

# National Marine Fisheries Service

## Marine Mammal Commercial or Educational Photography Permit Application

*OMB No. 0648-0084*

*Expires: 12/31/2019*

Questions or Problems? Contact the NMFS Permits and Conservation Division:  
301-427-8401

NATIONAL MARINE FISHERIES SERVICE

MARINE MAMMAL COMMERCIAL OR EDUCATIONAL  
PHOTOGRAPHY PERMIT APPLICATION

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## Introduction

### What is this application for?

- Applying for permission to conduct professional photography/filming of wild marine mammals for educational or commercial purposes where the activities will not exceed Level B harassment<sup>1</sup>.
- Discrete projects and time frames that will result in products available to the general public such as documentary films, published magazine articles, or commercial photographs.
- Non-listed marine mammals under NMFS' jurisdiction:
  - cetaceans (dolphins, porpoises, and whales)
  - pinnipeds (seals and sea lions).

### What is this application not for?

- Photography or filming focused on or that may affect marine mammals listed as endangered or threatened under the Endangered Species Act (ESA). View a [list of ESA species](#).
- Photography that exceeds Level B harassment (e.g., flying lower than 1,000 feet over pinniped rookeries).
- Photography to collect stock images for an undetermined project. You must be working on a specific project that will result in a publicly available product.
- Scientific research on marine mammals.

### What if I want to film/photograph endangered or threatened species?

- Contact the National Marine Fisheries Service (NMFS), Office of Protected Resources, Permits and Conservation Division at 301-427-8401 for options.

### When should I apply?

- At least 4 months before your project will begin, preferably 6 months prior.

### What is the process for getting a photography permit?

1. Follow these instructions and contact the NMFS Permits and Conservation Division with any questions.

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<sup>1</sup> **Level B Harassment:** Any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

2. Submit your application via email to [nmfs.pr1.apps@noaa.gov](mailto:nmfs.pr1.apps@noaa.gov).
  - a. A permit analyst will review your application and contact you if additional information is needed. The analyst will assign your application a File number.
3. Address any questions on the application within 60 days or your application will be withdrawn. Please reference your application File No. in all correspondence.
  - a. Once your application is complete, we will publish a notice in the [Federal Register](#), which starts a mandatory 30-day public comment period.
  - b. Concurrently, we will send your application to the Marine Mammal Commission and other subject matter experts in partner institutions and federal and state agencies for review.
4. Address any questions received during the comment period.
  - a. We will then draft the permit and supporting documentation (including National Environmental Policy Act analyses and documentation of MMPA issuance criteria).
  - b. The documents will be reviewed by various NMFS offices including a legal review.
  - c. The Office Director will decide whether to issue or deny your permit.

### **Important information**

- If you do not follow these instructions, your application will be withdrawn and you will be asked to resubmit a new application that includes the information required.
- If we request additional information and do not receive it within 60 days, we may withdraw your application.
- Your permit may only authorize what is in your application; therefore, it must be a stand-alone document that describes all proposed activities.
- When a question does not apply, explain why.
- Your application should be free of grammatical errors and readable to a lay person.

### **Questions?**

- You are highly encouraged to contact the NMFS Permits and Conservation Division with questions in advance of submitting your application.

# Application Instructions

## Project Information (\* = required)

### **\*Project Title** (up to 255 characters)

- Describe the project as concisely to include the activity, species (or taxa if multiple species), location, and purpose of filming. For example:
  - *Filming bottlenose dolphin behavior in south Florida for a television series.*

### **Previous Federal permit #**

- If applicable, give us your most recent and closely related NMFS permit number.

### **\*Timeframe**

- List your proposed start and end dates of the entire photography/filming project.
  - The start date must not be prior to the date you successfully submit the application and should be at least 4-6 months after the submission date.
  - The end date must be within 5 years of the start date because permits are valid for a maximum 5-year period. You may request a permit for up to 5 years to complete a project. If your project involves less than one year of planned fieldwork, we recommend that you request at least a 2-year permit in the event another season or year of filming is needed to obtain the footage.

### **\*Sampling Season/Project Duration** (up to 1,000 characters)

- Describe your filming field season(s) including the months of the year.
- Include the frequency of fieldwork (*e.g.*, when and how many times per year/how often will you be filming?).

