

in this notice. Note that the ATP will be mailing the kit to all those individuals whose names are currently on the ATP mailing list. Those individuals need not contact the ATP to request the new Kit. The Kit contains proposal cover sheets, other required forms, background material and instructions for submission of proposals. All proposals must be prepared in accordance with the instructions in the Kit.

#### Submission of Revised Proposals

An applicant may submit a full proposal that is a revised version of a full proposal submitted to a previous ATP competition. NIST will examine such proposals to determine whether substantial revisions have been made. Where the revisions are determined not to be substantial, NIST reserves the right to score and rank, or where appropriate, to reject, such proposals based on reviews of the previously submitted proposal.

#### Other Requirements

(a) **Federal Policies and Procedures.** Recipients and subrecipients are subject to all Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to federal financial assistance awards as identified in the cooperative agreement award.

(b) **Past Performance.** Unsatisfactory performance under prior Federal awards may result in proposal not being considered for funding.

(c) **Pre-award Activities.** If applicants incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Only written authorization from the NIST Grants Officer will obligate NIST to cover pre-award costs.

(d) **No Obligation for Future Funding.** If a proposal is selected for funding, NIST has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

(e) **Delinquent Federal Debts.** No award of Federal funds shall be made to an applicant or recipient who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to NIST are made.

(f) **Name Check Review.** All for-profit and non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the

applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(g) **Primary Applicant Certification.** All primary applicants (including all joint venture participants) must submit a completed Form CD-411, "Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanation is hereby provided:

(1) **Nonprocurement Debarment and Suspension.** Prospective participants, as defined at 15 CFR part 26, section 105 are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) **Drug-Free Workplace.** Grantees (as defined at 15 CFR part 605) are subject to 15 CFR 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) **Anti-Lobbying.** Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(4) **Anti-Lobbying Disclosures.** Any applicant that has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

(h) **Lower Tier Certification.** Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and Form SF-LLL, "Disclosure of Lobbying Activities." Although the CD-512 is intended for the use of primary recipients and should not be transmitted to NIST, the SF-LLL submitted by any tier recipient or subrecipient should be forwarded in accordance with the

instructions contained in the award document.

(i) **False Statements.** A false statement on any application for funding under ATP may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(j) **Intergovernmental Review.** The ATP does not involve the mandatory payment of any matching funds from state or local government and does not affect directly any state or local government. Accordingly, the Department of Commerce has determined that Executive Order 12372, "Intergovernmental Review of Federal Programs" is not applicable to this program.

(k) **American-Made Equipment and Products.** Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with the funding provided under this program in accordance with congressional intent.

(l) **Paperwork Reduction Act.** This notice contains collection of information requirements subject to the Paperwork Reduction Act (PRA) which have been approved by the Office of Management and Budget (OMB Control No. 0693-0009). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Dated: November 27, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96-30858 Filed 12-3-96; 8:45 am]

BILLING CODE 3510-13-M

### 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 issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with provisions of the Marine Mammal Protection Act

(MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) 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), has been issued to the U.S. Air Force.

**EFFECTIVE DATE:** This authorization is effective from November 27, 1996, through November 26, 1997.

**ADDRESSES:** The application and authorization are available for review in the following offices: Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southwest Region, NMFS, 501 West Ocean Blvd. Long Beach, CA 90802.

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

**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.

The MMPA Amendments of 1994 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 1 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 U.S. 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 Northern Channel Islands (NCI). These harassment takes would result from launchings of Titan II and Titan IV rockets. This authorization would continue an authorization issued, for a 5-year period under regulations, on August 22, 1991 (56 FR 41628) for Titan IV launches, that expired on September 23, 1996. NMFS anticipates that this 1-year authorization, along with others issued previously for Lockheed launch vehicles (61 FR 38437, July 24, 1996) 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.

A notice of receipt of the Titan IV application and the proposed authorization was published on March 15, 1996 (61 FR 10727) and a 30-day public comment period was provided on the application and proposed authorization.

