lead time required for arranging shipments of bulk agriculture commodity preference cargoes, there apparently was no real opportunity for U.S.-flag vessel operators to make the necessary arrangements and bid on preference cargoes. Accordingly, MARAD proposed to extend this policy to the 1995 Great Lakes shipping season and issued a final rule that was published in the Federal Register on May 9, 1995 (60 FR 24560).

Great Lakes participation in cargo preference shipments under these five programs administered by the USDA and USAID could be improved if foreign-flag feeder vessels were authorized to transport bulk grain commodities from Great Lakes ports to Canadian transshipment points for export on oceangoing U.S.-flag bulk carriers to the final destination port. MARAD issued its 1994 and 1995 final rules to authorize the use of foreign-flag feeder vessels for the transportation of bulk agricultural commodities cargoes from the Great Lakes ports to Canadian transshipment ports outside the St. Lawrence Seaway during the 1994–95 Great Lakes shipping season. Outside the St. Lawrence Seaway, the cargo would be transferred to a U.S.-flag vessel for delivery to its foreign destination.

Subsequently, USDA indicated that provisions in Pub. L. 480 regulating the payment of freight by USDA for the Title II and Title III shipments, as well as in the Food For Progress Act of 1985, negatively impacted on suppliers that bid on Great Lakes cargoes to be transshipped to Canadian shipping points. USDA indicated that these provisions prevent them from paying for the foreign-flag Great Lakes transit leg, even if the freight is billed separately. The Pub. L. 480 Title I program is not affected by this provision. Due to these statutory provisions, the Great Lakes region has been, in effect, prohibited from utilizing the rule and participating in 54 percent, or 7.9 millon metric tons, of the bulk cargo shipped during the past two years under Titles II and III of Pub. L. 480, the Agricultural Act of 1949 and the Food for Progress Act of 1985 programs.

USDA has proposed an amendment to the 1995 Farm Bill which would allow USDA to pay the cost of the foreign-flag Great Lakes transit leg for transshipment in Canadian ports. Consistent with the legislation proposed by the USDA provision in the 1995 Farm Bill, MARAD recommends that the rule be extended for an additional five years, after which it would reassess the merits of making the rule permanent.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review)

This rulemaking is not considered to be an economically significant regulatory action under section 3(f) of Executive Order 12866, or a significant rule under the Department's Regulatory Policies and Procedures. Accordingly, it has not been reviewed by the Office of Management and Budget.

MARAD projects that this rule would allow the annual movement of up to 300,000 metric tons of agricultural commodities from Great Lakes ports, with a reduction in the shipping cost to sponsoring Federal agencies of up to $3 per metric ton ($900,000).

If this rule is finalized, MARAD will evaluate the results over that trial period before determining whether to issue a rule to make this provision permanent.

Federalism

The Maritime Administration has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Maritime Administration has considered the environmental impact of this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*)

List of Subjects in 46 CFR Part 381

Freight, Maritime carriers.

Accordingly, MARAD hereby proposes to amend 46 CFR part 381 as follows:

PART 381—[AMENDED]

1. The authority citation for Part 381 continues to read as follows:

Authority: 46 App. U.S.C. 1101, 1114(b), 1122(d) and 1241; 49 CFR 1.66.

2. Section 381.9 would be revised to read as follows:

§ 381.9 Available U.S.-flag service.

For purposes of shipping bulk agricultural commodities under programs administered by sponsoring Federal agencies from U.S. Great Lakes ports during the 1996–2000 Great Lakes shipping seasons, if direct U.S.-flag service, at fair and reasonable rates, is not available at U.S. Great Lakes ports, a joint service involving a foreign-flag vessel(s) carrying cargo no farther than a Canadian port(s) or other point(s) on the Gulf of St. Lawrence, with transshipment via a U.S.-flag privately owned commercial vessel to the ultimate foreign destination, will be deemed to comply with the requirement of ''available'' commercial U.S.-flag service under the Cargo Preference Act of 1954. Shipper agencies considering bids resulting in the lowest landed cost of transportation based on U.S.-flag rates and service shall include within the comparison of U.S.-flag rates and service, for shipments originating in U.S. Great Lakes ports, through rates (if offered) to a Canadian port or other point on the Gulf of St. Lawrence and a U.S.-flag leg for the remainder of the voyage. The ''fair and reasonable'' rate for this mixed service will be determined by considering the U.S.-flag component under the existing regulations at 46 CFR Part 382 or 383, as appropriate, and incorporating the cost for the foreign-flag component into the U.S.-flag ''fair and reasonable'' rate in the same way as the cost of foreign-flag vessels used to lighten U.S.-flag vessels in the recipient country's territorial waters. Alternatively, the supplier of the commodity may offer the Cargo FOB Canadian transshipment point, and MARAD will determine fair and reasonable rates accordingly.

Dated: March 6, 1996.

By Order of the Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 96–5727 Filed 3–8–96; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 96–40; FCC 96–84]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking in order to solicit comment on the proper

implementation of Section 641 of the Communications Act. This NPRM is necessary to fulfill the statutory requirement in Section 505 of the Telecommunications Act of 1996 that the Commission determine the hours of the day when a significant number of children are likely to view sexually explicit adult programming or other indecent programming on any channel of the service of a multichannel video programming distributor primarily dedicated to sexually oriented programming if such programming is not fully blocked or fully scrambled. This proceeding will permit the Commission to issue final rules.

