2007—Subsec. (a). Pub. L. 109–482, which directed the substitution of ''to carry out section 287a–2'' for ''under section 287a–2(h)'', was executed by making substitution for ''under section 287a–2(i)'', to reflect the probable intent of Congress.

2000—Subsec. (a). Pub. L. 106–505, which directed the amendment of subsec. (a) by substituting ''2000 through 2002, reserve from the amounts appropriated under section 287a–2(i) of this title such sums as necessary'' for '''1994' and all that follows through '$5,000,000' '', was executed by making the substitution for ''1994 through 1996, reserve from the amounts appropriated under section 287a–2(h) of this title up to $2,500,000'', to reflect the probable intent of Congress and the amendment by Pub. L. 105–392. See 1998 Amendment note below.

1998—Subsec. (a). Pub. L. 105–392, in first sentence, substituted ''may'' for ''shall'' and ''up to $2,500,000'' for ''$5,000,000''.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 109–482 applicable only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years, see section 109 of Pub. L. 109–482, set out as a note under section 281 of this title.

§ 283m. Sanctuary system for surplus chimpanzees

(a) In general

The Secretary shall provide for the establishment and operation in accordance with this section of a system to provide for the lifetime care of chimpanzees that have been used, or were bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government, and with respect to which it has been determined by the Secretary that the chimpanzees are not needed for such research (in this section referred to as ''surplus chimpanzees'').

(b) Administration of sanctuary system

The Secretary shall carry out this section, including the establishment of regulations under subsection (d) of this section, in consultation with the board of directors of the nonprofit private entity that receives the contract under subsection (e) of this section (relating to the operation of the sanctuary system).

(c) Acceptance of chimpanzees into system

All surplus chimpanzees owned by the Federal Government shall be accepted into the sanctuary system. Subject to standards under subsection (d)(4) of this section, any chimpanzee that is not owned by the Federal Government can be accepted into the system if the owner transfers to the sanctuary system title to the chimpanzee.

(d) Standards for permanent retirement of surplus chimpanzees

(1) In general

Not later than 180 days after December 20, 2000, the Secretary shall by regulation establish standards for operating the sanctuary system to provide for the permanent retirement of surplus chimpanzees. In establishing the standards, the Secretary shall consider the recommendations of the board of directors of the nonprofit private entity that receives the contract under subsection (e) of this section, and shall consider the recommendations of the National Research Council applicable to surplus chimpanzees that are made in the report published in 1997 and entitled ''Chimpanzees in Research—Strategies for Their Ethical Care, Management, and Use''.

(2) Chimpanzees accepted into system

With respect to chimpanzees that are accepted into the sanctuary system, standards under paragraph (1) shall include the following:

(A) A prohibition that the chimpanzees may not be used for research, except as authorized under paragraph (3).

(B) Provisions regarding the housing of the chimpanzees.

(C) Provisions regarding the behavioral well-being of the chimpanzees.

(D) A requirement that the chimpanzees be cared for in accordance with the Animal Welfare Act [7 U.S.C. 2131 et seq.].

(E) A requirement that the chimpanzees be prevented from breeding.

(F) A requirement that complete histories be maintained on the health and use in research of the chimpanzees.

(G) A requirement that the chimpanzees be monitored for the purpose of promptly detecting the presence in the chimpanzees of any condition that may be a threat to the public health or the health of other chimpanzees.

(H) A requirement that chimpanzees posing such a threat be contained in accordance with applicable recommendations of the Director of the Centers for Disease Control and Prevention.

(I) A prohibition that none of the chimpanzees may be subjected to euthanasia, except as in the best interests of the chimpanzee involved, as determined by the system and an attending veterinarian.

(J) A prohibition that the chimpanzees may not be discharged from the system.

(K) A provision that the Secretary may, in the discretion of the Secretary, accept into the system chimpanzees that are not surplus chimpanzees.

(L) Such additional standards as the Secretary determines to be appropriate.

(3) Restrictions regarding research

(A) In general

For purposes of paragraph (2)(A), standards under paragraph (1) shall provide that a chimpanzee accepted into the sanctuary system may not be used for studies or research, except that the chimpanzee may be used for noninvasive behavioral studies or medical studies based on information collected during the course of normal veterinary care that is provided for the benefit of the chimpanzee, provided that any such study involves minimal physical and mental harm, pain, distress, and disturbance to the chimpanzee and the social group in which the chimpanzee lives.

