Department sent a no shipment inquiry to Customs. On April 19, 2002, in response to the no shipment inquiry, Customs sent a list of entries that had not been liquidated. The Department reviewed the data which did not show any additional shipments from TAMSA other than entries that had already been investigated. The Department has not been able to identify any other entries for consumption from TAMSA during the POR. See Memo to the File dated July 24, 2002. Since there were no entries for consumption during the POR of OCTG from TAMSA, and because Hylsa timely withdrew its request for review, we are rescinding this review in accordance with the Department's practice. The cash deposit rates for these firms will continue to be the rates established in the most recently completed segment of this proceeding.

This notice is issued and published in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: August 27, 2002.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–22358 Filed 8–30–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052802E]

Small Takes of Marine Mammals Incidental to Specified Activities; Missile Launch Operations from San Nicolas Island, 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 pinnipeds by harassment incidental to missile launch operations from the western end of San Nicolas Island, CA (SNI) has been issued to the U.S. Navy, Naval Air Warfare Center Weapons Division (NAWCWD), Point Mugu, CA.

DATES: Effective from August 26, 2002, until August 26, 2003.

ADDRESSES: The application, authorization and a list of references used in this document are available by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here. Publications referenced in this document are available for viewing, by appointment during regular business hours, at this address.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, NMFS, (301) 713–2322, ext. 128 or Christina Fahy, NMFS, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers 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 either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an 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.''

Subsection 101(a)(5)(D) of the MMPA established 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. The MMPA defines ''harassment'' as:

> ...any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) 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 (Level B harassment).

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 April 9, 2002, NMFS received an application from the Naval Air Weapons Station, China Lake (NAWS) requesting an authorization for the harassment of small numbers of three species of marine mammals incidental to target missile launch operations conducted by NAWCWD on SNI, one of the Channel Islands in the Southern California Bight. These operations may occur at any time during the year depending on test and training requirements and meteorological and logistical limitations. On occasion, two or three launches may occur in quick succession on a single day. In 2001, NAWCWD conducted 9 launches of Vandal and similar sized targets and 3 launches of subsonic targets from SNI. NAWS' request for an authorization to incidentally harass small numbers of marine mammals on SNI in 2002 and 2003 anticipates 15 launches of Vandal (or similar sized) vehicles from the Alpha Launch Complex on SNI and 5 launches of smaller subsonic missiles and targets for one year from either the Alpha Launch Complex or Building 807 commencing in August 2002. A detailed description of the operations is contained in the application (NAWS, 2002) which is available upon request (see **ADDRESSES**).

Measurement of Airborne Sound Levels

The types of sounds discussed in NAWS' IHA application are airborne and impulsive. For this reason, the applicant has referenced both pressure and energy measurements for sound levels. For pressure, the sound pressure level (SPL) is described in terms of decibels (dB) re micro-Pascal (micro-Pa), and for energy, the sound exposure level (SEL) is described in terms of dB re micro-Pa2 -second. In other words, SEL is the squared instantaneous sound pressure over a specified time interval, where the sound pressure is averaged over 5 percent to 95 percent of the duration of the sound (in this case, one second).

Airborne noise measurements are usually expressed relative to a reference pressure of 20 micro-Pa, which is 26 dB above the underwater sound pressure reference of 1 micro-Pa. However, the conversion from air to water intensities is more involved than this (Buck, 1995)

and beyond the scope of this document. Also, airborne sounds are often expressed as broadband A-weighted sound levels (dBA). A-weighting refers to frequency-dependent weighting factors applied to sound in accordance with the sensitivity of the human ear to different frequencies. While it is unknown whether the pinniped ear responds similarly to the human ear, a study by C. Malme (pers. commun. to NMFS, March 5, 1998) found that for predicting noise effects, A-weighting is better than unweighted pressure levels because the pinniped's highest hearing sensitivity is at higher frequencies than that of humans. As a result, whenever possible, NMFS provides both A-weighted and unweighted sound pressure levels; where not specified for in-air sounds, A-weighting is implied (ANSI, 1994). In this document, all sound levels have been provided with A-weighting.

