

**ADDRESSES:** Submit written comments and requests for single copies of the report to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Comments and requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. Copies of the document will be available at cost from the Freedom of Information Staff (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857. The report and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday thru Friday.

**FOR FURTHER INFORMATION CONTACT:** Mary M. Bender, Center for Food Safety and Applied Nutrition (HFS-165), Food and Drug Administration, 200 C St., SW, Washington, DC 20204, 202-205-5592.

**SUPPLEMENTARY INFORMATION:** The 1990 amendments amended the Federal Food, Drug, and Cosmetic Act (the act) to require, among other things, that under section 403(q)(4) of the act (21 U.S.C. 343 (q)(4)), FDA: (1) Identify the 20 most frequently consumed raw fruits, vegetables, and fish in the United States; (2) establish guidelines for the voluntary nutrition labeling of these raw fruits, vegetables, and fish; and (3) issue regulations that define "substantial compliance" with respect to the adherence by food retailers with those guidelines. In the **Federal Register** of July 2, 1991 (56 FR 30458), FDA responded to those requirements by a proposal, and, in the **Federal Register** of November 27, 1991 (56 FR 60880), the agency published a final rule on the nutrition labeling of raw fruits, vegetables, and fish (corrected on March 6, 1992 (57 FR 8174)).

FDA listed the 20 most frequently consumed raw fruits, vegetables, and fish in 21 CFR 101.44. In 21 CFR 101.45, FDA set forth guidelines on nutrition labeling for these foods. Under these guidelines, nutrition labeling information may be provided within the retail departments where raw fruits, vegetables, and fish are sold. Information may be made available in signs, posters, brochures, notebooks, or leaflets and may be supplemented by video, live demonstration, or other media.

In § 101.43 (21 CFR 101.43), FDA defined substantial compliance to mean that at least 60 percent of the food retailers sampled in a representative survey provide nutrition labeling

information (as specified in the guidelines) for at least 90 percent of the foods that they sell that are included on the listing of the most frequently consumed raw fruits, vegetables, and fish. FDA said that it would make separate determinations of substantial compliance for raw fruits and vegetables collectively and for raw fish (§ 101.43(a)).

Section 403(q)(4)(C)(ii) of the act states that if substantial compliance is achieved by food retailers, FDA is to reassess voluntary labeling compliance every 2 years. The act also states that if substantial compliance is not achieved, FDA is to propose to require that nutrition information be provided by any person who offers raw fruits and vegetables or raw fish to consumers (section 403(q)(4)(D)(i) of the act).

In the **Federal Register** on May 18, 1993 (58 FR 28985), FDA announced the availability of a report that found that there was substantial compliance under the standard established in § 101.43 by food retailers in the provision of nutrition labeling information for raw fruits, vegetables, and fish. Aggregate percentages (i.e., percentages over all stores sampled) for both raw fruits and vegetables and for raw fish showed that approximately three-fourths of the retail food stores surveyed provided the voluntary nutrition information.

Because substantial compliance was achieved in 1993, section 403(q)(4)(C)(ii) of the act required that FDA reassess voluntary labeling compliance and issue a report in 1995. FDA is now announcing that this reassessment has been done. The results of that reassessment are set forth in the report, "Food and Drug Administration Nutrition Labeling Information Study, Raw Fruits/Vegetables and Raw Fish." Based upon the results of this study that was conducted under contract, FDA once again concludes that substantial compliance by food retailers in providing nutrition labeling information for raw fruits, vegetables, and fish has been met. On a store count basis, three-fourths (75.3 percent for raw produce and 75.4 percent for raw fish) of the sampled stores selling raw fruits, vegetables, and fish provided nutrition labeling information in the departments where the raw foods are sold.

Data were also reported on an all commodity volume (ACV) basis. ACV data are weighted estimates that represent annual store sales volumes and reflect the percent of the market serviced. ACV data approximate more representatively than store counts, the percent of the population exposed to the nutrition labeling information. ACV

values were slightly higher than those for sampled store counts.

For raw fruits/vegetables, stores in compliance account for 81.4 percent of the annual sales of all food stores, and for raw fish, stores in compliance account for 76.8 percent of the annual sales of all food stores. These data may be interpreted as evidencing that over three-fourths of U.S. consumers are exposed to nutrition labeling information for raw fruits, vegetables, and fish because they shop in retail food stores that provide the labeling. Because many consumers shop in more than one store, the actual level of consumer exposure is most likely to be even higher.

FDA will again survey retail stores in 1997 to determine whether substantial compliance in the provision of voluntary labeling information for raw fruits, vegetables, and fish continues to exist. If at that time substantial compliance is not met, the agency will propose to modify § 101.43 to make the program mandatory.

Dated: May 1, 1995.

**William B. Schultz,**

*Deputy Commissioner for Policy.*

[FR Doc. 95-11119 Filed 5-4-95; 8:45 am]

BILLING CODE 4160-01-F

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## Office of the Secretary

### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

*Terence S. Herman, M.D., Harvard Medical School:* The Division of Research Investigations (DRI) of the Office of Research Integrity (ORI) reviewed an investigation conducted by Harvard Medical School into possible scientific misconduct on the part of Dr. Herman while he was an employee of that institution. ORI concurred with the factual findings as set forth in the institution's report, and finds that Dr. Herman committed scientific misconduct by falsely reporting in a published article that research had been conducted according to a stated protocol when, in fact, Dr. Herman knew at the time that the protocol for tumor measurements had not been carried out exactly as described. The research was supported by grant awards from the National Cancer Institute and the National Center for Research Resources, National Institutes of Health.

