

DRAFT INCIDENTAL HARASSMENT AUTHORIZATION

The Scripps Institution of Oceanography (SIO) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to a low-energy marine geophysical survey in the Southwest Atlantic Ocean, when adhering to the following terms and conditions.

1. This incidental harassment authorization (IHA) is valid for a period of one year from the date of issuance.
2. This IHA is valid only for marine geophysical survey activity, as specified in the Scripps Institution of Oceanography's (SIO) IHA application and using an airgun array aboard the R/V *Thompson* with characteristics specified in the application, in the Southwest Atlantic Ocean.
3. General Conditions
 - (a) A copy of this IHA must be in the possession of SIO, the vessel operator and other relevant personnel, the lead protected species observer (PSO), and any other relevant designees of SIO operating under the authority of this IHA.
 - (b) The species authorized for taking are listed in Table 1. The taking, by Level A and Level B harassment only, is limited to the species and numbers listed in Table 1. Any taking exceeding the authorized amounts listed in Table 1 is prohibited and may result in the modification, suspension, or revocation of this IHA.
 - (c) The taking by serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.
 - (d) During use of the airgun(s), if marine mammal species other than those listed in Table 1, or species whose authorized take numbers have been met, are detected by PSOs, the acoustic source must be shut down to avoid unauthorized take.
 - (e) SIO must ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocol, operational procedures, and IHA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations.

4. Mitigation Requirements

The holder of this Authorization is required to implement the following mitigation measures:

- (a) SIO must use at least three (3) dedicated, trained, NMFS-approved Protected Species Observers (PSO). The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and

instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes must be provided to NMFS for approval.

- (b) At least one PSO must have a minimum of 90 days at-sea experience working as a PSO during a deep penetration seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. One “experienced” visual PSO must be designated as the lead for the entire protected species observation team. The lead PSO must serve as primary point of contact for the vessel operator.
- (c) Visual Observation
 - (i) During survey operations (*e.g.*, any day on which use of the acoustic source is planned to occur; whenever the acoustic source is in the water, whether activated or not), typically two, and minimally one, PSO(s) must be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset).
 - (ii) Visual monitoring must begin not less than 30 minutes prior to ramp-up, including for nighttime ramp-ups of the airgun array, and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset.
 - (iii) PSOs must coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.
 - (iv) PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours observation per 24 hour period.
 - (v) During good conditions (*e.g.*, daylight hours; Beaufort sea state 3 or less), visual PSOs must conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.
- (d) Exclusion Zone and buffer zone – PSOs must establish and monitor a 100-m exclusion zone (EZ) and 200-m buffer zone. The zones must be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals outside the EZ but within 200 m from any element of the airgun array must be communicated to the operator to prepare for potential further mitigation measures as described below. During use of the acoustic source, occurrence of marine mammals within the EZ, or on a course to enter the EZ, must trigger further mitigation measures as described below. PSOs must also monitor to the extent of the estimated Level B harassment zone for the active survey configuration (Table 2), or as far as possible if the extent of the Level B zone is not visible.