Description of the Specified Activity

Target missile launches from SNI are used to support test and training activities associated with operations on the Sea Range off Point Mugu, CA. SNI is under the land management responsibility of NAWS; however, planned missile and other target launches are conducted by NAWCWD. In general, two types of launch vehicles are used, the Vandal and the smaller subsonic missiles and targets. Other vehicles used would be similar in size and weight or slightly smaller and would have characteristics generally similar to the Vandal.

Vandal Target Missiles

The Vandal target missile is a relatively large, air-breathing (ramjet) vehicle with no explosive warhead that is designed to provide a realistic simulation of the mid-course and terminal phase of a supersonic anti-ship cruise missile. These missiles are 7.7 meters (m) (25.2 feet (ft)) in length with a mass at launch of 3,674 kilograms (kg) (8,100 lbs) including the solid propellant booster. There are variants of the Vandal; they all have the same dimensions, but differ in their operational range. The Vandals are remotely controlled, non-recoverable missiles. These and most other targets are launched from a land-based launch site (hereafter referred to as Alpha Launch Complex) on the west-central part of SNI. The Alpha Launch Complex is 192 m (630 ft) above sea level and is approximately 2 kilometers (km)(1.25 miles (mi)) from the nearest pinniped haul-out site. Launch trajectories from Alpha Launch Complex vary from a near-vertical liftoff, crossing the west end of SNI at an altitude of approximately 3,962 m (13,000 ft) to a nearly horizontal liftoff, crossing the west end of SNI at an altitude of approximately 305 m (1,000 ft).

Vandal launches produce the strongest noise source originating from aircraft or missiles in flight over SNI beaches. Sound measurements were collected during two Vandal launches in 1997 and 1999 and are reported in Burgess and Greene (1998) and Greene (1999). Greene (1999) reported that received A-weighted SPL were found to range from 123 dB (re 20 micro-Pa) (SEL of 126 dB re 20 micro-Pa2 -sec) at 945 m (3,100 ft) to 136 dB (re 20 µPa) (SEL of 131 dB re 20 micro-Pa2 -sec) at 370 m (1,215 ft). The most intense sound exposure occurred during the first 0.3 to 1.9 seconds after launch.

Subsonic Targets and Other Missiles

The subsonic targets and other missiles are small unmanned aircraft that are launched using jet-assisted take-off (JATO) rocket bottles. Once launched, they continue offshore where they are used in training exercises to simulate various types of subsonic threat missiles and aircraft. The larger target, BQM–34, is 7 m (23 ft) long and has a mass of approximately 1,134 kg (2,500 lbs) plus the JATO bottle. The smaller BQM–74, is 420 centimeters (cm) (165.5 inches (in)) long and has a mass of approximately 250 kg (550 lbs) plus the JATO bottle. Other types of small missiles that may be launched include the Exocet, Tomahawk, and Rolling Airframe Missile (RAM). All of these smaller targets are launched from either the Alpha Launch Complex or from Building 807, a second launch site on the west end of SNI. Building 807 is approximately 10 m (30 ft) above sea level and accommodates several fixed and mobile launchers that range from 30 m (98 ft) to 150 m (492 ft) from the nearest shoreline. For these smaller missiles, launch trajectories from Building 807 range from 6 to 45 degrees and cross over the nearest beach at altitudes from 9 to 183 m (30 to 600 ft).

Sound measurements were collected from the launch of a BQM–34S at Naval Air Station, Point Mugu (NAS) in 1997. Burgess and Greene (1998) found that for this launch, the A-weighted SPL ranged from 92 dB (re 20 micro-Pa) (SEL of 102.2 dB re 20 micro-Pa2 -sec) at 370 m (1,200 ft) to 145 dB (re 20 micro-Pa) (SEL of 142.2 dB re 20 micro-Pa2 -sec) at 15 m (50 ft). These estimates are approximately 20 dB lower than that of a Vandal launch at similar distances (Greene, 1999).

