



# **NATIONAL PARK SERVICE ALASKA REGION POLICY**

**REGIONAL POLICY NUMBER 700-001**

**EFFECTIVE DATE: January 1, 2018**

**EXPIRATION DATE: December 31, 2019**

**SUBJECT:** **COMMERCIAL USE AUTHORIZATION SUSPENSION,  
RESTRICTION, REVOCATION, AND DENIAL POLICY**

**POINT OF CONTACT:** Associate Regional Director, Administration

**AUTHORITY:** Public Law 105-391, Section 418; 16 United States Code (USC)  
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**REFERENCES:** Not Applicable

**DELEGATION:** Superintendents

**PURPOSE:** This policy and procedure provides guidance to Alaska park managers when considering whether to suspend, restrict, or revoke a Commercial Use Authorization (CUA) and when considering whether to approve an application for a future Commercial Use Authorization.

**PERMIT CONDITIONS/PROVISIONS RELATED TO TERMINATION OR REVOCATION:**

- National Conditions, Item #9: This authorization may be terminated upon breach of any of the conditions herein or at the discretion of the park area Superintendent.

**POLICY:** This policy is intended to provide guidance regarding the actions to be taken in the event of a permittee violation (as defined in this policy). The Superintendent may take a different action than that called for in this policy at his or her discretion. The Superintendent also retains the authority to immediately suspend, restrict, or revoke a CUA or deny a future CUA application at his or her discretion. Note that decisions to suspend, restrict, or revoke a CUA are subject to the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. and therefore the Superintendent's discretion is not unlimited. A Superintendent's decision will be overturned by a court if it is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

**Definitions**

- **Holder/Owner** - a sole proprietorship, partnership, limited partnership, joint venture, or corporation including corporate officers and those shareholders who have a controlling interest in a corporation, which has applied for or received a CUA.
- **Employee** - a person in the service of the Holder/Owner under any contract of hire, express or implied, oral or written, where the Holder/Owner has the power or right to



control and direct the Employee in the work performed.

### **Violations**

1. Failure to comply with state or federal law, regulation, or administrative action where a link exists between the offense and the business activity authorized, regardless of whether the violation occurred in a unit of the National Park System;
2. Violation of 18 U.S.C. 1001, providing false information to any agency or department of the United States;
3. Failure to comply with a federal or state health or safety code or regulation when conducting activities authorized by the CUA;
4. Failure to comply with the provisions and conditions of the CUA;
5. Failure to adequately address material and documented operational concerns expressed by the National Park Service that negatively impact visitor experience, park resources and/or staff and visitor safety.

### **Suspension, Restriction and Revocation**

A CUA may be suspended, restricted, or revoked when the Holder/Owner or Employee commits a violation as defined above. The Superintendent will determine the appropriate administrative action regarding the violation based on the totality of the circumstances, including consideration of prior relevant violations. The following table may be used as a general guideline.

<b>VIOLATION</b>	<b>ACTION BY SUPERINTENDENT</b>
First Violation	A minimum of a written warning. May include a period of suspension or restriction of the CUA depending upon the violation.
Second Violation	Suspension or restriction of the CUA for a minimum of 30 days and up to a maximum of 120 days, or revocation of the CUA depending upon the violation.
Third Violation	Revocation of the CUA.

A CUA may be suspended or restricted when the Holder/Owner or Employee is under investigation or is charged for a criminal offense by state or federal authorities if a link exists between the conduct underlying the offense and the business activity authorized, regardless of whether the offense occurred in a unit of the National Park System. CUA revocation or reinstatement may result from the final adjudication.

### **Denial of a CUA Application**

An application for a CUA may be denied if the Holder/Owner or any of the Holder/Owner's current or proposed Employees committed a violation, as defined above, within five years of the date of application. A Holder/Owner who has had a CUA revoked may be denied a new CUA for up to five years from the date of revocation, based upon the revocation alone.



### **Process**

If the Superintendent believes a Holder/Owner has committed a violation, the Superintendent or his/her designee shall:

1. Notify the Holder/Owner of the violation, in writing, as soon as possible or appropriate. It is in the best interest of the National Park Service and the Holder/Owner that the Holder/Owner be made aware of the violation and be given an opportunity to take corrective action to avoid future violations and provide any explanation of the circumstances that lead to the violation. If an Employee of the CUA Holder/Owner is charged with or has committed a violation (but not the Holder/Owner itself), the CUA Holder/Owner shall be notified. Notify the Alaska Region (AKR) Concessions Division. Regardless of who has committed the violation or is charged with doing so, all direction outlined in this Revocation Policy will still apply.
2. Give the Holder/Owner an opportunity to explain the circumstances that led to the violation before taking final administration action at the park level. This does not preclude immediate suspension or restriction of the CUA when warranted.
3. If the Holder/Owner is authorized to operate in more than one park, notify the other parks and the AKR Concessions Division. A suspension, restriction, revocation or denial of a future CUA would likely apply to all services and parks authorized under the CUA; however, a more limited action may be appropriate as circumstances warrant. Notify the Holder/Owner of their right to appeal to the Regional Director.

### **Appeal Process**

An appeal of the action may be made to the Regional Director. Such an appeal must be submitted in writing within 30 days of receipt of the decision. Appeals must set forth the facts and circumstances that the Holder/Owner believes support the appeal. The Holder/Owner may request an informal meeting to discuss the appeal with the Regional Director or his/her representative. After consideration of the materials submitted by the Holder/Owner and the National Park Service record of the matter, and meeting with the Holder/Owner if so requested, the Regional Director will affirm, reverse, or modify the decision appealed and will set forth in writing the basis of the decision. A copy of the decision will be forwarded to the Holder/Owner and will constitute the final administrative decision in the matter.

APPROVED:   
Herbert C. Frost, Ph.D.  
Regional Director

DATE: 16 January 2018