provision concerning schools and playgrounds.

These labeling and advertising requirements are an effort to control the proliferation of promotional messages that attract young people. As discussed above, advertising and promotion can play a significant role in young people's smoking behavior. The agency finds that restricting the permissible forms of media would help prevent young people from starting to use cigarettes and smokeless tobacco products and becoming addicted to those products. Proposed § 897.30 (a) would describe the range of known labeling and advertising media currently used by cigarette and smokeless tobacco product companies.

It is important to note that the proposal would not affect any other limitations on labeling or advertising, such as the radio and television advertising bans placed on cigarette and smokeless tobacco product advertising (the Cigarette Act, 15 U.S.C. 1331, 1334 and the Smokeless Act, 15 U.S.C. 4401, 4402(f)) nor any other actions taken by Federal agencies (e.g., FTC's "Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986," 16 CFR Part 307 (1994)).

- c. Proposed § 897.32—format and content requirements for labeling and advertising. Proposed § 897.32 would describe the format and content requirements for cigarette and smokeless tobacco product labeling and advertising. This section would establish requirements in three principal areas: text-only format, the product's established name, and a brief statement of the risks of using cigarettes.
- i. Text-only advertising. The agency considered various options available to control advertising's influence on young people, from a full ban on all advertising and promotion, to restrictions on advertising and promotional practices that children actually view. FDA's proposed rule would address the need to eliminate advertising's influence on young people and, at the same time, preserve advertising's informative aspects—that is, to provide useful information to consumers legally able to purchase these products. Therefore, the agency agrees with the IOM's recommendation that advertising and labeling should appear in text-only format because this format would reduce the attraction and appeal that cigarette and smokeless tobacco product advertising have for young people. Recognizing that it is difficult to draw the line between advertising that should be restricted or regulated and advertising that does not pose an unreasonable risk of influencing

young people, the agency requests comment on the appropriateness of the proposed regulations and whether other alternatives would be more appropriate or effective.

Under proposed § 897.32(a), cigarette and smokeless tobacco product labeling and advertising, as described in § 897.30 (a), and (b), would be required to use black text on a white background and nothing else. This text-only requirement is intended to reduce the appeal of cigarette and smokeless tobacco product labeling and advertising to persons younger than 18 without affecting the informational message conveyed to adults.

However, FDA believes that advertising in publications that are read primarily by adults should be allowed to use imagery and color because the effect of such advertising on young people would be nominal. Therefore, advertisements in publications with primarily adult readership would not be restricted to a text-only format. The agency proposes to define such publications as those: (a) Whose readers age 18 or older constitute 85 percent or more of the publication's total readership, or (b) that is read by two million or fewer people under age 18, whichever method results in the lower number of young people. The readership of a publication is the total number of people that read any given copy of that publication. It should be measured according to industry standards and at a minimum by asking a nationally projectable survey of people what publications they read or looked at during any given time. A reader is one who said that he/she read the last issue of a publication. Prior to disseminating advertising containing images and colors, it would be the company's obligation to establish that the publication meets the criteria for a primarily adult readership.

The concept of text-only advertising requirements is not new. The cigarette industry has employed text-only advertisements in the past, particularly when it sought to inform or educate consumers about company policies or important issues. See, e.g., "In the Matter of R.J. Reynolds Tobacco Co.," 111 F.T.C. 539 (D. 9206) (1988) (a textonly advertisement that disputed that cigarette smoking was related to coronary heart disease); "Washington Post," October 18, 1994, at p. A11; "Washington Post," October 20, 1994, at p. A17; ''Time,'' 144(19): 42(1994) (Philip Morris text-only advertisement which discussed environmental tobacco smoke); "Tobacco Control and Marketing: Hearings Before the Subcommittee on Health and the

Environment of the House Committee on Energy and Commerce," R.J. Reynolds, to the Honorable Edolphus Towns (Reynolds' text-only advertisement about youth smoking).

Several studies show how strongly images appeal to young people. Photographs, pictures, cartoons, and other graphics allow the advertiser to encode its sales message in a way that makes the advertisement more compelling and memorable. 191 Imagery ties the products to a positive visual image that can be used consistently in all advertising media as well as on the product package itself. 192

Adding visual images to a text advertisement can produce greater recall and a more positive product rating. ¹⁹³ Not surprisingly, studies have shown that children and adolescents react more positively to advertising with pictures and other depictions than to advertising (or packaging) that contains only print or text. ¹⁹⁴

One study examined 243 seventh and eighth grade students in Chicago to determine the appeal (likability) of different types of cigarette advertising. The study compared a Joe Camel advertisement, an advertisement with a model, and a text-only advertisement. The results indicated that adolescents found advertisements containing pictures and cartoons to be significantly more appealing than advertisements with human models; advertisements with any imagery were more appealing than text-only advertisements. These results are particularly compelling because a study by the Advertising Research Foundation found that an advertisement's "likability" is the best predictor of product sales. 195

In arriving at its proposal, FDA considered other options, including banning all advertising or restricting the type of imagery used. 196 FDA believes that the evidence detailed above would justify a ban on all or most advertising and promotion of tobacco products. The studies cited and industry statements and actions already discussed in this proposal indicate the positive effect that advertising can have on young people's smoking behavior, while other studies establish that bans on cigarette advertising can help reduce overall consumption and youth initiation. Given the extremely grave health consequences of a lifetime of smoking, actions taken that would help achieve a lower initiation rate among young people would be authorized as a matter of law and justified as a matter of public health policy.

Moreover, young people are currently exposed to billions of dollars worth of tobacco advertising and promotion that