General Launch Operations

Aircraft and helicopter flights between NAS on the mainland, the airfield on SNI and the target sites in the Sea Range will be a routine part of any planned launch operation. These operational flights do not pass at low level over the beaches where pinnipeds are expected to be hauled out. In addition, movements of personnel are restricted near the launch sites 2 hours prior to a launch, no personnel are allowed on the western end of SNI during Vandal launches, and various environmental protection restrictions exist near the island's beaches during other times of the year.

Comments and Responses

On July 1, 2002 (67 FR 44180), NMFS published a notice of receipt and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Marine Mammal Commission (MMC).

MMPA Concerns

Comment 1: The MMC believes that NMFS' efforts to redefine Level B harassment administratively to include only ''biologically significant'' disturbance is ill-advised and contrary to the statutory definition of the term. In this regard, the MMC refers NMFS to letters from the MMC dated December 7, 2000, January 26, 2001, and February 7, 2001, for a more complete discussion of this issue.

Response: A definition of Level B harassment is provided in 50 CFR 216.3 and stated previously in this document. The current interpretation of this regulatory definition by NMFS, as applied to incidental takings, is that one or more pinnipeds blinking its eyes, lifting or turning its head, or moving a few feet along the beach as a result of a human activity should not be considered a ''take'' under the MMPA definition of harassment. As stated by NMFS previously (see 66 FR 9291, February 7, 2001), if the only reaction to the activity on the part of the marine mammal is within the normal repertoire of actions that are required to carry out the ''behavioral pattern'', NMFS considers the activity not to have caused an incidental disruption of the ''behavioral pattern'', provided the animal's reaction is not otherwise significant due to length or severity, and therefore the reaction is not considered a take by Level B harassment. As stated by NMFS previously (see 66 FR 41834, August 9, 2001), in 50 CFR 17.3, the U.S. Fish and Wildlife Service (USFWS) defines harassment as: ''... actions that

create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, and sheltering.'' NMFS supports such a definition when marine mammals are taken incidental to the conduct of missile launches. NMFS believes that interpretation of the definition of Level B harassment to include every potential or possible reaction is inappropriate for the issuance of IHAs since the reaction does not have important biological context and would needlessly increase the affected universe of individuals and activities in potential violation of the MMPA unless holding an IHA or a Letter of Authorization issued under section 101(a)(5)(A) of the MMPA.

In addition, NMFS' decision to issue or deny an IHA request is based on the best scientific evidence available showing that the total taking by the specified activity during the specified time period will have a negligible impact on species or stocks of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks of marine mammals intended for subsistence uses. In the Determinations section of this document, NMFS states that it has determined that the short-term impact of the activities will result, at worst, in a temporary modification in behavior by certain species and that this behavioral modification, or change, is expected to have a negligible impact on the animals. Where negligible impact is defined in regulation (50 CFR 216.103) as: ''an 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''.

Comment 2: The MMC recommends that NMFS, if it has not already done so, consult with the Navy to determine whether it would be appropriate to seek a more comprehensive, 5–year authorization for harassment, and other possible types of taking, under section 101(a)(5)(A) of the MMPA, rather than separate, 1–year authorizations, under section 101(a)(5)(D) of the Act.

Response: The Navy applied for the IHA, under section 101(a)(5)(D) of the MMPA, in order to be in compliance with the law during implementation of its 2002–2003 SNI launch schedule. NAWCWD is planning to submit an application for a 5–year authorization, under section 101(a)(5)(A) of the MMPA in the near future.

Endangered Species Act(ESA) Concerns

Comment 3: The MMC recommends that NMFS, if it has not already done so, advise the applicant to consult with the USFWS concerning the need for an authorization to take small numbers of sea otters incidental to the proposed activities.

