

Record of Determination for a Temporary Closure of a Portion of Certain Federal
Parkland for Human Health and Safety

Pursuant to 36 CFR 1.5(a), Rock Creek Park, a unit of the National Park Service, is temporarily closing a portion of Rock Creek Park for playground surface replacement. Specifically, from 7:00 am Monday November 5, 2018 through 5:00 pm Friday December 28, the playground at Fort Bayard will be fully closed to all foot traffic and recreational use. During this time, the entire playground will be closed to the public, and will be accessible only to National Park Service (NPS) employees and hired contractors. The temporary closure of the playground at Fort Bayard is necessary for public health and safety in order to replace the worn, compacted and unsafe play surface and return it to compliance with current play surface standards. The remainder of Fort Bayard Park will remain open and available for recreational use. Less restrictive measures are not possible given the need to close the playground to protect the public from unsafe conditions during the surface replacement process.

The temporary closure will occur for eight weeks in duration and does not constitute an impairment to park resources and values. It is not of a nature, magnitude, or duration that will result in a significant alteration in the public use pattern of the park area, nor is it of a highly controversial nature due to the short duration of the closure and the availability of other playgrounds in the area.

Accordingly, the National Park Service has determined publication as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(b). The partial and temporary park closure and public use limitation is consistent with hundreds of other temporary park closures, the legal opinion of the Office of the Solicitor, and judicial adjudications. *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), *plaintiffs' emergency motion for appeal for injunction pending appealed 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. Lujan*, No. 90-1261 (D.D.C. May 30, 1990); *Picciotto v. Hodel*, No. 87-3290 (D.D.C. December 7, 1987); *Spiegel v. Babbitt*, 855 F. Supp. 402 (D.D.C. 1994), *affd in parr 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).

Pursuant to 36 C.F.R. §1.7, notice of this temporary and partial closure and public use limitation will be made through media advisories, maps and posting at conspicuous locations in the affected park areas. Finally, pursuant to 36 C.F.R. §1.5(c), this determination is available to the public upon request.



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Rock Creek Park