### **\*Abstract** (up to 2,000 characters)

- Please include the following information. Federal regulations require this information to be published in the *Federal Register* Notice of Receipt that initiates a mandatory 30-day public comment period:
  - Purpose of the filming/photography.
  - Target and non-target species (common and scientific names).
  - Take activities (*e.g.*, boat and aerial-based filming).
  - Numbers of animals to be taken by species or taxa, annually.
  - Specific geographic locations.
  - Requested duration of the permit (the maximum is five years).

## Project Description

### **\*Project Purpose: Hypothesis/Objectives and Justification** (up to 64,000 characters)

- Describe your project's purpose and objectives and the anticipated end product(s).
- Explain how and when the products will be made available to the public.
- Explain if stock photos/footage are available and if so, why your project requires new images/video.
- Explain how you estimated your numbers (see guidance below on how to count take).
  - For example, did you base them on the number of filming days and average animal group size or abundance estimates for your location?

### **\*Project Description** (up to 64,000 characters)

#### **Methods:**

- Provide:
  - Clear descriptions of all methods (i.e., activities) you will use to photograph or film each species, and
  - The number of animals by age class and sex you expect to take by each method annually. Be sure to define how age classes (e.g., neonate, calf/pup, juvenile, subadult, adult) are distinguished, by taxa or species.

**For cetaceans**, you will count 1 take per animal per day for every animal approached regardless of whether a behavioral reaction has occurred.

**For pinnipeds**, you will count 1 take per animal per day for those animals that react to the research activities in these ways:

- movements of twice the animal's body length or more,
- changes of direction greater than 90 degrees, or
- retreats (flushes) to the water.
- If working with **lactating females and dependent** calves or pups:
  - Indicate the minimum age of the calves/pups.
  - Give specific protocols for working around them, including how you will avoid separating mothers from calves/pups and pinnipeds flushing from beaches.
- Your narrative description and take table (see Take Table section below) must match.
  - Every procedure listed in the take table must be discussed in the Project Description.

- For each method, include a brief statement of its **purpose** (*i.e.*, how the activity relates to meeting your objectives).
- Figures and photographs are useful to illustrate your methods. You can send them as attachments.
- See the following list of information to include when describing your methods.

**Aerial (manned), ground, and vessel (manned or unmanned/remote) surveys**

- Type of aircraft and vessel
- Type of survey
- Track lines (maps may be attached separately)
- Number of surveys per year
- Air speed
- Vessel speed
- Maximum and minimum altitude/ approach distance to animals
- Protocols for breaking track to photograph/film species
- Protocols for approaching on land, whether a blind or cover will be used
- Duration spent with group or individual/day
- Description of remotely operated vessel, whether tethered, length of tether, depth

**Unmanned aircraft systems (UAS)**

- Same general questions above for aerial surveys and also the following:
- Type of UAS – fixed wing or vertical takeoff and landing (VTOL)
- Payload components – what is the UAS carrying?
- Size and mass of UAS
- Will the UAS ever be beyond the line of sight?
- Does the device have an auto-return feature should the device fail?
- Ground control station (where is it located - on shore or on vessel, number of stations, and how close the station will be to animals)
- Spotter roles needed (e.g., one spotter monitoring the UAS, another for monitoring the ground control station)
- Battery life
- Do you or a Co-investigator have the appropriate FAA permits/authorizations (including pilot licenses)?

**Filming and photography**

- Approach method (e.g., by foot, vessel, or aircraft – see above)
- Filming/photography equipment and method
- Minimum and maximum approach distance
- Within sight of animals or not (*e.g.*, from a blind)?
- Number and frequency of filming trips per year

- Number of approaches per animal per day
- Duration of filming per day
- If conducting underwater photography/videography, specify the method (*e.g.*, snorkeling, underwater pole cam, or divers that could use typical gear or re-breathers) and number of individuals in the water at a given time and their role

**Non-target species and conspecifics:**

- Include a list of non-target species that may be encountered in your study area. Describe whether they will be harassed and what you will do to minimize or eliminate harassment.
  - Photography permits cannot authorize you to take threatened or endangered species. If ESA-listed species occur in your study area, explain how you will identify and avoid them (*e.g.*, not in area during time of study; would not approach closer than 100 meters; would halt operations until non-target species moved out of study area).
  - If takes of non-target, non-ESA listed marine mammals may occur, include these on separate rows in the Take Table to include incidental harassment of non-target conspecifics or other marine mammals.

