2. The Judges Panel will ensure that individuals on site visit teams for the Award finalists have no conflict of interest with respect to the finalists. The Panel will also review recommendations from site visits, and recommend Award recipients.

3. The Judges Panel will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act.

4. The Panel will report to the Director of NIST.

Membership

1. The Judges Panel is composed of nine members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. There will be a balanced representation from U.S. service and manufacturing industries, education, and health care and will include members familiar with quality improvement in their area of business. No employee of the Federal Government shall serve as a member of the Judges Panel.

2. The Judges Panel will be appointed by the Secretary of Commerce and will serve at the discretion of the Secretary. The term of office of each Panel member shall be three years. All terms will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Judges Panel shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 et seq.

2. The Judges Panel will meet four times per year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are one to four days in duration. In addition, each Judge must attend an annual three-day Examiner training course.

3. Committee meetings are closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, and in accordance with section 552b(c)(4) of title 5, United States Code. Since the members of the Judges Panel examine records and discuss Award applicant data, the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person may be privileged or confidential.

II. Nomination Information

1. Nominations are sought from all U.S. service and manufacturing industries, education, and health care as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, education and health care organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledge the responsibilities of serving on the Judges Panel, and will actively participate in good faith in the tasks of the Judges Panel. Besides participation at meetings, it is desired that members be able to devote the equivalent of seventeen days between meetings to either developing or researching topics of potential interest, reading Baldrige applications, and so forth, in furtherance of their Committee duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Judge Panel membership.

Dated: August 2, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–19979 Filed 8–8–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071701E]

Small Takes of Marine Mammals Incidental to Specified Activities; Missile Launch Operations From San Nicolas Island, California

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 July 31, 2001, until July 31, 2002.

ADDRESSES: The application, authorization, supporting documentation, Environmental Assessment, 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.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, NMFS, (301) 713–2322, ext. 106 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 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.

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing incidental harassment authorizations (IHAs) under section 101(a)(5)(D) of the MMPA for activities in Arctic waters. For additional information on the procedures to be followed for this authorization, please refer to that document.

Summary of Request

On February 5, 2001, NMFS received an application from NAWCWD Point

Mugu requesting an authorization for the harassment of small numbers of four species of pinnipeds incidental to target missile launch operations 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. The NAWCWD Point Mugu's request for an authorization to incidentally harass small numbers of marine mammals on SNI anticipates 15 launches of Vandal (or similar sized) vehicles from the Alpha Launch Complex on SNI and 5 launches of smaller subsonic targets from either the Alpha Launch Complex or Building 807 for 1 year and commencing as early in 2001 as possible.

Measurement of Airborne Sound Levels

The types of sounds discussed in NAWCWD Point Mugu's IHA application are airborne and impulsive. For this reason, this document and the application references 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-Pa^2-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 similar to the human ear, a study by C. Malme (pers. commun. to NMFS, March 5, 1998) found that for predicting noise effects, A-weighted 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 NAWCWD Point Mugu Sea Range. In general, two types of launch vehicles are used, the Vandal and the smaller subsonic 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 pounds (lbs)) including the solid propellant booster. The three variants of the Vandal (standard, ER and ERR) all have the same dimensions but differ in their operational range. The Vandals are remotely-controlled, non-recoverable missiles that are launched from a land-based launch site (hereafter referred to as Alpha Launch Complex) on the western part of SNI. The Alpha Launch Complex is 153 m (502 ft) above sea level and is approximately 6 kilometers (km) (3.7 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-Pa^2-sec) at 945 m (3,100 ft) to 136 dB (re 20 µPa) (SEL of 131 dB re 20 micro-Pa^2-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 3 m (10 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. 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 (NAS) Point Mugu 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-Pa^2-sec) at 370 m (1,200 ft) to 145 dB (re 20 micro-Pa) (SEL of 142.2 dB re 20 micro-Pa^2-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 Point Mugu 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 two 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 April 23, 2001 (66 FR 20435), 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) and SRS Technologies.

