

site official subject to the concurrence of the State licensing agency.

(3) These vending machine income-sharing requirements do not apply to:

(i) Income from vending machines operated by or for the military exchanges or ships' stores systems; or

(ii) Income from vending machines, not in direct competition with a blind-operated vending facility, at any individual location, installation, or facility (as defined in §260.6) where the total of the vending machine income (as defined in §260.6) from all such machines at such location, installation, or facility does not exceed \$3,000 annually.

(4) The payment to State licensing agencies under these income-sharing requirements must be made quarterly on a calendar year basis. The first payment of income, however, will be made no later than April 30, 1978. This first payment will be for the period March 23, 1977, through the end of calendar year 1977. It will also include amounts collected and set aside during the period January 2, 1975, through March 22, 1977, for distribution to State licensing agencies. DoD Component activities which did not set aside vending machine income for distribution during the period January 2, 1975, through March 22, 1977, will consider taking steps to determine the amounts of such vending machine income which should have been withheld during that period and withhold such amounts from future income for distribution. All subsequent quarterly payments will be made within 60 days after expiration of the applicable calendar quarter.

#### §260.4 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (ASD (MRA&L)) will monitor the overall DoD program and consult with DoD Components on all determinations (1) that the granting of a priority to the blind would be adverse to the interests of the United States, and (2) to suspend or terminate a permit to operate a vending facility.

(b) The Head of the DoD Component concerned, in monitoring its program shall:

(1) Approve/disapprove State licensing agency applications for permits and the provision of satisfactory sites;

(2) Consult with the on-site official on determinations that granting a priority to the blind would be adverse to the interests of the United States and on termination of contracts to operate a cafeteria; and

(3) Where circumstances warrant, suspend or terminate a permit to operate a vending facility.

(c) The on-site official will be the point of contact with State licensing agencies and will:

(1) Consult with State licensing agencies on articles and services to be provided;

(2) Determine, when appropriate, that granting a priority to the blind would be adverse to the interests of the United States and justify this determination to the Secretary, Health, Education, and Welfare through the Head of the DoD Component;

(3) Notify State licensing agencies of acquisition or substantial alteration or renovation of property;

(4) Ensure that operators are in fact State licensed blind persons and that sighted employees and assistants are utilized only to the extent reasonably necessary; and

(5) Negotiate with State licensing agencies on other matters indicated in §260.3.

#### §260.5 Arbitration.

Whenever any State licensing agency for the blind determines that any activity of the Department of Defense is failing to comply with the provisions of the Act and all informal attempts to resolve the issues have been unsuccessful, the State licensing agency may file a complaint with the Secretary, HEW, who will convene an ad hoc arbitration panel in accordance with the provisions of 45 CFR 1369.37.

#### §260.6 Definitions.

(a) *Blind licensee.* A blind person licensed by the State licensing agency to operate a vending facility on Federal or other property.

(b) *Cafeteria.* A food dispensing facility which provides a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a serving line where the customer serves or selects for himself from displayed selections. A cafeteria

may be fully automatic, self-service, or have limited waiter or waitress service. Table or booth seating facilities are always provided. DoD Component food dispensing facilities which conduct cafeteria-type operations during part of their normal operating day and full table-service operations during the remainder of their normal operating day are not "cafeterias" if they engage primarily in full table-service operations.

(c) *Direct competition.* The presence and operation of a DoD Component vending machine or a vending facility on the same premises as a vending facility operated by a blind vendor. Vending machines or vending facilities operated in areas serving employees, the majority of whom normally do not have access (in terms of uninterrupted ease of approach and the amount of time required to patronize the vending facility) to the vending facility operated by a blind vendor, will not be considered to be indirect competition with that vending facility.

(d) *Federal property.* Any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States.

(e) *Head of the DoD component.* Deputy Secretary of Defense, Secretaries of the Military Departments and the Directors of Defense Agencies or their designees. For the Pentagon Building only, the Deputy Assistant Secretary of Defense (Administration) is designated as the "Head of the DoD Component."

(f) *Individual location, installation, or facility.* A single building or a self-contained group of buildings. A self-contained group of buildings means two or more buildings which are in close proximity to each other, and between which a majority of the Federal employees working in such buildings regularly move from one building to another in the normal course of their official business during a normal working day.

(g) *Federal employees.* Civilian appropriated fund and nonappropriated fund employees of the United States.

(h) *License.* A written instrument issued by a State licensing agency to a blind person, authorizing that person to operate a vending facility on Federal or other property.

