Legislative Issues Update **CDLs, Passenger Vans,**

Independent Contractors and Minimum Wage

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Regulatory Issues Updatepics

- Commercial Use Authorization Regulations
- Concessions Management Improvement Aethaking
- Short haul Exemption for Recreation Provide Berentation
- FMCSAInterpretive Rule
- CDL Type B Requirements
- Revisions to Forest Service Cost Recovery
- Independent Contractor
- Minimum Wage EO
- Singleuse Plastics

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Legislative Efforts

- America's Outdoor Recreation Act of 2022, S 3266
- To Amend the Fair Labor Standards Act, HR 6280, S 4092

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Act of 2022, S 3266 ards Act, HR 6280, S 4092



Commercial Use Authorization Regulations (N

- NPS to propose rule establishing, for the first time, regulations governing issuance and administration of commercial use authorizations (CUAs).
- The proposed rule is expected generally to seek to codify existing policy, as set forth in chapter 11 of the updated NPS Commercial Services Guide

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Concessions Management Improvement Ac CMIA Rule/etted by Trump administration, under review by Biden

 CMIA Rule/etted by Trump administrati administration





Implementation of New Short Haul Exemption Recreation Providers (DOT/FMCSA)

- DOT/FMCSA to propose rule implementing section 23012 of the Bipartisan Infrastructure Law, which provides exemption from Federal operating authority requirements for recreational activity providers operations operations within a 150 amile radius of the location where passengers initially board the vehic at the outset of a trip.
- The rule, among other things, seek to define "recreational activities."

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Type B-Commercial Drivers Licenses

New Entryevel driver training requirements effective February 2022





Revisions to Forest Service Cost Recovery

- USFS to propose rule revising its cost recovery regulations to:
 - update fee schedules based on current agency costs;
 - provide for charging of processing fees for screening special use proposals befor acceptance of a special use application; and
 - remove existing exemption for recreation special use applications and authorizations that require 50 hours or less to process or monitor.





Proposed Contractor Reflept. of Labor

Employee or Independent Contractor Classification Under the Fair Labor Standards /

- Proposed rule considers six "Economic Reality Factors" regarding the appropriate classification of an individual as an employee or an independent contractor.
- According to the proposed rule, "no one factor or subset of factors is necessarily dispositive, and the weight to give each factor may depend on the facts and
- Proposed rule directs employers to determine "the economic realities of the worke relationship with the employ §79(5.105(a)) and whether the workers are either economically dependent on the employer for work or in business for themselves.





Proposed Rulandependent Contractor Classification

- 1. Opportunity for profit or loss depending on managerial skill. Can the worker meaningfully negotiate the pay for the work? Can they accept or decline jobs, and choose the timing for performing those jobs? Does the worker make their own staffing, purchasing, and lease? If answer is no to any of these, it suggests that the worker is an employee.
- Investments by the worker and the employer. If investments are "capital and entrepreneuria 2. nature, and therefore indicate independent contractor status, they should generally support "independent business and serve a busikessinction."
- Degree of permanence of the work relationship. This factor weighs toward independent 3. contractor status when the work lacks permanence, when it is definite in duration, nonexclusive, projebased, or sporadic. Seasonal work alone, however, is not indicative or independent contractor classification.

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Proposed Rulandependent Contractor Classification II

- Nature and degree of control. If an employer's control over a worker includes setting the 4. worker's schedule, supervising performance, or limiting a worker's ability to work for others, these are indicative of employee status. The control over prices or rates of services, and the worker's marketing of goods or services, are also indicative of control.
- Extent to which the work performed is an integral part of the employer's business. If the wo 5. the worker performs is "critical, necessary, or central" to the business, this factor weighs in favor of employee status.
- 6. Skill and Initiative. The use of "specialized skills" that "contribute to albestine in the second states and the second states and the second states and the second states are states and states are states and states are states and states are states ar are indicative of independent contractor status. When the worker is "dependent on training" from the employer to perform the work," this factor is indicative of employee status.

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E.O. 14026, Minimum Wage for Federal Cont

- 2023 rate: \$16.20
- Bradford v. US Dept. of Labstatus

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DOI S.@Single Use Plastics

- 1. Include schedules and targets to make annual progress toward reducing the procurement, and distribution of singlese plastic products from current levels with a goal of phasing out singleuse plastic products by 2032;
- 2. Include schedules for updates to their acquisition and procurement policies and practices to reduce singlese plastic products;
- Include annual reporting on progress toward reducing procurement, sale, and distribution of 3. singleuse plastic products;
- Include a schedule for reporting on how they will phase out single use plastic products by 2 4. Include an analysis of alternatives to single plastic products, such as compostable or 5. biodegradable materials, or 100 percent recyclable or 100 percent recycled materials (with circular economy plan) as defined in section 2 of the Save Our Seas 2.0 Act (P004); Law 1'

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DOI S. OSingle Use Plastics

- Identify opportunities to shift public behavior to reduce-size defastic products, such as 6. installing additional water fountains and reusable water bottle filling stations;
- May include shotterm exemptions if no alternatives currently exist, or for the term of an 7. existing concession or procurement contract, if justification is provided;
- May include exemptions for medical, public safety, public health, or scientific items, or for it 8. for which there is proofacircular economy plafjustificationis provided; and
- May include funding requests, if justified, for implementation costs. 9.

