

E is the measured maximum field strength in V/m utilizing the widest available RBW.

G is the numeric gain of the transmitting antenna over an isotropic radiator.

d is the distance in meters from which the field strength was measured.

P is the power in watts for which you are solving:

$$P = \frac{(Ed)^2}{30G}$$

(2) Measure the power spectral density as follows:

A. Tune the analyzer to the highest point of the maximized fundamental emission. Reset the analyzer to a RBW = 3 kHz, VBW > RBW, span = 300 kHz, sweep = 100 sec.

B. From the peak level obtained in (A), derive the field strength, E, by applying the appropriate antenna factor, cable loss, pre-amp gain, etc. Using the equation listed in (1), calculate a power level for comparison to the +8 dBm limit.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 96-40; FCC 97-141]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: This Order establishes the enforcement date of the rule implementing Section 641 of the Communications Act regarding the scrambling of sexually explicit adult video service programming. Section 505 of the Telecommunications Act amends the Communications Act to add Section 641. In this Order, the Commission establishes that the rule implementing Section 641 will be enforced effective May 18, 1997.

DATES: 47 CFR 76.227 will be enforced effective May 18, 1997.

FOR FURTHER INFORMATION CONTACT: Meryl S. Icove, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Order in CS Docket No. 96-40, FCC 97-141, adopted and released on April 17, 1997. The complete text of this Order 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) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20017.

Synopsis of Order

1. On February 8, 1996, the Telecommunications Act of 1996 ("1996 Act") 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

[I]n providing sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

Section 641(b) provides that:

[u]ntil a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

The Commission adopted an interim rule (61 FR 09648, March 11, 1996) implementing Section 505 and defining, on an interim basis, the hours of 6:00 am to 10:00 pm as those hours when a significant number of children are likely to view such programming. Order and interim rule in CS Docket No. 96-40, Implementation of Section 505 of the Telecommunications Act of 1996: Scrambling of Sexually Explicit Adult Video Service Programming, 61 FR 09648, March 11, 1996, 11 FCC Rcd 5386 (released March 5, 1996). Section 505 provides that these provisions take effect 30 days after the date of enactment of the 1996 Act, i.e., March 9, 1996. The Commission has not enforced Section 505 due to a temporary restraining order and a number of stays that were granted by the United States District Court for the District of Delaware.

2. Prior to the statute becoming effective the United States District Court for the District of Delaware issued a temporary restraining order enjoining the United States Government, including the Commission, from "enforcing or implementing Section 505 of the Telecommunications Act of 1996 in any manner." The court's order stated that the temporary restraining order "shall remain in force only until the

hearing and determination by the district court of three judges of Plaintiff's Motion for Preliminary Injunction." *Playboy Entertainment Group, Inc. v. United States*, 918 F. Supp. 813 (D. Del. 1996). The Cable Services Bureau ("Bureau") by public notice announced that the Commission would not enforce or implement Section 505 while the temporary restraining order was in effect. Public Notice, Report No. CS 96-17, DA 96-354 (Cable Services Bureau), released March 13, 1996, 11 FCC Rcd 10336 (1996).¹

3. On November 8, 1996, a three judge panel of the United States District Court for the District of Delaware issued an order denying petitions for a preliminary injunction regarding Section 505, and thus lifted the temporary restraining order that was in effect. *Playboy Entertainment Group, Inc. v. United States*, 945 F. Supp. 772 (D. Del. 1996). Thereafter, the Bureau issued a public notice announcing that Section 505 of the Telecommunications Act, and its associated rules, were in effect. Public Notice, DA 96-1906 (Cable Services Bureau), released November 15, 1996.

4. The court, however, ordered that any enforcement of Section 505 was "stayed pending the decision of the Court on plaintiffs' pending Motions to Stay" the opinion of the court pending review by the Supreme Court. *Playboy Entertainment Group, Inc. v. United States*, Civil Action Nos. 96-94/96-107, November 15, 1996. The Bureau announced by public notice that the Commission would not enforce Section 505. Public Notice, DA 96-1915, (Cable Services Bureau), released November 18, 1996.

5. The three judge panel, on December 5, 1996, granted plaintiffs' motion to stay and ordered that any enforcement of Section 505 was "stayed during the pendency of the [parties'] appeal" to the Supreme Court. *Playboy Entertainment Group, Inc. v. United States*, Civil Action Nos. 96-94/96-107, December 5, 1996. On December 9, 1996, the Bureau issued a public notice announcing the court's decision and stating that Section 505 would remain unenforceable pending appeal to the Supreme Court. Public Notice, DA 96-2064 (Cable Services Bureau), released December 9, 1996.

