# Padre Island National Seashore

## Superintendent's Compendium

**Revised February 2010**

COMPENDIUM of designations, closures, permit requirements and other restrictions imposed under the discretionary authority by the Superintendent of Padre Island National Seashore.

In accordance with regulations and the delegated authority provided in Title 36 Code of Federal Regulations (36 CFR) Chapter I, Parts 1 through 7, authorized by Title 16 United States Code Section 3, the following regulatory provisions are established for the management, protection, and public use of Padre Island National Seashore under the jurisdiction of the National Park Service.

Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in Title 36 Code of Federal Regulations, Chapter 1, Parts 1 through 7.

The closures and restrictions delineated in this compendium do not apply to official/administrative use or applications (36 CFR 1.2(d) and 1.5(a)).

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority appear in this document as italicized print.

Section 1.6(f) states that a list of activities that require a permit must be maintained. That list appears in this document under 1.6.

This compendium will remain in effect until specifically amended or supplemented by the Superintendent.

| Recommended: | | Approved: | |
|---|---|---|---|
| *\/s/ Deanna Mladucky* | March 8, 2010 | *\/s/ Joe Escoto* | *March 8, 2010* |
| Deanna Mladucky | Date | Joe Escoto | Date |
| Chief Ranger | | Superintendent | |

## PART 1 – GENERAL PROVISIONS

The Superintendent of Padre Island National Seashore has used the discretionary authority granted by Chapter 1 of 36 CFR &1.5(a) to establish certain closures. These closures and public use limits are necessary for the administration of the park in concert with its enabling legislation and NPS management policies for the benefit of park visitors and the protection of park natural and cultural resources.

### Section 1.5 - Closures and Public Use Limits

(a)(1)

(i) Hard hull motorized vessels are prohibited from launching into the Gulf of Mexico from all beaches within Padre Island National Seashore.

***Determination***: *Boat operators launching hard hulled motorized vessels into gulf waters risk injury to the general public given there are no defined public launch ramps and the inherent hazardous nature of a shoreline surf environment. Additionally, users risk inundating their motor vehicles in the shoreline surf given the shallow shoreline gradient coupled with the draft requirements of most hard hulled motorized vessels. Accidents would cause fuel spills, unacceptable resource impacts, and public safety concerns.*

(ii) Zodiacs, Avons, and other soft hulled motorized vessels less than 12' in length are permitted to launch on North Beach or on South Beach below the 5 mile marker. All other gulf beaches are closed to launching motorized soft hulled motorized vessels.

***Determination***: *Operating motorized vessels in high visitor use areas at Malaquite Beach and South Beach pose a risk to public safety. Excluding motorized vessels on Closed Beach is consistent with management practices that preclude the use of motorized vehicles in this area.*

(iii) Airboats are prohibited in all waters under the administration of Padre Island National Seashore except for official use or activities authorized by a permit issued by the Superintendent.

***Determination***: *Airboats produce a level of engine noise that disturbs wildlife, particularly birds nesting on rookery islands.*

(iv) Licensed or Unlicensed ATVs, UTV's, dune buggies, sand rails, golf carts, amphibious vehicles; and/or any other unlicensed, non-highway vehicles, are prohibited from being operated within the park.

(v) Segways and motorized scooters are prohibited from all areas within the park including all park roads, trails and sidewalks. However, any park visitor with a disability is permitted to use Segways and motorized scooters at the Grasslands Nature Trail parking lot and trail, when such devices are used for the sole purpose of mobility assistance.
Use of any mobility assistive device, as outlined above, must also adhere to the following:

a) A person shall operate any mobility assistive device in a safe and responsible manner, and maximum speeds will not exceed more than 8 M.P.H., so as not to endanger one's self or any other park visitor.

b) A person riding any mobility assistive device upon the Grasslands Nature Trail parking lot or trail will remain on the trail at all times and shall have all the rights and duties applicable to a pedestrian under the same circumstances, except that the mobility assistive device operator must always yield to pedestrians (park visitors).

***Determination***: *Beaches are considered by the State of Texas to be Texas public highways. The State of Texas requires all vehicles operating on public highways to meet state licensing, inspection and insurance requirements, as well as all other requirements for motor vehicles operating on state highways. ATVs, dune buggies, sand rails and golf carts are non-highway vehicle and it allows for the preservation of the natural resources.*

(vi) Kite surfing, hang gliding, parasailing, paragliding, ultra lights, and car sailing are prohibited within the park.

