

behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing the proposed priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

#### **Paperwork Reduction Act of 1995**

The proposed priority and requirements contain information collection requirements that are approved by OMB under OMB control number 1894–0006; the proposed priority and requirements do not affect the currently approved data collection.

#### *Regulatory Flexibility Act*

*Certification:* The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define “small entities” as for-profit or

nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are SEAs; LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by the proposed priority and requirements would be limited to paperwork burden related to preparing an application and that the benefits of this proposed priority and these proposed requirements would outweigh any costs incurred by the applicant.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the proposed priority and requirements would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving a Technical Assistance on State Data Collection program grant. An eligible entity would probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priority and requirements would not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed regulatory action and the time needed to prepare an application would likely be the same.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from small eligible entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

#### **Mark Schultz,**

*Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.*

[FR Doc. 2019–26477 Filed 12–9–19; 8:45 am]

**BILLING CODE 4000–01–P**

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## **POSTAL REGULATORY COMMISSION**

### **39 CFR part 3050**

[Docket No. RM2020–2; Order No. 5336]

#### **Periodic Reporting**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Ten). This document

informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* February 28, 2020.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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- I. Introduction
- II. Proposal Ten
- III. Notice and Comment
- IV. Ordering Paragraphs

**I. Introduction**

On November 29, 2019, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.<sup>1</sup> The Petition identifies the proposed analytical changes filed in this docket as Proposal Ten.

**II. Proposal Ten**

*Background.* Postmasters are compensated through the Workload Service Credit (WSC) system where pay grade is determined by credits earned. Petition, Proposal Ten at 1. These credits are earned in various ways, such as the amount of revenue flowing through a post office and for performing non-revenue activities like serving post office boxes and performing administrative functions. *Id.* Currently, the costs of Postmaster compensation are attributed to products based on the regression analysis presented in Docket No. R84-1, which measures the variability between WSCs and Postmaster costs. *Id.* The Postal Service indicates that, given the time that has passed since Docket No. R84-1, investigation into the Postmaster compensation costs was necessary. *Id.* at 1-2.

<sup>1</sup> Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Ten), November 29, 2019 (Petition). The Postal Service filed a notice of filing of non-public materials relating to Proposal Ten. Notice of Filing of USPS-RM2020-2/1 and USPS-RM2020-2/NP1 and Application for Nonpublic Treatment, November 29, 2019.

*Proposal.* The current methodology relies upon a regression using only ten data points because, at the time the model was developed in Docket No. R84-1, the Postal Service lacked data on WSCs for individual post offices. *Id.* at 3. However, the Postal Service now routinely collects data on Postmaster workload for operational purposes. *Id.* Proposal Ten seeks to update and improve the variabilities for calculating attributable Postmaster costs based on a new study of Postmaster costs "that relies upon operational Postmaster data and reflects the current structure of Postmaster activities and compensation."<sup>2</sup> The methodology proposed by the Postal Service for the computation of Postmaster compensation volume-variability combines the shift in the number of Postmasters from one EAS grade to the next with changes in the resulting salary. Petition, Proposal Ten at 3-5. Thus, the value for Postmaster compensation volume-variability comes from two sources: (1) The percentage change in the number of Postmasters moving from one grade to the next; and (2) the percentage increase in the minimum salary across the two EAS grades. *Id.* at 5; *see also id.* at Table 1.

*Impact.* Currently, a single variability is applied to accrued Postmaster compensation costs. *Id.* at 6. Under the Postal Service's proposed methodology, different variabilities are estimated for each EAS grade. *Id.* The accrued cost for each grade is multiplied by its estimated variability, resulting in volume-variable costs for each grade. *Id.* Those grade-level volume-variable costs are summed to get the total volume-variable costs for Postmaster compensation. *Id.* The total volume-variable cost is then divided by total accrued cost to obtain the overall volume-variability. *Id.*

The Postal Service states that the proposed approach results in lower volume-variability for Postmaster compensation costs for three reasons. *Id.* First, the volume-variability of Docket No. R84-1 was "overstated due to a computational error" and correcting the error reduces the volume-variability to 13 percent. *Id.*

Second, the Postal Services notes that Post Office Structure Plan (POSTPlan) eliminated lower EAS grades, where movement to the next grade-level and salary increases occurred more rapidly, resulting in higher volume-variability.<sup>3</sup>

<sup>2</sup> *Id.* at 1. The Postal Service's Petition was accompanied by a study supporting its proposal. See Michael D. Bradley, *Investigating the Variability of Postmaster Costs*, \* November 29, 2019.

