

NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 02-308-02
March 14, 2012

Protected Resources Management
Marine Mammal Health and Stranding Response Program

NMFS Placement Process For Non-releasable Marine Mammals

NOTICE: This publication is available at: <http://www.nmfs.noaa.gov/directives/>.

OPR: F/PR2 (H. Braham)

Certified by: F/PR (J. Lecky)

Type of Issuance: Renewed March 2013

Signed _____/s/_____ 2/29/2012_____

James H. Lecky

Date

Director, Office of Protected Resources

Procedural Directive
Process for Placing Non-Releasable Marine Mammals from the Stranding Program into
Permanent Care Facilities

Table of Contents

Disposition Determination Process.....	3
Step-by-Step Process for Placing Non-Releasable Marine Mammals.....	5
Exportation of Non-Releasable Marine Mammals	6
Sample Questionnaire Provided to Facilities Interested in Obtaining Custody of a Non-Releasable Cetacean.....	7
References.....	9

Background

As intended by the Marine Mammal Protection Act (MMPA), the Marine Mammal Stranding Network (MMSN) attempts to successfully rehabilitate and release back to the wild each stranded marine mammal that is admitted into rehabilitation. The majority of rehabilitated animals are in fact, released back into the wild. However, in some cases, the attending veterinarian may determine that (1) release of a rehabilitated marine mammal could adversely affect wild marine mammal populations, and/or (2) release is not likely to be successful given the physical condition and behavior of the animal. In these cases, the animal may be considered non-releasable by the National Marine Fisheries Service (NMFS) Regional Administrator (RA) in the region where the rehabilitation facility resides. Once a marine mammal is deemed non-releasable by the RA, its permanent placement is determined by the NMFS Office of Protected Resources (OPR) in Silver Spring, MD.

In this procedural directive, NMFS outlines the process for determining permanent disposition for marine mammals deemed non-releasable by a RA. In some cases, multiple facilities are interested in receiving custody of a non-releasable animal. A systematic placement process ensures equitable, transparent, and fair consideration for all institutions requesting permanent custody of non-releasable animals.

Authority

NMFS has authority under 16 U.S.C. 1374, Section 104 of the MMPA, to regulate the acquisition and disposition of marine mammals (cetaceans and pinnipeds) through public display and research facilities and is responsible for maintaining the national marine mammal inventory. Coordination with U.S. Department of Agriculture (USDA)/Animal and Plant Health Inspection Service (APHIS) on non-releasable animal placements ensures compliance with Animal Welfare Act (AWA) requirements by receiving facilities. Manatees, sea otters, polar bears, and walrus are under the jurisdiction of the Department of the Interior (DOI) – U.S. Fish and Wildlife Service (USFWS), and are not included in this procedural directive.

Disposition Determination Process

A. Required Criteria for Marine Mammals Under NMFS Jurisdiction (Pinnipeds and Cetaceans)

For a facility to be eligible to receive a non-releasable marine mammal, they must provide NMFS with documentation that they:

- (1) hold an Exhibitors License (public display) or be registered as a research facility under the Animal Welfare Act (AWA) from APHIS (7 U.S.C. 2131 et seq.);
- (2) comply with the MMPA for public display or scientific research/enhancement (16 U.S.C. 1374, Section 104 of the MMPA);
- (3) agree to hold the animal in conformance with all requirements and standards for public display or scientific research/enhancement as applicable;
- (4) have thoroughly reviewed the animal's medical history;
- (5) are able to provide adequate quarantine if needed; and
- (6) are willing to arrange and incur all costs associated with transport.

B. Facility Placement File

NMFS OPR Permits Division maintains a file of U.S. public display and research facilities who have expressed interest in obtaining non-releasable marine mammals from the MMSN. For pinnipeds, NMFS OPR Permits Division maintains a National Placement List of interested facilities. It is the responsibility of each facility to: (1) notify NMFS of their interest in obtaining a non-releasable marine mammal; (2) ensure their contact information is current; (3) ensure their species request(s) are current; and (4) notify NMFS OPR Permits Division if they are no longer interested in obtaining non-releasable animals. This list is used to contact facilities when animals become available for permanent placement. All the above information must be provided to NMFS OPR Permits Division in writing via email or letter. For cetaceans, NMFS OPR Permits Division notifies all facilities holding captive cetaceans of non-releasable animals as they become available for placement for submission of the placement questionnaire.

C. Case Specific Criteria for Pinnipeds

For a facility to be considered for the placement of a non-releasable pinniped, the facility must be on the National Placement List (unless no other facilities on the list are interested) and meet the MMPA requirements (16 U.S.C. 1374, Section 104 of the MMPA) for holding marine mammals for either public display or scientific research/enhancement. While efforts are made to place animals in the order of the facilities on the National Placement List, placement will be dependent on matching animals with facilities based on sex, age, physical or behavioral limitations, and the time in which a facility can accept the animal(s).

