

comment on whether to allocate additional high-cost funding to the voluntary path to the model. Rate-of-return carriers that accept the second offer of model-based support will do so on the condition that they commit to meet the deployment obligations of the original offer if authorized no later than December 31, 2017 to receive additional A-CAM funding equivalent to the original offer. The Commission therefore seeks comment on whether the Commission should further increase the budget for A-CAM to provide the full amount of the original offer for some or all of those carriers that accepted the second offer of model-based support.

2. The Commission seeks comment on increasing the budget by a lesser amount. If the increased budget for A-CAM were insufficient to cover all participants, should the Wireline Competition Bureau (Bureau) prioritize funding to those with the least broadband deployment using the same data set as that utilized for the adjusted offer? Alternatively, if the Commission increases the budget by a smaller amount, should the Bureau revise the offers to an amount less than the original offer? In that latter situation, the Commission expects that the Bureau would make a new offer, limited to the carriers that originally elected the first offer and accepted the revised offer; those carriers would be free to choose whether to accept that new offer and the associated broadband deployment obligations.

3. The Commission notes that commenters responding to the Bureau's A-CAM Election Results Public Notice uniformly support increasing the A-CAM budget by more than \$50 million. The Commission would need to increase the overall high-cost budget by an additional \$110 million per year if all carriers elect the second offer, and by a lesser amount if fewer do. The Commission invites comment from all interested stakeholders on whether to enlarge the budget for A-CAM support, including the costs and benefits of allocating limited funding for this particular purpose.

## II. Procedural Matters

4. This document does not contain new information collection requirements 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).

5. In the *April 2014 Connect America FNPRM*, 79 FR 39196, July 9, 2014, the Commission proposed a framework for a voluntary election by rate-of-return carriers to receive model-based support and tentatively concluded that such a framework could achieve important universal service benefits by creating incentives for deployment of voice and broadband-capable infrastructure. The Commission sought written comment on the proposal, including comment on the Initial Regulatory Flexibility Analysis (IRFA). The Commission did not receive any comments on the *April 2014 Connect America FNPRM IRFA*. In the *Rate-of-Return Reform Order*, 81 FR 24282, April 25, 2016, the Commission adopted a voluntary path under which rate-of-return carriers may elect to receive model-based support for a term of 10 years in exchange for meeting defined build-out obligations. The Commission issued a Final Regulatory Flexibility Analysis (FRFA) that conforms to the Regulatory Flexibility Act of 1980 (RFA), as amended. This present Report and Order and Further Notice of Proposed Rulemaking implements the framework previously adopted by the Commission and seeks comment on additional funding to implement that framework. The Commission promulgates no additional final rules, and our present action is, therefore, not an RFA matter.

6. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing

them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

7. *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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

## III. Ordering Clauses

8. *It is further ordered*, pursuant to the authority contained in sections 1, 2, 4(i), 5, 10, 201-206, 214, 218-220, and 254 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, 201-206, 214, 218-220, 254, and 1302, and sections 1.1, 1.3, 1.421, 1.427, and 1.429 of the Commission's rules, 47 CFR 1.1, 1.3, 1.421, 1.427, and 1.429, that this Further Notice of Proposed Rulemaking *is adopted*, effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**.

Federal Communications Commission.

**Marlene H. Dortch**,  
Secretary.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 223 and 224

RIN 0648-XF080

#### Endangered and Threatened Species; Petition for Rulemaking To Establish a Whale Protection Zone for Southern Resident Killer Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of petition; request for comments.

**SUMMARY:** This document announces receipt by the National Marine Fisheries Service (NMFS) of a petition for rulemaking to establish a whale protection zone in the San Juan Islands, Washington, to support recovery of endangered Southern Resident killer whales. NMFS is requesting comments on the petition and will consider all comments and available information when determining whether to accept the petition and proceed with the suggested rulemaking.

**DATES:** The closing date for comments on the petition is April 13, 2017.

**ADDRESSES:** You may submit information on this document identified by NOAA–NMFS–2016–0152 and the petition by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the Federal e-Rulemaking Portal, go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0152](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0152), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail or hand-delivery:* Lynne Barre, NMFS West Coast Region, 7600 Sand Point Way NE., Seattle, WA 98115.

*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, *etc.*), 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:** Lynne Barre, West Coast Regional Office, 206–526–4745.

**SUPPLEMENTARY INFORMATION:** In 2009, NMFS proposed vessel traffic regulations to minimize vessel impacts to Southern Resident killer whales, including a 200-yard approach rule, a prohibition on parking vessels in the path of the whales, and a protected area (no-go zone) in Puget Sound along the west side of San Juan Island, Washington (74 FR 37674; July 29,

2009). In 2011, we finalized vessel traffic regulations that included an approach rule and path prohibitions but did not finalize a protected area (76 FR 20870; April 14, 2011). In deciding not to move forward with a protected area in the final rule, we noted the degree of public opposition to the concept and concluded a no-go zone required further analysis. We further noted that to be effective, regulations must be understood by the public and have a degree of public acceptance. We stated that we would evaluate the enacted regulations, gather additional information and conduct further analysis and public outreach on the concept of identifying a protected area or no-go zone as a future protective measure. Since 2011, we have conducted a public workshop in 2013, continued communicating with a variety of interested groups (including the petitioners) on this topic, and are currently completing a review of the 2011 vessel traffic regulations. NOAA’s Northwest Fisheries Science Center has also conducted further research on the impacts of vessels on Southern Resident killer whales.

On November 10, 2016, NMFS received a petition pursuant to the Administrative Procedure Act (APA) from the Orca Relief Citizen’s Alliance, Center for Biological Diversity, and Project Seawolf requesting that we utilize our authorities under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to establish a whale protection zone to reduce noise and disturbance of Southern Resident killer whales. The petitioners identify threats to the whales, discuss alleged insufficiencies with existing protections, and describe NMFS’ authority under the ESA and MMPA to establish a whale protection zone with regulations. The petition describes the features of a whale protection zone and cites information from our evaluation of the benefits of a protected area supporting our 2009 proposed rule. The area proposed for a protection zone is similar to, but wider and longer than the zone originally considered by NMFS in 2009 (74 FR 37674; July 29, 2009).

To ensure our decision about whether to accept the petition and move forward with the petitioned action to establish a whale protection zone is based on the best available scientific and commercial information, we are soliciting information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the petitioned action. In particular we

request information and comments on: (1) The advisability of and need for regulations to establish a whale protection zone; (2) the geographic scope of regulations; (3) alternative management options for regulating vessel interactions with killer whales, including but not limited to the option in the petition; (4) scientific and commercial information regarding the effects of vessels on killer whales and their habitat; (5) information regarding potential economic effects of regulating vessel interactions; and (6) any additional relevant information that NMFS should consider should it accept the petition. To inform your comments, information on the previous vessel regulations, the petition and other supporting documents is available at: [http://www.westcoast.fisheries.noaa.gov/protected\\_species/marine\\_mammals/killer\\_whale/vessel\\_regulations.html](http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/killer_whale/vessel_regulations.html).

You may submit your information and materials electronically or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter’s name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

If NMFS decides to accept the petition and initiate rulemaking, we will notify the petitioners and publish a notice of our decision in the **Federal Register**. If NMFS decides not to proceed with the petitioned action, we will notify the petitioners, provide a brief statement of the grounds for the decision, and publish notice of our decision in the **Federal Register**.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: January 6, 2017.

**Samuel D. Rauch III,**

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

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