

Commercial Use Authorization Plan

February 2013

Yellowstone National Park



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COMMERCIAL USE AUTHORIZATIONS (CUA)

Established by an Act of Congress on March 1, 1872, Yellowstone National Park encompasses 2.2 million acres in adjacent areas of Wyoming, Montana, and Idaho. Yellowstone hosts over 3 million visitors annually, including 194,000 winter visitors. Commercial visitor services are an important aspect of park operations, visitor experience, and preservation and conservation of park resources and values. The impact of park commercial services on the regional economy exceeds \$500 million annually. The 2011 Yellowstone National Park Visitor Survey conducted by the University of Idaho found an average expenditure of \$382 per group inside the park and \$1,111 outside the park.

More than 170 Commercial Use Authorizations (CUAs) currently operate in the park with annual gross receipts exceeding \$7 million. The authorizations allow activities and services from mid-April to early November and from mid-December to mid-March. Except for the road from the North Entrance to the Northeast Entrance, the park's 370 miles of paved roads are closed to wheeled traffic from November to April.

Authority

36 CFR Section 5.3 states, "Engaging in or soliciting any business in park areas, except in accordance with the provisions of a permit, contract, or other written agreement with the United States, except as specifically authorized under special regulations applicable to a park area, is prohibited."

CUAs, a type of permit, fall under the authority of Section 418 of the National Park Service Concession Management Improvement Act of 1998 (16 U.S.C 5966 Public Law 105-81). The section authorizes the National Park Service to issue CUAs to individuals, corporations, and other entities to provide commercial services to park visitors in limited circumstances. These authorizations are not concessions contracts. No regulations for implementing CUAs have been established.

In November 2005, the NPS Director issued Interim Guidelines for Commercial Use Authorizations. The guidelines allow Regional Directors to delegate to park Superintendents the authority to issue all CUAs. However, Regional Directors must approve in advance in writing the issuance of any proposed CUA with estimated annual gross receipts of more than \$100,000 and they must notify the Washington Concessions Program Manager of any proposed CUAs with estimated gross receipts of more than \$1,000,000.

About CUAs

- Services authorized must have minimal impact on park resources and values and be consistent with the purpose for which the park was established and with all applicable management plans, park policies, and regulations.
- A Superintendent may not issue more CUAs for any activity than are consistent with the preservation and management of park resources and values.
- A Superintendent may terminate a CUA at any time.

- Some commercial use authorizations are issued for “in-park services.” In-park services must originate and are provided solely within the park’s boundaries. They do not have annual gross receipts of more than \$25,000.
- Other commercial use authorizations are issued for “out-of-park services.” Out-of-park services originate and terminate outside of park boundaries, and the use of park area resources is incidental. All aspects of the business (such as marketing, advertising, exchange of money, etc.) must take place outside the park. There is no limit on the annual gross receipts.
- CUA holders may not construct any temporary or permanent structures in the park.
- Persons seeking an authorization are not precluded from also submitting proposals for concessions contracts.
- CUAs may not have a term of more than two years.
- Entities that hold a CUA do not have a preferential right-of-renewal.
- CUA holders must conform to the terms and conditions of their authorizations, including operating plans.

CURRENT PROGRAM

For 2012, the park has more than 170 active CUAs in the service categories shown below. Some authorizations are for multiple services.

Backpacking	Natural history tours
Biking	Natural history tours by snowcoach
Canoeing	Photography
Day hiking	RV appliance repair
Dories	RV repair
Fishing	Shuttle service
Float tube	Skiing
Float tubes for fishing	Towing
Front country camping	Snowmobile shuttle
Kayaking	Transportation
Locksmith	Water access
Motorized boats < 16'	Motorized boats > 16'
Snowmobile tours	

CUA holders pay an annual authorization fee of \$250. They may have their authorizations reissued upon request every two years. Except for towing and road-based tour services, new businesses cannot obtain an authorization.

In December 2006, Yellowstone converted its guided interpretive snowmobile tours concession contracts to CUAs. The number of snowmobile CUAs is limited and the CUAs include an operating plan more typical of a concession contract. The park anticipates that the tours will again be authorized by concession contracts after a final Winter Use Plan SEIS, a record of decision, and a final rule for winter use are in place.

NEW PROGRAM

The NPS will continue to use CUAs to authorize businesses to provide suitable services that are consistent with the park's mission. CUAs will be managed and impacts will be monitored to ensure protection of park resources. Comprehensive financial reporting requirements will improve cost recovery and the collection of reasonable fees.

