



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

JUN 19 2017

IN REPLY REFER TO:

Memorandum

To: Regional Directors

From: Associate Director, Business Services *Dei Austi*

Subject: Commercial Use Authorizations (CUA) Insurance Guidance and Limiting CUAs Guidance

To provide for Servicewide consistency, we have established guidance on CUA insurance and on limiting CUAs.

The attached "CUA Insurance Guidance" identifies the coverage types and required minimum insurance amounts to provide reasonable assurance that a CUA holder has the ability to: a) cover claims arising from any action or omission of the operator; b) continue providing services to park visitors; and c) protect the Government against potential liability claims based on operator negligence.

The attached "Limiting CUAs Guidance" details the process parks should use to limit CUAs, either by establishing limiting conditions or by limiting the number of issued CUAs, in response to existing or potential visitor and resource impacts.

Please send the two attached CUA guidance documents to all parks in your region. Forward questions, comments or concerns to regional CUA coordinators or Samantha Towery, Concessions Management Specialist, Commercial Services Program, at samantha_towery@nps.gov, or at 303-987-6908.

Attachments:

RM48B – CUA Insurance

RM48B – Limiting CUAs

RM 48B Commercial Use Authorizations (CUA)

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Chapter TBD – CUA Insurance

Introduction

All commercial operators conducting business in the National Park Service must carry and maintain the appropriate categories of insurance and minimum amounts of coverage. Commercial Use Authorization (CUA) holders must have commercial general liability as well as other coverages specific to the commercial operation.

The Service will identify the coverage types and required minimum insurance coverage amounts prior to issuance of a CUA to provide reasonable assurance that a CUA holder has the ability to: a) cover claims for bodily injury, death, and property damage arising from any action or omission of the operator; b) continue providing services to park visitors; and c) protect the government against potential liability for claims based on the operations of the operator. CUA liability insurance policy requirements will not typically change during the term of the CUA. CUA holders who wish to add services must apply for a new CUA and obtain the insurance required for that authorization.

Commercial General Liability Insurance Requirement

The Service has established the following commercial general liability insurance requirements:

1. Liability insurance policies, and other categories of insurance outlined in the next section, must name the United States of America as additional insured.
2. Insurance companies must have a rating of at least A- by the most recent edition of A.M. Best's Key Insurance Reports (Property-Casualty edition) or similar insurance rating companies (Moody's, Standard and Poor's, or Fitch). This rating must be noted on the certificate of insurance or provided in a separate document with the submission of the CUA application.

Generally, Commercial General Liability insurance is required for CUA holders in the amount of \$500,000 per occurrence at a minimum. Based on risk potential, some activities require

Original issue date: March 13, 2017.

increased coverage. Currently, the minimums for Commercial General Liability for *recreation-based* services are:

Key Factors			Risk - Number of Participants	
			Few	Many
Risk-Potential for Multiple-person Accident and/or more Serious Accident	High	***Minimums	\$1M	\$2M
		Example Services	Mountaineering	Class IV-V Raft
	Medium	***Minimums	\$1M	\$1.5M
		Example Services	Guided Horse Rides	Class III-IV Raft
	Low	***Minimums	\$500K	\$1M
		Example Services	Guided Backpacking, Guided Hunting	Class I-III Raft/Float

***All commercial general liability insurance minimums are listed as \$ Per Occurrence.

Parks may contact the regional or WASO CUA coordinator for assistance if a service has increased risk potential and is not identified in the above table.

The NPS sets minimum insurance requirements in an amount that should address claims related to a particular service or activity. CUA applicants, however, must consult with their own insurance brokers and secure insurance policies sufficient in scope to cover the potential risks of their unique business operation.

Other Liability Insurance Types

The following describes various types of insurances CUA applicants may submit with the CUA application. Not every CUA is required to provide all of the identified insurance types.

Umbrella Liability Insurance

Excess, or “umbrella,” liability insurance is designed to provide protection against catastrophic losses and is generally written in addition to other primary liability policies such as general liability, automobile, and employer’s liability.

If the CUA holder’s primary policy does not meet the Service established limits for commercial general liability, property liability, or commercial automobile liability, the CUA holder may obtain additional coverage through an umbrella insurance policy. Oftentimes, the umbrella policy can be purchased more economically than purchasing the full required liability insurance under a primary policy. An umbrella insurance policy only extends the limits of the primary policy. For example, if a CUA holder is required to provide commercial general liability and commercial automobile liability and they only have the auto policy, an umbrella policy cannot replace the required commercial general liability policy.

