

ment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

“(3) An accurate assessment of marine mammal health, health trends in marine mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

“(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

“(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

“(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

“(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

“(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.”

#### **§ 1421a. Determination; data collection and dissemination**

##### **(a) Determination for release**

The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

##### **(b) Collection**

The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

(1) procedures and practices for—

(A) rescuing and rehabilitating stranded or entangled marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

(3) strandings and entanglements, including unusual mortality events, which the Secretary shall compile and analyze, by stranding region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded

marine mammals and entangled marine mammals to allow comparison of the causes of illness and deaths in stranded marine mammals and entangled marine mammals with physical, chemical, and biological environmental parameters; and

(4) other life history and reference level data, including marine mammal tissue analyses.

##### **(c) Information required to be submitted and collected**

###### **(1) In general**

After each response to a stranding or entanglement event, the Secretary shall collect (including from any staff of the National Oceanic and Atmospheric Administration that respond directly to such an event), and shall require each stranding network participant who responds to that stranding or entanglement to submit to the Administrator of the National Oceanic and Atmospheric Administration or the Director of the United States Fish and Wildlife Service—

(A) data on the stranding event, including NOAA Form 89-864 (OMB #0648-0178), NOAA Form 89-878 (OMB #0648-0178), similar successor forms, or similar information in an appropriate format required by the United States Fish and Wildlife Service for species under its management authority;

(B) supplemental data to the data described in subparagraph (A), which may include, as available, relevant information about—

- (i) weather and tide conditions;
  - (ii) offshore human, predator, or prey activity;
  - (iii) morphometrics;
  - (iv) behavior;
  - (v) health assessments;
  - (vi) life history samples; or
  - (vii) stomach and intestinal contents;
- and

(C) data and results from laboratory analysis of tissues, which may include, as appropriate and available—

- (i) histopathology;
- (ii) toxicology;
- (iii) microbiology;
- (iv) virology; or
- (v) parasitology.

###### **(2) Timeline**

A stranding network participant shall submit—

(A) the data described in paragraph (1)(A) not later than 30 days after the date of a response to a stranding or entanglement event;

(B) the compiled data described in paragraph (1)(B) not later than 30 days after the date on which the data is available to the stranding network participant; and

(C) the compiled data described in paragraph (1)(C) not later than 30 days after the date on which the laboratory analysis has been reported to the stranding network participant.

###### **(3) Online data input system**

The Secretary, acting through the Under Secretary of Commerce for Oceans and Atmos-

phere, in consultation with the stranding network and the Office of Evaluation Sciences of the General Services Administration, shall establish an online system for the purposes of efficient and timely submission of data described in paragraph (1).

**(d) Availability of data**

**(1) In general**

The Secretary shall develop a program to make information, including any data and metadata collected under paragraph (3) or (4) of subsection (b) or subsection (c), available to researchers, stranding network participants, and the public—

(A) to improve real-time coordination of response to stranding and entanglement events across geographic areas and between stranding coordinators;

(B) to identify and quickly disseminate information on potential public health risks;

(C) to facilitate integrated interdisciplinary research;

(D) to facilitate peer-reviewed publications;

(E) to archive regional data into 1 national database for future analyses; and

(F) for education and outreach activities.

**(2) Access to data**

The Secretary shall ensure that any data or metadata collected under subsection (c)—

(A) by staff of the National Oceanic and Atmospheric Administration or the United States Fish and Wildlife Service that responded directly to a stranding or entanglement event is available to the public through the Health MAP and the Observation System not later than 30 days after that data or metadata is collected by, available to, or reported to the Secretary; and

(B) by a stranding network participant that responded directly to a stranding or entanglement event is made available to the public through the Health MAP and the Observation System 2 years after the date on which that data are submitted to the Secretary under subsection (c).

**(3) Exceptions**

**(A) Written release**

Notwithstanding paragraph (2)(B), the Secretary may make data described in paragraph (2)(B) publicly available earlier than 2 years after the date on which that data are submitted to the Secretary under subsection (c), if the stranding network participant has completed a written release stating that such data may be made publicly available.

**(B) Law enforcement**

Notwithstanding paragraph (2), the Secretary may withhold data for a longer period than the period of time described in paragraph (2) in the event of a law enforcement action or legal action that may be related to that data.

**(e) Standards**

The Secretary, in consultation with the marine mammal stranding community, shall—

(1) make publicly available guidance about uniform data and metadata standards to en-

sure that data collected in accordance with this section can be archived in a form that is readily accessible and understandable to the public through the Health MAP and the Observation System; and

(2) periodically update such guidance.

**(f) Management policy**

In collaboration with the regional stranding networks, the Secretary shall develop, and periodically update, a data management and public outreach collaboration policy for stranding or entanglement events.

