

to the extent consistent with their employment and educational commitments.

The Office of Community Oriented Policing Services is adopting the interim rule as final without change.

The Catalog of Federal Domestic Assistance Number for the Police Corps is 16.712.

Administrative Requirements

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Office of Community Oriented Policing Services has determined that this final rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and, accordingly, this final rule has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Director, Office of the Police Corps and Law Enforcement Education, Office of Community Oriented Policing Services, in accordance with the Regulatory Flexibility Act, codified at 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This final rule builds upon the statutory outline of a program providing scholarships and educational assistance to individuals in exchange for a commitment to serve as a law enforcement officer for four years, and the award of such scholarships or assistance imposes no requirements on small businesses or other small entities.

Paperwork Reduction Act

Information collection associated with this regulation has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995. The OMB control number for this collection is 1103-0035.

List of Subjects in 28 CFR Part 92

Law enforcement officers, Scholarships and fellowships, Student aid.

Accordingly, the interim rule adding 28 CFR part 92, which was published in the Federal Register on September 24, 1996, at 61 FR 49971, is adopted as a final rule without change.

Dated: December 19, 1996.

Joseph E. Brann,

Director.

[FR Doc. 96-33294 Filed 12-30-96; 8:45 am]

BILLING CODE 4410-AT-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 244 and 245

[FRL-5670-6]

Solid Waste Programs; Management Guidelines for Beverage Containers and Resource Recovery Facilities Guidelines; Removal of Obsolete Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is removing from the Code of Federal Regulations (CFR) two guidelines pertaining to solid waste management which are obsolete. The activities addressed in these 1976 guidelines have been included in numerous state and local statutes and regulations and other Federal rules, or have been superseded by such Presidential actions as Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention." Deleting these guidelines from the CFR will have no measurable impact on solid waste management.

In the proposed rules section of today's Federal Register, EPA is proposing to withdraw Parts 244 and 245 from Title 40 of the CFR. The accompanying proposal incorporates the contents of this direct final rule. If adverse comments are received on that notice of proposed rulemaking, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule. No additional opportunity for public comment will be provided.

DATES: This final rule will be effective on March 3, 1997 unless EPA receives adverse comments on the accompanying proposal within January 30, 1997. If such adverse comment is received, EPA will withdraw this direct final rule, and provide timely notice in the Federal Register.

ADDRESSES: Written comments (one original and two copies) should reference docket number F-96-MRBF-FFFFF and be addressed to: RCRA Docket and Information Center (RIC), Office of Solid Waste (5305W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Supporting docket materials can be viewed at and hand deliveries of comments can be made to the following address: Crystal Gateway I, first floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page.

FOR FURTHER INFORMATION CONTACT:

Deborah Gallman, (703) 308-7276, U.S. EPA, Office of Solid Waste and Emergency Response, 401 M Street, S.W., (5306W), Washington, D.C. 20460, or the RCRA Hotline, phone (800) 424-9346 or TDD (800) 553-7672 (hearing impaired) or (703) 412-9810 or TDD (703) 412-3323 in the Washington, D.C., metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being issued under the authority of sections 1008, 2002, 6001, and 6004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6961.

II. Introduction

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of all its rules, including rules issued under the Resource Conservation and Recovery Act (RCRA). Based on that review, EPA is today withdrawing parts 244 and 245 from the CFR. In addition to the removal of parts 244 and 245, the EPA of Office of Solid Waste and Emergency Response identified a number of other rules that were obsolete as a matter of law or policy, and rules that needed clarifications in order to make certain provisions easier to read and understand. EPA has already published rules to address this (see 60 FR 33912 and 61 FR 18501) and plans to publish additional actions to further eliminate unnecessary rules and clarify others as appropriate. The Office of Solid Waste and Emergency Response intends to continue to evaluate its regulations to determine if they can be further simplified or streamlined.