Program Objectives

The NPS has identified the following objectives for the CUA program redevelopment. NPS will:

- select qualified businesses to provide suitable services to visitors.
- revise operating plans for each service to minimize impacts to park resources.
- open the application process to new businesses.
- increase monitoring of resources and operators.
- implement limits on the number of CUAs when necessary to protect park resources.
- revise the fee schedule to ensure the payment of a reasonable fee.
- limit the liability of the Federal Government arising from any CUA.
- consolidate services to fewer categories.
- phase in the program changes over a two-year period.

Program Changes

The NPS will develop new operating plans that minimize resource impacts and optimize visitor safety and satisfaction. The plan will include methods to ensure minimal impacts through limits on group size, number of trips, etc. Operating plans will be reviewed annually and updated as necessary. If, in the future, a service must be limited due to resource impacts, qualified applicants will be selected through a competitive process.

The service categories currently in use will be consolidated into the following nine categories:

- Biking
- Day Hiking/Skiing
- Motorized Boating
- Non-motorized Boating
- Overnight Backcountry Trips
- Photography
- Stream and Shoreline Fishing
- Road-based Transportation
- Towing
- Other miscellaneous suitable visitor services (locksmith, RV repair, shuttle, etc.) as approved by the Superintendent

Only businesses that are located in gateway communities¹ and use vehicles with a maximum capacity of 25 people are eligible for a road-based transportation CUA. All other businesses offering road-based transportation will enter the park by paying the commercial tour fee.

The CUA holder must ensure the public health and safety and provide satisfactory services for park visitors. The CUA holder must provide all visitor services in a manner that is consistent with and supportive of the park's interpretive themes, goals and objectives.

NPS staff will monitor CUA services for adherence with the terms and conditions of the authorization and its operating plan. Staff will also monitor the impacts on cultural and natural resources, public safety, and public health. They will evaluate the CUA holder's interpretive and informational services to ensure accuracy, quality, and appropriateness to park themes.

¹ Service must originate in a park gateway community. Gateway communities include West Yellowstone, Bozeman, Livingston, Gardiner, and Cooke City, Montana; and Cody and Jackson, Wyoming.

Phased Implementation

The NPS will implement the program changes in two phases, one in 2013 and the other in 2014. This will enable the park's staff to adaptively manage and monitor the changes and will provide the commercial operators time to adjust their business practices.

Phase 1: 2013

- The CUA application period for all services except Stream and Shoreline Fishing and Overnight Backcountry Trips will be open to all applicants from April 1 to June 1, 2013. The application period for those services will be open only to businesses that currently hold an authorization.
- Applicants may apply for one or more service categories.
- CUAs will be issued to all qualified applicants.
- CUAs will have new operating plans.
- Financial reporting will be required for CUA holders.
- CUA holders will submit monthly use reports.
- CUA holders will be subject to evaluations.
- NPS will monitor resource conditions.

Phase 2: 2014

- The CUA application process for all services including Stream and Shoreline Fishing and Overnight Backcountry Trips will be open to all applicants from October 1, 2013, to March 1, 2014.

Application Process

Applicants must submit the required form, attachments, and authorization fee. Completed applications will be reviewed by park staff. A CUA will be issued to qualified applicants for up to a two-year term.

The application will be evaluated on:

- operator qualifications to provide the service identified.
- how resource impacts will be reduced or minimized.

- visitor safety.
- visitor experience.
- interpretive knowledge.
- financial history.
- managerial and operational experience.
- administrative requirements (proof of insurance, acknowledgement of risk form, Internet site, brochures, advertisement, etc.)

Fees

Authorization Fee: A non-refundable annual fee of \$300 for each service category will be due with the CUA application.

Additional Fee: A percentage of gross receipts will be due by January 31 each year with the year-end financial statement. The additional fee starts with 2014. No percentage of gross receipts will be payable for 2013 income.

- Businesses with gross annual receipts of less than \$250,000 will pay 3% of their gross receipts.
- Businesses with gross receipts between \$250,000 and \$500,000 will pay 4% of their gross receipts.
- Businesses with gross receipts greater than \$500,000 will pay 5% of their gross receipts.

Gross receipts include business that is conducted only in the park. Services conducted outside the park are not included in the gross receipts amount when calculating the percentage to be assessed as a fee.

