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36 CFR Ch. I (7–1–08 Edition)

§ 5.4 Commercial passenger-carrying motor vehicles.

(a) The commercial transportation of passengers by motor vehicles except as authorized under a contract or permit from the Secretary or his authorized representative is prohibited in Crater Lake (prohibition is limited to sight-seeing tours on the rim drive), Glacier (prohibition does not apply to non-scheduled tours on portions of the park road as defined in § 7.3 of this chapter), Grand Canyon (prohibition does not apply to the north rim or to non-scheduled tours as defined in § 7.4 of this chapter), Grand Teton (prohibition does not apply to those portions of Highways Nos. 26, 89, 187, and 287 commencing at the south boundary of the park and running in a general northerly direction to the east and north boundaries of the park), Mesa Verde (prohibition does not apply to transportation between points within the park and outside points), Denali National Park and Preserve (prohibition does not apply to that portion of the Denali Park road between the Highway 3 junction and the Denali Park Railroad Depot), Sequoia-Kings Canyon, Yellowstone (prohibition does not apply to nonscheduled tours as defined in § 7.13 of this chapter, nor to that portion of U.S. Highway 191 traversing the northwest corner of the park) and Yosemite National Parks. The following principles will govern the interpretation and enforcement of the section:

(1) Transportation is commercial if it is operated primarily as a business activity or for profit of the operator, or if any person or organization may receive a profit, commission, fee, brokerage or other compensation for organizing, advertising, promoting, soliciting or selling the trip or tour of which such transportation is a part.

(2) Transportation is commercial if payment therefor is made directly or indirectly to the operator: *Provided*, That bona fide sharing of actual expenses will not be deemed a payment.

(3) Transportation by a motor vehicle licensed as a commercial vehicle, or of commercial type, will be presumed to be commercial unless otherwise established to the satisfaction of the Superintendent or his authorized representative.

(4) Transportation will not be deemed commercial for the sole reason that the motor vehicle is chartered or rented in good faith to the operator, by the owner, for general use at a charge based upon time or mileage or both. Nothing in this section is intended to prohibit the operation of pleasure type automobiles rented without a driver on the normal terms from the owner.

(5) Subject to the provision of paragraph (a)(1) of this section, transportation is not commercial if it is a part of a trip or tour initiated, organized, and directed by an established bona fide school or college, institution, society or other organization, as a non-profit activity of such organization, and if all passengers are students, faculty, members, or employees of such organization, or otherwise connected therewith, provided that credentials are presented at the park entrance from the head of such institution or organization indicating the trip is in accordance with the provisions stipulated herein. Clubs or associations having as a principal purpose the arranging of tours, trips, or transportation for their members will not qualify for admission into the above-named parks under the provision of this paragraph.

(6) As used in this section, "owner" means the person or organization having legal title, or all the incidents of ownership other than legal title, of a motor vehicle by which passengers may be transported, and includes a registered owner or a purchaser under a conditional sales contract. "Operator" means the person, organization, or group that arranges for the transportation, assumes responsibility for financial risk and management, and determines who shall be transported upon what terms, conditions, or charges. The operator may be the owner, but need not be.

(b) Passenger-carrying motor vehicles, otherwise admissible, that are so large as to require special escort in order to proceed safely over park roads, or which in the judgment of the Superintendent are beyond the carrying capacity or safety factor of the roads,

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will not be permitted in the parks, except that, where they may satisfactorily enter and travel to park headquarters they may be parked there during the period of stay.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

[31 FR 16660, Dec. 29, 1966, as amended at 37 FR 12722, June 28, 1972; 38 FR 10639, Apr. 30, 1973; 60 FR 35841, July 12, 1995; 65 FR 37878, June 19, 2000]

§ 5.5 Commercial photography.

(a) *Motion pictures, television.* Before any motion picture may be filmed or any television production or sound track may be made, which involves the use of professional casts, settings, or crews, by any person other than bona fide newsreel or news television personnel, written permission must first be obtained from the Superintendent, in accordance with the provisions of the special regulations contained in part 5, subtitle A, title 43 of the Code of Federal Regulations.

(b) *Still photography.* The taking of photographs of any vehicle, or other articles of commerce or models for the purpose of commercial advertising without a written permit from the Superintendent is prohibited.

§ 5.6 Commercial vehicles.

(a) The term "Commercial vehicle" as used in this section shall include, but not be limited to trucks, station wagons, pickups, passenger cars or other vehicles when used in transporting movable property for a fee or profit, either as a direct charge to another person, or otherwise, or used as an incident to providing services to another person, or used in connection with any business.

(b) The use of government roads within park areas by commercial vehicles, when such use is in no way connected with the operation of the park area, is prohibited, except that in emergencies the Superintendent may grant permission to use park roads.

(c) The Superintendent shall issue permits for commercial vehicles used on park area roads when such use is necessary for access to private lands situated within or adjacent to the park area, to which access is otherwise not available.

§ 5.7 Construction of buildings or other facilities.

Constructing or attempting to construct a building, or other structure, boat dock, road, trail, path, or other way, telephone line, telegraph line, power line, or any other private or public utility, upon across, over, through, or under any park areas, except in accordance with the provisions of a valid permit, contract, or other written agreement with the United States, is prohibited.

§ 5.8 Discrimination in employment practices.

(a) The proprietor, owner, or operator of any hotel, inn, lodge or other facility or accommodation offered to or enjoyed by the general public within any park area is prohibited from discriminating against any employee or maintaining any employment practice which discriminates because of race, creed, color, ancestry, sex, age, disabling condition, or national origin in connection with any activity provided for or permitted by contract with or permit from the Government or by derivative subcontract or sublease. As used in this section, the term "employment" includes, but is not limited to, employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

(b) Each such proprietor, owner or operator shall post either the following notice:

NOTICE

This is a facility operated in an area under the jurisdiction of the United States Department of the Interior. No discrimination in employment practices on the basis of race, creed, color, ancestry, sex, age, disabling condition, or national origin is permitted in this facility. Violations of this prohibition are punishable by fine, imprisonment, or both.

Complaints or violations of this prohibition should be addressed to the Director, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127.

or notices supplied in accordance with Executive Order 11246 at such locations as will ensure that the notice and its