D. Case Specific Criteria for Cetaceans

Each rehabilitated, non-releasable cetacean case is unique; thus, for each cetacean deemed non-releasable, NMFS will identify case-specific criteria that reflect that animal's needs (e.g., spinner dolphins are not easily transported long distances and there are few conspecifics currently in captivity, young dependent calves are more likely to thrive in maternal social groups,

chronically-ill dolphins may require special veterinary care, etc.). In some cases, NMFS will consult with veterinarians, behavior experts, and/or species experts to determine the most appropriate criteria. Some examples of case-specific criteria include, but are not limited to: (1) qualification and experience of staff relevant to animal's needs (e.g., experience with neonates and bottle-feeding); (2) composition of animal groups by species, sex, age, to accommodate animal's specific social needs (e.g., a juvenile male is more likely to thrive in social group of female adults and other juvenile males/females, versus only other adult males, or spinner dolphins are more likely to thrive with conspecifics); (3) on-site veterinary care (for calves, or cetaceans with chronic medical conditions, missing appendages, or sensory limitations); (4) transport method and distance (e.g., offshore cetaceans have difficulty being transported long distances, as do chronically ill, or very young cetaceans); and (5) time frame the receiving facility can arrange for and complete transport (e.g., in some cases it may be necessary to move an animal quickly, as in the case of an ongoing oil spill when additional rehabilitation space may be required).

E. Evaluation of Criteria

Facilities proposing to receive custody of a non-releasable cetacean should provide information to NMFS that demonstrates their plan for meeting the criteria (per the process outlined below). Appendix A provides one example of information NMFS OPR may request from facilities. In some cases, criteria are weighted to reflect the most important criteria in order of priority (e.g., transport time for offshore cetaceans such as spinner dolphins may be significant and weighted more heavily than with a more robust species such as a bottlenose dolphin). If criteria are weighted, it will be noted on the questionnaire provided to facilities. Each proposal will be reviewed by NMFS OPR and Regional staff to determine how well the established criteria are met and will be given an overall score by averaging the scores of each reviewer.

F. Requesting Authorization to Retain Custody of a Rehabilitated, Non-Releasable Marine Mammal

Some licensed public display facilities and authorized research facilities are also authorized under Section 112(c) of the MMPA to rehabilitate stranded marine mammals. When an animal undergoing rehabilitation is deemed non-releasable, the facility may request authorization from NMFS OPR to retain custody of the non-releasable animal for their public display or research program. NMFS OPR will consider these requests first and may authorize the facility to retain the animal, provided placement criteria are sufficiently met for that animal (see process steps above). If placement criteria are not met by the facility rehabilitating the marine mammal, NMFS may authorize transfer of custody to another facility based on the disposition process outlined below. Rehabilitation of a non-releasable marine mammal by a public display facility under the authority of Section 112(c) of the MMPA does not guarantee that the animal will be permanently placed at that facility.

G. Notification to Public Display Facilities Regarding Availability of a Non-Releasable Marine Mammal

When a marine mammal is determined non-releasable and needs placement at a facility other than where the animal is being rehabilitated, NMFS OPR will coordinate placement from the

National Placement List for pinnipeds or the placement questionnaire for cetaceans. See Step 4 for additional details.

Step-by-Step Process for Placing Non-Releasable Marine Mammals

During any step of this process, NMFS may consult with veterinarians, behavior experts, and/or species experts regarding placement criteria.

Step 1. The rehabilitation facility's attending veterinarian (in consultation with their Assessment Team) submits a written and signed release determination request to the appropriate NMFS RA requesting that an animal be deemed either releasable, conditionally releasable, or non-releasable based on the criteria outlined in NMFS' [*Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation, and Release*](#). This report must provide a basis for the veterinarian's recommendation, and in some cases, should include copies of the most recent medical data such as blood work.

Step 2. The NMFS RA reviews the recommendation and makes a final disposition determination. If the RA determines that an animal is non-releasable, a letter is written to the stranding rehabilitation facility stating that the animal is non-releasable, and the facility has 30 days to request authorization to (a) retain custody of the marine mammal; (b) transfer custody; or (c) arrange any other disposition authorized by the RA. It is important to note that the RA or Office Director (OD), in their sole discretion, may order the release, continued rehabilitation, or any other disposition as authorized (*see* 50 C.F.R. 216.27 (b)). Furthermore, in order for a facility to request retention of custody of a marine mammal, they must meet the specific criteria for that animal as described in Section III of this Procedural Directive.

