

**Appendix K-VII-K. Pathogen.** A pathogen is any microbiological agent or eukaryotic cell containing sufficient genetic information, which upon expression of such information, is capable of producing disease in healthy people, plants, or animals.

**Appendix K-VII-L. Physical Barrier.** A physical barrier is considered any equipment, facilities, or devices (e.g., fermentors, factories, filters, thermal oxidizers) which are designed to achieve containment.

**Appendix K-VII-M. Release.** Release is the discharge of a microbiological agent or eukaryotic cell from a containment system. Discharges can be incidental or accidental. Incidental releases are *de minimis* in nature; accidental releases may be *de minimis* in nature.

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## APPENDIX L. GENE THERAPY POLICY CONFERENCES (GTPCS)

In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical implications of gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/OBA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, ethical, and legal expertise and/or interest that is directly applicable to a specific gene therapy research issue. At least one member of RAC will serve as Co-chair of each GTPC and report the findings of each GTPC to RAC at its next scheduled meeting. The RAC representative for each GTPC will be chosen based on the participant's area of expertise relative to the specific gene therapy research issue to be discussed. All RAC members will be invited to attend GTPCs. GTPCs will have representation from other Federal agencies, including [FDA](#) and [OHRP](#). GTPCs will focus on broad overarching policy and scientific issues related to gene therapy research. Proposals for GTPC topics may be submitted by members of RAC, representatives of academia, industry, patient and consumer advocacy organizations, other Federal agencies, professional scientific societies, and the general public. GTPC topics will not be limited to discussion of human applications of gene therapy research, i.e., they may include basic research on the use of novel gene delivery vehicles, or novel applications of human gene transfer. The RAC, with the Director's approval, will have the primary responsibility for planning GTPC agendas. GTPC findings will be transmitted to the NIH Director and will be made publicly available. The NIH Director anticipates that this public policy forum will serve as a model for interagency communication and collaboration, concentrated expert discussion of novel scientific issues and their potential societal implications, and enhanced opportunity for public discussion of specific issues and potential impact of such applications on human health and the environment.

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## APPENDIX M. POINTS TO CONSIDER IN THE DESIGN AND SUBMISSION OF PROTOCOLS FOR THE TRANSFER OF RECOMBINANT OR SYNTHETIC NUCLEIC ACID MOLECULES INTO ONE OR MORE HUMAN RESEARCH PARTICIPANTS (POINTS TO CONSIDER)

Appendix M applies to research conducted at or sponsored by an institution that receives any support for recombinant or synthetic nucleic acid molecule research from NIH. Researchers not covered by the *NIH Guidelines* are encouraged to use Appendix M (see [Section I-C, General Applicability](#)).

The acceptability of human somatic cell gene transfer has been addressed in several public documents as well as in numerous academic studies. In November 1982, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research published a report, *Splicing Life*, which resulted from a two-year process of public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1984, the Office of Technology Assessment released a background paper, *Human Gene Therapy*, which concluded that civic, religious, scientific, and medical groups have all accepted, in principle, the appropriateness of gene transfer of somatic cells in humans for specific genetic diseases. Somatic cell gene transfer is seen as an extension of present methods that might be preferable to other technologies. In light of this public support, RAC is prepared to consider proposals for somatic cell gene transfer.

RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene transfer is to treat an individual patient, e.g., by inserting a properly functioning gene into the subject's somatic cells. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

The RAC continues to explore the issues raised by the potential of *in utero* gene transfer clinical research. However, the RAC concludes that, at present, it is premature to undertake any *in utero* gene transfer clinical trial. Significant additional preclinical and clinical studies addressing vector transduction efficacy, biodistribution, and toxicity are required before a human *in utero* gene transfer protocol can proceed. In addition, a more thorough understanding of the development of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human *in utero* gene transfer. Prerequisites for considering any specific human *in utero* gene transfer procedure include an understanding of the pathophysiology of the candidate disease and a demonstrable advantage to the *in utero* approach. Once the above criteria are met, the RAC would be willing to consider well rationalized human *in utero* gene transfer clinical trials.

Research proposals involving the deliberate transfer of recombinant or synthetic nucleic acid molecules, or DNA or RNA derived from such nucleic acid molecules, into human subjects (human gene transfer) will be considered through a review process involving both NIH/OBA and RAC. Investigators shall submit their relevant information on the proposed human gene transfer experiments to NIH/OBA. Submission of human gene transfer protocols to NIH will be in the format described in [Appendix M-I-A, Submission Requirements for Protocol Submission](#). Submission to NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer information conducted in compliance with the *NIH Guidelines*. Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter I, Subchapter D, Part 312, Subpart B, Section 23, *IND Content and Format*.

Institutional Biosafety Committee approval must be obtained from each institution at which recombinant or synthetic nucleic acid molecule material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is *ex vivo* transduction of recombinant or synthetic nucleic acid molecule material into target cells for human application).

Factors that may contribute to public discussion of a human gene transfer experiment by RAC include: (i) new vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC discussion are those determined not to represent possible risk to human health or the environment. Full, public RAC review and discussion of a human gene transfer experiment may be (1) initiated by the NIH Director; or (2) initiated by the NIH OBA Director following a recommendation to NIH OBA by: (a) three or more RAC members, or (b) a Federal agency other than NIH. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If it is determined that an experiment will undergo full RAC discussion, NIH/OBA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/OBA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC discussion, reviewers will examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate. Relevant documentation will be included in the material for the RAC meeting at which the experiment is scheduled to be discussed. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed (see [Section IV-D-5, Protection of Proprietary Data – Voluntary Compliance](#)). RAC prefers that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public.

**Note:** Any application submitted to NIH/OBA shall not be designated as 'confidential' in its entirety. In the event that a sponsor determines that specific responses to one or more of the items described in Appendix M should be considered as proprietary or trade secret, each item should be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) clearly indicate that select portions of the application contain information considered as proprietary or trade secret, (2) a brief explanation as to the reason that each of these items is determined proprietary or trade secret.

