

associated with the severe shoaling occurring in the area. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–0194 to read as follows:

§ 165.T11–0194 Safety Zone; Santa Cruz Harbor Shoaling, Santa Cruz, CA.

(a) *Location.* This safety zone is established in the navigable waters of the Monterey Bay near the Santa Cruz Harbor Entrance in Santa Cruz, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18685. The safety zone applies to the navigable waters of the entrance of Santa Cruz Harbor as defined by the area contained with two borders: A northern border defined by the line created by extending the Santa Cruz Harbor boat launch ramp to the harbor's opposite shore and a southern border defined by the line connecting the end points of the Santa Cruz Harbor East Breakwater to Santa Cruz Harbor West Breakwater as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18685. This emergency safety zone will be effective immediately upon promulgation until 10 p.m. on May 1, 2016, or until the completion of emergency dredging. The Coast Guard will issue a Broadcast Notice to Mariners upon the completion of emergency dredging and the deactivation of the safety zone. This safety zone is meant for safety of all vessels transiting the harbor. This restricted area in the harbor is necessary

to protect vessels, and other property from the hazards associated with severe shoaling. The Coast Guard has issued notice to mariners warning of significant shoaling at the harbor entrance that may result in breaking surf between jetties.

(b) *Enforcement period.* The safety zone described in paragraph (a) of this section will be enforced immediately upon promulgation until 10 p.m. on May 1, 2016, or upon the completion of emergency dredging. The Coast Guard will issue a Broadcast Notice to Mariners upon the completion of emergency dredging and the deactivation of the safety zone. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, “designated representative” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated to assist in the enforcement of the safety zones.

(d) *Regulations.* (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels requesting permission to enter the safety zone from 9 a.m. to 5 p.m. may contact the Harbor Master on VHF–9 or via telephone at (831) 475–6161; or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: March 18, 2016.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90, 14–58, 14–259; FCC 16–28]

Connect America Fund, ETC Annual Reports and Certifications, Rural Broadband Experiments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) clarifies that price cap carriers can use Phase II model-based support to serve locations in eligible census blocks where the price cap carrier has served or intends to serve a location or locations using Phase I Round 2 incremental support. The Commission also makes several modifications to the letter of credit requirements for recipients of rural broadband experiment support.

DATES: Effective May 11, 2016.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WC Docket No. 10–90, 14–58 and 14–259; FCC 16–28, adopted on March 8, 2016 and released on March 9, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554 or at the following Internet address: http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0309/FCC-16-28A1.pdf.

I. Introduction

1. In this Order the Commission clarifies that price cap carriers can use Phase II model-based support to serve locations in eligible census blocks where the price cap carrier has served or intends to serve a location or locations using Phase I Round 2 incremental support. The Commission also makes several modifications to the letter of credit requirements for recipients of rural broadband experiment support.

II. Interplay Between Phase I Incremental Support and Phase II

2. In 2013, the Commission instructed price cap carriers to meet their Phase I Round 2 incremental support obligations by deploying service to locations outside of the census blocks

where they will receive Phase II support. The intent was to take steps to ensure that Connect America funds are used “in the most efficient manner possible” and to “avoid providing excess support in an area.” Subsequently, in December 2014, the Commission adopted a requirement that price cap carriers accepting model-based support annually submit a list of the geo-coded locations that are newly broadband-capable as a result of Phase II funding.

3. On April 29, 2015, the Wireline Competition Bureau (Bureau) announced the final details of the offer of Phase II model-based support to price cap carriers, setting an August 27, 2015 deadline to accept or decline the offer. Ten carriers accepted over \$1.5 billion in annual support to provide broadband to nearly 7.3 million consumers in 45 states and the Commonwealth of the Northern Mariana Islands.

4. *Discussion.* The Commission now clarifies that in light of the adoption of the geo-coded location reporting requirement for recipients of Phase II model-based support, if a price cap carrier has served or intends to serve a location or locations using Phase I Round 2 incremental support in a census block where that price cap carrier accepted Phase II model-based support, that price cap carrier may use Phase II model-based support to serve the remaining eligible locations within that census block. Because it would be an inefficient use of Connect America support to permit a price cap carrier to receive both Phase I incremental and Phase II model-based support to serve a single location, however, the price cap carrier may not count the locations it serves using Phase I Round 2 incremental support towards its Phase II obligation to serve a set number of locations within the state. Accordingly, if the price cap carrier is using Phase I Round 2 funding to upgrade, or has already upgraded, specific locations in census blocks that were part of the offer of model-based support, it will need to deploy service to other locations in Phase II eligible census blocks or extremely high-cost census blocks in the state to fulfill its Phase II model-based support obligation to serve a specific number of locations.

