

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,000 feet upstream of Interstate Highway 80.	*7,143	*7,143

Maps are available for inspection at the City of Laramie, City Engineer's Office, City Hall, 406 Ivinson Street, Laramie, Wyoming.
Send comments to the Honorable Jim Rose, Mayor, City of Laramie, 406 Ivinson Street, Laramie, Wyoming 82070.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: March 7, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96-6085 Filed 3-13-96; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CS Docket No. 96-46; FCC 96-99]

Open Video Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Notice of Proposed Rulemaking ("NPRM") requests comment on issues concerning the implementation of the open video system provisions of the Telecommunications Act of 1996. The NPRM will assist the Commission in devising regulations in this area. The NPRM will provide interested parties an opportunity to submit comments that will provide the Commission with a sufficient record on which to base ultimate regulations.

DATES: Interested parties may file comments on or before April 1, 1996 and reply comments on or before April 11, 1996. Written comments by the public on the proposed and/or modified information collections are due on or before April 1, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Larry Walke of the Cables Services Bureau, 2033 M Street, N.W., Room 408A, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor,

International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Rick Chessen or Larry Walke, Cable Services Bureau, (202) 416-0800. For additional information concerning the information collections contained herein, contact Dorothy Conway at 202-418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's NPRM in CS Docket No. 96-46, FCC No. 96-99, adopted March 11, 1996 and released March 11, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW., Washington, D.C. 20554.

Paperwork, Reduction Act

This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the OMB for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

OMB Approval Number: None.

Title: Open Video System Operator Notification of Video Programming Providers.

Type of Review: New Third Party Disclosure.

Respondents: 20. This number is our preliminary estimation of open video system operators that may exist in the next year.

Number of Responses: 40. We anticipate that each open video system operator may make two notifications, annually.

Estimated Time Per Response: 8 hours per response.

Total Annual Burden: 320 hours. This is the estimated total annual burden though this burden will be determined by comments received.

Estimated costs per Respondent: At this stage in the rulemaking process, it is too preliminary to determine the specific requirements for the notifications to be made by open video system operators. This will be determined by comments received. It is possible that notifications may be required to be made in newspapers or trade journals. Should this be required, the Commission estimates publication costs of \$1000 per notification. Estimated annual costs per respondent are therefore \$2000 (2 notifications @ \$1000 each).

Needs and Uses: This notification will inform video programming providers that the open video system operator intends to establish an open video system. This will permit video programming providers to assess their interest in seeking carriage on such systems.

I. Notice of Proposed Rulemaking

The 1996 Act repeals the Commission's "video dialtone" rules and regulations, which were established to permit telephone companies to participate in the video marketplace in a manner that was consistent with the telephone-cable cross-ownership ban. The 1996 Act also repeals the telephone-cable cross ownership rules imposed by the 1984 Cable Act, which prohibited telephone companies from providing video programming directly to subscribers in their telephone service

area. The general regulatory treatment for video programming services provided by telephone companies is now set forth in Section 302 of the 1996 Act, which establishes new Sections 651-653 of Title VI of the Communications Act of 1934 ("Communications Act").

2. The 1996 Act has adopted a different regulatory approach, and establishes various options for telephone companies to enter video programming markets, one of which is providing cable service over an "open video system" under new Section 653 of the Communications Act. Open video systems will be a new service offered by telephone companies that will contain certain elements of both traditional cable service and common carriage. In this NPRM, we seek comment on how the Commission should implement the open video system provisions of the 1996 Act in a way that will promote Congress' goals of flexible market entry, enhanced competition, streamlined regulation, diversity of programming choices, investment in infrastructure and technology, and increased consumer choice. In setting forth questions in the NPRM, we do not mean to imply that we will find it necessary to adopt rules addressing each of the issues raised. Rather, these questions are designed to develop a record that will enable us to determine what rules, if any, the Commission should adopt.

3. Generally, Section 653 provides that, if a telephone company certifies that it complies with certain non-discrimination and other requirements established by the Commission, its open video system will not be subject to regulation under Title II and will be entitled to reduced regulation under Title VI. The 1996 Act provides that the Commission must act upon a certification request within ten days of receipt. The 1996 Act also states that the Commission has the authority to resolve disputes regarding open video systems, but must do so within 180 days. The 1996 Act states that certain Title VI provisions shall not apply to open video systems, including, leased access obligations, franchise requirements and fees, cable rate regulation, and consumer protection and customer service rules.