Public discussion of human gene transfer experiments (and access to relevant information) shall serve to inform the public about the technical aspects of the proposals, meaning and significance of the research, and significant safety, social, and ethical implications of the research. RAC discussion is intended to ensure safe and ethical conduct of gene transfer experiments and facilitate public understanding of this novel area of biomedical research.

In its evaluation of human gene transfer proposals, RAC will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undesirable consequences of the transfer of recombinant or synthetic nucleic acid molecules would be unintentional: (i) vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M-I through M-V request information that will enable RAC and NIH/OBA to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).

Appendix M will be considered for revisions as experience in evaluating proposals accumulates and as new scientific developments occur. This review will be carried out periodically as needed.

## **Appendix M-I. Requirements for Protocol Submission, Review, and Reporting – Human Gene Transfer Experiments**

### **Appendix M-I-A. Requirements for Protocol Submission**

The following documentation must be submitted (see exemption in [Appendix M-VI-A, Footnotes of Appendix M](#)) in printed or electronic form to the: Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, MSC 7985, Bethesda, MD 20892-7985 (20817 for non-USPS mail), 301-496-9838, 301-496-9839 (fax), E-mail: [rosenthg@od.nih.gov](mailto:rosenthg@od.nih.gov). NIH OBA will confirm receipt within three working days after receiving the submission. Investigators should contact OBA if they do not receive this confirmation.

1. A cover letter on institutional letterhead, signed by the Principal Investigator(s), that: (1) acknowledges that the documentation submitted to NIH OBA complies with the requirements set forth in Appendix M-I-A, *Requirements for Protocol Submission*; (2) identifies the Institutional Biosafety Committee (IBC) and Institutional Review Board (IRB) at the proposed clinical trial site(s) responsible for local review and approval of the protocol; and (3) acknowledges that no research participant will be enrolled (see definition of enrollment in [Section I-E-7](#)) until the RAC review process has been completed (see [Appendix M-I-B, RAC Review Requirements](#)); IBC approval (from the clinical trial site) has been obtained; IRB approval has been obtained; and all applicable regulatory authorizations have been obtained.
2. The scientific abstract.
3. The non-technical abstract.
4. The proposed clinical protocol, including tables, figures, and relevant manuscripts.
5. Responses to Appendices M-II through M-V, *Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues*. Responses to Appendices M-II through M-V may be provided either as an appendix to the clinical protocol or incorporated in the clinical protocol. If responses to [Appendices M-II through M-V](#) are incorporated in the clinical protocol, each response must refer to the appropriate Appendix M-II through M-V.
6. The proposed informed consent document (see [Appendix M-III, Informed Consent](#)).
7. Curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format).

**Note:** A human gene transfer experiment submitted to NIH OBA should not contain confidential commercial information or trade secrets, enabling all aspects of the review to be open to the public.

## Appendix M-I-B. RAC Review Requirements

### Appendix M-I-B-1. Initial RAC Review

The initial RAC review process shall include a determination as to whether the human gene transfer experiment presents characteristics that warrant public RAC review and discussion. During the RAC's initial review, individual committee members may request additional information relevant to the protocol. NIH OBA will immediately notify the Principal Investigator(s) of RAC requests for additional information. In making a determination whether an experiment presents characteristics warranting public RAC review and discussion, reviewers will examine the scientific rationale, scientific content, whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. Other factors that may warrant public review and discussion of a human gene transfer experiment by the RAC include: (1) a new vector/new gene delivery system; (2) a new clinical application; (3) a unique application of gene transfer; and/or (4) other issues considered to require further public discussion.

Initial RAC review shall be completed within 15 working days of receipt of a complete submission (see [Appendix M-I-A, Requirements for Protocol Submission](#)). At the end of the 15-day review period, NIH OBA will notify the Principal Investigator(s) in writing about the results of the RAC's initial review. Two outcomes are possible: (1) the experiment does not present characteristics that warrant further review and discussion and is therefore exempt from public RAC review and discussion; or (2) the experiment presents characteristics that warrant public RAC review and discussion. Completion of the RAC review process is defined as: (1) receipt by the Principal Investigator(s) of a letter from NIH OBA indicating that the submission does not present characteristics that warrant public RAC review and discussion; or (2) receipt by the Principal Investigator(s) of a letter from NIH OBA after public RAC review that summarizes the committee's key comments and recommendations (if any).

If a human gene transfer protocol is submitted less than eight weeks before a scheduled RAC meeting and is subsequently recommended for public RAC review and discussion, the review of the protocol by the RAC will be deferred until the next scheduled RAC meeting. This eight-week period is needed to ensure adequate time for public notice and comment and thorough review by the committee members.

No research participant shall be enrolled (see definition of enrollment in [Section I-E-7](#)) in the human gene transfer experiment until: (1) the RAC review process has been completed; (2) Institutional Biosafety Committee (IBC) approval (from the clinical trial site) has been obtained; (3) Institutional Review Board (IRB) approval has been obtained; and (4) all applicable regulatory authorization(s) have been obtained.

For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in [Section I-E-7](#)) at the clinical trial site until the following documentation has been submitted to NIH OBA: (1) IBC approval (from the clinical trial site); (2) IRB approval; (3) IRB-approved informed consent document; (4) curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant numbers(s) if applicable.

### Appendix M-I-B-2. Public RAC Review and Discussion

Public RAC review and discussion of a human gene transfer experiment may be: (1) initiated by the NIH Director; or (2) initiated by the NIH OBA Director following a recommendation to NIH OBA by: (a) three or more RAC members; or (b) a Federal agency other than NIH. In making a determination whether an experiment presents characteristics warranting public RAC review and discussion, reviewers will examine the scientific rationale, scientific content, whether the preliminary *in vitro* and *in vivo* safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been

resolved. Other factors that may warrant public review and discussion of a human gene transfer experiment by the RAC include: (1) a new vector/new gene delivery system; (2) a new clinical application; (3) a unique application of gene transfer; and/or (4) other issues considered to require further public discussion.

