

requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed interim approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: February 26, 1996.

Phyllis P. Harris,

*Acting Regional Administrator.*

[FR Doc. 96-5720 Filed 3-8-96; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 381

[Docket No. R-165]

RIN 2133-AB25

#### Cargo Preference—U.S.-Flag Vessels; Available U.S.-Flag Commercial Vessels

**AGENCY:** Maritime Administration, Transportation.

**ACTION:** Proposed rule.

**SUMMARY:** This amendment to the cargo preference regulations of the Maritime Administration (MARAD) would provide that during the five year period beginning with the 1996 Great Lakes shipping season when the St. Lawrence Seaway is in use, MARAD will consider the legal requirement for the carriage of bulk agricultural commodity preference cargoes on privately-owned "available" U.S.-flag commercial vessels to have been satisfied where the cargo is initially loaded at a Great Lakes port on one or more U.S.-flag or foreign-flag vessels, transferred to a U.S.-flag commercial vessel at a Canadian transshipment point outside the St. Lawrence Seaway, and carried on that

U.S.-flag vessel to a foreign destination. This provision would allow U.S. Great Lakes ports to compete for certain bulk agricultural commodity preference cargoes under agricultural assistance programs administered by the U.S. Department of Agriculture (USDA) and the U.S. Agency for International Development (USAID). MARAD issued substantially identical rules in 1994 and 1995 related to the Great Lakes Shipping season for each of those years, respectively. This rule would extend the provision for an additional five years, after which the Agency would assess the merits of making the rule permanent.

**DATES:** Comments must be received on or before April 10, 1996.

**ADDRESSES:** Send original and two copies of comments to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590. To expedite review of comments, MARAD requests, but does not require submission of an additional ten (10) copies. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a self-addressed envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** John E. Graykowski, Deputy Maritime Administrator for Inland Waterways and Great Lakes, Maritime Administration, Washington, DC, 20590, Telephone (202) 366-1718.

**SUPPLEMENTARY INFORMATION:** United States law at sections 901(b) and 901b, Merchant Marine Act, 1936, as amended (the "Act"), 46 App. U.S.C. 1241(b) and 1241f, requires that at least 75 percent of certain agricultural product cargoes "impelled" by Federal programs (preference cargoes), and transported by sea, be carried on privately-owned United States-flag commercial vessels, to the extent that such vessels "are available at fair and reasonable rates." The Secretary of Transportation wishes to administer that program so that all ports and port ranges, including U.S. Great Lakes ports, may participate in the carriage of preference cargoes under five programs administered by the United States Department of Agriculture (USDA) and United States Agency for International Development (USAID), pursuant to Titles I, II and III of the Agricultural Trade Development and Assistance Act of 1954, as amended, P.L. 480 (7 U.S.C. 1701-1727), the Agricultural Act of 1949, as amended (7 U.S.C. 2791(c)) and the Food for Progress Act of 1985, as amended (7 U.S.C. 1736).

#### Prior Rulemaking

On August 8, 1994, MARAD published a final rule on this subject in the Federal Register (59 FR 40261). That rule stated that it was intended to allow U.S. Great Lakes ports to participate with ports in other U.S. port ranges in the carriage of bulk agricultural commodity preference cargoes. Dramatic changes in shipping conditions have occurred since 1960, including the disappearance of any all-U.S.-flag commercial ocean-going bulk cargo service to foreign countries from U.S. Great Lakes ports. The static configuration of the St. Lawrence Seaway system and the evolving greater size of commercial vessels contributed to the disappearance of any all-U.S.-flag service.

No bulk grain preference cargo has moved on U.S.-flag vessels out of the Great Lakes since 1989, with the exception of one trial shipment in 1993. Under the Food Security Act of 1985, Public Law 99-198, codified at 46 App. U.S.C. 1241f(c)(2), a certain minimum amount of Government-impelled cargo was required to be allocated to Great Lakes ports during the Great Lakes shipping seasons of 1986, 1987, 1988 and 1989. That "set-aside" expired in 1989, and was not renewed by the Congress. The disappearance of Government-impelled agricultural cargo flowing from the Great Lakes coincided with the expiration of the Great Lakes "set aside."

At the time of the opening of the 1994 Great Lakes shipping season on April 5, 1994, the Great Lakes did not have any all-U.S.-flag ocean freight capability for carriage of bulk preference cargo. In contrast, the total export nationwide by non-liner vessels of USDA and USAID agricultural assistance program cargoes subject to cargo preference in the 1994-1995 cargo preference year (the latest program year for which figures are available) amounted to 6.2 million metric tons, of which 4.9 million (78 percent) was transported on U.S.-flag vessels.

#### Extension of Trial Period

MARAD initially issued that rule for the purpose of allowing Great Lakes ports the opportunity to compete for agricultural commodity preference cargoes for only the 1994 Great Lakes shipping season cargoes, and to assess the results. As predicted by numerous commenters, the timing of the final rule, which was not published until August 18, 1994, did not allow for a true trial period since it actually extended for less than one-half of the 1994 Great Lakes Shipping season. Because of the long

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 million 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