

OMB Control No. 0910-0130
Docket Number 01N-0132
September 21, 2001

Supporting Statement for
PROTECTION OF HUMAN SUBJECTS
RECORDKEEPING REQUIREMENTS
FOR INSTITUTIONAL REVIEW BOARDS

1. Circumstances Necessitating Recordkeeping

The Food and Drug Administration is requesting approval from the Office of Management and Budget (OMB) for the following information collection requirements:

21 CFR 56.115 -- Recordkeeping (Attachment A)

This section specifies the types of records to be maintained by institutional review boards (IRBs) which could be subject to review by an FDA field investigator.

The independent review groups are called Institutional Review Boards (IRBs) or Institutional Review Committees in the United States. An IRB is a group composed of members of diverse backgrounds and is charged with reviewing the ethics and risk/benefit aspects of clinical studies involving human subjects to assure that:

- (a) The rights and welfare of human subjects are adequately protected;
- (b) The methods used to obtain informed consent are adequate and appropriate;
- (c) The risks to the subject are reasonable in relation to the anticipated benefits, if any, to subjects and the importance of the knowledge that may be expected to result.

Since passage of the Drug Amendments of 1962 and other legislation such as the Medical Device Amendments of 1976, FDA has taken actions to provide additional safeguards to protect the rights and welfare of human subjects who participate in investigational trials involving articles regulated by the Agency.

IRB inspections focus on studies of FDA regulated products (drugs, biologics, and medical devices), since that is the only research over which the Agency has regulatory authority. An FDA investigator interviews appropriate institutional officials and obtains information on the policies and procedures of the institution and the IRB. Then, using one or more studies which are subject to FDA regulations, the investigator examines the IRB performance by following these studies through the review process in use at the institution. IRB procedures and membership are examined to see whether they comply with FDA regulations, and whether the Board adhered to

its own policies and procedures. The IRB must maintain documentation of its activities as provided in § 56.115. If the information were not maintained, the IRB could not show that it has fulfilled its responsibility to protect the rights and welfare of human research subjects.

The records are maintained by IRBs to document that these responsibilities have been fulfilled.

2. How, By Whom, Purpose of Recordkeeping

The investigator will copy records of IRB membership, IRB and institutional procedures and guidelines, minutes of meetings at which the studies were reviewed, and specific documents for the studies that are audited, including: the protocol, informed consent document approved by the IRB, any advertising directed at study subjects, and records of continuing review of the studies. These materials become part of the Field Investigator's report to FDA Headquarters.

3. Consideration Given to Information Technology

FDA is continuously seeking ways to reduce burden through advances in information technology. Utilization of word processing equipment and computerized IRB records management has greatly reduced the time needed to compile, arrange, and update the documentation maintained by IRBs; it has also expanded our capability to review and respond to the problems found during inspections of IRBs.

4. Identification of Information

The records to be maintained by IRBs include copies of all research proposals reviewed, approved sample informed consent documents, progress reports submitted by investigators, reports of injuries to subjects, minutes of IRB meetings, records of continuing review activities, copies of all correspondence between the IRB and investigators, a list of IRB members and their qualifications, and written procedures for the IRB.

5. Small Businesses

A substantial majority of IRB reviews are conducted at large institutions such as universities, medical schools, and research and teaching hospitals. The recordkeeping requirements do not impact a significant number of small businesses. The documentation requirements require only minimum documentation necessary for a committee to function in accord with good management practices, for FDA to conduct its inspections, and to ensure the integrity and accuracy of information submitted to the Agency in support of marketing permits. The Office of Health Affairs, FDA, has developed and widely distributed a series of 28 information sheets which were developed to assist IRBs and others concerned with the protection of research subjects to conform with the requirements contained in the FDA regulations. FDA continues to participate in regional workshops with the National Institutes of Health (NIH), the purpose of which is to describe the requirements of the FDA and DHHS

regulations. The Office of Health Affairs, FDA, in its information sheets and through its participation in workshops has continually offered its assistance to any IRB that desires it. Other FDA offices are also available to discuss any regulatory requirement and to provide clarification and direction to small businesses.

6. Less Frequent Information Collection

Recordkeeping occurs with each convened meeting of the IRB, and it is not considered feasible to conduct accurate recordkeeping on a less frequent basis.

7. Recordkeeping Circumstances

There are no special circumstances that require the information to be collected in a manner inconsistent with the guidelines set forth in 5 CFR 1320.6.

8. Consultations with Persons Outside FDA

In the Federal Register of March 30, 2001 (66 FR 17427), the agency requested comments on the proposed collection of information. There were no comment received.

Efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions, record-keeping and on the data elements to be recorded and reported have been accomplished at several Institutional Review Board Regional Conferences held nationwide each year, national conferences of IRB professional associations, and FDA national conferences on IRB issues held each of the last two years. Additionally, FDA staff frequently are contacted by IRB members and administrative staff regarding questions on the interpretation and application of the regulatory requirements. Such questions often address recordkeeping requirements and provide FDA with information on the amount of time IRBs devote to recordkeeping.