After a human gene transfer experiment is reviewed by the full RAC at a regularly scheduled meeting, NIH OBA will send a letter summarizing the RAC key comments and recommendations (if any) regarding the protocol to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate. Completion of RAC review is defined as receipt by the Principal Investigator(s) of a letter from NIH OBA summarizing the committee's findings. Unless NIH OBA determines that there are exceptional

circumstances, the RAC summary letter will be sent to the Principal Investigator(s) within 10 working days after the completion of the RAC meeting at which the experiment was reviewed.

RAC meetings will be open to the public except where trade secrets or confidential commercial information are reviewed. To enable all aspects of the protocol review process to be open to the public, information provided in response to Appendix M should not contain trade secrets or confidential commercial information. No application submitted to NIH OBA shall be designated as 'confidential' in its entirety. In the event that an investigator determines that specific responses to one or more of the items described in Appendix M should be considered as confidential commercial information or a trade secret, each item must be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) clearly designate the information that is considered as confidential commercial information or a trade secret; and (2) explain and justify each designation.

## **Appendix M-I-C. Reporting Requirements**

### **Appendix M-I-C-1. Initiation of the Clinical Investigation**

No later than 20 working days after enrollment (see definition of enrollment in [Section I-E-7](#)) of the first research participant in a human gene transfer experiment, the Principal Investigator(s) shall submit the following documentation to NIH OBA: (1) a copy of the informed consent document approved by the Institutional Review Board (IRB); (2) a copy of the protocol approved by the Institutional Biosafety Committee (IBC) and IRB; (3) a copy of the final IBC approval from the clinical trial site; (4) a copy of the final IRB approval; (5) a brief written report that includes the following information: (a) how the investigator(s) responded to each of the RAC's recommendations on the protocol (if applicable); and (b) any modifications to the protocol as required by [FDA](#); (6) applicable NIH grant number(s); (7) the [FDA Investigational New Drug Application \(IND\)](#) number; and (8) the date of the initiation of the trial. The purpose of requesting the FDA IND number is for facilitating interagency collaboration in the Federal oversight of human gene transfer research.

### **Appendix M-I-C-2. Additional Clinical Trial Sites**

No research participant shall be enrolled (see definition of enrollment in [Section I-E-7](#)) at a clinical trial site until the following documentation has been submitted to NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site); (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; (4) curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.

### **Appendix M-I-C-3. Annual Reports**

Within 60 days after the one-year anniversary of the date on which the investigational new drug (IND) application went into effect, and after each subsequent anniversary until the trial is completed, the Principal Investigator (or delegate) shall submit the information set forth in (a), (b), and (c). When multiple studies are conducted under the single IND, the Principal Investigator (or delegate) may choose to submit a single annual report covering all studies, provided that each study is identified by its OBA protocol number.

(a) Clinical Trial Information. A brief summary of the status of each trial in progress and each trial completed during the previous year. The summary is required to include the following information for each trial: (1) the title and purpose of the trial; (2) clinical site; (3) the Principal Investigator; (4) clinical protocol identifiers, including the NIH OBA protocol number, NIH grant number(s) (if applicable), and the FDA IND application number; (5) participant population (such as disease indication and general age group, e.g., adult or pediatric); (6) the total number of participants planned for inclusion in the trial; the number entered into the trial to date; the number

whose participation in the trial was completed; and the number who dropped out of the trial with a brief description of the reasons; (7) the status of the trial, e.g., open to accrual of subjects, closed but data collection ongoing, or fully completed, and (8) if the trial has been completed, a brief description of any study results.

(b) Progress Report and Data Analysis. Information obtained during the previous year's clinical and non-clinical investigations, including: (1) a narrative or tabular summary showing the most frequent and most serious adverse experiences by body system; (2) a summary of all serious adverse events submitted during the past year; (3) a summary of serious adverse events that were expected or considered to have causes not associated with the use of the gene transfer product such as disease progression or concurrent medications; (4) if any deaths have occurred, the number of participants who died during participation in the investigation and causes

of death; and (5) a brief description of any information obtained that is pertinent to an understanding of the gene transfer product's actions, including, for example, information about dose-response, information from controlled trials, and information about bioavailability.

(c) A copy of the updated clinical protocol including a technical and non-technical abstract.

#### **Appendix M-I-C-4. Safety Reporting**

Principal Investigators must submit, in accordance with this section, Appendix M-I-C-4-a and [Appendix M-I-C-4-b](#), a written report on: (1) any serious adverse event that is both unexpected and associated with the use of the gene transfer product (i.e., there is reasonable possibility that the event may have been caused by the use of the product; investigators should not await definitive proof of association before reporting such events); and (2) any finding from tests in laboratory animals that suggests a significant risk for human research participants including reports of mutagenicity, teratogenicity, or carcinogenicity. The report must be clearly labeled as a "Safety Report" and must be submitted to the NIH Office of Biotechnology Activities (NIH OBA) and to the local Institutional Biosafety Committee within the timeframes set forth in [Appendix M-I-C-4-b](#).

Principal Investigators should adhere to any other serious adverse event reporting requirements in accordance with federal regulations, state laws, and local institutional policies and procedures, as applicable.

Principal Investigators may delegate to another party, such as a corporate sponsor, the reporting functions set forth in Appendix M, with written notification to the NIH OBA of the delegation and of the name(s), address, telephone and fax numbers of the contact(s). The Principal Investigator is responsible for ensuring that the reporting requirements are fulfilled and will be held accountable for any reporting lapses.