Step 3(a) (Pinnipeds). Because these species have fewer case specific considerations, placements are based on an institution's position on the National Placement List as well as matching animal specifics (e.g. age, sex, or other limitations) with appropriate facilities.

Step 3(b) (Cetaceans). Criteria for cetaceans are established for each case by (1) using required criteria (e.g., must be licensed for public display); (2) using criteria from previous similar cases (e.g., dependant calves); (3) consulting with marine mammal veterinarians, behavior and/or species experts to determine case-specific criteria (e.g., uncommon rehabilitated species such as a spinner dolphin). In some cases, criteria are weighted to ensure that the most important criteria for a particular animal's needs are met (e.g., time frame that an animal can be accepted due to extenuating circumstances at a rehabilitation facility, or availability of a lactating female (surrogate mother) for a neonatal animal).

Step 4(a) (Pinnipeds). Institutions are considered in the order they are placed on the National Placement List taking into account the specific animal criteria they have identified as part of their initial request. If the first matched institution is not interested in the particular animal(s) available, then the next institution on the list is contacted and so on, until the animal has been placed.

Step 4(b) (Cetaceans). NMFS OPR notifies via email all interested U.S. facilities regarding the availability of a non-releasable cetacean. The notification typically includes: (1) required criteria; (2) specific criteria and weighting; (3) deadline for proposals; and (4) any other relevant

information or requests for that particular case. Deadlines for proposals typically range from 1-2 weeks depending on case-specific needs.

Step 5(a) (Pinnipeds). Pinniped placement is coordinated by NMFS OPR.

Step 5(b) (Cetaceans). NMFS reviewers consisting of biologists from NMFS OPR, Regional Offices, and/or Science Centers, conduct an integrated assessment of all proposals to determine how well they meet the criteria. Each proposal is given an overall score by averaging the scores of each reviewer. NMFS' review of proposals is typically completed within 1-2 weeks after the proposal deadline but largely depends on case-specific needs.

Step 6(a) (Pinnipeds). APHIS is consulted regarding the AWA compliance history of the receiving facility. NMFS will consider the input received from APHIS and make a final decision on disposition. The receiving facility is notified and is required to submit a letter of intent to retain/acquire the pinniped.

Step 6(b) (Cetaceans). NMFS OPR ranks the proposals by averaging the scores of the reviewers, identifying primary candidate facilities for receiving custody of the non-releasable cetacean, and contacts APHIS to ensure the primary candidates are in compliance with AWA requirements. Once NMFS OPR receives this information from APHIS, a final disposition decision is made. NMFS will (1) notify the facility that they will be transferred custody of the cetacean; and (2) notify the rehabilitation facility regarding transfer of custody decision. If a facility is not currently in compliance with APHIS standards, NMFS will pursue the secondary candidate and so forth, to ensure the receiving facility meets the required criteria. The receiving facility is required to submit a letter of intent to acquire the cetacean. All other facilities who submitted a proposal are notified by NMFS via email that their proposal was not selected. Proposals need to be submitted each time there is a non-releasable cetacean; NMFS will not retain proposals from previous cases.

Step 7. NMFS OPR issues a letter of transfer to the receiving facility, authorizing the change of custody and requesting verification of transfer with the return of a Marine Mammal Data Sheet. The animal is then transported to the receiving facility and put in quarantine (if appropriate). There shall be no remuneration associated with any transfer of a rehabilitated, non-releasable marine mammal. The transferee, should they choose to do so, may reimburse the rehabilitation facility for costs associated with the rehabilitation and transport of the animal (*see* 50 C.F.R. 216.27 (c)). However, reimbursement may not be requested or demanded by the transferor.

Step 8. Upon verification of the transfer from the animal holder, the NMFS OPR Permits Division provides the receiving facility with an updated Marine Mammal Data Sheet reflecting the species and sex of the marine mammal, along with the date of transport. The animal is then added to the Marine Mammal Inventory maintained in the NMFS Permits Division.

Exportation of Non-Releasable Marine Mammals

The current NMFS policy is for non-releasable marine mammals to be placed first within the U.S. as long as there are facilities interested and able to accept them. Should it become

necessary to consider placement of non-releasable of marine mammals outside the U.S. the following guidance is provided:

- The MMPA provides NMFS the authority to transfer non-releasable marine mammals to qualified U.S. facilities for permanent captivity; however, there is no clear mechanism within the MMPA for NMFS to export marine mammals directly to facilities outside the U.S.
- The MMPA allows marine mammals that have been placed in public display facilities to be exported by the permitted facility, without an additional permit, to a facility in another country provided that the receiving foreign facility meets standards that are comparable to those required of U.S. facilities (*See* 16 U.S.C. § 1374(c)(2)(B) and (c)(9)).
- To ensure the legal transfer of non-releasable marine mammals to interested facilities outside of the U.S., NMFS would have to transfer custody of the animal to a U.S. facility which, in turn, could export the animal to qualified facilities in other countries.

