

comment. If a panel is not established or fails to file a timely report, or if the Secretary determines that it is necessary to proceed without waiting for the panel's report, the Secretary may proceed in making any determination without such report.

(d) *Other aid and assistance.* Nothing herein precludes the Secretary from obtaining advice or other aid from any person or organization including NCI, NIEHS, and NIOSH.

§ 1990.105 Advisory committees.

The Secretary may appoint an Advisory Committee, pursuant to sections 6(b) and 7 of the Act, and 29 CFR part 1912, concerning any potential occupational carcinogen. The Secretary shall require the Advisory Committee to submit its recommendations to assist the Secretary in standard setting no later than ninety (90) days from the date of the Advisory Committee's appointment, unless extended by the Secretary for exceptional circumstances. If an Advisory Committee fails to file a timely report, the Secretary may proceed in standard setting activities without such a report.

§ 1990.106 Amendments to this policy.

(a) *Initiation of review of this policy—*
 (1) *Secretary's request.* No later than every three (3) years from the effective date of this part, or from the last general review, the Secretary shall request the Director of NCI, the Director of NIEHS and/or the Director of NIOSH, to review this part and render their opinions on whether significant scientific or technical advances made since the effective date of this part warrant any amendment to this part. The request shall ask that the answer be provided to the Secretary within one hundred twenty (120) days.

(2) *Recommendations by the institutes.* At any time, the Director of NCI, the Director of NIEHS and/or the Director of NIOSH may submit recommendations to the Secretary for amendments to this part whenever any of them believes that scientific or technical advances justify such amendments.

(3) *Petitions from the public.* (i) Any interested person may petition the Secretary concerning amendments to this

part based upon substantial new issues or substantial new evidence.

(ii) For the purposes of this part, substantial new evidence is evidence which differs significantly from that presented in establishing this part, including amendments.

(iii) For the purposes of this part, substantial new issues are issues which differ significantly from those upon which the Secretary has reached a conclusion in the rulemaking establishing this part (including the conclusions reached in the preamble).

(iv) Each petition to amend this part shall contain at least the following information:

- (A) Name and address of petitioner;
- (B) The provisions which the petitioner believes are inappropriate;
- (C) All data, views and arguments relied upon by the petitioner; and
- (D) A detailed statement and analysis as to why the petitioner believes that the data, views and arguments presented by petitioner:
 - (1) Constitute substantial new issues or substantial new evidence; and
 - (2) Are so significant as to warrant amendment of this part.

(b) *Response to recommendations and petitions—*(1) *By the institutes.* Whenever any Director recommends an amendment to this part, the Secretary shall, within one hundred twenty (120) days after receipt of the recommendation, publish in the FEDERAL REGISTER, a notice which:

- (i) States the reasons why the Secretary has determined not to commence a rulemaking proceeding to amend this part, in whole or in part, at that time; or
- (ii) Commences a rulemaking proceeding to consider amending this part accordingly; or

(iii) Appoints an Advisory Committee as provided for by § 1990.105 of this part and sections 6(b) and 7 of the Act.

(2) *By the public.* Within ninety (90) days, or as soon thereafter as possible, after receipt of a petition pursuant to § 1990.106(a)(3), the Secretary shall:

- (i) Refer the petition to the Director of NCI, the Director of NIEHS and/or the Director of NIOSH, in which case the provisions of § 1990.106 (a)(1) and (b)(1) are applicable; or
- (ii) Appoint an advisory committee;