



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

NOV 18 2005

(2410)

Memorandum

To: Regional Directors

From: Director 

Subject: Interim Guidelines for Commercial Use Authorizations

This memorandum provides interim guidelines under which Regional Directors may authorize superintendents to issue commercial use authorizations in accordance with Section 418 of Public Law 105-391 (Section 418). Commercial use authorizations (CUAs), for the most part, are a new means to authorize the provision of services to park area visitors that previously have been authorized under the Incidental Business Permit (IBP) program.

Section 418, which became law in 1998, permits the National Park Service (NPS) to authorize private individuals and entities to provide commercial services to park area visitors under CUAs instead of under concession contracts in two limited circumstances.

The first – “**in-park services**” -- is where the commercial services originate and are provided solely within the boundaries of a park area and do not have annual gross receipts of more than \$25,000. An example would be campground firewood sales.

The second—“**out-of-park services**” -- is where the commercial services originate and terminate outside of park area boundaries, regardless of annual gross receipts, and the use of park area resources is incidental to the services. An example would be a horseback trail ride that originates outside of park boundaries, crosses into the park area, and terminates outside the boundaries.

In either circumstance, a CUA may not permit the construction of structures, fixtures or improvements on park area lands.

On November 27, 2002, the NPS issued a proposed rulemaking to implement Section 418. A number of comments on the proposed rule were received (mostly concerned with the statutory requirements of Section 418 itself rather than the administrative requirements of the regulation). However, as a result, we have reviewed the proposed regulation and consider that there may be a

need to publish a revised proposed regulation for public comment. We are in the process of drafting a revised CUA regulation.

In the interim, to provide the field with the flexibility provided by CUAs, we are providing the attached interim CUA guidelines for your immediate implementation. They replace existing IBP guidelines including Special Directive 95-10 (except that the fee requirements of Special Directive 95-10 shall remain in effect and are applicable to CUAs pending further notice). Renewal of current CUAs/IBPs will be accomplished under the attached guidelines as CUAs.

Regional Directors may delegate, in writing to park area superintendents authority to issue all CUAs. However, the Regional Director must approve in advance in writing the issuance of any proposed CUA with estimated annual gross receipts of more than \$100,000, determining whether a CUA is the appropriate instrument to authorize the services. Regional Directors must notify Jo Pendry, Concession Program Manager, in writing of any proposed CUAs with estimated gross receipts in excess of \$1 million.

If you have any questions regarding these guidelines and the implementation of them, please contact Jo Pendry, Program Manager or Kathy Fleming, IBP/CUA Program Coordinator, in the WASO Concession Program Offices.

Attachments

cc: Regional Concession Chiefs