(b) The cigarette or smokeless tobacco product shall be provided to the person purchasing the product by the retailer or by an employee of the retailer, without the assistance of any electronic or mechanical device (such as a vending machine or remove-operated machine); and

(c) The retailer or an employee of the retailer shall not break or otherwise open any cigarette package or smokeless tobacco product to sell or distribute individual cigarettes or number of cigarettes or any quantity of cigarette tobacco or of a smokeless tobacco product that is smaller than the quantity in the unopened product.

§ 897.16 Conditions of manufacture, sale, and distribution.

(a) *Restriction on product names.* A manufacturer may not use a trade or brand name of a nontobacco product as the trade or brand name for a cigarette or smokeless tobacco product, except for tobacco products on which a trade or brand name of a nontobacco product was in use on January 1, 1995.

(b) *Minimum cigarette package size.* No manufacturer, distributor, or retailer shall sell or cause to be sold, distribute or cause to be distributed, any cigarette package that contains fewer than 20 cigarettes.

(c) Vending machines, self-service displays, mail-order sales, and other "impersonal" modes of sale. Cigarettes and smokeless tobacco products may be sold only in a direct, face-to-face exchange between the retailer and the consumer. Examples of methods of sale that are not permitted include, but are not limited, vending machines, selfservice displays, mail-order sales, and mail-order redemption of coupons.

(d) *Free samples.* Manufacturers, distributors, and retailers may not distribute or cause to be distributed any free samples of cigarettes or smokeless tobacco products.

Subpart C—Labels and Educational Programs

§ 897.24 Established names for cigarettes and smokeless tobacco products.

Each cigarette or smokeless tobacco product package, carton, box, or container of any kind that is offered for sale, sold, or otherwise distributed shall bear the following established name: "Cigarettes", "Cigarette Tobacco", "Loose Leaf Chewing Tobacco", "Plug Chewing tobacco", "Twist Chewing Tobacco", "Moist Snuff", or "Dry Snuff", whichever name is appropriate.

§ 897.29 Educational programs concerning cigarettes and smokeless tobacco products.

(a) Each manufacturer shall establish and maintain an effective national public educational program to discourage persons under 18 years of age from using cigarettes and smokeless tobacco products. The major portion of this program must appear on television.

(b) Each manufacturer shall allocate an amount for the educational program that is proportionate to its share of the total advertising and promotional expenditures for the most recent year reported by all manufacturers to the Federal Trade Commission pursuant to the Federal Cigarette Labeling and Advertising Act or the Comprehensive Smokeless Tobacco Health Education Act. The Total amount to be spent shall be \$150,000,000 per year.

Subpart D—Labeling and Advertising

§897.30 Scope of permissible forms of labeling and advertising.

(a) This subpart does not apply to cigarette or smokeless tobacco product package labels. A manufacturer, distributor, or retailer may distribute or cause to be distributed:

(1) Advertising which bears the cigarette or smokeless tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification only in newspapers; in magazines; in periodicals or other publications (whether periodic or limited distribution); on billboards, posters, an placards in accordance with paragraph (b) of this section; and in nonpoint of sale promotional material (including direct mail); and

(2) Labeling which bears the cigarette or smokeless tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification only in point of sale promotional material; audio and/or video formats delivered at a point of sale; and on entries and teams in sponsored events.

(b) No outdoor advertising, including but not limited to billboards, posters, or placards, may be placed within 1,000 feet of any playground, elementary school or secondary school.

§897.32 Format and content requirements for labeling and advertising.

(a) Each manufacturer, distributor, and retailer advertising or causing to be advertised, disseminating or causing to be disseminated, labeling and advertising permitted under § 897.30 shall use only black text on a white background. This section shall not apply to advertising appearing in adult newspapers, magazines, periodicals, or other publications (whether periodic or limited distribution). For the purposes of this section, an adult newspaper, magazine, periodical, or publication, as measured by competent and reliable survey evidence, is any newspaper, magazine, periodical, or publication:

(1) Whose readers aged 18 years or older constitute 85 percent or more of the total readership, and

(2) That is read by fewer than 2 million persons under age 18.

(b) Each manufacturer, distributor, and retailer advertising or causing to be advertised, disseminating or causing to be disseminated, advertising, but not labeling, permitted under § 897.30(a). shall include, as provided in section 502 of the Federal Food, Drug, and Cosmetic Act, the product's established name and a statement of its intended use as follows: "Cigarettes-A Nicotine-Delivery Device", "Cigarette Tobacco-A Nicotine-Delivery Device", or "Loose Leaf Chewing Tobacco", "Plug Chewing Tobacco", "Twist Chewing Tobacco", "Moist Snuff" or "Dry Snuff" whichever is appropriate for the product, followed by the words "A Nicotine-Delivery Device"

(c) Each manufacturer, distributor, and retailer of cigarettes shall include, in all advertising, but not labeling, permitted under § 897.30(a), a brief statement, such as the one specified below, printed in black text on a white background:

About one out of three kids who become smokers will die from their smoking.

(d) The statement required under paragraph (c) of this section shall be readable, clear, conspicuous, prominent, and contiguous to the Surgeon General's warning.

§ 897.34 Sale and distribution of nontobacco items and services, contests and games of chance and sponsorship of events.

(a) No manufacturer, distributor, or retailer shall market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold any item or service (other than cigarettes or smokeless tobacco products), which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification similar or identifiable to those used for cigarettes or smokeless tobacco products.

(b) No manufacturer, distributor, or retailer shall offer or cause to be offered any gift or item, or the right to participate in any contest, lottery, or