The concept of umbrella insurance is most easily understood in terms of personal insurance. An individual may have homeowners insurance on their primary dwelling that includes liability coverage, perhaps \$100,000 per loss with a \$300,000 annual aggregate limit. An individual may also have liability insurance on one or more automobiles with coverage limits similar to those of the homeowners insurance. A third insurance policy may provide liability coverage for any injury caused by a watercraft. If the homeowner is concerned that these individual primary insurance limits may not be adequate, the most cost effective way to obtain additional coverage may be to increase all these limits at once but not specifically increase the limit of each policy. An umbrella policy provides additional insurance coverage over these individual policies. One

Original issue date: March 13, 2017.

umbrella policy of \$1 million, for example, would increase the limit of liability on each of the primary policies.

Commercial Automobile Liability and Physical Damage Insurance

If a CUA holder transports passengers or uses a vehicle in the performance of the authorized service in the park, they are required to obtain commercial automobile liability and physical damage insurance. This ensures the CUA holder possesses the financial capability to cover claims for bodily injury, death, and property damage arising from the use of a vehicle.

Commercial auto insurance policies have three basic components: (a) *physical damage* insurance, which includes collision insurance; (b) *liability insurance*, which includes coverage for bodily injury, property damage, uninsured motorists, and underinsured motorists, and; (c) *other coverage*, which includes medical payments, towing and labor, rental reimbursement, and auto loan coverage.

Commercial automobile insurance coverage types are identified as auto designation symbols (1-9). Each symbol represents the type of vehicle protected by the applicable automobile liability policy. CUA insurance certificates will typically reflect one or more of the following symbols:

1. *Symbol 1, "Any auto"* provides coverage for any owned, hired, or non-owned automobile used in conjunction with the business. This is the most comprehensive auto designation symbol available.
2. *Symbol 2, "Owned autos"* provides coverage only for those vehicles owned by the CUA holder. It does not include autos hired or non-owned vehicles.
3. *Symbol 7, "Specified auto"* provides coverage for vehicles specifically listed on the CUA insurance policy.
4. *Symbol 8, "Hired autos"* provides coverage only for autos leased, hired, rented, or borrowed by the CUA holder. It does not include autos leased, hired, rented, or borrowed from an employee, partner, or member of an insured's household.
5. *Symbol 9, "Non-owned"* provides coverage only for autos owned by employees, partners, or members of an insured's household, but only while those non-owned autos are used either in the conduct of the insured's business or personal affairs. It does not include autos leased, hired, or borrowed from other sources.

Currently, the commercial automobile liability insurance requirements for *interstate* transport of passengers by CUA holders are:

Commercial Vehicle Insurance – Interstate Passenger Transport (bodily injury and property damage)	Minimum per Occurrence Liability Limits
Up to 6 passengers	\$1,000,000
7 – 15 passengers	\$1,500,000
16 – 25 passengers	\$3,000,000
26+ passengers	\$5,000,000

The commercial automobile liability insurance requirements for *interstate* operation of autos used in performance of the service in the park, but not to transport passengers, are:

Commercial Vehicle Insurance – Interstate Operations	Minimum per Occurrence Liability Limits
Small fleet vehicles under 10,001 pounds	\$300,000
Fleet vehicles 10,001 pounds or more	\$750,000

There are no Service established commercial automobile liability minimums for *intrastate* auto use by CUA holders because each state has unique rules and regulations. Parks should refer to individual state requirements.

Protection & Indemnity (P&I) Vessel Insurance

CUA holders authorized to transport passengers aboard or use a motor vessel in the park are required to have P&I vessel insurance to cover claims for bodily injury, death, and property damage arising from the use of the vessel.

These operators do not need to purchase general liability insurance, but should secure at a minimum a \$500K per occurrence P&I vessel policy.

P&I vessel insurance covers passengers only while onboard the vessel. When passengers step ashore, they are not covered by the P&I vessel policy. CUA holders must obtain shore excursion coverage or commercial general liability insurance to cover additionally authorized services.

Aircraft Liability Insurance

CUA holders authorized to transport passengers by aircraft or use an aircraft in the park are required to obtain aircraft liability to cover claims for bodily injury, death, and property damage arising from the use of the aircraft.

These operators not need to purchase general liability insurance, but should secure at a minimum a \$1M per occurrence aircraft liability policy.

Aircraft liability insurance covers passengers only while onboard the aircraft. When passengers step off the plane, they are not covered by the aircraft liability policy. CUA holders must obtain commercial general liability insurance to cover additionally authorized services.