The three alternative mechanisms for reporting serious adverse events to the NIH OBA are: by e-mail to [oba@od.nih.gov](mailto:oba@od.nih.gov); by fax to 301-496-9839; or by mail to the Office of Biotechnology Activities, National Institutes of Health, MSC 7985, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892-7985.

#### **Appendix M-I-C-4-a. Safety Reporting: Content and Format**

The serious adverse event report must include, but need not be limited to: (1) the date of the event; (2) designation of the report as an initial report or a follow-up report, identification of all safety reports previously filed for the clinical protocol concerning a similar adverse event, and an analysis of the significance of the adverse event in light of previous similar reports; (3) clinical site; (4) the Principal Investigator; (5) NIH Protocol number; (6) FDA's Investigational New Drug (IND) Application number; (7) vector type, e.g., adenovirus; (8) vector subtype, e.g., type 5, relevant deletions; (9) gene delivery method, e.g., *in vivo*, *ex vivo* transduction; (10) route of administration, e.g., intratumoral, intravenous; (11) dosing schedule; (12) a complete description of the event; (13) relevant clinical observations; (14) relevant clinical history; (15) relevant tests that were or are planned to be conducted; (16) date of any treatment of the event; and (17) the suspected cause of the event. These items may be reported by using the recommended Adverse Event Reporting Template available on NIH OBA's web site at: [http://oba.od.nih.gov/rdna/adverse\\_event\\_oba.html](http://oba.od.nih.gov/rdna/adverse_event_oba.html), the [FDA MedWatch](#) forms, or other means provided that all of the above elements are specifically included.

Reports from laboratory animal studies as delineated in [Appendix M-I-C-4](#) must be submitted in a narrative format.

#### **Appendix M-I-C-4-b. Safety Reporting: Time frames for Expedited Reports**

Any serious adverse event that is fatal or life-threatening, that is unexpected, and associated with the use of the gene transfer product must be reported to the NIH OBA as soon as possible, but not later than 7 calendar days after the sponsor's initial receipt of the information (i.e., at the same time the event must be reported to the FDA).

Serious adverse events that are unexpected and associated with the use of the gene transfer product, but are not fatal or life-threatening, must be reported to the NIH OBA as soon as possible, but not later than 15 calendar days after the sponsor's initial receipt of the information (i.e., at the same time the event must be reported to the FDA).

Changes in this schedule are permitted only where, under the FDA IND regulations [21 CFR 312(c)(3)], changes

in this reporting schedule have been approved by the FDA and are reflected in the protocol.

If, after further evaluation, an adverse event initially considered not to be associated with the use of the gene transfer product is subsequently determined to be associated, then the event must be reported to the NIH OBA within 15 days of the determination.

Relevant additional clinical and laboratory data may become available following the initial serious adverse event report. Any follow-up information relevant to a serious adverse event must be reported within 15 calendar days of the sponsor's receipt of the information. If a serious adverse event occurs after the end of a clinical trial and is determined to be associated with the use of the gene transfer product, that event shall be reported to the NIH OBA within 15 calendar days of the determination.

Any finding from tests in laboratory animals that suggests a significant risk for human research participants including reports of mutagenicity, teratogenicity, or carcinogenicity must be reported as soon as possible, but not later than 15 calendar days after the sponsor's initial receipt of the information (i.e., at the same time the event must be reported to the FDA).

#### **Appendix M-I-C-5. Confidentiality**

Data submitted in accordance with [Appendix M-I-C](#) that are claimed to be confidential commercial or trade secret information must be clearly labeled as such. Prior to making its determination about the confidentiality of data labeled confidential commercial or trade secret, the NIH will contact the Principal Investigator or delegate to ascertain the basis for the claim and subsequently will notify the Principal Investigator or delegate of its final determination regarding the claim.

If NIH determines that the data so labeled are confidential commercial or trade secret and that their public disclosure would promote an understanding of key scientific or safety issues, the NIH will seek agreement from the appropriate party to release such data. Public discussion of scientific and safety issues raised by data submitted in accordance with [Appendix M-I-C](#) is vital to informing both investigators and human subjects about the safety of gene transfer research.

To protect the privacy of participants in gene transfer research, any serious adverse event or annual reports submitted to NIH OBA must not contain any information that would identify the human research participants.

#### **Appendix M-I-D. Safety Assessment in Human Gene Transfer Research**

A working group of the RAC, the NIH Gene Transfer Safety Assessment Board, with staff support from the NIH OBA, will: 1) review in closed session as appropriate safety information from gene transfer trials for the purpose of assessing toxicity and safety data across gene transfer trials; 2) identify significant trends or significant single events; and 3) report significant findings and aggregated trend data to the RAC. It is expected that this process will enhance review of new protocols, improve the development, design, and conduct of human gene transfer trials, promote public understanding and awareness of the safety of human gene transfer research studies, and inform the decision-making of potential trial participants.

#### **Appendix M-II. Description of the Proposal**

Responses to this appendix should be provided in the form of either written answers or references to specific sections of the protocol or its appendices. Investigators should indicate the points that are not applicable with a brief explanation. Investigators submitting proposals that employ the same vector systems may refer to preceding documents relating to the vector sequence without having to rewrite such material.

#### **Appendix M-II-A. Objectives and Rationale of the Proposed Research**

State concisely the overall objectives and rationale of the proposed study. Provide information on the specific points that relate to whichever type of research is being proposed.

**Appendix M-II-A-1. Use of Recombinant or Synthetic Nucleic Acid Molecules for Therapeutic Purposes**

For research in which recombinant or synthetic nucleic acid molecules are transferred in order to treat a disease or disorder (e.g., genetic diseases, cancer, and metabolic diseases), the following questions should be addressed:

**Appendix M-II-A-1-a.** Why is the disease selected for experimental treatment by means of gene transfer a good candidate for such treatment?

**Appendix M-II-A-1-b.** Describe the natural history and range of expression of the disease selected for experimental treatment. What objective and/or quantitative measures of disease activity are available? In your view, are the usual effects of the disease predictable enough to allow for meaningful assessment of the results of gene transfer?