5. The Commission directs the Universal Service Administrative Company (USAC) to compare the list of geocoded locations that price cap carriers submit for their Phase II deployment obligation, with the list of geocoded locations that price cap carriers must submit to indicate the locations which they have served or will serve to satisfy their Phase I Round 2

obligation. If USAC determines that a price cap carrier has included in its list of Phase II locations any locations that the price cap carrier indicated it has deployed to or will deploy to using Phase I Round 2 incremental support, that price cap carrier will be deemed to have not met its Phase II model-based support build-out obligation and will be subject to the applicable non-compliance measures.

6. The Commission makes this modest adjustment to its earlier conclusion that price cap carriers could not use Phase I Round 2 support to serve locations in census blocks where they receive Phase II support because at the time the Commission made these statements, it had not yet adopted the more granular reporting requirements for price cap carriers accepting Phase II support to identify the locations they have served using Phase II support. The Bureau and USAC will now have access to geocoded information for each location that a price cap carrier serves using Phase I Round 2 and using Phase II support, and thus can verify in a more targeted manner that support is being used efficiently on a location-by-location basis rather than on a census block-by-census block basis.

III. Rural Broadband and Experiments

7. Before a provisionally selected bidder may be authorized to begin receiving support, it must obtain a letter of credit that meets the Commission's requirements. Under those existing requirements, throughout the 10-year support term, the letter of credit must be valued at an amount equal to the total amount of support that has been disbursed plus the amount of support the recipient will receive in the next disbursement. Rural broadband experiment recipients must maintain an open and renewed letter of credit until 120 days after the support term has ended. They must build out to 85 percent of locations with voice and broadband service meeting the relevant public interest obligations by year three and to 100 percent of locations by year five of their support term. Recipients receive their rural broadband experiment support in equal monthly installments over the 10-year term, but they were given the opportunity to request 30 percent of their support upfront. Recipients that elected this option are required to build out to at least 25 percent of the required number of locations within 15 months of their first disbursement of support.

8. *Discussion.* The Commission grants the Alliance of Rural Broadband Applicants (ARBA) petition for waiver in part to the extent the ARBA sought

a reduction in the duration of the letter of credit requirement and asked that rural broadband experiment recipients be released from their letter of credit obligations upon satisfying their deployment obligations. In response to concerns raised about the cost of maintaining a letter of credit for the entire support period, the Commission will require that the letter of credit only remain open until the recipient has certified that it has deployed broadband and voice service meeting the Commission's requirements to 100 percent of the required number of locations, and USAC has validated that the entity has fully deployed its network. The Commission concludes that such an approach will help alleviate the costs of obtaining a letter of credit, particularly for entities that are able to build out their networks faster than the five-year build-out period, while still protecting the Commission's ability to recover the funds in the event that the entity is not building out its network as required. This approach is consistent with the approach used for Mobility Fund Phase I and Tribal Mobility Fund Phase I, where an entity is required to maintain a letter of credit valued at the support that had been disbursed until the Commission verifies that the build-out has been completed. As a result, authorized rural broadband experiment recipients must only maintain their letter of credit until it is verified that the final build-out milestone has been met.

9. Recognizing that the risk of a default will lessen as a recipient makes progress towards building its network, the Commission also finds that it is appropriate to modestly reduce the value of the letter of credit in an effort to reduce the cost of maintaining a letter of credit as the recipient meets certain build-out milestones. Once recipients have met the 85 percent build-out milestone, the Commission will also permit those recipients to obtain a new or renew their existing letters of credit so that they are valued at 80 percent of the total support disbursed plus the next year of support until the 100 percent build-out milestone has been met and verified. The Commission concludes that the benefit to recipients of potentially decreasing the cost of the letter of credit as it becomes less likely that a recipient will default outweighs the potential risk that if a recipient does default and is unable to cure, the Commission will be unable to recover a modest amount of support.