(i) *Normal working hours.* An 8-hour work period between the hours of 0800 and 1800 hours, Monday through Friday.

(j) *On-site official.* The individual in command of an installation or separate facility or location. For the Pentagon Building only, the chairman of the Department of Defense Concession Committee is designated as the on-site official.

(k) *Permit.* The official written approval to establish and operate a vending facility requested by and issued to a State licensing agency by a DoD Component.

(l) *Satisfactory site.* An area fully accessible to vending facility patrons and having sufficient electrical, plumbing, heating, and ventilation outlets for the location of a vending facility in accordance with applicable health and building requirements. Effective March 23, 1977, a "satisfactory site" will have a minimum of 250 square feet available for sale of items and for storage of articles necessary for the operation of a vending facility, unless the Head of the DoD Component and the State licensing agency agree that a smaller or larger facility is appropriate.

(m) *State.* The 50 States, District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

(n) *State licensing agency.* The State agency designated by the Department of Health, Education, and Welfare, Commissioner of the Rehabilitation Services Administration to issue licenses to blind persons for the operation of vending facilities on Federal and other property.

(o) *Substantial alteration or renovation.* A permanent material change in the floor area of a building which would render it appropriate for the location and operation of a vending facility by a blind vendor.

(p) *Vending facility.* Automatic vending machines, cafeterias, snack bars, cart services, shelters, and counters, which sell such items as newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles and services to be dispensed automatically or manually and which are prepared on or off the premises in accordance with applicable health laws and further including the vending or

exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State. "Vending facility" does not include food dispensing facilities (e.g., food operations of open messes/military clubs) which engage primarily in full table-service operations.

(q) *Vending machine*. For the purpose of assigning vending machine income, means a coin or currency operated machine which dispenses articles or services, except that machines providing services of a recreational nature, commonly referred to as amusement machines (e.g., jukeboxes, pinball machines, electronic game machines, pool tables, shuffle boards, etc.) and telephones, are not considered to be vending machines.

(r) *Vending machine income*. DoD Component receipts from DoD Component vending machine operations on Federal property, after deducting all applicable costs incurred (costs of goods, service, maintenance, repair, cleaning, depreciation, supervisory and administrative personnel, normal accounting, accounting for income-sharing, and so forth) where the machines are operated by any DoD Component activity; or commissions received (less applicable DoD Component costs) by any DoD Component activity from a commercial vending firm which provides vending machines on Federal property for, or with the approval of, any DoD Component activity.

(s) *Vendor*. A blind licensee who is operating a vending facility on Federal or other property.

## PART 261—ARMED SERVICES MILITARY CLUB AND PACKAGE STORES

Sec.

261.1 Purpose.

261.2 Applicability.

261.3 Policy.

261.4 Procedures.

261.5 Responsibilities.

261.6 Information requirements.

AUTHORITY: 50 U.S.C. Appendix, Section 473, section 6.

SOURCE: 47 FR 34533, Aug. 10, 1982, unless otherwise noted.

### § 261.1 Purpose.

This part incorporates DoD Directive 1330.15, "Alcoholic Beverage Control," May 4, 1964, (which is hereby cancelled), provides policy and assigns responsibilities for the operation of military clubs and package stores of the Army, Navy, Air Force, and the Marine Corps; and authorizes the development, publication, and maintenance of DoD 1015.3-R, "Armed Services and Military Club and Package Store Regulations."

### § 261.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense and the Military Departments, including DoD activities with clubs and package stores designated as a service (executive agent) responsibility, and Defense Agencies (hereinafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

### § 261.3 Policy.

It is the policy of the Department of Defense that Armed Services military clubs and package stores be established as an essential part of the DoD Morale, Welfare and Recreation (MWR) program. In addition, the Department of Defense shall establish controls and procedures governing the sale of alcoholic beverages in these clubs and package stores. Affirmative measures shall be taken to provide character guidance, emphasizing the harmful effects of the immoderate use of alcohol. Chaplains and local community and national organizations shall assist in this effort. Military clubs shall provide dining, essential feeding (where required), and social programs, services, and facilities to eligible patrons. Package stores shall provide the sale of alcoholic beverages purchased for off-premise consumption by authorized patrons, and also provide a resale source of alcoholic beverages for all other authorized activities under 50 U.S.C., Appendix, Section 473. The establishment, management, and control of club and package store nonappropriated fund instrumentalities (NAFIs) shall be in accordance with DoD Directive 1015.1, "Establishment, Management, and