MMPA Concerns

Comment 1: The MMC believes that the Service's 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 Commission refers the Service to letters from the Commission dated December 7, 2000, January 26, 2001, and February 7, 2001, for a more complete discussion of this issue.

Response. Level B harassment is currently defined in regulation (50 CFR 216.3) as: ''Any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.'' The current interpretation of this regulatory definition by NMFS, as applied to incidental takings, is that a single pinniped 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. NMFS notes that, in 50 CFR 17.3, the U.S. Fish and Wildlife Service 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' 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 Preliminary Conclusions section of the Federal Register notice, the Service 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. 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 the Service, 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 incidental harassment authorization, under section 101(a)(5)(D) of the MMPA, in order to be in compliance with the law during implementation of its 2001-2002 San Nicolas Island launch schedule. NAWCWD intends to use this 1-year incidental harassment authorization to develop an appropriate long-term monitoring plan that will become part of any 5-year authorization request. NAWCWD is currently working on a new contract to prepare the application for a 5-year authorization, under section 101(a)(5)(A) of the MMPA.

ESA Concerns

Comment 3: The MMC recommends that the Service, if it has not already done so, advise the applicant to consult with the U.S. Fish and Wildlife Service (FWS) 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 FWS 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 San Nicolas Island (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 they were proposed for listing under the ESA and are subject to the informal consultation process under section 7(a)(4) of the ESA. The Navy has consulted with FWS regarding the take of sea otters incidental to missile launch operations on San Nicolas Island. However, no takes of sea otters are expected as a result of launch activities.

Potential Effects Concerns

Comment 4: SRS Technologies noted that the statement: ''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 . . .are highly variable'', seems contradictory. SRS commented that this statement seems to be implying that the impacts are predictable, but are going to be highly variable.

Response: The purpose of this discussion is to distinguish the reactions from impacts. As reported in the literature, pinniped responses to launch events of varying loudness, or for different launch vehicles, are variable and appear to depend on context, season, and the type of pinniped exposed to the sounds. While the reported reactions are variable, the Navy believes that the biological impacts of these responses are predictable, and not likely to result in significant injury or mortality, or significant negative impacts to the pinniped populations on SNI.

Comment 5: SRS Technologies noted that their research has shown that the responses of sea lions on San Miguel Island to sonic booms have been highly variable. For the Athena II Ikonos II launch generated sonic boom, 24 sea lions out of a group of 600 sea lions (4% of total) started moving towards the water at the arrival of the 0.95 psf boom (A-weighted SEL of 68.3 dB). For the Athena I Ikonos I launch generated sonic boom, with the same peak amplitude (A-weighted SEL of 75.3 dB), 566 of the sea lions (44%) moved towards the water.

Response: The Navy discussed such reported variability in pinniped reactions to launch sounds in its IHA application, and concluded that the biological impacts of these responses are predictable, and not likely to result in significant injury or mortality, or significant negative impacts to the pinniped populations on SNI.

Comment 6: SRS Technologies commented that in the statement: ''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 the Vandal launches (Burgess and Greene 1998, Greene, 1999)'', the ''sound levels'' need to be specified in terms of the acoustic metric used in this comparison.

Response: Sound exposures necessary to elicit mild TTS in captive California sea lions (a species with more sensitive in-air hearing relative to the harbor and elephant seals) and harbor seals in a sonic boom simulator (Bowles *et al.*, 1999) were possibly 135 dB SEL re 20 (uPa^2)-s, for 0.3 sec exposures (J. Francine, pers. comm.). These are higher than sound levels measured during previous Vandal launches, where there were no sonic booms (126 to 131 dB SEL re 20 (uPa^2)-s, for 0.29 to 1.9 sec exposures (Burgess and Greene 1998; Greene 1999, pers. comm.). The Navy believes that no pinnipeds will be exposed to the levels thought necessary to elicit mild TTS during the planned launches. In addition, the acoustical monitoring program proposed by the Navy will provide data to confirm this for the pinniped haul-out locations on SNI.