**Coordination with scientists or other permit holders:**

- Include the names and affiliations of scientific advisors and whether they will be in the field with you.
- Describe how you will collaborate or coordinate with other permitted filmmakers or researchers in your filming area to minimize repeated disturbance.

Project Supplemental Information

**Supplemental file**

- You can attach supplemental files with your application to provide additional information such as maps.

**\*Anticipated effects on animals:**

- For each method, describe the anticipated responses of the animals (*e.g.*, type, severity, and duration of harassment).

**\*Measures to minimize negative effects:**

- Describe what you will do to minimize those responses, including but not limited to:
  - If your activities coincide with reproductive seasons or maternal care, how will you avoid disrupting these sensitive periods and ensure mother-calf/pup pairs are not separated?
  - Explain how your filming will not result in injury or mortality.

**\*Public availability of product/publications:**

- Describe the end product(s) of your proposed photography/filming and how they will be made available to the public. For example, will it be a feature film released in theaters? A television documentary that will air on a specific network or country? A children's book that will be published? Will your project have a web component?

**\*Project Locations and Take Information**

- First describe where you plan to work. Then, for each location, use the Take Table to list the species you expect to encounter and the photography/filming activities you will conduct.
- **Location:** provide information about one or more photography/filming locations
  - General area (ocean basin), and
  - State(s), as applicable.
- **Location Details**, as applicable:
  - Waterbody: include names of rivers, estuaries, bays, etc.
  - Latitude and longitude of your study area
  - Limits of your study area (*e.g.*, to the U.S. EEZ, to the edge of the continental shelf, to 50m depth)
  - Names of land masses where filming will occur (*e.g.*, islands, rookeries).
- **Attach File:** Include high quality map(s) to scale that clearly shows the location of your proposed activity and any environmental aspects of interest.

**\*Take Table**

You should provide a take table that summarizes the **estimated number of animals** you expect to encounter **annually** during filming/photography. An example table is provided below. Your permit and subsequent reports will include a similar table.

*Columns to include:*

- 1) **Species:** Photography permits are for non-ESA listed species only. You **cannot** include endangered or threatened species.
- 2) **Listing Unit/Stock:** Include the stock(s) for the marine mammals you propose to film. You may refer to our website to find [stocks for marine mammal species](#).
- 3) **Life Stage:** Use the terms below, as appropriate. Include specified ages (including minimum size/age of pups and calves) if necessary.

Cetacean	Pinniped	
Adult	Adult	Subadult
Adult/Juvenile	All	Unknown
All	Juvenile	Pup
Calf	Juvenile/Subadult	
Juvenile	Non-Adult	
Non-neonate	Non-Pup	
Unknown	Pup/Juvenile	

- 4) **Sex:** If your activity targets only one sex, indicate which. If it targets both and they will be targeted separately, enter separate rows for male and female; otherwise indicate both male and female.
- 5) **Expected Take:** This represents a reasonable estimate of the number of animals you will encounter, annually. Use the following guidance on how to count to help you determine what your take numbers should be.

**For cetaceans,** you will count every animal approached by vessel regardless of whether a behavioral reaction has occurred.

- During vessel surveys, only count 1 take per cetacean per day including all approaches. An approach is defined as a continuous sequence of maneuvers, including drifting, involving a vessel or equipment or researcher's body in the water directed toward a cetacean or group of cetaceans closer than 100 yards for baleen whales and 50 yards for all other cetaceans.
- During aerial surveys (manned or UAS) flown at an altitude lower than 1,000 feet, count 1 take per cetacean observed per day, regardless of the number of passes over the same animal.

**For pinnipeds,** you will count 1 take per animal per day for those animals that react to the filming, regardless of the number of responses, including:

- movements of twice the animal's body length or more,
- changes of direction greater than 90 degrees, or
- retreats (flushes) to the water.

DO NOT count alert behaviors such as:

- turning head towards the disturbance,
- craning head and neck while holding the body rigid in a u-shaped position,
- changing from a lying to a sitting position, or
- brief movements of less than twice the animal's body length.

**For cetaceans and pinnipeds:** in the Project Description (above), you must indicate **how**

**many times per day** you would approach the same animal or group of animals as well as how many times per year you will target the same group of animals.

