

Calendar No. 180

113TH CONGRESS
1ST SESSION

S. 486

[Report No. 113–102]

To authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2013

Mr. BURR (for himself, Mrs. HAGAN, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 10, 2013

Reported by Mr. WYDEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 ~~This Act may be cited as the “Preserving Public Ac-~~
5 ~~cess to Cape Hatteras Beaches Act”.~~

1 **SEC. 2. REINSTATEMENT OF INTERIM MANAGEMENT**
 2 **STRATEGY.**

3 (a) **MANAGEMENT.**—After the date of the enactment
 4 of this Act, Cape Hatteras National Seashore Recreational
 5 Area shall be managed in accordance with the Interim
 6 Protected Species Management Strategy/Environmental
 7 Assessment issued by the National Park Service on June
 8 13, 2007, for the Cape Hatteras National Seashore Rec-
 9 reational Area, North Carolina, unless the Secretary of the
 10 Interior (hereafter in this Act referred to as the “Sec-
 11 retary”) issues a new final rule that meets the require-
 12 ments set forth in section 3.

13 (b) **RESTRICTIONS.**—The Secretary shall not impose
 14 any additional restrictions on pedestrian or motorized ve-
 15 hicular access to any portion of Cape Hatteras National
 16 Seashore Recreational Area for species protection beyond
 17 those in the Interim Management Strategy, other than as
 18 specifically authorized pursuant to section 3.

19 **SEC. 3. ADDITIONAL RESTRICTIONS ON ACCESS TO CAPE**
 20 **HATTERAS NATIONAL SEASHORE REC-**
 21 **REATIONAL AREA FOR SPECIES PROTEC-**
 22 **TION.**

23 (a) **IN GENERAL.**—If, based on peer-reviewed science
 24 and after public comment, the Secretary determines that
 25 additional restrictions on access to a portion of the Cape
 26 Hatteras National Seashore Recreational Area are nec-

1 essary to protect species listed as endangered under the
 2 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
 3 the Secretary may only restrict, by limitation, closure,
 4 buffer, or otherwise, pedestrian and motorized vehicular
 5 access for recreational activities for the shortest possible
 6 time and on the smallest possible portions of the Cape
 7 Hatteras National Seashore Recreational Area.

8 (b) **LIMITATION ON RESTRICTIONS.**—Restrictions
 9 imposed under this section for protection of species listed
 10 as endangered under the Endangered Species Act of 1973
 11 (16 U.S.C. 1531 et seq.) shall not be greater than the
 12 restrictions in effect for that species at any other National
 13 Seashore.

14 (c) **CORRIDORS AROUND CLOSURES.**—To the max-
 15 imum extent possible, the Secretary shall designate pedes-
 16 trian and vehicular corridors of minimal distance on the
 17 beach or interdunal area around closures implemented
 18 under this section to allow access to areas not closed.

19 **SEC. 4. INAPPLICABILITY OF FINAL RULE AND CONSENT**
 20 **DEGREE.**

21 (a) **FINAL RULE.**—The final rule titled “Special Reg-
 22 ulations, Areas of the National Park System, Cape Hat-
 23 teras National Seashore—Off-Road Vehicle Management”
 24 (77 Fed. Reg. 3123–3144) shall have no force or effect
 25 after the date of the enactment of this Act.

1 (b) **CONSENT DECREE.**—The April 30, 2008, consent
2 decree filed in the United States District Court for the
3 Eastern District of North Carolina regarding off-road ve-
4 hicle use at Cape Hatteras National Seashore in North
5 Carolina shall not apply after the date of the enactment
6 of this Act.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Preserving Public Access
9 to Cape Hatteras Beaches Act”.*

10 **SEC. 2. DEFINITIONS.**

11 *In this Act:*

12 (1) **FINAL RULE.**—*The term “Final Rule” means*
13 *the final rule entitled “Special Regulations, Areas of*
14 *the National Park System, Cape Hatteras National*
15 *Seashore—Off-Road Vehicle Management” (77 Fed.*
16 *Reg. 3123 (January 23, 2012)).*

17 (2) **NATIONAL SEASHORE.**—*The term “National*
18 *Seashore” means the Cape Hatteras National Sea-*
19 *shore Recreational Area.*

20 (3) **SECRETARY.**—*The term “Secretary” means*
21 *the Secretary of the Interior.*

22 (4) **STATE.**—*The term “State” means the State*
23 *of North Carolina.*

1 **SEC. 3. REVIEW AND ADJUSTMENT OF WILDLIFE PROTEC-**
2 **TION BUFFERS.**

3 (a) *IN GENERAL.*—Not later than 180 days after the
4 date of enactment of this Act, the Secretary shall review
5 and modify wildlife buffers in the National Seashore in ac-
6 cordance with this section and any other applicable law.

7 (b) *BUFFER MODIFICATIONS.*—In modifying wildlife
8 buffers under subsection (a), the Secretary shall, using
9 adaptive management practices—

10 (1) ensure that the buffers are of the shortest du-
11 ration and cover the smallest area necessary to pro-
12 tect a species, as determined in accordance with peer-
13 reviewed scientific data; and

14 (2) designate pedestrian and vehicle corridors
15 around areas of the National Seashore closed because
16 of wildlife buffers, to allow access to areas that are
17 open.

18 (c) *COORDINATION WITH STATE.*—The Secretary, after
19 coordinating with the State, shall determine appropriate
20 buffer protections for species that are not listed under the
21 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
22 but that are identified for protection under State law.

23 **SEC. 4. MODIFICATIONS TO FINAL RULE.**

24 The Secretary shall undertake a public process to con-
25 sider, consistent with management requirements at the Na-
26 tional Seashore, the following changes to the Final Rule:

1 (1) *Opening beaches at the National Seashore*
2 *that are closed to night driving restrictions, by open-*
3 *ing beach segments each morning on a rolling basis*
4 *as daily management reviews are completed.*

5 (2) *Extending seasonal off-road vehicle routes for*
6 *additional periods in the Fall and Spring if off-road*
7 *vehicle use would not create resource management*
8 *problems at the National Seashore.*

9 (3) *Modifying the size and location of vehicle-free*
10 *areas.*

11 **SEC. 5. CONSTRUCTION OF NEW VEHICLE ACCESS POINTS.**

12 *The Secretary shall construct new vehicle access points*
13 *and roads at the National Seashore—*

14 (1) *as expeditiously as practicable; and*

15 (2) *in accordance with applicable management*
16 *plans for the National Seashore.*

17 **SEC. 6. REPORT.**

18 *The Secretary shall report to Congress within 1 year*
19 *after the date of enactment of this Act on measures taken*
20 *to implement this Act.*

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