

National Marine Fisheries Service

Marine Mammal Commercial or Educational Photography Permit Application

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Introduction

These instructions are for submitting an application for a Commercial/Educational Photography Permit under the Marine Mammal Protection Act (MMPA).

Photography/filming activities must involve only Level B harassment.¹ Projects must be discrete with specific time frames and result in products available to the general public. Examples include documentary films, published magazine articles, books, and commercial photographs.

These instructions are **not** for:

- Photography or filming focused on or that may affect marine mammals listed as endangered or threatened under the Endangered Species Act (ESA). Photography permits cannot authorize harassment of threatened or endangered species. See a [list of ESA species under NMFS' jurisdiction](#).
- 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.

[New to Commercial/Educational photography permits? Want to film endangered or threatened species? Have questions or need help?](#)

We recommend you visit our [photography permit web page](#), see the [Additional Information](#) on page 20, or contact us at nmfs.pr1.apps@noaa.gov.

When filling out your application

- Your application must be a stand-alone document that describes all proposed activities and is readable to a layperson.
- If you do not follow these instructions, your application will be returned.

¹ Level B harassment means 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.

How to Apply

In the future, we plan to make commercial photography applications available on our online permitting system, [APPS](#). In preparation, we have included directions for how to apply using APPS in these instructions. Please disregard at this time.

For now, please **use these instructions as a template to create your permit application. When finished, submit your application via email to nmfs.pr1.apps@noaa.gov.**

Application Instructions

Project Information

File Number: This number is generated by APPS and cannot be changed. To facilitate processing, reference this File No. in correspondence with our office.

***Project Title** (up to 255 characters): Provide a concise title that includes activities, species (or taxa if multiple species), location, and purpose of the filming. For example:

- *Filming bottlenose dolphin behavior in south Florida for a television series.*

***Project Status:** The project status (New or Renewal) is automatically selected based on your answers in the APPS pre-application guide (PAG). Do not change.

Previous Federal or State Permit #: If applicable, enter your most recent and closely related NMFS permit number. Otherwise leave blank.

***Permits Requested:** MMPA Commercial/Educational Photography permit should be listed based on your answers in the PAG.

Entering your application in APPS (coming soon)

- **Save your application every 20 minutes or you will lose information!**
- An * indicates a required field.
- Consider using these instructions as a template to draft your application in Word. Then cut and paste into APPS.
- Special characters may be either lost or migrated incorrectly.
- Refer to [Chapter 2](#) for how to navigate APPS.
- Your application will remain in draft mode until you submit.
- Attachments cannot be larger than 20MB – contact us if you need to attach larger files.

***Where Will the Activities Occur?** One or more general locations will be listed based on your answers in the PAG.

***Timeframe:** Enter the desired start and end dates of the entire project in the following format: MM/DD/YYYY. Currently, the maximum duration of a photography permit is 5 years.

- If your project involves less than one year of planned fieldwork, you should consider requesting a 2-year permit in case 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 will you be filming).

***Abstract** (up to 2,000 characters): a short summary that must include:

- Purpose of the filming/photography.
- Species that may be harassed (common names). If filming many species, you can summarize instead of listing every one. For example: *10 species of cetaceans and 5 species of pinnipeds*.
- Type of filming/photography activities (e.g., boat-based filming, filming via unmanned aircraft systems, underwater filming).
- Specific geographic locations.
- Requested duration of the permit (the maximum is 5 years).

***Project Purpose: Objectives and Justification** (up to 64,000 characters)

1. Discuss the purpose of your project including your objectives.
2. Describe the anticipated end product(s) of your project.
3. Explain if stock photos/footage are available and if so, why your project requires new images/video.
4. Explain how you estimated your take numbers (see guidance on pages 8-9 for how to count take).
 - For example, did you base take numbers on the number of filming days and average animal group size or abundance estimates for your location?
 - Indicate the number of times the same individuals may be intentionally filmed or harassed in a year. Explain why this repeated filming is needed to meet your objectives.

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

Overview

Provide a **brief overview of a typical day** in the field and the suite of activities you intend to perform during a marine mammal encounter. Discuss the order in which you'll perform the different methods. Include where your work will happen, especially if different projects occur in different locations.

Methods

Describe your methods (see list of procedure options below). Your narrative description must match your APPS take table (see [Take Table](#) section below).

