

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).

Classification

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

At the proposed rule stage, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, that this final 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: August 25, 2003.

Rebecca Lent.

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For reasons set forth in the preamble, 50 CFR part 216 is 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.

216.158 Modifications to the Letter of Authorization.

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

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

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in target missile launch activities at the Naval Air Warfare Center Weapons Division facilities on San Nicolas Island, California.

(b) The incidental take of marine mammals under the activity identified

in paragraph (a) of this section is limited to the following species: northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and California sea lions (*Zalophus californianus*).

(c) This Authorization is valid only for activities associated with the launching of a total of 40 Vandal (or similar sized) vehicles from Alpha Launch Complex and smaller missiles and targets from Building 807 on San Nicolas Island, California.

§ 216.152 Effective dates.

Regulations in this subpart are effective from October 2, 2003 through October 2, 2008.

§ 216.153 Permissible methods of taking; mitigation.

(a) Under a Letter of Authorization issued pursuant to § 216.106, the U.S. Navy may incidentally, but not intentionally, take those marine mammal species specified in § 216.151(b) by Level B harassment, in the course of conducting target missile launch activities within the area described in § 216.151(a), provided all terms, conditions, and requirements of these regulations and such Letter of Authorization are complied with.

(b) The activity specified in § 216.151 must be conducted in a manner that minimizes, to the greatest extent possible, adverse impacts on marine mammals and their habitat. When conducting these activities, the following mitigation measures must be utilized:

(1) The holder of the Letter of Authorization must prohibit personnel from entering pinniped haul-out sites below the missile's predicted flight path for 2 hours prior to planned missile launches.

(2) The holder of the Letter of Authorization must avoid launch activities during harbor seal pupping season (February to April), when operationally practicable.

(3) The holder of this Authorization must limit launch activities during other pinniped pupping seasons, when operationally practicable.

(4) The holder of the Letter of Authorization must not launch Vandal target missiles from the Alpha Complex at low elevation (less than 1,000 feet (304.8 m) on launch azimuths that pass close to pinniped haul-out sites).

(5) The holder of the Letter of Authorization must avoid, where practicable, launching multiple target missiles in quick succession over haul-out sites, especially when young pups are present.

(6) The holder of the Letter of Authorization must limit launch