

Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

#### Analysis of Programs

Based upon our analysis of the questionnaire response we determine the following: Programs Found Not To Be Used

- In the preliminary results, we found that San Ignacio did not apply for or receive benefits under the following programs during the period of review:
  - A. Banco Nacional de Comercio Exterio, S.N.C. (Bancomext)
  - B. Certificates of Fiscal Promotion (CEPROFI)
  - C. PITEX
  - D. Other Bancomext Preferential Financing
  - E. State Tax Incentives
  - F. Article 15 Loans
  - G. NAFINSA FOGAIN-type Financing
  - H. NAFINSA FONEI-type Financing
  - I. FONEI

Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

#### Final Results of Review

For the period January 1, 1995 through June 30, 1995, we determine the net subsidy to be zero for San Ignacio. The Department will issue appropriate liquidation instructions to the Customs Service with respect to all shipments of the subject merchandise by San Ignacio.

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from San Ignacio entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. The cash deposit rates for all other producers/exporters remain unchanged from the last completed administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)).

Dated: March 5, 1996.

Susan G. Esserman,  
Assistant Secretary for Import  
Administration.

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### National Oceanic and Atmospheric Administration

[I.D. 022296A]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Titan II and IV Launch Vehicles at Vandenberg Air Force Base, CA

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

**SUMMARY:** NMFS has received a request from the U.S. Air Force for authorization to take small numbers of seals and sea lions by harassment incidental to launches of Titan II and Titan IV launch vehicles at Space Launch Complex 4 (SLC-4), Vandenberg Air Force Base, CA (Vandenberg). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the Air Force to incidentally take, by harassment, small numbers of harbor seals, California sea lions, northern elephant seals, northern fur seals and Guadalupe fur seals in the vicinity of Vandenberg and the Northern Channel Islands (NCI) for a period of 1 year.

**DATES:** Comments and information must be received no later than April 15, 1996.

**ADDRESSES:** Comments on the application should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application, an Environmental Assessment (EA) and a list of the references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed below.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead, Office of Protected Resources at 301-713-2055, or Irma Lagomarsino, Southwest Regional Office at 310-980-4016.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the

incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 30, 1994, the President signed Public Law 103-238, The Marine Mammal Protection Act Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to one year. The MMPA defines "harassment" as:

" \* \* \* any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) 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."

New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### Summary of Request

On January 24, 1996, NMFS received an application from the Air Force requesting an authorization for the harassment of small numbers of harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*) and possibly Guadalupe fur seals (*Arctocephalus townsendi*) in the vicinity of Vandenberg and on the NCI. These harassment takes would result from launchings of Titan II and Titan IV rockets. This authorization, if issued, would continue an authorization, issued, for a 5-year period under regulations, on August 22, 1991 (56 FR 41628) for Titan IV launches, that is scheduled to expire on September 23,

1996. NMFS anticipates that this 1-year authorization, along with others issued previously for Lockheed launch vehicles (LLV) (60 FR 38308, July 26, 1995) and McDonnell Douglas Delta II launch vehicles (60 FR 52653, October 10, 1995), will be replaced by a new set of regulations, under section 101(a)(5)(A) of the MMPA, governing incidental takes of marine mammals by launches of all rocket types from Vandenberg. An application for a small take authorization under section 101(a)(5)(A) of the MMPA is under development by the Air Force.

The Titan II space launch vehicle is a two-staged, modified Intercontinental Ballistic Missile redesigned to carry small payloads up to 5,600 lbs (kg). The Titan IV space launch vehicle is a larger vehicle, carrying payloads similar to those carried by the Space Shuttle (Air Force 1996). While the exact number of Titan II and Titan IV launches that will take place during the period of this authorization are unknown, a best estimate is for two launches for Titan II and two launches for Titan IV (Air Force 1996). The total number of Titan IV launches from 1990 through July 1995 was eight.

