

**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: 10/31/20XX**

Complete Parts 1 or 2, and complete Parts 3, 4, 5, and 6. Part 5 of this application is separated into two options: 5a: New Incidental Take Permit & Supplementary Information for Renewal or Amendment of an Existing Valid Permit (With Changes), 5b: Permit Transfer or Succession of a Permit.

1. Complete if applying as an individual:
 - a. First Name and Last Name
 - b. Occupation
 - c. Affiliation/Doing business as, Website URL (if applicable)
 - d. Telephone number
 - e. E-mail Address
2. Complete if applying on behalf of a business, corporation, public agency, Tribe, or institution:
 - a. Name of business, agency, Tribe, or institution
 - b. Doing business as
 - c. Description of business, agency, Tribe, or institution, Website URL (if applicable)
 - d. Responsible Party¹: First and Last Name, Title, Telephone Number, and E-mail Address
 - e. Primary Point of Contact: First and Last Name, Title, Telephone Number, and E-mail Address
3. All applicants complete address information:
 - a. Physical address
 - b. Mailing address (include if different than physical address; include name of contact person if applicable)
4. All applicants **MUST** complete:
 - a. Have you obtained all required Federal, Tribal, State, county, municipal or foreign government approval to conduct the activity you propose?
 - o **Yes.** Provide a copy of the approval(s). List the Federal agency, Tribe, State, county, municipality or foreign countries involved and type of document required. Include a copy of these documents with the application.
 - o **I have applied.** List the Federal agency, Tribe, State, county, municipality, or foreign countries involved and type of documents required. Provide the reasons why the permits have not been issued.
 - o **Not required.** The proposed activity is not regulated.

¹ The person to whom the permit will be issued (e.g., the landowner, president, director, executive director, or executive officer) is legally responsible for implementing the permit. Although other people under the direct control of the permittee (e.g., employees, contractors, consultants) receive third party take authorization in their capacity as designees of the permittee, the individual named as the permittee ultimately is legally responsible for the permit and any activities carried out under the permit except as otherwise limited in the case of permits issued to State or local government entities under 50 CFR 222.310.

APPLICATION PROCESSING

To expedite a final decision on your application, you are urged to coordinate with us as soon as possible for guidance in assembling a complete application package. If you are renewing or amending a valid permit, your complete application package must be received at least 30 days prior to the expiration of the valid permit. The following estimates of application processing time begin with our acceptance of a complete permit application package and do not include any time required for requesting clarification or additional information about your application.

The time required to process an application for an Incidental Take permit will vary depending on the size, complexity, and impacts of the conservation plan involved. Procedurally, the most variable factor in application processing is the level of analysis required for the proposed conservation plan under the National Environmental Policy Act (e.g., whether an application requires preparation of an Environmental Impact Statement, Environmental Assessment, or whether a categorical exclusion applies). However, other factors, such as public controversy, can also affect application processing times.

The information provided in your permit application will be used to evaluate your application for compliance with the Endangered Species Act, its implementing regulations (which may require a 30-day or more public comment period), and with NMFS policy.

Up-to-date annual reports and any other required reports under your valid permit(s) must be on file before a permit will be considered for renewal, re-issuance or amendment.

If your activities may affect species under the authority of the U.S. Fish and Wildlife Service (FWS), then you may need to obtain a separate permit from that agency. In addition we share jurisdiction with FWS for certain anadromous fish and sea turtles (e.g., we evaluate applications for permits to conduct activities impacting sea turtles in the marine environment and FWS evaluates applications for permits to conduct activities impacting sea turtles on land).

We cannot issue an Incidental Take permit under Section 10(a)(2)(A) of the Endangered Species Act unless the applicant submits a habitat conservation plan that specifies:

- (i) the impacts that are likely to result from the incidental take associated with the applicant's activity;
- (ii) what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;
- (iii) what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and
- (iv) such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

Additionally, NMFS ESA implementing regulations, 50 CFR 222.307(b)(5), states the application must include a conservation plan, based on the best scientific and commercial data available, which specifies:

- (i) The anticipated impact (i.e., amount, extent, and type of anticipated taking) of the proposed activity on the species or stocks;
- (ii) The anticipated impact of the proposed activity on the habitat of the species or stocks and the likelihood of restoration of the affected habitat;
- (iii) The steps (specialized equipment, methods of conducting activities, or other means) that will be taken to monitor, minimize, and mitigate such impacts, and the funding available to implement such measures;
- (iv) The alternative actions to such taking that were considered and the reasons why those alternatives are not being used; and
- (v) 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.

