

National Oceanic and Atmospheric Administration

National Marine Fisheries Service

Office of Protected Resources

RECOVERY PLANNING GUIDELINES

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**National marine Fisheries Service
Recovery Planning Guidelines**

A. Purpose and Objectives

The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is responsible for identifying and promoting actions for the recovery of most endangered and threatened marine species and depleted marine mammals¹. Recovery efforts include (1) assessing the status and trends of the species and identifying important habitats; (2) identifying the factors adversely affecting or impeding recovery of the species; and (3) taking necessary actions to mitigate the factors adversely affecting the species or to otherwise promote the species conservation.

Recovery efforts must involve not only NMFS, but must include a coordinated effort by other Federal agencies, state and local governments, private industry, conservation organizations, subsistence/traditional native users, the public, and in some cases sovereign Indian tribes. The development and implementation of recovery plans will help combine the programs and expertise of these agencies and organizations into effective recovery efforts.

These guidelines provide a framework for developing and coordinating recovery plans for endangered, threatened and depleted marine species under the jurisdiction of NMFS. Recovery plans identify the resources necessary for recovery efforts and they will be used to justify budget requests. However, they do not, in themselves, represent a commitment of funds or staff.

B. Recovery Plan Development

1. Statutory Requirements

Section 4(f) of the Endangered Species Act (ESA) requires the development and implementation of recovery plans for all species listed as endangered or threatened unless NMFS finds that a plan will not further the recovery of the species. Each plan must include (1) a description of site-specific management actions necessary for recovery, (2) objective, measurable criteria which, when met, would result in removing the species from the list of endangered and threatened species, and (3) estimates of the time and cost to carry out the recommended recovery measures. NMFS must provide public notice and an opportunity for public comment prior to approval of a new or revised recovery plan.

Section 115 of the Marine Mammal Protection Act (MMPA) requires the preparation of conservation plans for species or stocks designated as depleted for the purpose of conserving and restoring the species or stock to its optimum sustainable population. These plans are to be modeled on recovery plans required under the ESA, and should provide a clear strategy, including research needs, for the conservation and restoration of the species. Senate Report 100-592 specified that conservation plans should include (1) an assessment of the status of the species or stock and its essential habitat; (2) a description of the nature, magnitude, and causes of any population declines or loss of essential habitat; (3) an assessment of existing and possible threats to the species and its habitat; (4) a discussion of critical information gaps; (5) a description and discussion of research and management

¹ In this document "recovery plans" refer to recovery plans prepared under section 4 of the Endangered Species Act and conservation plans prepared under section 116 of the Marine Mammal Protection Act.

that could be undertaken to meet the objectives of the plan; and (6) a schedule for implementing the research and management actions identified in the plan.

2. Coordination Responsibilities

The NMFS Office of Protected Resources coordinates the overall agency recovery program through NMFS Regions. The Office of Protected Resources also coordinates the development and implementation of recovery plans for species, unless the Assistant Administrator for Fisheries delegates the responsibility for a species to one or more Regions. The Regions also have responsibility for specific recovery actions identified in recovery plans.

A recovery plan coordinator will be a staff member designated by the Director the Office of Protected Resources or the Regional Director (if responsibility for the plan has been delegated to the Region) as soon as a decision is made to develop a plan. The coordinator acts as a liaison between NMFS and the recovery team and is responsible for promoting implementation of the recovery plan. The coordinator may also draft an implementation plan in consultation with responsible entities and make recommendations on implementation to NMFS and other agencies. The coordinator may also be responsible for overseeing the expenditure of funds dedicated to the plan's implementation. These duties are carried out with the advice and assistance of the Office of Protected Resources, Regions, Science Centers, recovery teams and other involved parties.

3. Drafting the Plan

NMFS may draft the recovery plan, contract for developing a plan, appoint a recovery team² to draft the plan, or any combination of the above. There are advantages and disadvantages to each method. A determination on the best method will be made on a plan-by-plan basis. A draft plan prepared by a recovery team does not necessarily reflect the views or positions of NMFS or other involved agencies.

The length and complexity of each plan will vary with the complexity of problems facing the species, actions necessary for the species to recover, and extent of available information about the species and impacts. Plans should be developed using the best available scientific information to recommend objectives to facilitate recovery. Plans may be amended or revised as additional data are developed.