The flight paths of Titan launches from Vandenberg proceed in various directions, depending on the mission. Some missions require a slight retrograde launch azimuth toward the southwest. Others may proceed southeast, overflying San Miguel Island (SMI) or just west of Santa Rosa Island (SRI). No vehicles are allowed direct overflight of SRI, Santa Cruz, or Anacapa Island (Air Force 1996). Specific launch dates and trajectories are not available at this time.

The duration of noise capable of affecting marine mammals generated by each Titan launch is brief. Within 1 minute following liftoff, the noise event at Rocky Pt., Vandenberg, will be concluded (Stewart et al. 1993a, 1993b), and within 2 minutes, a Titan IV will be 28.6 miles (46 km) from SLC-4, over the open ocean and out of hearing range of marine mammals on NCI (Air Force 1996).

As a result of the launch noise, and the resultant sonic boom, there is a potential to cause a startle response and flight to water for those harbor seals and other pinnipeds that may haul out on the coastline of Vandenberg and on NCI. Launch noise is expected to occur over the coastal habitats in the vicinity of SLC-4 during every launch, while sonic booms could be heard on NCI, specifically SMI and SRI, only during certain launches.

Description of Habitat and Marine Mammals Affected by Titan II and IVs

The Southern California Bight (SCB) including the Channel Islands, supports a diverse assemblage of 29 species of cetaceans (whales, dolphins and porpoises) and 5 species of pinnipeds (seals and sea lions). California sea lions, northern elephant seals, harbor seals, and northern fur seals breed there, with the largest rookeries on SMI and San Nicolas Island (SNI) (Stewart et al. in press). Until 1977, a small rookery of Steller sea lions (*Eumetopias jubatus*) existed on SMI. However, there has been no breeding there since 1981 and no sightings since 1984. More detailed descriptions of the SCB and its associated marine mammals can be found elsewhere (56 FR 1606, January 16, 1991) and NMFS (1990, 1991).

#### Harbor Seals

The Pacific harbor seal, which ranges from Baja California to the eastern Aleutian Islands, is the marine mammal most likely to be incidentally harassed by launch noises from Titan II and IV launches from Vandenberg. Harbor seals are considered abundant throughout most of their range and have increased substantially in the last 20 years. Hanan and Beeson (1994) reported 21,462 seals counted on the mainland coast and islands of California during May and June, 1994. Using that count and Huber et al.'s (1993) correction factor (1.61 times the count) for animals not hauled out, gives a best population estimate of 34,554 harbor seals in California (Barlow et al. 1995).

On the coastlines of Vandenberg, harbor seals are noted near Purisima Point (8 mi (12.9 km) north of SLC-4), Point Arguello, at the mouth of Oil Well Canyon, in the area surrounding Rocky Pt. (5 mi (8 km) south of SLC-4) and near the Boathouse Breakwater (Air Force 1995a, 1995b, 1995c). The largest aggregations occur during the spring and early summer. Hanan et al. (1992) reported that 35 harbor seals were at Purisima Pt. while another 79 were found just south of Purisima Pt. Photographic records indicated the presence of approximately 70 harbor seals at this site in February, 1994 (Air Force 1995a), while Hanan et al. (1992) reported 300 harbor seals present at Rocky Pt. In 1991, over 1,300 harbor seals were censused at the sites along North and South Vandenberg (Hanan et al. 1992).

On SMI during the molting season, the population is estimated to be about 1,000 - 1,200 harbor seals (Hanan et al. 1993). Numbers are lowest in December, increase gradually from February to

June, then sharply decrease again to a minimum in December. Pups are born from February through May. Pups nurse for about 4 weeks; nursing extends to at least the end of May. Breeding activities occur from mid-April to mid-June and molting occurs from May through August.

