

Commercial Use Authorization Plan

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Yellowstone National Park



Photo Credit: Jake Frank

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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. Additionally, according to a 2018 report by economists Catherine Cullinane Thomas and Egan Cornachione of the U.S. Geological Survey and Lynne Koontz of the National Park Service, 4.1 million visitors to Yellowstone spent \$512.6 million in communities near the park leading to a cumulative economic impact of Yellowstone on the regional economy of over \$647 million.

More than 400 Commercial Use Authorizations (CUAs), held by approximately 270 CUA holders, currently operate in the park with annual gross receipts of approximately \$10 million (2020 Annual Report data). The authorizations allow activities and services year-round. 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. However, some CUA holders operate via oversnow vehicles and provide tours to the interior of the park during those winter months when most roads are closed to wheeled traffic.

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. There are no implementing regulations for CUAs.

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. This authority has been delegated to the Yellowstone Superintendent.

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 originate in the park and are provided solely within the park's boundaries. They may 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 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.
- Businesses that hold a CUA do not have a preferential right of renewal of the CUA.
- CUA holders must conform to the terms and conditions of their authorizations, including operating plans.

CUA PROGRAM

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

Program Objectives

The NPS identified the following objectives for the CUA program:

- The application process is open to any business that would like to apply.
- Qualified businesses provide suitable services to visitors.
- Operating plans and special park conditions are created and updated as needed for each approved service to minimize impacts to park resources.
- Monitoring of resources and operators.
- Enforcement of Federal regulations and operating plan provisions and requirements.
- CUAs may be limited when necessary to protect park resources.
- A fee schedule created and modified as needed to ensure the payment of a reasonable fee.
- Limit the liability of the Federal Government arising from any CUA.

Program Highlights

The Operating plan for each service category is written to minimize resource impacts and optimize visitor safety and satisfaction. The plan includes methods to ensure minimal impacts through limits on group size, number of trips, etc. Operating plans are reviewed annually and updated as necessary.

If, in the future, a service must be limited due to resource impacts, management strategies may be applied and written into individual operating plans, ie: number of user days or hours, operating season, operating dates and/or times, operation locations, numbers of participants, group size or other parameters. Additionally, if determined necessary, the Service may limit the number of certain CUAs issued. In that event, qualified applicants will be selected through a competitive process.

The current approved service categories are listed below.

- **Bicycle Tours** - Allows the CUA holder to conduct guided road-based tours on improved public road segments (roads that have a paved road shoulder), parking areas, and routes: on approved bike trails in the park; and on park roads in the spring and fall while roads are closed to motorized, public travel. CUA holders may use park facilities and services and may conduct walks on trails less than ½ mile from trailheads, and on boardwalks and developed areas.
- **Environmental Education Tours** - allows CUA holders to conduct interpretive road-based tours, day hiking, non-instructional photography tours, and act as a step-on guide on park roads with visits to facilities and services.
- **Skiing/Snowshoeing** - allows for guided cross-country snowshoeing and ski touring trips on low to moderate angle terrain which does not exceed incidental slope angles of 34°. Avalanche education courses are authorized under this CUA with pre-approval from Business and Commercial Services Office and District VRP leadership in areas where classes are proposed. Overnight trips allowed with appropriate authorization and backcountry permit.
- **Motorized Boating** - Boating allows the CUA holder to conduct guided touring or fishing trips in motorized boats on Yellowstone Lake and/or Lewis Lake. Portions of Yellowstone Lake and all of Shoshone Lake are restricted to non-motorized boats.
- **Non-Motorized Boating** - allows the CUA holder to conduct guided touring using dories, single or tandem kayaks, canoe, and other small non-motorized vessels in Yellowstone, Lewis, and Shoshone Lakes.
- **Overnight Backcountry** - allows the CUA holder to conduct guided overnight hiking, skiing, and/or snowshoeing backcountry trips with the appropriate authorization and backcountry permit.
- **Painting and Photography** - allows the CUA holder to conduct road-based photography and painting workshops which include photography and/or painting instruction. Stops at visitor facilities, services, walks on trails less than a ½ mile from trailheads or roadways, and on boardwalks/developed areas are authorized under this CUA.
- **Stream and Shoreline Fishing** - allows the CUA holder to conduct guided walk and wade fishing trips in park streams and lakes.

