parkwide, and now includes the ORV corridor as a potential location for implementation.

2022 was the first full year working under the US Fish and Wildlife's biological opinion related to the 2018 Shorebird Management Plan. Park management was able to successfully implement the first use of flexible management within the Oversand Corridor. The Race Point South access was allowed to remain open for vehicles to pass a nest adjacent to the access.

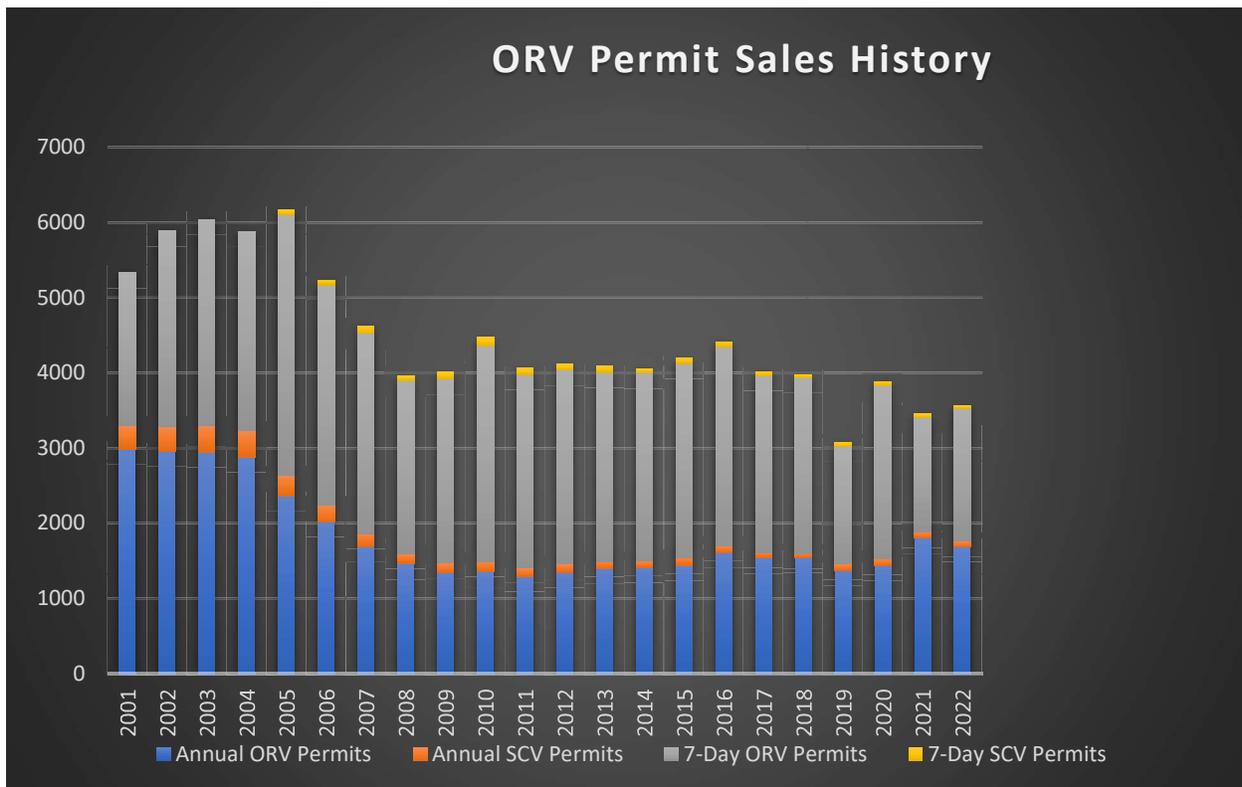
Mail-in permit renewals continue to be a popular option for many returning permit holders.

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

The Hatches Harbor spit continues to be managed as critical habitat for Piping Plovers. The spit was symbolically fenced as potential nesting habitat from April 1 to June 30. Three pair of plovers had nests in the area and Hatches Harbor opened to vehicles on August 25<sup>th</sup>. Lunar tides caused the spit to be inaccessible at high tide for the first few days after opening.