As soon as a decision is made to develop a plan and, if appropriate, a team has been appointed, a Federal Register notice will be published announcing an interim schedule for plan development and requesting relevant information on the species and/or comments on the impacts to the species which should be addressed during plan development.

4. Comments

A. Federal Agency

NMFS will request input from other Federal agencies on their involvement as responsible agencies when appropriate in the planning process.

² See Section D.

B. Public

A notice of availability of a draft recovery plan will be published in the Federal Register soliciting comments from all interested parties (a 60- or 90-day comment period would be appropriate in most cases). All parties that may be affected by the recovery plan will be specifically requested to comment on aspects of the plan related to their activities or responsibilities. All draft plans will contain a disclaimer stating that draft recovery plans are not official government documents, and when they are released for public comment, they will not have been approved by NMFS or by any other agency. Therefore, draft plans do not necessarily represent the positions or policies of the United States Government or any other government. The conclusions and recommendations in a draft recovery plan are solely those developed by the recovery team. In addition, the views expressed are not necessarily those of all individuals involved in the formulation of a plan. Draft plans will be subject to revision or modification following review.

5. Final Recovery Plan

All comments received will be considered and addressed accordingly by the recovery team (if appropriate) in coordination with the plan coordinator in developing a final recovery plan. Comments received on the procedures/policies of other Federal agencies will be forwarded to the agencies for their consideration. If NMFS requests the recovery team to draft the final plan, NMFS will revise the plan as it deems appropriate prior to approval. Final recovery plans will be cleared by the Director of the Office of Protected Resources and the appropriate Regional Directors and approved by the Assistant Administrator. Approved recovery plans will be made available to interested parties, and a notice of availability will be published in the Federal Register.

An approved recovery plan is a NMFS document and represents the official position of the agency. It does not necessarily represent official positions or approvals of cooperating agencies or views of the recovery team, team members, or others involved in its preparation. The recovery plan is intended to provide the basis to assist other Federal agencies in utilizing their authorities to further the purposes of the ESA and MMPA. As soon as practicable after a plan is approved, a meeting of all responsible parties should be held to begin the implementation of recovery tasks.

6. Revisions and Amendments

Plans will be reviewed periodically by NMFS and/or recovery teams and will be revised or amended as needed. A schedule for reviews will be discussed in individual plans. If no changes to the objectives or recovery actions are needed, NMFS may append to the plan updated information on the species or activities without public review. Any amendments or significant revisions to plans will be subject to public review, Regional clearance and approval by the Assistant Administrator.

7. Reporting

A progress report on completion or milestones toward completion of each recovery task will be prepared every 2 years by the recovery plan coordinator. This progress report should include actions taken by NMFS, other Federal agencies, state and local governments and other organizations that affect the recovery of the species. This information will be compiled into the report sent to the Congress on the status of efforts to develop and implement

recovery plans. These reports will also be made available to the public.

C. Recovery Plan Content

In addition to the statutory requirements (section B.1), a recovery plan identifies and assigns priorities to actions required for the recovery of the species. The goal of recovery is to restore a listed species³ to the point where it is no longer endangered or threatened and a depleted marine mammal species or population stock⁴ to its optimum sustainable population level. Recovery under the ESA does not necessarily mean historic or current carrying capacity. To the maximum extent practicable, the plan must include objective, measurable criteria that would indicate recovery. Recovery objectives can be set for an entire species or smaller biological unit. The specific tasks necessary for recovery must be identified and described in sufficient detail to indicate that nature and rationale for the tasks. The approach should be one of problem identification and resolution, which could include a description and analysis of current efforts and programs directed at the recovery of the species.

The following major topics should be included in each recovery plan, although the specific format can vary between plans.

1. Status of the Species or Population Stock

A concise summary of the information on the species or population and its life history should be presented, including but not limited to, information on: taxonomy and physical appearance; population or stock discreteness, population size and trends (including past and present size and future projections based on current trends); reproduction and recruitment rates; sources and rates of mortality; diet and feeding habits, migration and movement patterns; and habitat use patterns and essential habitats. The summary can refer to a recent status review so that available information is not unnecessarily duplicated.