III. Obsolete Guidelines

A. 40 CFR Part 244—Solid Waste Management Guidelines for Beverage Containers

On September 21, 1976, EPA issued guidelines for reducing beverage container waste. The guidelines, published in 40 CFR Part 244, were mandatory for Federal facilities and recommended for adoption by state and local governments and private agencies. These guidelines were intended to achieve a reduction in beverage container solid waste and litter, resulting in savings in waste collection and disposal costs to the Federal government. They were also intended to achieve the conservation and more efficient use of energy and other resources through the development of effective beverage distribution and container collection systems. The guidelines would achieve these goals by making all beverage containers on Federal facilities returnable and by encouraging reuse or recycling of the returned containers. To accomplish the return of a beverage container, a deposit of at least five cents on each returnable beverage container was to be paid upon purchase by the consumer and refunded to the consumer. The guidelines allowed Federal agencies not to implement the provisions in various situations where the requirements were not practical.

When these guidelines were promulgated in 1976, there were few other requirements for recycling beverage containers or other materials. Since then, Federal agencies have met the challenge of recycling by implementing, in-house or by contract, programs for collection of a number of recyclable materials, including beverage containers. Many state and local governments now require or encourage such collection programs. Under RCRA Section 6001, Federal facilities must meet such municipal or state recycling requirements. Furthermore, in 1993, President Clinton issued Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention." Section 705 of the Executive Order requires each Executive agency that has not already done so to initiate a program to promote cost effective waste prevention and recycling of reusable materials at all of its facilities. Recycling programs implemented pursuant to Section 705 must be compatible with applicable state and local governments to promote recycling and waste reduction in the community.

During the first year after E.O. 12873 was signed, many Federal departments and agencies implemented or expanded

recycling programs. To make this effort more efficient, the General Services Administration (GSA) provides contracts for collection of recyclables in many Federal offices. For more information on Federal collection programs and examples of agency accomplishments, see the docket to this rule.

With the implementation of RCRA Section 6001, E.O. 12873, and state and local recycling collection mandates and programs, there is no longer a need for separate guidelines for Federal facilities on beverage containers. Indeed, these other requirements establish a more comprehensive and integrated recycling program. Therefore, EPA is withdrawing 40 CFR Part 244.

B. 40 CFR Part 245—Resource Recovery Facilities Guidelines

On September 21, 1976, EPA issued guidelines for resource recovery facilities that were applicable to the recovery of resources from residential, commercial, or institutional solid wastes. The guidelines delineated minimum actions for Federal agencies for planning and establishing resource recovery facilities. Resource recovery facilities were defined in the guidelines as "any physical plant that processes residential, commercial, or institutional solid wastes biologically, chemically, or physically, and recovers useful products, such as shredded fuel, combustible oil or gas, steam, metal, glass, etc. for recycling." In addition, the guidelines included recommended actions for state, interstate, regional, and local governments. These guidelines applied to all Federal agencies with jurisdiction over any real property or facility, the operation or administration of which involved such agency in residential, commercial, or institutional solid waste disposal activities either in-house or by contract. Federal land that was used solely for the disposal of non-Federal solid waste was not considered real property or a facility for the purpose of these guidelines.

Since the promulgation of Part 245, more comprehensive programs and guidelines have been developed to address Federal and state solid waste activities related to resource recovery facilities. For example, the 40 CFR Part 256 guidelines, promulgated in July, 1979, were developed to assist in the development and implementation of state solid waste management plans, in accordance with Section 4002(b) of the Solid Waste Disposal Act as amended by RCRA. These guidelines address the minimum requirements for approval of state plans, including resource recovery programs, facility planning and

implementation. In particular, Section 256.30 requires that state plans address policies and strategies for resource recovery, conservation activities, and local government contracts for the supply of solid waste to resource recovery facilities. Also, § 256.40 requires that state plans "provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner." Since the promulgation of Part 256, many states have developed Federally approved solid waste management plans, and in some cases the state requirements are more stringent than the Federal guidelines. Under RCRA section 6001 Federal facilities must comply with such state resource recovery requirements.

The activities promoted under 40 CFR Part 245, dealing with recovery of resources and resource recovery facilities, are also addressed in many state and local recycling programs mentioned above and in many comprehensive statewide solid waste management laws enacted since 1976. These laws and programs provide a more integrated framework for resource recovery facilities than 40 CFR Part 245 does. Since 40 CFR Part 256 and related state and local laws incorporate the older Part 245 requirements for facility planning and implementation for resource recovery programs, the guidelines in 40 CFR Part 245 are considered obsolete. Accordingly, EPA is removing these resource recovery guidelines from the CFR.