### **Number and Type of Permits Issued**

Permit sales in 2022 opened on April 10, 2022. Mail-in annual permit renewals continue to be popular with returning permit holders. The ORV corridor was in a total closure for 49 days due to shorebird activity. Despite the length of the closure, total permit sales revenue decreased by 2.08% when compared to 2021 sales (refer to Figure 2). Revenue decreased by \$7,625.00 over 2021 revenue. The seasonal ORV and SCV permits increased from 1,877 during the 2021 season to 1,759 in 2022, a decrease of 118 permits or 6.28%. The weekly ORV permits were up from 1576 in 2021 to 1,796 in 2022, an increase of 220 permits or 13.96%. There were 65 seasonal SCV, and 33 weekly SCV permits sold in 2022. Seasonal Self-Contained Vehicle (SCV) and weekly SCV sales were less than 2021 sales, with a decrease of 12.2% in annual sales and a decrease of 23.3% in weekly sales.



**Figure 2. Bar graph of recent history of permit issuance in the ORV program.**

### Seasonal and Weekly Permit Process

During the 2022 season, 1,759 seasonal permits were issued out of the 3,000 seasonal permits that were available. Of the 1,759 seasonal permits sold, 1,694 were issued to seasonal ORV operators and 65 were issued to seasonal SCV operators. In addition to the seasonal permits, there were 1,763 ORV weekly permits issued and 33 SCV weekly permits issued in 2022, bringing the total number of permits issued in 2022 to 3,555. Overall permit sales were up by 3% in 2022. (See Figure 3).

Permit sales began on Saturday, April 10, 2022. Permit sales went very smoothly again, as was the case since changes were made to the permit sales process in 2005. Seasonal permits have not sold out since 2004, when all 3,200 available seasonal permits sold out in 10 days.

YEAR	Seasonal ORV Permits	Seasonal SCV Permits	Total Seasonal Permits	Weekly ORV Permits	Weekly SCV Permits	Total Permits Sold
2003	2951	349	3300	2739	*N/A	6039
2004	2881	353	3234	2644	*N/A	5878
2005	2361	280	2641	3463	60	6164
2006	2021	221	2242	2936	49	5227
2007	1697	171	1868	2659	89	4616
2008	1457	141	1598	2294	65	3957
2009	1342	133	1473	2437	86	3998
2010	1355	137	1492	2873	104	4469

2011	1293	115	1408	2576	81	4065
2012	1347	113	1460	2577	75	4112
2013	1397	95	1492	2514	76	4082
2014	1414	88	1502	2495	52	4049
2015	1443	95	1538	2590	61	4189
2016	1607	92	1699	2654	56	4409
2017	1538	76	1614	2351	50	4015
2018	1544	57	1601	2333	32	3966
2019	1369	85	1454	1569	44	3067
2020	1443	78	1521	2309	53	3883
2021	1803	74	1877	1533	43	3453
2022	1694	65	1759	1763	33	3555

**Figure 3 Permit Sales History** \*Weekly permits not sold

### Temporary ORV Corridor Closures

There was a total closure of the ORV corridor from June 18<sup>th</sup> – August 5<sup>th</sup>, due to several piping plover broods that were within 0.2 miles of all ORV access routes.

Head of the Meadow ORV access road remained closed for the entire season due to beach and access conditions. Race Point North remained closed for .5 miles approximately halfway between the access and the crossover for much of the season due to narrow beach. On the Race Point South portion of the corridor, a large beach cut south of exit 8 restricted travel to High Head.



**Figure 4. Chart showing available and open ORV corridor for the 2022 season**  
See Figure 1 for dates sections of the corridor are available to be opened per regulation.

