

## Office of the Secretary, Interior

## § 13.5

state the reasons on which it is based. The fact that a permit will be without charge for rent shall not constitute a basis for denying an application.

(c) In considering applications for permits, due regard shall be given to the terms of any existing contractual arrangements.

### § 13.3 Cooperation in selection of facilities.

Upon request from a State licensing agency, the Interior bureau or office shall cooperate in selecting locations and arranging accommodations for vending facilities to be operated by blind persons. In making such selection, due consideration shall be given to the requirements of occupant agencies, availability of suitable space, and requirements for preparation and maintenance of the space.

### § 13.4 Terms of permit.

Every permit shall describe the location of the vending facilities and shall be subject to the following provisions:

(a) The permit shall be issued in the name of the applicant State licensing agency.

(b) The permit shall be for a definite term, not to exceed five years, and shall be without charge for rent.

(c) The permit may be revoked at any time upon not less than 30 days written notice to the permittee from the head of the Interior bureau or office having control of the property where the vending facilities are located. Such notice shall state the reasons on which it is based.

(d) Items sold at the vending facilities shall be limited to newspapers, periodicals, pre-packaged confections, tobacco products, articles dispensed automatically or in containers or wrappings in which they are placed before receipt by the vendor, and such other articles as may be approved by the head of the Interior bureau or office for each location. The head of the Interior bureau or office may require discontinuance of sale of any type of article, upon not less than 15 days' notice in writing.

(e) Vending facilities shall be operated in compliance with such standards of appearance, safety, health, sanitation, and efficiency as may be pre-

scribed by the head of the Interior bureau or office. Such standards shall conform, so far as practicable with the provisions of State laws and regulations, whether or not the property is under the exclusive jurisdiction of the United States.

(f) The permittee shall arrange for the modification or relocation of the vending facilities when in the opinion of the head of the Interior bureau or office such action is essential to the satisfactory maintenance, operation, or use of the property concerned and shall not modify or relocate such facilities without such approval. Installation, modification, relocation, or removal of vending facilities shall be made only under the supervision of the head of the Interior bureau or office and without cost to the Department of the Interior. The permittee may be required to remove any vending device deemed undesirable by the head of the Interior bureau or office. Ownership of vending devices installed by the permittee or operator shall remain vested with the installer. All extra identifiable costs incurred by the Department of the Interior in restoring to its original condition any space vacated by removal or relocation of vending facilities shall be reimbursed by the permittee or the operator.

(g) In the event a vending facility is being operated in a manner unsatisfactory to the Interior bureau or office, the permittee will be notified in writing and required to take appropriate action to rectify the situation.

(h) The operator of the vending facility shall carry such insurance against losses by fire, public liability, employer's liability, or other hazards as is customary among prudent operators of similar businesses under comparable circumstances.

### § 13.5 Protection from competition.

(a) The head of the Interior bureau or office shall protect the blind operator of the vending facility against direct competition from other vendors or vending machines on property which the head of the Interior bureau or office controls. Other vendors or vending machines shall be considered in direct competition with vending facilities permitted under the regulations in this

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part if they sell or dispense articles which are similar or identical to those on sale at the vending facilities in such proximity to the vending facility as to attract customers who might otherwise patronize the vending facilities.

(b) After a permit has been issued under the regulations in this part to a State licensing agency for operation of a vending facility, the head of the Interior bureau or office, except as provided in paragraphs (c) and (d) of this section, shall take action to terminate, as soon as possible and with minimum interruption to the service afforded customers, any existing competitive arrangement for the sale of any articles similar to or identical to those sold or to be sold under the permit. Notice of such termination shall be given as required under the terms of the existing arrangement, or if none is provided, a notice of not less than 30 days shall be given in writing.

(c) Existing arrangements with respect to vending machines need not be terminated if such vending machines are moved at the expense of their operators to locations elsewhere on the property which are noncompetitive with a blind-operated vending facility, or if the income from such machines is assigned to the blind operator.

(d) This section shall not apply to the sale and service of food and other articles considered as food and usually sold in connection with meals by cafeterias, restaurants, or similar food dispensing establishments.

### § 13.6 Appeals.

When the head of an Interior bureau or office has designated a representative to act for him under these regulations, he shall provide for the review of any matter in dispute between such representatives and the State licensing agency. In the event that they fail to reach agreement concerning the granting of a permit for the vending stand, the modification or revocation of a permit, the suitability of the stand location, the assignment of vending proceeds, the methods of operation of the stand, or other terms of the permit (including articles which may be sold) the State licensing agency shall have the right of appeal to the Director, Office of Hearings and Appeals. Such appeals

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shall be made in writing and shall be filed in the Office of the Director (address: Director, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, VA 22203) within 15 days from the date of notice of the decision from which the appeal is taken. Such appeals shall comply otherwise with the general rules of the Office of Hearings and Appeals in subpart B of part 4 of this title and with the special regulations set forth in subpart G of part 4 of this title applicable to proceedings in appeals cases which do not lie within the appellate jurisdiction of an established Appeals Board of the Office of Hearings and Appeals. Upon appeal, full investigation shall be undertaken. A full report shall be obtained from the Interior representative from whose decision the appeal is being taken. The State licensing agency shall be given opportunity to present information. The Department of Health, Education, and Welfare shall be available for general advice on program activities and objectives. A final decision of the Director, Office of Hearings and Appeals, or of an Ad Hoc Appeals Board appointed by him to consider the appeal and to issue decision thereon, shall be rendered within ninety days of the filing of the appeal. Notification of the decision on appeal and the action taken thereon shall be given to the State licensing agency and to the Department of Health, Education, and Welfare. The decision of the Director, Office of Hearings and Appeals, or of an Ad Hoc Appeals Board appointed by him, shall be final. At the end of each fiscal year the Office of the Secretary shall report to the Department of Health, Education, and Welfare the total number of applications for vending stand locations received from State licensing agencies, the number accepted, the number denied, and the number still pending.

[36 FR 7206, Apr. 15, 1971, as amended at 67 FR 4368, Jan. 30, 2002]

## PART 14—PETITIONS FOR RULEMAKING

Sec.

14.1 Scope.

14.2 Filing of petitions.

14.3 Consideration of petitions.