

NATIONAL MARINE FISHERIES SERVICE
APPLICATION INSTRUCTIONS FOR PERMITS FOR THE INCIDENTAL TAKE OF
ENDANGERED OR THREATENED SPECIES UNDER THE ENDANGERED SPECIES
ACT

In coordination with, but not substituting for 50 CFR 222.307
OMB control number (0648-0230) Expiration date for clearance: 10/31/2021

Information Required in the Application

The Assistant Administrator may issue permits to take endangered or threatened marine species incidentally to an otherwise lawful activity under section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA). The information collection associated with the following application instructions is required for the purpose of obtaining such a permit. The information provided will be used to process the incidental take permit in accordance with the ESA, including the solicitation of public comments on the justification of the take of ESA-listed species incidental to proposed activities. The information provided by an applicant in accordance with these instructions is not confidential and is subject to public review for comments.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Public reporting for this information collection is estimated to be approximately 80 hours for a permit application (including Habitat Conservation Plans) and 8 hours for a permit report, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. All responses to this information collection are required to obtain benefits. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to the Department of Commerce: 1335 East-West Hwy, Silver Spring, MD 20910, Attn: Celeste Stout, Fisheries Management Specialist, NMFS, Office of Protected Resources, Celeste.Stout@noaa.gov.

Privacy Act Statement

Authority: The collection of this information is authorized under the Endangered Species Act, 16 U.S.C. 1531 et seq.

Purpose: In order to manage protected resources, NOAA Fisheries requires the use of permits by participants in the United States. Information on permit applications includes permittee contact information.

Routine Uses: The Department will use this information to determine permit eligibility. Disclosure of this information is permitted under the Privacy Act of 1974 (5 U.S.C. Section 552a), to be shared within the NOAA Fisheries, in order to coordinate monitoring and management of protected resources. Disclosure of this information is also subject to all of the published routine uses as identified in the Privacy Act System of Records Notice COMMERCE/NOAA-12, Marine Mammals, Endangered and Threatened Species, Permits and Authorizations Applicants.

Disclosure: Furnishing this information is voluntary; however, failure to provide complete and accurate information will prevent the determination of eligibility for a permit.

An application for a permit should provide all of the following information. The information needed in the application should be presented in the same structure and format shown below to increase processing efficiency. When a question does not apply, do not overlook the category, but indicate Not Applicable (N.A.). In some cases, a brief explanation as to why the category is not applicable may expedite processing. Please note that for the title and closing statement of the application, specific wording is required.

If the applicant represents an individual or a single entity, such as a corporation, the application should be for an individual incidental take permit. If the applicant represents a group or organization whose members conduct the same or a similar activity in the same geographical area with similar impacts on endangered or threatened marine species, the application should be for a general incidental take permit. To be covered by a general incidental take permit, each individual conducting the activity must have a certificate of inclusion issued under paragraph (f) of 50 CFR 222.307. NMFS estimates a public reporting burden of 0.5 hour for each certificate of inclusion. The sufficiency of applications will be determined by the Assistant Administrator in accordance with the requirements of 50 CFR 222.307.

Application Outline (Example)

- I. One of the titles below as appropriate:
 - A. Application for an Individual Incidental Take Permit under the Endangered Species Act of 1973.
 - B. Application for a General Incidental Take Permit under the Endangered Species Act of 1973.
- II. Date of the application.
- III. The name, address, telephone, and fax number of the applicant. If the applicant is a partnership, corporate entity or is representing a group or organization, include applicable details.
- IV. A description of the endangered or threatened species, by common and scientific name, and a description of the status, distribution, seasonal distribution, habitat needs, feeding habits and other biological requirements of the affected species.
 - List all species that may be in or near the action area even if they may not be affected by the proposed activities.
 - If a particular species is not expected to be incidentally taken by the activity, briefly explain that it is because the species may not occur in the action area at the specified time (e.g., seasonal distribution) or any other appropriate reason, and indicate that they will not be considered further in your application (if applicable).
- V. A detailed description of the proposed activity:

This section is your opportunity to describe what you plan to do. You should deconstruct the activity into pieces that can be analyzed for their potential impacts.

This should include:

- A description of the types of equipment used
- A description of how equipment is used and deployed
- How the equipment interacts with the physical and biological environment
- Which components of the activity may result in take
- Which components are not expected to result in take and the reasons why they will not likely result in take
- Pictures and/or diagrams of the vessels and/or equipment to be used

- VI. The anticipated dates, duration, and the specific location of the activity. Please include latitude/longitude coordinates if possible.