***Determination***: *Determination: Objects of this size, configuration, and movement are known to start, frighten, and disturb birds causing disruption of normal feeding, reproduction and nesting behavior. Several species, including threatened shore nesting species such as least tern and, snowy plover are vulnerable to this type of disturbance at Padre Islands National Seashore. Use of these devices is new and all their effects remain unknown. They may possess qualities adversely affecting park resources that may only be revealed in the future to the detriment of park resources if the use is allowed to continue and proliferate in the park.*

*The long lines and great forces associated with kite surfing and the poor control the operator has over the movement of the kite poses a hazard to the nonparticipating visiting public. Kite surfing, hang gliding, parasailing, and paragliding, and ultra lights are inherently dangerous to participants and other visitors. Car sailing, an activity in which a vehicle is propelled by wind, is not permitted on Texas public highways.*

(vii) The Malaquite Beach Visitor Center Pavilion is closed to barbecuing, skateboarding, rollerblading, bicycling, scooters, pets, wedding ceremonies, and other special use events.

***Determination***: *The listed activities are incompatible with other visitor uses at the Malaquite Pavilion and may cause damage to park structures or facilities.*

(viii) Fishing is prohibited in Gulf waters east of the Malaquite Beach Visitor Center Pavilion between the southern most and northern most picnic shelters.

***Determination***: *Fishing at this location is incompatible with other visitor uses. This 100-yard stretch of beach in front of the visitor center is heavily used by families with small children. Fishing activity with hooks in the water and fishing lines across the beach is a safety hazard. Fishing is allowed at all other locations along the beach.*

(ix) Commercially caught fish that are legally caught in State waters but illegal to possess at Padre Island National Seashore may be transported through park waters only in the Bird

Island Basin channel and in the Yarborough Pass channel. The possession of fish stocks exceeding personal limits by commercially licensed fishermen or in vessels within park waters when outside the Bird Island Basin channel or Yarborough Pass channel is considered prima facie evidence as to have been caught in park waters.

***Determination:*** *The possession of fish stocks is prima facie evidence of having been taken in the park consistent with 16 USC 198c. This provision addresses an enforcement issue that arises when commercial fishermen, contacted by park rangers while within the park claim their catch was caught outside of park boundaries.*

(x) Obstructing or interfering with the normal flow of vehicle traffic on North Beach or South Beach by means of a rope, tape, ditch, sand berm, equipment or supplies, vehicles, RV, Motorcycles, or any other vehicle/object is prohibited, except in the event of an accident or other emergency.

(xi) Vehicle /trailer combinations will be parked so as not to impede the normal flow of traffic in the 122 parking spaces located at BIB boat ramp parking lot.

(xii) The 114 vehicle/trailer parking spaces at BIB cannot be used by vehicles with no trailers.

(xiii) There are 4 parking spaces at the Bird Island Basin boat ramp signed for single vehicle use only. These parking spaces will only be utilized for single vehicles with no trailers.

(xiv) There are 4 handicap parking spaces at the Bird Island Basin boat ramp that can only be utilized by impaired individuals displaying the appropriate documentation. The two handicap parking slots on the east side are for single vehicle use only and the two handicap parking slots directly to the west of the single vehicle use slots will be for vehicle and trailer combinations of approximately 40 feet in length.

***Determination****: Some visitors attempt to cordon off a section of public beach in an attempt to keep vehicles from driving near the location of their parked vehicle. Ditches are dug or debris piled high to discourage motor vehicle traffic. Frequently the area that is cordoned off serves as the primary roadway on the beach for motor vehicles. Other drivers are forced to travel through the fore dunes or surf zone when they reach these locations resulting in resource damage and unsafe driving conditions. Regulating the type, size, and location of parking of the vehicles and trailers where they can park help reduce resource damage and allows for additional visitor use o f the areas*

(xv) The Malaquite Beach housing area, maintenance facility areas, outbuildings, and the following service roads are closed to public use:

-Pan Am Road
-Six Pigs Road
-Ranger Road
-Sewer Lagoon Road
-Mile and Half Road
-View Tower Road
- Lemon Seed Road
- Wilson Road
- Blue Heron Road

***Determination***: *The areas designated are closed to the public. There are no visitor facilities at any of these locations. Visitor use of any of the listed roads may interfere with permitted commercial oil and gas traffic.*

(xvi) The interior of all government and concession buildings, all fenced areas except for designated public lobbies or public business areas are closed to the public. This closure does not apply to persons in non-public areas who have been granted specific permission by the National Park Service or another authorized federal agency, a licensed concessionaire or their representatives, or those who are under escort by employees acting within the scope of their employment.

