

**National Park Service**

**CONTINGENCY PLAN**

**November 2023**



**Department of the Interior  
National Park Service  
Contingency Plan for a Potential Lapse in Appropriations  
November 2023**

**Overview**

The National Park Service (NPS) Contingency Plan is provided in accordance with the requirements of Office of Management and Budget Circular A-11 Section 124.

The NPS Organic Act (54 U.S.C. 100101) states that the purpose of the NPS is to conserve the scenery and the natural and historic objects and the wildlife and to provide for [their] enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. The Director has responsibility for execution of this plan, including adjustments to the plan to respond to the length of the lapse in appropriations and changes in external circumstances.

In general, National Park Service sites will be closed during the period of a lapse in appropriations. This means that the majority of National Park sites will be closed completely to public access. Areas that by their nature are physically accessible to the public will face significantly reduced visitor services. Accordingly, the public will be encouraged not to visit National Park sites during the period of lapse in appropriations. Visitors may use Recreation.gov for more information on reservation policies, including cancellation procedures. If accessible areas cannot be protected with basic visitor services provided as described below, NPS may restrict access to these areas. Procedures leading to an orderly shutdown and exceptions needed to comply with the NPS Organic Act, as well as public safety, are detailed below, along with other operational guidance. Adjustments to this Plan may be made by the Director if any lapse continues for an extended period.

**Orderly Shutdown**

**Designation of Activities During a Lapse**

**Excepted Activity** - Obligations may be incurred for personnel performing excepted activities as described in the Office of Management and Budget (OMB) Circular No. A-11, including activities necessary to protect life and property, activities expressly authorized by law, and activities necessarily implied by law. NPS activities in this category include:

- Law enforcement and emergency response;
- Border and coastal protection and surveillance;
- Fire suppression for active fires or monitoring areas currently under a fire watch;
- Protection of federal lands, buildings, waterways, equipment, and other property within the National Park System, including research property;
- Activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials, drinking water, and sewage treatment operation;
- Activities that ensure production of power and maintenance of the power distribution system;
- Activities related to United States Park Police annuity benefits transfer (necessarily implied by law, 54 U.S.C. 103101(d));
- Activities related to facilitation of First Amendment activities including permitting and monitoring (necessarily implied by law, U.S. Const, Amend I); and

- Activities necessary to oversee or support excepted or exempted activities, including budget, finance, procurement, communications, human resources, and information technology services.

**Exempted Activity** - Personnel performing activities that may be funded from available sources of funds may be authorized to carry out these functions, subject to the continued availability of funds. Such available sources of funds include permanent appropriations, unobligated balances brought forward in a no-year and multi-year appropriation, mandatory appropriations, allocations from other accounts, and some reimbursables. NPS may use the minimal level of FLREA funding necessary to provide critical health, public safety, and protection services as an exempt activity in a manner that maintains restrooms and sanitation, trash collection, road maintenance, campground operations, law enforcement emergency operations, and the protection of park resources.

Some functions that begin as exempted may transition to excepted or furloughed status, and vice versa. Depending on funds availability, exempted activities may also include those typically funded by a lapsed appropriation that are necessary to oversee or support exempted activities, including budget and finance, procurement, communications, human resources, and information technology services. Further description of exempt programs is found below.

**Other Activity** - Employees that are neither excepted nor exempted will be furloughed. These employees will typically have no more than four (4) hours to complete their orderly shutdown activities. However, NPS estimates that some employees' orderly shutdown activities may exceed four (4) hours (for example, a contracting officer issuing several hundred stop-work orders); these will be completed as expeditiously as possible. Some employees may be placed in furlough status, subject to call back if a need arises. Volunteer activities must be discontinued in cases where necessary oversight by NPS personnel cannot be provided.

### **Headquarters**

In order to complete the excepted activities defined above, the NPS Washington Support Office (NPS Headquarters) will retain key NPS leaders, as well as a minimum number of employees in communication, human resources, contracting, finance, and budget roles. NPS leaders remaining on duty will include the Director, Deputy Directors, Comptroller, and Associate Director for Workforce and Inclusion. Once orderly shutdown activities are complete, total excepted staff is estimated to be no more than 25 full-time and on-call employees. Exempted staffing levels will vary by program, depending on funding availability.

Lead timekeepers will be available to assist non-furloughed supervisors and managers so that hours are tracked correctly in the time and attendance system as exempt, excepted, or furloughed. This helps ensure employees are correctly paid during and after shutdown.

