DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

Office for Human Research Protections
The Tower Building
1101 Wootton Parkway, Suite 200
Rockville, Maryland 20852

Telephone: 301-435-0668
FAX: 301-402-2071
E-mail: pmcneilly@osophs.dhhs.gov

October 15, 2004

Eugene Trani, Ph.D.
President
Virginia Commonwealth University
910 West Franklin Street
Richmond, VA 23298-0568

RE: Human Research Subject Protections Under Federalwide Assurance (FWA) 5287

Project Title: **Biomarkers of Smoke Intake, Blood Nicotine, and Urinary TSNA in Healthy Subjects Smoking Advance®-A Cigarette Produced from Tobacco Containing Low Levels of Tobacco-Specific Nitrosamines, and Equipped With Active Charcoal Filter**

Principal Investigator: **William H. Barr, Pharm.D., Ph.D.**

Dear Dr. Trani:

The Office for Human Research Protections (OHRP) has reviewed the Virginia Commonwealth University's (VCU) September 30, 2004 report, which was submitted in response to OHRP's August 20, 2004 letter.

In its August 20, 2004 letter, OHRP made the following determinations:

> (1) OHRP found that the investigator performed additional carbon monoxide testing not described in the institutional review board (IRB)-approved protocol on one subject enrolled in the above-referenced research, prior to obtaining IRB review and approval for this additional testing, as required by Department of Health and Human Services (HHS) regulations at 45 CFR 46.103(b)(4)(iii).
>
> (2) OHRP finds that informed consent for additional carbon monoxide testing was not documented by a written consent form for one subject enrolled in the above-referenced research, as required by HHS regulations at 45 CFR 46.117(a).

Corrective Actions:

(1) OHRP acknowledges that VCU has reminded its investigators, both by direct e-mail and through its website, of the requirements for (a) obtaining IRB approval prior to instituting protocol changes and (b) documenting informed consent through the use of a signed informed consent document, unless such a requirement is waived by the IRB.

(2) OHRP acknowledges that VCU will implement an investigator self-evaluation program as part of its continuing review process, to address the issues of changes to already approved protocols and obtaining signed informed consent documents.

(3) OHRP acknowledges that the investigator for the above-referenced research has indicated that he has instituted procedures to ensure that changes to protocols will not be implemented without prior IRB approval.

OHRP finds that these corrective actions adequately address the required actions described in OHRP's August 20, 2004 letter, and are appropriate under the VCU FWA. As a result of this determination, there should be no need for further involvement of OHRP in this matter. Of course, OHRP must be notified should new information be identified which might alter this determination.

OHRP appreciates the continued commitment of your institution to the protection of human research subjects. Please do not hesitate to contact me should you have any questions.

Sincerely,

Patrick J. McNeilly, Ph.D.
Compliance Oversight Coordinator
Division of Compliance Oversight

cc: Ms. Rosemary Kelso, HPA, VCU
Ms. Monika Markowitz, VCU
Dr. William Barr, VCU
Dr. William E. Smith, Chair, IRB #2, VCU
Dr. Ann Nichols-Casebolt, Chair, IRB # 3, VCU
Dr. Andrea Hastillo, Chair, IRB # 4, VCU
Dr. Lee Ann Hansen, Chair, IRB #5, VCU
Commissioner, FDA
Dr. David Lepay, FDA
Dr. Bernard Schwetz, OHRP
Dr. Melody H. Lin, OHRP
Dr. Michael Carome, OHRP
Dr. Kristina Borror, OHRP

Ms. Shirley Hicks, OHRP
Ms. Patricia El-Hinnawy, OHRP
Ms. Melinda Hill, OHRP