

§ 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),

Nov. 4, 1992, 106 Stat. 5065; renumbered title IV, § 407, Pub. L. 103-238, § 24(b), Apr. 30, 1994, 108 Stat. 565; amended Pub. L. 117-263, div. J, title CIV, § 10405, Dec. 23, 2022, 136 Stat. 3984.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(2)(A). Pub. L. 117-263, § 10405(1), substituted “marine mammal health and mortality and the health of” for “the health of marine mammals and”.

Subsec. (d). Pub. L. 117-263, § 10405(2), inserted “public” before “access” in introductory provisions.

§ 1421f-1. Marine Mammal Rescue and Response Grant Program and Rapid Response Fund

(a) Definitions

In this section:

(1) Emergency assistance

(A) In general

The term “emergency assistance” means—

(i) financial assistance provided to respond to, or that results from, a stranding event or entanglement event that—

(I) causes an immediate increase in the cost of a response, recovery, or rehabilitation that is greater than the usual cost of a response, recovery, or rehabilitation;

(II) is cyclical or endemic; or

(III) involves a marine mammal that is out of the normal range for that marine mammal; or

(ii) financial assistance provided to respond to, or that results from, a stranding event or an entanglement event that—

(I) the applicable Secretary considers to be an emergency; or

(II) with the concurrence of the applicable Secretary, a State, territorial, or Tribal Government considers to be an emergency.

(B) Exclusions

The term “emergency assistance” does not include financial assistance to respond to an unusual mortality event.

(2) Secretary

The term “Secretary” has the meaning given that term in section 1362(12)(A) of this title.

(3) Stranding region

The term “stranding region” means a geographic region designated by the applicable Secretary for purposes of administration of this subchapter.

(b) John H. Prescott Marine Mammal Rescue and Response Grant Program

(1) In general

The applicable Secretary shall carry out a grant program, to be known as the “John H. Prescott Marine Mammal Rescue and Response Grant Program” (referred to in this section as the “grant program”), to award grants to eligible stranding network participants or stranding network collaborators, as described in this subsection.

(2) Purposes

The purposes of the grant program are to provide for—

(A) the recovery, care, or treatment of sick, injured, or entangled marine mammals;

(B) responses to marine mammal stranding events that require emergency assistance;

(C) the collection of data and samples from living or dead stranded marine mammals for scientific research or assessments regarding marine mammal health;

(D) facility operating costs that are directly related to activities described in subparagraph (A), (B), or (C); and

(E) development of stranding network capacity, including training for emergency response, where facilities do not exist or are sparse.

(3) Contract, grant, and cooperative agreement authority

(A) In general

The applicable Secretary may enter into a contract, grant, or cooperative agreement with any eligible stranding network participant or stranding network collaborator, as the Secretary determines to be appropriate, for the purposes described in paragraph (2).

(B) Emergency award flexibility

Following a request for emergency award flexibility and analysis of the merits of and necessity for such a request, the applicable Secretary may—

(i) amend any contract, grant, or cooperative agreement entered into under this paragraph, including provisions concerning the period of performance; or

(ii) waive the requirements under subsection (f) for grant applications submitted during the provision of emergency assistance.

(4) Equitable distribution of funds

(A) In general

The Secretary shall ensure, to the extent practicable, that funds awarded under the grant program are distributed equitably among the stranding regions.

(B) Considerations

In determining priorities among the stranding regions under this paragraph, the Secretary may consider—

(i) equitable distribution within the stranding regions, including the subregions (including, but not limited to, the Gulf of Mexico);

(ii) any episodic stranding, entanglement, or mortality events, except for unusual mortality events, that occurred in any stranding region in the preceding year;

(iii) any data with respect to average annual stranding, entanglements, and mortality events per stranding region;

(iv) the size of the marine mammal populations inhabiting a stranding region;

(v) the importance of the region’s marine mammal populations to the well-being of indigenous communities; and