6. On March 24, 1997, the Supreme Court affirmed the District Court's denial of the preliminary injunction. *Playboy Entertainment Group, Inc. v. United States*, 65 U.S.L.W. 3644, 3647,

¹ DA 96-354 and subsequent DA 96-1906, DA 96-1915, and DA 96-2064 were not published in the **Federal Register**.

1997 WL 128706 U.S. (Mar. 24, 1997). The time to seek rehearing of the Supreme Court's decision expired on April 18, 1997. Congress, prior to the above referenced judicial proceedings, provided that Section 641 would become effective with 30 days advance notice. Consistent with that initial schedule, the rules implementing Section 505 will be enforced effective May 18, 1997. We believe that this amount of time is reasonable given any previous uncertainty with respect to enforcement of this provision and that it will permit operators to comply, to the maximum extent feasible, with any relevant subscriber notice requirements.

7. Accordingly, *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), 561, and Section 505 of the Telecommunications Act of 1996, 47 CFR § 76.227 will be enforced effective May 18, 1997.

Lists of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission

William F. Caton,

Acting Secretary.

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DEPARTMENT OF COMMERCE

50 CFR Part 679

[Docket No. 970206022-7102-02; I.D. 012197C]

RIN 0648-AJ35

Fisheries in the Exclusive Economic Zone Off Alaska; Modify Prior Notice of Landing Requirement

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

ACTION: Final rule.

SUMMARY: NMFS implements a regulatory amendment to the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries in and off Alaska. This action redefines the length of time within which a 6-hour prior notice of landing is valid and requires that a new prior notice of IFQ landing be submitted to NMFS if the landing originally reported will take place either before or more than 2 hours after the date and time scheduled in the original prior notice of IFQ landing. This action is necessary to reinforce the enforcement rationale underlying the original requirement and improve compliance with IFQ

regulations. This action is intended to improve the IFQ Program's ability to manage efficiently the Pacific halibut and sablefish resources of the Exclusive Economic Zone off Alaska.

EFFECTIVE DATE: June 12, 1997.

ADDRESSES: Copies of the Regulatory Impact Review for this action may be obtained from Fisheries Management Division, Attn: Lori Gravel, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: James Hale, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The fixed gear halibut and sablefish fisheries are managed under the IFQ Program, a limited access system for fixed gear Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fisheries in and off Alaska. The North Pacific Fishery Management Council (Council), under authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act of 1982 (Halibut Act), recommended the IFQ Program, which NMFS implemented in 1995. The IFQ Program was designed to reduce excessive fishing capacity while maintaining the social and economic character of the fixed gear fishery and the Alaskan coastal communities where many of these fishermen are based.

The regulations implementing the IFQ Program require vessel operators wishing to land IFQ species to notify NMFS no less than 6 hours prior to the landing and include in this notification the name and location of the registered buyer to whom the fish will be landed and the anticipated date and time of landing (§ 679.5(l)(1)(i)). This action modifies that requirement by specifying the length of time after the prior notice date and time specified in which IFQ species can be landed. As amended, the regulations require that fishermen land IFQ species no earlier than the anticipated time specified in the notice and no later than 2 hours after the specified time. In the event that a vessel does not make the landing within 2 hours after the time specified in the notice, the vessel operator must submit a new notice subject to all the requirements for the original notice, including that the notice be filed at least 6 hours prior to landing IFQ species. As in the present regulation, if a vessel operator wishes to make a landing earlier than the anticipated time specified in a notice, the operator must file a new notice subject to all the requirements of the original notice,

including that the notice be filed at least 6 hours prior to landing IFQ species.

Also, the current requirement that the notice include the name and location of the registered buyer to whom a landing will be made is clarified. "Location" may be misinterpreted to mean the business address of the registered buyer rather than, as was intended, the actual location of the landing. This action clarifies that requirement by making explicit that the notice must include the location of the landing.

Further information on this action may be found in the preamble to the proposed rule published February 21, 1997, at 62 FR 7993. No comments were received during the public comment period on the proposed rule, and no changes have been made in this action as published in the proposed rule.

Classification

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The requirement for a 6-hour prior notice of IFQ landings has been approved by the Office of Management and Budget (OMB) under Control Number 0648-0272. Public reporting burden for this collection of information is estimated to average 12 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The proposed rule for this action invited comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through use of automated collection techniques or other forms of information technology.

NMFS received no comments on these issues. This collection has been approved by OMB under Control Number 0648-0272.

This final rule has been determined to be not significant for purposes of E.O. 12866.

When this rule was proposed, the Assistant General Counsel for Legislation and Regulations of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that, if adopted as proposed, the final rule