Response: Under the authority of Public Law 99–625, the USFWS established an experimental population of California sea otters at SNI. In 1985, the ESA was amended to allow for the establishment of this experimental population of California sea otters on SNI (H.R. 1027 Committee Report, May 15, 1985). As part of these 1985 amendments, section 5(c) describes the status of the experimental sea otter population under the ESA. This section includes a limited exception to section 7 consultations for agency actions proposed to be carried out directly by a military department and occurring within the California sea otter translocation zone. This limited exception means that for purposes of defense-related actions within the SNI translocation zone, sea otters in the experimental population shall be treated as if it was proposed for listing under the ESA and therefore subject to the informal consultation process under section 7(a)(4) of the ESA. The Navy has consulted with USFWS regarding the take of sea otters incidental to missile launch operations on SNI. However, no takes of sea otters are expected as a result of launch activities.

Mitigation Concerns

Comment 4: The MMC recommends that any authorization issued to the applicant specify that, if a mortality or serious injury of a seal or sea lion occurs which appears to be related to target launch activities, operations be suspended while the Service determines whether steps can be taken to avoid further injuries or mortalities or whether an incidental take authorization under section 101(a)(5)(A) of the MMPA to cover such taking is needed.

Response: NMFS has no authority to suspend missile launch operations. Such authority is under the jurisdiction of the Department of the Navy and is not within the jurisdiction of the Secretary of Commerce. The IHA authorizes the unintentional incidental take of marine mammals in connection with specified activities and prescribes methods of taking and other means of reducing potential adverse impacts on the species or stocks and their habitats. Therefore, NMFS does have the authority to suspend the incidental harassment authorization if: (1) the conditions and requirements prescribed in the authorization are not being substantially complied with; or (2) the authorized taking, either individually or in combination with other authorizations, is having, or may have, more than a negligible impact on the species or stock. Because taking a marine mammal by mortality or serious injury incidental to missile launch activities from SNI is not authorized by this incidental harassment authorization, the authorization for incidental harassment may be suspended if a mortality or serious injury of a seal or sea lion is determined to be related to missile launch activities. Prior to suspension of an incidental harassment authorization NMFS must satisfy the statutory requirement of notice and public comment, under section 101(a)(5)(C) of the MMPA, unless NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stock(s) concerned. The level of risk would depend on the level of taking, the status of the affected stock(s), and the likelihood of additional mortality or serious injury takings. The IHA issued to NAWCWD contains the following mitigation measure related to morality and serious injury: If injurious or lethal take is discovered during monitoring, launch procedure and monitoring methods must be reviewed (in cooperation with NMFS) and appropriate changes made prior to the next launch.

Monitoring Concerns

Comment 5: The MMC recommends that prior to issuing the requested authorization, NMFS should be satisfied that the applicant's monitoring program is sufficient to detect the effects of the proposed target launches, including any mortality and/or serious injury that results from startle responses or stampedes, on entire haul-out aggregations.

Response: The Navy's proposed video monitoring program provides the best compromise between the desire to conduct detailed surveys of the haul-out areas for mortality and/or serious injury, and the logistical limitations and further risks in conducting such surveys. Due to the physical characteristics of many of the haul-out areas, only observers looking directly down at the rear of the areas, or from close offshore, would be able to detect injured or dead animals in these groups. After much discussion with biologists with many years of experience observing the pinnipeds on SNI, the Navy concluded that such attempts to survey the haul-out groups at close range prior to and following launches was undesirable on the basis

that such searches would result in significant disturbance to the pinnipeds, and greater risk of the types of injury the Navy is attempting to minimize. In addition, safety considerations limit access to the area before launches. Also, there are sensitive biological and cultural resources in the haul-out areas that cannot be disturbed (special restrictions are in place to limit personnel movements near the beaches). SNI has been owned and operated by the Navy for more than 50 years and the island has been used previously for missile and target launches. Despite this history of use, the Navy is not aware of any data to suggest that there has been an increase in the mortality rates for those pinniped species hauling out on SNI. In addition, surveys suggest that by far the greatest source of mortality for pinnipeds on the island are El Ni~no events. The Navy will be using three hi-resolution video cameras (one of which has full remote tilt, pan, and zoom capabilities), and two portable cameras, to monitor the haul-out groups. The Navy believes these cameras will provide the least invasive means of assessing the pinnipeds' responses to target missile launches, and the most practicable means to detect the (unlikely) occurrence of injured or dead pinnipeds following a launch.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Channel Islands/southern California Bight ecosystem and its associated marine mammals can be found in several documents (Le Boeuf and Brownell, 1980; Bonnell et al., 1981; Lawson et al., 1980; Stewart, 1985; Stewart and Yochem, 2000; Sydeman and Allen, 1999) and is not repeated here.