If the recovery plan is addressing the needs of a population segment or subtaxa, or if the species range is subdivided for recovery efforts this should be stated here with an explanation as to why these units are thought to be separate species under the ESA or population stocks under the MMPA.

Plans should also discuss the known habitat requirements based on the biological need of the species. All areas that are essential to the conservation of the species should be identified including a description of the essential physical and biological features. Essential features should be described in general terms rather than specific standards. This description of essential habitat could be used in the decision process for designating critical habitat if necessary.

2. Factors Affecting the Species or Population Stock

³ The ESA defines "species" as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate or wildlife which interbreeds when mature.

⁴ The MMPA defines "population stock" as a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreeds when mature.

The factors affecting the species should be described, including the following five listing factors identified in section 4(a) of the ESA: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) over-utilization for commercial, recreational, scientific or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; (5) other natural or manmade factors affecting its continued existence.

3. Objectives

The overall objective of a plan is the recovery of the species. To the maximum extent practicable, the plan must include objective, measurable criteria that would indicate recovery. These quantitative criteria can be stated in biological or other terms appropriate for the species, its situation and available information. For example, the recovery criteria may be to establish additional populations and/or attain a certain population level. Alternatively, a recovery criterion may be to remove certain threats facing the species. The criteria re developed based on the best data available when the recovery plan is developed ad may be revised at any time based on new information. Intermediate objectives and criteria may also be established to measure progress toward recovery.

When the objectives of the recovery plan are completed and/or plan evaluation criteria are achieved, NMFS will initiate a status review of the species to determine whether a change in status is warranted. However, reaching the objectives does not automatically result in a reclassification. If warranted based on this review, NMFS will publish a proposed rule to reclassify the species and invite public comments. This review could be in addition to the 5-year status review conducted for all listed species.

4. Needed Recovery Actions

An outline listing the measures that are needed to promote the recovery of the species and the specific tasks that should be completed to accomplish each general measure should be developed. The outline will serve as the basis for a narrative section that describes the nature and rational for tasks (either individually or in groups) as they relate to the plan objectives. This description should provide the basic information needed to support priority rankings and its importance related to recovery.

If there is not sufficient information to develop recovery actions, needed research should be identified. It is expected that, although the general measures may remain constant, tasks will be added, deleted, or revised as new information is obtained. Each task must be described as specifically as possible, including the responsible parties, feasibility or problems that may be encountered in completing the task.

5. Implementation Schedule

Each plan must include an implementation schedule or action plan that lists each recovery plan task, task priority (see below), cost, time required to complete and those responsible to carry out the recovery task (Table 1). The implementation schedule is used to direct and monitor implementation and completion of recovery tasks.

Table 1. Example Implementation Schedule

Recovery Plan Task	Priority	Cost	Duration	Responsible Entities
15. Rescue/rehabilitate distressed animals.	1	68K/yr 50K/yr 110K/yr	ongoing ongoing ongoing	NMFS, States, Oceanaria
153. Develop criteria for released or rehabilitated animals.	2	0	1 year	NMFS, States, Oceanaria
422. Evaluate use of mark/recapture methods for estimating population.	2	80K	2 years	NMFS, States

Recovery tasks should be assigned priorities of 1 to 3 based on the established priority system (55 FR 24296), as follows:

<u>PRIORITY</u>	<u>TYPE OF TASK</u>
1	An action that must be taken to prevent extinction or to identify those actions necessary to prevent extinction.
2	An action that must be taken to prevent a significant decline in population numbers, habitat quality, or other significant negative impacts short of extinction.
3	All other actions necessary to provide for full recovery of the species.

It should be noted that even the highest priority tasks within a plan are not given a Priority 1 ranking unless they are actions necessary to prevent a species from becoming extinct or to identify those actions necessary to prevent extinction. Therefore, some plans will not have any Priority 1 tasks. In general, Priority 1 tasks only apply to a species facing a high magnitude of threat. This allows NMFS to set priorities for allocation of available resources among different recovery plans.

