

The monitoring would be via autonomous 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**

An interim technical report is proposed to be submitted to NMFS 60 days prior to the expiration of each annual LOA issued under these regulations, along with a request for a follow-on annual LOA. This interim technical report will provide full documentation of methods, results, and

interpretation pertaining to all monitoring tasks for launches during the period covered by the LOA. However, only preliminary information would be available to be included for any launches during the 60-day period immediately preceding submission of the interim report to NMFS. In the unanticipated event that any cases of pinniped mortality are judged to result from launch activities at any time during the period covered by these regulations, this event will be reported to NMFS immediately.

The proposed 2003–04 launch monitoring activities will constitute the third year of formal, concurrent pinniped and acoustical monitoring during launches from SNI. Several of the questions about effects of such launch activities on pinnipeds ashore are expected to be answered before the first LOA is issued based on the 2001–2003 monitoring under IHAs. Additional questions will be answered during the first year of monitoring under an LOA in 2003–2004. Following submission in 2004 of the interim report on the first phase of monitoring under an LOA, NAWS believes that it would be appropriate for the Navy and NMFS to discuss the scope for any additional launch monitoring work on SNI subsequent to the first LOA issued under these regulations. In particular, some biological or acoustic parameters may be documented adequately prior to or during the first LOA (2003–2004), and it may not be necessary to continue all aspects of the monitoring work after the first year.

In addition to annual LOA reports, NMFS proposes to require NAWS to submit a draft comprehensive final technical report to NMFS 180 days prior to the expiration of the regulations. This technical report will provide full documentation of methods, results, and interpretation of all monitoring tasks for launches during the first four LOAs, plus preliminary information for launches during the first 6 months of the final LOA.

#### **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 an EA/FONSI conducted by NMFS on the issuance of a small take authorization for Vandal and other rocket and missile launches at SNI in 2001; the NAWCWD's March,

2002 Final Environmental Impact Statement (Final EIS) 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 October, 2002 request for the proposed regulations to govern this activity, that this proposed action 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, this action is categorically excluded from further environmental review.

#### **Endangered Species Act (ESA)**

If NMFS proceeds with rulemaking, it will consider whether consultation under section 7 of the ESA is warranted.

#### **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.

#### **National Marine Sanctuaries Act**

According to the Navy, except for aircraft and vessel traffic transiting the area, none of the Navy's proposed activities would take place within the Channel Islands National Marine Sanctuary (CINMS). Also, all Navy Sea Range test and training activities are consistent with CINMS regulations (15 CFR 920.70).

#### **Information Solicited**

As this document is being published in conformance with NMFS regulations implementing the small take program (50 CFR 216.104(b)(1)(ii)), NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of the regulations to allow the taking. As required by 50 CFR 216.105, NMFS will consider this information in developing proposed regulations to authorize the taking. Prior to submitting comments, NMFS recommends reviewers of this document read the responses to comments made previously (see 66 FR 41843, August 9, 2001; 67 FR 56271, September 3, 2002)