

<i>NATIONAL MARINE FISHERIES SERVICE PROCEDURE 02-308-04</i> Effective on: December 22, 2020	
To be reviewed on: December 31, 2025	
Protected Resources Management Marine Mammal Health and Stranding Response Program 02-308	
NMFS Process for Authorizing Possession of Marine Mammal Parts from Stranded Animals by Researchers Conducting Research on Sharks	
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I. Introduction

Under the authority of Section 112(c) of the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) may enter into a Stranding Agreement with a person or organization for marine mammal stranding response and rehabilitation. These authorized organizations form the National Marine Mammal Stranding Network. When groups respond to stranded marine mammals¹, they may collect parts and samples from those animals. These parts may be transferred to other recipients, including researchers, which is regulated under the MMPA and implementing regulations in 50 C.F.R. § 216.22 and 216.37.

In 50 C.F.R. § 216.3, marine mammal parts are defined as both hard and soft parts. Hard parts are defined as bone, tooth, baleen, treated pelt, or other part that is relatively solid or durable.

¹ A marine mammal stranding is defined in Section 410 of the MMPA as “an event in the wild in which –

- a. a marine mammal is dead and is on a beach or shore of the United States, or in waters under the jurisdiction of the United States (including any navigable waters); or
- b. a marine mammal is alive and is on a beach or shore and is unable to return to the water, is able to return to the water but in need of apparent medical attention, or is in the waters under the jurisdiction of the United States (including any navigable waters) but is unable to return to its natural habitat under its own power or without assistance.

Soft parts are defined as any marine mammal part that is not a hard part, excluding urine or fecal matter; we interpret this to include tissues, blood, cells, serum, sloughed skin, oil, and DNA.

Letters issued by the NMFS Regional Administrator (RA) are issued to legally authorize the receipt and use of marine mammal parts from stranded, public display, or research animals (but not subsistence harvested marine mammals, which require a permit) for the purposes of scientific research, maintenance in a properly curated, professionally accredited scientific collection (e.g., museum), or educational purposes. In the regulation at 50 C.F.R. § 216.22, the marine mammal part transfer does not have to be for *bona fide* scientific research (as defined in 50 C.F.R. § 216.3) and does not have to be for research on marine mammals as the subject of the study (“conducted on marine mammals”). Examples of past research projects requesting marine mammal parts for research not conducted on marine mammals include: shark research; condor/raptor predation studies; whale falls²; and ecosystem-level research (e.g., cycling of heavy metals such as mercury). Requirements for transfers of marine mammal parts obtained under permit, including salvage of endangered or threatened stranded marine mammal parts are addressed in 50 CFR § 216.37. One group of researchers who have requested the use of stranded marine mammal parts are scientists studying large sharks and want marine mammal parts (typically blubber, skin, or muscle) to attract sharks to their research vessel to enable tagging or capture for health assessment of the sharks.

II. Objective

The purpose of this procedural directive is to outline: (1) the process for shark researchers to make a request to NMFS to use legally-collected marine mammal parts in their research; and (2) the process for NMFS Regional Offices to review such requests and to issue authorization letters when appropriate. A template letter, including the standard terms and conditions, is included as Appendix A.

III. Guidance

A. Background

This procedural directive has been prepared specifically and exclusively to address requests from scientists requesting to use stranded marine mammal parts to attract and lure sharks for research on sharks. The source for these marine mammal parts will be from members of the National Marine Mammal Stranding Network (hereafter stranding network) only.

² A whale fall is a whale carcass on the bottom of the ocean, which supports a succession of biological communities. Whale falls occur naturally when a whale dies at sea and its carcass sinks, and are sometimes created by towing a beach-stranded large whale to sea and sinking it with weights. This facilitates sampling of the whale fall community, as it is in a known location and known date of sinking.