Here, you should describe when and where you will conduct your activities, including duration and frequency of separate actions within the timeframe of the requested permit (daily temporal information should be provided in the previous section). You should break down the activity by geographic location and duration as much as possible:

Specify for the different components of your activity

- Dates
- Frequency
- Duration
- Important seasonal issues

If certain subsets of the activities conducted in certain areas or times will have notably different impacts than other components of an activity due to density or important behaviors of the species in that area, specify the description of the activities within those areas and times to the degree possible.

Include a high quality map(s) with the appropriate scale and latitude/longitude markings that clearly shows the location of your proposed activity and any environmental aspects important to the analysis (e.g., critical habitat designated under the Endangered Species Act, known feeding or spawning areas).

- VII. The application must include a conservation plan (please see the [Conservation Plan Handbook](#)) based on the best scientific and commercial data, which specifies:

- A. The anticipated impact of the proposed activity on the listed species:

This section must specify the number of estimated takes by each type of taking and by activity type. You must provide a detailed description of how you arrived at your take estimates, including any assumptions included in the modeling or calculations. You may have differing amounts of information upon which to base take estimates, and you may use different methods; most important is that the methodology used is defensible and that the take estimate is not arbitrary.

- The estimated number of animals of the listed species and, if applicable, the subspecies or population group, and range.
- The type of anticipated taking, such as harassment, predation, competition for space and food, etc.
- The effects of the take on the listed species, such as descaling, altered spawning activities, potential for mortality, etc.

B. The anticipated impact of the proposed activity on the habitat of the species and the likelihood of restoration of the affected habitat.

Please describe what effects your activity may have on the species habitat, including anticipated:

- Physical damage (whether temporary or permanent) to habitat (e.g., sedimentation, dredging, etc.)
- Impacts to prey species (fish or invertebrate death, injury, or displacement)
- Barriers to movement through or within constricted or important areas
- Any other anticipated impacts to habitat (e.g., chemical, sedimentation, thermal)

If you do not anticipate impacts to habitat, please explicitly state and provide appropriate justification as to why.

C. The steps that will be taken to **avoid, minimize, mitigate**, and monitor such impacts, including:

1. Specialized equipment, methods of conducting activities, or other means.
2. Detailed monitoring plans.
3. Funding available to implement measures taken to **avoid, minimize, mitigate**, and monitor impacts.

D. The alternative actions to such taking that were considered and the reasons why those alternatives are not being used.

E. A list of all sources of data used in preparation of the plan, including reference reports, environmental assessments and impact statements, and personal communications with recognized experts on the species or activity who may have access to data not published in current literature.

An application for a certificate of inclusion under a General incidental take permit must include the following:

1. General incidental take permit under which the applicant wants coverage;
2. Applicant's name, address and telephone number (if the applicant is a partnership or corporate entity, then the applicable details);
3. Description of the activity the applicant wants covered under the general permit, including anticipated geographic range and season; and
4. Signed statement that the applicant has read and understood the general incidental take permit and the conservation plan, will apply with the applicable terms and conditions, and will fund the applicable measures of the conservation plan.

Modifications to Permit

Requests for modifications to incidental take permits should address all applicable sections of these instructions, including a detailed description of the proposed changes. Appropriate changes should also be made to the Conservation Plan. Modification requests involving an increased number of animals, additional species, an increased risk to the animals, or a significant change in the location of incidental take are subject to the 30-day public review and are granted or denied at the discretion of the Assistant Administrator for Fisheries.

Where to Send the Application

The application may be submitted electronically, but one signed original of the complete application must be sent to one of the following addresses:

Send applications for incidental take of all species:

Email: PR_ESA_incidentaltakepermits@noaa.gov

Chief, Endangered Species Division
National Marine Fisheries Service, F/PR3/PR2
1315 East-West Highway
Silver Spring, Maryland 20910
Phone: 301-713-1401
Fax: 301-713-0376

Web Site: <https://www.fisheries.noaa.gov/about/office-protected-resources>

Send applications for incidental take of anadromous fish in the Pacific to one of these offices:

Oregon Washington Coast Area Office in Portland

1201 Northeast Lloyd Boulevard,
Suite 1100,
Portland, OR 97232
Phone: 503-230- 5400
Fax: 503-231-6893

Interior Columbia Basin Area Office

1201 Northeast Lloyd Boulevard,
Suite 1100,
Portland, OR 97232
Phone: 503-230- 5400
Fax: 503-231-6893

California Coast Area Office in Santa Rosa

777 Sonoma Avenue,
Room 325,
Santa Rosa, CA 95404
Phone: 707-387-0737
Fax: 707-578-3435

The California Central Valley Area Office in Sacramento:

650 Capitol Mall
Suite 5-100
Sacramento, CA 95814
Phone: 916-930-3600
Fax: 916-930-3629.