**Comments and Responses**

During the 30-day comment period, two letters were received. The comments contained in those letters are addressed below, however the comment order has been modified for clarity. Other than information necessary to respond to the comments, additional background information on the activity and request can be found in the proposed authorization notice and needs not be repeated here.

*Comment 1:* What are the standards regarding "small numbers" under

section 101(a)(5)(D) of the MMPA? A sonic boom of any kind that impacts San Miguel Island (SMI) will harass between a couple of thousand to tens of thousands of pinnipeds of several species. Every launch at Vandenberg will harass between several dozen to several hundred harbor seals along the Vandenberg coastline.

*Response:* In 50 CFR 216.103 (previously 50 CFR 228.3), NMFS defined "small numbers" to mean a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. Negligible impact is the impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. At this time, there is no scientific evidence to indicate that either launch noises or sonic booms are adversely affecting the species or stocks of marine mammals in southern California waters.

*Comment 2:* The statement of policy on page 10730 appears to suggest that a rule has been issued to distinguish between harassment on land and harassment in the water. Is this correct, or is this a statement of a rule being made by the present notice?

*Response:* NMFS is presently reviewing the issue of noise in marine waters and its effect on marine mammals. Based upon that review, NMFS expects to propose policy and guidance on what does and what does not constitute a take by harassment and thereby subject to authorization under the MMPA. Until new policy is implemented, NMFS' working definition is that incidental harassment has not taken place (sufficient to warrant an incidental small take authorization) if the marine mammal indicates simple alert, startle, or dive reaction in response to a single noise event. For airborne events, only if marine mammals move away from the noise or other harassment source, either towards the water if on land, or an obvious directional change seaward if already in the surf zone, does NMFS consider a harassment event to have taken place.

*Comment 3:* To my knowledge there were only 4 launches of Titan IV from Vandenberg from 1990 through July 1995, not eight as stated in the notice. A fifth occurred in December 1995.

*Response:* The statement should have read that the total number of Titan II and Titan IV launches from 1990 through July 1995 was eight.

*Comment 4:* The statement on page 10728 does not correctly report the information reported by Stewart *et al.*

(1993a, 1993b). Those reports found that the 70 dBA (re: 20 micropascals) threshold of the acoustic monitoring instruments positioned at Rocky Point were exceeded about 49–60 seconds after launch initiation. The launch noise impacting Rocky Point remained above 70 dBA for 94 seconds in 1992 and 81 seconds in 1993. One hour average sound levels prior to launch varied (in 1993) between 52 and 59 dBA.

Although no sonic boom was recorded at Pt. Bennett during the launch on March 8, 1991, rocket noise was recorded at Pt. Bennett beginning about 3.5 minutes after launch. The noise lasted 40 seconds; the wide-band sound pressure level (SPL) was 78.2 dB in the frequency range 1.2 to 100 Hz with greatest amplitude above ambient noise level (+5 to 20 dB) at between 5 and 20 Hz. So the statement presented in the notice was not entirely correct.

*Response:* Based upon the references cited, the noise event at Vandenberg is expected to last between 1 1/2 minutes (Stewart *et al.* 1993a, 1993b) and 2 minutes, 11 seconds (Stewart *et al.* 1992) and not the shorter time cited in the proposed authorization. Also, launch event noise will reach SMI approximately 3.5 minutes following the launch and may be detectable to pinnipeds on SMI for less than 1 minute. It should be noted, however, that launch noise reaching, and being recorded on, SMI either did not result in recordable effects on observed pinnipeds on the island (Stewart *et al.* 1991, 1993b) or resulted in simple alert behavior (Eidson *et al.* 1996).

*Comment 5:* There is more than a potential for harassment, it is a virtual certainty. Any harbor seals hauled out along the Vandenberg coast during launch will startle and most, if not all, will likely flee into the water.