Marine Mammals

Many of the beaches in the Channel Islands provide resting, molting or breeding places for species of pinnipeds including: northern elephant seals (Mirounga angustirostris), harbor seals (Phoca vitulina), California sea lions (Zalophus californianus), northern fur seals (Callorhinus ursinus), and Steller sea lions (Eumetopias jubatus). On SNI, three of these species, northern elephant seals, harbor seals, and California sea lions, can be expected to occur on land in the area of the proposed activity either regularly or in large numbers during certain times of the year. Descriptions of the biology and distribution of these three species and others in the region can be found in Stewart and Yochem (2000, 1994), Sydeman and Allen (1999), Barlow et al. (1993), Lowry et al. (1996), Schwartz (1994), Lowry (1999) and several other documents (Barlow et al., 1997; NMFS, 2000; NMFS, 1992; Koski et al., 1998; Gallo-Reynoso, 1994; Stewart et al., 1987). Please refer to those documents and the application for further information on these species.

Potential Effects of Target Missile Launches and Associated Activities on Marine Mammals

Sounds generated by the launches of Vandal target missiles and smaller subsonic targets and missiles (BQM–34 or BQM–74 type) as they depart sites on SNI towards operational areas in the Point Mugu Sea Range have the potential to take marine mammals by harassment. Taking by harassment will potentially result from these launches when pinnipeds on the beaches near the launch sites are exposed to the sounds produced by the rocket boosters and the high-speed passage of the missiles as they depart the island on their routes to the Sea Range. Extremely rapid departure of the Vandal and smaller targets means that pinnipeds would be exposed to increased sound levels for very short time intervals (i.e., a few seconds). Noise generated from aircraft and helicopter activities associated with the launches may provide a potential secondary source of marine mammal harassment. The physical presence of aircraft could also lead to non-acoustic effects on marine mammals involving visual or other cues. There are no anticipated effects from human presence on the beaches, since movements of personnel are restricted near the launch sites two hours prior to launches for safety reasons.

Reactions of pinnipeds on the western end of SNI to Vandal target launches have not been well-studied, but based on studies of other rocket launch activities and their effects on pinnipeds in the Channel Islands (Stewart et al., 1993), anticipated impacts can be predicted. In general, other studies have shown that responses of pinnipeds on beaches to acoustic disturbance arising from rocket and target missile launches are highly variable. This variability may be due to many factors, including species, age class, and time of year. Among species, northern elephant seals seem very tolerant of acoustic disturbances (Stewart, 1981), whereas harbor seals (particularly outside the breeding season) seem more easily disturbed. Research and monitoring at Vandenberg Air Force Base found that prolonged or repeated sonic booms, very strong sonic booms or sonic booms accompanying a visual stimulus, such as a passing aircraft, are most likely to stimulate seals to leave the haul-out area and move into the water. During three launches of Vandal missiles from SNI, California sea lions near the launch track line were observed from video recordings to be disturbed and to flee (both up and down the beach) from their former resting positions. Launches of the smaller BQM–34 targets from NAS have not normally resulted in harbor seals leaving their haul-out area at the mouth of Mugu Lagoon, which is approximately 3.2 km (2 mi) from the launch site. An Exocet missile launched from the west end of SNI appeared to cause far less disturbance to hauled out California sea lions than Vandal launches. Given the variability in pinniped response to acoustic disturbance, the Navy conservatively assumes that biologically significant disturbance (i.e. takes by harassment) will sometimes occur upon exposure to launch sounds with SEL's of 100 dBA (re 20 micro-Pa2 -sec) or higher.

