§ 216.25 Exempted marine mammals and marine mammal products.

(a) The provisions of the MMPA and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972.\(^1\)

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 216.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which a notice is published in the FEDERAL REGISTER with respect to the designation of the species or stock concerned as depleted or endangered.

(c) Section 216.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammal products subject to the MMPA unlawful.

\(^1\)In the context of captive maintenance of marine mammals, the only marine mammals exempted under this section are those that were actually captured or otherwise in captivity before December 21, 1972.
§ 216.26 Collection of certain marine mammal parts without prior authorization.

Notwithstanding any other provision of this subpart:
(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within 1/4 of a mile of the ocean. The term ocean includes bays and estuaries.
(b) Notwithstanding the provisions of subpart D, soft parts that are sloughed, excreted, or discharged naturally by a living marine mammal in the wild may be collected or imported for bona fide scientific research and enhancement, provided that collection does not involve the taking of a living marine mammal in the wild.
(c) Any marine mammal part collected under paragraph (a) of this section or any marine mammal part collected and imported under paragraph (b) of this section must be registered and identified, and may be transferred or otherwise possessed, in accordance with §216.22(c). In registering a marine mammal part collected or imported under paragraph (b) of this section, the person who collected or imported the part must also state the scientific research or enhancement purpose for which the part was collected or imported.
(d) No person may purchase, sell or trade for commercial purposes any marine mammal part collected or imported under this section.
(e) The export of parts collected without prior authorization under paragraph (b) of this section may occur if consistent with the provisions at §216.37(d) under subpart D.

§ 216.27 Release, non-releasability, and disposition under special exception permits for rehabilitated marine mammals.

(a) Release requirements. (1) Any marine mammal held for rehabilitation must be released within six months of capture or import unless the attending veterinarian determines that:
(i) The marine mammal might adversely affect marine mammals in the wild;
(ii) Release of the marine mammal to the wild will not likely be successful given the physical condition and behavior of the marine mammal; or
(iii) More time is needed to determine whether the release of the marine mammal to the wild will likely be successful. Releasability must be reevaluated at intervals of no less than six months until 24 months from capture or import, at which time there will be a rebuttable presumption that release into the wild is not feasible.
(2) The custodian of the rehabilitated marine mammal shall provide written notification prior to any release into the wild.
(i) Notification shall be provided to:
(A) The NMFS Regional Director at least 15 days in advance of releasing any beached or stranded marine mammal, unless advance notice is waived in writing by the Regional Director; or
(B) The Office Director at least 30 days in advance of releasing any imported marine mammal.
(ii) Notification shall include the following:
(A) A description of the marine mammal, including its physical condition and estimated age;
(B) The date and location of release; and
(C) The method and duration of transport prior to release.
(3) The Regional Director, or the Office Director as appropriate, may:
(i) Require additional information prior to any release;
(ii) Change the date or location of release, or the method or duration of transport prior to release;
(iii) Impose additional conditions to improve the likelihood of success or to monitor the success of the release; or
(iv) Require other disposition of the marine mammal.
(4) All marine mammals must be released near wild populations of the same species, and stock if known, unless a waiver is granted by the Regional Director or the Office Director.