



United States Department of the Interior

NATIONAL PARK SERVICE
Indiana Dunes National Park
1100 N. Mineral Springs Road
Porter, IN 46304



Date: 11/27/2024

Subject: CUA Application Denial, Revocation, and Suspension Standard Operating Procedures

Purpose of this Standard Operating Procedure

This Standard Operating Procedure (SOP) provides guidance to park managers when considering whether to restrict, suspend, or revoke a Commercial Use Authorization (CUA) and when considering whether to approve an application for a CUA. This procedure further provides guidance to the park superintendent or his/her designee regarding the actions to be taken in the event of a CUA holder violation (as defined in this procedure). The superintendent or designee may take a different action, taking into consideration applicable laws and policies, than what is called for at their discretion but shall provide reasoning for any deviation. The superintendent or designee also retains the authority to immediately restrict, suspend, or revoke a CUA, or deny a future CUA application at his or her discretion.

CUAs are not only a matter of regulation, but a matter of law; they are part of the National Park Service Concessions Management Improvement Act of 1998 (PL 105-391, section 418). Current regulations require all persons engaged in commercial activities within any National Park to possess a CUA. The requirement for a CUA is derived from the current general regulations of the National Park Service found in 36 CFR Sections 1.5(d), 1.6 (a), and 5.3. In compliance with 36 CFR, the terms and conditions of the permit are included in the application package and must be agreed upon by each applicant, as evidenced by the applicant's signature. At Indiana Dunes National Park, most CUAs are issued for a period of no more than one calendar year (issued after the application is reviewed and valid until December 31 of the same year). Applicants should allow a minimum of 30 days for the processing of a new application.

Authority to revoke a permit is provided for via the signed statement on the permit. Failure on the part of the permittee to abide by the provisions of the permit is citable under 36 CFR Section 1.6 (g) and Section 5.3. and may result in restriction, suspension, revocation, or denial.

Definitions

CUA holder: a sole proprietorship, partnership, limited partnership, joint venture, limited liability corporation, or corporation including corporate officers and those shareholders who have a controlling interest in a corporation that has applied for and received a CUA.

Employee: a person in the service of the CUA holder under any contract of hire—, express or implied, oral, or written—under which the CUA holder has the power or right to control and direct the employee in the work performed.

Habitual Offender: A CUA holder who has been the subject of arrest or violation notices within Indiana Dunes National Park totaling four separate documented instances within any consecutive 24-month period or two instances of providing false information related to their CUA over their lifetime.

Denial of CUA Application due to Inadequate Licensing or Documentation

Upon application for a CUA, submitted documents are reviewed. Inadequate or expired documentation may result in denial of a CUA. An applicant who has been denied will be notified, with stated reasons for the denial. Applicants who are denied a CUA due to inadequate documentation may reapply at any time but may be subject to an additional non-refundable application fee.

Denial of CUA Application due to Previous Parkwide or Federal Lands Ban, Conviction of Violent Felonies, or Habitual Offender Status

Individuals shall be permanently banned from obtaining or possessing a CUA within Indiana Dunes National Park under the following circumstances:

- If they have been banned from entering Indiana Dunes National Park or have been banned from entering all federal lands at any point in time, even if the ban has expired.
- If the applicant has been convicted of a violent felony regardless of location.
- If the applicant has been deemed a habitual offender.

Denial of CUA Application due to Past Criminal Violations

Upon application for a CUA, the applicant's criminal record for the previous two calendar years may be reviewed for violations within the park. Individuals shall not be issued a CUA if any of the following criteria are met:

- Payment of collateral, an accepted plea of nolo contendere, or a conviction in federal or state court of any two (2) charges* of violation of:
 - Resource protection, wildlife, or fisheries laws**
 - Boating safety, equipment rules, or traffic laws
 - Terms and conditions of a CUA
 - Other undesignated offenses within the boundaries of the park
- Payment of collateral, an accepted plea of nolo contendere, or a conviction in federal or state court of any one (1) charge of:
 - Boating under the influence (BUI) or driving under the influence (DUI)
 - Controlled substance laws
 - Domestic abuse, assault, or other misdemeanor crimes wherein a victim of a crime of violence is identified**
 - Engaging in an activity requiring a CUA without first obtaining a CUA

Individuals who meet any of the above criteria will not be issued a CUA. An applicant who has been denied a CUA will be notified via letter from the Superintendent, with stated reasons for denial. The applicant may reapply when the violation(s) no longer fall(s) within the two-calendar year window of review. An applicant may appeal this decision.