D. Recovery Teams

1. General

The ESA provides for the formation of recovery teams to advise and assist NMFS in developing and implementing recovery plans. Recovery teams also may be formed to assist in developing conservation plans under the MMPA. Recovery teams are independent entities that may draft recovery plans and/or make recommendations to NMFS regarding the development and implementation of recovery plans, recovery activities or research. Team members are appointed as independent scientists/experts in the species under consideration. They do not represent their agency or organization while serving in the capacity of a recovery team member. Recovery teams are not subject to the Federal Advisory Committee Act (ESA(4)(f)(2)). Also, since recovery teams are appointed to draft plans and make recommendations to NMFS, not act on behalf of NMFS, they

do not fall under the definition of agency as described in the Government in the Sunshine Act (5 USC 552b).

To the extent possible, recovery team meetings should be open to the public if facilities allow. However, if the recovery team requires time to itself to deliberate issues and prepare options for the draft recovery plan or if individuals or groups request private sessions with the recovery team to avoid public disclosure of confidential business or proprietary information, working sessions could be conducted that are not open to the public.

In order to avoid conflicts of interest and other ethical problems, recovery team members will be asked to adhere to the following guidelines. (April 2, 1992, Dept. of Commerce, Office of General Counsel Memorandum)

- ▶ Members should disqualify themselves from advising on a matter which has direct and predictable affect on their personal financial interests, those of a client, or those of a company by which they are employed, apart from matters which are inherent in their employment or outside affiliation.
- ▶ Members should not solicit business for themselves or their firms or seek an economic advantage based on their position on the recovery team.
- ▶ Members should hold any non-publish information obtained as a result of their service on the recovery team in confidence and ensure that it is used exclusively for official purposes. Members should not use or permit the use of such information for their own private gain or permit the use of such information for their own private gain or the gain of another person.
- ▶ Members should not use the resources available to the recovery team for the purposes of assisting a political campaign, or for any campaign business.

2. Appointing Teams

The Director of the Office of Protected Resources or the Regional Director (if responsibility for the plan has been delegated to the Region) make recommendations for recovery team members to the Assistant Administrator for Fisheries who approves team members and establishes recovery teams. In most cases, recovery teams will consist of no more than six (6) individuals who are knowledgeable about research or management programs for the species. Recovery teams will be appointed for specific functions (see Role of Teams below). Teams may be disbanded at any time by the Director of the Office of Protected Resources or the Regional Director, as appropriate, with the concurrence of the Assistant Administrator for Fisheries, but usually when the assigned functions are completed. Because of the small size of teams, team members should consult with other qualified individuals and organizations in developing plans and in carrying out other functions. Team members may recommend to the Office of Protected Resources, persons to act as technical advisors during the preparation of the plan. Recovery teams can request assistance or recommendations from scientists, conservation organizations, State and Federal agencies involved with research or management of the species, and other interested parties. Specialists in other fields, who are not team members, may be invited to attend team meetings when their expertise is required.

3. Role of Teams

Recovery teams are formed to advise and assist NMFS in developing and , in some cases, implementing recovery programs. When the team is established, NMFS, through the plan coordinator, will outline the specific functions for the team and a schedule for completing the assigned functions. Functions may include drafting a plan, recommending revisions to an existing plan, evaluating overall research programs, evaluating the species' status and listing classification when appropriate, evaluating the progress made by NMFS and others in implementing a plan, and making recommendations to NMFS on any matter related to the recovery of the species. Recovery team recommendations and opinions do not necessarily reflect the views of NMFS and should not be presented as NMFS views. Recommendations involving other agencies or organizations will be transmitted by NMFS to those agencies or organizations, as determined appropriate by NMFS.

Brief summaries of all recovery team meeting should be prepared and sent to the team members, the Director of the Office of Protected Resources and the appropriate Regional and Science Center Directors.

4. Role of NMFS

NMFS responsibilities with respect to recovery teams include (1) establishing and disbanding recovery teams; (2) appointing, dismissing, and replacing team members as needed; (3) defining team functions and establishing schedules for completing products; (4) approving, adopting, and amending recovery plans; and (5) transmitting team recommendations to other agencies and organizations, as appropriate.

5. Funding

As available, NMFS will provide funds to cover team member travel for meetings and to cover other administrative costs. NMFS will not pay salaries to team members or advisors. Administrative assistance (copying, distribution, supplies) will be provided by NMFS. NMFS may contract for services to the team to facilitate drafting and assembling recovery plans and other team documents.