Harbor seals (and other pinnipeds) haul out onto dry land for various biological reasons, including sleep (Krieger and Barrette 1984, Terhune 1985), predator avoidance and thermoregulation (Barnett 1992). As harbor seals spend most of the evening and nighttime hours in the ocean (Bowles and Stewart 1980), hauled-out seals spend much of their daytime hours in apparent sleep (Krieger and Barrette 1984, Terhune 1985). In addition to sleep, seals need to leave the ocean to avoid aquatic predators and excessive heat loss to the sea water (Barnett 1992).

However, the advantages of hauling out are counterbalanced by dangers of the terrestrial environment including predators. In general, because of these opposing biological forces, haulout groups are temporary, unstable aggregations (Sullivan 1982). The size of the haulout group is thought to be an anti-predator strategy (da Silva and Terhune 1988). By increasing their numbers at a haulout site, harbor seals optimize the opportunities for sleep by minimizing the requirement for individual vigilance against predators (Krieger and Barrette 1984). This relationship between seals and their predators is thought to have represented a strong selection pressure for startle behavior patterns (da Silva and Terhune 1988). As a result, harbor seals, which have been subjected to extensive predation and hunting, rush into the water at the slightest alarm (Arseniev 1986) unless they have become habituated to the disturbance (Lagomarsino, pers. comm.).

Startle response in harbor seals can vary from a temporary state of agitation by a few individuals to the complete abandonment of the beach area by the entire colony. Normally, when harbor seals are frightened by noise, or the approach of a boat, plane, human, or potential predator, they will move rapidly to the relative safety of the water. Depending upon the severity of the disturbance, seals may return to the original haulout site immediately, stay in the water for some length of time before hauling out, or haul out in a different area. When disturbances occur late in the day, harbor seals may not haul out again until the next day.

Disturbances have the potential to cause a more serious effect when seals and sea lion herds are pupping or

nursing, when aggregations are dense, and during the molting season (ref). However, evidence to date from Vadneberg and SMI, has not indicated that launch noises and sonic booms have resulted in increased mortality (Stewart and Francine 1991, 1992; Stewart et al. 1993a, 1993b). Bowles and Stewart (1980) for example, found that harbor seals' tendency to flee, and the length of time before returning to the beach, decreased during the pupping season. They also found that maternal-pup separations in crowded colonies are considered frequent, natural occurrences that can result from several causes, including normal female-female or male-female interactions. Both factors apparently give some protection to young seals from the startle response of the herd.

#### *California Sea Lions*

Two subspecies of the California sea lion inhabit the Pacific Ocean from the Galapagos Islands to Baja California to British Columbia. The subspecies referred to as the California sea lion breeds along the Channel Islands, oceanic islands off the Pacific coast of Mexico and in the Gulf of California. A steady increase in the U.S. California sea lion population has occurred in the last two decades. From 1970 to 1989, the total population increased from an estimated 10,000 to 87,000 in the SCB. Based upon 1994 counts, the U.S. population is now estimated to be over 160,000 with a net productivity rate of 11.7 percent (Barlow et al. 1995).

The two major California sea lion rookeries in the Channel Islands are on SMI and SNI. Stewart et al. (in press) estimated about 95 percent of the 16,000–17,000 pups born in the Channel Islands in 1986 were from these two rookeries. Adult males arrive at the rookeries from March - May and breeding extends from May - July, with most births from mid-June to mid-July. Females nurse pups on an 8-day on/2-day off schedule for 4–8 months, with the "off days" spent foraging at sea (Heath et al. 1991). After the breeding season, adult males from the SCB migrate north from August through September and winter as far north as British Columbia. However, they are replaced by adult males from Baja California that migrate to the Channel Islands to molt in December and January (Reeves et al. 1992). Seasonal movements of females are unknown; they may remain near the rookeries year round. California sea lions of all age-classes can be expected to forage in the offshore SCB during all seasons, with periods of peak at-sea abundance in late summer and autumn.

