

“(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

the affected populations of marine mammals; and

(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

(c) Onsite coordinators

(1) Designation

(A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

(C) If, because of the wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

(2) Functions

(A) An Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b), except that—

(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality event working group.

(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this subchapter.

(Pub. L. 92-522, title IV, § 404, formerly title III, § 304, as added Pub. L. 102-587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5062; renumbered title IV, § 404, Pub. L. 103-238, § 24(b), Apr. 30, 1994, 108 Stat. 565; amended Pub. L. 117-286, § 4(a)(111), Dec. 27, 2022, 136 Stat. 4317.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a)(1)(B). Pub. L. 117-286 substituted “Chapter 10 of title 5” for “The Federal Advisory Committee Act (5 App. U.S.C.)”.

§ 1421d. Unusual mortality event activity funding

(a) Establishment of Fund

There is established in the Treasury an interest bearing fund to be known as the “Marine Mammal Unusual Mortality Event Fund”, which

shall consist of amounts deposited into the Fund under subsection (c).

(b) Uses

Amounts in the Fund shall be available only for use by the Secretary, in consultation with the Secretary of the Interior, and dispersed among claimants based on budgets approved by the Secretary prior to expenditure—

(1) to make advance, partial, or progress payments under contracts or other funding mechanisms for property, supplies, salaries, services, and travel costs incurred in acting in accordance with the contingency plan issued under section 1421c(b) of this title or under the direction of an Onsite Coordinator for an unusual mortality event designated under section 1421c(a)(2)(B)(iii) of this title;

(2) for reimbursing any stranding network participant for costs incurred in the collection, preparation, analysis, and transportation of marine mammal tissues and samples collected with respect to an unusual mortality event for the Tissue Bank; and

(3) for the care and maintenance of a marine mammal seized under section 1374(c)(2)(D) of this title; and¹

(c) Deposits into Fund

There shall be deposited into the Fund—

(1) amounts appropriated to the Fund;

(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d).

(d) Acceptance of donations

For purposes of carrying out this subchapter and section 1374(c)(2)(D) of this title, the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

(Pub. L. 92-522, title IV, § 405, formerly title III, § 305, as added Pub. L. 102-587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5064; renumbered title IV, § 405, and amended Pub. L. 103-238, §§ 6, 16(b), 24(b), (c)(2), Apr. 30, 1994, 108 Stat. 542, 559, 565, 566; Pub. L. 117-263, div. J, title CIV, § 10403, Dec. 23, 2022, 136 Stat. 3983.)

Editorial Notes

AMENDMENTS

2022—Subsec. (b). Pub. L. 117-263 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to uses of amounts in the Marine Mammal Unusual Mortality Event Fund and payment of pending claims.

1994—Subsec. (a). Pub. L. 103-238, § 16(b), substituted “an interest bearing fund” for “a fund”.

Subsec. (b)(1)(A)(i). Pub. L. 103-238, § 24(c)(2), made technical amendment to reference to section 1421c(b) of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(1)(A)(iii). Pub. L. 103-238, § 6(1), added cl. (iii).

Subsec. (d). Pub. L. 103-238, § 6(2), inserted “and section 1374(c)(2)(D) of this title”.

¹ So in original. The “; and” probably should be a period.