*Response:* While harbor seals may be found at several locations along the 35 mile Vandenberg coastline, the potential for a startle response and water entry will depend upon the location of the harbor seal haulout in relation to SLC-4 and whether the launch is for the Titan II or Titan IV. It is presumed that all harbor seals at Rocky Point and Purisima Point, the main haulouts closest to SLC-4, will enter the water in response to launch noises from either launch vehicle. In addition, it is presumed that harbor seals and other pinniped species onshore between Purisima Point and Jalama Creek will also enter the water.

*Comment 6:* The potential for harassment of pinnipeds on the NCI appears to be understated. It appears that all but one launch trajectory will

result in sonic booms impacting one or several of the NCIs.

*Response:* Based upon the four previously monitored launches (those expected to produce a focused sonic boom over SMI), two of the launches (March 8, 1991 (night launch), and November 28, 1992 (day launch), apparently did not cause sonic booms over SMI, and there was no response by pinniped species on the island to either launch (Stewart *et al.* 1991, 1993a). The November 7, 1991, night launch produced a relatively mild sonic boom (111.7 dBA) but no movement to water by any pinnipeds. The August 2, 1993 launch (which exploded during flight) produced an alert response due to a sonic boom-like noise event, but no movement to the water until additional rumbling and popping noises were received due to the explosion (Air Force 1996).

The May 12, 1996, Titan IV launch sonic boom was predicted to intersect the eastern end of SMI with overpressures also impacting the other NCI. Monitoring was conducted at strategic locations on SMI and other islands. Cardwell Point beach was the predicted location of greatest impact. Additional information on the impact assessment from that launch is provided below.

As a result of this comment, the U.S. Air Force provided NMFS with predicted sonic boom footprints for the two planned launches during the time this authorization is to be in effect. These indicate that no sonic boom would occur on SMI from either launch, and only an outside chance of the sonic boom contacting the southern coast of Santa Rosa Island if the planned July 1997 launch were delayed until September.

*Comment 7:* The discussion of haulout behavior of harbor seals is largely speculative and parts are logically inconsistent; e.g., it is stated that seals need to leave the water to avoid aquatic predators, yet later that when disturbed by humans that seals will move into the safety of the water. It is not clear what this narrative is intended to accomplish. It could argue that any single disturbance either could or could not have an effect on them.

*Response:* The statement in the proposed authorization contains the best scientific evidence on why pinnipeds haul out of the water and why they return to the sea when disturbed. The referenced statements were provided to illustrate that flight is a natural reaction to limit predation both onshore and in the water and are not necessarily limited to anthropogenic noise and human intrusions. For

example, Eidson *et al.* (1996) reported that groups of 50–100 California sea lions on SMI alerted and entered the water about 2–4 times daily due to disturbances, including those caused by gull alarm calls.

*Comment 8:* The scope of studies cited was not sufficient to determine conclusively whether mortality may have resulted from physical or physiological impacts with delayed effects (i.e., auditory trauma).

*Response:* NMFS agrees. The cited studies monitor for short-term effects, such as pup mortality, caused by launch noise and sonic booms. It must be recognized also that long-term effects of noise on marine mammals will be difficult to study or to prove that the mortality was caused in whole or part by launch noises or sonic booms from launches of Titan IIs or Titan IVs from Vandenberg. However, as a result of concerns, the U.S. Air Force is planning to conduct these long-term effect studies (Air Force 1996b, Eidson *et al.* 1996).

*Comment 9:* The statements referenced to Bowles and Stewart (1980) are wrong as stated. They were apparently taken out of context. The reference "tendency to flee" referred to California sea lions, not harbor seals. The reference to maternal-pup separations in crowded rookeries referred only to northern elephant seals. The final speculative statement is unfounded.

*Response:* The commenter is correct. There is no evidence that harbor seals are less reactive during pupping season than at other times (Bowles and Stewart 1980). However, while Bowles and Stewart (1980, p. 132) were discussing harbor seals, they cited Johnson (1977) and Le Beouf *et al.* (1972) as sources for their statements. While Johnson (1977) does discuss harbor seals, Le Beouf *et al.* (1972) references elephant seals. This was not made clear by Bowles and Stewart.