#### *Northern Elephant Seal*

The northern elephant seal, which is found on offshore islands from central Baja California north to Point Reyes, CA, north of San Francisco, has made a remarkable recovery in its population numbers. In 1892, it was estimated that only 100 elephant seals remained, and they inhabited Guadalupe Island, Mexico. The total population in 1991 was estimated at about 127,000 animals (Stewart et al. 1994). NMFS estimates the California stock size in 1991 at 73,500 and growing while the population in Mexico appears to be stable or decreasing (Barlow et al. 1995).

Population estimates in the SCB increased from 28,000 in 1975–78 to 50,800 in 1989/90 with annual growth estimated at 14 percent for 1964–1981 (Cooper and Stewart 1983) and 10 percent for 1981–85 (Stewart et al. in press). Unpublished NMFS data indicate that the number of pups born in the Channel Islands continues to increase (Barlow et al. 1995).

Northern elephant seals forage at sea for 8–10 months each year during which time they make two migrations between breeding and molting sites in the Channel Islands and pelagic foraging grounds in the eastern North Pacific (Stewart and DeLong 1993). Major rookeries are established annually on SMI and SNI. Adult males and females are ashore simultaneously only during breeding; females typically for 34 days continuously, and adult males for 30–90 days (Stewart and DeLong 1993). Adult males maintain breeding territories on rookery beaches from early December through early March. Females arrive at rookeries from late December through February, with most births in January (Sydeman et al. 1991). Pups are weaned and abandoned when about 1 month old and go to sea 1–3 months later. Females and juveniles return to the Channel Islands to molt in April and May and adult males return in July and August.

Elephant seals travel north between breeding and molting seasons and disperse widely in the eastern North Pacific to forage on squid and other mesopelagic prey. Adult males migrate to the Gulf of Alaska and Aleutian Islands, while females and juveniles migrate as far as Oregon and Washington (Reeves et al. 1992). Both sexes dive continuously while at sea; females are submerged about 91 percent and males about 88 percent of the time while at sea (Stewart and DeLong 1993). During foraging dives, seals descend rapidly to a specific depth, remain there for several minutes and then ascend rapidly to the surface (Stewart and DeLong 1993). On average, female dives

were to about 1640 ft (500 m) depth and lasted 24 minutes, with 2-minute inter-dive surface intervals; male dives were to about 1,198 ft (365 m) depth and lasted 23 minutes, with 3-minute inter-dive surface intervals. Overall, dives for both sexes were between 492–2625 ft (150–800 m) depth.

All age-classes of northern elephant seals can be expected to forage in the offshore SCB, with periods of peak abundance just after breeding (late February-early March) and molting (April-May for females; July-August for males) periods.

#### *Northern Fur Seal*

Because of recent declines, NMFS declared the Pribilof stock of northern fur seals as a depleted species under the MMPA. In 1983, the estimated size of the northern fur seal population was about 1.2 million. No significant changes have been documented since that time, although recent counts of adult males on the Pribilof Island and counts of pups on Robben Island have declined. There are an estimated 871,000 animals in Alaskan waters and 332,000 in Russian waters. The 1994 population estimate for the SMI stock of fur seals, based upon a pup count of 2,634 (NMFS unpubl. data) is 10,536 animals (Barlow et al. 1995).

The peak number of hauled-out northern fur seals on SMI occurs in mid-July with a post-breeding season decline continuing through December. Some females and yearlings may be present at any time, with the higher number of pups present in early July. These animals are generally at sea for 7 consecutive months from November through late May.

#### *Guadalupe Fur Seal*

After 1923, the Guadalupe fur seal was regarded as extinct. In 1949, one adult male was seen on SNI and a breeding colony was discovered on Guadalupe Island, Mexico in 1954. The population in 1987 was estimated to be about 6,000 animals. In 1988, 3,259 seals were counted on Guadalupe Island and occasional sightings have been made of animals in the offshore waters of Baja California and southern California. Since 1968, small numbers of nonbreeding animals, usually subadult males, have been observed on SMI.

