

“(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

“(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

“(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.”

§ 1421a. Determination; data collection and dissemination

(a) Determination for release

The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

(b) Collection

The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

(1) procedures and practices for—

(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

(4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

(c) Availability

The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

(Pub. L. 92-522, title IV, § 402, formerly title III, § 302, as added Pub. L. 102-587, title III, § 3003(a), Nov. 4, 1992, 106 Stat. 5061; renumbered title IV, § 402, Pub. L. 103-238, § 24(b), Apr. 30, 1994, 108 Stat. 565.)

IMPLEMENTATION

Pub. L. 102-587, title III, § 3003(b), Nov. 4, 1992, 106 Stat. 5066, provided that: “The Secretary of Commerce shall—

“(1) in accordance with section 302(a) and (b) [now 402(a), (b)] of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1421a(a), (b)], as amended by this Act, and not later than 24 months after the date of enactment of this Act [Nov. 4, 1992]—

“(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 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.

(b) Required provision

An agreement authorized by subsection (a) shall—

(1) specify each person who is authorized to perform activities under the agreement; and

(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

(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.)

§ 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) The Federal Advisory Committee Act (5 App. U.S.C.) 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.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a)(1)(B), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 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

(1) In general

Amounts in the Fund—

(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 1421c(b) of this title or under the