***Determination***: *Government buildings and fenced areas contain equipment and other items of value, including sensitive information, data, and threatened & endangered species protected by law and policy. Government employees have a right to be secure in their work areas.*

## Areas Closed To General Public Use, Presence, and Access Except During Specified Times of Year:

(xvii) Sail line fishing is prohibited at Bird Island Basin on weekends from sunrise on Saturdays to sundown on Sundays from April 1 through September 30.

i. In the interest of public safety only 1 sail line per group is allowed.

***Determination***: *Traditionally Bird Island Basin receives very heavy visitor use on weekends during the spring and summer. Saillines running into the Laguna Madre from the Bird Island Basin shoreline present a safety hazard to visitors who are swimming, windsurfing, or engaged in other recreational activity.*

(xvii) All anchor lines utilized for windsurfing equipment at Bird Island Basin Windsurfing area will not be left in the water overnight.

***Determination:*** *Anchors that are left overnight in the Bird Island Basin Windsurfing area present a hazard for fisherman who are attempting to night fish. By allowing the anchors to be present the fisherman would be entangling the fishing lines/sail lines in the anchors which could lead to hooks being left or anchor lines being destroyed. Regulating the time when anchor lines can be utilized in the windsurfing area will increase the overall visitor experience to the park.*

(xviii) North Bird Island, South Bird Island, and all Intercoastal Waterway Dredge Spoil Islands within the park are closed to public entry and use from February 1 through August 31 in order to protect sensitive rookery nesting sites.

***Determination***: *Studies have shown that human encroachment in sensitive rookery nesting sites disturbs colonial and other bird species. Impacts result in lower fledging success and a decline in bird populations.*

## Section 1.6 – Permits

A valid permit issued by the Superintendent is required for the following activities consistent with applicable legislation, federal regulations, and administrative policies.

(f) Activities requiring a permit:

(1) Public Use Activities: fishing tournaments, athletic events, parades or other special events (§ 1.5).

(2) Collecting research specimens (§ 2.5).

(3) Operation of a public address system or amplification system in connection with a public gathering or special event for which a permit has been issued pursuant to 36 CFR 2.50/2.51 (§ 2.12).

(4) Delivery or retrieval of a person or object by parachute, helicopter, or other airborne means (§ 2.17).

(5) Non-commercial soliciting (§ 2.37).

(6) Conducting a pageant, regatta, public spectator attraction, ceremony, wedding, organized event and similar activities (§ 2.50).

(7) Public assemblies, meetings, gatherings, demonstrations and other public expressions of views (§ 2.51).

(8) Sale or distribution of printed matter that is not solely commercial advertising (§ 2.52).

(9) Memorialization - Scattering human ashes from cremation (§ 2.62).

(11) Advertisements - Display, posting, or distribution (§ 5.1).

(10) Engaging in or soliciting any business - requires a permit, contract, or other written agreement with the United States, or must be pursuant to special regulations (§ 5.3).

(13) Commercial filming of motion pictures or television involving the use of professional casts, settings, or crews, other than bona fide newsreel or news television. (§ 5.5(a)).

(14) Still photography of props, models, or sets, or other articles of commerce for the purpose of commercial advertising (§ 5.5(b)).

***Determination***: *Permit systems authorized and issued pursuant to specific regulations in this chapter, except Section 1.5, need not be supported by a written determination unless required by the specific authorizing regulation {48 FR 30262}.*

## PART 2 – RESOURCE PROTECTION, PUBLIC USE, AND RECREATION

### Section 2.1 – Preservation of Natural, Cultural, and Archeological Resources

(a)(4) Driftwood may be collected and used as firewood for beach or campfires.

***Determination***: *In accordance with Section 2.1, small enclosed fires are allowed in designated camping areas. Accordingly, this wood collecting designation is established in 2.1(a) (4) as it has been determined that driftwood collecting will not have an adverse resource impact. Additionally, when driftwood is collected and burned there are benefits to public safety and improved motor vehicle safety.*

(c)(1) Collection of a reasonable amount (one five-gallon sized bucket) of unoccupied seashells is permitted for personal use. Commercial collecting of seashells is prohibited to ensure that seashells are available for recreational collecting and to prevent the ecosystem from being adversely affected. The collection of unoccupied seashells does not significantly affect wildlife, plant life, or other natural resources.