*Comment 10:* The summary of the data from Heath *et al.* (1991) about female foraging patterns is incorrect. After an 8-day post-partum period of shore attendance, the attendance patterns are approximately 2 days at sea and 1–2 days ashore.

*Response:* Thank you for the clarification.

*Comment 11:* The statement about "negligible short-term impact" (under "Potential Effects \*\*\* on Marine Mammals") evidently is in reference only to considerations of behavior responses of seals to launch noise. Depending on a seal's predisposure to auditory trauma, the noise impacting Rocky Point could cause auditory damage, temporary at least. The

potential for, and consequences of, such impact on individuals and populations are as yet unstudied.

*Response:* While empirical data is still unavailable as the commenter noted, theoretical calculations indicate that temporary threshold shift (TTS) injury is unlikely at Rocky Point. The A-weighted SPL at this pinniped haulout from a Titan IV launch was measured, on May 12, 1996, at 96.2 db (re 20  $\mu$ Pa @ 1 m). This is approximately equivalent to a freight train passing at 50 ft. This SPL measurement is lower than previous launches (98.7–101.8 dBA). At this time, based upon the best scientific information available, launch noise at the measured SPL is considered below the level that would cause long-term injury to pinnipeds.

*Comment 12:* Preliminary results of studies on the impacts of large overpressures at (focused or superbooms) and near the leading edge of the boom's impact on the auditory function of pinnipeds, indicate short-term TTS in harbor seals exposed to simulated Titan IV booms of 2 to 7 psf and in California sea lions exposed to booms of 4 to 7 psf (lasting about 2.5 hours). Studies on northern elephant seals are underway and tests with a few animals should be completed by September. The potential impacts of larger overpressures (7–30 psf) on pinniped auditory function are still unknown. One possible means of determining them would be to conduct hearing tests on animals at field sites during launches when zones of impact can be predicted to include haulouts and rookeries.

*Response:* NMFS agrees that hearing tests on marine mammals ashore during launches would provide important empirical information on both short-term and potential long-term impacts from launch noise and sonic booms. Research, currently under development by the U.S. Air Force, proposes to study auditory brainstem response on free-ranging pinnipeds exposed to Vandenberg sonic booms. However, as such studies would likely require capture and holding pinnipeds for testing, a scientific research permit under section 104 of the MMPA will be necessary prior to beginning these studies.

*Comment 13:* The potential consequences of subsurface propagation of loud sonic booms on hearing abilities of marine mammals in general has not been studied. Theoretical studies (e.g., Sparrow 1995) have shown however, that substantial sonic boom energy can propagate to depths of 100 m or more. The potential for auditory damage to animals will depend on the

characteristics of that noise v. depth matched with the hearing abilities of animals, their predisposition to trauma, and their increased sensitivity to noise in water relative to in air.

This issue is one of continuing discussion among an ad hoc group of physicists, acousticians and biologists. Therefore, some vigilance and moderate documentation of behavioral, auditory, and population responses to these sonic boom events will be able to resolve concerns about their immediate and long-term population impacts.

*Response:* While theoretical studies (Sparrow 1995, Cook 1972) indicate that sonic boom noise will penetrate ocean waters, these studies and others have also confirmed that the sonic boom plane wave must be less than 13.2° in order to have a portion of the energy propagate into the water. This generally limits duration of sound underwater, at least when compared to airborne noise. Furthermore, it is unclear from the references, which refer to supersonic aircraft and not to rocket launches, whether any sound energy will be propagated into the ocean along the shockwave propagation path of an ascending rocket. Since a sonic boom from a Titan is not expected to intersect with the ocean surface until the vehicle changes its launch trajectory, the area potentially vulnerable to the shockwave, if sound energy is propagated through the seafloor interface, would be relatively small. This location will always be well offshore, where marine mammal density is significantly less than in nearshore waters. The issue of subsurface propagation of airborne sonic booms is proposed for investigation by the U.S. Air Force.