**Appendix M-II-A-1-c.** Is the protocol designed to prevent all manifestations of the disease, to halt the progression of the disease after symptoms have begun to appear, or to reverse manifestations of the disease in seriously ill victims?

**Appendix M-II-A-1-d.** What alternative therapies exist? In what groups of subjects are these therapies effective? What are their relative advantages and disadvantages as compared with the proposed gene transfer?

**Appendix M-II-A-2. Transfer of Recombinant or Synthetic Nucleic Acid Molecules for Other Purposes**

**Appendix M-II-A-2-a.** Into what cells will the recombinant or synthetic nucleic acid molecules be transferred? Why is the transfer of recombinant or synthetic nucleic acid molecules necessary for the proposed research? What questions can be answered by using recombinant or synthetic nucleic acid molecules?

**Appendix M-II-A-2-b.** What alternative methodologies exist? What are their relative advantages and disadvantages as compared to the use of recombinant or synthetic nucleic acid molecules?

**Appendix M-II-B. Research Design, Anticipated Risks and Benefits****Appendix M-II-B-1. Structure and Characteristics of the Biological System**

Provide a full description of the methods and reagents to be employed for gene delivery and the rationale for their use. The following are specific points to be addressed:

**Appendix M-II-B-1-a.** What is the structure of the cloned DNA that will be used?

**Appendix M-II-B-1-a-(1).** Describe the gene (genomic or cDNA), the bacterial plasmid or phage vector, and the delivery vector (if any). Provide complete nucleotide sequence analysis or a detailed restriction enzyme map of the total construct.

**Appendix M-II-B-1-a-(2).** What regulatory elements does the construct contain (e.g., promoters, enhancers, polyadenylation sites, replication origins, etc.)? From what source are these elements derived? Summarize what is currently known about the regulatory character of each element.

**Appendix M-II-B-1-a-(3).** Describe the steps used to derive the recombinant or synthetic nucleic acid construct.

**Appendix M-II-B-1-b.** What is the structure of the material that will be administered to the research participant?

**Appendix M-II-B-1-b-(1).** Describe the preparation, structure, and composition of the materials that will be given to the human research subject or used to treat the subject's cells: (i) If recombinant or synthetic nucleic acid, what is the purity (both in terms of being a single nucleic acid species and in terms of other contaminants)? What tests have been used and what is the sensitivity of the tests? (ii) If a virus, how is it prepared from the recombinant or synthetic nucleic acid construct? In what cell is the virus grown (any special features)? What medium and serum are used? How is the virus purified? What is its structure and purity? What steps are being taken (and assays used with their sensitivity) to detect and eliminate any contaminating materials (for example,



VL30 RNA, other nucleic acids, or proteins) or contaminating viruses (both replication-competent or replication-defective) or other organisms in the cells or serum used for preparation of the virus stock including any contaminants that may have biological effects? (iii) If co-cultivation is employed, what kinds of cells are being used for co-cultivation? What steps are being taken (and assays used with their sensitivity) to detect and eliminate any contaminating materials? Specifically, what tests are being conducted to assess the material to be returned to the subject for the presence of live or killed donor cells or other non-vector materials (for example, VL30 sequences) originating from those cells? (iv) If methods other than those covered by Appendices M-II-B-1 through M-II-B-3, *Research Design, Anticipated Risks and Benefits*, are used to introduce new genetic information into target cells, what steps are being taken to detect and eliminate any contaminating materials? What are possible sources of contamination? What is the sensitivity of tests used to monitor contamination?

**Appendix M-II-B-1-b-(2).** Describe any other material to be used in preparation of the material to be administered to the human research subject. For example, if a viral vector is proposed, what is the nature of the helper virus or cell line? If carrier particles are to be used, what is the nature of these?

## **Appendix M-II-B-2. Preclinical Studies, Including Risk-Assessment Studies**

Provide results that demonstrate the safety, efficacy, and feasibility of the proposed procedures using animal and/or cell culture model systems, and explain why the model(s) chosen is/are most appropriate.

### **Appendix M-II-B-2-a. Delivery System**

**Appendix M-II-B-2-a-(1).** What cells are the intended target cells of the recombinant or synthetic nucleic acid molecules? What target cells are to be treated *ex vivo* and returned to the human subject, how will the cells be characterized before and after treatment? What is the theoretical and practical basis for assuming that only the target cells will incorporate the recombinant or synthetic nucleic acid?

**Appendix M-II-B-2-a-(2).** Is the delivery system efficient? What percentage of the target cells contain the added recombinant or synthetic nucleic acid?

**Appendix M-II-B-2-a-(3).** How is the structure of the added recombinant or synthetic nucleic acid sequences monitored and what is the sensitivity of the analysis? Is the added DNA extrachromosomal or integrated? Is the added recombinant or synthetic nucleic acid unrearranged?

**Appendix M-II-B-2-a-(4).** How many copies are present per cell? How stable is the added recombinant or synthetic nucleic acid both in terms of its continued presence and its structural stability?

### **Appendix M-II-B-2-b. Gene Transfer and Expression**

**Appendix M-II-B-2-b-(1).** What animal and cultured cell models were used in laboratory studies to assess the *in vivo* and *in vitro* efficacy of the gene transfer system? In what ways are these models similar to and different from the proposed human treatment?

**Appendix M-II-B-2-b-(2).** What is the minimal level of gene transfer and/or expression that is estimated to be necessary for the gene transfer protocol to be successful in humans? How was this level determined?

**Appendix M-II-B-2-b-(3).** Explain in detail all results from animal and cultured cell model experiments which assess the effectiveness of the delivery system in achieving the minimally required level of gene transfer and expression.

**Appendix M-II-B-2-b-(4).** To what extent is expression only from the desired gene (and not from the surrounding DNA)? To what extent does the insertion modify the expression of other genes?