From Lawson et al. (1998), the Navy determined a conservative estimate of the SEL at which temporary threshold shift (TTS) (Level B harassment) may be elicited in harbor seals and California sea lions (SEL of 145 dB re 20 micro-Pa2 -sec) and northern elephant seals (SEL of 165 dB re 20 micro-Pa2 -sec). The sound levels necessary to elicit mild TTS in captive California sea lions and harbor seals exposed to impulse noises, such as sonic booms, were tens of decibels higher (Bowles et al., 1999) than sound levels measured during Vandal launches (Burgess and Greene, 1998; Greene, 1999). This evidence, in combination with the known sound levels produced by missiles launched from SNI (described later in this document), suggests that no pinnipeds will be exposed to TTS-inducing SELs during planned launches.

Based on modeling of sound propagation in a free field situation, Burgess and Greene (1998) data were used by the Navy to predict that Vandal target launches from SNI could produce a 100–dBA acoustic contour that extends an estimated 4,263 m (13,986 ft) perpendicular to its launch track. In other words, Vandal target launch sounds are predicted to exceed the SEL (100 dBA) disturbance criteria out to a distance of 4,263 m (13,986 ft) from the Alpha Launch Complex. Northern elephant seals, harbor seals, and California sea lions haul out in areas within the perimeter of this 100–dBA contour for Vandal launches. For BQM–34 launches from Alpha Launch Complex, the Navy assumes that the 100 dBA contour extends an estimated 1,372 m (4,500 ft), perpendicular to its launch track (C. Malme, Engineering and Scientific Services, Hingham, MA,

unpublished data). Along the launch track and ahead of the BQM–34, the 100 dBA contour extends a shorter distance (549 m or 1,800 ft). For the smaller BQM–74 and Exocet missiles, the Navy predicts that the 100 dBA contours will be smaller still. The free field modeling scenario used to predict these acoustic contours does not account for transmission losses caused by wind, intervening topography, and variations in launch trajectory or azimuth. Therefore, the predicted 100 dBA contours may be smaller at certain beach locations and for different launch trajectories.

In general, the extremely rapid departure of the Vandal and smaller targets means that pinnipeds could be exposed to increased sound levels for very short time intervals (a few seconds) potentially leading to alert and startle responses from individuals on haul out sites in the vicinity of launches. Since preliminary observations of the responses of pinnipeds to Vandal launches at SNI have not shown injury, mortality, or extended biological disturbance, the Navy anticipates that the effects of the planned target launches will have no more than a negligible impact on pinniped populations.

Given that this activity will happen infrequently, and will produce only brief, rapid-onset sounds, it is unlikely that pinnipeds hauled out on beaches at the western end of SNI will exhibit much, if any, habituation to target missile launch activities. In addition, the infrequent and brief nature of these sounds will cause masking for not more than a very small fraction of the time (usually less than 2 seconds per launch) during any single day. Therefore, the Navy assumes that these occasional and brief episodes of masking will have no significant effects on the abilities of pinnipeds to hear one another or to detect natural environmental sounds that may be relevant to the animals.

Numbers of Marine Mammals Expected to Be Taken by Harassment

NAWS estimates that the following numbers of marine mammals may be subject to Level B harassment, as defined in 50 CFR 216.3:

Species by MMPA Stock Designation	Minimum Abundance Estimate of Stock[1]	Harassment Takes in 2002/2003
Northern Elephant Seal (California Stock)	51,625	<2,390
Harbor Seal (California Stock)	27,962	<457
California Sea Lion (U.S. Stock)	109,854	10,086
Northern Fur Seal (San Miguel Stock)	2,336	3

[1]From 1999–2000 NMFS Marine Mammal Stock Assessment Reports.

Effects of Target Missile Launches and Associated Activities on Subsistence Needs

There are no subsistence uses for these pinniped species in California waters, and, thus, there are no anticipated effects on subsistence needs.