Appendix A

Sample Questionnaire Provided to Facilities Interested in Obtaining Custody of a Non-Releasable Cetacean

Case Example:

This questionnaire was created for the placement of a healthy, non-releasable, male bottlenose dolphin that was a dependent calf, estimated to be ~ 2 year old.

Questionnaire for Field#451

Please provide the following --

Facility Name:

Point of Contact:

Phone:

Email:

Questions Regarding Social Needs (weight 50%)

1. These questions address the social groupings that your facility has for consideration of the placement of this animal:
 - a. How many dolphins does your facility currently maintain and how many social groups (by age and sex) are they maintained in?
 - b. Does your facility have an older female(s) or female(s) who have experience with calves and may act to protect the individual from others?
 - c. Does your facility have a small group of similarly aged males this animal could be introduced to during non-breeding season before being introduced into a larger group?

- d. Does your facility have a nursery area (mothers with independent calves) that this animal could be introduced to?
 - e. What would be your plan for incorporating this animal into a social group?
 - f. What would be your contingency social group(s), if introduction to target group was unsuccessful?
2. These questions address quarantine/isolation of the animal:
- a. Based on this animal's history, do you feel quarantine/isolation is necessary?
 - b. Indicate the expected duration of quarantine/isolation?
 - c. Please briefly describe your plans for quarantine.

Questions Regarding Transport (weight 30%)

- 3. Is your facility willing to arrange and incur all costs associated with transport?
- 4. What is the estimated time for transport ("door-to-door") from the rehabilitation facility to your facility?
- 5. What type of transportation and methods would you use (e.g., plane, truck; wet, dry?)
- 6. Will your veterinarian or another veterinarian experienced with marine mammal transports attend to the animal during transport?
- 7. Would you be able to send staff to the rehabilitation facility to become familiar with the animal and to assist with training for transport? If yes, what would be the ideal duration of staff presence?
- 8. How soon could you arrange to transport this animal and receive him/her at your facility? Please be realistic with your time frame, and please note there is an expectation that you would receive the animal no later than one month after receiving the transfer paperwork from NMFS unless an exception is clearly outlined in your response.

Other Questions (weight 20%)

- 9. Has your veterinary staff thoroughly reviewed the medical history and records of this animal? Are there any concerns among your animal care or veterinary staff?
- 10. How many days per week is your attending veterinarian on site? Does he/she reside locally for close medical monitoring and evaluation?
- 11. Is your facility part of a breeding program?

12. Does your facility have the experience, resources, and staff to care for this animal? Please describe.
13. Is your facility accredited by the Association of Zoos and Aquariums (AZA), the Alliance of Marine Mammal Parks and Aquariums (AMMPA), or another comparable professional society with animal care standards?
14. Please provide any other information about your facility or program that you feel may aid us in making a permanent placement decision.

Please return Questionnaire by DATE (TIME Eastern) to: NMFS Point of Contact at email address. Questions regarding the placement process should be directed to NMFS (NAME) via email or phone. Questions regarding this animal and its medical history can be directed to point of contact at Rehab Facility via email or phone.

References

Animal Welfare Act (AWA) - 7 U.S.C. §2131 et. seq.

Marine Mammal Protection Act (MMPA) 16 U.S.C. §1374 et. seq.

Marine Mammal Protection Act (MMPA) 16 U.S.C §1421 et. seq.

Marine Mammal Protection Act Implementing Regulations 50 C.F.R. §216.27(b)(2). Upon receipt of a report under paragraph (b)(1) of this section, the Regional Director or Office Director, in their sole discretion, may:

- (i) Order the release of the marine mammal;
- (ii) Order continued rehabilitation for an additional 6 months; or
- (iii) Order other disposition as authorized.

Marine Mammal Protection Act Implementing Regulations 50 C.F.R. §216.27(c)(4). There shall be no remuneration associated with any transfer, provided that, the transferee may reimburse the transferor for any and all costs associated with the rehabilitation and transport of the marine mammal.

Policies and Best Practices - Marine Mammal Stranding Response, Rehabilitation and Release – Standards for Rehabilitation Facilities, NOAA National Marine Fisheries Service, February 2009.

Policies and Best Practices - Marine Mammal Stranding Response, Rehabilitation and Release – Standards for Release, NOAA National Marine Fisheries Service, February 2009.

Supported by references

This procedural directive is supported by the reference listed in Policy Directive 02-308.