(B) Additional restriction

For purposes of paragraph (2)(A), a condition for the use in studies or research of a chimpanzee accepted into the sanctuary sys-

tem is (in addition to conditions under subparagraph (A) of this paragraph) that the applicant for such use has not been fined for, or signed a consent decree for, any violation of the Animal Welfare Act [7 U.S.C. 2131 et seq.].

(4) Non-Federal chimpanzees offered for acceptance into system

With respect to a chimpanzee that is not owned by the Federal Government and is offered for acceptance into the sanctuary system, standards under paragraph (1) shall include the following:

(A) A provision that the Secretary may authorize the imposition of a fee for accepting such chimpanzee into the system, except as follows:

(i) Such a fee may not be imposed for accepting the chimpanzee if, on the day before December 20, 2000, the chimpanzee was owned by the nonprofit private entity that receives the contract under subsection (e) of this section or by any individual sanctuary facility receiving a subcontract or grant under subsection (e)(1) of this section.

(ii) Such a fee may not be imposed for accepting the chimpanzee if the chimpanzee is owned by an entity that operates a primate center, and if the chimpanzee is housed in the primate center pursuant to the program for regional centers for research on primates that is carried out by the Director of NIH, acting through the Office of the Director of NIH,.[1]

Any fees collected under this subparagraph are available to the Secretary for the costs of operating the system. Any other fees received by the Secretary for the long-term care of chimpanzees (including any Federal fees that are collected for such purpose and are identified in the report under section 3 of the Chimpanzee Health Improvement, Maintenance, and Protection Act) are available for operating the system, in addition to availability for such other purposes as may be authorized for the use of the fees.

(B) A provision that the Secretary may deny such chimpanzee acceptance into the system if the capacity of the system is not sufficient to accept the chimpanzee, taking into account the physical capacity of the system; the financial resources of the system; the number of individuals serving as the staff of the system, including the number of professional staff; the necessity of providing for the safety of the staff and of the public; the necessity of caring for accepted chimpanzees in accordance with the standards under paragraph (1); and such other factors as may be appropriate.

(C) A provision that the Secretary may deny such chimpanzee acceptance into the system if a complete history of the health and use in research of the chimpanzee is not available to the Secretary.

(D) Such additional standards as the Secretary determines to be appropriate.

[1] So in original. Comma probably should not appear.

(e) Award of contract for operation of system

(1) In general

Subject to the availability of funds pursuant to subsection (g) of this section, the Secretary shall make an award of a contract to a nonprofit private entity under which the entity has the responsibility of operating (and establishing, as applicable) the sanctuary system and awarding subcontracts or grants to individual sanctuary facilities that meet the standards under subsection (d) of this section.

(2) Requirements

The Secretary may make an award under paragraph (1) to a nonprofit private entity only if the entity meets the following requirements:

(A) The entity has a governing board of directors that is composed and appointed in accordance with paragraph (3) and is satisfactory to the Secretary.

(B) The terms of service for members of such board are in accordance with paragraph (3).

(C) The members of the board serve without compensation. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the board.

(D) The entity has an executive director meeting such requirements as the Secretary determines to be appropriate.

(E) The entity makes the agreement described in paragraph (4) (relating to non-Federal contributions).

(F) The entity agrees to comply with standards under subsection (d) of this section.

(G) The entity agrees to make necropsy reports on chimpanzees in the sanctuary system available on a reasonable basis to persons who conduct biomedical or behavioral research, with priority given to such persons who are Federal employees or who receive financial support from the Federal Government for research.

(H) Such other requirements as the Secretary determines to be appropriate.

(3) Board of directors

For purposes of subparagraphs (A) and (B) of paragraph (2):

(A) The governing board of directors of the nonprofit private entity involved is composed and appointed in accordance with this paragraph if the following conditions are met:

(i) Such board is composed of not more than 13 voting members.

(ii) Such members include individuals with expertise and experience in the science of managing captive chimpanzees (including primate veterinary care), appointed from among individuals endorsed by organizations that represent individuals in such field.

(iii) Such members include individuals with expertise and experience in the field of animal protection, appointed from among individuals endorsed by organizations that represent individuals in such field.

(iv) Such members include individuals with expertise and experience in the zoological field (including behavioral primatology), appointed from among individuals endorsed by organizations that represent individuals in such field.

(v) Such members include individuals with expertise and experience in the field of the business and management of nonprofit organizations, appointed from among individuals endorsed by organizations that represent individuals in such field.

(vi) Such members include representatives from entities that provide accreditation in the field of laboratory animal medicine.

(vii) Such members include individuals with expertise and experience in the field of containing biohazards.

(viii) Such members include an additional member who serves as the chair of the board, appointed from among individuals who have been endorsed for purposes of clause (ii), (iii), (iv), or (v).