## Synopsis of 2022 ORV Corridor Openings and Closings

*Coast Guard Night Fishing not included*

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

Dates	Status	Description
<b>April 15 – 16</b>	0.9 mi open	RPN - Open 0.9 mi
		RPS - Closed
		SCV Areas Closed
<b>April 17 – 22</b>	1.1 mi open	RPN - Open 1.1mi
		RPS - Closed
		SCV Areas Closed
		Pole Line – Open
<b>April 23 – 25</b>	1.3 mi open	RPN - Open 0.9 mi
		RPS – Open 0.2 mi
		SCV Areas Closed
		Pole Line – Open 0.2 mi
<b>April 26 – May 8</b>	3.0 mi open	RPN - Open 0.9 mi
		RPS – Open 1.9 mi
		SCV Areas Closed
		Pole Line – Open 0.2 mi
<b>May 9 – 13</b>	1.3 mi open	RPN - Open 0.9 mi
		RPS – Open 0.2 mi
		SCV Areas Closed
		Pole Line – Open 0.2 mi
<b>May 14 – 17</b>	2.7 mi open	RPN - Open 0.9 mi
		RPS – Open 1.6 mi
		SCV Areas Closed
		Pole Line – Open 0.2 mi
<b>May 18 – 24</b>	2.0 mi open	RPN - Open 0.9 mi
		RPS – Open 0.9 mi
		SCV Areas Closed
		Pole Line – Open 0.2 mi
<b>May 25 – 28</b>	2.7 mi open	RPN - Open 0.9 mi
		RPS – Open 1.6 mi
		SCV Area RPN – Open
		SCV Area RPS – Closed
		Pole Line – Open 0.2 mi
<b>May 29 – June 11</b>	2.2 mi open	RPN – Open 0.9 mi
		RPS – Open 1.1 mi
		SCV Area RPN – Open
		SCV Area RPS – Closed

		Pole Line – Open 0.2 mi
<b>June 12 – 17</b>	2.0 mi open	RPN – Open 0.9 mi RPS – Open 1.1 mi SCV Area RPN – Open SCV Area RPS – Closed Pole Line – Closed
<b>June 18 – August 5</b>	Total Closure	All access points Closed SCV Areas Closed
<b>August 6 – August 10</b>	0.8 mi open	RPN – Closed RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Closed Hatches Harbor – Closed High Head - Open 0.8 mi
<b>August 11 – 31</b>	1.8 mi open	RPN – Closed RPS – Closed SCV Area RPN – Closed SCV Area RPS – Closed Pole Line – Open 1.0 mi Hatches Harbor – Open High Head - Open 0.8 mi
<b>September 1 – 2</b>	3.7 mi open	RPN – Closed RPS – Open 1.9 mi SCV Area RPN – Closed SCV Area RPS – Open Pole Line – Open 1.0 mi Hatches Harbor – Open High Head – Open 0.8 mi
<b>September 3 – 4</b>	5.2 mi open	RPN – Open 2.2 mi RPS – Open 1.9 mi SCV Area RPN – Open SCV Area RPS – Open Pole Line – Open Hatches Harbor – Open High Head – Open 1.1 mi
<b>September 5 – 10</b>	4.8 mi open	RPN - Open 2.2 miles RPS - Open 1.9 miles SCV Area RPN - Open SCV Area RPS - Open Pole Line -Open Hatches Harbor - Open High Head - Open 0.7 mi

<b>September 11 – 13</b>	4.8 mi open	RPN – Open 2.2 miles RPS – Open 1.9 miles SCV Area RPN – Closed SCV Area RPS – Closed Pole Line -Open Hatches Harbor - Open High Head - Open 0.7 mi
<b>September 14 – November 15</b>	5.0 mi open	RPN - Open 2.2 miles RPS - Open 1.9 miles SCV Area RPN - Open SCV Area RPS - Open Pole Line -Open Hatches Harbor - Open High Head - Open 0.9 mi
<b>November 16</b>	Corridor Closed, Limited Access Pass goes into effect.	