<sup>3</sup> *Id.* The POSTPlan changed the hours at smaller post offices and changed the Postmaster

This is significant because, as mail volume increases, WSCs are earned resulting in EAS grade changes and salary increases that, in turn, increase Postmaster compensation costs. In the higher EAS grades, moving to the next grade-level requires much larger increases in WSCs. Thus, more typical increases in WSCs for these higher EAS grades are less likely to cause Postmasters to move up to a higher minimum salary and increase Postmaster compensation costs. *Id.* at 6. Accordingly, a given percentage increase in volume is, under the current structure, less likely to induce an increase in Postmaster compensation cost, which in turn has the effect of creating a lower volume-variability. *Id.* at 6-7.

Third, the Postal Services notes that the current approach measures how quickly salaries would rise from an overall increase in WSCs. *Id.* at 7. This is suboptimal because "each EAS grade has a wide band of WSCs associated with it, and most post offices have a level of WSCs such that typical increases in their WSCs will keep the Postmaster in the same [EAS] grade." *Id.* The Postal Service states that the proposed approach would account for the amount of WSCs Postmasters actually earn and how quickly the existing complement of Postmasters would move up a grade if WSCs were increased, neither of which are currently measured. *Id.*

The Postal Service acknowledges that reduced volume-variability causes a reduction in total volume-variable costs for Postmaster compensation and proportional reductions "per piece by product." *Id.* However, the Postal Service notes that "Postmaster costs per piece are typically quite small" thus "the overall impacts on volume-[ ]variable costs per piece are generally quite small." *Id.*

**III. Notice and Comment**

The Commission establishes Docket No. RM2020-2 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at <http://www.prc.gov>. Interested persons may submit comments on the Petition and Proposal Ten no later than February 28, 2020. Pursuant to 39 U.S.C. 505, Lawrence Fenster is designated as an officer of the Commission (Public Representative) to represent the

compensation structure. *Id.* at 2. Following the implementation of POSTPlan, post offices that were in the EAS grades below EAS-18 are no longer in the EAS system. *Id.*

interests of the general public in this proceeding.

#### IV. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. RM2020–2 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Ten), filed November 29, 2019.

2. Comments by interested persons in this proceeding are due no later than February 28, 2020.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Lawrence Fenster to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Darcie S. Tokioka,**

*Acting Secretary.*

[FR Doc. 2019–26488 Filed 12–9–19; 8:45 am]

**BILLING CODE 7710–FW–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 218

[Docket No. 191202–0097]

RIN 0648–BH28

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Construction Activities at Naval Weapons Station Seal Beach, California

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals over the course of five years (2020–2025) incidental to conducting construction activities related to development of a new ammunition pier at Seal Beach, California. As required by the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final

decision on the issuance of the requested MMPA authorization and will summarize and respond to such comments in the final notice of our decision.

**DATES:** Comments and information must be received no later than January 9, 2020.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2019–0131, by either of the following methods:

- **Electronic submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2019-0131](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2019-0131), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

#### SUPPLEMENTARY INFORMATION:

##### Availability

A copy of the Navy’s application and any supporting documents, as well as a list of the references cited in this document, may be obtained online at: [www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-construction-ammunition-pier-and-turning-basin-naval](http://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-construction-ammunition-pier-and-turning-basin-naval). In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

##### Purpose and Need for Regulatory Action

We received an application from the Navy requesting five-year regulations and authorization to take multiple species of marine mammals. This proposed rule would establish a

framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take by Level B harassment of marine mammals incidental to the Navy’s construction activities related to development of a new ammunition pier at Seal Beach, California, including impact and vibratory pile driving. Please see “Background” below for definitions of harassment.

##### Legal Authority for the Proposed Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs 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 for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the “least practicable adverse impact” on the affected species or stocks and their habitat (see the discussion below in the “Proposed Mitigation” section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this proposed rule containing five-year regulations, and for any subsequent LOAs. As directed by this legal authority, this proposed rule contains mitigation, monitoring, and reporting requirements.

##### Summary of Major Provisions Within the Proposed Rule

Following is a summary of the major provisions of this proposed rule regarding Navy construction activities. These measures include:

- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities.
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals.
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

##### Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not