Property Insurance

In limited circumstances, parks may assign the use of park property to a CUA holder. In those circumstances, the CUA holder must secure property insurance. Property insurance provides the financial means for CUA holders to repair or replace damaged park property within their care and control. The Service will provide the Insurance Replacement Values (IRVs).

Required Certificate of Liability Insurance

Evidence of liability insurance is typically provided through an Acord 25 Certificate of Liability Insurance. NPS may accept other insurance certificates provided they contain the information included on the Acord 25 certificate (Exhibit A). The CUA holder must provide the park a current copy of the insurance certificate.

The insurance certificate must:

- Be written in English with monetary amounts reflected in \$USD;
- Show the current policy period;
- Name as insured the business or person shown on CUA application;

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- Name the United States of America as additional insured;
- Reflect at a minimum the coverage amount required in the CUA application;
- Show any additionally required insurances in the amount required in the CUA application;
- Include insurance provider rating (may appear in an additional document).

Visitor Acknowledgement of Risk

CUA holders are not allowed to request or require visitors sign a waiver of liability statement, insurance disclaimer, or indemnification agreement. Park staff must ensure CUA holders who violate this condition discontinue the practice immediately or suspend in-park operations.

The Service allows CUA holders providing high-risk commercial services to advise visitors of risks associated with the activity through the use of a visitor acknowledgement of risk form (VAR). The VAR describes the inherent risks of the activity and warns visitors of those risks.

CUA holders may use the VAR provided in Exhibit B and available for download [here](#) on inside.nps.gov. The CUA holder may modify the VAR to provide a description of the authorized service, as specified in the available template. Operators may not modify the VAR to include language alluding to “waiver of liability”. If the CUA holder proposes to use an alternate VAR, they should send a copy of the form to the park for approval.

Exhibit A Acord 25 Certificate

This section names the CUA holder. →

This section sets out the policy period. →

This section sets out the General Liability coverage and limits. →

This section sets out the Automobile Liability coverage and limits. Checked boxes indicate if coverage is provided for Symbol 1, Symbol 8 or Symbol 9. →

This section lists any Umbrella Liability coverage and limits. →

This section lists Worker's Compensation Liability coverage and. →

This section identifies the United States as additional insured. →

ACORD®		CERTIFICATE OF LIABILITY INSURANCE		DATE (MMDDYYYY)		
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.						
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).						
PRODUCER	CONTRACT NAME: _____ PHONE: _____ FAX: _____ E-MAIL: _____ ADDRESS: _____ PRODUCER: _____ CUSTOMER ID #: _____					
INSURED	INSURER(S) AFFORDING COVERAGE			NAIC #		
	INSURER A:					
	INSURER B:					
	INSURER C:					
	INSURER D:					
	INSURER E:					
	INSURER F:					
COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:						
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSURER	TYPE OF INSURANCE	ADDITIONAL NUMBER (RGR, BGR)	POLICY NUMBER	POLICY EFF. DATE (MMDDYYYY)	POLICY EXP. DATE (MMDDYYYY)	LIMITS
GENERAL LIABILITY	COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE \$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>					DAMAGE TO RENTED EQUIPMENT (EA ACCIDENT) \$
						MED EXP (Per one person) \$
						PERSONAL & ADV INJURY \$
						GENERAL AGGREGATE \$
						PRODUCTS - COMP/OP AGG \$
GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROD <input type="checkbox"/> LOC <input type="checkbox"/>						
AUTOMOBILE LIABILITY	ANY AUTO					COMBINED SINGLE LIMIT (EA ACCIDENT) \$
	ALL OWNED AUTOS					BODILY INJURY (Per person) \$
	SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	HIRE/AUTO					PROPERTY DAMAGE (Per accident) \$
	NON-OWNED AUTOS					\$
UMBRELLA LIAB	OCCUR <input type="checkbox"/>					EACH OCCURRENCE \$
EXCESS LIAB	CLAIMS-MADE <input type="checkbox"/>					AGGREGATE \$
	DEDUCTIBLE \$					\$
	RETENTION \$					\$
WORKERS COMPENSATION AND EMPLOYERS LIABILITY						Y/N N/A
ANY PRODUCER/AGENT/EXECUTIVE OFFICER/MEMBER EXCLUDED?						Y/N N/A
MANDATORY IN HQ						Y/N N/A
EXPL. REVOLUTIONARY						Y/N N/A
						Y/N N/A
						Y/N N/A
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)						
CERTIFICATE HOLDER				CANCELLATION		
				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		
				AUTHORIZED REPRESENTATIVE		

Original issue date: March 13, 2017.

Exhibit B
Sample Visitor Acknowledgment of Risk

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