



United States Department of the Interior
NATIONAL PARK SERVICE

Upper Delaware Scenic and Recreational River
274 River Road
Beach Lake, PA 18405

IN REPLY REFER TO:
upde_permits@nps.gov
N1-79-08-004, 5.B
(UPDE/BRM)

SUBJECT: **UPPER DELAWARE SCENIC AND RECREATIONAL RIVER COMMERCIAL USE AUTHORIZATION SUSPENSION, RESTRICTION, REVOCATION AND APPLICATION DENIAL POLICY**

AUTHORITY: Public Law 105-391, Section 418; 54 United States Code (USC) § 101925; 36 CFR Section 1.6 (g) and Section 5.3

EFFECTIVE DATE: February 13th, 2025

Purpose:

This policy memorandum is intended to provide guidance regarding the actions taken in the event of a Commercial Use Authorization Holder violation (as defined in this policy). The Superintendent, at his or her discretion, may take actions other than those identified and retains the authority to immediately suspend, restrict or revoke a CUA or deny a future CUA application for reasons not covered in this policy memorandum.

Definitions:

- Holder/Owner - a sole proprietorship, partnership, limited partnership, joint venture, or corporation including corporate officers and those shareholders who have a controlling interest in a corporation which has applied for or received a CUA.
- Employee - a person in the service of the Holder/Owner under any contract of hire, express or implied, oral or written, where the Holder/Owner has the power or right to control and direct the Employee in the work performed.
- Violations - Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court where a nexus exists between the offense and the business activity authorized, regardless of whether the violation occurred in a unit of the National Park System; failure to comply with the provisions and conditions of the CUA; or failure to adequately address material and documented operational concerns expressed by the National Park Service.

Permit Conditions Related to Revocation:

Authority to revoke a permit is provided for via CUA application and authorization provision #12ⁱ revocation or denial.

Suspension, Restriction and Revocation:

A CUA may be suspended, restricted, or revoked when the Holder/Owner or Employee commits a violation as defined above. The Superintendent will determine the appropriate administrative action regarding the violation based on the totality of the circumstances, including consideration of prior relevant violations. The following table provides a general guideline.

VIOLATION	ACTION BY SUPERINTENDENT
First Violation	A written warning (email and/or formal letter) at a minimum. May include a period of CUA suspension or restriction depending upon the violation.
Second Violation	May include CUA restriction or suspension for a minimum of 30 operating days and up to a maximum of 120 operating days. The restriction may continue into the next operating season and CUA applications for the next season may be denied until the term of the suspension is met.
Third Violation	May include CUA revocation for the remaining operating season and subsequent application denial for the next three operating seasons.

A CUA may also be suspended or restricted when the Holder/Owner or Employee is under investigation or is charged for a felony criminal offense by state or federal authorities if a nexus exists between the offense and the authorized business activity, the safety of Park visitors, or the preservation and protection of Park resources and values, regardless of whether the offense occurred in a unit of the National Park System. A CUA may be reinstated, or restriction lifted as a result of the final adjudication.

CUA Application Denial:

An application for a CUA may be denied if the Holder/Owner or any of the Holder/Owner’s current or proposed Employees committed a violation, as defined above, within three years of the date of application. Applicants denied a CUA due to previous violations may reapply at any time but are subject to an additional nonrefundable application fee.

Notification Process:

If a Holder/Owner or any of the Holder/Owner’s current Employees has committed a violation, the Superintendent or his/her designee may:

1. Notify the Holder/Owner of the violation in writing as soon as appropriate. This notification may include immediate suspension or restriction of the CUA. It is in the best interest of the National Park Service and the Holder/Owner that the Holder/Owner be made aware of the violation and, if deemed appropriate, be given an opportunity to take corrective action to avoid future violations and provide an explanation of the circumstances leading to the violation.
2. Notify the Holder/Owner in writing of the final administrative action including, but not limited to, suspension, restriction, revocation or denial of a future CUA or other National Park Service-issued permits. The Holder/Owner will also be notified of their right to appeal.
3. Notify the Northeast Region and Washington Office CUA Coordinators as appropriate.

Appeal Process:

An appeal of the action may be made to the Superintendent in writing within 30 days of the action. Appeals must set forth the facts and circumstances the Holder/Owner believes support the appeal. The Holder/Owner may request a meeting to discuss the appeal with the Superintendent or his/her representative. The Superintendent may affirm, reverse, or modify the decision appealed and will set forth in writing the basis of the decision after considering the materials submitted by the Holder/Owner and the National Park Service record of the matter, and after the meeting with the Holder/Owner if the Holder/Owner requested a meeting. A copy of the final decision will be forwarded to the Holder/Owner.

APPROVED: _____
 Lindsey Kurnath, Superintendent

DATE: _____

ⁱ This authorization may be suspended or revoked upon breach of any of the conditions herein or at the discretion of the area Superintendent.