**(g) Authorship agreements and acknowledgment policy**

The Secretary, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall include authorship agreements or other acknowledgment considerations for use of data by the public, as determined by the Secretary.

**(h) Savings clause**

The Secretary shall not require submission of research data that are not described in subsection (c).

(Pub. L. 92-522, title IV, § 402, formerly title III, § 302, as added Pub. L. 102-587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5061; renumbered title IV, § 402, Pub. L. 103-238, § 24(b), Apr. 30, 1994, 108 Stat. 565; amended Pub. L. 117-263, div. J, title CIV, § 10401, Dec. 23, 2022, 136 Stat. 3981.)

**Editorial Notes**

**AMENDMENTS**

2022—Subsec. (b)(1)(A). Pub. L. 117-263, § 10401(1)(A), inserted “or entangled” after “stranded”.

Subsec. (b)(3). Pub. L. 117-263, § 10401(1)(B), substituted “strandings and entanglements, including unusual mortality events, which the Secretary shall compile and analyze, by stranding region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals and entangled marine mammals to allow comparison of the causes of illness and deaths in stranded marine mammals and entangled marine mammals with physical, chemical, and biological environmental parameters; and” for “strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and”.

Subsec. (b)(4). Pub. L. 117-263, § 10401(1)(C), substituted “analyses.” for “analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.”

Subsecs. (c) to (h). Pub. L. 117-263, § 10401(2), added subsecs. (c) to (h) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.”

**Statutory Notes and Related Subsidiaries**

**IMPLEMENTATION**

Pub. L. 102-587, title III, § 3003(b), Nov. 4, 1992, 106 Stat. 5066, provided that: “The Secretary of Commerce shall—

“(1) in accordance with section 302(a) and (b) [now 402(a), (b)] of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1421a(a), (b)], as amended by this Act, and not later than 24 months after the date of enactment of this Act [Nov. 4, 1992]—

“(A) develop and implement objective criteria to determine at what point a marine mammal undergoing rehabilitation is returnable to the wild; and  
 “(B) collect and make available information on marine mammal health and health trends; and  
 “(2) in accordance with section 304(b) [now 404(b)] of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1421c(b)], as amended by this Act, issue a detailed contingency plan for responding to any unusual mortality event—  
 “(A) in proposed form by not later than 18 months after the date of enactment of this Act; and  
 “(B) in final form by not later than 24 months after the date of enactment of this Act.”

#### **§ 1421b. Stranding or entanglement response agreements**

##### **(a) In general**

The Secretary may enter into an agreement under section 1382(c) of this title with any person to take marine mammals under section 1379(h)(1) of this title in response to a stranding or entanglement.

##### **(b) Required provision**

An agreement authorized by subsection (a) shall—

- (1) specify each person who is authorized to perform activities under the agreement;
- (2) specify any terms and conditions under which a person so specified may delegate that authority to another person; and
- (3) include a description of the data management and public outreach policy established under section 1421a(f) of this title.

##### **(c) Review**

The Secretary shall periodically review agreements under section 1382(c) of this title that are entered into pursuant to this subchapter, for performance adequacy and effectiveness.

(Pub. L. 92–522, title IV, § 403, formerly title III, § 303, as added Pub. L. 102–587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5061; renumbered title IV, § 403, Pub. L. 103–238, § 24(b), Apr. 30, 1994, 108 Stat. 565; amended Pub. L. 117–263, div. J, title CIV, § 10402(a), Dec. 23, 2022, 136 Stat. 3983.)

#### **Editorial Notes**

##### **AMENDMENTS**

2022—Pub. L. 117–263, § 10402(a)(1), inserted “or entanglement” before “response” in section catchline.

Subsec. (a). Pub. L. 117–263, § 10402(a)(2), inserted “or entanglement” after “stranding”.

Subsec. (b)(3). Pub. L. 117–263, § 10402(a)(3), added par. (3).

#### **§ 1421c. Unusual mortality event response**

##### **(a) Response**

###### **(1) Working group**

(A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

- (i) determining whether an unusual mortality event is occurring;
- (ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and
- (iii) developing the contingency plan in accordance with subsection (b), to assist the Secretary in responding to unusual mortality events.

(B) Chapter 10 of title 5 shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

##### **(2) Response timing**

The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

(B) within 48 hours after receiving such notification—

- (i) make a determination as to whether an unusual mortality event is occurring;
- (ii) inform the stranding network participant of that determination; and
- (iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c).

##### **(b) Contingency plan**

###### **(1) In general**

The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

###### **(2) Contents**

The contingency plan required under this subsection shall include—

(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

(D) such requirements as are necessary to—

- (i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;
- (ii) assist in identifying the cause or causes of an unusual mortality event;
- (iii) determine the effects of an unusual mortality event on the size estimates of