- 6) **Takes Per Animal:** Estimate the number of times the same identifiable individuals will be encountered, annually, if known. If you are not certain the same individuals will be encountered, or you will not be able to identify individual animals, enter 1. If you intend to repeatedly photograph or film the same individuals on multiple days, enter the number of intentional takes per year.
- 7) **Observe/Collect Method:** Select the method of observation. Select only 1 method per row. If various methods will be used, you must provide take information in separate rows. If you will be approaching animals from a boat to fly UAS surveys, select “Aerial/vessel survey.”

Options:

- Ground survey
- Vessel survey
- Aerial survey
- Aerial/vessel survey

- 8) **Procedures:** Include the applicable activities that you plan to conduct from the list below. You can select multiple procedures for any row.

Procedure Options	
Behavioral observations	Remote vehicle, vessel
Incidental harassment	Remote vehicle, aerial (fixed wing)
Other (define)	Remote vehicle, aerial (vertical take off and landing)
Passive acoustic recordings	Underwater photography / video
Photography / video	

- 9) **Details:** Provide additional information as necessary (optional).

Table 1. Sample Take Table

Species	Stock/ Listing Unit	Life stage	Sex	Authorized Take	Takes Per Animal	Observe/ Collect Method	Procedures	Details
Sea lion, California	US Stock	Adult	Male and Female	200	1	Survey, ground	Observations, behavioral; Photograph/Video	
Dolphin, Risso's	California/ Oregon/ Washington Stock	All	Male and Female	10	1	Survey, vessel	Acoustic, passive recording; Observations, behavioral; Underwater photo/videography	
Dolphin, common, short- beaked	California/ Oregon/ Washington Stock	All	Male and Female	55	1	Survey, aerial	Observations, behavioral; Photograph/Video	

**\*National Environmental Policy Act (NEPA) Considerations**

Answer these questions on the potential environmental effects of your proposed activities. Your responses are required to help us determine what level of NEPA analysis is required (categorically excluded vs. environmental assessment vs. environmental impact statement). If you believe any of the criteria are “not applicable” you must explain why.

- 1) If your activities will involve equipment or techniques that are new, untested, or otherwise have unknown or uncertain impacts on the biological or physical environment, please describe the equipment and techniques and provide any information about the use of these in the natural environment. In addition, please discuss the degree to which they are likely to be adopted by others for similar activities or applied more broadly.
- 2) Describe the physical characteristics of your project location, including:
  - a. Whether you will be working in or near unique geographic areas including but not limited to Critical Habitat for endangered or threatened species, Essential Fish Habitat, National Marine Sanctuaries, Marine Protected Areas, State or National Parks, Wilderness Areas, Wildlife Refuges, Wild and Scenic Rivers, etc.
  - b. Next, discuss how your activities could impact the physical environment in those locations, such as by direct alteration of substrate during use of anchoring vessels or buoys, erecting blinds or other structures, or ingress and egress of film crew, and measures you will take to minimize these impacts.

- 3) Briefly describe important scientific, cultural, or historic resources (*e.g.*, archeological resources, animals used for subsistence, sites listed in or eligible for listing in the National Register of Historic Places) in your project area and discuss measures you will take to ensure your work does not cause loss or destruction of such resources. If your activity will target marine mammals in Alaska or Washington, discuss measures you will take to ensure your project does not adversely affect the availability (*e.g.*, distribution, abundance) or suitability of these animals for subsistence uses.
  
- 4) Discuss whether your project involves activities known or suspected of introducing or spreading invasive species, intentionally or not, (*e.g.*, discharging ballast water, use of boats/equipment at multiple sites). Describe measures you would take to prevent the possible introduction or spread of non-indigenous or invasive species, including plants, animals, microbes, or other biological agents.

\*Project Contacts

Table 2. Project Contact Guidance

<b>Project Contact</b>	<b>Must be named in the permit application</b>	<b>Able to make changes to application, request changes to the permit, and submit reports; will receive automatic emails from APPS.</b>	<b>Description of qualifications required</b>
<b>Applicant/ Permit Holder</b>	✓	✓	✓
<b>Responsible Party</b>	✓	✓	Required only if also serving as the PI or a C
<b>Principal Investigator</b>	✓	✓	✓
<b>Primary Contact</b>	✓	✓	
<b>Co-Investigator</b>	✓		✓
<b>Filming Assistants</b>			

A project must have a **Responsible Party if the Applicant/Permit Holder is an organization, institution, or agency**. The Responsible Party or Applicant/Permit Holder is an official who has the legal authority to bind the organization, institution, or agency and is ultimately responsible for the activities of any individual operating under the authority of the permit.