*Comment 14:* The effects of launch noise on auditory function remains unstudied and unknown, although these levels do have the potential for causing auditory threshold shift. Also, no studies of auditory effects were done by Stewart (1981, 1982). Why not measure launch noises to resolve any question of concern.

*Response:* NMFS agrees that effects on auditory function remains unstudied. Such research is now in the early planning and funding stage (Air Force 1996b). However, as reported above, launch noise was measured during the May 12, 1996, and will be measured at future launches when necessary to conduct planned pinniped research.

*Comment 15:* The frequency of disturbances reported were for 1978–1979, more than 16 years ago and are of questionable relevance to discussions today.

*Response:* While true, NMFS emphasizes that no comparable studies

are known by NMFS to have been conducted since that time. As NMFS has used the best scientific information, and as no data is available to show the magnitude of any increase in events that might cause harassment, no changes are necessary to the statement.

*Comment 16:* It is impossible to consider the potential for impact or non-impact of the theoretical calculation of "147 dB" without more information on the standards of reference of pressure and weighting for this metric. The level of worst case Titan IV boom was stated to be 147 dBA in the EA in 1990. That translates to an unweighted boom of 177 dB (296 psf: SIC–29.6 psf). Which value is correct and why?

*Response:* As noted by Richardson et al. (1995), apparently acoustical researchers are not uniformly conscientious about citing their reference units. When this occurs, it can lead to a problem in interpretation of results, as apparently happened in writing the EA in 1990. However, while theoretical calculations suggested that Titan IV focused sonic booms may reach 10–18 psf (147–154 dB A-weighted) (Air Force 1988, 1990), measured peak overpressures for the May 12, 1996, Titan IV launch at Crook's Point, SMI was 8.4 psf (corrected value). The maximum focused peak pressure of 9.5 psf was predicted to occur over water 5 km east of SMI and 5 km north of SRI (Keegan 1996).

In 1990, the Air Force considered a "worst case" sonic boom overpressure to be about 147 dBA and cited Chappell (1980) as indicating 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. Because Chappell (1980), did not always provide standards of reference, NMFS believes them to be A-weighted. This assumption is supported by Richardson et al.'s (1995) wherein for airborne noise, whenever references for low frequency noises are not provided, it should be assumed that the levels are A-weighted.

*Comment 17:* The zone of focused or super-boom, although relatively small compared to the entire zone of boom impact, it is nevertheless large enough to encompass substantial haulouts and rookeries on the NCI inhabited by thousands to tens of thousands of pinnipeds (both behavioral and auditory responses are of concern; dose-response relationships available today are not adequate to rule out substantial impacts). Further the overpressures outside of this focusing area are still large over a broad area.

*Response:* NMFS recognizes that, depending upon the launch trajectory,

some haulouts and rookeries, containing substantial numbers of pinnipeds, may be affected by a focused sonic boom. NMFS reiterates that there is no scientific evidence to indicate that sonic booms from Titan IV rockets are resulting in more than a TTS injury. However, as mentioned previously, research is being designed that will provide evidence to support (or refute) the hypothesis that pinnipeds can incur serious injury from a focused sonic boom.

The area outside the zone of focused pressure was measured at 2 psf to 0.9 psf during the May 1996 Titan IV launch. While loud, this is not a substantial noise event that should result in injury to marine mammals. It would be equivalent to the Space Shuttle landing at Edwards Air Force Base.

*Comment 18:* What is the source and support for the belief that marine mammals are less sensitive than humans to low-frequency sonic booms. If any, it must be qualified by the characteristics of the sonic boom other than frequency content (i.e., rise time, peak overpressure, duration). The subsequent statements about humans are irrelevant without qualification of the parameters of sonic booms produced by various aircraft. The narrative suggests that humans have been adopted as a standard for comparison to pinnipeds.