4. This NPRM solicits comment on a number of relevant issues. First, new subsection 653(b)(1) of the Communications Act requires the Commission to prescribe regulations that (1) prohibit an open video system operator from discriminating among video programming providers with regard to carriage on the system, and (2) if demand exceeds capacity, prohibit the

system operator and its affiliates from selecting the programming on more than one-third of the system's capacity. In order to implement Congress' directive, the NPRM seeks comment on the best method of implementing this provision. We seek comment on various issues related to implementing these provisions, including: (1) permitting open video system operators to allocate capacity on their system; (2) how much flexibility should be afforded to system operators in complying with these provisions; (3) a system operator's notifying video providers of its intent to establish an open video system; (4) an operator's discretion regarding programming; (5) how to measure capacity; (6) issues related to the distinction between analog and digital channels; (7) allocating capacity where demand for carriage exceeds capacity of the system; and (8) allocating capacity where the level of demand changes after the initial allocation of capacity.

5. Second, new subsection 653(b)(1)(A) also requires the Commission to prescribe rules that will ensure that rates, terms, and conditions for the carriage of video programming on an open video system meet the conditions described above. In order to implement this directive, the NPRM solicits comment on methods for the Commission's enforcement of rules implementing this statutory provision, including whether the rates determined under market forces will comport with this statutory provision. We also seek comment on whether the Commission, if it were to adopt rules in this area, should permit some measure of discrimination consistent with the Act.

6. Third, new subsection 653(b)(1)(C) of the Communications Act requires the Commission to prescribe regulations that permit an open video system operator "to carry on only one channel any video programming service that is offered by more than one video programming provider, provided that subscribers have ready and immediate access to any such video programming service." In order to carry out this Congressional mandate, we first tentatively conclude that the open video system operator may administer channel sharing arrangements consistent with the Act. In addition, the NPRM solicits comment on issues relating to this provision, including: (1) the system operator's designation of another entity to administer channel sharing; (2) whether the Commission should prescribe any terms and conditions under which channels may be shared; (3) any technical differences exist between shared and non-shared channels that may permit system

operators to discriminate among video providers in designating certain channels as shared; and (4) how to ensure that subscribers have "ready and immediate access" to the shared channels.

7. Fourth, the 1996 Act directs the Commission to prescribe regulations that extend our regulations concerning sports exclusivity, network non-duplication, and syndicated exclusivity to the distribution of video programming over open video systems. In order to implement Congress' directives, we seek comment on our tentative conclusion that these existing cable policies and procedures should be extended to open video systems, and any related issues.

8. Fifth, the 1996 Act directs the Commission to prescribe regulations that prohibit an open video system operator from unreasonably discriminating in favor of the operator or its affiliates with regard to material provided to subscribers for the purposes of selecting programming on the system, or in the way such material is presented to subscribers.

In addition, the Commission must require an open video system operator to ensure that video programming providers or copyright holders are able to identify their programming services to subscribers. Finally, the 1996 Act directs that the Commission prescribe regulations that prohibit an open video system operator from "omitting television broadcast or other unaffiliated video programming services carried on such system from any navigational device, guide or menu." In order to implement Congress' directives, we seek comment on how to implement the various provisions of this subsection, including: (1) the meaning of the term "material or information;" (2) the meaning of the term "selecting programming;" (3) whether the prohibition against omitting broadcast stations and unaffiliated programmers from any "navigational device, guide or menu" applies to programmers that are not part of the subscriber's package; and (4) what would constitute proper identification of programming services.

9. Sixth, the 1996 Act provides that any provision that applies to cable operators under our PEG access, must-carry and retransmission consent rules shall apply "to any [certified] operator of an open video system." It also provides that the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations imposed on cable operators. In order to carry out this Congressional mandate, we solicit comment on issues relating to this provision, including: (1)

how PEG obligations should be established given that the 1996 Act does not require a video system operator to obtain a local franchise; (2) the treatment of situations where an open video system overlaps several cable franchise jurisdictions; (3) the general effect of technological and administrative differences between open video systems and cable television systems on implementing these provisions. With respect to program access, the 1996 Act provides that these rules shall apply to any operator of an open video system. In order to carry out this Congressional mandate, the Commission should solicit comment on issues relating to this provision, including: (1) what entity should be subject to the rules, and (2) applying the program access provisions' requirement that "competing distributors" be involved. We also seek comment on applying other rules provisions of Title VI of the Communications Act to open video systems, pursuant to the 1996 Act, including those concerning ownership restrictions, regulation of carriage agreements, negative option billing, subscriber privacy, and equal employment opportunity.

10. Seventh, the 1996 Act provides generally that a local exchange carrier may provide cable service to its cable service subscribers in its telephone service area through an open video system, and that, to the extent permitted by Commission regulations, consistent with the public interest, convenience, and necessity, an operator of a cable system or any other person may provide video programming through an open video system that complies with this section. In order to implement Congress' directives, we seek comment on: (1) whether this language means that cable operators and others may or may not become open video system operators, or may only provide video programming on others' open video systems the circumstances under which this language permits cable operators and others to become open video system operators or programmers; (2) what public interest factors should be considered in permitting cable operators to either become open video system operators or provide video programming on open video systems; and (3) the treatment of the situation where a local exchange carrier jointly markets or bundles the offering of regulated telephone service and open video system video programming.