You must provide:

- **Clear descriptions of all methods** (i.e., procedures in your APPS take table) you will use to film or photograph each species (see [guidance below](#) for what details to include).

Here is a list of the procedure (i.e., method) options in the APPS take table:

- | | |
|---------------------------------------|---------------------------------|
| • Acoustic, passive recording | • Remote vehicle, aerial (VTOL) |
| • Observations, behavioral | • Remote vehicle, vessel |
| • Other | • Underwater photo/videography |
| • Photograph/video | • Unintentional harassment |
| • Remote vehicle, aerial (fixed wing) | |
- A brief statement of each method's or suite of methods' **purpose** (i.e., how the activities relate to meeting your objectives).
 - Define how you will **differentiate age classes** (e.g., neonate, calf/pup, juvenile, subadult, adult). If applicable, distinguish by taxa or species.
 - For each method/procedure, **state if you will target:**
 - Calves/pups (specify age/dependency);
 - Females accompanying calves/pups (specify age);
 - Pregnant females, and if so, include estimated trimester; and/or
 - Compromised animals.

- **Mitigation** measures that are inherent to your methods may be included in this section or in the [Effects and Mitigation](#) section below.
- Figures and photographs that illustrate your methods. You can attach them on the [Supplemental Information](#) page.

Guidance on Describing Commonly Used Methods

Filming and Photography

Discuss the following, as applicable:

- [Approach](#) method (e.g., by foot, vessel or aircraft)
- Filming/photography equipment and methods
- Minimum approach distances
- Within sight of animals or not (e.g., from a blind)?
- Number and frequency of filming trips per year
- Duration spent with group or individual per day by activity

Underwater Photography/Videography

- Method (e.g., snorkeling, underwater pole cam, conventional scuba gear, or re-breathers)
- Maximum number of individuals in the water at a given time and their roles (including safety divers)
- Minimum approach distance to animals
- Duration spent with same animals per day

Aerial (manned), Ground, and Vessel (manned or unmanned/remote) Platforms

- Type of aircraft and vessel
- Number of trips per year
- Air speed
- Vessel speed
- Minimum altitude or approach distance to animals
- Protocols for approaching on land, whether a blind or cover will be used
- Duration spent with group or individual per day
- Number of platforms (aircraft and vessel) to be operated at the same time

Unmanned Aircraft Systems (UAS)

Provide the general aerial survey information above and the following:

- Type of UAS – fixed wing or vertical takeoff and landing (VTOL)
- Number of UAS to be operated at the same time
- Payload components – what is the UAS carrying?
- Ground control station (what it is, where is it located - on shore or on vessel, number of stations, and how close the station will be to animals)
- Encounter duration – maximum amount of time over same animals
- The appropriate FAA permits/authorizations (including pilot licenses)

Remotely Operated Vehicle (ROV), Vessel or Amphibious

For underwater and amphibious ROVs, same details as for vessel surveys and also:

- Description and size of ROV
- Whether it is tethered or wireless, tether material and length
- Describe any light sources
- Whether there will be a live video feed monitored
- Encounter duration

Non-target Marine Mammals

These are marine mammal species that co-occur with your target species and that could be harassed during your filming activities. Discuss whether and how non-target marine mammals may be unintentionally harassed and what you will do to minimize or eliminate harassment.

Guidance for how to include non-target marine mammals in your [Take Table](#):

1. For **non-target species that may be encountered and filmed**, include unintentional harassment and the applicable procedures based on the filming method (e.g., photograph/video, UAS, etc.) in your take table. Include "unintentional harassment/filming" in the details column.
2. For **non-target species that may be encountered and harassed but would NOT be filmed**, only include "unintentional harassment" in your take table and no other procedures. Include "no filming" in the details column.

Please note:

- Photography permits cannot authorize harassment of threatened or endangered species. If ESA-listed species occur in your project 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).
- Other non-target taxa (e.g., sea turtles, corals, U.S. Fish and Wildlife species) should be addressed in the [Effects and Mitigation](#) section below.

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 coordinate and collaborate with other permitted filmmakers or researchers in your filming area.
 - List their names and affiliations.
 - Explain how you will work together. For example, will you share vessels or coordinate the timing of surveys to avoid repeated harassment of the same animals?

Project Supplemental Information

Attach a Supplemental Information File

You can attach up to 10 files to provide additional information.