**Appendix M-II-B-2-b-(5).** In what percentage of cells does expression from the added recombinant or synthetic nucleic acid occur? Is the product biologically active? What percentage of normal activity results from the inserted gene?

**Appendix M-II-B-2-b-(6).** Is the gene expressed in cells other than the target cells? If so, to what extent?

#### **Appendix M-II-B-2-c. Retrovirus Delivery Systems**

**Appendix M-II-B-2-c-(1).** What cell types have been infected with the retroviral vector preparation? Which cells, if any, produce infectious particles?

**Appendix M-II-B-2-c-(2).** How stable are the retroviral vector and the resulting provirus against loss, rearrangement, recombination, or mutation? What information is available on how much rearrangement or recombination with endogenous or other viral sequences is likely to occur in the human subject's cells? What steps have been taken in designing the vector to minimize instability or variation? What laboratory studies have been performed to check for stability, and what is the sensitivity of the analyses?

**Appendix M-II-B-2-c-(3).** What laboratory evidence is available concerning potential harmful effects of the transfer (e.g., development of neoplasia, harmful mutations, regeneration of infectious particles, or immune responses)? What steps will be taken in designing the vector to minimize pathogenicity? What laboratory studies have been performed to check for pathogenicity, and what is the sensitivity of the analyses?

**Appendix M-II-B-2-c-(4).** Is there evidence from animal studies that recombinant or synthetic vector nucleic acid has entered untreated cells, particularly germ-line cells? What is the sensitivity of these analyses?

**Appendix M-II-B-2-c-(5).** Has a protocol similar to the one proposed for a clinical trial been conducted in non-human primates and/or other animals? What were the results? Specifically, is there any evidence that the retroviral vector has recombined with any endogenous or other viral sequences in the animals?

#### **Appendix M-II-B-2-d. Non-Retrovirus Delivery/Expression Systems**

If a non-retroviral delivery system is used, what animal studies have been conducted to determine if there are pathological or other undesirable consequences of the protocol (including insertion of DNA into cells other than those treated, particularly germ-line cells)? How long have the animals been studied after treatment? What safety studies have been conducted? (Include data about the level of sensitivity of such assays.)

#### **Appendix M-II-B-3. Clinical Procedures, Including Research Participant Monitoring**

Describe the experimental treatment that will be administered to the human subjects and the diagnostic methods that will be used to monitor the success or failure of the experimental treatment. If previous clinical studies using similar methods have been performed by yourself or others, indicate their relevance to the proposed study. Specifically:

**Appendix M-II-B-3-a.** Will cells (e.g., bone marrow cells) be removed from human subjects and treated *ex vivo*? If so, describe the type, number, and intervals at which these cells will be removed.

**Appendix M-II-B-3-b.** Will human subjects be treated to eliminate or reduce the number of cells containing malfunctioning genes (e.g., through radiation or chemotherapy)?

**Appendix M-II-B-3-c.** What treated cells (or vector/nucleic acid combination) will be given to human subjects? How will the treated cells be administered? What volume of cells will be used? Will there be single or multiple experimental treatments? If so, over what period of time?

**Appendix M-II-B-3-d.** How will it be determined that new gene sequences have been inserted into the subject's cells and if these sequences are being expressed? Are these cells limited to the intended target cell populations? How sensitive are these analyses?

**Appendix M-II-B-3-e.** What studies will be conducted to assess the presence and effects of the contaminants?

**Appendix M-II-B-3-f.** What are the clinical endpoints of the study? Are there objectives and quantitative measurements to assess the natural history of the disease? Will such measurements be used in human subject follow-up? How will subjects be monitored to assess specific effects of the treatment on the disease? What is the sensitivity of the analyses? How frequently will follow-up studies be conducted? How long will follow-up continue?

**Appendix M-II-B-3-g.** What are the major beneficial and adverse effects of the experimental treatment that you anticipate? What measures will be taken in an attempt to control or reverse these adverse effects if they occur? Compare the probability and magnitude of deleterious consequences from the disease if nucleic acid molecule transfer is not used.

**Appendix M-II-B-3-h.** If a treated human subject dies, what special post-mortem studies will be performed?

#### **Appendix M-II-B-4. Public Health Considerations**

Describe any potential benefits and hazards of the proposed gene transfer to persons other than the human subjects receiving the experimental treatment. Specifically:

**Appendix M-II-B-4-a.** On what basis are potential public health benefits or hazards postulated?

**Appendix M-II-B-4-b.** Is there a significant possibility that the added recombinant or synthetic nucleic acid will spread from the human subject to other persons or to the environment?

**Appendix M-II-B-4-c.** What precautions will be taken against such spread (e.g., subjects sharing a room, health-care workers, or family members)?

**Appendix M-II-B-4-d.** What measures will be undertaken to mitigate the risks, if any, to public health?

**Appendix M-II-B-4-e.** In light of possible risks to offspring, including vertical transmission, will birth control measures be recommended to subjects? Are such concerns applicable to health care personnel?

#### **Appendix M-II-B-5. Qualifications of Investigators and Adequacy of Laboratory and Clinical Facilities**

Indicate the relevant training and experience of the personnel who will be involved in the preclinical studies and clinical administration of recombinant or synthetic nucleic acid molecules. Describe the laboratory and clinical facilities where the proposed study will be performed. Specifically:

**Appendix M-II-B-5-a.** What professional personnel (medical and nonmedical) will be involved in the proposed study and what is their relevant expertise? Provide a two-page curriculum vitae for each key professional person in biographical sketch format (see [Appendix M-I-A, Requirements for Protocol Submission](#)).

**Appendix M-II-B-5-b.** At what hospital or clinic will the experimental treatment be given? Which facilities of the hospital or clinic will be especially important for the proposed study? Will subjects occupy regular hospital beds or clinical research center beds? Where will subjects reside during the follow-up period? What special arrangements will be made for the comfort and consideration of the research participants. Will the research institution designate an ombudsman, patient care representative, or other individual to help protect the rights and welfare of the research participant?