You must submit a Conservation Plan along with the application. We strongly encourage you to ensure that your conservation plan is consistent with the Habitat Conservation Planning Handbook, subsequent Handbook addendums, and current policies in order to minimize delays in evaluating your application. **To expedite processing of your application, you are urged to coordinate with us as soon as possible for guidance in assembling a complete conservation plan.** The Handbook and other information is available on NMFS Incidental Take Permit webpage at <https://www.fisheries.noaa.gov/permit/permits-incident-taking-endangered-and-threatened-species> and on the U.S. Fish and Wildlife Service's Endangered Species web page at <https://www.fws.gov/service/habitat-conservation-plans>.

5a: New Incidental Take Permit & Supplementary Information for Renewal or Amendment of an Existing Valid Permit (*With Changes*).

General permit regulations for the National Marine Fisheries Service can be found at 50 CFR 222.301-306. Regulations for an Incidental Take permit under the Endangered Species Act can be found at 50 CFR 222.307.

The information in items A and B below should already be provided in your final draft conservation plan. Thus, you do not have to provide it here again. Instead, check the box below and use the spaces provided in items A and B to indicate the section title and page numbers in your conservation plan that provide the requested information.

- I am not providing the following information for items A and B as part of my Incidental Take permit application because it is already **provided in my final conservation plan** (copy attached or already submitted). **Please indicate the section title and page numbers in your conservation plan that provide the requested information in items A and B.*
- I am not providing the following information for items A and B as part of my Incidental Take permit application because I am participating in a **General Conservation Plan or Programmatic plan** that is already approved and on file with the appropriate NMFS Office. **Please provide plan name and indicate the section title and page numbers in the approved plan that provide the requested information in items A and B.*

Name of the Conservation Plan _____

- I am not providing the following information for items A and B as part of my Incidental Take permit application because I am either **renewing or amending** an existing valid Incidental Take permit, including making substantive changes. Such changes may include changes in location, activity, amount or type of take, or species to be covered by the permit. **(Please check either Renewal² or Amendment)** **Please indicate the section title and page numbers in your amendment or renewal request that provide the requested information in items A and B.*

If the requested information in items A and B is not provided in your final conservation plan, then attach separate pages containing the missing information. In order to assist us in processing your request, please provide the item number (B. 2.i., etc.) of the required information before each of your responses.

Please ensure that your final conservation plan is attached if it has not been previously submitted.

If you have previously submitted a final draft conservation plan, please indicate the date the document's where submitted to NMFS.

Date of final draft Conservation Plan _____

² Requests for renewals must be complete and accepted by NMFS no later than 30 days prior to permit expiration to ensure that your current permit remains in effect while we process your request.

Applications for an Incidental Take permit associated with a conservation plan must provide the following specific information (relevant to the activity) under items A and B below in addition to the general information on page 1 of this document.

A. Identify location of the proposed activity:

1. Provide the name of the State, county, Tribal land, and the specific location of the proposed activity site(s). Include a formal legal description, section/township/range information, local address, or any other identifying area designation that will precisely place the location of the proposed activity site(s).
2. A location map clearly depicting 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).
3. Provide a complete location description, including maps, for proposed activities that will enhance, restore, or maintain important physical and biological features for federally listed or proposed species. This should include, but not limited to, the following: habitat, prey resources, migratory pathways, spawning grounds, and other features essential for species conservation. Include schedules for implementing these activities.

B. Identify species and describe the proposed activities in the conservation plan³:

1. For a new Incidental Take permit:
 1. Provide the common and scientific names of the species requested for coverage in the permit and status.
 2. Provide the number, age, and sex of such species to the extent known.
 3. Quantify the anticipated effects to their habitat.
 4. Describe each activity associated with your project that would result in the incidental take of each species. Additionally, for activities not expected to result in take, provide the reasons why they will not likely result in take.