#### *Potential Effects of Titan II and IV Launches on Marine Mammals*

The effect on pinnipeds, would be from disturbance by airborne sound, which is anticipated to result in a negligible short-term impact to those small numbers of harbor seals and other pinnipeds that may be hauled out along

the coast near SLC-4 and on the NCI at the time of Titan II and IV launches. Other than these brief, infrequent, periods of elevated noise, no temporary or permanent habitat modifications are anticipated.

There is no evidence that any marine mammals, other than those on shore at Vandenberg or NCI at the time of launch, would be subject to harassment by launch noises or sonic booms (when vehicle trajectory takes it over the NCI), although the potential does exist that other marine mammals, either on the surface or in the water column, may hear either the launch noise or the sonic boom. However, simply hearing noise from an activity does not necessarily mean that the animals have been harassed. Also, NMFS does not consider simple, singular, reflex actions (e.g., alert, startle, or dive response to a stimulus) from animals on the water surface to be sufficient on its own to warrant an incidental harassment authorization.

#### *South Vandenberg*

At South Vandenberg, launch noises are expected to impact mostly harbor seals as other pinniped species (California sea lions and northern elephant seals) are known to haulout at these sites only infrequently and in significantly smaller numbers. The launch noise associated with the Titan II (similar in size to the LLV) is predicted (based upon similarity in size) to be about 93 dBA (118 dB) at the principal haulout at Rocky Point, and almost unnoticeable offshore.

As part of the 1991 small take authorization for Titan IV launches at SLC-4, the Air Force monitored the effects of launch noises on harbor seals hauled out at Rocky Pt. (4.8 mi (7.7 km) south of SLC-4). For four monitored launches of Titan IVs, the sound exposure level ranged from 98.7–101.8 dBA (145 dB) (Stewart and Francine 1991, 1992; Stewart et al. 1993a, 1993b). During the 1992 and 1993 Titan IV launches, all or almost all, harbor seals that were ashore at the time fled into the water (1992—23 of 28; 1993—41 of 41) in response to the noise. After a launch in 1993, about 75 percent of those seals returned ashore later that day, most within 90 minutes of the disturbance (Stewart et al. 1993b). There were no apparent mortalities following any of the four monitored launches, and the haulout patterns were reported similar to those prior to the launches (Stewart and Francine 1991, 1992; Stewart et al. 1993a, 1993b). Because of the greater distance between SLC-4 and other haulout sites, fewer harbor seals are anticipated to be affected by launch

noises at these locations. Launch noise from a Titan II is expected to be significantly less than from the larger Titan IV, although harbor seals may leave the beach at Rocky Pt. due to the noise.

Time-lapse photographic monitoring (Jehl and Cooper 1982) shows that, in response to a specific stimulus, large numbers of pinnipeds may move suddenly from the shoreline to the water. These events occur (on SMI at least) at a frequency of about 24 to 36 times per year for sea lions and seals other than harbor seals, and about 48 to 60 times annually for harbor seals. Visual stimuli, such as humans and low-flying aircraft, are much more likely to elicit this response than strictly auditory stimuli, such as boat noise or sonic booms. Observations indicated that it is rare for mass movement to take place in a panic, and no resulting pup or adult mortality has been observed under these circumstances.

Stewart (1981, 1982) also exposed breeding California sea lions and northern elephant seals on SNI to loud implosive noises created by a carbide pest control cannon. Sound pressure levels varied from 125.7 to 146.9 dB. While behavioral responses of each species varied by sex, age, and season, Stewart found that habitat use, population growth, and pup survival of both species appeared unaffected by periodic exposure to the noise.

Because of high ambient noise along the coastline, attenuation of launch noise, and because almost all sounds from the launch should be reflected off, and not penetrate, the water surface, launch noises are not expected to impact any marine mammals in nearshore waters of Vandenberg, although pinnipeds at the water surface in the waters around SLC-4 may alert to the noise.