*Response:* References for these statements were provided in the proposed authorization notice. However, until more empirical work on the effects of sonic boom noise on pinnipeds becomes available, information on the effects on surrogate species, such as humans, becomes the best scientific information available. When the results from research on impacts from sonic booms are published, NMFS presumes that such research will provide the characteristics of the sonic boom (i.e., frequency content, rise time, peak overpressure, duration). This will then allow more accurate comparisons between different sonic boom characteristics and a better assessment of impacts on pinnipeds and other marine mammals.

*Comment 19:* The report by Chappell (1980) was a summary of literature available until 1977. It has little relevance to considerations of potential impacts now, particularly several studies have demonstrated temporary and permanent auditory damage in mammals at substantially lower amplitudes. Further, the metrics restated are of limited use for evaluating impacts without reference to appropriate standards (and without

additional parameters). The statement needs some documentation, particularly with respect to rapid rise time, peak amplitude and duration; impulse noises created by large supersonic rockets (and their large plumes) are characterized by combinations of these metrics that create greater risk to auditory function than do other kinds of impulse noise. Therefore, the conclusion that effects will be temporary at most and the individual survival will not be affected lacks scientific support.

*Response:* The paper by Chappell (1980), although dated, appears to be the latest summarization of information that is available. A more recent discussion can be found in Richardson *et al.* (1995). While studies on pinniped TTS and permanent threshold shift injuries may have been conducted, literature searches have failed to reveal them. In addition, the commenter did not provide references for this data. As a result, the information provided in the proposed authorization is considered to be the best science available at this time.

*Comment 20:* The mild boom that impacted Pt. Bennett (during the 1991 Titan IV launches), where the behavioral observations were made had a sound exposure level of 86.2 dB (MXFA). The peak values indicated in the Notice were recorded over 5 miles away at the east end of SMI. Pre-launch predictions had indicated that no sonic boom should impact Pt. Bennett during the launch. The two impulse noises (sonic boom on Nov. 7, 1991; explosion on Aug. 2, 1993) that were recorded at Pt. Bennett during Titan IV launches were quite mild relative to the booms that are expected to impact pinnipeds on the NCI in and near zones of focusing. The behavioral observations reported in the Notice should be considered in context of those differences.

*Response:* Comment noted.

*Comment 21:* The discussion (on cumulative effects from noise) appears to be confused in its treatment of sonic boom propagation and impact compared to non-impulse characteristics. Attention should be paid to the potential impact of sonic booms on animals at and below the sea-surface, as highlighted by recent theoretical predictions of subsurface propagation of impulse noise energy.

*Response:* The statements contained in the proposed authorization notice appear supportable by the references. Marine mammals, at or near the surface of the water, would be subject to potential harassment by incurring a short-term TTS-injury, if they were within the relatively small area of a focused sonic boom. New information

(Dave Eidson, pers. comm, November 6, 1996) however, appears to support a hypothesis that, unlike aircraft sonic booms, which are the subject of most previous research on subsurface propagation, sonic booms from launch vehicles have, at most, a very small area of potential subsurface penetration. If true, it would further limit the potential for injury or harassment to subsurface marine mammals than was indicated in the previous Federal Register notice.

*Comment 22:* Statements on sonic boom effects rely on literature surveys and best guesses made in the late 1970s. Subsequent studies on other mammals have shown cause for greater concern for exposure to impulse noises of 2 psf and above depending on their characteristics, particularly those typical of loud and focused sonic booms generated by large supersonic space launch vehicles.

*Response:* NMFS is unaware of any recent studies on the effects of low-intensity sonic booms on any mammals relevant to the concern here, and the commenter did not provide references to support these statements. As mentioned above, new research has been identified to answer this concern.