In accordance with 5 CFR 1320.8(d), on Tuesday, January 27, 1998, in Volume 63, No. 17, pages 3902-3093, a 60-day notice for public comment (Attachment B) was published in the Federal Register. Response to comments received are as follows:

Two comments were received in response to the January 27, 1998 Federal Register notice. Both comments were from major research universities and both contended that the estimate of approximately 4.5 hours person-time of recordkeeping burden per meeting was a large underestimate.

One comment asserted that production and distribution of minutes took 40 hours per meeting, and continual processing of documents received and generated by the IRB required 215 hours. It is assumed that the latter number is calculated on a per month basis, as the comment also refers to holding five IRB meetings per month. The IRB reviews approximately 2,500 active projects, and processes approximately 5,000 required documents annually. An unquantified amount of additional time is said to be devoted to maintaining member lists, written procedures and forms. The commenting university is among the top 20, or top one

percent of IRBs in terms of the number of investigational new drug (IND) studies which it has reviewed. Studies other than those under IND are undoubtedly reviewed as well, but the number of IND studies is taken to be the best available workload measure. The median number of IND studies reviewed by IRBs is approximately 10. Setting aside IRBs which have reviewed 3 or fewer IND studies, which can be considered as inactive in reviewing FDA regulated studies, the commenting university is still almost at the 99th percentile and the median number of IND studies reviewed is 15. If, as assumed, IND workload is directly proportional to overall workload across all IRBs, the commenting university's workload is 30 times that of the median IRB.

The second commenting university claimed that 124.5 hours were required for each meeting. This university is among the top 50 in terms of IND studies reviewed, and a similar analysis estimates its workload as approximately 21 times that of the median IRB.

Translating the commenting university's workload to that of the median IRB, the comments indicate a workload of, for the first university, 40 hours per meeting plus $215/5$ hours continuous activity = 81 hours per meeting for the first university. This divided by 30 = 2.7 hours per meeting of the median IRB performing at the same level of efficiency. The second university translates to 124.5 hours divided by 21, or 5.9 hours per meeting of the median IRB performing at the same efficiency. Averaged, these estimated recordkeeping workloads equal $(2.7+5.9)/2 = 4.3$ hours per meeting.

This number compares with the FDA estimate of 4.5 hours per meeting and supports the FDA estimate, rather than disputing it as the raw numbers suggest. It is undeniable that the recordkeeping burden on the commenting universities is high, but it is also true that the commenting universities have among the busiest IRBs in the nation.

9. Payment of Gift

No payment or gift is contemplated under the terms of this recordkeeping.

10. Confidentiality Provisions

The documentation obtained during IRB inspections rarely contains any sensitive or confidential information that has not been submitted to FDA (e.g., copies of research protocols which may be considered confidential and contain trade secret information). The material is kept confidential in accordance with 18 U.S.C. 1905, 21 U.S.C. 331(j), and 21 U.S.C. 520(c), as well as sections 301(j) and 520(c) of the Federal Food, Drug and Cosmetic Act.

11. Sensitive Information

The documentation maintained and collected does not contain questions pertaining to sexual behavior, attitude, religious beliefs, or any other matters that are commonly considered private or sensitive in nature. Such data are more commonly contained in behavioral

research, which FDA does not regulate. The identity of study subjects is rarely collected. Such sensitive information is treated as confidential and not released to third parties unless required by law or requested by the Chair of a Congressional committee.

12. Estimated Hour Burden

Estimated Annual Recordkeeping Burden					
21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
56.115	2,000	14.6	29,200	4.5	131,400
Total					131,400

Footnote: There are no capital costs or operating and maintenance costs associated with this collection.

13. Cost to Respondents

There are no capital costs or operating and maintenance costs associated with this collection.

14. Costs to Federal Government

The cost to the Federal Government of the IRB recordkeeping requirements results from FDA inspections and follow-up. FDA estimates that during each of the past three years, the Agency expended 28 FTEs to inspect IRBs and 8.5 FTEs to review inspection reports, issue regulatory correspondence to IRBs, and conduct related planning, evaluation, and oversight activities. The cost during FY '98 is expected to be \$2,184,525 based on an average grade level of 12 step 5, a salary of \$53,300, and an estimated \$6,550 per person year for related overhead expenses [$\$53,300 + \$6,550 = \$59,850$; $\$59,850 \times 36.5 = \$2,184,525$].

15. Reason for Change

The costs to the Federal Government have increased to reflect the higher salary and overhead expenses for GS 12-5 employees.

16. Statistical Reporting

The records maintained under this regulation are not expected to be published.

17. Display of OMB Approval Date

This request does not seek approval to exempt display of the OMB approval date on any documents that are associated with this recordkeeping requirement.

18. Exceptions to “Certification for Paperwork Reduction Act Submissions”

There are no exceptions to “Certification for Paperwork Reduction Act Submissions” for this recordkeeping requirement.