For an amended Incidental Take permit:

1. Identify the activities and/or species to be added to your valid permit (provide both the scientific, to the most specific taxonomic level, and common names), as well as the species status.
2. Provide the number, age and sex of such species to the extent known.

³ We strongly encourage you to ensure that your conservation plan is consistent with the Habitat Conservation Planning Handbook, subsequent Handbook addendums, and current policies in order to minimize delays in evaluating your application. To expedite processing of your application, you are urged to coordinate with us as soon as possible for guidance in assembling a complete conservation plan (See above for links to the Handbook).

3. If any activities requested in this application differ from those in your valid permit, then for each species state the current activity, the requested new activity, and how the new activity will impact each species.
 4. Describe each activity associated with your project that would result in the incidental take of each species. Additionally, for activities not expected to result in take, provide the reasons why they will not likely result in take.
 5. Quantify any anticipated effects to the habitat of each added species.
 6. Identify activities and/or species to be deleted from your valid permit and the reason(s) for the deletion.
2. Additionally, the conservation plan must specify:
- i. The impact that will likely result from the incidental taking. A discussion of the impact that will likely result from the incidental take must include quantification of any anticipated effects to the habitat of the species sought to be covered by the permit.
 - ii. The biological goals(s) and objectives for the conservation plan.
 - iii. The steps that will be taken to minimize and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to deal with unforeseen circumstances.
 - iv. The steps that will be taken to monitor and report on such impacts, including a copy of the monitoring plan. We are authorized to require reports of activities conducted under a permit per NMFS general permit procedures at 50 CFR 222.301.
 - v. Alternative actions to such incidental taking that have been considered and the reasons why these alternatives are not proposed for use.
 - vi. The duration requested for the proposed permit.

5b: Permit Transfer or Succession of a Permit

Complete the following if you are applying for transfer of an existing valid Incidental Take permit to you or obtaining rights of succession of an existing valid Incidental Take permit. In addition, you and the current permit holder may also need to sign an Assumption Agreement. Please contact *pr.esa.incidentaltakepermits@noaa.gov* to determine whether you and the current permit holder need to execute an Assumption Agreement.

Please indicate the name of the conservation plan you are requesting be transferred or succeeded, the document's date and associated permit number.

Name of the Conservation Plan _____

Date of the Conservation Plan _____

Incidental Take Permit # _____

Provide a brief description of the changes that caused the need for a permit transfer.

Assumption Agreement Attached

- Yes
- No, and I have confirmed with NMFS that one was not needed.

6. Incidental Take Permit Application Certification Notice

Please have the Responsible Party sign the following certification; this must be received for the application to be considered complete.

By submitting this application and receiving an Incidental Take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act, I _____ (print name(s)) attest that I/we own the lands indicated in this application, or have sufficient authority or rights over these lands to implement the measures of the Conservation Plan covered by the Incidental Take permit. Further, upon receipt of the Incidental Take permit, I/we agree to conduct the activities as specified in the Conservation Plan according to the terms and conditions of the Incidental Take permit and its supporting documents.

Additionally, I certify that I have read and am familiar with the regulations contained in Title 50, Part 222 of the Code of Federal Regulations and the other applicable parts in subchapter C of Chapter I of Title 50, and I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.

Signature

Date

Print Name

Signature

Date

Print Name

Where to Send the Application

For incidental take of ESA-listed species (other than anadromous fish in the Pacific):

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>

For incidental take of **anadromous fish in the Pacific** please contact your nearest office below to get contact information:

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.

Privacy Act Statement

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

Purpose: The collection of contact information is to verify the individual has an eligible permit to conduct activities which affect protected species. This helps NMFS monitor and report on protected species and assesses the impact of permitted activities on the conservation and management of species and their habitats.

Routine Uses: The collected information may be used to verify an applicant's eligibility for a permit to conduct activities with protected species; to provide the public and the permittees with permit related information; to monitor activities under a permit; to analyze data and produce reports to monitor the use of protected species; to assess the impact of permitted activities on the conservation and management of protected species and their habitats; and to evaluate the effectiveness of the permit programs. . 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.

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is **0648-0230**. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately 1-80hours per response depending on response type, 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 pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA). 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. 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, NOAA at 1315 East west Hwy, Bldg. SSMC3, Silver Spring, MD 20910, Attn: Celeste Stout, celeste.stout@noaa.gov.