*Comment 23:* My understanding was that the EA mentioned here was for launching Titan IV/NUS or Titan IV/Centaur from a new launch complex but that those plans were later cancelled. Although the issues for a launch program from SLC-4 are similar to those addressed in that EA, I believe the scope of the earlier EA does not match the scope of the current program. The earlier EAs considered that only SMI might be impacted by a sonic boom and that the odds of that happening were slight and so the concerns centered on the impacts of a focused boom should it occur. The current program appears to involve sonic boom impacts to one or more of the islands during most of the launches. If that is true then the previous EA would not seem applicable to the Titan IV and Titan II programs being considered now.

*Response:* 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). Impacts to marine mammals as a result of Titan II launches were evaluated in an EA published by the Air Force in 1989 (Air Force 1989). 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. The incidental harassment of marine mammals by the launch of the Titan IV on May 12, 1996, was authorized under NMFS regulations issued after the 1990 EA.

Because the scope of the applicant's activity has not been modified significantly from that addressed in the earlier EA, and because the Titan IV launches during this proposed 1-year authorization is not expected to result in a sonic boom impacting NCI, a new EA is unnecessary.

*Comment 24:* What consultation has been conducted regarding the northern fur seal?

*Response:* Although the northern fur seal is listed as depleted under the MMPA, the species is not listed as either threatened or endangered under the ESA. As a result, consultation under section 7 of the ESA is not necessary for this species. Consultation has been completed for the Guadalupe fur seal, the only pinniped listed under the ESA and inhabiting the NCI. Other listed species are either not believed to be affected by launching Titan II and Titan IV rockets from Vandenberg, or are not species under the jurisdiction of NMFS.

#### Conclusion

Based upon the information provided in the proposed authorization and these comments, NMFS has determined that the short-term impact of the launching of Titan II and Titan IV rockets is expected to result at worst, in a temporary reduction in utilization of the haulout as seals, sea lions or fur seals leave the beach for the safety of the water. These launchings are not expected to result in any reduction in the number of pinnipeds, and they are expected to continue to occupy the same area. 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 NCI are unlikely.

Therefore, since NMFS is assured that the taking will not result in more than the harassment (as defined by the MMPA Amendments of 1994) of a small number of harbor seals, northern elephant seals, California sea lions, northern fur seals and possibly Guadalupe fur seals; would have only a negligible impact on the species, and would result in the least practicable impact on the stock, NMFS determined that the requirements of section

101(a)(5)(D) had been met and the incidental harassment authorization was issued.

Dated: November 27, 1996.

Patricia A. Montanio,

*Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 96-30834 Filed 12-03-96; 8:45 am]

BILLING CODE 3510-22-F

#### [I.D. 112696B]

#### Permits; Foreign Fishing

In accordance with a Memorandum of Understanding with the Secretary of State, the National Marine Fisheries Service publishes for public review and comment summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to operate in the exclusive economic zone under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). This notice concerns the receipt of an application from the Government of Lithuania requesting authorization to conduct joint venture operations in 1997 in the Northwest Atlantic Ocean for Atlantic mackerel. The large stern trawler/processors BANGA and KIRAS are identified as the vessels that will receive Atlantic mackerel from U.S. vessels. Send comments on this application to:

National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910; and/or to the Regional Fishery Management Councils listed below:

Chris Kellogg, Acting Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906, (617) 231-0422;

David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19901-6790, (302) 674-2331.

For further information contact Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713-2337.

Dated: November 27, 1996

Gary Matlock,

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 96-30833 Filed 12-3-96; 8:45 am]

BILLING CODE 3510-22-F

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Cancellation of a Limit on Certain Wool Textile Products Produced or Manufactured in India

November 27, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs cancelling a limit.

**EFFECTIVE DATE:** December 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The United States Government has decided to rescind the restraint on imports of woven wool shirts and blouses in Category 440 from India established on April 18, 1996, pursuant to Article 6.10 of the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to cancel the limit established for Category 440 for the period April 18, 1996 through April 17, 1997.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 20, 1995). Also see 61 FR 16760, published on April 17, 1996.

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

November 27, 1996.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on April 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in India and exported during the period which began