** Applicants with two violations within these categories may be issued a one-year probationary CUA upon completion of any applicable suspension which may be renewed until no two offenses fall within the 24-month review window. Any violations during a probationary CUA period shall result in immediate suspension of the CUA until no two offenses fall within the 24-month review period.*

*** This restriction shall apply regardless of the location of the incident.*

Suspension and Revocation of a Current CUA

A CUA may be suspended or revoked when the CUA holder and/or an employee of same commits a violation(s) as defined in the table below with the following closure status:

- Payment of a collateral citation
- An accepted plea of nolo contendere
- Conviction in federal or state court

Each case will be reviewed by the Commercial Services Office. The Commercial Services Office will then prepare a recommendation supported by documentation for the review and approval of the Superintendent or his/her designee.

The CUA holder will be notified via a letter from the Commercial Services Office should their CUA be suspended or revoked. Holders may reapply for a CUA after suspension once the conditions of this procedure would allow for the issuance of a CUA.

VIOLATION CATEGORY	FIRST OFFENSE	SECOND OFFENSE <small>(Within any consecutive 24-month period)</small>	THIRD OFFENSE <small>(Within any consecutive 24-month period)</small>
Type 6: Violation of terms and conditions of CUA contract or a special use permit, violation of boating safety rules, boating equipment rules, traffic laws, or other undesignated violations which occurred within the boundaries of Indiana Dunes National Park.	Issuance of warning letter from Commercial Services Office describing the violation and consequences of subsequent violations.	Suspension of CUA for 3 months from the closed case date of the second violation. *	Revocation of CUA until no two offenses of any kind fall within a 24-month review window.
Type 5: Violation of resource protection, wildlife, or fisheries laws regardless of whether or not the violation occurred within the boundaries of Indiana Dunes National Park.	Issuance of warning letter from Commercial Services Office describing the violation and consequences of subsequent violations.	Suspension of CUA for 6 months from the closed case date of the second violation. *	Revocation of CUA until no two offenses of any kind fall within 24-month review window.
Type 4: Boating under the influence (BUI), driving under the influence (DUI) of a motor vehicle or off-road recreational vehicle, and/or violation of controlled substance laws which occurred	Suspension of CUA for 12 months from the closed case date of the violation.	Revocation of CUA until no two offenses fall within a 24-month review window.	Extension of revocation until no two offenses fall within a 24-month review window.

within the boundaries of Indiana Dunes National Park.			
Type 3: Any misdemeanor charge of violence wherein a victim of a crime of violence is identified regardless of whether the violation occurred within the boundaries of Indiana Dunes National Park.	<p>Suspension of CUA for 12 months from the closed case date of the violation.</p> <p><i>Note: CUA holder will be allowed to operate while the case is pending. However, any violation, no matter how trivial, will result in immediate suspension of CUA while the Type 3 case is in pending status.</i></p>	Revocation of CUA until no two offenses fall within 24-month review window.	Extension of revocation until no two offenses fall within 24-month review window.
Type 2: Charges related to intentional falsification of CUA materials.	<p>Immediate suspension while case is in pending status.</p> <p>Revocation of CUA for 12 months from the closed case date of the violation.</p> <p>**</p>	<p>Immediate suspension while case is in pending status.</p> <p>Permanent revocation of CUA upon closure of case.</p> <p><i>Note: Consequences for a 2nd offense of this type are subject to a lifetime review window and are not bound by the standard two-year review window for other offenses.</i></p>	
Type 1: Violent felony charges regardless of location.	<p>Immediate suspension while case is pending.</p> <p>Permanent revocation upon closure of case.</p>		

NOTE: If offenses are of various types, the second and third offenses' consequences will be enacted for the type of offense for the 2nd and 3rd violations. Example: A first offense of Type 4 and a second offense of Type 2 will result in the application of a type 1 second offense consequence.

