



United States Department of the Interior
NATIONAL PARK SERVICE



Yellowstone National Park
P O Box 168
Mammoth, WY 82190

YELLOWSTONE NATIONAL PARK POLICY MEMORANDUM

SUBJECT: Commercial Use Authorization (CUA) Application Denial and CUA Revocation Standard Operating Procedures (SOP)

National Park Service Policy

Commercial Use Authorizations (CUAs) are permits that allow individuals to operate commercial services in park areas. Section 418 of the National Parks Omnibus Management Act of 1998, Public Law 105-391 codified at 54 U.S.C. §§101925 (“the Omnibus Act”), provides the statutory basis for CUAs and provides that the Secretary “may authorize a private person, corporation, or other entity to provide services to visitors to System units through a commercial use authorization.” The regulations associated with CUAs are found in 36 CFR Sections 1.5(d), 1.6 (a), and 5.3. In compliance with the Omnibus Act at 54 U.S.C. § 101925(b)(2), 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.

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 may result in the revocation of the permit.

1. *Administrative Denial of CUA Application*

- a. Inadequate or expired documentation may result in denial of a CUA Application. 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.

2. *Administrative Revocation of Current CUA*

- a. The following are examples of administrative violations of CUA conditions. A first violation may result in a written warning, a second may result in a one-month suspension, and a third violation may result in revocation of a CUA and denial of any CUAs for the following year:
 - i. Late payment of management fees
 - ii. Late submittal of annual reports
 - iii. Expired guide training certifications
 - iv. Advertising infractions
 - v. Failure to use or carry required equipment specific to CUA category (e.g., first aid kits, avalanche beacons, etc. as applicable).
- b. The following administrative violations of CUA conditions may result in immediate revocation:
 - i. Damaging park resources or providing services in an unsafe manner
 - ii. Use of noncompliant participation agreements (if changed from version submitted to and accepted by NPS at time of application)
 - iii. Misrepresentation in financial reports
 - iv. Non-payment of management fees

3. *Denial of CUA Application or Individual Guide Cards due to Criminal Violations*

- a. The NPS may consider the severity, location, date, and relevance of violations, and may deny a CUA application, or delay a CUA authorization, if any of the following criteria or combination thereof is met,:

- i. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court of no more than TWO (2) occurrences in the last three calendar years with NO occurrences in the last calendar year of a violation of resource protection or fisheries laws.
 - ii. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court of no more than TWO (2) occurrences in the last three calendar years with NO occurrences in the last calendar year of a violation of boating safety, equipment rules, or traffic laws.
 - iii. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court of any ONE (1) charge in the last five calendar years of a Boating Under the Influence (BUI) or Driving Under the Influence (DUI).
 - iv. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court on charges of any ONE (1) violation in the last five calendar years of controlled substance laws.
 - v. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal Court of TWO (2) charges of a violation of terms and conditions of past CUA permit conditions.
- b. In the event of pending charges for a CUA applicant, the park may suspend processing of the authorization or suspend the current permit until which time the case is resolved, depending on the nature of the offense.
 - c. Individuals will not be issued a CUA if they have been banned from entering Yellowstone National Park at any point in time, even if the ban has expired.

4. *Revocation of a Current CUA or Individual Guide Cards due to Criminal Violations*

- a. A CUA or individual guide cards may be revoked if any of the following occur during the time the CUA is valid, depending on the violation's egregiousness and relevancy to CUA activities:
 - i. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court of any charge(s) of a violation of resource protection or fisheries laws.
 - ii. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court of any charge(s) of a violation of boating safety or equipment rules, or traffic laws.
 - iii. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court of any charge(s) of a Boating Under the Influence (BUI) or a Driving Under the Influence (DUI).
 - iv. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal or State court on charge(s) of any violation of controlled substance laws.
 - v. Payment of collateral, an accepted plea of nolo contendere, or a conviction in Federal Court of charge(s) of a violation of terms and conditions of CUA or a contract.

5. *Review Process*

a. *Review and Denial of Applications*

- i. **Administrative Denials:** Upon application for a CUA, submitted documents are reviewed. Inadequate or expired documentation may result in denial of a CUA by Commercial Services Program Staff. An applicant who has been denied will be notified in writing with stated reasons for 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.
- ii. **Criminal Violations:** Upon application for a CUA, known violations will be reviewed. The Chief of Commercial Services and Chief Ranger will review CUA applications subject to denial for criminal violations. The CUA holder will be provided the opportunity to explain the circumstances of the violation prior to a final decision being made. An applicant who has been denied will be notified via letter from the Chief Ranger or from the Chief of Commercial Services with stated reasons for denial.

- iii. Applicants who are denied a CUA due to past criminal violations may reapply once the applicable time period has passed (i.e. one calendar year or three calendar years) but are subject to an additional non-refundable application fee. Applications may be approved once the applicant does not meet the identified criteria for application denial.

b. Review and Denial of Current CUAs

- i. **Administrative Revocations:** Each case will be reviewed by the Chief of Commercial Services. The CUA holder will be provided the opportunity to explain the circumstances of the violation prior to a final decision being made. The Commercial Services Division will prepare a recommendation, supported by documentation, for the review and approval of the Superintendent. The permittee will be notified via a letter from the Superintendent should the CUA be revoked. Permittees may reapply for a CUA during the following permit cycle.
- ii. **Criminal Violation Revocations:** Each case will be reviewed by the Chief of Commercial Services, Chief Ranger, and the Law Enforcement Specialist. Each review will consider the actions of the CUA holder and its employees. The CUA holder will be provided the opportunity to explain the circumstances of the violation prior to a final decision being made. The Chief Ranger's office will prepare a recommendation, supported by documentation, for the review and approval of the Superintendent. The permittee will be notified via a letter from the Superintendent should the CUA be revoked.

6. Appeals Process

a. Applications

- i. An applicant may appeal application denials by addressing an appeal to the Superintendent in writing:

Yellowstone National Park
Superintendent's Office
P O Box 168
YNP, WY 82190

b. Revocations of Current CUAs

- i. Revocation of a current CUA undergoes the above review with the final decision being made by the Superintendent and is therefore ineligible for appeal to the Superintendent.