(ix) None of the members of the board has been fined for, or signed a consent decree for, any violation of the Animal Welfare Act [7 U.S.C. 2131 et seq.].

(B) The terms of service for members of the board of directors are in accordance with this paragraph if the following conditions are met:

(i) The term of the chair of the board is 3 years.

(ii) The initial members of the board select, by a random method, one member from each of the six fields specified in subparagraph (A) to serve a term of 2 years and (in addition to the chair) one member from each of such fields to serve a term of 3 years.

(iii) After the initial terms under clause (ii) expire, each member of the board (other than the chair) is appointed to serve a term of 2 years.

(iv) An individual whose term of service expires may be reappointed to the board.

(v) A vacancy in the membership of the board is filled in the manner in which the original appointment was made.

(vi) If a member of the board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy is appointed for the remainder of the term of the predecessor member.

(4) Requirement of matching funds

The agreement required in paragraph (2)(E) for a nonprofit private entity (relating to the award of the contract under paragraph (1)) is an agreement that, with respect to the costs to be incurred by the entity in establishing and operating the sanctuary system, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs, in cash or in kind, in an amount not less than the following, as applicable:

(A) For expenses associated with establishing the sanctuary system (as determined by the Secretary), 10 percent of such costs ($1 for each $9 of Federal funds provided under the contract under paragraph (1)).

(B) For expenses associated with operating the sanctuary system (as determined by the Secretary), 25 percent of such costs ($1 for each $3 of Federal funds provided under such contract).

(5) Establishment of contract entity

If the Secretary determines that an entity meeting the requirements of paragraph (2) does not exist, not later than 60 days after December 20, 2000, the Secretary shall, for purposes of paragraph (1), make a grant for the establishment of such an entity, including paying the cost of incorporating the entity under the law of one of the States.

(f) Definitions

For purposes of this section:

(1) Permanent retirement

The term ''permanent retirement'', with respect to a chimpanzee that has been accepted into the sanctuary system, means that under subsection (a) of this section the system provides for the lifetime care of the chimpanzee, that under subsection (d)(2) of this section the system does not permit the chimpanzee to be used in research (except as authorized under subsection (d)(3) of this section) or to be euthanized (except as provided in subsection (d)(2)(I) of this section), that under subsection (d)(2) of this section the system will not discharge the chimpanzee from the system, and that under such subsection the system otherwise cares for the chimpanzee.

(2) Sanctuary system

The term ''sanctuary system'' means the system described in subsection (a) of this section.

(3) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(4) Surplus chimpanzees

The term ''surplus chimpanzees'' has the meaning given that term in subsection (a) of this section.

(g) Funding

(1) In general

Of the amount appropriated under this chapter for fiscal year 2001 and each subsequent fiscal year, the Secretary, subject to paragraph (2), shall reserve a portion for purposes of the operation (and establishment, as applicable) of the sanctuary system and for purposes of paragraph (3), except that the Secretary may not for such purposes reserve any further funds from such amount after the aggregate total of the funds so reserved for such fiscal years reaches $30,000,000. The purposes for which funds reserved under the preceding sentence may be expended include the construction and renovation of facilities for the sanctuary system.

(2) Limitation

Funds may not be reserved for a fiscal year under paragraph (1) unless the amount appro-

priated under this chapter for such year equals or exceeds the amount appropriated under this chapter for fiscal year 1999.

(3) Use of funds for other compliant facilities

With respect to amounts reserved under paragraph (1) for a fiscal year, the Secretary may use a portion of such amounts to make awards of grants or contracts to public or private entities operating facilities that, as determined by the board of directors of the nonprofit private entity that receives the contract under subsection (e) of this section, provide for the retirement of chimpanzees in accordance with the same standards that apply to the sanctuary system pursuant to regulations under subsection (d) of this section. Such an award may be expended for the expenses of operating the facilities involved.

(July 1, 1944, ch. 373, title IV, § 404K, formerly § 481C, as added Pub. L. 106–551, § 2, Dec. 20, 2000, 114 Stat. 2752; amended Pub. L. 110–170, § 2(a), Dec. 26, 2007, 121 Stat. 2465; renumbered § 404K and amended Pub. L. 112–74, div. F, title II, § 221(b)(3), Dec. 23, 2011, 125 Stat. 1088.)

REFERENCES IN TEXT

The Animal Welfare Act, referred to in subsecs. (d)(2)(D), (3)(B) and (e)(3)(A)(ix), is Pub. L. 89–544, Aug. 24, 1966, 80 Stat. 350, as amended, which is classified generally to chapter 54 (§ 2131 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2131 of Title 7 and Tables.

