

son 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, des-

ignate 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.)

Editorial Notes

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 direction of an Onsite Coordinator for an unusual mortality event;

(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

(iii) for care and maintenance of marine mammal seized under section 1374(c)(2)(D) of this title; and

(B) shall remain available until expended.

(2) Pending claims

If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

(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.)

Editorial Notes

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) 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.)

Editorial Notes

AMENDMENTS

1994—Subsec. (a)(2)(A), (B). Pub. L. 103-238, §24(c)(3), (4), made technical amendment to references to section