



# MARINE MAMMAL COMMISSION

13 June 2013

Mr. P. Michael Payne, Chief  
Permits, Conservation, and Education Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Navy's application seeking authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act to take marine mammals by harassment. The taking would be incidental to testing the AN/AQS-20A Mine Reconnaissance Sonar System (Q-20) in the Gulf of Mexico during a one-year period. The Commission also has reviewed the National Marine Fisheries Service's 6 June 2013 *Federal Register* notice (78 Fed. Reg. 34047) announcing receipt of the application and proposing to issue the incidental harassment authorization, subject to certain conditions. The Commission commented on a similar authorization in 2012 (see the enclosed 20 March 2012 letter).

## **RECOMMENDATION**

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the incidental harassment authorization, but condition it to require the Navy to conduct its monitoring for at least 15 minutes prior to the initiation of and for at least 15 minutes after the cessation of Q-20 testing activities.

## **RATIONALE**

The Navy proposes to test the Q-20 in the waters of and adjacent to the Naval Surface Warfare Center, Panama City Division testing range in the Gulf of Mexico. The Navy was authorized to conduct such activities last year, but testing has been delayed so it has requested another one-year authorization. Testing activities would occur beyond the territorial waters of the United States (i.e., more than 22 km from shore) in depths up to 250 m. The purpose of the testing is to verify the performance of the Q-20 in a realistic environment and support its integration with the remote multi-mission vehicle and the littoral combat ship. The Q-20 could be towed by the vehicle, other small surface vessels, or a helicopter. It operates at frequencies from 35 to greater than 200 kHz. The Navy would test the Q-20 at a maximum source level of 212 dB re 1  $\mu$ Pa at 1 m for up to 10 hours per day and a total of 42 days during the one-year period. Other surface activities (i.e., deploying, towing, and recovering the system and other support activities) would use additional vessels and would occur when the system is not active. Active sonar and surface activities could occur during either daylight or nighttime hours.

The Service preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of bottlenose, pantropical spotted, Atlantic spotted, spinner, Clymene, and striped dolphins. It also anticipates that any impacts on the affected species and stocks would be negligible. The Service does not anticipate any take of marine mammals by death or serious injury and believes that the potential for disturbance will be at the least practicable level because of the proposed mitigation and monitoring measures. Those measures include—

- operating the Q-20 at the lowest practicable source level, except as required to meet testing objectives;
- using marine observers (i.e., Navy look-outs) to monitor before, during, and after testing activities;
- using delay and shut-down procedures, but not implementing those procedures if dolphins or porpoises exhibit bow-riding behavior;
- ensuring that the marine observers (1) review the Service-approved Marine Species Awareness Training, (2) are trained in marine mammal recognition, and (3) are trained in the most effective means to ensure quick and effective communication when implementing mitigation measures;
- using binoculars, night-vision goggles, and other sensors to aid in the detection of marine mammals;
- using aircraft to monitor for marine mammals when operationally feasible and safe;
- reporting injured and dead marine mammals immediately to the Service's local stranding network and regional office; and
- submitting a final report.

### **Monitoring measures**

The Navy would use marine observers to monitor before, during, and after all Q-20 testing activities. The observers would monitor for marine mammals before a Q-20 testing activity to ensure the activities can be initiated without apparent risk. They would continue monitoring during the activity to determine if delay or shut-down procedures might be needed based on the proximity of any marine mammals to the sonar source. The observers also would monitor after the activity to detect any potentially significant effects (e.g., changes in marine mammal behavior, evidence of injury) that might become apparent after the cessation of each testing period. However, neither the Navy nor the Service stipulated the timeframe under which monitoring would occur either before or after the proposed testing activities. For last year's authorization, the Commission recommended that the Service require the Navy to monitor for at least 15 minutes before and 15 minutes after the activities (see enclosure for detailed rationale). The Service agreed with that recommendation and required the Navy to do so. It is unclear why the Service did not require the same monitoring timeframe for the current authorization, as the proposed activities are identical to last year's activities. The Commission believes that the Service should be consistent in its proposed requirements for the same ongoing Q-20 testing activities. As such, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the incidental harassment authorization, but condition it to require the Navy to conduct its monitoring for at least 15 minutes prior to the initiation of and for at least 15 minutes after the cessation of Q-20 testing activities.

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The Commission appreciates the opportunity to review this incidental harassment authorization. Please contact me if you have questions regarding the Commission's recommendation and comments.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large initial "R" and a distinct "Lent" at the end.

Rebecca J. Lent, Ph.D.  
Executive Director

Enclosure