### **Regional Offices**

The NPS regional offices play key roles in policy direction and coordination between the NPS Headquarters and individual national park sites. During the shutdown process, the regional leaders of law enforcement, administration, budget, contracting, public affairs, and concessions management will remain on duty to implement the guidance. Once orderly shutdown activities are complete, total excepted staff in each regional office is estimated to be no more than 5-10 full-time and on-call employees, depending on the duration and season of the lapse. Exempted staffing levels will vary by program, depending on funding availability.

## **National Park Sites**

On Saturday, November 18, 2023, the NPS may begin notification to the public regarding expected impacts of the lapse in appropriations. To allow for orderly closures, routine visitor services may continue to be provided through the use of available non-lapsing appropriations under the Federal Lands Recreation Enhancement Act (FLREA) for a 48-hour period. Beginning Monday, November 20, 2023, NPS will execute its orderly closure and service curtailment directives. Sites will generally be closed and areas that remain accessible to the public will face significantly reduced services as set forth in the operating models further described below.

Due to the dramatic differences in accessibility, operations, size, visitation, location, and infrastructure represented in national park sites, the number of employees required to carry out the excepted activities defined above will vary from site to site but will be at the minimum level required to carry out excepted activities in all locations. As a general rule, if a facility or area is locked or secured or otherwise inaccessible during non-business hours (buildings, gated parking lots, etc.), or is closed regularly for safety or resource protection, it will be locked or secured for the duration of the lapse in appropriations. Park website and social media will not be maintained. Parks will not provide regular road or trail condition updates. As a part of their orderly shutdown activities, park staff will post signs notifying visitors that no visitor services, maintenance or other non-emergency management activities will be conducted.

At parks with areas that are physically accessible to the public, meaning that due to their physical characteristics it is impossible or impractical to restrict public access, exempted staffing levels will vary by park. Generally, where parks have accessible park areas, including park roads, lookouts, trails, campgrounds, and open-air memorials, these areas will remain physically accessible to the public. Parks with accessible areas may only request use of FLREA funding to provide critical health, safety and protection services as an exempt activity in a manner that maintains restrooms and sanitation, trash collection, road maintenance, campground operations, law enforcement and emergency operations. If such areas cannot be protected with critical visitor health, safety and protection services provided as described, NPS may restrict access to these areas. Conservation of park resources is the paramount interest in making the access restriction decision. The public will not be prohibited from visiting accessible areas. Visitors who cancel reservations during the lapse may pursue cancellation refund procedures on Recreation.gov or through their accommodation provider.

Necessary management of volunteers providing the same services is also appropriate. Where excepted activities as described above are appropriate under FLREA at these parks, they may also be proposed for FLREA funding. Excepted staffing will otherwise be held to the minimum amount needed for the non-exempt, excepted activities outlined above.

For parks whose areas and facilities are inaccessible, excepted staffing will be held to the minimum amount needed for the excepted activities outlined above.

In exceptional circumstances, the Director may consider whether to maintain some services as exempted at parks not otherwise able to operate under the guidelines set forth above. The Director should exercise his discretion only where necessary to provide visitor health, safety and protection services as an exempt activity in a manner that maintains restrooms and sanitation, trash collection, road maintenance, campground operations, law enforcement, emergency operations, and similar FLREA purposes. He should describe the circumstances and explain the reasons why an exception to the general staffing rules is required, providing reasons related to visitor health, safety and protection, or other FLREA purposes.

## **Concession and CUA Operations, Partner Operations, and Leased Facilities**

- Access to leased facilities is permitted provided that no non-expected or non-exempt NPS staffing is required for access. Park superintendents may not bring on additional staff in excess of numbers approved to support expected or FLREA-funded activities in order to provide for commercial, concession, or partner operations.
- The park superintendent will make a determination, on a case-by-case basis using the criteria below, whether a commercial, concession, and/or partnership facility may remain open, or its operations continued during a lapse in appropriations. With the permission of the park superintendent, operations meeting the following criteria may generally remain open and/or be continued:
  - The concession, commercial use authorization (CUA) holder, or partner operates in an accessible area.
  - The concessioner, CUA holder, or partner can operate during the lapse without requiring NPS resources in excess of those approved to support expected activities or supported by FLREA for critical visitor health, safety and protection services.
- If over the course of the lapse, NPS expenditures or obligations beyond the expected level or FLREA-supported services level become necessary to support commercial, concession or partner operations, the park superintendent must require a suspension in those operations, unless Miscellaneous Trust Funds are available, as discussed further below. Park superintendents may not bring on additional staff in excess of numbers approved to support expected or FLREA-funded activities in order to provide for commercial, concession or partner operations, other than exempted staff funded by Miscellaneous Trust Funds.

