

VENDING MACHINES (RANDOLPH-SHEPPARD ACT)

A. LAW

20 U.S.C. 107

§ 107. Operation of vending facilities authorized; preferences regulations; justification for limitation on such operation

(a) For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and

stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.

(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this chapter; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 107d-3 of this title to achieve and protect such priority), and

(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

B. REGULATION

43 CFR, Part 13

§ 13.1 Authority and purpose.

The Randolph-Sheppard Vending Stand Act of June 20, 1936, as amended by section 4 of the Act of August 3, 1954 (88 Stat. 663; 20 U.S.C. 107), directs that, insofar as practicable, preference shall be given to blind persons in the operation of vending stands and machines on any Federal property.

The regulations in this part prescribe the policies and procedures to achieve and protect that preference on property, including land, owned or leased by the United States and controlled by the Department of the Interior.

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§ 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 prescribed 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.

C. POLICY

Management Policies Manual, Chapter VIII
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When new concession opportunities for the operation of vending facilities become available, NPS is authorized and required to give priority in the award of the contracts or permits to licensed blind vendors.

D. RESPONSIBILITIES

See above regulations.

E. PROCEDURES

When issuing a contract or permit for the operation of vending facilities to a blind vendor, priority in the award of the contract/permit can be given by simply "sole sourcing" the contract or permit with a licensed blind vendor. This means that a prospectus need not be issued; however, public notice is still required. At the expiration of the contract/permit, the contract/permit can be renewed without the issuance of a fact sheet but public notice of the Service's intention to renew must be published in the "Federal Register".

The applicability of the Randolph-Sheppard Act amendments to NPS concession contracts and permits is limited by the Health and Human Service's (HHS) regulations. Essentially, as described in HHS's preamble to the regulations, priority to licensed blind vendors need only be given when the concession opportunity to be authorized is "solely for the operation of a facility similar to those generally operated under the Randolph-Sheppard program."

The regulations do not apply to concessions which offer a range of facilities and services broader than the usual Randolph-Sheppard facility nor when a single concessioner is given authority to operate all concession facilities in a given park. In addition, we do not consider that priority for blind vendors may be given in contravention of an existing satisfactory concessioner's preferential right to renewal.

Application for a permit shall be made, in writing, by the State licensing agency designated by the Department of Health and Human Services, to the Superintendent of the park. In considering applications for permits, Superintendents shall give due regard to the terms of any existing contractual arrangements with concessioners, as is required by the regulations.

Permits to be granted to blind persons shall be issued in the name of the State licensing agency and printed Form 10-112 (Rev. 7-81) should be used for this purpose.