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Gross Receipts

•	Sul	bject to subparagraph (G), if the Secretary			
•	4	elects to charge a fee for a special recreation per-			
•	5	mit described in section 802(13)(A)(iv), the Sec-			
•	6	retary shall charge the recreation service pro-			
•	7	vider, based on the election of the recreation serv-			
•	8	ice provider—			
•	9	"(i) the applicable predetermined fee			
•	10	established under subparagraph (B); or			
•	11	"(ii) an amount equal to a percentage			
•	12	of, to be determined by the Secretary, but			
•	13	not to exceed 3 percent of, adjusted gross re-			
•	14	ceipts calculated under subparagraph (F).			
•	15	"(F) ADJUSTED GROSS RECEIPTS.—For the			
•	16	purposes of subparagraphs(D)(ii) and(E)(ii),			
•	17	the Secretary shall calculate the adjusted gross			
•	18	receipts collected for each trip or event author-			
•	19	ized under a special recreation permit, using ei-			
•	20	ther of the following calculations, based on the			
•	21	election of the recreation service provider:			
•	22	"(i) The sum of—			
•	23	"(I) the product obtained by mul-			
•	24	tiplying—			
		<i>w</i> X			
•	1	"(aa) the general amount			
•	2	paid by participants of the trip or			
•	3	event to the recreation service pro-			
•	4	vider for the applicable trip or			
•	5	event (excluding amounts related			
•	6	to goods, souvenirs, merchandise,			
•	7	gear, and additional food pro-			
•	8	vided or sold by the recreation			
•	9	service provider); and			
•	10	"(bb) the quotient obtained			
•	11	by dividing—			

•	12	"(AA) the number of
•	13	days of the trip or event that
•	14	occurred on Federal rec-
•	15	reational lands and waters
•	16	covered by the special recre-
•	17	ation permit, rounded to the
•	18	nearest whole day; by
•	19	"(BB)the total number
•	20	of days of the trip or event;
•	21	and
•	22	"(II) the amount of any addi-
•	23	tional revenue received by the recre-
•	24	ation service provider for an add-on
•	25	activity or an optional excursion that
•	1	occurred on the Federal recreational
•	2	occurred on the Federal recreational lands and waters covered by the special
• •		
• • •	2	lands and waters covered by the special
• • •	2 3	lands and waters covered by the special recreation permit.
• • •	2 3 4	lands and waters covered by the special recreation permit. "(ii) The difference between—
• • • •	2 3 4 5	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the
• • • • •	2 3 4 5 6	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the
• • • • •	2 3 4 5 6 7	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the trip or event to the recreation service
• • • • • •	2 3 4 5 6 7 8	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the trip or event to the recreation service provider, including any additional rev-
• • • • •	2 3 4 5 6 7 8 9	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the trip or event to the recreation service provider, including any additional rev- enue received by the recreation service
• • • • • • •	2 3 4 5 6 7 8 9 10	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the trip or event to the recreation service provider, including any additional rev- enue received by the recreation service provider for an add-on activity or an
• • • • • •	2 3 4 5 6 7 8 9 10 11	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the trip or event to the recreation service provider, including any additional rev- enue received by the recreation service provider for an add-on activity or an optional excursion that occurred on the
• • • • • • • • •	2 3 4 5 6 7 8 9 10 11 12	lands and waters covered by the special recreation permit. "(ii) The difference between— "(I) the total cost paid by the participants of the trip or event for the trip or event to the recreation service provider, including any additional rev- enue received by the recreation service provider for an add-on activity or an optional excursion that occurred on the Federal recreational lands and waters



• • • • • •	15 16 17 18 19 20 21 22 23 24	"(II) the sum of— "(aa) the amount of any rev- enues from goods, souvenirs, mer- chandise, gear, and additional food provided or sold by the recre- ation service provider to the par- ticipants of the applicable trip or event; "(bb) the amount of any costs or revenues from services and ac-
•	25	tivities provided or sold by the
	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	recreation service provider to the participants of the trip or event that occurred in a location other than the Federal recreational lands and waters covered by the special recreation permit (includ- ing costs for travel and lodging outside the Federal recreational lands and waters covered by the special recreation permit); and "(cc) the amount of any reve- nues from any service provided by a recreation service provider for an activity on Federal rec- reational lands and waters that is not covered by the special recre- ation permit. "(G) EXCEPTION.—Notwithstanding sub- paragraph (E), the Secretary may charge a recreation service provider a minimum annual
•	21 22	fee for a special recreation permit described in section 802(13)(A)(iv).