- **Road-based Transportation CUA (group sizes of 1 – 25)** - allows the CUA holder to conduct road-based interpretive tours and non-instructional photography tours for group sizes of 1 – 25 clients. In-park shuttle service and step-on guide service is also authorized under this CUA and may be provided for any size group.
- **Towing and Automotive Services** –authorizes CUA holders to provide towing, tire repair, locksmith, and RV and RV appliance repair services as needed to visitors within the park.
- **Wedding and Portrait Photography**- service allows the CUA holder to conduct services for wedding and portrait photography. This type of photography includes, but is not limited to, the following: Engagement Photography, Wedding Photography, Family Portraits, School/Graduation Portraits, Pet Portraits (must abide by park pet policy in thermal areas). Appropriate Wedding permits required.
- **Water Access** – allows commercial travel through NPS property to access the Yellowstone River, at the Gardiner confluence, for the purpose of providing guided tours and trips.
- **Single Session Wedding and Portrait Photography** –1-day permit issued to cover a single photo session within the park. This type of photography includes, but is not limited to, the following: Engagement Photography, Wedding Photography, Family Portraits, School/Graduation Portraits, Pet Portraits (must abide by park pet policy in thermal areas). Appropriate Wedding permits required. Once a CUA holder has been issued for 3 or more permits the applicant may request conversion to an annual CUA for Wedding & Portrait Photography for the remainder of the calendar year.

The CUA holder must ensure the health and safety of park visitors and provide high quality services. 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 monitors 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 may evaluate the CUA holder's interpretive and informational services to ensure accuracy, quality, and appropriateness to park themes.

Application Process

The CUA application period is open for all. Applications are accepted and processed year-round. All applicants must submit a complete Commercial Use Authorization Application packet. Complete application packages will be reviewed by park staff. The NPS will issue the CUA for a one or two-year term based on the activity type.

The NPS will evaluate the application based on the following criteria:

- Must be an approved visitor service.
- Resource impacts.
- Visitor service is consistent with the purposes the park was established.
- Visitor service is consistent with all applicable park area management plans, policies and regulations.
- Visitor safety.
- Visitor experience.
- Administrative requirements (proof of insurance, acknowledgement of risk form, internet site, brochures, advertisement, etc.).

Fees

Application Fee: A non-refundable annual fee of \$300 for activity-based CUAs is submitted with the completed application for a 1-year CUA. A non-refundable fee of \$150 for service-based CUAs is submitted for a 2-year CUA. A non-refundable fee of \$100 is submitted for a Single-Session Wedding and Portrait Photography CUA.

Management Fee: A percentage of gross receipts will be due by January 31 each year with the year-end annual report for activity-based CUAs. Service-based CUAs are not required to pay a percentage of gross receipts but must still submit an annual report by January 31 each year. Single-Session Wedding and Portrait Photography CUAs are not required to pay a percentage of gross receipts and must only submit annual reports if they are converted to a 1-year CUA.

- The annual operating year for CUAs is from January 1st to December 31st.
- 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 between \$250,000 and \$500,000, in addition to the 3% for gross receipts under \$250,000.
- Businesses with gross receipts greater than \$500,000 will pay 5% of their gross receipts for the gross receipts over \$500,000, in addition to 3% and 4% for amounts listed above.

“Gross receipts” means the total amount of all revenues received from authorized services offered within Yellowstone National Park.

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 for each CUA. The NPS will provide blank, fillable annual reports.

- All CUA holders must submit an annual report for the preceding operating year by January 31st.
- False, fictitious or fraudulent statements or representations made in this report may be grounds for denial or revocation of the CUA and may be punishable by fine or imprisonment (U.S. Code, Title 18, Section 1001).
- The holder is to provide the park area Superintendent upon request (and, in any event, immediately after expiration of this authorization) a statement of its gross receipts from its activities under this authorization.
- The CUA holder grants the United States of America access to its books and records at any time for the purpose of determining compliance with the terms and conditions of this authorization.
- 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 occurs then a new application will need to be submitted.

The CUA holder must provide the NPS with a Certificate of Liability Insurance and Automobile Liability Insurance with the required amounts 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 reports, and advertising materials.

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

Program Compliance

NPS commercial services 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. Typical evaluations may 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. Evaluations may not occur every year.

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 using management strategies as previously described.

Newly proposed commercial service activities require a level of regulatory compliance to determine if the activity is appropriate. The Park will evaluate potential impacts to cultural and natural resources and determine limits during the initial compliance process. When the Park wants to evaluate the feasibility of newly proposed commercial activities, it may issue a limited number of CUAs on a short-term basis to monitor the effects of the activity including resource and visitor impacts and market demand. The Park is not required to approve all proposed activities even in limited numbers.

National Environmental Policy Act Compliance

Under the National Environmental Policy Act (NEPA), the park has determined that the issuance of CUAs as described in this plan is excluded from further NEPA by the following Categorical Exclusion as listed in the NEPA Handbook under NPS Director's Order 12: Commercial use licenses involving no construction (CE A.6).