With launch noises expected to rapidly attenuate and reflect off the water surface, with minimal penetration, and with ambient noise level expected to range between 56 and 96 dBA (Air Force 1995a), there is at present no evidence that any marine mammals (other than pinnipeds onshore at the time of launch), would be subject to harassment by launch noises, although the potential does exist that other marine mammal species may hear the launch noises.

#### *Northern Channel Islands (NCI)*

Sonic booms resulting from launches of the Titan II and IV vary with the vehicle trajectory and the specific ground location. A sonic boom is not expected to intersect with the ocean surface until the vehicle changes its

launch trajectory. This location will always be well offshore but may intersect with the NCI. Sonic booms may become focused within a narrow band under the flight path, resulting in sound levels of exceptional amplitude within a very narrow footprint. Theoretical calculations suggest that marine mammal habitat within the narrow footprint of a focused sonic boom could experience sound levels as high as 147 dB (USAF 1990, 1996).

The shores of SMI are subjected to noises from surf, wind, animal vocalizations, boats and aircraft, including several sonic booms per month. Ambient sound pressure levels vary between 56 and 96 dBA. In air, marine mammals are generally believed to be much less sensitive than humans to low-frequency sonic booms (Air Force 1990, NMFS 1990). Humans have been exposed to impulse noise similar in magnitude to the sonic booms expected from Titan IVs with no permanent hearing effects and only temporarily reduced hearing sensitivity (referred to as TTS-temporary threshold shift). Outside an approximate 4.4 mile by 1,000-ft (7.1 km by 305 m) zone directly under the flight path, almost all sounds will be reflected at the water's surface. Therefore, only those individual marine mammals within this zone will experience energy from a sonic boom (Air Force 1988 and 1990, NMFS 1990). Chappell (1980) calculates that a sonic boom would need to have a peak overpressure in the range of 138 to 169 dB to cause TTS in marine mammals, with TTS lasting at most a few minutes. Moreover, because of physiological compensatory mechanisms, NMFS believes that even animals in the water exposed to the highest energy from a sonic boom may have only a small chance of experiencing minor TTS. Although Titan IV-generated sonic booms are not likely to cause permanent hearing damage to marine mammals in or out of the water, they may cause minor reduction in hearing sensitivity in those few species with hearing capabilities in the low frequencies found in sonic booms. This effect is expected to be temporary and will not affect the survival of individuals or adversely affect the species' populations in California waters.

Depending upon the intensity and location of a sonic boom, pinnipeds on SMI could exhibit a simple alert (head-up) response, or they could startle and stampede into the water. The two primary concerns for pinnipeds involve the possibility of a stampede during which pups may be trampled or separated from their mothers and the

potential effects of loud noises on the pinniped's hearing. Also possible physiological stress to the animals, resulting in unsuccessful breeding and other anomalies in behavior may be of concern.

Monitoring the effects of noise generated from Titan IV launches on SMI pinnipeds in 1991, Stewart et al. (1992) demonstrated that noise levels from a sonic boom of 133 dB (111.7 dBA) caused an alert (head up) response by 25 California sea lions, but no response from other pinniped species present (including harbor seals and elephant seals). There was no seaward movement as a result of this nighttime launch. In 1993, an explosion of a Titan IV created a sonic boom-like pressure wave that resulted in an alert response, but no movement toward the sea. Additional popping and rumbling noises that followed the initial overpressure caused approximately 45 percent of the California sea lions (approximately 23,400, including 14 to 15 thousand 1-month old pups, were hauled out on SMI during the launch) and 2 percent of the northern fur seals to enter the surf zone. Although approximately 15 percent of the sea lion pups were temporarily abandoned when their mothers fled into the surf, no injuries or mortalities were observed. Most animals were returning to shore within 2 hours of the disturbance (Stewart et al. 1993b) and haul-out patterns after launchings appeared normal.

