ADDRESS: Public comment should be sent to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2–500, Washington, D.C. 20002–8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 273–4590.

Authority: 28 U.S.C. 994 (a), (o), (p), (x); section 6(d) of Pub. L. 105–184.

Richard P. Conaboy,

Chairman.

Issues for Comment—Telemarketing Fraud

During the 1997–98 amendment cycle, the Commission examined the characteristics of telemarketing fraud offenses, the statutory enhancement for telemarketing fraud in 18 U.S.C. 2326, and whether the current enhancements in § 2F1.1 (Fraud), § 3A1.1 (Hate Crime Motivation or Vulnerable Victim), and the departure policy statements in § 5K2.0–§ 5K2.18 provide adequate punishment for persons convicted of telemarketing fraud offenses. The Commission published issues for comment relating to this review in January, 1998. *See* 63 FR 625–26 (January 6, 1998). Following this review, the Commission, on May 1, 1998, submitted to Congress an amendment that increases by two offense levels (approximately 25 percent) the penalties for fraud offenses that are committed through mass-marketing, including telemarketing fraud offenses (the ''mass-marketing'' amendment). *See* 63 FR 28203–04 (May 21, 1998). That amendment also provided a two-level increase and a ''floor'' offense level of level 12 for fraud offenses that involve conduct, such as sophisticated concealment, that makes it difficult for law enforcement authorities to discover the offense or apprehend the offenders (the ''sophisticated concealment'' amendment). These amendments are slated to take effect on November 1, 1998, absent any disapproval legislation enacted by Congress.

Subsequently, on June 23, 1998, Congress enacted the Telemarketing Fraud Prevention Act of 1998 (Pub. L. 105–184; 112 Stat. 520) (the ''Act''), which directs the Commission, under emergency amendment authority, ''to provide for substantially increased penalties for persons convicted of offenses described in (18 U.S.C. 2326] * * * in connection with the conduct of telemarketing.'' In carrying out this directive, the Commission is required, among other things, to ''(1) ensure that the guidelines and policy statements promulgated pursuant to [the directive] * * * reflect the serious nature of [telemarketing] offenses; (2) provide an additional appropriate sentencing enhancement, if the offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States; [and] (3) provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in [18 U.S.C. 2326(2) (victims over the age of 55)], are affected by a fraudulent scheme or schemes.''

With this as background, the Commission invites comment on the issues that follow relating to: (1) How the Commission should respond to the directive in the Act; and (2) the interaction of this directive and the Commission's mass-marketing and sophisticated concealment amendments submitted to Congress on May 1, 1998.

1. Do the recently adopted mass-marketing and sophisticated concealment amendments adequately address the congressional directive to provide for ''substantially increased penalties for persons convicted of offenses described in (18 U.S.C. 2326) * * * in connection with the conduct of telemarketing''? If not, how should the Commission modify the recent amendments or otherwise amend the guidelines to satisfy the directive? If an enhancement of greater magnitude is necessary, by how many offense levels should the sentence for such offenders be increased? Alternatively, are there additional factors that the Commission should address, either by specific offense characteristics, guideline commentary, or departure provisions, to provide appropriate punishment for telemarketing offenses?

2. The mass-marketing amendment is intended to apply to persons who engage in a plan to victimize a large number of persons through a fraudulent telemarketing scheme. Does this amendment adequately address the directive ''to provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in [18 U.S.C. 2326(2) (victims over the age of 55)], are affected by a fraudulent scheme or schemes''? What is the meaning of the term ''large number'' (in that part of the directive that refers to a large number of vulnerable victims)? Does application of this new enhancement, in conjunction with other guideline provisions, such as the enhancement for more than one victim (§ 2F1.1(b)(2)) and the vulnerable victim adjustment (§ 3A1.1), comply with the directive? If not, what amendment or amendments would satisfy the directive?

3. Does the sophisticated concealment amendment adequately address the directive ''to provide an additional appropriate sentencing enhancement, if the offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States''? If not, what amendment or amendments would satisfy the directive?