Effects of Target Missile Launches and Associated Activities on Marine Mammal Habitat on SNI

During the effectiveness period of this IHA, harbor seals, California sea lions, and northern elephant seals will use various beaches around SNI as places to rest, molt, and breed. These beaches consist of sand (e.g., Red Eye Beach), rock ledges (e.g., Phoca Beach) and rocky cobble (e.g., Vizcaino Beach). The pinnipeds do not feed when hauled out on these beaches, and the airborne launch sounds will not persist in the water near the island for more than a few seconds. Therefore, the Navy does not expect that launch activities will have any impact on the food or feeding success of these animals. The solid rocket booster from the Vandal target and the JATO bottles from the BMQs are jettisoned shortly after launch and fall into the sea west of SNI. While it is theoretically possible that one of these boosters might instead land on a beach, the probability of this occurring is very low. Fuel contained in the boosters and JATO bottles is consumed rapidly and completely, so there would be no risk of contamination even if a booster or bottle did land on the beach. Overall, the proposed target missile launches and associated activities are not expected to cause significant impacts on habitats or on food sources used by pinnipeds on SNI.

Mitigation

To avoid additional harassment to the pinnipeds on beach haul out sites and to avoid any possible sensitizing or predisposing of pinnipeds to greater responsiveness towards the sights and sounds of a launch, NAWCWD Point Mugu will limit its activities near the beaches in advance of launches. Existing safety protocols for Vandal launches provide a built-in mitigation measure. That is, personnel are normally not allowed near any of the pinniped beaches close to the flight track on the western end of SNI within two hours prior to a launch. Where practicable, NAWCWD Point Mugu will adopt the following additional mitigation measures when doing so will not compromise operational safety requirements or mission goals: (1) The Navy will limit launch activities during pinniped pupping seasons, particularly harbor seal pupping season; (2) the Navy will not launch target missiles at low elevation (under 305 m (1,000 ft)) on launch azimuths that pass close to beach haul-out site(s); (3) the Navy will avoid multiple target launches in quick succession over haul-out sites, especially when young pups are present; and, (4) the Navy will limit launch activities during the night.

Monitoring

As part of its application, NAWS provided a proposed monitoring plan, similar to that adopted for the 2001–2002 IHA (see 66 FR 41834, August 9, 2001), for assessing impacts to marine mammals from Vandal and smaller subsonic target and missile launch activities on SNI. This monitoring plan is described in their application (NAWS, 2002).

The Navy will conduct the following monitoring during 2002–2003:

Land-Based Monitoring

In conjunction with a biological contractor, the Navy will continue its land-based monitoring program to assess effects on the three common pinniped species on SNI: northern elephant seals, harbor seals, and California sea lions. This monitoring would occur at three different sites of varying distance from the launch site before, during, and after each launch. The monitoring would be via digital video cameras.

During the day of each missile launch, the observer would place three digital video cameras overlooking chosen haul out sites. Each camera would be set to record a focal subgroup within the haul out aggregation for a maximum of 4

hours or as permitted by the videotape capacity.

Following each launch, all digital recordings will be transferred to DVDs for analysis. A DVD player/computer with high-resolution freeze-frame and jog shuttle will be used to facilitate distance estimation, event timing, and characterization of behavior. Details of analysis methods can be found in LGL Ltd. Environmental Research Associates et al. (LGL, 2002).

Acoustical Measurements

During each launch, the Navy would obtain calibrated recordings of the levels and characteristics of the received launch sounds. Acoustic data would be acquired using three Autonomous Terrestrial Acoustic Recorders (ATAR) at three different sites of varying distances from the target's flight path. ATARs can record sounds for extended periods (dependent on sampling rate) without intervention by a technician, giving them the advantage over traditional digital audio tape (DAT) recorders should there be prolonged launch delays of as long as 10 hours. Insofar as possible, acoustic recording locations would correspond with the sites where video monitoring is taking place. The collection of acoustic data would provide information on the magnitude, characteristics, and duration of sounds that pinnipeds may be exposed to during a launch. In addition, the acoustic data can be combined with the behavioral data collected via the land-based monitoring program to determine if there is a dose-response relationship between received sound levels and pinniped behavioral reactions. Once collected, sound files will be transferred onto compact discs (CDs) and sent to the acoustical contractor for sound analysis.