Outside the zone of focused energy, cetaceans and pinnipeds in the water should be unaffected by the sonic booms, although, depending upon location and ambient noise levels, some pinnipeds may be able to hear the sonic boom. Although rough seas may provide some surfaces at the proper angle for sound to penetrate the water surface (Richardson et al. 1991), sound entering a water surface at an angle greater than 13 degrees from the vertical has been shown to be largely deflected at the surface with very little sound entering the water (Chappell 1980, Richardson et al. 1991, 1995).

With only a remote likelihood that a cetacean will be almost directly under the line of flight of a Titan II and IV at the instant the vehicle changes its launch trajectory, NMFS believes that sonic booms will not result in the harassment of cetacean populations in offshore waters of the SCB.

Most long-term physiological effects, such as those on reproduction, metabolism and general health, or on the animals' resistance to disease, are caused by much greater cumulative sound exposures (intense continuous

noise) than those expected from space vehicle sonic booms (infrequent, loud, and short-duration noise), which have less potential for affecting physiology (Air Force 1990, NMFS 1990).

Researchers (under contract to the Air Force) who conducted studies on effects of the space shuttle stated that the space shuttle sonic booms would not produce auditory or nonauditory effects in NCI pinnipeds of sufficient magnitude to measurably influence population levels. Some TTS would be likely following the exceptionally loud focused booms created by launches flying directly over the NCI, but this TTS should last only a short time (minutes to hours). Also, although the startle effect of the space shuttle sonic boom might cause some panic and concomitant physiological stress, the frequency of the booms would be low compared to the frequency of naturally induced startle events.

Chappell (1980) states that there will be no adverse effect on pinniped survival, since no significant increase in stress-related pathology is anticipated, nor is any disruption of the reproductive cycle considered probable.

#### Prohibitions

NMFS proposes that the following prohibitions be imposed as part of the authorization: (1) The incidental or intentional taking of any marine mammal not authorized by the incidental harassment authorization; and (2) The incidental take of a seal or sea lion other than by unintentional, nonlethal harassment.

#### Mitigation

Unless constrained by other factors including, but not limited to, human safety, national security or launch trajectories, efforts to ensure minimum negligible impacts of Titan II and IV launches on harbor seals and other pinnipeds, NMFS proposes to include in the authorization, the requirement to avoid whenever possible launches during the harbor seal pupping season of February through May.

Additional mitigation measures would be developed, if necessary, cooperatively between NMFS and the Air Force based on the degree of impact documented during monitoring activities following specific Titan launches.

#### Monitoring

In order to verify the assumptions made in this finding, NMFS proposes to require the Air Force to visually monitor the impact of Titan II and IV launches on the harbor seal haulouts in the vicinity of SLC-4 (Rocky Point) at

Vandenberg (or in the absence of pinnipeds at that location, at a nearby haulout) during all launches. This monitoring will be conducted by one or more qualified biologists 3 days prior to a launch and for a period of 3 days post-launch. This monitoring will consist of a census of the population to determine if there is a reduction in numbers of animals and will occur as soon as possible after each launch (Rocky Point is not accessible during launches). As there is insufficient documentation of the effects of launches during the pupping season, remote (video) monitoring will be conducted during daylight launches in the pupping season(s) to determine the actual response of pinnipeds to the launch. Remote video data will be collected during the first two launches taking place in the pupping season(s). These data will be evaluated to determine the potential impacts, if any, to the pinniped population, and to determine if pup mortality or abandonment occurred as a result of launches. In addition, Vandenberg will perform post-launch monitoring which, at a minimum, would include 4 censuses over a 2-week period following any launches during the pupping season.