## **Special Events**

- Park superintendents may allow special events and activities authorized by special use permits to continue if the activity does not require NPS personnel to provide monitoring for protection of resources or government property or monitoring for public health and safety protection such as crowd control, beyond existing expected and exempted personnel, including those funded by FLREA. Park superintendents may not bring on additional staff in excess of numbers approved to support expected or FLREA-funded activities in order to provide for special events.
- Special events or permitted special use activities that do not meet the above criteria are not allowed. In addition, the NPS will issue no new permits during a lapse in appropriations. During the lapse, NPS will not collect or access previously collected cost recovery fees associated with special events.
- As always, law enforcement action may be taken in cases where there is a violation of laws or regulations, including if it reasonably appears that the special event presents a clear and present danger to the public safety, good order, or health.

## **First Amendment Activity**

Park superintendents must allow First Amendment activity, consistent with applicable regulations, in areas identified as traditional public fora and in designated First Amendment areas. If a park is closed to the public, then that park's designated First Amendment area will be closed as well. As noted above, law enforcement action may be taken in cases where there is a violation of laws or regulations, including if it reasonably appears that a demonstration presents a clear and present danger to the public safety, good order, or health.

## Lapse Plan Summary Overview

### Short-Term Lapse

<b>Short Lapse Plan (1-5 days) Summary Overview</b>	
Estimated time (to nearest half day) required to complete shutdown activities:	0.5
Total number of agency employees expected to be on board before implementation of the plan:	19,000
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	12,972
<b>Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):</b>	
Compensation is financed by a resource other than annual appropriations:	3,325
Necessary to perform activities expressly authorized by law:	0
Necessary to perform activities necessarily implied by law:	3
Necessary to the discharge of the President's constitutional duties and powers:	1
Necessary to protect life and property:	2,700

### **Brief summary of significant agency activities that will continue during a lapse:**

**Excepted Activity** - Obligations may be incurred for personnel performing excepted activities as described in the Office of Management and Budget (OMB) Circular No. A-11, including activities necessary to protect life and property, activities expressly authorized by law, and activities necessarily implied by law. NPS activities in this category include:

- Law enforcement and emergency response;
- Border and coastal protection and surveillance;
- Fire suppression for active fires or monitoring areas currently under a fire watch;
- Protection of federal lands, buildings, waterways, equipment, and other property within the National Park System, including research property;
- Activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials, drinking water, and sewage treatment operation;
- Activities that ensure production of power and maintenance of the power distribution system;

- Activities related to United States Park Police annuity benefits transfer (necessarily implied by law, 54 U.S.C. 103101(d));
- Activities related to facilitation of First Amendment activities including permitting and monitoring (necessarily implied by law, U.S. Constitution, Amendment I); and
- Activities necessary to oversee or support excepted or exempted activities, including budget, finance, procurement, communications, human resources, and information technology services.

**Exempted Activity** - Personnel performing activities that may be funded from available sources of funds may be authorized to carry out these functions, subject to the continued availability of funds. Such available sources of funds include permanent appropriations, unobligated balances brought forward in a no-year and multi-year appropriation, mandatory appropriations, allocations from other accounts, and some reimbursables. Some functions that begin as exempted may transition to excepted or furloughed status, and vice versa.

Depending on funds availability, exempted activities may also include those typically funded by a lapsed appropriation that are necessary to oversee or support exempted activities, including budget and finance, procurement, communications, human resources, and information technology services. Further description of exempt programs is found below.

### **Non-Lapsing/ Exempt Funding**

#### **Recreation Fee Permanent Appropriation (FLREA)**

- FLREA may only be used to support critical visitor health, safety and protection services and excepted activities where appropriate at parks with accessible park areas as described above.

