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APPENDIX 1: LEGAL JUSTIFICATION FOR STUDY  
PUBLIC HEALTH SERVICE ANNOUNCEMENT

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**TITLE III - GENERAL POWERS AND DUTIES OF PUBLIC HEALTH  
SERVICE**

**PART A - RESEARCH AND INVESTIGATION**

***IN GENERAL***

Sec. 301 [Sec. 241] (a) The Secretary shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Secretary is authorized to -

- (1) collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;
- (2) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;
- (3) make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the advisory council to the entity of the Department supporting such projects and make, upon recommendation of the advisory council to the appropriate entity of the Department, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research;
- (4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;
- (5) for purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;
- (6) make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;
- (7) enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections [2353](#) and [2354](#) of title [10](#), except that determination, approval, and

certification required thereby shall be by the Secretary of Health and Human Services; and

- (8)** adopt, upon recommendations of the advisory councils to the appropriate entities of the Department or, with respect to mental health, the National Advisory Mental Health Council, such additional means as the Secretary considers necessary or appropriate to carry out the purposes of this section.

The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate.

**(b) (1)** The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health and Human Services, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects.

**(2) (A)** The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts.

**(B)** The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

**(3)** The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of information respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health and Human Services and shall consult with entities of the Federal Government, outside of the Department of Health and Human Services, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct and support such activities for such entity.

**(4)** The Secretary shall publish a biennial report which contains -

**(A)** a list of all substances ( i ) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and ( ii ) to which a significant number of persons residing in the United States are exposed;

**(B)** information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

**(C)** a statement identifying **(i)** each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and

**(ii)** for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

**(D)** a description of **(i)** each request received during the year involved -

**(I)** from a Federal agency outside the Department of Health and Human Services for the Secretary, or

**(II)** from an entity within the Department of Health and Human Services to any other entity within the Department, to conduct research into, or testing for, the carcinogenicity of substances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

**(5)** The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or review, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

**(c)** The Secretary may conduct biomedical research, directly or through grants or contracts, for the identification, control, treatment, and prevention of diseases (including tropical diseases) which do not occur to a significant extent in the United States.

**(d)** Protection of privacy of individuals who are research subjects. The Secretary may authorize persons engaged in biomedical, behavioral, clinical, or other research (including research on mental health, including research on the use and effect of alcohol and other psychoactive drugs) to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of

such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

Appendix A (b)  
Public Law 103-183 (H.R. 2202)

From the U.S. House of Representatives Downloadable U.S.  
Code[uscode.house.gov][Laws in effect as of January 5, 1999] [CITE:  
42USC238j]

TITLE 42 - THE PUBLIC HEALTH AND WELFARE  
CHAPTER 6A - PUBLIC HEALTH SERVICE  
SUBCHAPTER I - ADMINISTRATION AND MISCELLANEOUS PROVISIONS  
Part B - Miscellaneous Provisions

-HEAD-

Sec. 238j. Evaluation of programs

-STATUTE-

(a) In general, such portion as the Secretary shall determine, but not less than 0.2 percent nor more than 1 percent, of any amounts appropriated for programs authorized under this chapter shall be made available for the evaluation (directly, or by grants of contracts) of the implementation and effectiveness of such programs. (b) Report on evaluations. Not later than February 1 of each year, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the findings of the evaluations conducted under subsection (a) of this section.

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(July 1, 1944, ch. 373, title II, Sec. 241, formerly title V, Sec. 513, as added Pub. L. 91-296, title IV, Sec. 401(a), June 30, 1970, 84 Stat. 351; amended Pub. L. 96-398, title VIII, Sec. 804(c), Oct. 7, 1980, 94 Stat. 1608; Pub. L. 97-35, title IX, Sec. 902(g)(3), Aug. 13, 1981, 95 Stat. 560; renumbered title XXI, Sec. 2113, Pub. L. 98-24, Sec. 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, Sec. 2313, Pub. L. 99-660, title III, Sec. 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, Sec. 2511, Pub. L. 100-607, title II, Sec. 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, Sec. 2611, Pub. L. 100-690, title II, Sec. 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, Sec. 2711, Pub. L. 101-381, title I, Sec. 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, Sec. 241, Pub. L. 103-43, title XX, Sec. 2010(a)(1)-(3), June 10, 1993, 107 Stat. 213; Pub. L. 103-183, title VII, Sec. 701, Dec. 14, 1993, 107 Stat. 2239.)

## CODIFICATION

Section was formerly classified to section 300aaa-10 of this title prior to renumbering by Pub. L. 103-43, to section 300cc-12 of this title prior to renumbering by Pub. L. 100-607, to section 300aa-12 of this title prior to renumbering by Pub. L. 99-660, and to section 229b of this title prior to renumbering by Pub. L.98-24.

-MISC3-

## AMENDMENTS

1993 - Pub. L. 103-183 amended section generally. Prior to amendment, section read as follows: "Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this chapter, the Mental Health Systems Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress), or the Act of August 16, 1957 (Public Law 85-151), for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this chapter or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly."

1981 - Pub. L. 97-35 struck out references to Mental Retardation Facilities Construction Act and Community Mental Health Centers Act.

1980 - Pub. L. 96-398 inserted reference to Mental Health Systems Act.

-CHANGE-

### CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

-MISC4-

### EFFECTIVE DATE OF 1993 AMENDMENT

Section 701 of Pub. L. 103-183 provided that the amendment made by that section is effective Oct. 1, 1994.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97-35, set out as a note under section 238l of this title.

-SECREP-

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299c-5, 300ff-74 of this title.