For further details regarding the installation and calibration of the acoustic instruments and analysis methods refer to LGL (2002).

Reporting Requirements

Under the IHA, NAWS will provide an initial report on activities to NMFS after the first 90 days of the authorization period. This report will summarize the timing and nature of the launch operation(s), summarize pinniped behavioral observations, and estimate the amount and nature of all takes by harassment or in other ways. In the event that any cases of pinniped mortality are determined by trained biologists to result from launch activities, this information will be reported to NMFS immediately.

A draft final technical report will be submitted to NMFS 120 days prior to the expiration of the IHA. This technical report will provide full documentation of methods, results, and interpretation of all monitoring tasks for launches during the first 6 months of the IHA period, plus preliminary information for launches during months 7 and 8.

The revised final technical report, including all monitoring results during the authorization, will be due 90 days after the end of the 1–year IHA period.

ESA

NAWS has not requested the take of any listed species nor is any listed species under NMFS jurisdiction expected to be impacted by these activities. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required at this time.

National Environmental Policy Act (NEPA)

In accordance with section 6.01 of the National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act , May 20, 1999), NMFS has analyzed both the context and intensity of this action and determined, based on a programmatic NEPA assessment conducted on the impact of NMFS' rulemaking for the issuance of IHAs (61 FR 15884; April 10, 1996); an Environmental Assessment and Finding of No Significant Adverse Impact conducted by NMFS on this action in 2001; the NAWCWD's March, 2002 Final Environmental Impact Statement to assess the effects of its ongoing and proposed operations in the Sea Range of Point Mugu; and the content and analysis of NAWS's 2002 request for an IHA that the proposed issuance of this IHA to NAWS by NMFS will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27. Therefore, based on this analysis, the action of issuing an IHA for these activities meets the definition of a ''Categorical Exclusion'' as defined under NOAA Administrative Order 216–6 and is exempted from further environmental review.

Coastal Zone Management Act Consistency

On February 14, 2001, by a unanimous vote, the State of California Coastal Commission concluded that, with the monitoring and mitigation commitments the Navy has incorporated into their various testing and training activities on the Point Mugu Sea Range, including activities on SNI, and including the commitment to enable continuing Commission staff review of finalized monitoring plans and ongoing monitoring results, the activities are consistent with the marine resources, environmentally sensitive habitat and water quality policies (Sections 30230, 30240, and 30231) of the California Coastal Act.

Determinations

Based on the evidence provided in the application, the several NEPA documents, and this document, and taking into consideration the comments submitted on the application and proposed authorization notice, NMFS has determined that there will be no more than a negligible impact on marine mammals from the issuance of the harassment authorization to NAWCWD Point Mugu. NMFS is assured that the short-term impact of conducting missile launch operations from SNI in the Channel Islands off southern California will result, at worst, in a temporary modification in behavior by certain species of pinnipeds. While behavioral modifications may be made by these species as a result of launch activities, this behavioral change is expected to have no more than a negligible impact on the pinniped species and stocks.

Since the number of potential harassment takings of northern elephant seals, harbor seals, California sea lions, and northern fur seals is estimated to be small, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document and required under the IHA, NMFS has determined that the requirements of section 101(a)(5)(D) of the MMPA have been met and the authorization can be issued.

Authorization

NMFS has issued an IHA to NAWCWD Point Mugu for 15 launches of Vandal (or similar) missiles and 5 launches of smaller subsonic targets from San Nicolas Island, CA for a 1–year period, provided the mitigation, monitoring, and reporting requirements described in this document and the IHA are undertaken.

Dated: August 26, 2002.

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Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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