Comment 7: Analyzing the sound pressure levels and sound exposure levels provided, SRS Technologies determined the duration of the Vandal launch noise. The duration of the sound at a distance of 945 m would be 2 seconds and the sound at a distance of 370 m would be 0.3 seconds. With these short durations, should it be assumed that these metrics provided are for sonic booms? If these are sonic booms, what about the other metrics (like the peak overpressure and rise time) that are important in characterizing impulsive noise? SRS Technologies does not think it is clear from the document what type of noise is reaching the pinnipeds. Is it short duration launch noise, a sonic boom, or both?

Response: The sounds from two Vandal launches were measured at SNI in 1997 and 1999 and reported in Burgess and Greene (1998) and Greene (1999). Sound levels as received at Vizcaino South Beach were found to range from 126 to 131 dB SEL re 20 (u^2)-s. Targets are subsonic or transonic as they pass over the pinniped haul-out sites, and thus, the Navy believes pinnipeds might be exposed to the most intense sounds for only 0.3 to 1.9 seconds after the launches (Greene 1999), but not likely in the form of a sonic boom (C.R. Greene, Jr. 2001 pers. comm.). The acoustical monitoring program proposed by the Navy will provide data to further characterize the range of sounds that pinnipeds on SNI might be exposed to during these launches, including sonic booms.

Comment 8: The **Federal Register** document briefly discusses the modeling of sound and provides sound level contours for the launch noise. SRS Technologies commented that sound levels should be provided for the predicted noise from the Vandal arriving at pinniped haul-out areas and that the same should be done for the BQM rockets.

Response: The sound levels at the beaches from Vandal launches will be above the 100 dB threshold thought necessary to elicit a disturbance reaction, but far lower than the levels necessary to elicit even mild TTS (e.g., Greene's 136 dB received level value as cited in the 23 April Federal Register Notice). For a more complete analysis of predicted sound levels from Vandal launches the commentor is referred to NAWCWD's application.

Based on previous sound measurements, the Navy estimates that the 100 dBA contour for a BQM-34 is equal to 4,500 feet (1,372 m); this is the maximum distance at which sound levels fall to 100 dBA at a 90 degree azimuth from the launch track (C. Malme, Engineering and Scientific Services; Hingham, MA, unpubl. data). Along the launch track and ahead of the BQM-34, sound levels drop to 100 dBA at a shorter distance (1,800 feet, 549 m). For the smaller BQM-74 and other missiles it is likely that the 100 dBA sound contours will be smaller. Therefore, the BQM sounds will likely not reach 100 dB even at the haul-out sites.

Comment 9: SRS Technologies commented that the statement: ''Research and monitoring at VAFB 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'' needs a reference. The use of ''prolonged'' and ''very strong'' needs to be quantified. And, assuming the above statement is true, SRS Technologies would like to see a direct comparison between these levels and the Vandal and BQM rockets.

Response: There is no single reference to the statement commented on by SRS Technologies and the statement has been removed from this Federal Register document. The reference to ''prolonged'' acoustic stimuli from the VAFB launches, although not a sonic boom, refers to events such as the explosion of a launch booster that resulted in a 104 sec period of popping as the Titan IV booster exploded (Stewart *et al.*, 1993b). Received sound levels for a sonic boom accompanying a Titan launch event might reach 110 dB SEL re 20 µPa (Stewart and Francine, 1992). The Navy concludes that the sound levels recorded from VAFB launch events are 15-20 dB lower than those that pinnipeds on SNI might be exposed to during a Vandal launch. However, the nature of the Vandal launch sounds are different than those from VAFB in that they are loudest for only a very short duration, and launches usually occur at irregular intervals over the course of the year.

Mitigation Concerns

Comment 10: TMMC 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: The incidental harassment authorization 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, the Service 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 San Nicolas Island 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 the Service must satisfy the statutory requirement of notice and public comment, under section 101(a)(5)(C) of the MMPA, unless the Service 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 incidental harassment authorization 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. The Service 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.

