

§ 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),