- Preferred file formats: Microsoft Word, Excel, or PDF.
- The maximum file size allowed is 20 MB.
- Audio and video files (such as mp3, m4b, wav) cannot be uploaded. Contact us if you need assistance.
- On the Location screen you will be asked to attach a map.

*Effects and Mitigation (up to 64,000 characters)

You may include mitigation and monitoring protocols here, or above in your methods. Do not restate them here if they are included above; simply reference the section where the following information is found.

1. Discuss how **take table actions** (Observe/Collect Methods and Procedures) **will affect target and non-target animals.**

2. Cite the **best available science** (i.e., peer-reviewed literature or other published data sources) and your experience (e.g., personal communication, annual permit reports). References must be made available upon request.
3. **Group together take actions with similar responses** and describe, as applicable:
 - Typical behavioral responses
 - Worst-case responses
 - % of animals that typically exhibit each response type
 - Condition of animals on resight
 - Time it takes to resume normal behavior after disturbance
 - Time it takes to repopulate rookeries/haul outs after flushing
 - Effects on lactating females and their dependent young or other sensitive life stages
4. Explain how your research will not result in injury, mortality, or reproductive effects.
5. Describe what **mitigation measures** you will employ to **minimize adverse reactions**. If you will use the same mitigation measures for a suite of activities, you may provide one discussion for each suite of activities (e.g., close approach by vessel for photo-identification, acoustic recordings, collection of voided feces, and behavioral observations).
6. If working with dependent calves/pups, their moms, or known pregnant females, give specific protocols for working around them, including how you will avoid separating mothers from calves/pups.
7. Describe your **monitoring** protocols after your activities.
8. Explain if and why monitoring or mitigation is not feasible for specific species, situations, etc.
9. Please describe any mitigation you will take to avoid or minimize impacts to non-target protected taxa (e.g., sea turtles, corals, USFWS species). Discuss whether and how they may be unintentionally harassed or otherwise affected.

***Public Availability of Product/Publications:** (up to 800 characters)

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?

Note: Your final product will need to include your permit number. You will also need to include your permit number in other formats that use the photographs or video, such as DVDs and websites.

***Project Locations and Take Information**

First, you will describe where you plan to work. Then, for each location, use the [Take Table](#) to list the species you expect to encounter and the filming/photography procedures you will conduct.

1. Add **New Location**: provide information about one or more shoot locations
 - General area (ocean basin)
 - State(s), as applicable.
2. Enter **Location Details**, as applicable:
 - Waterbody: enter names of rivers, estuaries, bays, etc.
 - Latitude and longitude of your shoot location
 - Limits of your shoot location (e.g., to the U.S. EEZ, to the edge of the continental shelf, to 50m depth)
 - Names of land masses where filming/photography will occur (e.g., islands, rookeries).

How to count takes of cetaceans

Count every animal approached regardless of whether a behavioral reaction has occurred.

During vessel surveys, only count 1 take per animal per day including all approaches. An "approach" is defined as a continuous sequence of maneuvers involving a vessel, equipment, or Filmmaker's body, including drifting, 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 animal observed per day, regardless of the number of passes over the same animal.

3. **Attach File:** Include high quality map(s) to scale that clearly shows the location of your proposed activity and any environmental areas of interest. Include a shapefile, Google Earth kmz/kml, or ASCII text file of the project's location and the footprint of the affected area with lat/long data and the associated basic metadata.

*Take Table

The take table represents the **estimated number of animals** you expect to encounter **annually** during filming/photography. See the sidebars on pages (10 and 11) for guidance on how to count animals. An example table is provided below. Your permit and subsequent reports will include a similar table.

Columns you will fill out in the take table in APPS:

1. **Select:** Leave this box blank unless you need to copy, move, or delete the row.
2. **Species:** Use the drop down list. Commercial photography permits are for non-ESA listed species only. You **cannot** select endangered or threatened species.
3. **Listing Unit/Stock:** Select the applicable MMPA stock based on your shoot location. Choose Range-wide if your location has multiple stocks of the same species and you cannot distinguish them while in the field.
4. **Production/Origin:** Select Wild.

How to count takes of pinnipeds

Count 1 take per animal per day for those **hauled-out animals** that react to the research, 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.