***Determination***: *The removal of unoccupied seashells does not have an adverse impact on park resources. Commercial harvesting of seashells would deny visitors the opportunity to experience the seashore in its natural state.*

### Section 2.2 – Wildlife Protection

(b)(i) Waterfowl hunting is authorized at Padre Island National Seashore under Section 36 CFR 7.75(b)(1).

***Determination***: *This is in accordance with provisions established and listed in 36 CFR 7.75 (b) (1) to insure waterfowl hunting seasons within the park do not conflict with surrounding areas and that hunting does not impact rookery islands.*

(d)(i) Waterfowl lawfully taken on park waters or neighboring jurisdictions may be transported by boat to the public boat launch ramp at Bird Island Basin, and then transported through the park on Bird Island Basin Road and Park Road 22. All other roads and waterways within the National Seashore are closed to transportation of lawfully taken wildlife from areas outside park boundaries.

***Determination:*** *This order is intended to provide a measure of protection to wildlife species which may be subject to unlawful taking during other than lawful hunting activities or hours; or by persons who are otherwise engaged in unlawful wildlife activities.*

(e) (i) The park is closed to the use of artificial light for the viewing of wildlife

- This includes any spot lights, flood lights, homemade or purchased light poles with more than one light, or any type of lighting systems that would disrupt or affect the wildlife, (eg: bird, fish and turtles species) and the dark night sky.

***Determination***: *This order is intended to provide a measure of protection to wildlife and fish species which may be subject to unlawful taking during other than lawful hunting hours or by persons who are otherwise engaged in unlawful wildlife activities. It is also intended to assure that the natural habits or activities of animals are not adversely affected while being artificially illuminated nor that animals be unduly harassed which may affect feeding, resting, or mating. The proliferation of poor quality outdoor lighting is the principle threat to the night ski. Reducing the number of multiply lighting systems will allow for activities focused on public enjoyment of dark skies.*

## Section 2.3 – Fishing

(a)(1) Shell fishing is permitted in accordance with the provisions of Federal and Texas State laws.

***Determination:*** *Populations of shellfish are currently at a level that will allow such harvesting. Provision would provide consistency with state regulatory practices on other area beaches.*

(d)(1) The number of fishing poles is limited to 6 per person. All fishing poles and lines will be maintained at the surf's edge.

***Determination:*** *Restricting the number of fishing poles per person helps ensure that fish populations are not negatively impacted as a result of increased fishing pressure. Regulating the location of the fishing poles and number of poles will improve visitor safety*

(d)(1)(6) Digging for bait is illegal (this includes the use of sand pumps for ghost shrimp)

(e) The use of seine nets, trot lines, and jug lines are prohibited in the park.
A cast net (not exceeding 14 feet in diameter) or dip net (not exceeding 3 feet in diameter) may be used to take non-game fish for bait purposes only. Finger-sized mullet, anchovies, pinfish (pigg perch), croakers, menhaden, and other baitfish are permitted for use as bait. Gigging is allowed for non-game and non-protected game fish (ie: flounder, black drum, whiting, sheepshead) submerged attracting lights or lights attached to the end of the spears are allowed.

***Determination:*** *Individuals taking non-game baitfish for bait purposes does not significantly impact species populations. Restricting the size of nets used for gathering baitfish discourages those who would harvest baitfish for commercial purpose, which could impact species populations.*

*The use of a seine net allows the indiscriminant taking of animal species that are not suitable for baitfish. These species can be injured during capture and die once released. The use of a trot line or jug line are generally unattended for periods of time, which can cause severe injury and death to captured fish species that cannot be removed in a timely manner. In addition, trot lines and jug lines cause a safety and health risk to boaters and fisherman using park waters. These lines are difficult to see and have many hooks that can easily injure a fisherman or boater.*

## Section 2.4 – Weapons, Traps, or Nets

(a)(1) The possession of a loaded shotgun on Laguna Madre waters to hunt waterfowl is provided for in 36 CFR 7.75(b), provided that the hunting is consistent with applicable seasons, times, and other regulations established by the State of Texas and Federal agencies.