DATES: Comments are due on April 26, 1996. Replies are due on May 24, 1996.

FOR FURTHER INFORMATION, CONTACT: Meryl S. Icove, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Notice of Proposed Rulemaking in CS Docket No. 96–40, FCC 96–84, adopted March 4, 1996 and released March 5, 1996. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (''ITS Inc.'') at (202) 587–3800, 2100 M Street, NW., Suite 140, Washington, DC 20017.

Synopsis of Notice of Proposed Rulemaking

1. On February 8, 1996, the Telecommunications Act of 1996 (''1996 Act''), Pub. L. No. 104–104, 110 Stat. 56 (1996), was enacted. Section 505 of the 1996 Act amends the Communications Act by adding a new Section 641, entitled ''Scrambling of Sexually Explicit Adult Video Service Programming.'' Section 641(a) requires that multichannel video programming distributors (''MVPDs'') fully scramble or fully block sexually explicit adult programming or other indecent programming on any channel of its service primarily dedicated to sexually-oriented programming so that a nonsubscriber does not receive such programming. Section 641(b) provides that, until the MVPD fully scrambles such programming, it may not provide such programming during the hours of the day when a significant number of children are likely to view such programming. Section 641(b) further requires that the Commission determine those hours. Section 641(c) also provides a definition of ''scramble:'' ''to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.'' These provisions take effect 30 days after the date of enactment of the 1996 Act, i.e., March 9, 1996. In an Order adopted with this NPRM on March 4, 1996, the Commission adopted a rule incorporating Section 641(a). We also established an interim rule implementing Section 641(b), providing that the programming described in subsection (a) may not be provided between the hours of 6 a.m. and 10 p.m. if not fully scrambled or fully blocked. This NPRM requests comment on whether the interim rule should be adopted as a final rule. Finally, we request comment on other issues regarding implementation and enforcement of these rules.

2. We propose to adopt a final rule establishing the hours between 6 a.m. and 10 p.m. as the hours when sexually explicit adult programming or other programming that is indecent on any channel primarily dedicated to sexually-oriented programming is prohibited if not fully scrambled for nonsubscribers. We tentatively conclude there are no relevant differences between broadcast and nonbroadcast delivery of programming that justify adoption of a different rule. Commenters on this issue are asked to provide specific data in support of any assertions regarding the hours when children are likely to be viewing this programming.

3. We note that the definition of indecent programming in the video programming context is well established. The Commission defines broadcast indecency as ''language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs.'' Infinity Broadcasting Corporation of Pennsylvania, 2 FCC Rcd 2705 (1987). The Commission has also defined indecency with respect to the use of channel capacity on cable systems for leased access and public, educational and governmental access—indecent programming is any programming that describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards for the cable medium. See 47 CFR 76.701(g), 76.702. We propose to use the same definition for purposes of this statutory provision. Because we read the term ''sexually explicit adult programming'' to be a subset of indecent programming, we do not believe that further definition is necessary. As noted above, we believe the statute is clear regarding the channels to which Section 641(a) applies, however, to the extent parties disagree, they may comment on the appropriate definition of ''channel * * * primarily dedicated to sexually oriented programming.''

4. Finally, we seek comment on any other issues relevant to proper implementation of Section 641. In particular, with respect to the requirement to ''fully scramble or otherwise fully block'' sexually explicit adult programming or other programming that is indecent, are there differences in technology between MVPDs that would require different rules?

Initial Regulatory Flexibility Act Analysis

5. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis (''IRFA'') of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall cause a copy of the NPRM, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

6. The Commission issues this NPRM pursuant to Section 505, Pub. L. No. 104–104, and seeks public comment on the implementation of that statutory provision. Objectives. Our goal in this proceeding is to gather information to implement Congress' directive that multichannel video programming distributors fully scramble or fully block sexually explicit adult programming or other programming that is indecent on any channel primarily dedicated to sexually oriented programming so that nonsubscribers do not receive it. We also must gather information so we can determine the hours when significant numbers of children are likely to view such programming if not fully scrambled or fully blocked. Legal Basis. Authority for this proposed rulemaking is contained in Sections 4(i) and 641 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and in Section 505 of the Telecommunications Act of 1996, Pub. L. No. 104–104 (1996).

Description, Potential Impact and Number of Small Entities Affected. The

rules proposed could affect certain small entities including multichannel video programming distributors who choose to provide sexually explicit adult programming or other programming that is indecent on a channel primarily dedicated to sexually-oriented programming without fully scrambling or fully blocking such programming during hours when it is prohibited from doing so by the Commission.

Reporting, Recordkeeping and Other Compliance Requirements. None.

Federal Rules which Overlap, Duplicate or Conflict with these Rules. None. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives. None.

7. It is ordered that, pursuant to Sections 4(i) and 641 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and Section 505 of the Telecommunications Act of 1996, notice is hereby given of proposed amendments to Part 76, in accordance with the proposals, discussions, and statement of issues in this Notice of Proposed Rulemaking, and that COMMENT IS SOUGHT regarding such proposals, discussions, and statement of issues.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–5870 Filed 3–8–96; 8:45 am]

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