11. Eighth, the 1996 Act provides that an operator of an open video system shall qualify for reduced regulatory burdens under subsection 653(c) if the operator certifies to the Commission

that it complies with the Commission's regulations under subsection 653(b) and the Commission approves such certification. The Commission must act on the certification within 10 days of receiving the certification. In order to implement Congress' directives, we seek comment on interpreting this language, including: (1) the approach we should take in establishing certification procedures, especially in light of this short statutory review period; and (2) the type of information that an open video system operator would be required to submit.

12. Ninth, the 1996 Act states that the Commission shall have the authority to resolve disputes under this section. The Commission must resolve any such dispute within 180 days, and may, in the case of a violation, require carriage, award damages, or both. In order to implement Congress' directives, we seek comment on: (1) whether the Commission should establish a dispute resolution procedure, such as the one employed to resolve program access disputes; and (2) in the alternative, establish more informal procedures which would require or encourage parties to first try to resolve the dispute without the Commission's direct involvement.

II. Initial Regulatory Flexibility Analysis

13. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, the Commission's Initial Regulatory Flexibility Analysis with respect to the NPRM is as follows:

14. *Reason for action:* The Commission is issuing this NPRM to seek comment on various issues concerning implementation of the open video system provisions of the 1996 Act.

15. *Objectives:* To provide an opportunity for public comment and to provide a record for a Commission decision on the issues discussed in the NPRM.

16. *Legal Basis:* The NPRM is adopted pursuant to Section 302 of the 1996 Act; and sections 1, 2, 4(i), 201-205, 215, 220, 303(r), 601-602, 611-616, 621-624, and 625-634 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201-205, 215, 220, 303(r), 521-522, 531-536, and 545-554.

17. *Description, potential impact, and number of small entities affected:*

Amending our rules to, for example, increase the programming distribution outlets for video programming providers, may directly impact entities which are small business entities, as defined in Section 601(3) of the Regulatory Flexibility Act.

18. *Reporting, recordkeeping, and other compliance requirements:* None.

19. *Federal rules which overlap, duplicate, or conflict with the Commission's proposal:* None.

20. *Any significant alternatives minimizing impact on small entities and consistent with state objectives:* The NPRM solicits comments on implementing the provisions of the 1996 Act concerning carriage by open video system operators of PEG access channels.

21. *Comments are solicited:* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this NPRM, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

III. Initial Paperwork Reduction Act of 1995 Analysis

22. This NPRM contains either a proposed or modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget ("OMB") to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on the NPRM; OMB comments are due May 13, 1996. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

IV. Procedural Provisions

23. *Ex parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission's

rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

24. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before April 1, 1996, and reply comments on or before April 11, 1996. We find these periods for the filing of comments and reply comments to be reasonable in light of the 1996 Act's mandate that the Commission complete all actions necessary (including any reconsideration) to prescribe certain regulations concerning open video systems. See *Florida Power & Light Co. v. United States*, 846 F.2d 765 (D.C. Cir. 1988) cert. denied, 490 U.S. 1045 (1989). To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Larry Walke of the Cables Services Bureau, 2033 M Street, N.W., Room 408A, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

25. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Larry Walke of the Cable Services Bureau, 2033 M Street, N.W., Room 408A, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

V. Ordering Clauses

26. It is ordered that, pursuant to Section 302 of the 1996 Act; and

sections 1, 2, 4(i), 201-205, 215, 220, 303(r), 601-602, 611-616, 621-624, and 625-634 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201-205, 215, 220, 303(r), 521-522, 531-536, and 545-554, Notice is hereby given of proposed amendments to Part 76, in accordance with the proposals, discussions, and statement of issues in this NPRM and that comment is sought regarding such proposals, discussion, and statements of issues.

27. It is further ordered that, the Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

28. For additional information regarding this proceeding, contact Rick Chessen or Larry Walke, Policy & Rules Division, Cable Services Bureau (202) 416-0800.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96-6146 Filed 3-11-96; 3:40 pm]
BILLING CODE 6712-01-P

47 CFR Parts 36 and 69

[CC Docket No. 96-45; FCC 96-93]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On March 8, 1996, the Federal Communications Commission ("Commission") adopted a Notice of Proposed Rulemaking and Order Establishing Joint Board. The Commission initiates this rulemaking: to define the services that will be supported by Federal universal service support mechanisms; to define those support mechanisms; and to otherwise recommend changes to our regulations to implement the universal service directives of the Telecommunications Act of 1996.

DATES: Comments must be filed on or before April 8, 1996, and reply comments must be filed on or before May 3, 1996.

ADDRESSES: Comments should be addressed to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Senior Attorney,

202-418-0850, Accounting and Audits Division, Common Carrier Bureau.

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