#### **Appendix M-II-C. Selection of the Human Subjects**

Estimate the number of human subjects to be involved in the proposed study. Describe recruitment procedures and eligibility requirements, paying particular attention to whether these procedures and requirements are fair and equitable. Specifically:

**Appendix M-II-C-1.** How many subjects do you plan to involve in the proposed study?

**Appendix M-II-C-2.** How many eligible subjects do you anticipate being able to identify each year?

**Appendix M-II-C-3.** What recruitment procedures do you plan to use?

**Appendix M-II-C-4.** What selection criteria do you plan to employ? What are the exclusion and inclusion criteria for the study?

**Appendix M-II-C-5.** How will subjects be selected if it is not possible to include all who desire to participate?

### **Appendix M-III. Informed Consent**

In accordance with the Protection of Human Subjects (45 CFR Part 46), investigators should indicate how subjects will be informed about the proposed study and the manner in which their consent will be solicited. They should indicate how the Informed Consent document makes clear the special requirements of gene transfer research. If a proposal involves children, special attention should be paid to the Protection of Human Subjects (45 CFR Part 46), Subpart D, Additional Protections for Children Involved as Subjects in Research.

#### **Appendix M-III-A. Communication About the Study to Potential Participants**

**Appendix M-III-A-1.** Which members of the research group and/or institution will be responsible for contacting potential participants and for describing the study to them? What procedures will be used to avoid possible conflicts of interest if the investigator is also providing medical care to potential subjects?

**Appendix M-III-A-2.** How will the major points covered in [Appendix M-II, Description of Proposal](#), be disclosed to potential participants and/or their parents or guardians in language that is understandable to them?

**Appendix M-III-A-3.** What is the length of time that potential participants will have to make a decision about their participation in the study?

**Appendix M-III-A-4.** If the study involves pediatric or mentally handicapped subjects, how will the assent of each person be obtained?

#### **Appendix M-III-B. Informed Consent Document**

Submission of a human gene transfer experiment to NIH OBA must include a copy of the proposed informed consent document. A separate Informed Consent document should be used for the gene transfer portion of a research project when gene transfer is used as an adjunct in the study of another technique, e.g., when a gene is used as a "marker" or to enhance the power of immunotherapy for cancer.

Because of the relative novelty of the procedures that are used, the potentially irreversible consequences of the procedures performed, and the fact that many of the potential risks remain undefined, the Informed Consent document should include the following specific information in addition to any requirements of the DHHS regulations for the Protection of Human Subjects (45 CFR 46). Indicate if each of the specified items appears in the Informed Consent document or, if not included in the Informed Consent document, how those items will be presented to potential subjects. Include an explanation if any of the following items are omitted from the consent process or the Informed Consent document.

#### **Appendix M-III-B-1. General Requirements of Human Subjects Research**

##### **Appendix M-III-B-1-a. Description/Purpose of the Study**

The subjects should be provided with a detailed explanation in non-technical language of the purpose of the study and the procedures associated with the conduct of the proposed study, including a description of the gene transfer component.

##### **Appendix M-III-B-1-b. Alternatives**

The Informed Consent document should indicate the availability of therapies and the possibility of other investigational interventions and approaches.

**Appendix M-III-B-1-c. Voluntary Participation**

The subjects should be informed that participation in the study is voluntary and that failure to participate in the study or withdrawal of consent will not result in any penalty or loss of benefits to which the subjects are otherwise entitled.

**Appendix M-III-B-1-d. Benefits**

The subjects should be provided with an accurate description of the possible benefits, if any, of participating in the proposed study. For studies that are not reasonably expected to provide a therapeutic benefit to subjects, the Informed Consent document should clearly state that no direct clinical benefit to subjects is expected to occur as a result of participation in the study, although knowledge may be gained that may benefit others.

**Appendix M-III-B-1-e. Possible Risks, Discomforts, and Side Effects**

There should be clear itemization in the Informed Consent document of types of adverse experiences, their relative severity, and their expected frequencies. For consistency, the following definitions are suggested: side effects that are listed as mild should be ones which do not require a therapeutic intervention; moderate side effects require an intervention; and severe side effects are potentially fatal or life-threatening, disabling, or require prolonged hospitalization.

If verbal descriptors (e.g., "rare," "uncommon," or "frequent") are used to express quantitative information regarding risk, these terms should be explained.

The Informed Consent document should provide information regarding the approximate number of people who have previously received the genetic material under study. It is necessary to warn potential subjects that, for genetic materials previously used in relatively few or no humans, unforeseen risks are possible, including ones that could be severe.

The Informed Consent document should indicate any possible adverse medical consequences that may occur if the subjects withdraw from the study once the study has started.

**Appendix M-III-B-1-f. Costs**

The subjects should be provided with specific information about any financial costs associated with their participation in the protocol and in the long-term follow-up to the protocol that are not covered by the investigators or the institution involved.

Subjects should be provided an explanation about the extent to which they will be responsible for any costs for medical treatment required as a result of research-related injury.

**Appendix M-III-B-2. Specific Requirements of Gene Transfer Research****Appendix M-III-B-2-a. Reproductive Considerations**

To avoid the possibility that any of the reagents employed in the gene transfer research could cause harm to a fetus/child, subjects should be given information concerning possible risks and the need for contraception by males and females during the active phase of the study. The period of time for the use of contraception should be specified.

The inclusion of pregnant or lactating women should be addressed.

**Appendix M-III-B-2-b. Long-Term Follow-Up**

To permit evaluation of long-term safety and efficacy of gene transfer, the prospective subjects should be informed that they are expected to cooperate in long-term follow-up that extends beyond the active phase of the study. The Informed Consent document should include a list of persons who can be contacted in the event that questions arise during the follow-up period. The investigator should request that subjects continue to provide a current address and telephone number.

