

24(b), (c)(2), Apr. 30, 1994, 108 Stat. 542, 559, 565, 566.)

#### AMENDMENTS

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”.

### § 1421e. Liability

#### (a) In general

A person who is authorized to respond to a stranding 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) of this section 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.)

#### AMENDMENTS

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 the health of marine mammals and 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 access to—

(1) marine mammal tissues in the Tissue Bank;

(2) analyses conducted pursuant to subsection (b) of this section; and

(3) marine mammal data in the data base maintained under subsection (c) of this section;

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.)

**§ 1421f-1. John H. Prescott Marine Mammal Rescue Assistance Grant Program**

**(a) In general**

(1) Subject to the availability of appropriations, the Secretary shall conduct a grant program to be known as the John H. Prescott Marine Mammal Rescue Assistance Grant Program, to provide grants to eligible stranding network participants for the recovery or treatment of marine mammals, the collection of data from living or dead stranded marine mammals for scientific research regarding marine mammal health, and facility operation costs that are directly related to those purposes.

(2)(A) The Secretary shall ensure that, to the greatest extent practicable, funds provided as grants under this subsection are distributed equitably among the stranding regions designated as of December 21, 2000, and in making such grants shall give preference to those facilities that have established records for rescuing or rehabilitating sick and stranded marine mammals in each of the respective regions, or subregions.

(B) In determining priorities among such regions, the Secretary may consider—

(i) any episodic stranding or any mortality event other than an event described in section 1421h(6) of this title, that occurred in any region in the preceding year;

(ii) data regarding average annual strandings and mortality events per region; and

(iii) the size of the marine mammal populations inhabiting a geographic area within such a region.

**(b) Application**

To receive a grant under this section, a stranding network participant shall submit an application in such form and manner as the Secretary may prescribe.

**(c) Consultation**

The Secretary shall consult with the Marine Mammal Commission, a representative from each of the designated stranding regions, and other individuals who represent public and private organizations that are actively involved in rescue, rehabilitation, release, scientific research, marine conservation, and forensic science regarding stranded marine mammals, regarding the development of criteria for the implementation of the grant program and the awarding of grants under the program.

**(d) Limitation**

The amount of a grant under this section shall not exceed \$100,000.

**(e) Matching requirement**

**(1) In general**

The non-Federal share of the costs of an activity conducted with a grant under this section shall be 25 percent of such costs.

**(2) In-kind contributions**

The Secretary may apply to the non-Federal share of an activity conducted with a grant under this section the amount of funds, and the fair market value of property and services, provided by non-Federal sources and used for the activity.

**(f) Administrative expenses**

Of amounts available each fiscal year to carry out this section, the Secretary may expend not more than 6 percent or \$80,000, whichever is greater, to pay the administrative expenses necessary to carry out this section.

**(g) Definitions**

In this section:

**(1) Designated stranding region**

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

**(2) Secretary**

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

**(h) Authorization of appropriations**

There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2001 through 2003, to remain available until expended, of which—

(1) \$4,000,000 may be available to the Secretary of Commerce; and

(2) \$1,000,000 may be available to the Secretary of the Interior.

(Pub. L. 92-522, title IV, §408, as added Pub. L. 106-555, title II, §202(a)(2), Dec. 21, 2000, 114 Stat. 2767.)

PRIOR PROVISIONS

A prior section 408 of Pub. L. 92-522 was renumbered section 409, and is classified to section 1421g of this title.

**§ 1421g. Authorization of appropriations**

There is authorized to be appropriated—

(1) to the Secretary for carrying out this subchapter (other than sections 1421d and 1421f of this title) \$250,000 for each of fiscal years 1993 and 1994;

(2) to the Secretary for carrying out section 1421f of this title, \$250,000 for each of fiscal years 1993 and 1994; and

(3) to the Fund, \$500,000 for fiscal year 1993.

(Pub. L. 92-522, title IV, §409, formerly title III, §308, as added Pub. L. 102-587, title III, §3003(a), Nov. 4, 1992, 106 Stat. 5066; renumbered title IV, §408, and amended Pub. L. 103-238, §24(b), (c)(5), (6), Apr. 30, 1994, 108 Stat. 565, 566; renumbered §409, Pub. L. 106-555, title II, §202(a)(1), Dec. 21, 2000, 114 Stat. 2767.)

AMENDMENTS

1994—Par. (1). Pub. L. 103-238, §24(c)(5), made technical amendment to references to sections 1421d and