- (i) An extended EZ of 500 m must be enforced for the following species and circumstances:
 - (A) All beaked whales, *Kogia* species, and southern right whales.
 - (B) Large whales (*i.e.*, sperm whale or any baleen whale) with calf, with “calf” defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult.
 - (C) An aggregation (*i.e.*, six or more animals) of large whales of any species (*i.e.*, sperm whale or any baleen whale) that does not appear to be traveling (*e.g.*, feeding, socializing, etc.).
- (e) Ramp-up – A ramp-up procedure is required at all times as part of the activation of the acoustic source. Ramp-up would begin with one 45-in³ airgun, and the second 45 in³ airgun would be added after 5 minutes.
 - (i) If the airgun array has been shut down due to a marine mammal detection, ramp-up must not occur until all marine mammals have cleared the EZ. A marine mammal is considered to have cleared the EZ if:
 - (A) It has been visually observed to have left the EZ; or
 - (B) It has not been observed within the EZ, for 15 minutes (in the case of small odontocetes and pinnipeds) or for 30 minutes (in the case of mysticetes and large odontocetes including sperm, pygmy and dwarf sperm, and beaked whales).
 - (ii) Thirty minutes of pre-clearance observation of the 100-m EZ and 200-m buffer zone is required prior to ramp-up for any shutdown of longer than 30 minutes. This pre-clearance period may occur during any vessel activity. If any marine mammal (including delphinids) is observed within or approaching the 100-m EZ during the 30 minute pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the EZ or until an additional time period has elapsed with no further sightings (*i.e.*, 15 minutes for small odontocetes and pinnipeds, and 30 minutes for all other species).
 - (iii) During ramp-up, two PSOs must monitor the 100-m EZ and 200-m buffer zone. Ramp-up may not be initiated if any marine mammal (including delphinids) is observed within or approaching the 100-m EZ. If a marine mammal is observed within or approaching the 100-m EZ during ramp-up, a shutdown must be implemented as though the full array were operational. Ramp-up may not begin again until the animal(s) has been observed exiting the 100-m EZ or until an additional time period has elapsed with no further sightings (*i.e.*, 15 minutes for small odontocetes and pinnipeds, and 30 minutes for mysticetes and large odontocetes including sperm, pygmy and dwarf sperm, and beaked whales).
 - (iv) If the airgun array has been shut down for reasons other than mitigation (*e.g.*, mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual

observation and no visual detections of any marine mammal have occurred within the buffer zone.

- (v) Ramp-up at night and at times of poor visibility must only occur where operational planning cannot reasonably avoid such circumstances. Ramp-up may occur at night and during poor visibility if the 100-m EZ and 200-m buffer zone have been continually monitored by PSOs for 30 minutes prior to ramp-up with no marine mammal detections.
 - (vi) The vessel operator must notify a designated PSO of the planned start of ramp-up. The designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.
- (f) Shutdown requirements – An EZ of 100 m must be established and monitored by PSOs. If a marine mammal is observed within, entering, or approaching the 100-m EZ all airguns must be shut down.
- (i) Any PSO on duty has the authority to call for shutdown of the airgun array. When there is certainty regarding the need for mitigation action on the basis of visual detection, the relevant PSO(s) must call for such action immediately.
 - (ii) The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the airgun array to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch.
 - (iii) When a shutdown is called for by a PSO, the shutdown must occur and any dispute resolved only following shutdown.
 - (iv) The shutdown requirement is waived for dolphins of the following genera: *Delphinus*, *Lagenodelphis*, *Lagenorhynchus*, *Lissodelphis*, *Stenella*, *Steno*, and *Tursiops*. The shutdown waiver only applies if dolphins are traveling, including approaching the vessel. If dolphins are stationary and the vessel approaches the dolphins, the shutdown requirement applies. If there is uncertainty regarding identification (*i.e.*, whether the observed animal(s) belongs to the group described above) or whether the dolphins are traveling, shutdown must be implemented.
 - (v) Upon implementation of a shutdown, the source may be reactivated under the conditions described at 4(e). Where there is no relevant zone, a 30-minute clearance period must be observed following the last observation of the animal(s).
 - (vi) Shutdown of the array is required upon observation of a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes has been met, approaching or observed within the Level A or Level B harassment zone (Table 2).
- (g) Vessel Strike Avoidance – Vessel operator and crew must maintain a vigilant

watch for all marine mammals and slow down or stop the vessel or alter course, as appropriate, to avoid striking any marine mammal. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena.

- (i) The vessel must maintain a minimum separation distance of 100 m from large whales, including sperm whales and all mysticetes. The following avoidance measures must be taken if a large whale is within 100 m of the vessel:
 - (A) The vessel must reduce speed and shift the engine to neutral, when feasible, and must not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established.
 - (B) If the vessel is stationary, the vessel must not engage engines until the whale(s) has moved out of the vessel's path and is beyond 100 m.
 - (ii) The vessel must maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for animals described in 4(e)(iv) that approach the vessel. If an animal is encountered during transit, the vessel must attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course.
 - (iii) Vessel speeds must be reduced to 10 knots or less when mother/calf pairs or large assemblages of cetaceans are observed near the vessel; the vessel operator may use professional judgment as to when such circumstances warranting additional caution are present.
- (h) Miscellaneous Protocols
- (i) The airgun array must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source must be avoided. Operational capacity of 90 in³ (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.
 - (ii) Testing of the acoustic source involving all elements requires normal mitigation protocols (*e.g.*, ramp-up). Testing limited to individual source

elements or strings does not require ramp-up but does require pre-clearance.