Monitoring Concerns

Comment 11: The MMC recommends that prior to issuing the requested authorization, the Service 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 San Nicolas Island, 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). San Nicolas Island 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 natural mortality rates for those pinniped species hauling out on San Nicolas Island. In addition, surveys suggest that by far the greatest source of mortality for pinnipeds on the island are El Niño 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 does not need to be 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*), Guadalupe fur seals (*Arctocephalus townsendi*), 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 the others 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 (including the standard, ER, and ERR variants) 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. 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 Point Mugu 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 disturbance reactions will sometimes occur upon exposure to launch sounds with SEL's of 100 dBA (re 20 micro-Pa^2-sec) or higher.

From Lawson *et al.* (1998), the Navy determined a conservative estimate of the SEL at which the disturbance known as TTS may be elicited in harbor seals and California sea lions (SEL of 145 dB re 20 micro-Pa^2-sec) and northern elephant seals (SEL of 165 dB re 20 micro-Pa^2-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 (see below), 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 criterion out to a distance of 4,263 m 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 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 the obscuring of sounds of importance to the pinnipeds (i.e., 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. The monitoring program (see Monitoring section) required to be implemented by NAWCWD Point Mugu as part of this incidental harassment authorization will provide data to further characterize the range of sounds that pinnipeds on SNI might be exposed to during these launches and 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.

Numbers of Marine Mammals Expected to Be Taken by Harassment

NAWCWD Point Mugu 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 2001
Northern Elephant Seal (California Stock)	51,625	<2,390
Harbor Seal (California Stock)	27,962	<457
California Sea Lion (U.S. Stock)	109,854	9,614-10,086
Northern Fur Seal (San Miguel Stock)	2,336	3

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

In their original request, NAWCWD Point Mugu estimated the take of 3 Guadalupe fur seals by harassment incidental to missile launch operations on SNI. On March 19, 2001, the U.S. Navy sent NMFS a modified request eliminating the incidental take of Guadalupe fur seals on SNI. Based on their observational records, the Navy found that when Guadalupe fur seals do occur on SNI, they are found on beaches not affected by missile launch activities.

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 San Nicolas Island

During the period of proposed activity, 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., Corral 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 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) Limit launch activities during all pinniped pupping seasons; (2) avoid launch activities during harbor seal pupping season (February to April); (3) not launch target missiles at low elevation (less than 1,000 feet) on launch azimuths that pass close to pinniped haul-out site(s); (4) avoid multiple target launches in quick succession over haul-out sites, especially when young pups are present; (5) limit launch activities during the night; (6) ensure aircraft and helicopter flight paths maintain a minimum altitude of 1,000 feet from pinniped haul-out sites; and (7) contact NMFS personnel within 48 hours if injurious or lethal take is discovered during monitoring.

Monitoring

As part of its application, NAWCWD Point Mugu provided a proposed monitoring plan for assessing impacts to marine mammals from Vandal and smaller subsonic target and missile launch activities on SNI. This monitoring plan is described in LGL Ltd. Environmental Research Associates (2001).

NAWCWD Point Mugu's incidental harassment authorization contains the following monitoring requirements:

Visual Land-Based Monitoring

The Navy, in conjunction with a biological contractor,will establish a land-based monitoring program to assess effects on the three most common pinniped species on SNI: northern elephant seals, harbor seals, and California sea lions. This monitoring will occur at three different sites of varying distance from the launch site before, during, and after each launch. The monitoring will be conducted via autonomous digital video cameras or, when possible, through direct visual observation.

During the day of each missile launch, the observer will place three digital video cameras on tripods overlooking chosen haul out sites. Each camera will 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.

Two hours prior to the launch, the observer will circulate among the tripod-mounted cameras to change videocassettes, to adjust camera fields of view (as required by changes in the geometry of the focal groups), and to record visual observations in a field logbook. Following the launch, the observer will return to the site when access is permitted.

During smaller launches when personnel are allowed to remain near one or more haul out beaches that might be impacted, a marine mammal observer will observe pinnipeds at these beaches in a systematic manner before, during, and after the launch. The observer(s) will scan the selected haul out site(s) from one end to the other at a rate of once per minute. Seven x 50 reticle binoculars will be used during the daytime for scanning; supplemented by night vision equipment if launches occur at night.