IV. Analysis under Executive Order (E.O.) 12866, the Unfunded Mandates Reform Act of 1995, and the Paperwork Reduction Act

Because the withdrawal of these guidelines from the CFR reflects their current obsolescence and has no regulatory impact, this action is not a "significant" regulatory action within the meaning of E.O. 12866, and does not impose any Federal mandate on state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, their deletion from the CFR does not affect requirements under the Paperwork Reduction Act.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare, and make available for public comment, a

regulatory flexibility analysis that describes the impact of a proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities. Today's rule is deregulatory in nature. The effect of today's final rule is to remove obsolete guidelines which are mandatory only for Federal facilities. Therefore, I certify that today's rule will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

VI. Submission To Congress And The General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 244

Environmental Protection, Beverages, Government property, Recycling.

40 CFR Part 245

Government property, Recycling.

Dated: December 20, 1996.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble and under the authority of 42 U.S.C. sections 6907, 6912, 6961, and 6964, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 244—[REMOVED]

1. Part 244 is removed.

PART 245—[REMOVED]

2. Part 245 is removed.

[FR Doc. 96-32967 Filed 12-30-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 401 and 405

[BPD-869-CN]

Medicare Program; Waiver of Recovery of Overpayments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: On September 19, 1996, we published a final rule (61 FR 49269), which duplicated in HCFA's regulations the content of two sections of the Social Security Administration's (SSA) regulations concerning waiver of recovery of overpayments. Since SSA was restructuring its regulations to apply only to the Federal Old-Age, Survivors and Disability Insurance Program, we established the content of these sections in 42 CFR part 405 to preserve the content of the SSA regulations that are applicable to the Medicare Program. This notice corrects an error in the authority citation in that document.

EFFECTIVE DATE: These regulations are effective on October 21, 1996.

FOR FURTHER INFORMATION CONTACT: David Walczak, (410) 786-4475.

SUPPLEMENTARY INFORMATION: On September 19, 1996, we published a final rule (61 FR 49269) concerning waiver of recovery of overpayments. This notice corrects an error in the authority citation in that document.

On page 49271, in column one, under part 405, amendment 1, the authority citation for part 405, "Authority: Secs. 1102, 1862, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395y, and 1895hh)." is corrected to read, "Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), and sec. 353 of the Public Health Service Act (42 U.S.C. 263a), unless otherwise noted."

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 19, 1996.

Michael W. Carleton,

Acting Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 96-33090 Filed 12-30-96; 8:45 am]

BILLING CODE 4120-01-P

42 CFR Parts 417 and 434

[OMC-010-F]

RIN 0938-AF74

Medicare and Medicaid Programs; Requirements for Physician Incentive Plans in Prepaid Health Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations established by a March 27, 1996, final rule with comment period. The regulations govern physician incentive plans operated by Federally-qualified health maintenance organizations and competitive medical plans contracting with the Medicare program, and certain health maintenance organizations and health insuring organizations contracting with the Medicaid program.

As explained in the March 27 rule, the provisions of this final rule will also have an effect on certain entities subject to the physician referral rules in section 1877 of the Social Security Act.

DATES: *Effective date.* These regulations are effective on January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Beth Sullivan, (410) 786-4596.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Prepaid health care organizations, such as health maintenance organizations (HMOs), competitive medical plans (CMPs), and health insuring organizations (HIOs) are entities that provide enrollees with comprehensive, coordinated health care in a cost-efficient manner. The goal of prepaid health care delivery is to control health care costs through preventive care and case management and provide enrollees with affordable, coordinated, quality health care services. Titles XVIII and XIX of the Social Security Act (the Act) authorize contracts with prepaid health care organizations (hereinafter referred to as "organizations" or "prepaid plans") for the provision of covered health services to Medicare beneficiaries and Medicaid recipients, respectively. Such organizations may contract under either a risk-based or cost-reimbursed contract.

B. Medicare

Section 1876 of the Act authorizes the Secretary to enter into contracts with eligible organizations (HMOs that have been Federally qualified under section