B. Process for Requesting Marine Mammal Parts for Shark Research

Any request for using marine mammal parts for shark research must be submitted by the scientific researcher conducting the work. Researchers must demonstrate a previous body of work, which might include peer-reviewed publications, thesis publications, and research grant funding.

No requests for parts from threatened or endangered species of marine mammals will be considered out of an abundance of caution for those species; all requests must involve only non-Endangered Species Act listed marine mammal species.

A letter requesting the marine mammal parts must be submitted to the NMFS regional contact in the region where the researcher resides. See Part D for contact information.

The request letter must include the following information:

- the specific parts requested (generally expected to be soft tissue, specifically blubber, skin, or muscle) and from which species of marine mammal;
- how much of each part is required (generally provided in pounds or kilograms; an estimate is acceptable);
- the geographic locations in the United States where parts would be obtained or are requested from (see Condition 2 below);
- a list of personnel who would receive and use the parts (i.e., authorized recipients) and their roles in the project;
- a description of the proposed shark research project including scientific objectives, proposed methodology, number of field efforts, and date and geographic location of each field effort;
- a description of how the marine mammal parts will be specifically used in that research project;
- a justification for why it needs to be marine mammals (and not beef, fish, etc.);
- a description of what other surrogate species were tried (generally, surrogate species should have been attempted as part of the justification for why marine mammal parts are needed);
- what precautions will be taken to reduce risks to live marine mammals in the wild during the shark research work;
- any other permits or authorizations that have been applied for, obtained, or will be needed (e.g., state permits, Highly Migratory Species permits, etc.) to conduct the shark research or documentation that other permits or authorizations are not necessary; and
- the proposed disposition of any marine mammal parts not used in the shark research field projects.

C. Process for Issuing Marine Mammal Parts Authorization Letters for Shark Research

The NMFS Regional Stranding Coordinator or other designated contact reviews the information provided and determines if it is a complete request, containing all of the required information from the section above.

- If the request includes parts from regions other than those where the recipient resides (e.g., request is made in Southeast for marine mammal parts from Southeast and Greater Atlantic), the request letter and any applicable materials provided are forwarded to the appropriate additional Regional Stranding Coordinators covering the regions where the parts would originate.
- All Regions involved will review and have the opportunity to request additional information from the requester before the authorization letter is written.

The Region where the parts recipient resides writes a single parts authorization letter.

- The letter may authorize receipt of parts from multiple Regions.
- The letter may be issued for a maximum of 5 years.
- A copy of the parts authorization letter must be provided to all Regions from which parts have been requested.
- A copy of the parts authorization letter containing a list of authorized recipients must be shared with the appropriate regional stranding network.
 - Obtaining a parts authorization letter does not guarantee or in any way obligate a marine mammal stranding network member to provide marine mammal parts to a researcher.
 - The decision to provide parts to a researcher that has obtained a parts authorization letter is at the sole discretion of each marine mammal stranding network member, unless requested by the Director of the Office of Protected Resources pursuant to NMFS regulations at 50 CFR 216.37 (c)(2).
 - No interference with marine mammal stranding network operations will be tolerated and will be grounds for denying a pending request or rescinding an existing authorization. This includes pressuring or coercing marine mammal stranding network organizations to provide parts.

Parts authorization letters include a requirement for recipients to submit an annual report of the parts they received to the authorizing Regional Office no later than February 1 every year.

- The report should cover January 1 through December 31 of the prior calendar year and include: species, specimen type; field #; original stranding date; date part was received; final part disposition (destroyed or archived); and date of final disposition.
- If a report is not submitted, the recipient is no longer in good standing and can no longer receive parts under the parts authorization letter.

Special Conditions for Marine Mammal Parts Authorization Letters Applicable to Shark Researchers Only

For parts authorizations involving the use of marine mammal parts in the environment for research on sharks, the following conditions will be added as conditions to the authorization letter (as applicable, depending on the specifics of the research, and in addition to any other standard conditions used in Regional Authorization letters), including but not limited to:

1. The use of marine mammal parts for attracting sharks is not authorized within 2 nmi of endangered whale species. This requires an observer on board to regularly scan for the presence of whales as well as subscribing to alert services if available [e.g., NMFS Whale

Alerts for near real-time locations of endangered North Atlantic right whales (*Eubalaena glacialis*)).

