§ 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.

(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) of this section.

(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.

(2) Limitation

Any amount deposited into under section 1382(c) of this title is deemed stranding pursuant to an agreement entered to be an employee of the government for purposes of chapter 171 of title 28, with respect to actions of the person that are—

(A) the contingency plan issued under section 1421c(b) of this title to reflect renumbering of corresponding section of original act.

(b) Tissue analysis

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 analyzing tissue samples, 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