Section 3 of the Chimpanzee Health Improvement, Maintenance, and Protection Act, referred to in subsec. (d)(4)(A), is section 3 of Pub. L. 106–551, which is set out as a note below.

CODIFICATION

Section was formerly classified to section 287a–3a of this title.

AMENDMENTS

2011—Subsec. (d)(4)(A)(ii). Pub. L. 112–74, § 221(b)(3)(B), substituted ''that is carried out by the Director of NIH, acting through the Office of the Director of NIH,'' for ''that is carried out by the National Center for Research Resources''.

2007—Subsec. (d)(2)(J). Pub. L. 110–170, § 2(a)(1), struck out at end ''If any chimpanzee is removed from a sanctuary facility for purposes of research authorized under paragraph (3)(A)(ii), the chimpanzee shall be returned immediately upon the completion of that research. All costs associated with the removal of the chimpanzee from the facility, with the care of the chimpanzee during such absence from the facility, and with the return of the chimpanzee to the facility shall be the responsibility of the entity that obtains approval under such paragraph regarding use of the chimpanzee and removes the chimpanzee from the sanctuary facility.''

Subsec. (d)(3)(A). Pub. L. 110–170, § 2(a)(2)(A), substituted ''except that the chimpanzee may be used for noninvasive behavioral studies'' for ''except as provided in clause (i) or (ii), as follows:

''(i) The chimpanzee may be used for noninvasive behavioral studies''

and struck out cl. (ii) which related to findings necessary before a chimpanzee may be used in research.

Subsec. (d)(3)(B), (C). Pub. L. 110–170, § 2(a)(2)(B)–(D), redesignated subpar. (C) as (B), substituted ''under subparagraph (A)'' for ''under subparagraphs (A) and (B)'', and struck out former subpar. (B) which related to approval of research design.

REPORT TO CONGRESS REGARDING NUMBER OF CHIMPANZEES AND FUNDING FOR CARE OF CHIMPANZEES

Pub. L. 106–551, § 3, Dec. 20, 2000, 114 Stat. 2759, required the Secretary of Health and Human Services to submit a report to Congress, not later than 365 days after Dec. 20, 2000, about the chimpanzees that had been used, or bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government.

§ 283n. Shared Instrumentation Grant Program

(a) Requirements for grants

In determining whether to award a grant to an applicant under the Shared Instrumentation Grant Program, the Director of NIH, acting through the Office of the Director of NIH, shall consider—

(1) the extent to which an award for the specific instrument involved would meet the scientific needs and enhance the planned research endeavors of the major users by providing an instrument that is unavailable or to which availability is highly limited;

(2) with respect to the instrument involved, the availability and commitment of the appropriate technical expertise within the major user group or the applicant institution for use of the instrumentation;

(3) the adequacy of the organizational plan for the use of the instrument involved and the internal advisory committee for oversight of the applicant, including sharing arrangements if any;

(4) the applicant's commitment for continued support of the utilization and maintenance of the instrument; and

(5) the extent to which the specified instrument will be shared and the benefit of the proposed instrument to the overall research community to be served.

(b) Peer review

In awarding grants under the program described in subsection (a), the Director of NIH, acting through the Office of the Director of NIH, shall comply with the peer review requirements in section 289a of this title.

(July 1, 1944, ch. 373, title IV, § 404L, formerly Pub. L. 106–505, title III, § 305, Nov. 13, 2000, 114 Stat. 2335; renumbered July 1, 1944, ch. 373, title IV, § 404L, and amended Pub. L. 112–74, div. F, title II, § 221(b)(4), Dec. 23, 2011, 125 Stat. 1088.)

CODIFICATION

Section was formerly set out as a note under section 287 of this title, prior to renumbering by Pub. L. 112–74.

AMENDMENTS

2011—Pub. L. 112–74, § 221(b)(4)(B)(iii), substituted ''Director of NIH, acting through the Office of the Director of NIH,'' for ''Director of the National Center for Research Resources'' in subsecs (a) and (b).

Subsec. (a). Pub. L. 112–74, § 221(b)(4)(B)(ii), substituted ''under the Shared Instrumentation Grant Program'' for ''under the program described in subsection (a)'' in introductory provisions.

Pub. L. 112–74, § 221(b)(4)(B)(i), redesignated subsec. (b) as (a) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) read as follows: ''There is authorized to be appropriated $100,000,000 for fiscal year 2000, and such sums as may be necessary for each subsequent fiscal year, to enable the Secretary of