***Determination:*** *Loaded shotguns are permitted on the Laguna Madre while hunting waterfowl; however shotguns must be unloaded when hunting activity ceases and prior to the vessel being moved. Failure to do so places the owner of the weapon in violation of 36 CFR 2.4 (b) which states, "Carrying or possessing a loaded weapon in a motor vehicle, vessel or other mode of transportation is prohibited, except that carrying or possessing a loaded weapon in a vessel is allowed when such vessel is not being propelled by machinery and is used as a shooting platform in accordance with Federal and State law.*

## Section 2.10 – Camping and Food Storage

(a)(i)The following areas are designated for primitive camping with a camping permit. All other areas including dredge islands are closed except under conditions of a permit issued by the Superintendent.

(1) Malaquite Beach Campground requires a camping permit at a cost of $8.00/night.

i. The low road of Malaquite beach campground is the beach to the east of the Malaquite Beach Campground to the Gulf of Mexico. This area is open to tent camping. The delineating boundary for the beach camping is from the south end of Malaquite Beach campground to the north end of Malaquite Beach campground.

(2) North Beach, South Beach, Bird Island Basin Windsurfing area, and the Malaquite Beach Campground require a self registration camping permit (§ 2.10).

(3) Beaches along the Gulf of Mexico open to vehicle travel. Camping is prohibited in the dunes or fore dunes.

(4) Yarborough Pass parking areas

(5) The road parallel to the Mansfield Channel.

(6) Designated kayak and other primitive camping sites that may be established as part of the park's General Management Plan.

***Determination:*** *Limiting camping to specific areas is necessary for the maintenance of public health and safety, protection of the environmental and scenic values, protection of natural resources, implementation of management responsibilities, and equitable use of facilities and avoidance of conflict among visitor use activities.*

(ii). The maximum time permitted for camping in the park is fourteen (14) consecutive days. At the end of fourteen (14) days, campers must completely remove themselves and their property from the park for a minimum of 48 hours before returning for another overnight visit.

(iii). No person, party, or organization shall be permitted to camp at Padre Island National Seashore for more than a total of fifty-six (56) calendar days per year in any combination of visits or consecutive nights. These limits apply to all overnight visits, including backcountry stays, campground stays or any other overnight activity.

***Determination:*** *Camping duration limits are intended to prevent domination of a campsite or the area by a relative few and to more equitably allocate use of the area. Time limits are also intended as a means to prevent an accumulation of impacts to camping areas. Such impacts include, but are not limited to, improvements to campsites, accumulation of body wastes and litter, expansion of campsite areas and trails, and similar resource impacts. The rule also applies to those camped in developed campgrounds where the number of sites is limited. Also, this rule is intended to prevent "homesteading" in the area by persons whose primary interest is long-term residency. The intent of this regulation is to augment 36 CFR 2.61, "Residing on Federal Lands;" the establishing of resource-impacting and/or long-term campsites by people who seek to make the park their primary residence, or seek to reside in the park while working elsewhere. Nothing in this paragraph precludes long-term day use of the park by visitors.*

(iv). Check out time at the Malaquite Beach Campground is 12:00 noon.

(v) In the interest of visitor safety and protection, Malaquite Beach Campground and Bird Island Basin Campground are closed to non-camper use and non-camper vehicle traffic between the hours of 10 p.m. and 6 a.m.

(vi) In the interest of protecting the visitor experience, quiet hours are in effect in the Malaquite and Bird Island Basin Campgrounds from 10:00 p.m. to 6:00 a.m.

(vii) No more vehicles than designated parking space provided per site are allowed at Bird Island Basin Campground. No more than 8 persons allowed in each campsite.

(viii) All vehicles and equipment must be within the designated campsites so as to not to impede the flow of traffic or other campsites.

(ix) Only 2 vehicles and 2 tents or no more than 8 persons allowed at Malaquite Beach campground.

(x) Camping equipment must be kept within designated areas provided per site (i.e. on site pads).

***Determination:*** *Limitations on the number of vehicles and people at a site minimize damage to vegetation and topography as well as help maintain the characteristics of a National Park Service campground that the visitors are seeking. Less restrictive measures would not provide adequate protection to park resources or provide reasonable opportunities or the type of campground experience the public seeks when visiting the Seashore.*

(ix) Overnight camping is prohibited at the Malaquite Beach Visitor Center parking lot unless it is an emergency situation authorized by a law enforcement ranger. (ie: evacuating the beaches for high tides.

