United States Department of the Interior

NATIONAL PARK SERVICE

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Memorandum

To: NPS Field Memos

From: Acting Associate Director, Business Services

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Date: 2026.06.03 14:35:46 -04'00'

Subject: Insurance Requirements for Low-Risk CUAs Considering Exceptions in the EXPLORE Act

PURPOSE:
This memorandum updates National Park Service (NPS) policy regarding insurance requirements for commercial use authorizations (CUAs) following the enactment of the EXPLORE Act. NPS can no longer require a holder of a CUA for solely "low-risk activities," as determined by the area superintendent, to have a commercial general liability insurance policy as a condition of issuing the CUA. This memorandum establishes that policy and provides a framework for superintendents to determine and document whether authorized activities in their area are low risk.

BACKGROUND:
The EXPLORE Act became law on January 4, 2025 (Public Law No. 118-234). Section 319 of the EXPLORE Act, 16 U.S.C. § 8548, specifically modifies insurance requirements for certain CUA holders, as follows:

Sec. 319. LIABILITY.

(a) INSURANCE REQUIREMENTS—

> (1) IN GENERAL.—Except as provided in paragraph (2), as a condition of issuing a special recreation permit under subsection (h)(1)(B) of section 803 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802) (as amended by this title) or a commercial use authorization, the Secretary concerned may require the holder of the special recreation permit or commercial use authorization to have a commercial general liability insurance policy that—

(A) is commensurate with the level of risk of the activities to be conducted under the special recreation permit or commercial use authorization; and

(B) includes the United States as an additional insured in an endorsement to the applicable policy.

> (2) EXCEPTION.—The Secretary concerned shall not require a holder of a special recreation permit or commercial use authorization for low-risk activities, as determined by the Secretary concerned, including commemorative ceremonies and participation by the public in a recreation activity or recreation use of a specific area of Federal recreational lands and waters in which use by the public is

allocated, to comply with the requirements of paragraph (1).

DETERMINING CUA RISK LEVEL:
The Secretary of the Interior has generally delegated to the Director of the National Park Service program authority with respect to the supervision, management, and operation of the National Park System, which includes the authority to issue commercial use authorizations. (245 Departmental Manual 1) Pursuant to a policy memorandum dated June 8, 2022, the Director has delegated authority for CUA program management to regional directors (RDs) with further delegation allowed to superintendents. As of the date of this memorandum, all RDs have delegated CUA program management to superintendents.

The determination of whether an authorized activity under a CUA is low risk is made at the park level by the area superintendent, as part of their delegated CUA program management responsibilities, considering the following guidance. "Low-risk activities" are those that have very little risk of injury or death. In determining whether an activity is low risk, superintendents should consider whether the use of exculpatory agreements is or would be common industry practice for those activities in the area which they manage. Typically, low-risk activity providers do not or would not use exculpatory agreements. Superintendents must assess the specific activity authorized under a CUA as it is conducted within their park unit; however, examples of commercial activities authorized by CUAs that the NPS would routinely consider low risk include food and beverage, retail and vending, and event services. The NPS does not routinely consider any guided service to be low risk.

The superintendent's determination that an activity authorized under a CUA is low risk should be documented via a memorandum to file including rationale consistent with the guidance above. Superintendents may issue a single memorandum documenting their risk determinations for all CUA service categories in their area. Superintendents must complete CUA activity risk level determinations for existing CUA service categories in their area before July 31, 2026. Whenever superintendents approve additional CUA service categories in their area, they must conduct a risk level determination before CUA issuance and should update the memorandum to file to reflect that determination.

INSURANCE REQUIREMENTS FOR LOW-RISK CUAS:
When the superintendent determines a CUA will authorize solely low-risk activities, the CUA issued will not require the holder to have a commercial general liability insurance policy. When a CUA authorizes both low-risk activities and activities the superintendent does not determine to be low risk, NPS may require proof of commercial general liability insurance coverage for the activities not determined to be low risk. Regardless of risk level determination, NPS may continue to require CUA applicants and holders provide proof of other types of insurance as required by law, including commercial automobile, protection and indemnity vessel, aircraft, and property insurance.

WASO CSP has modified standard CUA conditions related to required insurance to clarify that commercial general liability insurance is not required for low-risk activities authorized under CUAs. As of the date of this memorandum, the modified conditions are in effect for all existing applications in the online CUA system and are included in the CUA application (NPS Form 10-550) available on the CUA SharePoint site. There is no need to reissue active CUAs that include the outdated standard CUA conditions.

The online CUA system will be updated to require CUA coordinators to specify when a CUA service category is determined to be low risk. For those low-risk CUA service categories, the online system default will be no proof of commercial general liability insurance requirement. CUA coordinators must ensure they indicate within the online system when other types of insurance (e.g., property insurance) are required for those low-risk CUA service categories and when proof of commercial general liability insurance coverage is required for CUAs authorizing both low-risk activities and activities the superintendent does not determine to be low risk. CUA coordinators must continue to ensure receipt of valid proof of insurance certificates before CUA issuance.

FOR FURTHER INFORMATION

For further information or questions on this policy, please contact Samantha Towery, WASO CUA Program Manager at samantha_towery@nps.gov or Kurt Rausch, Chief, WASO Commercial Services, at Kurt_Rausch@nps.gov.