#### **Miscellaneous Trust Funds (Donations)**

- At the superintendent's discretion and with approval of the Director, parks may enter into arrangements with state, local, or Tribal governments, cooperating associations, and/or other third parties, including concessioners and commercial use authorization holders, for donations to fund the full operation of an individual park unit, provided that the extent of the donations are sufficient to ensure that the NPS Organic Act and individual Park mission are fully satisfied in aid of serving the public or the donations are for specified services that clearly benefit the park and public by providing enhanced visitor health, protection and safety. This includes donation of funds for NPS personnel and donation of in-kind services for the third party to conduct the work.
- The NPS will not reimburse third parties (through payments, refunds, franchise fee relief, or any other consideration) who provide donations for such services. If NPS staff will be conducting the work using funds from a third party, funds must be transferred and deposited before the NPS may continue or resume providing services.
- The NPS will refund remaining funds should the lapse end in fewer days than the number of days for which the third party provided funds.

#### **Inter/Intra-Agency Agreements**

- For reimbursable work supported by a signed inter/intra-agency agreement, work may continue only if the ordering agency has funds available during the lapse, and the work is funded exclusively by the ordering agency.

#### **Other Exempt Funding**

For all other exempt (non-lapsing) funding, the Associate Director with oversight for programs may

submit a spend plan to the Director for review and approval to continue activities.

**Brief summary of significant agency activities that will cease during a lapse:**

Special events or permitted special use activities that do not meet the above criteria listed in the shutdown plan are not allowed. In addition, the NPS will issue no new permits during a lapse in appropriations.

During the lapse, NPS will not collect or access previously collected cost recovery fees associated with special events. If, over the course of the lapse, NPS expenditures or obligations beyond the excepted level or FLREA level become necessary to support commercial, concession, or partner operations, the park superintendent must require a suspension in those operations. Park superintendents may not bring on additional staff in excess of numbers approved to support excepted or FLREA-funded activities in order to provide for commercial, concession, or partner operations. Other activities that would otherwise be supported by furloughed employees will cease.

**Shutdown activities that will not be completed within one-half day:**

Some employees’ orderly shutdown activities may exceed four (4) hours (for example, a contracting officer issuing several hundred stop-work orders). It is difficult to anticipate/specify the additional hours and number of employees required to complete these shutdown activities occurring beyond the four-hour window.

**Long-Term Lapse**

<b>Extended Lapse Plan (over 5 days) Summary Overview</b>	
Estimated time (to nearest half day) required to complete shutdown activities:	.5
Total number of agency employees expected to be on board before implementation of the plan:	19,000
Total number of agency employees expected to be furloughed under the plan (unduplicated count):	12,972
<b>Total number of employees to be retained under the plan for each of the following categories (may include duplicated counts):</b>	
Compensation is financed by a resource other than annual appropriations:	3,325
Necessary to perform activities expressly authorized by law:	0
Necessary to perform activities necessarily implied by law:	3
Necessary to the discharge of the President’s constitutional duties and powers:	1
Necessary to protect life and property:	2,700



There are no changes to the plan outlined under a long-term shutdown.

## **Actions to Resume Orderly Operations**

### **Communications**

DOI will notify furloughed employees that it is permissible to check emails periodically (e.g., twice a day) with Shutdown Update in the subject line. This can provide valuable information to staff, such as whether an employee is being called back as exempt or excepted status; information on benefits and pay; when the shutdown may end; time period of furlough being extended; etc.

### **Flexibilities Available to Supervisors**

If an employee has an issue returning to work—for instance, due to leave planned in advance—DOI encourages supervisors to allow employees to use normal leave, such as accrued annual leave, compensatory time, credit hours, etc. Employees should coordinate this approval with the supervisor when notified of the return to work.

### **Resuming Normal Operations**

Furloughed employees are expected to monitor public broadcasts and the Internet, including but not limited to DOI.gov, for information and public notices relevant to any appropriation or continuing resolution for DOI passed by Congress and signed by the President. They will be expected to return to regular duty on the next workday immediately after the end of the lapse in appropriations.

## **Additional Information**

The NPS workforce varies throughout the year, and this is particularly the case for the level of temporary seasonal employees. The estimates included in the tables above reflect positions impacted during low season. Ranges of impacted positions:

- Total number of agency employees expected to be on board before implementation of the plan: 19,000 – 23,100 depending on season. The lower numbers are a reflection of February through mid-May seasonal shifts.
- Necessary to protect life and property: 2,500 - 3,100 depending on season.

Some positions identified in the tables will be on-call instead of full-time. Functions that begin as excepted may transition to exempted or furloughed, and vice versa, as conditions change over the course of the lapse in appropriations.