

Subsec. (e). Pub. L. 103-43, §163, added subsec. (e).

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 103-43, title I, §165, June 10, 1993, 107 Stat. 143, provided that:

“(a) ISSUANCE OF FINAL RULES.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [June 10, 1993], the Secretary shall, subject to paragraph (2), issue the final rule for each regulation required in section 493 or 493A of the Public Health Service Act [42 U.S.C. 289b, 289b-1].

“(2) DEFINITION OF RESEARCH MISCONDUCT.—Not later than 90 days after the date on which the report required in section 162(e) [107 Stat. 142] is submitted to the Secretary, the Secretary shall issue the final rule for the regulations required in section 493 of the Public Health Service Act with respect to the definition of the term ‘research misconduct’.

“(b) APPLICABILITY TO ONGOING INVESTIGATIONS.—The final rule issued pursuant to subsection (a) for investigations under section 493 of the Public Health Service Act [42 U.S.C. 289b] does not apply to investigations commenced before the date of the enactment of this Act [June 10, 1993] under authority of such section as in effect before such date.

“(c) DEFINITIONS.—For purposes of this section:

“(1) The term ‘section 493 of the Public Health Service Act’ means such section [42 U.S.C. 289b] as amended by sections 161 and 163 of this Act, except as indicated otherwise in subsection (b).

“(2) The term ‘section 493A of the Public Health Service Act’ means such section [42 U.S.C. 289b-1] as added by section 164 of this Act.

“(3) The term ‘Secretary’ means the Secretary of Health and Human Services.”

§ 289b-1. Protection against financial conflicts of interest in certain projects of research

(a) Issuance of regulations

The Secretary shall by regulation define the specific circumstances that constitute the existence of a financial interest in a project on the part of an entity or individual that will, or may be reasonably expected to, create a bias in favor of obtaining results in such project that are consistent with such financial interest. Such definition shall apply uniformly to each entity or individual conducting a research project under this chapter. In the case of any entity or individual receiving assistance from the Secretary for a project of research described in subsection (b), the Secretary shall by regulation establish standards for responding to, including managing, reducing, or eliminating, the existence of such a financial interest. The entity may adopt individualized procedures for implementing the standards.

(b) Relevant projects

A project of research referred to in subsection (a) is a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment and for which such entity is receiving assistance from the Secretary.

(c) Identifying and reporting to Secretary

The Secretary shall by regulation require that each entity described in subsection (a) that applies for assistance under this chapter for any project described in subsection (b) submit in or with its application for such assistance—

(1) assurances satisfactory to the Secretary that such entity has established and has in effect an administrative process under subsection (a) to identify financial interests (as defined under subsection (a)) that exist regarding the project; and

(2) an agreement that the entity will report to the Secretary such interests identified by the entity and how any such interests identified by the entity will be managed or eliminated in order that the project in question will be protected from bias that may stem from such interests; and

(3) an agreement that the entity will comply with regulations issued under this section.

(d) Monitoring of process

The Secretary shall monitor the establishment and conduct of the administrative process established by an entity pursuant to subsection (a).

(e) Response

In any case in which the Secretary determines that an entity has failed to comply with subsection (c) regarding a project of research described in subsection (b), the Secretary—

(1) shall require that, as a condition of receiving assistance, the entity disclose the existence of a financial interest (as defined under subsection (a)) in each public presentation of the results of such project; and

(2) may take such other actions as the Secretary determines to be appropriate.

(f) Definitions

For purposes of this section:

(1) The term “financial interest” includes the receipt of consulting fees or honoraria and the ownership of stock or equity.

(2) The term “assistance”, with respect to conducting a project of research, means a grant, contract, or cooperative agreement.

(July 1, 1944, ch. 373, title IV, §493A, as added Pub. L. 103-43, title I, §164, June 10, 1993, 107 Stat. 142.)

Statutory Notes and Related Subsidiaries

REGULATIONS

Final rule for regulations required in this section to be issued not later than 180 days after June 10, 1993, see section 165 of Pub. L. 103-43, set out as a note under section 289b of this title.

§ 289c. Research on public health emergencies

If the Secretary determines, after consultation with the Director of NIH, the Commissioner of the Food and Drug Administration, or the Director of the Centers for Disease Control and Prevention, that a disease or disorder constitutes a public health emergency, the Secretary, acting through the Director of NIH—

(1) shall expedite the review by advisory councils under section 284a of this title and by peer review groups under section 289a of this title of applications for grants for research on such disease or disorder or proposals for contracts for such research;

(2) shall exercise the authority in section 6101 of title 41 respecting public exigencies to waive the advertising requirements of such