The **Principal Investigator (PI)** is the individual primarily responsible for filming/photography activities conducted under the permit. There can only be one PI on a permit. The PI:

- must have qualifications, knowledge and experience relevant to the activities authorized by the permit
- must be on site during activities conducted under the permit unless a Co-Investigator is present to act in place of the PI
- may also be the Applicant/Permit Holder and Primary Contact.

**Co-investigators (CIs)** are individuals who are qualified and authorized to conduct or directly supervise activities conducted under a permit without the on-site supervision of the PI.

- You may add CIs to the application if the PI will not always be present during the permitted activities.
- CIs can also be added or removed once a permit has been issued.

Include a table listing the names of the PI and CIs, and the specific procedures they will oversee or conduct.

Table 2. Personnel Roles in the Photography/Filming Project

<b>Name/Affiliation</b>	<b>Role</b>	<b>Activities</b>
<i>Filmmaker name, Affiliation, City, State</i>	<i>PI or CI</i>	<i>Specific activities they will conduct under the permit and whether they are supervising</i>
Example: John Smith, Company A, City, State	Principal Investigator	Supervise and perform all activities under the permit
Example: Jane Doe, Company A, City, State	Co-Investigator	Conduct underwater videography
Example: John Smith, Company B, City, State	Co-Investigator	Boat driver and UAS pilot

***Qualifications and Experience***

Federal Regulations require that persons authorized as the PI or CIs have qualifications corresponding to their duties.

The applicant must show that the qualifications and experience of the PI and each CI correspond to their duties listed in Table 2 (Personnel Roles). **Submit a biosketch, resume, or CV that is up to date and contains all of the information listed below.**

If you do not provide sufficient information, we will not authorize the person(s) to conduct the research activities.

- 1) **Contact information** - All documentation submitted will be publicly available. **DO NOT include personal information** (e.g., social security number, date of birth, nationality, or home phone/ address-unless it is also the business phone/address).
  - Name (first middle last)
  - Business phone, e-mail, and mailing address
- 2) **Relevant education and training**
  - Degree, major, name of institution, year received
  - Applicable training, certificates or licenses, year received
- 3) **Relevant experience**
  - Job title, affiliation/location, and dates
  - For each, include a detailed description of the training and experience obtained in the methods they will be conducting and/or supervising as outlined in Table 2 (Personnel Roles). This should include objective metrics such as:
    - The specific level of training and who trained them
    - The number of hours/months/years they have been performing the activities and with what species and in what geographical locations
    - If there is no specific experience with the marine mammal species proposed, identify a scientific expert or consulting biologist with such experience.
- 4) **List of previous documentaries, films, or other publications.**

### Certification Statement

Your application must include the statement below and be signed and dated by the Applicant/Permit Holder (or the Responsible Party if the Applicant/Permit Holder is an entity).

"I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations (50 CFR Part 216). I also understand that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties provided under the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, or the Fur Seal Act of 1966, whichever are applicable."

### Submit Application

Submit your application via email to [nmfs.pr1.apps@noaa.gov](mailto:nmfs.pr1.apps@noaa.gov).

## Additional Information

Under Section 104(c)(6) the Marine Mammal Protection Act (MMPA), a permit may be issued for photography of marine mammals in the wild for educational or commercial purposes where the photography activities do not exceed Level B harassment. Application Instructions for Photography (50 CFR 216.42, Reserved) have not yet been proposed. Read the [full text of the MMPA](#), including Section 104.

## Paperwork Reduction Act Statement

The information requested in this application is required. It will be used to determine:

- whether the proposed activity is likely to exceed Level B harassment of a marine mammal in the wild,
- whether the photography methods are adequate to meet the project objectives,
- whether the applicants are qualified to carry out the proposed activities, and
- how the products of such activities will be made available to the public.

**Public reporting burden for this collection of information is estimated to average 10 hours per application**, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Chief, Permits Conservation Division, Office of Protected Resources, F/PR1, NOAA/National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

The permit application and any associated documents, including any reports required under the permit, are considered public information and as such, are subject to the Freedom of Information Act.

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.

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