5. Monitoring Requirements

The holder of this Authorization is required to conduct marine mammal monitoring during survey activity. Monitoring must be conducted in accordance with the following requirements:

- (a) The operator must provide a night-vision device suited for the marine environment for use during nighttime ramp-up pre-clearance, at the discretion of the PSOs. At minimum, the device should feature automatic brightness and gain control, bright light protection, infrared illumination, and optics suited for low-light situations.
- (b) PSOs must also be equipped with reticle binoculars (*e.g.*, 7 x 50) of appropriate quality (*i.e.*, Fujinon or equivalent), GPS, compass, and any other tools necessary to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.
- (c) PSO Qualifications
 - (i) PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program.
 - (ii) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.
- (d) Data Collection – PSOs must use standardized data forms, whether hard copy or electronic. PSOs must record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should submit a description of the circumstances. We require that, at a minimum, the following information be reported:
 - (i) PSO names and affiliations

- (ii) Dates of departures and returns to port with port name
- (iii) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort
- (iv) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts
- (v) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change
- (vi) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon
- (vii) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.*, vessel traffic, equipment malfunctions)
- (viii) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.*, pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.)
- (ix) If a marine mammal is sighted, the following information should be recorded:
 - (A) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
 - (B) PSO who sighted the animal;
 - (C) Time of sighting;
 - (D) Vessel location at time of sighting;
 - (E) Water depth;
 - (F) Direction of vessel's travel (compass direction);
 - (G) Direction of animal's travel relative to the vessel;
 - (H) Pace of the animal;
 - (I) Estimated distance to the animal and its heading relative to vessel at initial sighting;
 - (J) Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
 - (K) Estimated number of animals (high/low/best);
 - (L) Estimated number of animals by cohort (adults, yearlings,

juveniles, calves, group composition, etc.);

- (M) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- (N) Detailed behavior observations (*e.g.*, number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- (O) Animal's closest point of approach (CPA) and/or closest distance from the center point of the acoustic source;
- (P) Platform activity at time of sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other); and
- (Q) Description of any actions implemented in response to the sighting (*e.g.*, delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

6. Reporting

- (a) SIO must submit a draft comprehensive report on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The draft report must include the following:
 - (i) Summary of all activities conducted and sightings of protected species near the activities;
 - (ii) Full documentation of methods, results, and interpretation pertaining to all monitoring;
 - (iii) Summary of dates and locations of survey operations and all protected species sightings (dates, times, locations, activities, associated survey activities);
 - (iv) Geo-referenced time-stamped vessel tracklines for all time periods during which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.*, when airguns began operating, when they were turned off);
 - (v) GIS files in ESRI shapefile format and UTC date and time, and latitude and longitude in decimal degrees. All coordinates must be referenced to the WGS84 geographic coordinate system;
 - (vi) Raw observational data;
 - (vii) Estimates of the number and nature of exposures that occurred above the harassment threshold, including an estimate of those that were not detected in consideration of both the characteristics and behaviors of the species of marine mammals that affect detectability, as well as the environmental factors that affect detectability;

