

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)

NMFS prepared an Environmental Assessment (EA) on a similar action in 2001, and made a Finding of No Significant Impact (FONSI). Based on that EA/FONSI, the NAWCWD's March, 2002 Final Environmental Impact Statement to assess the effects of its ongoing and proposed operations in the Sea Range; and NAWS' October 2002 request for the subject proposed regulations, NMFS has preliminarily determined that this action will not have a significant effect on the human environment.

Endangered Species Act (ESA)

Under section 7 of the ESA, NMFS has begun consultation on the proposed issuance of regulations under section 101(a)(5)(A) of the MMPA for this activity. Consultation will be concluded prior to promulgation of a final rule.

CZMA Consistency

On February 14, 2001, by a unanimous vote, the 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 216.105), NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the content of the proposed regulations to authorize 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; 68 FR 11527, March 11, 2003) for this action, as NMFS does not intend to address these issues further without the submission of additional scientific information.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities since it would apply only to the U.S. Navy and would have no effect, directly or indirectly, on small businesses. It may affect a small number of contractors providing services related to reporting the impact of the activity on marine mammals, some of whom may be small businesses, but the number involved would not be substantial. Further, since the monitoring and reporting requirements are what would lead to the need for their services, the economic impact on them would be beneficial. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a

collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This final rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by OMB under control number 0648–0151, and include applications for LOAs, and reports.

The reporting burden for the approved collections-of-information is estimated to be approximately 120 hours for the annual applications for an LOA, and a total of 120 hours for the quarterly and annual reports. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: May 5, 2003.

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For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Subpart N is added to read as follows:

Subpart N—Taking of Marine Mammals Incidental to Missile Launch Operations from San Nicolas Island, CA

Sec.

216.151 Specified activity, geographical region, and incidental take levels.

216.152 Effective dates.

216.153 Permissible methods of taking; mitigation.

216.154 Prohibitions.

216.155 Requirements for monitoring and reporting.

216.156 Letter of Authorization.

216.157 Renewal of the Letter of Authorization.