



DEPARTMENT OF EDUCATION

34 CFR Part 395

[Docket ID ED-2024-OSERS-0008]

RIN 1820-AB83

Amendments to Definitions and Related Provisions Under the Randolph-Sheppard Vending Facility Program; Withdrawal

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed rulemaking; Withdrawal.

SUMMARY: The Secretary is withdrawing a notice of proposed rulemaking (NPRM), which proposed to amend certain definitions in, and a new definition to, the Randolph-Sheppard Act (R-S Act) regulations. Specifically, the proposed regulations added a definition of "articles," modified the definitions of "vending facility" and "vending machine," amended the regulation pertaining to the location and operation of vending facilities, and added a provision pertaining to severability.

DATES: The NPRM published in the Federal Register at 90 FR 2550 on January 10, 2025, is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Corinne Weidenthal, U.S. Department of Education, 400 Maryland Ave., SW, room 4A114, Washington, DC 20202. Telephone: (202) 245-6529. Email: Corinne.Weidenthal@ed.gov.

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SUPPLEMENTARY INFORMATION:

Background

On January 10, 2025, the Department published in the **Federal Register** a NPRM proposing to amend the R-S regulations at 34 CFR part 395. The comment period closed on March 11, 2025. The Department received a total of 67 public comments in response to the NPRM. Fifty-three of the total comments were submitted as part of a letter-writing campaign using three different form letters. These comments raised similar issues and were submitted by The Elected Committees of Blind Vendors and other blind vendors. In addition, the Department received comments from four State licensing agencies, two stakeholder groups, one organization, and seven other individual comments. Many of the comments were in support of the changes to the definitions and adding the definition of "articles"; however, the majority of comments also expressed concern with the removal of the word "services" within the definition of "vending machine." Commenters stated that "services" should remain as part of the definition of "vending machine," because vending machines are included in the definition of vending facilities which allows for the provision of both articles and services. Further,

commenters stated that the proposed definition will limit, not increase, employment opportunities, and maintaining "services" in the definition will allow the program to evolve as future vending becomes available. Further, the proposed regulation amending the location and operation of vending facilities received many comments expressing concern about whether the proposed regulation created or removed an exemption, specifically related to the National Park Service (NPS) and the National Aeronautics and Space Administration (NASA) properties. The current regulations provide that the provisions of the R-S Act do not apply at these locations when all accommodations, facilities, or services in such areas are operated by a single responsible concessioner. The proposed regulations continued with the premise that the R-S Act priority to operate a vending facility would apply to the NPS and NASA properties but clarified that if these agencies provide visitor services through an establishment that meets the definition of "vending facility" the R-S Act priority applies. Commenters expressed concern by the proposed exemption from the Randolph-Sheppard priority when services that meet the definition of a vending facility are combined with other visitor services that do not meet that definition. Other commenters stated they support removing the current exemption permitted by NASA and the NPS (i.e., visitor services operated by a single concessioner) so that their

properties are treated the same as all other Federal properties. The proposed rule also added a severability clause, but the Department did not receive any comments relating to that provision.

Withdrawal of the Notice of Proposed Rulemaking

We appreciate the feedback that the Department received in response to the NPRM. In light of the concerns raised by commenters in opposition and the additional burden these regulations would create, the Department is withdrawing the NPRM published in the **Federal Register** at 90 FR 2550 on January 10, 2025. Withdrawal of the NPRM does not preclude the Department from issuing rulemaking on this subject in the future or commit the Department to any future course of action.

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Linda E. McMahon,
Secretary of Education.

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