4. Are there other provisions contained in the directive, not specifically addressed in this issue for comment, that require the Commission to amend the guidelines?

5. If additional guideline amendments are required to satisfy the congressional directive, how should those amendments be coordinated with general increases in fraud penalties (*e.g.*, increases in the loss table) that the Commission may consider at some future date in order to ensure consistent and proportional sentencing for similar types of fraud offenses?

[FR Doc. 98–22526 Filed 8–20–98; 8:45 am]

BILLING CODE 2210–40–P

SOCIAL SECURITY ADMINISTRATION

Announcement of Service to Epidemiological Researchers to Provide Vital Status Data on Subjects of Health Research

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: Section 311 of the Social Security Independence and Program Improvements Act of 1994 directed the Social Security Administration (SSA) to provide support to health researchers involved in epidemiological research. Specifically, when a study is determined to contribute to a national health interest SSA will furnish information regarding whether a study subject is shown on the SSA administrative records as being alive or deceased (vital status).

DATES: This service is available as of this date by contacting the Associate Commissioner for Research, Evaluation and Statistics. The mailing address is Social Security Administration, Office of Research, Evaluation and Statistics, 4–C–15 Operations Building, 6401 Security Building, Baltimore MD 21235. The fax number for the Associate Commissioner is 410–965–3308.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Williams, Office of Research, Evaluation and Statistics, 4–C–15

Operations Building, 6401 Security Boulevard, Baltimore MD 21235; telephone 410–965–5540.

SUPPLEMENTARY INFORMATION:

A. Background

Historically, SSA had made disclosures of vital status data under the provisions of the Freedom of Information Act (FOIA, 5 U.S.C. 552(a)(3)). However, as a result of the Supreme Court decision in *United States Department of Justice* v. *Reporters Committee for Freedom of the Press* 489 U.S. 749 (1989), SSA discontinued the process of providing such data. The enactment of Section 311 of the Social Security Independence and Program Improvements Act of 1994 established the legal authority for SSA to release vital status data except for death data obtained from a State under section 205(r) of the Social Security Act, which data may only be released for statistical and research purposes to State and Federal agencies at the discretion of the Commissioner of Social Security. Accordingly, when the research in question has been determined to contribute to a national health interest SSA will furnish vital status data on study subjects. The researcher must submit the study subject's Social Security Number, full name (first, last and middle name), date of birth (month, day, century and year) and sex. SSA, in-turn, will furnish one of the following vital status determinations for each study subject so long as the researcher has provided adequate assurances that information relating to presumed living will be kept confidential:

- Death information (except information obtained under section 205(r)) (the date of death and State where a claim was filed, or the State of residence at the time of death) if available;
- Presumption that the individual is living (There is sufficient information in SSA administrative records to support this determination);
- Status unknown (SSA has no record of death, nor sufficient information within the SSA administrative records to support a determination that the subject is alive);
- Social Security Number (SSN) verification failed (the SSN and name furnished to SSA did not match or the date of birth furnished for an SSN/name did not match the information in the SSA administrative records); or
- The SSN was impossible or had never been issued.

A companion change to the Internal Revenue Code (26 U.S.C. section 6103) permits SSA to release ''presumption of living'' data based on reports of earnings obtained from the IRS.

B. Application Process

Please submit requests for this service in memorandum format addressed to the Associate Commissioner for Research, Evaluation and Statistics, Social Security Administration. For each request for services, the following specific areas must be covered in separately numbered paragraphs:

1. The name, address and phone number of the study's Principal Investigator. Also include the name and phone number of another person who can be contacted if SSA has questions about the request.
2. The title of the study or project.
3. Attach a one page summary of the study protocol or the project activities. Include specific purpose(s) of the research to be undertaken and the outcomes expected.
4. The organization or institution supporting the research and the specific person who will sign agreements to reimburse SSA for expenses incurred in supplying data.
5. An explanation of how data provided by SSA will be used. That is, will the data only be used to determine the subjects' vital status or will it also be used to obtain death certificates to determine the causes of death or to obtain additional information from next-of-kin, physicians, or hospitals.
6. A specific statement that vital status data obtained from SSA under the category, ''presumed living'' will only be used for the purposes described in the request and will not be used for administrative or legal purposes.
7. Procedures to ensure the confidentiality of the vital status data supplied by SSA under the category, ''presumed living''.
8. Plans to publish or release the research results including whether any supporting documentation will be made available in identifiable form under the category, ''presumed living''.
9. Final disposition of SSA data to include the location of files and full disclosure of who will have access to the identifying data under the category, ''presumed living'' and for how long.
10. In addition to the staff of the requesting organization, identify, ''other parties'' receiving (or have contractual or other rights to) vital status information provided by SSA under the category ''presumed living''. ''Other parties'' would include consultants, collaborators, nosologist, contractors, subcontractors, and sponsoring or participating agencies or organizations.

Note: If the applicant indicates that other organizations or individuals will receive identifying SSA vital status data under the category ''presumed living'', that organization must also be a party (signatory) to the applicant's memorandum or must submit a separate supporting memorandum. In this supporting documentation each third party must indicate (1) their role in the study and the activities they will perform, (2) how they will store and maintain confidentiality of the identifying data under the category ''presumed living'', and (3) how and when the identifying data on the ''presumed living'' will be destroyed.

An evaluation team comprised of staff members from SSA's Office of Research, Evaluation and Statistics and the National Center for Health Statistics (NCHS) will review each application for services. The team will not attempt to determine the scientific merit of the study. It is understood that the merit of the study has been (or will be) determined by the sponsoring agency and/or the organization performing the study. The team's purpose will be to reach a consensus that the results of the study could be expected to advance the public's knowledge in a health area of importance to a segment of the United States population.

If such a determination is made and the Associate Commissioner for Research, Evaluation and Statistics concurs, the applicant will be notified, in writing, of the methods that may be used to submit data on study subjects, the exact format to be used in submitting this data and the cost for developing and transmitting the vital status data from SSA records. The applicant will be required to sign a memorandum of understanding which will delineate his/her responsibilities in the use of the requested vital status data. The applicant will also be required to sign a contractual agreement to facilitate payment for the service.

C. Service Costs

The service is currently available at a cost of $.16 per record (data supplied to identify one study subject) up to 25,000 records. Additional records will be processed at a cost of $.012 per record. Form SSA–1234–U5 ''Agreement Covering Reimbursable Services'' will be signed by the applicant and an appropriate SSA representative to formalize the payment process. As authorized by Pub. L. 97–35, SSA requires federal agency requestors to provide an advance payment equal to 50 percent of the SSA costs for this service. Non-federal requestors are required to provide an advance payment of 100 percent of the SSA costs for this service.

D. Criteria Used to Approve Requests

The SSA/NCHS team will use the following criteria in formulating their

recommendations for the Associate Commissioner for Research, Evaluation and Statistics:

Use of Data for Statistical Purposes

The request for services should clearly state that the vital status data supplied will be used to support statistical calculations and/or study findings. Furthermore, the request must indicate those situations in which the death data furnished will be used to identify state death records. A request will be disapproved if it proposes to use the vital status data or state death data obtained from the vital status data for administrative, law enforcement or other nonstatistical purposes. The team can suggest that the applicant be given the opportunity to revise the application to eliminate any nonstatistical uses of the vital status data.

Disease Registries

Requests from individuals and or groups working with disease registries will be accepted. (Disease registry is a roster of persons diagnosed and/or treated for a particular disease and maintained for the purpose of morbidity and/or mortality surveillance without any specific hypotheses to be examined.) Registries usually employ a standardized methodology, are subject to informal and sometimes formal controls, and may rely on other methods for follow-up of a majority of the roster. Such registries deserve special considerations. Applicants who propose to submit a roster of names deriving from such a registry should specify the date the registry was founded, the purposes of the registry, the eligibility criteria for including persons in the registry, the provisions for internal and external approval of the registry's quality and methods (including human subject considerations), and the dates of the last documented internal and/or external reviews.

