

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.

§ 1421e. Liability**(a) In general**

A person who is authorized to respond to a stranding or entanglement pursuant to an agreement entered into under section 1382(c) of this title is deemed to be an employee of the Government for purposes of chapter 171 of title 28, with respect to actions of the person that are—

- (1) in accordance with the agreement; and
- (2) in the case of an unusual mortality event, in accordance with—
 - (A) the contingency plan issued under section 1421c(b) of this title;
 - (B) the instructions of an Onsite Coordinator designated under section 1421c(c) of this title; or
 - (C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

(b) Limitation

Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

(Pub. L. 92-522, title IV, § 406, formerly title III, § 306, as added Pub. L. 102-587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5064; renumbered title IV, § 406, and amended Pub. L. 103-238, § 24(b), (c)(3), (4), Apr. 30, 1994, 108 Stat. 565, 566; Pub. L. 117-263, div. J, title CIV, § 10404, Dec. 23, 2022, 136 Stat. 3984.)

Editorial Notes**AMENDMENTS**

2022—Subsec. (a). Pub. L. 117-263, in introductory provisions, inserted “or entanglement” after “to a stranding” and substituted “Government” for “government”.

1994—Subsec. (a)(2)(A), (B). Pub. L. 103-238, § 24(c)(3), (4), made technical amendment to references to section 1421c of this title to reflect renumbering of corresponding section of original act.

§ 1421f. National Marine Mammal Tissue Bank and tissue analysis**(a) Tissue Bank****(1) In general**

The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues archived pursuant to this subsection shall be known as the “National Marine Mammal Tissue Bank”.

(2) Guidance for marine mammal tissue collection, preparation, and archiving

The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

- (A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

(B) documentation of procedures used for collecting, preparing, and archiving those samples.

(3) Source of tissue

In addition to tissues taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources in the wild, including—

- (A) samples from marine mammals taken incidental to commercial fishing operations;
- (B) samples from marine mammals taken for subsistence purposes;
- (C) biopsy samples; and
- (D) any other samples properly collected.

(b) Tissue analysis

The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for analyzing tissue samples (by use of the most effective and advanced diagnostic technologies and tools practicable) as a means to monitor and measure overall health trends in representative species or populations of marine mammals, including—

- (1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

- (2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

(c) Data base**(1) In general**

The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

(2) Contents

The data base established under this subsection shall include—

- (A) reference data on marine mammal health and mortality and the health of populations of marine mammals; and

- (B) data on species of marine mammals that are subject to unusual mortality events.

(d) Access

The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for public access to—

- (1) marine mammal tissues in the Tissue Bank;

- (2) analyses conducted pursuant to subsection (b); and

- (3) marine mammal data in the data base maintained under subsection (c);

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

(Pub. L. 92-522, title IV, § 407, formerly title III, § 307, as added Pub. L. 102-587, title III, § 3003(a),