



# United States Department of the Interior

NATIONAL PARK SERVICE  
George Washington Memorial Parkway  
c/o Turkey Run Park  
McLean, Virginia 22101

IN REPLY REFER TO:

November 16, 2020

GWMP, FOHU – VRP  
Closure Order # 20-019

## Record of Determination for the Public Use Limits for Public Facilities to Prevent the Spread of COVID-19

Pursuant to 36 CFR § 1.5(a)(1), the National Park Service issued a public use limitation for all permitted events and demonstrations covered by the regulations at 36 CFR 7.96 for the Interior Region 1 – National Capital Area (NCA), for the George Washington Memorial Parkway. The ROD was extended several times through July 3, 2020. Effective immediately, the National Park Service will resume issuing permits for demonstrations, commercial filming and photography, and special events. Resuming permitted activities is consistent with the implementation of COVID-19 recovery plans as the park continues to resume additional operations.

Without the ability to issue permits, there is no way to ensure event organizers are addressing the health, safety and well-being of participants, nor to ensure that when there is a conflict of time and location for multiple events, all groups have the opportunity to assemble and be heard. By again issuing permits, the National Park Service will be able to work with organizers to ensure events happen in a safe manner, multiple groups and views can be safely accommodated, and park resources can be protected so the areas are available for future gatherings and events. Applicants will be asked to submit a COVID-19 plan with their application to identify measures they will take to limit the spread of COVID-19. The NPS will review each application to ensure it includes a COVID-19 plan.

Following CDC guidance and best practices from sport governing bodies, the National Park Service will not issue permits for organized athletic sports or leagues including volleyball, softball, basketball, and other organized team sports.

Following CDC guidance and best practices, the National Park Service will not permit the use of recreational activities with high contact surfaces such as simulation rides, inflatable bounce houses, rock climbing walls, and other high-touch, close-contact activities where social distancing and regular disinfection is not possible.

The designated picnic areas at Fort Hunt will have a permit limit of 10 people gathering through February 20, 2021. This restriction is necessary to provide for adequate public health and sanitation.

Per 36 CFR 7.96 (g)(2)(i), demonstrations involving 25 persons or fewer do not require a permit provided that the other conditions required for the issuance of a permit are met and provided further that the group is not merely an extension of another group already availing itself of the

25-person exemption under this provision or will not unreasonably interfere with other demonstrations or special events. This determination does not affect the limited number of areas where a larger small group exception normally exists by regulation at 7.96 (g)(2)(ii).

The temporary restrictions are not of a nature, magnitude or duration that will result in a "significant alteration in the public use pattern." The restrictions will not adversely affect the park's natural aesthetic or cultural values, nor require significant modification to the resource management objection, nor is it of a highly controversial nature.

Accordingly, the National Park Service determines publication as rulemaking in the Federal Register is unwarranted under 36 CFR § 1.5(c). This determination is consistent with hundreds of earlier partial or temporary closures, the legal opinion of the Office of the Solicitor, and judicial adjudications that have upheld other NPS closures and public use limitations. *Spiegel v. Babbitt*, 855 F. Supp. 402 (D. D.C. 1994) *affd in part w/o op.* 56 F. 3d 1531 (D.C. Cir. 1995), *reported in full*, 1995 US App. Lexis 15200 (D.C. Cir. May 31, 1995); *ANSWER Coalition v. Norton*, No. 05-0071, (D.D.C. January 18, 2005), *Mahoney v. Norton*, No. 02-1715 (D.D.C. August 22, 2002), *plaintiff's emergency motion for appeal for injunction pending appealed denied Mahoney v. Norton*, No. 02-5275 (D.C. Cir. September 9, 2002) (per curium); *Picciotto v. United States*, No. 99-2113 (D.D.C. August 6. 1999); *Picciotto v. Lujan*, No. 90-1261 (D.O.C. May 30, 1990) *Picciotto v. Hodel*, No. 87-3290 (D. D.C. December 7, 1987).

Pursuant to 36 CFR § 1.5(c), 1.7. notice of these temporary and partial restrictions will be made through park website updates. Finally, pursuant to 36 CFR § 1.5(c), this determination is available to the public upon request.

This order is effective immediately and will remain in effect until February 26, 2021. The effectiveness of this order will be assessed on an ongoing basis and will be modified or removed when conditions warrant.

Approval:	Charles Cuvelier	Date: 2020.12.30 09:30:39 -05'00'	<u>12/30/2020</u>
	Superintendent		Date