***Determination:*** *Establishing special conditions is necessary for the maintenance of public safety, protection of environmental and scenic values, and implementation of management responsibilities.*

## Section 2.13 – Fires

(a)(i) Fires are permitted in fully contained barbecue grills at designated sites at Malaquite Beach Campground and Bird Island Basis Campground. All fires will be extinguished prior to leaving the site

***Determination:*** *Restricting campfires to barbecue containers at designated campsites reduces the severity and number of areas impacted by campfires and reduces the chance of a wildfire igniting from sparks or other debris.*

(ii) Ground campfires are permitted only east of the vegetated dunes on open sand areas along Gulf shore beaches that is open to camping as long as they are built where flames or embers cannot threaten or blow into the grasslands, equipment, or property. Wooden pallets and crates are prohibited from burning due to the abundance of nails that are left on beach. Additionally, refuse, household trash, petroleum products, and plastics shall not be burned. All fires will be extinguished prior to leaving the site

***Determination:*** *Resource impacts of fires on the beach are negligible and their remains are usually washed away or impacts mitigated by fluctuating tides. Sharp objects that were attached to firewood, unextinguished fires, or other objects left in the sand present safety hazards, particularly for beach users who are often barefoot.*

## Section 2.14 – Sanitation and Refuse

(a) All trash will be disposed of in a trash can, trash bag, or other container immediately after use. The discarding or piling of trash on the ground with the intention of later picking it up for proper disposal is not permitted.

(a)(2) Trash/debris/refuse disposed of at the Bird Island Basin Windsurfing area and boat ramp receptacles are for daily recreational activities associated with boating activities.

- The dumping of household, commercial, industrial refuse, or trash/debris/refuse from the cabins located in the Laguna Madre is not to be disposed of in park receptacles.

***Determination:*** *These conditions provide reasonable means for the disposal of waste products without causing unwarranted safety or environmental nuisances. Less restrictive measures would not offer the degree of safety necessary for the protection of the public or the resources, or help maintain the characteristics of the islands that the visitors are seeking.*

(a)(7)(i) No dead fish or parts thereof may be left on any shore, beach, dock, or cleaning table**.** Fish waste left over from cleaning must be deposited in gulf waters or in the Laguna Madre.

***Determination:*** *Polluting and contaminating park facilities and beaches from fish waste will be eliminated with proper sanitary and fish cleaning practices.*

(ii) Fish may be cleaned and filleted before transportation to their final destination in accordance with the provisions of Texas State law.

***Determination:*** *Texas state law allows for the cleaning of fish after a fisherman has reached their final land destination. Cleaned fish cannot be transported by boat. This state regulation prevents fishermen from exceeding established catch limits or claiming the cleaned fish is another species.*

(b)(i) In non-developed areas, human waste must be packed out or buried at least six inches.

***Determination:*** *The accumulation of body wastes and litter in non-developed areas is unsanitary and impacts visitor use and enjoyment of these areas. Waste matter that is left on the surface desiccates and creates the possibility of spread of infectious elements and is aesthetically unpleasant to other visitors.*

## Section 2.15 – Pets

(a)(1)(i) The Malaquite Beach Visitor Center pavilion and beach from the southern most pavilion to the north trailhead and east to the Gulf of Mexico are closed to dogs, cats, and other pets. This restriction does not apply to certified guided dogs accompanying impaired visitors.

***Determination:*** *The prohibition against pets is intended to insure public safety in a high use area with a large concentration of park visitors. All other park beaches (67 miles) are available for those wanting a beach-pet recreational experience. Sanitation is also an important factor in this determination as there are no appropriate places for pets to urinate or defecate. Pet excrement would contribute to sanitation problems.*

## Section 2.16 – Horses and Pack Animals

(b)(i) Horses and pack animals are allowed only on the Gulf of Mexico beaches except in front of the Malaquite Beach Visitor Center and campground. (This includes the area from the Malaquite Beach Visitor Center and campground area to the Gulf of Mexico water.)

***Determination:*** *Resource impacts of horses on the beach are negligible and their remains are usually washed away or mitigated by fluctuating tides. The Malaquite Beach Visitor Center and campground are areas which may be congested at times with many visitors. These areas are restricted in order to insure public safety and to prevent the unnecessary intrusion of a large animal onto other visitors who may not want the animal in their immediate presence but cannot otherwise avoid it. Sanitation is also an important factor in this determination. There are no appropriate places in heavy visitor use areas for horses to urinate or defecate. Horse excrement contributes not only to sanitation problems but provides the potential for significant resource damage. Excrement can contain non-native vegetation. Non-native species can*

*quickly germinate and spread through the park, competing with native vegetation and altering the park's ecosystem.*

(g)(i) Hay will be kept in feed troughs or horse trailer feeding bays to prevent hay from being placed on the ground. All unused hay will be removed from the park. All horse and pack animal excrement will be removed from the park.

