

and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 3E4230/R2189] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 3E4230/R2189], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must

determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 16, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

#### **PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding new § 180.1160, to read as follows:

#### **§ 180.1160 Jojoba oil; exemption from the requirement of a tolerance.**

The insecticide and spray tank adjuvant jojoba oil is exempted from the requirement of a tolerance in or on all raw agricultural commodities when applied at the rate of 1.0% or less of the final spray in accordance with good agricultural practices, provided the jojoba oil does not contain simmondsin, simmondsin-2-ferulate, and related conjugated organonitriles including demethyl simmondsin and didemethylsimmondsin.

[FR Doc. 96-1211 Filed 1-24-96; 8:45 am]

BILLING CODE 6560-50-F

#### **GENERAL SERVICES ADMINISTRATION**

#### **41 CFR Part 101-20**

[FPMR Amendment D-94]

RIN 3090-AF90

#### **Tobacco Vending**

**AGENCY:** General Services Administration.

**ACTION:** Final rule.

**SUMMARY:** General Services Administration's Appropriations Act, Public Law 104-52, Section 636, referred to as the "Prohibition of Cigarette Sales to Minors in Federal Buildings and Land Act," requires the Administrator of General Services to promulgate regulations that prohibit the sale of tobacco products in vending machines and the distribution of free samples of tobacco products in Government-owned and leased space under the custody and control of the GSA. GSA intends to have tobacco-product vending machines removed from Government property.

**EFFECTIVE DATE:** January 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dan Shipley, (202) 501-1968.

**SUPPLEMENTARY INFORMATION:** The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

The Paperwork Reduction Act does not apply because the revisions do not impose record keeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under U.S.C. 3501, *et seq.* This rule is not required to be published in the Federal Register for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

**List of Subjects in 41 CFR Part 101-20**

Concessions, Federal buildings and facilities, Government property management.

For the reasons set forth in the preamble, 41 CFR part 101-20 is amended as follows:

**PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS**

1. The authority citation for Part 101-20 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c))

**Subpart 101-20.2—Vending Facility Program for Blind Persons**

2. Section 101-20.109 is amended by adding paragraph (d) to read as follows:

**§ 101-20.109 Concessions.**

\* \* \* \* \*

(d) Public Law 104-52, Section 636, prohibits the sale of tobacco products in vending machines in Government-owned and leased space under the custody and control of GSA. The Administrator of GSA or the head of an Agency may designate areas not subject to the prohibition, if the area prohibits minors and reports are made to the appropriate committees of Congress.

2. Section 101-20.204 is amended by revising paragraph (c)(3) to read as follows:

**§ 101-20.204 Terms of permit.**

\* \* \* \* \*

(c) \* \* \*

(3) Articles sold at vending facilities operated by blind licensees may consist of newspapers, periodicals, publications, confections, tobacco products, foods, beverages, chances for any lottery authorized by State law and conducted by an agency of a State within such State, and other articles or services as are determined by the State licensing agency, in consultation with GSA to be suitable for a particular location. Such articles and services may be dispensed automatically or manually and may be prepared on or off the premises. Public Law 104-52, Section 636, prohibits the sale of tobacco products in vending machines in Government-owned and leased space under the custody and control of GSA.

3. Section 101-20.309 is revised to read as follows:

**§ 101-20.309 Posting and distributing materials.**

(a) Public Law 104-52, Section 636, prohibits the distribution of free samples of tobacco products in or around Federal buildings.

(b) Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101-20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers is prohibited, except in the public areas of the property as defined in § 101-20.003(z), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the building manager under Subpart 101-20.4 and shall conduct distribution in accordance with the provisions of Subpart 101-20.4. Failure to comply with those provisions is a violation of these regulations.

Dated: January 5, 1996.

Roger W. Johnson,

*Administrator of General Services.*

[FR Doc. 96-1088 Filed 1-24-96; 8:45 am]

BILLING CODE 6820-23-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Office of Inspector General****42 CFR Part 1001**

RIN 0991-AA69

**Medicare and State Health Care Programs: Fraud and Abuse; Safe Harbors for Protecting Health Plans**

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Final rule.

**SUMMARY:** In accordance with section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, this final rule sets forth various standards and guidelines for safe harbor provisions designed to protect certain health care plans, such as health maintenance organizations and preferred provider organizations, under the Medicare and State health care programs' anti-kickback statute. These safe harbor provisions were originally published in the Federal Register on November 5, 1992 in interim final form. In response to the various public comments received, this final rule revises and clarifies various aspects of that earlier rulemaking.

**EFFECTIVE DATE:** This rule is effective on January 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Linda Grabel or Tom Hoffman, Office of the General Counsel, (202) 619-0335

Joel Schaer, Office of Inspector General, (202) 619-3270.

Please send comments regarding the paperwork reduction and information collection requirements discussed in section IV.B. of this preamble in writing to: Joel Schaer, Regulations Officer, Office of Inspector General, Room 5550 Cohen Building, 330 Independence Avenue SW., Washington, D.C. 20201.

**SUPPLEMENTARY INFORMATION:****I. Background**

On November 5, 1992, we published an interim final rule with comment period establishing two new safe harbors, and amending one existing safe harbor, to provide protection for certain health care plans, such as health maintenance organizations (HMOs) and preferred provider organizations (PPOs) (57 FR 52723). The first new safe harbor provision, set forth in § 1001.952(l), protects certain incentives to enrollees (including waiver of coinsurance and deductible amounts) paid by health care plans. The second new provision, set forth in § 1001.952(m), protects certain negotiated price reduction agreements between health care plans and contract health care providers. In addition, the existing safe harbor addressing the waiver of beneficiary coinsurance and deductible amounts, codified in § 1001.952(k), was amended to protect certain agreements entered into between hospitals and Medicare SELECT insurers.

These safe harbors set forth various standards and guidelines that, if met, allow specific business arrangements and payment practices of certain health care plans *not* to be treated as criminal offenses under section 1128B(b) of the Social Security Act (the Act) and *not* to serve as a basis for a program exclusion under section 1128(b)(7) of the Act. As with the other safe harbor provisions codified in § 1001.95 of the regulations, these new safe harbors placed no affirmative obligation on any individual or entity.

Although the regulations were issued in final form and became effective on their date of publication, we indicated in the preamble of that November 5, 1992 document that we were allowing a 60-day public comment period during which time interested parties could submit comments and concerns regarding these safe harbors. An additional 60-day extension to the public comment period was published in the Federal Register on January 7, 1993 (58 FR 2989).