** Applicants with a second violation that falls within these categories may be issued a probationary CUA upon completion of suspension, which may be renewed until no two offenses fall within the 24-month review window. Any violations during a probationary CUA period shall result in immediate suspension of the CUA until no two offenses fall within the 24-month review period with no possibility of a probationary CUA. (Example: CUA holder receives and pays a citation for speeding and fishing without a license within two years of each other. After serving applicable suspension for the second violation a probationary CUA may be granted.)*

*** CUA holders who have been subject to suspension for a Type 2 violation for falsification of CUA material may reapply for a CUA upon conclusion of the suspension. Applicants shall only be granted a one (1) year CUA for two application cycles. Applicants shall, furthermore, be required to submit NPS Form 10-660A for monthly reporting of CUA activity by the 15th day of each month during their operational season in addition to their required Annual Report and shall be compelled to submit to inspection of books and records to verify submitted information upon demand.*

Examples:

Example	Consequences
CUA holder receives a warning for failing to follow the terms and conditions of their CUA permit.	No consequences to the status of the CUA as no citation was issued.
CUA holder receives a ticket for having inadequate personal flotation devices aboard their vessel and pays the ticket.	CUA holder will receive a warning letter and be advised that further violations will result in 3- month suspension of their CUA at minimum.
CUA holder is cited or arrested for boating under the influence and convicted.	CUA holder will be suspended for a period of 12 months from the finding of guilty. The CUA will become active after the suspension and the CUA holder may conduct business if their CUA is still active or apply for a CUA if their prior authorization has expired.
CUA holder receives and pays citations for speeding in the park in June of year one, a citation for operating without proper licenses and documentation on file with the Commercial Services Office in July of year one, a citation for expired equipment registration while within the park in January of year two, and a citation for possession of a controlled substance within the park in August of year two.	The CUA holder will be deemed a habitual offender due to the frequency of violations. Their CUA will be immediately revoked, and they shall be permanently banned from holding a CUA and operating a business within Indiana Dunes National Park.
CUA holder receives and pays citation for an entrance fee violation in June of year one and a vehicle violation in August year two.	CUA holder will have CUA suspended for 3 months from the closed case date of the second violation.

Failure to Provide Annual Report

CUA holders are required to provide accurate annual reporting documentation per the conditions of their Commercial Use Authorization. CUA holders who fail to provide accurate annual reporting documentation by established timelines shall have their business information removed from the park website. CUA holders will also receive a warning letter informing them that failure to provide accurate annual reporting is a violation of terms and conditions of their CUA.

CUA holders applying for a renewal of their CUA shall not be granted a new authorization until they have supplied all required annual reporting documentation. Applicants who have failed to provide annual reporting documentation during a previous year shall only be granted a 1-year CUA. If the CUA holder provides accurate annual reporting requirements at (or prior to) the next renewal period deadline they may be granted a CUA.

Appeals Process

Appeal of an action (restriction, suspension, revocation, or denial) may be made to the superintendent or designee. Such an appeal must be submitted in writing within 30 days of receipt of the decision. An applicant may appeal this by addressing an appeal in writing to:

Indiana Dunes National Park
Superintendent's Office
1100 N. Mineral Springs Road
Porter, IN 46304

Appeals must set forth the facts and circumstances that the permittee believe support the appeal. The CUA holder may request an informal meeting to discuss the appeal with the superintendent and/or their designee. After consideration of the materials submitted by the permittee and the park record of the matter and meeting with the CUA holder if so requested, the superintendent and/or their designee will affirm, reverse, or modify the decision appealed and will set forth in writing the basis of the decision. A copy of the decision will be forwarded to the CUA holder and will constitute the final administrative decision in the matter.



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Jason J. Taylor Ph.D.
Superintendent