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## Details of Proposed Consent Decree

The consent decree would expire upon the adoption of a final ORV management plan and regulation, a process currently being undertaken by the Park Service and involving various stakeholders, including the conservation groups involved in today's agreement. The proposed consent decree would require that plan to be implemented no later than April 1, 2011. This consent decree is not binding on the ongoing negotiated rulemaking to adopt a final regulation. Below are the details of how the proposed consent decree would protect birds and sea turtles while still allowing for ORV use and other recreational activities at the Seashore.

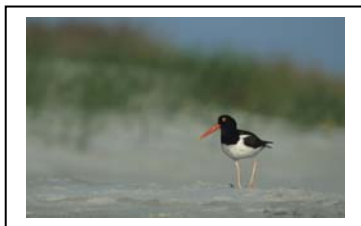
### **Waterbird and shorebird protections**

The proposed consent decree includes protections for waterbirds and shorebirds during their nesting and breeding seasons. National Park Service staff would monitor the Seashore daily to identify nests and nesting behavior in these birds.

- By March 15 of each year, pre-nesting areas would be established. These areas would be closed to vehicles and pedestrians at historic nesting areas at Bodie Island spit, Cape Point, Hatteras spit, and the north and south ends of Ocracoke Island. The pre-nesting closures would allow shorebirds and waterbirds to establish breeding territories and colonies in undisturbed areas.
- When shorebirds and waterbirds begin to establish territories or nesting colonies, usually in the spring, expanded buffers would be established around breeding sites to prevent disturbance. The buffers would vary depending on the sensitivity or vulnerability of the particular species.



**For the threatened piping plover** (only six pairs on the Seashore last year), NPS would establish a 50 meter buffer prohibiting vehicle and pedestrian access around nests, and a buffer around chicks of 1,000 meter for vehicles and 300 meters for pedestrians. Under Park Service discretion, vehicles could be allowed within the 1000 meter buffer after the chicks are two weeks old, provided the 300 meter buffer is maintained and an experienced NPS monitor is on site.



**For the American Oystercatcher** (which has declined 49 percent on the Seashore since 1999), NPS would establish a vehicle and pedestrian buffer of 150 meters around birds demonstrating breeding behavior or nests and a 200 meter buffer around chicks.



**For colonial waterbirds** (terns and black skimmer which have declined 84 percent on the Seashore in the last ten years), NPS would establish buffers of 100-200 meters around birds demonstrating breeding behavior or nests and 200 meters around chicks.

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### **Sea turtle protection**

The proposed consent decree would also provide additional protection to threatened and endangered sea turtles, which crawl up on the Seashore beaches at night to nest. Currently, there are no restrictions on driving on the beach at night. Under the proposed consent decree:

- Driving on the beach at night (10 pm to 6 am) would be prohibited during the sea turtle nesting season from May 1 to September 15 in order to prevent disturbance of nesting sea turtles.
- Between September 16 and November 15, the end of the sea turtle hatching season, driving on the beach at night would require a permit from the NPS, education of permittees and restrictions on light use on the beach to prevent disorientation of turtle hatchlings. In addition, driving would be prohibited in the vicinity of all unhatched turtle nests after September 15.
- To benefit sea turtles and other species, NPS would establish a 10 meter closure of the beach area between the high tide line and the dunes for the entire Seashore (known as backshore) but allow beach driving access via established ORV lanes at least 20 meters above the high tide line.

### **Public education and ensuring compliance**

- The proposed consent decree also includes requirements to educate the public about driving on the beach and enhance compliance with restrictions.
- Under the proposal, if NPS staff document a deliberate act to destroy signs prohibiting entry or enter closed areas to disturb birds or harm bird or turtle nests, the existing buffer closure would automatically be expanded 50 meters on the first such incident, 100 meters on the second, and 500 meters or more on the third.
- NPS would be required to report on areas of closures and nesting birds and sea turtles after the breeding season.