Accounting Records and Reports

The CUA holder shall maintain an accounting system under which accounts can be readily identified with its system of accounts classification. Such an accounting system shall be capable of providing the information required under this CUA.

- The CUA holder shall submit by January 31 an annual financial statement for the preceding operating year. A CUA holder whose annual gross receipts are \$250,000 or more must use the accrual accounting method.
- If annual gross receipts are less than \$500,000, the annual financial statement may be prepared without an independent CPA.

- If annual gross receipts are from \$500,000 to \$1,000,000, the annual financial statement must be reviewed by an independent CPA.
- If annual receipts are more than \$1 million, the annual financial statement must be audited by an independent CPA.

Closure of areas in the park because of fire, severe weather, or the need for resource protection, or other circumstances that may prevent a CUA holder from providing a service are not reimbursable events.

COMPLIANCE

Authorization Compliance

CUA holders and their guides must comply with all requirements of the Commercial Use Authorization and its associated appendices or exhibits. Written approval from the Superintendent must be obtained prior to any deviation from these requirements.

A CUA may not be sold or transferred. If a change in ownership or majority stock holder occurs, the CUA will be considered terminated and the new operator/business must submit an application for a new authorization during the open CUA application season.

The CUA holder must provide the NPS with a Certificate of Liability Insurance with the required amount of coverage.

Reporting documents will, at a minimum, include a list of guides and dates of standard first-aid and CPR certification, monthly use reports, annual financial statements, rate sheets, and brochures.

The NPS is not responsible for lost business due to closures or a revocation of the authorization.

Program Compliance

NPS concessions management staff will review the CUA program annually and, if necessary, recommend changes to park management. If public health or safety concerns or imminent impacts to park resources are anticipated, changes may be implemented immediately.

NPS staff will monitor resources and evaluate CUA operations. Typically evaluations will consist of contact by a Concession Management Specialist, Park Ranger or other NPS representative at a campsite, trailhead, or on a park road. Evaluations may also be done by internet site reviews and visitor feedback.

The NPS will collect information to determine the need to limit use based on documented resource concerns or impacts. The NPS may also limit use of a specific activity by time period, area, and number of trips, user days, and/or party size. Instances of service interruption or area closure may occur due to weather closures, fire closures or resource protection.

Environmental National Policy Act Compliance

Based on the completion of an environmental screening form, the park's interdisciplinary team has recommended to the Superintendent that the issuance of CUAs as described in this plan be excluded from further National Environmental Policy Act compliance by the following Categorical Exclusion as listed in NPS Director's Order 12: "Incidental business permits (which have been replaced by commercial use authorizations) involving no construction or potential for new environmental impacts."

Commercial Use Authorization Program Changes

Actions	Current Program	New Program
Applications	No new CUAs are issued except for towing and road-based tour services	New CUA applications are accepted for all service categories.
Service Categories	<div> Backpacking Biking Canoeing Day hiking Dories Fishing Float tube Float tube for fishing Front country camping Kayaking Locksmith Motorized boats <16' </div> <div> Motorized boats >16' Natural history tours Photography RV appliance repair RV repair Shuttle service Skiing Snowmobile shuttle Snowmobile tours Towing Transportation Water access </div>	Biking Day hiking/skiing Motorized boating Non-motorized boating Overnight backcountry trips* Photography Stream and shoreline fishing* Road-based transportation Towing Other miscellaneous suitable visitor services (e.g., locksmith, RV repair, shuttle, etc.) as approved by the Superintendent. * Begins in 2014
Application Period	CUAs reissued upon request, typically in the spring and fall.	Applications accepted from October 1 to March 1 for two-year term beginning on January 1 of issuing year.
Authorization Fee	\$250 annually regardless of number of service categories	\$300 annually for each service category
Additional Fee		3% of gross receipts < \$250,000 4% of gross receipts \$250,00 – \$500,000 5% of gross receipts > \$500,000 Additional fee starts with 2014. No percentage of gross receipts payable for 2013.
Road-based Transportation Services	Per person entrance fee if originating from local area.	Per person entrance fee if using ≤ 25-person capacity vehicles and originating from gateway communities.
Financial Reporting	Basic requirement – one page report, not uniform	Gross receipts ≥ \$250,000, use accrual accounting. Gross receipts from \$500,000 to \$1 million, statement must be reviewed by a CPA. Gross receipts > \$1 million, statement must be audited by a CPA.
Monitoring / Evaluations	Little or no monitoring or evaluating is performed.	Improved monitoring and evaluation of the services.