Dr. Herman accepted the misconduct finding as part of a Voluntary Settlement Agreement under which, for a period of three years, an institution which submits an application for PHS support for a clinical research project on which his participation is proposed or which uses him in any capacity on PHS supported clinical research must concurrently submit a plan for supervision of his duties. The supervisory plan must be designed to ensure the scientific integrity of Dr. Herman's research contribution. Dr. Herman also is prohibited from serving on any Public Health Service advisory committee, board, and/or peer review committee for a period of three years. He has agreed to submit a letter to the *International Journal of Radiation Oncology, Biology, Physics* requesting retraction of that portion of the article dealing with tumor response (Herman, et al., A Phase I-II Trial of Cisplatin, Hyperthermia and Radiation in patients with Locally Advanced Malignancies. *Int. J. Radiation Oncology Biol. Phys.* 17:1273-1278; 1989).

**FOR FURTHER INFORMATION CONTACT:**  
Director, Division of Research Investigations, Office of Research Integrity, 301-443-5330.

**Lyle W. Bivens,**

*Director, Office of Research Integrity.*

[FR Doc. 95-11118 Filed 5-4-95; 8:45 am]

BILLING CODE 4160-17-M

## Public Health Service

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Report Clearance on (202) 690-7100.

The following requests have been submitted for review since the list was last published on April 28.

1. Application for Participation in the National Health Service Corps Scholarship Program—0915-0146—Extension, no change—This request for a two-year extension, no change, of the approval for the application form used by students to apply for scholarship support. During the next year, proposed changes to the application form will be pilot tested. Changes to the form will be submitted for OMB approval late in 1996. Respondents: Individuals or households; Number of Respondents: 5,000; Number of Responses per Respondent: 1; Average Burden per

Response: 1 hour; Estimated Annual Burden: 5,000 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737-F, Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

2. Surveillance of Hazardous Substances Emergency Event—0923-0008—Extension, no change—To protect the public's health, ATSDR has established a national surveillance system which describes the impact of hazardous substances emergencies on the public's health. The information is used to examine the distribution of hazardous substance emergencies, describe the type and cause of morbidity and mortality of those affected, and develop strategies to reduce subsequent morbidity and mortality. Respondents: Individuals or households; Number of Respondents: 16; Number of Responses per Respondent: 357; Average Burden per Response: 1 hour; Estimated Annual Burden: 5,593 hours. Send comments to Shannah Koss, Human Resource and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

3. CMHC Construction Grantee Checklist—0930-0104—Revision—To ensure that Community Mental Health Center (CMHC) facilities built with Federal assistance provide mental health services for a 20-year period as required, the Center for Mental Health Services will: (1) survey the universe of CMHC construction grantees actively fulfilling their 20-year service obligation and (2) utilize survey results to determine appropriate follow up, e.g., waivers, recovery activities.

Respondents: Not-for-profit institutions; Number of Respondents: 295; Number of Responses per Respondent: 1; Average Burden per Response: .33 hour; Estimated Annual Burden: 97 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737-F, Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

4. Assessment of Work-Related Musculoskeletal Disorders in the Retail Food Industry—New—Work-Related Musculoskeletal Disorders among grocery cashiers have risen drastically since the introduction of the laser scanner. NIOSH investigators and other experts in ergonomics believe that certain checkstand features are more likely to impose substantial biomechanical stresses on cashiers than others. However, little research has been conducted to identify those activities and related postures of checking that contribute to the increased prevalence of WMD in this group of workers. The data collected in this study will be used

to develop interventions to reduce WMD among grocery checkers, including redesign of checkstands and development of better training courses. Respondents: Individuals or households; Number of Respondents: 1,000; Number of Responses per Respondent: 1; Average Burden per Response: 1.71 hours; Estimated Annual Burden: 1,710 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

5. National Sample Survey of Registered Nurses VI—New—Current national data on employment and practice of registered nurses are needed to assess the current supply and project the future availability of nurses. This proposed project will provide detailed statistics on the registered nurse population needed to prepare the mandated Secretary's Report to Congress. Respondents: Individuals or households; Number of Respondents: 41,000; Number of Responses per Respondent: 1; Average Burden per Response: .33 hour; Estimated Annual Burden: 13,530 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: April 27, 1995.

**James Scanlon,**

*Director, Data Policy Staff, Office of the Assistant Secretary for Health and PHS Reports Clearance Officer.*

[FR Doc. 95-10910 Filed 5-4-95; 8:45 am]

BILLING CODE 4160-01-M

## Substance Abuse and Mental Health Services Administration

### Supplemental Awards to Current High Risk Youth Demonstration Program Grantees

**AGENCY:** Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

**ACTION:** Correction notice.

**SUMMARY:** Public notice was given in the **Federal Register** on April 17, 1995, Volume 60, No. 73, pages 19276-19277, of the availability of supplemental funds to demonstrate the differential effectiveness of incorporating an HIV/AIDS prevention curriculum into an on-