The subjects should be informed that any significant findings resulting from the study will be made known in a timely manner to them and/or their parent or guardian including new information about the experimental procedure, the harms and benefits experienced by other individuals involved in the study, and any long-term effects that have been observed.

**Appendix M-III-B-2-c. Request for Autopsy**

To obtain vital information about the safety and efficacy of gene transfer, subjects should be informed that at the time of death, no matter what the cause, permission for an autopsy will be requested of their families. Subjects should be asked to advise their families of the request and of its scientific and medical importance.

**Appendix M-III-B-2-d. Interest of the Media and Others in the Research**

To alert subjects that others may have an interest in the innovative character of the protocol and in the status of the treated subjects, the subjects should be informed of the following: (i) that the institution and investigators will make efforts to provide protection from the media in an effort to protect the participants' privacy, and (ii) that representatives of applicable Federal agencies (e.g., the [National Institutes of Health](#) and the [Food and Drug Administration](#)), representatives of collaborating institutions, vector suppliers, etc., will have access to the subjects' medical records.

**Appendix M-IV. Privacy**

Indicate what measures will be taken to protect the privacy of subjects and their families as well as maintain the confidentiality of research data. These measures should help protect the confidentiality of information that could directly or indirectly identify study participants.

**Appendix M-IV-A.** What provisions will be made to honor the wishes of individual human subjects (and the parents or guardians of pediatric or mentally handicapped subjects) as to whether, when, or how the identity of a subject is publicly disclosed.

**Appendix M-IV-B.** What provisions will be made to maintain the confidentiality of research data, at least in cases where data could be linked to individual subjects?

**Appendix M-V. Special Issues**

Although the following issues are beyond the normal purview of local Institutional Review Boards, investigators should respond to the following questions:

**Appendix M-V-A.** What steps will be taken, consistent with Appendix M-IV, *Privacy*, to ensure that accurate and appropriate information is made available to the public with respect to such public concerns as may arise from the proposed study?

**Appendix M-V-B.** Do you or your funding sources intend to protect under patent or trade secret laws either the products or the procedures developed in the proposed study? If so, what steps will be taken to permit as full communication as possible among investigators and clinicians concerning research methods and results?

## Appendix M-VI. Footnotes of Appendix M

**Appendix M-VI-A.** Human studies in which induction or enhancement of an immune response to a vector-encoded microbial immunogen is the major goal, such an immune response has been demonstrated in model systems, and the persistence of the vector-encoded immunogen is not expected, are exempt from [Appendix M-I, Requirements for Protocol Submission, Review and Reporting – Human Gene Transfer Experiments](#).

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## APPENDIX P. PHYSICAL AND BIOLOGICAL CONTAINMENT FOR RECOMBINANT OR SYNTHETIC NUCLEIC ACID MOLECULE RESEARCH INVOLVING PLANTS

Appendix P specifies physical and biological containment conditions and practices suitable to the greenhouse conduct of experiments involving recombinant or synthetic nucleic acid molecule-containing plants, plant-associated microorganisms, and small animals. All provisions of the *NIH Guidelines* apply to plant research activities with the following modifications:

Appendix P shall supersede [Appendix G \(Physical Containment\)](#) when the research plants are of a size, number, or have growth requirements that preclude the use of containment conditions described in [Appendix G](#). The plants covered in Appendix P include but are not limited to mosses, liverworts, macroscopic algae, and vascular plants including terrestrial crops, forest, and ornamental species.

Plant-associated microorganisms include viroids, virusoids, viruses, bacteria, fungi, protozoans, certain small algae, and microorganisms that have a benign or beneficial association with plants, such as certain *Rhizobium* species and microorganisms known to cause plant diseases. The appendix applies to microorganisms which are being modified with the objective of fostering an association with plants.

Plant-associated small animals include those arthropods that: (i) are in obligate association with plants, (ii) are plant pests, (iii) are plant pollinators, or (iv) transmit plant disease agents, as well as other small animals such as nematodes for which tests of biological properties necessitate the use of plants. Microorganisms associated with such small animals (e.g., pathogens or symbionts) are included.

The Institutional Biosafety Committee shall include at least one individual with expertise in plant, plant pathogen, or plant pest containment principles when experiments utilizing Appendix P require prior approval by the Institutional Biosafety Committee.

### Appendix P-I. General Plant Biosafety Levels

**Appendix P-I-A.** The principal purpose of plant containment is to avoid the unintentional transmission of a recombinant or synthetic nucleic acid molecule-containing plant genome, including nuclear or organelle hereditary material or release of recombinant or synthetic nucleic acid molecule-derived organisms associated with plants.

**Appendix P-I-B.** The containment principles are based on the recognition that the organisms that are used pose no health threat to humans or higher animals (unless deliberately modified for that purpose), and that the containment conditions minimize the possibility of an unanticipated deleterious effect on organisms and ecosystems outside of the experimental facility, e.g., the inadvertent spread of a serious pathogen from a greenhouse to a local agricultural crop or the unintentional introduction and establishment of an organism in a new ecosystem.

**Appendix P-I-C.** Four biosafety levels, referred to as Biosafety Level (BL) 1 - Plants (P), BL2-P, BL3-P, and BL4-P, are established in [Appendix P-II, Physical Containment Levels](#). The selection of containment levels required for research involving recombinant or synthetic nucleic acid molecules in plants or associated with plants is specified in [Appendix P-III, Biological Containment Practices](#). These biosafety levels are described in [Appendix P-II, Physical Containment Levels](#). This appendix describes greenhouse practices and special greenhouse facilities for physical containment.

**Appendix P-I-D.** BL1-P through BL4-P are designed to provide differential levels of biosafety for plants in the absence or presence of other experimental organisms that contain recombinant or synthetic nucleic acid