



United States Department of the Interior

NATIONAL PARK SERVICE
Interior Region 1- National Capital Area
1100 Ohio Drive, S.W.
Washington, D.C. 20242

JUNE 08 2020

Record of Determination for a Public Use Limitation to Prevent Spread of COVID-19

This is a decision under 36 CFR 1.5 (c), and is limited to Interior Region 1- National Capital Area (NCA) parks. The National Park Service (NPS) is extending the public use limitation for all permitted events and demonstrations for the parks covered by the regulations at 36 CFR 7.96. This continues in response to public health advisories and limitations on large events from the Centers for Disease Control (CDC) and from the state and local jurisdictions where these parks are located. Specifically, the NPS will not accept applications for permits and demonstrations or special events through June 22, 2020. All events currently scheduled before June 22, 2020 will be cancelled or postponed to a later date, at the discretion of the applicant.

Because each jurisdiction is progressing through its phased recovery plan at a different rate, the NPS will reevaluate the postures of each jurisdiction and issue updated guidance on June 22, 2020. This limited public use restriction is based on the recommendations of the CDC and generally aligns with the local conditions in the affected localities and states.

Consistent with our decision not to issue permits for public gatherings, no event that would require a permit under the small group exception enunciated in 7.96 (g)(2)(i) will be permitted in any area covered by regulations at 36 CFR 7.96 This guidance generally aligns with guidelines for mass gatherings in the District of Columbia (https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/MO2020-067.pdf), Maryland (<https://governor.maryland.gov/wp-content/uploads/2020/06/Gatherings-EIGHTH-AMENDED-6.3.20.pdf>), and Virginia ([https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-61-and-Order-Of-Public-Health-Emergency-Three-AMENDED---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-61-and-Order-Of-Public-Health-Emergency-Three-AMENDED---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf)).

The limited number of areas where a larger small group exception normally exists by regulation at 7.96 (g)(2)(ii) will operate under the small group exception at 7.96 (g)(2)(i). This limited public use restriction is informed by the recommendations of the CDC and after consultation with affected localities and states. This is an unprecedented public health emergency. The NPS will continue to coordinate and consult with federal and local public health agencies and will periodically revisit this decision.

These public use limitations are necessary to ensure the safety of visitors and employees and prevent the spread of a disease that has already been designated as pandemic by the World Health Organization. Visitors may still visit open areas of the parks, and demonstrate without a permit

INTERIOR REGION 1 • NORTH ATLANTIC-APPALACHIAN

CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, KENTUCKY, MAINE, MARYLAND, MASSACHUSETTS,
NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA, RHODE ISLAND, VERMONT,
VIRGINIA, WEST VIRGINIA

in small groups, with adherence to guidelines for protecting vulnerable populations, hand hygiene, and social distancing.

The use limitation will not adversely affect the park's natural, aesthetic or cultural values; nor require significant modifications to the resource management objections; nor given the circumstances should it be of a highly controversial nature. Accordingly, the NPS determines publication as rulemaking in the Federal Register is unwarranted under 36 C.F.R. § 1.5(c). This is consistent with hundreds of earlier partial and temporary park closures or public use limitations, the legal opinion of the Office of the Solicitor, and judicial adjudications. *Mahoney v. Norton*, No. 02-1715 (D.D.C. August 29, 2002), plaintiff's emergency motion for injunction pending appeal denied *Mahoney v. Norton*, No. 02-5275 (D. C. Cir. September 9, 2002) (per curiam); *Picciotto v. United States*, No. 99-2113 (D.D.C. August 6, 1999); *Picciotto v. United States*, No. 94-1935 (D.D.C. September 9, 1994); *Picciotto v. Lujan*, No. 90-1261 (D.D.C. May 30, 1990); *Picciotto v. Hodel*, No. 87-3290 (D.D.C. January 26, 1988); *Spiegel v. Babbitt*, 855 F.Supp. 402 (D.D.C. 1994) aff'd in part w/o op. 56 F.3d 1531 (D.C. Cir. 1995), reported in full, 1995 US App. Lexis 5200 (D.C. Cir. May 31, 1995). Pursuant to 36 C.F.R. § 1.7, notice of this public use limitation will be made through media advisories, maps, and by posting at conspicuous locations in the affected park areas and park websites. Finally, pursuant to 36 C.F.R. § 1.5(c), this determination is available to the public upon request.

Lisa A Mendelson-Ielmini

Lisa Mendelson-Ielmini
Acting Area Director
Interior Region 1 – National Capital Area