***Determination:*** *Hay can contain non-native seed species. Exotic species can quickly germinate and spread through the park. Non-native species compete with native vegetation and alter the park's ecosystem resulting in significant resource damage. Sanitation is also an important factor in this determination as there are no appropriate places for horses and pack animals to urinate or defecate. Excrements can contribute to sanitation problems.*

## Section 2.21 – Smoking

(a) Smoking is prohibited in all government buildings and vehicles. Smoking at Park Headquarters is permitted outside except on the front porch of the main building. Smoking is prohibited in all grassland areas.

***Determination:*** *Smoking is prohibited in government buildings and vehicles by law and policy. Smoking is prohibited on the front porch of park headquarters because it is the primary visitor access to the building. Smoking is prohibited in grassland areas due to the danger of starting a wildfire.*

## Section 2.22 – Property

(a) Property (ie: trailers, windsurfing equipment) at Bird Island Basin Campground and World winds Windsurfing Concessionaire day use parking area will not be left unattended overnight.

***Determination:*** *Unattended property can interfere with visitor safety and the orderly management of the park area.*

(a)(2) Vehicles and boat trailers may be left unattended at the owner's risk for up to seven days at the Bird Island Basin boat parking lot and at the Yarborough Pass parking area.

***Determination:*** *Limiting parking is necessary for the maintenance of public health and safety, protection of natural resource and scenic values, equitable use of facilities, and avoidance of conflict among visitor use activities.*

(a)(3) Contraband, including illegal drugs, and other dangerous items (e.g., unexploded ordnance, hazardous waste, chemicals) found in the park are illegal to possess and shall be reported to a park ranger as soon as possible.

***Determination:*** *Illegal drugs and other contraband have been found in the park. The requirement to report such findings to park rangers negates any claim by a person apprehended with contraband that they possessed it with the intention of turning it over to a park ranger or intended to take it out of the park in order to turn it over to another agency.*

*Possession of unexploded military ordnance or hazardous waste in any form is dangerous to anyone in the area.*

## Section 2.23 - Recreational Fees

(b) Recreation fees, in accordance with 36 CFR part 71, are established for the following entrance fee areas, and/or for the use of the following specialized sites, facilities, equipment or services.

| | | |
|---|---|---|
| *Entrance Fee Areas:* | *Padre Island NS Entrance* | *$8.00/wk or $20.00/annual* |
| *Use Fee Areas:* | *Bird Island Basin* | *$5.00/day or $10.00 annual* |
| | *Malaquite Campground* | *$8.00/night* |

(c) The collection of recreation fees will be suspended during the following periods: as designated by the Director of the National Park Service

## Section 2.51 - Public Assemblies

(a)(i) Public assemblies, meetings, gatherings, demonstrations, parades, and other public expressions of personal views are permitted in designated park areas incidental to the terms and conditions of a permit. First Amendment Activities at the Malaquite Visitor Center pavilion are permitted on the sidewalk no closer than 100 feet in front of the stairs leading to the pavilion. No assembly may interfere with access to any park facility or vehicle travel along the beach. Vehicles may not be approached.

***Determination:*** *The area provided does not unreasonably interfere with visitor service, but affords substantial public recognition for any public assembly activity.*

(e) See attached map, Appendix A, for detailed information as to where First Amendment activities are permitted at the Malaquite Beach Visitor Center pavilion.

***Determination:*** *This action is necessary in order to comply with 36 CFR 2.51(e) to provide a map showing the locations available for public assembly.*

## Section 2.52 – Sale or Distribution of Printed Materials

(a)(i) The sale or distribution of printed material is permitted incidental to the terms and conditions of a permit at the Malaquite Beach Visitor Center pavilion on the sidewalk no closer than 100 feet in front of the stairs leading to the pavilion. This activity can not interfere with access to the Malaquite Beach Visitor Center nor can participants approach any vehicle in the parking lot.

***Determination:*** *The area provided does not unreasonably interfere with visitor service, but affords substantial public contact for the sale or distribution of printed materials.*

## Section 2.62 – Memorialization

(b) The scattering of human ashes from cremation is permitted in accordance with the terms and conditions of a permit.