2. Marine mammal parts (including soft tissue and any oil or blood derived from the soft tissue) must only be used in the U.S. ocean basin from which the part originated and cannot leave U.S. waters. Thus, only parts from the Atlantic Ocean may be used in the Atlantic Ocean and cannot be used in any other ocean basin (including the Gulf of Mexico). This is an important safeguard against the inadvertent introduction of diseases or pathogens into the marine environment.
3. Parts may not be taken out of the United States (*e.g.*, onto the high seas).
4. No later than two weeks prior to the start of a proposed project or fieldwork, the researcher must contact NMFS with the Field ID numbers of the parts to ensure there are no concerns resulting from further investigation of those animals (*e.g.*, disease, contaminants, etc.).
5. Upon completion of the proposed project or fieldwork, authorization for additional use of the tissues must be requested, or NMFS may direct the transfer of the remaining parts back to the stranding network or to another authorized researcher. Under no circumstances will the part be allowed to be retained by a person or organization who is not a researcher authorized under this letter. NMFS may also direct disposal of the remaining marine mammal parts; such disposal shall comply with any Federal, state, or local regulations.
6. At the request of NMFS, an employee of NOAA or any other person designated by the Regional Administrator, must be allowed to observe and document field research operations that use marine mammal parts.
7. Marine mammal species distribution, stranding trends or other issues of concern (*e.g.*, disease outbreak, locations of entangled whales, etc.) may initiate additional conditions or restrictions of use placed on this authorization by the Regional Administrator in advance or during fieldwork.
8. Additional regional-specific mitigation measures may be identified and included to reduce risk to wild marine mammals, such as not working within the close vicinity of observed threatened or endangered species when conducting shark research, or working within certain seasons.

If any of the regular or special conditions are violated, the recipient is no longer in good standing, can no longer receive parts under the parts authorization letter, and may be subject to other administrative actions.

D. NMFS Contacts for Marine Mammal Parts Authorization Letters

Contact information for the NMFS Regional Stranding Coordinators can be found on this website: <https://www.fisheries.noaa.gov/contact-directory/marine-mammal-stranding-network-coordinators>

APPENDIX A. Template Letter for Regional authorization letter

ADDRESS

Dear [APPLICANT]:

NOAA's National Marine Fisheries Service (NMFS) has reviewed your request for authorization to receive PARTS from stranded marine mammal species ([LIST SPECIES]) by NMFS' [REGIONAL] Marine Mammal Stranding Network. The samples will be used for scientific research studies on sharks, specifically [RESEARCH DETAILS].

Your request is for an authorization valid for [TIME], including [#] research expeditions per Year in [LOCATION], with the first expedition occurring off [LOCATION] in [DATE].

The information provided about your research in your written correspondence is sufficient to satisfy the Marine Mammal Protection Act (MMPA) requirements for transfer of marine mammal parts and the NMFS Procedural Directive 02-308-04 specific to shark researchers. The MMPA's implementing regulations at 50 CFR 216.22 and 216.37 (enclosed) authorize the transfer of marine mammal parts if:

1. The person/agency transferring the part does not receive payment for the part;
2. The marine mammal part is transferred for scientific research purposes, curation in a professionally accredited scientific collection, or educational objectives; and
3. An accession number, authorized or assigned by NMFS, is affixed to the marine mammal part. In most cases, this is the field number assigned by the Marine Mammal Stranding Network.

Pursuant to 50 CFR 216.22 and 216.37, this letter authorizes you, [PRINCIPAL INVESTIGATOR], to receive and use [PARTS] from [SPECIES] collected by NMFS' [REGION] Marine Mammal Stranding Network. You are ultimately responsible for the marine mammal parts obtained under this authorization. Personnel that are also authorized to handle the marine mammal parts during research or transport include [LIST NAMES].