### **Piping Plover Breeding Success**

In 2022, Cape Cod National Seashore staff documented a total of 116 nesting pairs of piping plovers. There were 189 documented plover chicks that fledged in 2022. This was compared to 145 fledged plover chicks that fledged from 113 nesting pairs in 2021. The productivity rate for piping plovers at the National Seashore in 2022 was 1.63 chicks fledged per pair. In the North District of the National Seashore there were 65 nesting pairs of piping plovers and 133 plover chicks fledged. The piping plover productivity rate in the north district was 2.05 chicks fledged per pair during the 2022 breeding season. Beaches along the oversand corridor had 52 pairs of plovers with 102 chicks fledged. The productivity in this area was 1.96 chicks per pair. The national seashore falls within the New England Recovery Unit of the Atlantic Coast Piping Plover Recovery Plan, which has a recovery goal of 625 breeding pairs (maintained for five years) and a five-year average productivity goal of 1.5 chicks fledged per pair. (For more detailed information reference *Monitoring and Management of Piping Plovers and Colonial Waterbirds at Cape Cod National Seashore 2022*)

### **Education and Safety**

In 2022 the practice of handing out rack cards continued to aid in educating visitors about shorebird management in the seashore. This card was handed out with every issued ORV permit as well as at beach entry stations.

On two Saturdays in August members of the Massachusetts Beach Buggy Association volunteered outside of the Oversand office answering questions and providing helpful tips and suggestions to new visitors looking to operate on the ORV corridor.

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

ORV information and regulations were posted on the bulletin boards at the oversand permit building and at the Race Point air-up lot. Both bulletin boards were updated throughout the season and displayed current ORV route information. Shorebird, seal, and shark information as well as ORV special activity or event information was also posted.

Permitted users were once again a significant and important ally in the education and enforcement efforts of the ORV program. Their continued diligence in noting and reporting non-permitted vehicles, illegal driving behavior, and resource related concerns, and other aspects of resource and visitor protection, was an extremely valuable and important part of the ORV program. Many of the seasoned ORV users also help educate and instruct newer users on ORV operations. Without this voluntary partnership, the ORV program would not be as successful.

## **Enforcement**

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

With the implementation of the USFWS Biological Opinion, the corridor utilized drive-thru corridors more than in past years. No Pet Areas along the corridor have increased as well. Signage was added along these areas and many educational contacts were made to inform visitors of these management changes.

There were a total of 21 violation notices issued to ORV visitors in 2022, compared to the 19 issued during the 2021 season (Figure 5). Many of these violations occurred on the Pole Line Road access, where additional signage at the entrance continues to discourage visitors from entering. Out of the total 21 violation notices issued, 17 were for failure to possess an ORV permit, which was an increase from 2021. This means 4 of the violation notices were issued to the 3,555 ORV users that purchased a permit.

Warning notices decreased slightly with 41 in 2022 compared to 43 in 2021. Figure 6 shows citations and written warnings issued to visitors on the ORV corridor in 2022.



Figure 5. Violation Notices on the ORV Corridor

2022 Violation Notices		2022 Written Warnings	
Failure to Possess ORV Permit	17	Failure to Possess ORV Permit	2
Open Container	1	Open Container	1
Violation of Terms of Permit	1	Violation Terms of Permit	1
Camping	1	Pet Off Leash/Closed Area	12
Pets Off Leash/ Closed Area	2	Fishing without License	8
		Closure	16
		Riding on Exterior of Vehicle	1
<b>TOTAL</b>	<b>22</b>	<b>TOTAL</b>	<b>41</b>

Figure 6. Violation Notices and Warnings Issued on the ORV Corridor in 2022\*

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

## Improvements

In the Spring of 2022, Race Point Road, the Air Lot, and the parking areas at the Race Point Ranger Station and Oversand Station were rehabilitated and repaved.

Mail-in renewal applications continued for annual permit holders. This allowed for staff and permit holders to have less face-to-face contact, as well as reduced the time people needed to spend in line waiting for permits. The process continues to be well received and will extend in 2023.

Two beach clean ups were held in the spring and fall. Several truckloads of trash were removed from the beach. In addition, snow fencing was repaired along the Pole Line Rd in an effort to redirect blowing sand during the winter months. A total of 58 volunteers worked for approximately 174 hours during the two project days.