- (viii) Certification from the lead PSO as to the accuracy of the report
 - (A) The lead PSO may submit statement directly to NMFS concerning implementation and effectiveness of the required mitigation and monitoring.
- (ix) A final report must be submitted within 30 days following resolution of any NMFS comments on the draft report.
- (b) The report must describe all activities conducted and sightings of marine mammals near the activities, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). The report must also include estimates of the number and nature of exposures that occurred above the harassment threshold based on PSO observations, including an estimate of those that were not detected in consideration of both the characteristics and behaviors of the species of marine mammals that affect detectability, as well as the environmental factors that affect detectability. Geospatial data regarding locations where the acoustic source was used must be provided as an ESRI shapefile with all necessary files and appropriate metadata. In addition to the report, all raw observational data must be made available to NMFS. The report must summarize the data collected as required under condition 5(d) of this IHA. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments from NMFS on the draft report.
- (c) Reporting injured or dead marine mammals:
 - (i) In the event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by this IHA, such as serious injury or mortality, SIO must immediately cease the specified activities and immediately report the incident to the NFMS Office of Protected Resources (301-427-8401). The report must include the following information:
 - (A) Time, date, and location (latitude/longitude) of the incident;
 - (B) Vessel's speed during and leading up to the incident;
 - (C) Description of the incident;
 - (D) Status of all sound source use in the 24 hours preceding the incident;
 - (E) Water depth;
 - (F) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
 - (G) Description of all marine mammal observations in the 24 hours

- preceding the incident;
 - (H) Species identification or description of the animal(s) involved;
 - (I) Fate of the animal(s); and
 - (J) Photographs or video footage of the animal(s).
- (ii) Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with SIO to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SIO must not resume their activities until notified by NMFS.
 - (iii) In the event that SIO discovers an injured or dead marine mammal, and the lead observer determines that the cause of injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), SIO must immediately report the incident to the NMFS Office of Protected Resources (301-427-8401). The report must include the same information identified in condition 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SIO to determine whether additional mitigation measures or modifications to the activities are appropriate.
 - (iv) In the event that SIO discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the specified activities (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SIO must report the incident to NMFS Office of Protected Resources (301-427-8401) within 24 hours of the discovery. SIO must photograph or video footage or other documentation of the sighting to NMFS.
7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.
8. On a case-by-case basis, NMFS may issue a second one-year IHA an expedited public comment period (15 days) when 1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or 2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:
- (a) A request for renewal is received no later than 60 days prior to expiration of the current IHA.
 - (b) The request for renewal must include the following:
 - (i) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the

previous analyses, take estimates, or mitigation and monitoring requirements.

- (ii) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.
- (c) Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the original findings remain valid.

Donna S. Wieting,
Director, Office of Protected Resources,
National Marine Fisheries Service.

Date

Table 1. Numbers of Potential Incidental Take of Marine Mammals Authorized.

Species	Level B	Level A	Total Take
Southern right whale	11	0	11
Pygmy right whale	2	0	2
Blue whale	3	0	3
Fin whale	254	0	254
Sei whale	89	0	89
Common (dwarf) minke whale	1087	0	1087
Antarctic minke whale	1087	0	1087
Humpback whale	9	0	9
Sperm whale	29	0	29
Arnoux's beaked whale	159	0	159
Cuvier's beaked whale	8	0	8
Southern bottlenose whale	110	0	110
Shepherd's beaked whale	88	0	88
Blainville's beaked whale	1	0	1
Gray's beaked whale	26	0	26
Hector's beaked whale	3	0	3
True's beaked whale	2	0	2
Strap-toothed beaked whale	8	0	8
Andrew's beaked whale	2	0	2
Spade-toothed beaked whale	2	0	2
Risso's dolphin	61	0	61
Rough-toothed dolphin	83	0	83
Common bottlenose dolphin	711	0	711
Pantropical spotted dolphin	53	0	53
Atlantic spotted dolphin	3143	0	3143
Spinner dolphin	209	0	209
Clymene dolphin	162	0	162
Striped dolphin	100	0	100
Short-beaked common dolphin	10010	0	10010
Fraser's dolphin	283	0	283
Dusky dolphin	1035	0	1035
Southern right whale dolphin	86	0	86
Killer whale	215	0	215
Short-finned pilot whale	41	0	41
Long-finned pilot whale	2995	0	2995
False killer whale	5	0	5
Pygmy sperm whale	2	0	2
Dwarf sperm whale	2	0	2
Hourglass dolphin	2076	0	2076
Peale's dolphin	421	0	421
Commerson's dolphin	140	0	140
Spectacled porpoise	3	0	3

Antarctic fur seal	2	0	2
South American fur seal	229	0	229
Subantarctic fur seal	5	0	5
South American sea lion	35	0	35
Crabeater seal	91	0	91
Leopard seal	23	0	23
Southern elephant seal	22	0	22

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