SSA will generally approve these submissions provided the requests give adequate documentation of the registries' activities.

Furthermore, registries will not be required to submit separate applications for each study. Multiple uses of SSA vital status data are permitted, provided that: (1) each study is solely used for statistical purposes in medical and health research, (2) adequate assurances are given confidentiality of the identifying vital status data under the ''presumed living'' category will be maintained, and (3) vital status data under the ''presumed living'' category will be kept separate from any administrative records.

Mortality Follow-Up on Non-Disease Cohorts

Most applicants are required to submit separate requests for specific studies. However, some organizations conduct mortality surveillance studies on ''non disease'' cohorts such as industrial workers, population samples, and members of particular families. Vital status data on such individuals may be used for multiple epidemiological studies. Such organizations, in essence, are maintaining exposure or other non-disease ''registries'' which facilitate epidemiological studies of groups with particular experiences. Such organizations will not be required to submit separate applications to SSA for each study, although they will be required to describe expected protocols and give specific, current or future examples.

Multiple uses of vital status data obtained from SSA under the ''presumed living'' category are permitted, provided that (1) each study is used solely for statistical purposes in medical or health research, (2) adequate assurances are given the confidentiality of identifying vital status data under the ''presumed living'' category will be maintained, and (3) vital status data under the ''presumed living'' category will be kept separate from any administrative records.

Use of Data by a Third Party

If the applicant indicates that another organization will receive identifying SSA vital status data under the ''presumed living'' category, that organization must be a party to the original submittal or submit a supporting memorandum. In this supporting documentation, the third party must indicate (1) how they will store data and maintain the confidentiality of data under the ''presumed living'' category and (2) how and when data under the ''presumed living'' category will be destroyed.

Final Disposition of Data

The applicant must indicate if, how and when identifiable data under the ''presumed living'' category furnished in support of a request, will be destroyed. If there is no indication that the identifiable data under the ''presumed living'' category will be destroyed, then the individual requesting the vital status data must explain, in some detail, why the data needs to be maintained.

E. Repeated Use of the Service

Once an applicant is approved to obtain vital status data for a specific study or project, the approval is valid as long as there are no major changes in the project. Additional records may be submitted under the approved contract for services. If however, the project specifications change, the applicant must submit a new request for services. The following is a list of possible occurrences which would require the submission of a new request for services:

- The project will be supported by a new organization,
- A new organization will be receiving the vital status data,
- Confidentiality provisions under the ''presumed living'' category have changed,
- Provisions for disposing of data under the ''presumed living'' category obtained from this request have changed,
- Vital status data under the ''presumed living'' category will be used for legal, administrative or other actions which could directly affect particular living individuals or establishments,
- Changes have been made in the project's research objectives.

(Catalog of Federal Domestic Assistance Program Number 96.007, Social Security—Research and Demonstration)

Dated: May 1, 1998.

Jane L. Ross,

Deputy Commissioner for Policy.

[FR Doc. 98–22463 Filed 8–20–98; 8:45 am]

BILLING CODE 4190–29–P

TENNESSEE VALLEY AUTHORITY

Red Hills Power Project

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of record of decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA has decided to adopt the preferred alternative identified in its Final Environmental Impact Statement (EIS) on the Proposed Purchase of Electricity Generated by the Red Hills Power Project (RHPP). The Final EIS was made available to the public on July 3, 1998. A notice of Availability of the Final EIS was published in the **Federal Register** on July 10, 1998. Under the preferred alternative, TVA would commit to purchase all of the electricity generated by the Red Hills Power Project in Choctaw County, Mississippi. This would result in the construction and operation of a 440-megawatt (MW) lignite-fueled generation facility by Choctaw Generation Limited