10. Once a rural broadband experiment recipient has certified that it has deployed broadband and voice service meeting the Commission's

requirements to 100 percent of the required number of locations and supplied the geocoded data for the final locations, it must keep the letter of credit open until the Commission can verify that the deployment has been met. The Commission directs USAC to implement processes to verify in a timely manner that deployment has occurred. Once a rural broadband experiment recipient no longer maintains a letter of credit, the Commission will withhold support as described in the *Rural Broadband Experiments Order*, 79 FR 45705, August 6, 2014, if the Commission finds that the rural broadband experiment recipient is not providing voice and broadband service that meets the Commission's requirements to all of the required locations, the Commission will withhold from the entity a percentage of support equivalent to the entity's compliance gap until it comes into compliance, rather than recover 100 percent of the support as originally contemplated when the Commission expected that the entity would have a letter of credit in place for the entire support period. If the entity cures the default before the 10-year support term has ended, it will be entitled to the withheld support and any subsequent payments.

11. The Commission concludes that it is not necessary to continue to require rural broadband experiment recipients to maintain a letter of credit after the build-out period to provide an adequate incentive for rural broadband experiment recipients to offer service that meets the Commission's requirements. The Commission notes that rural broadband experiment recipients remain subject to forfeitures and other consequences for non-compliance in the event of a default, including but not limited to, potential revocation of ETC designation and disqualification from future competitive bidding for universal service support.

12. The Commission also grants ARBA's petition in part to the extent that it requests that entities that elected to receive 30 percent of their payment upfront be permitted to amend their applications to propose the standard deployment time period. The Commission adopted the requirement that entities specify whether they would be interested in receiving 30 percent of their support upfront in their applications so that the Commission could learn about whether there was

interest in upfront support for the Phase II competitive bidding process. To help reduce the costs of the letter of credit requirement for entities that have elected upfront support, the Commission will permit such entities that have not already been authorized to receive rural broadband experiment support to send a letter to the Commission electing to receive support in equal installments throughout the 10-year term rather than 30 percent upfront before they are authorized to begin receiving support. If they elect this option before they are authorized, they will no longer be required to deploy to 25 percent of locations and submit the required certifications within 15 months of their first disbursement of support. To the extent provisionally selected bidders decide they still want to receive 30 percent of their support upfront they will need to obtain a letter of credit that covers this amount.

13. The Commission denies ARBA's petition in part to the extent it requests that the Commission reduce the value of the letter of credit to 50 percent of support. Such an approach would prevent the Commission from recovering half of the Connect America support that it will disburse to rural broadband experiment recipients during the build-out period in the event that such support is not used for its intended purposes. While such an approach may reduce costs further for recipients, the Commission is not persuaded that the public interest will be better served by protecting only half of the Connect America support, particularly when the Commission has adopted other measures to help reduce the costs of maintaining a letter of credit for rural broadband experiment recipients.

IV. Procedural Matters

A. Paperwork Reduction Act Analysis

14. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

B. Congressional Review Act

15. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

C. Final Regulatory Flexibility Act Certification

16. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

17. This Order modifies and clarifies the rules adopted by the Commission in the *Rural Broadband Experiments Order*, the *Phase I Round 2 Order*, 78 FR 38227, June 26, 2013 and the *USF/ICC Transformation Order*, 76 FR 73830, November 29, 2011. These modifications and clarifications do not create any burdens, benefits, or requirements that were not addressed by the Final Regulatory Flexibility Analysis attached to *USF/ICC Transformation Order* and the *Rural Broadband Experiments Order*. Therefore, the Commission certifies that the requirements of this Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Order including a copy of this final certification in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

D. Additional Information

18. *People with Disabilities*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

19. *Additional Information*. For additional information on this proceeding, contact Alexander Minard of the Wireline Competition Bureau, Telecommunications Access Policy Division, Alexander.Minard@fcc.gov, (202) 418-7400.

V. Ordering Clauses

20. Accordingly, *it is ordered*, pursuant to the authority contained in sections 1, 2, 4(i), 5, 10, 214, 218–220, 254, 303(r), 403, and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 160, 214, 218–220, 254, 303(r), 403, 503, 1302, and sections 1.1, and 1.427 of the Commission's rules, 47 CFR 1.1, and 1.427, that this *order is adopted*, effective thirty (30) days after

publication of the text or summary thereof in the **Federal Register**.

21. *It is further ordered* that, pursuant to section 1.3 of the Commission's rules, 47 CFR 1.3, the Petition for Waiver filed by the Alliance of Rural Broadband Applicants on January 27, 2015 is *granted in part* and *denied in part* to the extent described herein.

22. *It is further ordered* that the Commission *shall send* a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

23. *It is further ordered*, that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order, including the Final Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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