Following each launch, a biologist will review and code the videotapes as they are played back to a high-resolution color monitor. A VCR with high-resolution freeze-frame and jog shuttle will be used to facilitate distance estimation, event timing, and characterization of behavior. Details of the analysis methods can be found in LGL Ltd. Environmental Research Associates (2001).

Acoustical Monitoring

During each launch, the Navy (in conjunction with an acoustical contractor) will obtain calibrated recordings of the levels and characteristics of the received launch sounds. Acoustic data will 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 days. Insofar as possible, acoustic recording locations will correspond with the sites where video monitoring is taking place. Acoustic recordings will also be supplemented by the use of radar and telemetry systems to obtain the trajectory of target missiles in three dimensions. The collection of acoustic data will 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.

For further details regarding the installation and calibration of the acoustic instruments and analysis methods refer to LGL Ltd. Environmental Research Associates (2001).

Reporting

For each target missile launch, the lead contractor or lead observer for the holder of this Authorization must provide a status report on monitoring results to NMFS' Southwest Regional Office.

After the first 90 days of the authorization period NAWCWD Point Mugu will provide an initial report on launch activities to NMFS. This report will summarize the timing and nature of any launch operations to date, 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 judged 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 planned during the next 1-2 months. This draft final report will be reviewed by NMFS, and based on comments, revised as necessary.

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.

Consultation

NAWCWD Point Mugu has not requested the take of any listed species. Therefore, NMFS has determined that a section 7 consultation under the Endangered Species Act is not required at this time.

Although sea otters are not within the jurisdiction of NMFS, the U.S. Fish and Wildlife Service (FWS) established an experimental population of California sea otters at SNI. The FWS, for purposes of defense-related actions within the SNI translocation zone, has designated sea otters as an experimental population that are to be treated as if they were proposed for listing under the ESA and are subject to the informal consultation process under section 7(a)(4) of the ESA. The Navy has consulted with FWS regarding the take of sea otters incidental to missile launch operations on San Nicolas Island. However, no takes of sea otters are expected as a result of launch activities.

National Environmental Policy Act (NEPA)

In July 2000, NAWCWD Point Mugu issued a Draft Environmental Impact Statement/Overseas Environmental Impact Statement (DEIS) to assess the effects of its ongoing and proposed operations in the Sea Range off Point Mugu. While this DEIS analyzes other activities beyond the scope of this IHA request, Section 4.7 describes launches of target missiles from SNI and notes that these launches sometimes cause pinnipeds hauled out on beaches on the western end of SNI to move into the water. Accordingly, the U.S. Navy determined that it should request this 1-year IHA to ensure that its planned missile launch operations are conducted in full compliance with the MMPA.

An Environmental Assessment (EA) has been prepared that examines the environmental consequences of issuing an IHA for take by harassment of small numbers of several pinniped species incidental to conducting 20 missile and target launch operations from San Nicolas Island, California for a 1-year period (2001-2002). This environmental review process has led NMFS to conclude that issuance of an IHA for these activities will not have a significant effect on the human environment. Therefore, preparation of an environmental impact statement on these actions is not required by Section 102(2) of the National Environmental Policy Act or its implementing regulations. Copies of the EA and the Finding of No Significant Impact are available upon request (see **ADDRESSES**).

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 San Nicolas Island, 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 EA, 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 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 1, 2001.

Donald Knowles,

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

[FR Doc. 01–20029 Filed 8–8–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080101B]

Marine Mammals; File No. 774–1634–00

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Stephen B. Reilly, Director, IDCPA Research Program, Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038 (Principal Investigator: Dr. Karin Forney), has been issued a permit to take spinner dolphins (*Stenella longirostris*) and Pantropical spotted dolphin (*S. attenuata graffmani*), and other small cetaceans for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, Tammy Adams (301) 713–2289, and Nicole Le Boeuf (301) 713–2322.

SUPPLEMENTARY INFORMATION: On June 6, 2001, notice was published in the **Federal Register** (66 FR 30428) that a request for a scientific research permit to take species listed above had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).