The following additional conditions apply to this authorization:

1. The use of marine mammal parts for attracting sharks is not authorized in designated critical habitat of baleen whales.
2. Marine mammal parts (including soft tissue, oil, and blood) must only be used in the U.S. ocean basin from which the part originated and cannot leave U.S. waters. Thus, only parts from the Atlantic Ocean may be used in the Atlantic Ocean and cannot be used in any other ocean basin (including the Gulf of Mexico). This is an important safeguard against the inadvertent introduction of diseases or pathogens into the marine environment.
3. Parts may not be taken out of the U.S. (e.g., onto the high seas).
4. No later than two weeks prior to the start of a proposed project or fieldwork, the researcher must contact NMFS [CONTACT INFO] with the Field ID numbers of the

parts to ensure there are no concerns resulting from further investigation of those animals (e.g., disease, contaminants, etc.).

5. Upon completion of the proposed project or fieldwork, authorization for additional use of the tissues must be requested, or NMFS may direct the transfer of the remaining parts back to the stranding network or to another authorized researcher. Under no circumstances will the part be allowed to be retained by an entity that is not a researcher authorized under this letter. NMFS may also direct disposal of the remaining marine mammal parts; such disposal shall comply with any Federal, state, or local regulations.
6. At the request of NMFS, an employee of NOAA, or any other person designated by the Regional Administrator, must be allowed to observe field research operations that use marine mammal parts.
7. Marine mammal species distribution, stranding trends or other issues of concern (e.g., disease outbreak, locations of entangled whales, etc.) may initiate additional conditions or restrictions of use placed on this authorization by the Regional Administrator in advance or during fieldwork.
8. [Additional regional-specific mitigation may be identified and provided to reduce risk to wild marine mammals, such as not working within the close vicinity of observed threatened or endangered species when conducting shark research, or working within certain seasons.]
9. You are required to provide an annual report of your activities to the Regional Administrator.
 - a. The report should cover January 1 through December 31 of the prior calendar year and include all parts received and used under this authorization: species, specimen type; field #; original stranding date; date part was received; final part disposition (destroyed or archived); and date of final disposition.
 - b. If a report is not submitted, you are no longer considered in good standing and can no longer receive parts under the parts authorization letter.

This authorization expires on [DATE]. Upon expiration, you must contact the providing Stranding Network organization to determine whether any remaining samples should be returned for scientific study or destroyed. Notice of that determination must also be given to this Region. This authorization is not valid for work in any other ocean basin aside from the [BASIN]. Issuance of this authorization does not guarantee or imply that NMFS will issue or approve subsequent authorizations for the same or similar activities requested, including those of a continuing nature. Noncompliance with the terms of this authorization constitutes a violation and is grounds for modification, suspension, revocation, or enforcement action.

This parts authorization letter does not guarantee receipt of requested samples. You may contact any member of the [REGION] Marine Mammal Stranding Network to arrange for collection, preservation, and transfer of specimens (see the enclosed list of Stranding Network participants). Transfer of parts must be coordinated with the Stranding Network organization to ensure that no sample is transferred prematurely and to ensure accurate disposition of the parts. Although payment is not allowed for marine mammal parts, the Stranding Network member may assess processing and/or shipping fees.

Your acceptance of these marine mammal specimens absolves NMFS and the Stranding

Network of liability for any human health or safety risks, known or unknown, from exposure to or use of these parts.

You must acknowledge the cooperating Stranding Network participants and NMFS in any publications or other reports resulting from the use of the transferred material or data. Please send copies of these reports to the NMFS [REGION] Regional Office for our files and for distribution to the Stranding Network. Reports and questions regarding this authorization should be directed to [POINT OF CONTACT] at [PHONE] or [E-MAIL].

Sincerely,

Regional Administrator