In addition, monitoring on NCI during the 1-year period of authorization will be required whenever a Titan IV daytime launch predicts a sonic boom over NCI. This monitoring will include the use of a prediction model to determine if and where a sonic boom will be produced in the immediate area of the NCI by the individual launch. Prior to each launch, prediction model results and proposed monitoring activities will be forwarded to the NMFS Southwest Regional Office for review and approval. Monitoring will occur at the location of the predicted sonic boom, or, if no marine mammal haulouts or rookeries exist within the predicted area, at the nearest haulout or rookery and to monitor the impacts to marine mammal populations. Launches predicted to produce sonic booms will be monitored until two sonic booms occur, have been monitored, and data collected. Data collection will document impacts during and after, each of these two launches. If the prediction model indicates that there will be no sonic boom in the immediate area of the NCI, no monitoring will be conducted on NCI.

#### Reporting

A report will be submitted to the NMFS Southwest Regional Office within 90 days of any launch of a Titan II or IV. This report will include the following information: (1) Date and time

of launch; (2) dates and locations of any research activities related to monitoring the effects of the sonic booms on pinniped populations; (3) results of any monitoring activities at Vandenberg or NCI concerning behavioral responses; and (4) results of any population studies made on pinnipeds on the NCI before and after the launch.

Upon completion of monitoring and collecting of data for two sonic boom events, Vandenberg will evaluate the impacts. Upon consultation and coordination with NMFS, monitoring activities will be reevaluated to determine monitoring needs.

#### National Environmental Policy Act (NEPA)

In 1988, the Air Force released a final environmental impact statement for the Titan IV launch vehicle modifications and launch operations program (Air Force 1988). On December 21, 1990, NMFS published an EA (NMFS 1990) on an authorization to the Air Force to incidentally take marine mammals during launches of the Titan IV space vehicle from Vandenberg. The finding of that EA was that the issuance of the authorization would not significantly affect the quality of the human environment and therefore an environmental impact statement on the issuance of regulations authorizing an incidental take was not necessary.

#### Endangered Species Act (ESA)

The Department of the Air Force consulted with NMFS, as required by section 7 of the ESA, on whether launches of Titan II and IV at SLC-4 would jeopardize the continued existence of species listed as threatened or endangered. NMFS issued a section 7 biological opinion on this activity to the Air Force on October 31, 1988, concluding that launchings of the Titan IV was not likely to jeopardize the continued existence of the Guadalupe fur seal. The Air Force reinitiated consultation with NMFS after the Steller sea lion was added to the list of threatened and endangered species (55 FR 49204, November 26, 1990). However, since no northern sea lions have been sighted on the Channel Islands since 1984, it was determined that these launchings were not likely to affect northern sea lions. In addition, on September 18, 1991, NMFS concluded that the issuance of a small take authorization to the Air Force to incidentally take marine mammals during Titan IV launches was not likely to jeopardize the continued existence of northern sea lions or Guadalupe fur seals.

#### Conclusions

The short-term impact of the launching of Titan II and IV rockets is expected to be, at worst, a temporary reduction in utilization of the haulout as seals or sea lions leave the beach for the safety of the water. Launchings are not expected to result in any reduction in the number of pinnipeds, and they are expected to continue to reoccupy the same area shortly after each launch. In addition, there will not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on pinnipeds at Vandenberg and the NCI are unlikely.

#### Proposed Authorization

NMFS proposes to issue an incidental harassment authorization for 1 year (September 23, 1996 through September 22, 1997) for launches of the Titan II and IV rockets and related safety monitoring at SLC-4, provided the above mentioned monitoring and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed launches of the Titan II and IV at SLC-4 would result in the harassment taking of only small numbers of harbor seals, California sea lions, northern elephant seal, northern fur seals and possibly Guadalupe fur seals; will have a negligible impact on pinniped stocks in the SCB; and will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

#### Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see ADDRESSES).

Dated: March 11, 1996.

Patricia A. Montanio,  
Deputy Director, Office of Protected Resources, National Marine Fisheries Service.  
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### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Proposed Additions and Deletion

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletion from procurement List.

**SUMMARY:** The Committee has received proposals to add to the Procurement List

commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** April 15, 1996.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

#### Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for