Count 1 take per animal per day for those **animals in water** that exhibit a noticeable adverse behavioral response from your activities

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.

5. **Life Stage:** Select from the drop-down list. You may enter take information for more than one life stage (e.g., adult versus juvenile) on separate rows or select a combination of life stages on the same row.
6. **Sex:** Select from the drop-down list. If your activity targets only one sex, indicate which. Otherwise select Male and Female.
7. **Expected Take:** This represents a **reasonable estimate** of the number of animals you will encounter, **annually**. Use the guidance in the sidebars to help you determine how to count take.
8. **Take Action:** Select Harass.
9. **Observe/Collect Method:** Select the method of observation (e.g., survey, vessel). 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 “survey, aerial/vessel.”
10. **Procedures:** In APPS, a separate pop-up window will appear with a species-specific list of activities. Hold down the Control key to select multiple procedures to be performed concurrently. Below in Table 1 is a list of the drop down options.
 - a. Choose Other if your proposed activity is not listed. In the Details box (see #13 below), briefly describe what the Other means.

Table 1. Procedure options for a photography permit.

Procedure (i.e., Method) Options

Acoustic, passive recording	Remote vehicle, aerial (fixed wing)
Observations, behavioral	Remote vehicle, aerial (VTOL)
Other (define)	Underwater photography / video
Photography / video	Unintentional harassment
Remote vehicle, vessel	

- b. See the [Non-target Marine Mammals](#) section for when to use “Unintentional Harassment” and how to enter procedures for these species depending on whether you will be filming them.

11. **Begin Date:** Populated with the Begin Date you entered on the Project Information page. You may change the date to coincide with a specific project time that is shorter than the overall duration of the project.
12. **End Date:** Populated with the End Date entered on the Project Information page. You may change the date to coincide with a specific project time shorter than the overall duration of the project.
13. **Details (Optional):** Enter up to 255 characters to provide details on each take table row. This is especially useful to clarify age class, specific activities, or projects.

Table 2. Sample Take Table

Species	Stock	Life stage	Sex	Expected Take	Observe/Collect Method	Procedures	Details
Sea lion, California	US Stock	Adult	Male and Female	200	Survey, ground	Observations, behavioral; Photograph/Video	Filming only outside of breeding season
Dolphin, Risso's	California/Oregon/Washington Stock	All	Male and Female	100	Survey, vessel	Acoustic, passive recording; Observations, behavioral; Underwater photo/videography	Filming at any time of year
Dolphin, common, short-beaked	California/Oregon/Washington Stock	All	Male and Female	55	Survey, aerial	Observations, behavioral; Photograph/Video	Filming at any time of year
Dolphin, bottlenose	California Coastal Stock	All	Male and Female	20	Survey, vessel	Unintentional harassment	No filming

*Anticipated Effects on the Environment

1. Will you be working in or near areas with unique environmental characteristics or important scientific, cultural or historical resources? Yes or no.

Examples include:

- Animals used for subsistence
 - Archaeological resources
 - [Critical Habitat of ESA-listed species](#)
 - [Essential Fish Habitat](#) including wetlands, coral reefs, sea grasses, and rivers
 - Federally recognized Tribal and Native Alaskan lands, cultural or natural resources, or religious or cultural sites
 - [Marine Protected Areas](#)
 - Minority or low-income communities
 - [National](#) or State Parks
 - [National Marine Sanctuaries](#) and [National Monuments](#)
 - [National Historic Landmarks](#)
 - Sites listed in or eligible for listing in the [National Register of Historic Places](#)
 - [Wild and Scenic Rivers](#)
 - [Wilderness Areas](#)
 - [Wildlife Refuges](#)
- a. If yes, please list those areas. As applicable, mention if you will need to or have already obtained permission (licenses, permits, authorizations) to work in these areas. (up to 1,200 characters)
 - b. How would your activities affect such resources? What measures will you take to ensure your work does not cause loss or destruction of such resources? (up to 1,200 characters)
 - c. For marine mammal activities in Alaska or Washington, how will you ensure your project does not adversely affect the availability (e.g., distribution, abundance) or suitability (e.g., food safety) of marine mammals for subsistence uses? (up to 800 characters)

2. Discuss if your activities have the potential to impact the physical or biological environment, in particular coastal and marine environments. Impacts can be positive or negative. (up to 2,000 characters)

Examples of potential impacts include:

- Altering substrate while anchoring vessels and buoys.
 - Using bottom trawls or other types of nets.
 - Erecting blinds or other structures.
 - Ingress and egress of researchers.
 - Injuring or killing benthic organisms (e.g., sea grass, corals).
 - Altering the physical or chemical characteristics of water (e.g., oil spills)
 - Affecting a species' abundance or distribution.
3. a. Does your project involve activities known or suspected of introducing or spreading invasive species, intentionally or not? Examples include transporting animals or other biological specimens, discharging ballast water, and using boats/equipment at multiple sites. Yes or no.

b. 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. (up to 1,200 characters)
 4. a. Will your activities involve collecting, handling, or transporting potentially infectious agents or pathogens, such as biological specimens (animals, blood, tissues)? Yes or no.

b. Will your activities involve using or transporting hazardous substances, such as toxic chemicals? Yes or no.

c. If yes to either question, describe the protocols you will use to ensure that public health and human safety are not adversely affected, such as by spread of zoonotic diseases, chemical injuries, or contamination of food or water supplies. (up to 1,200 characters)

Persons authorized as the PI or CIs must have qualifications corresponding to their duties. If you do not provide sufficient information, we will not authorize the person(s).

All documentation submitted will be publicly available. **DO NOT** include personal information (e.g., social security number, nationality, date of birth, home phone). Include:

- Name (first, middle initial, last)
- Title
- Affiliation
- Business e-mail address
- Business phone number
- Relevant education and training, including certificates or licenses held
- Relevant work experience, including previous documentaries, films or other publications and experience filming or working with marine mammals or other wildlife (include species).

For UAS pilots, please **DO NOT** send a copy of their FAA certification. The FAA card contains additional personal information that we do not need.

In addition, you must submit a table (see Table 3) defining the PI and CI roles and activities (i.e., supervising or conducting specific procedures).

Table 4. Example Personnel Roles

Name/Affiliation	Role	Activities
John Smith, Affiliation, City, State	Principal Investigator	Supervise and perform all activities under the permit
Jane Doe, Affiliation, City, State	Co-Investigator	Conduct and oversee underwater filming operations
Bob Jones, Affiliation, City, State	Co-Investigator	UAS pilot

Submit Application

You should **submit your application via email to nmfs.pr1.apps@noaa.gov**. In the future, you will be able to enter and submit your application via [APPS](#).

Additional Information

When should I apply?

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

What are the advantages of getting a commercial or educational photography permit?

Having a permit allows you to approach the animals closer than if you do not have a permit and have to follow the [viewing guidelines](#). Also, a permit authorizes you to film by the methods and the locations that you describe in your application. You may have more flexibility and autonomy filming under your own permit rather than working with a permitted researcher.

What if I want to film marine mammals listed as threatened or endangered?

You cannot get an MMPA commercial or educational photography permit to film species listed under the Endangered Species Act. However, you have several options:

1. Use footage or images that already exist.
2. Collaborate with a permitted scientist.
3. Follow [NOAA Fisheries' marine mammal viewing guidelines and approach regulations](#).
4. Film in locations outside the Marine Mammal Protection Act's jurisdiction.

Call us or check out our [photography permit web page](#) for more information about these options.

What is the process for getting a commercial/educational photography permit?

1. Follow these instructions and contact the NMFS Permits and Conservation Division with any questions.
2. Submit your application via [APPS](#).
 - a. A permit analyst will review your application and contact you if additional information is needed.
3. Address any questions within 60 days or your application will be withdrawn.
 - a. Once we consider your application 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 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.

What is the process for requesting an amendment to a permit?

Use [APPS](#) to request an amendment to your permit. You'll need to provide a description of your proposed changes and include all the necessary details for those changes, as applicable. Use these application instructions as a guide. For example, changes to your objectives will require that you discuss all the points in the Project Purpose section. Additions to personnel require Qualifications Forms and descriptions of their roles.

Applicable Laws and Regulations

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. MMPA section 104 is available at the following web site:
<https://www.fisheries.noaa.gov/marine-mammal-protection-act>.

Paperwork Reduction Act Statement

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

- Whether the proposed activities are 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 response* (i.e., the above 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 and Conservation Division, Office of Protected Resources, F/PR1, NOAA/National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

The application and any associated documents, including any reports required by the permit, 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.