***Determination:*** *At present the incidence of this type activity is minimal. Such activity can occur without causing any negative impacts to the resources of the area.*

(b)(i) The scattering of human ashes may be done at any location other than Malaquite Beach, Bird Island Basin, and or any site used to hold incubating sea turtles and sea turtle eggs

***Determination:*** *Malaquite Beach and Bird Island Basin are primary visitor use areas with a high concentration of park visitors. Other areas of the park provide appropriate settings for solitude without impacting other visitors.*

# PART 3 – BOATING AND WATER USE ACTIVITIES

## Section 3.6 – Prohibited Operations

(e)(i) Operating a motorized vessel within 500 feet of the Bird Island Basin shoreline from the Bird Island Basin channel to a point ½ mile south of the Worldwinds Windsurfing concessions building is prohibited.

***Determination:*** *The area specified in this restriction is a busy visitor use area for windsurfers. A windsurfing concession is located in the direct vicinity of the area described. Instructors provide windsurfing lessons to inexperienced windsurfers. Allowing motorized vessels in this area would present a safety hazard to both windsurfers and boaters.*

## Section 3.21 – Swimming and Bathing

(a)(1)(i) All park waters and beaches are open to swimming with the exception of the boat launch areas at Bird Island Basin and Yarborough Pass

***Determination:*** *Swimming and other beach activities are a significant aspect of the visitor experience. The park was established, in part, to provide recreational opportunities for park visitors. Swimming does not impact park resources. Swimming is not safe at the Bird Island Basin and Yarborough Pass boat launching areas.*

## Section 3.23 – SCUBA and Snorkeling

(a)(i) All park waters and beaches are open to SCUBA and snorkeling with the exception of the boat launch areas at Bird Island Basin and Yarborough Pass.

***Determination:*** *Recreation is a significant aspect of the visitor experience. The park was established, in part, to provide recreational opportunities for park visitors. SCUBA and snorkeling do not impact park resources. Because of the motorized vessels that launch at Bird Island Basin and Yarborough Pass, SCUBA and snorkeling in these boat launching areas is not safe.*

## PART 4 – VEHICLES AND TRAFFIC SAFETY

### Section 4.12 – Traffic Control Devices

Parking is prohibited in the following areas:

(i) Shoulders of Park Road 22, Bird Island Basin Road, Bird Island Basin boat ramp road, Bird Island Basin Campground and Windsurfing roads.

(ii) Driving in the dunes or fore dunes is prohibited.

(iii) Vehicles with boat trailers are not allowed to park at the Bird Island Basin Windsurfing or campground areas unless they are camping there. (BIB campground / Windsurfing area is not an over flow parking area for the boat ramp)

(iv) Day use parking in the BIB campground is prohibited from November 1 thru May 1. (Designated camping sites can be utilized as day use parking only if it is posted by a Law Enforcement Ranger or a campground host. This will allow for overflow parking from the windsurfing day use area. This will only be allowed for temporary day use parking.)

***Determination:*** *Limiting parking to a specific time period is necessary for the maintenance of public health and safety, protection of natural resource and scenic values, equitable use of facilities, and avoidance of conflict among visitor use activities. Restrictions at the boat parking lot and campground area are intended to control use patterns in this busy area that is frequently full with no appropriate overflow area available. Unrestricted parking would cause carrying capacity levels to be exceeded more often resulting in additional resource impacts and intrusions on other park users.*

### Section 4.21- Speed Limits

The following speed limits are established for the roads or routes indicated:

- Park Road 22: 45 mph
- Campground roads: 5 mph
- Bird Island Basin Boat Ramp road: 25 mph
- North Beach and South Beach from mile marker 0 to mile marker 5: 15mph
- South Beach from mile marker 5 to Mansfield Channel: 25mph from July 6 to April 14.

- South Beach from mile marker 5 to Mansfield Channel: 15mph from April 15 through July 5, to allow for endangered nesting sea turtles and to allow for visitor safety.

## Section 4.30 – Bicycles

(a)(i) Bicycles may be ridden on park roads, gulf beaches, and in parking areas. All other areas, including the Malaquite Beach Visitor Center pavilion and Novillo Line camp are prohibited. Bicycles must be ridden on the right-hand side of traveled roads, in the same direction of travel as all other vehicular traffic, and in general, conform with all vehicle traffic regulations.

***Determination:*** *Bicycles driven in grasslands, over dunes, or through mudflats cause damage to natural resources.*

## AREA(S) CLOSED TO DESIGNATED PUBLIC ASSEMBLIES/MEETINGS AND SALE/DISTRIBUTION OF PRINTED MATTER

- Malaquite Visitor Center and Pavilion including the concession store