

**To:** Park Concession Chiefs and/or Park Concession Specialists  
**Cc:** Regional Concession Chiefs  
**From:** Wendy Berhman, Contract Management Team Lead, WASO Concession Program - Denver  
**Subject:** **Acknowledgement of Risk Policy Reminder and Attachment**  
**Date:** April 2, 2008

**VIA ELECTRONIC MAIL; NO HARD COPY TO FOLLOW**

April 2, 2008

Current NPS policy allows concessioners and CUA holders providing required/authorized services to warn or advise visitors of the risks associated with a certain activity or event, but does not allow operators to have visitors sign a waiver of liability statement, insurance disclaimer and/or indemnification agreement. These forms are most often found in outfitter and guide type activities, or equipment rental operations, but are not limited to activity-based concession contracts..

The acknowledgement of risk, which is permitted, in effect allows visitors to assume responsibility for their own negligence which may result in bodily injury, death, or loss of personal property. In addition, it describes the inherent risks of the activity, and warns visitors of those risks. The waiver of liability, insurance disclaimer and/or indemnification agreement, which is not permitted, states that the visitor releases the operator from all responsibility in the event of visitor bodily injury, death, or loss of personal property, often regardless of whether the operator was negligent. NPS policy states that operators cannot require visitors to waive their right to hold concessioners, CUA holders or the government responsible for actions.

This email serves to remind park concession specialists of their responsibility to review the practices of their operators to ensure that they are not requiring visitors to sign a waiver of liability, statement of insurance disclaimer and/or indemnification agreement. Specifically, it is recommended that you:

1. Require that operators who request or require visitors to sign a waiver of liability statement or form, insurance disclaimer and/or indemnification agreement discontinue this practice. Please note that requesting or requiring that visitors sign an acknowledgement of risks statement or form for a certain activity or event is permitted. An operator is also permitted to have a visitor sign a form indicating that the visitor has certain prerequisite skills that may be required to participate in the commercial activity.
2. Review concession contract operating plans or CUA conditions to determine whether NPS policy on acknowledgement of risks is clearly stated; if it is not, include sample approved language. Recommended language to be included in Operating Plans is provided in Exhibit 1 -Sample Acknowledgement of Risk Operating Plan Language, in the Attachment.
3. Review and approve concessioner and CUA holder acknowledgement of risks forms or statements to ensure they do not include statements pertaining to waivers of liability, insurance disclaimer and/or indemnification agreement. We are in the process of updating Annual Operational Forms, and the updated forms will include a reminder to review and/or approve concessioner acknowledgement of risks forms or statements as part of the annual review effort. A sample Acknowledgement of Risks Form is provided in Exhibit 2 of the Attachment for your reference.

*NOTE: new contracts typically have language that requires Acknowledgement of Risk forms to be submitted within 60 days of the effective date of this Contract and at least 30 days in advance of any proposed changes in the form.*

4. Contact your Regional Concession Chief if you have questions or concerns.

To review current NPS policy on this subject, refer to NPS 48, Chapter 23, Insurance Program (Revised), Page 22-23, Visitor's Acknowledgement of Risk, which is found at [http://classicinside.nps.gov/documents/Chapter%2023-%20Insurance%20Program%20\(Revised\).pdf](http://classicinside.nps.gov/documents/Chapter%2023-%20Insurance%20Program%20(Revised).pdf).

Email Attachment (1)

**EXHIBIT 1:**  
**Sample Acknowledgement of Risk Operating Plan Language**

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**Visitor's Acknowledgement of Risk**

1. The Concessioner may require guests *[\(insert required/authorized service description\)](#)* to sign a Visitor's Acknowledgement of Risks form.
2. The Service-approved sample Visitor's Acknowledgement of Risks form is provided as Attachment [2](#) to this Operating Plan.
3. The Concessioner will submit to the Superintendent for approval its proposed Visitor's Acknowledgement of Risks form, if any, within 60 days of the effective date of this Contract and at least 30 days in advance of any proposed changes in the form. If no Visitor's Acknowledgement of Risks form will be used, the Concessioner will advise the Superintendent of this intention within 60 days of the effective date of this Contract.
4. The Concessioner may not request or require guests participating in activities to sign a liability waiver form, insurance disclaimer and/or indemnification agreement.

**EXHIBIT 2:  
Sample Acknowledgement of Risk Form**

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**VISITOR'S ACKNOWLEDGEMENT OF RISKS**

In consideration of the services of \_\_\_\_\_ their officers, agents, employees, and stockholders, and all other persons or entities associated with those businesses (hereafter collectively referred to as "\_\_\_\_\_") I agree as follows:

Although \_\_\_\_\_ has taken reasonable steps to provide me with appropriate equipment and skilled guides so I can enjoy an activity for which I may not be skilled, \_\_\_\_\_ has informed me this activity is not without risk. Certain risks are inherent in each activity and cannot be eliminated without destroying the unique character of the activity. These inherent risks are some of the same elements that contribute to the unique character of this activity and can be the cause of loss or damage to my equipment, or accidental injury, illness, or in extreme cases, permanent trauma or death. \_\_\_\_\_ does not want to frighten me or reduce my enthusiasm for this activity, but believes it is important for me to know in advance what to expect and to be informed of the inherent risks. The following describes some, but not all, of those risks.

*[enter description of risks]*

I am aware that \_\_\_\_\_ entails risks of injury or death to any participant. I understand the description of these inherent risks is not complete and that other unknown or unanticipated inherent risks may result in injury or death. I agree to assume and accept full responsibility for the inherent risks identified herein and those inherent risks not specifically identified. My participation in this activity is purely voluntary; no one is forcing me to participate, and I elect to participate in spite of and with full knowledge of the inherent risks.

I acknowledge that engaging in this activity may require a degree of skill and knowledge different from other activities and that I have responsibilities as a participant. I acknowledge that the staff of \_\_\_\_\_ has been available to more fully explain to me the nature and physical demands of this activity and the inherent risks, hazards, and dangers associated with this activity.

I certify that I am fully capable of participating in this activity. Therefore, I assume and accept full responsibility for myself, including all minor children in my care, custody, and control, for bodily injury, death, or loss of personal property and expenses as a result of those inherent risks and dangers identified herein and those inherent risks and dangers not specifically identified, and as a result of my negligence in participating in this activity.

I have carefully read, clearly understood, and accepted the terms and conditions stated herein and acknowledge that this agreement shall be effective and binding upon me, my heirs, assigns, personal representative, and estate and for all members of my family, including minor children.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Signature of Parent of Guardian, if participant is under 18 years of age*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date