§ 52.420 Identification of Plan.

* * * * *

(c) * * *

(26) Amendments to Regulation II (Registration and Permits) and XIII (Open Burning) [non-regulatory] of the Delaware Regulations governing the Control of Air Pollution submitted on September 22, 1981 by the Secretary, Department of Natural Resources and Environmental Control.

(27) Amendments to Section 9.4 (Surface Coating operations) and 13.2 (Dry Cleaning) of Regulation XXIV (Control of Volatile Organic Compound Emissions) of the Delaware Regulations governing the Control of Air Pollution submitted on September 22, 1981 by the Secretary, Department of Natural Resources and Environmental Control.

[FR Doc. 82-3223 Filed 2-5-82; 8:45 am]
BILLING CODE 6560-38-M

ACTION

45 CFR Part 1206

Grants and Contracts Suspension and Termination and Denial of Application for Refunding

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: These are final regulations revising the rules and review procedures for the denial of a current recipient's application for refunding. Certain modifications and revisions have been made in response to comments and recommendations received from volunteers, program sponsors, members of Congress, and other members of the public. A recent review of the denial of refunding procedures indicated a need for revision in order to make them consistent with the new policy, fiscal and programmatic initiatives of the Agency.

DATE: This regulation shall take effect on March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur F. Fergenson, General Counsel, ACTION, Room M-607, 806 Connecticut Avenue, NW., Washington, D.C. 20525, (202) 254-3116, FTS, 254-3116.

SUPPLEMENTARY INFORMATION: The existing Denial of Application for Refunding regulation was published in 1974 pursuant to Sections 402, 412 and 420 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.).*

On August 31, 1981 ACTION published for comment (46 FR 43707) proposed revisions to 45 CFR Part 1206, Subpart B. The public was invited to comment by September 30, 1981. The comment period was extended at the request of interested members of Congress to allow for further review and comment.

The Agency has considered all comments received (without regard to a cut-off date) and has determined to adopt the proposed rule with modifications based on an analysis of the comments.

I. Description of the Regulation

This regulation establishes procedures for the denial of a current recipient's application for refunding. If, after review of a recipient's application for refunding, ACTION makes a tentative decision to deny the application, the recipient is provided with notice and an opportunity to submit written materials and to meet informally with an ACTION official. The reasons for the tentative decision must be stated in the notice from the Agency to the recipient. If the recipient requests an informal meeting it must address itself to the reasons set forth by the Agency.

Both the recipient and ACTION have a right to be represented by counsel or other authorized representatives in all proceedings under this subpart.

II. Discussion of Comments Received

A. Nature of Comments

The Agency received approximately forty letters containing numerous comments on the proposed rule published in the **Federal Register** on August 31, 1981. Of the letters, thirteen were received from members of Congress. One such letter was accompanied by a Memorandum from the Congressional Research Service. That memorandum will be addressed in a separate paragraph.

The vast majority of the comments raised objection to the provision in § 1206.2-1(b) which makes the denial of refunding procedures inapplicable to those VISTA projects which have been in existence for a period of at least three years. Concern was also expressed, in a number of the comments regarding the deletion of the provision for payment of attorney's fees and travel and per diem expenses for representatives of the sponsor to attend the informal meeting. The following is the Agency response to the substantive comments and the resulting modifications.

B. Response

1. In the VISTA Guidance Papers of September 10, 1979, 44 FR 52703, the prior Administration of ACTION/VISTA determined that all VISTA Projects at least three years old would no longer receive special consideration through denial of refunding procedures, but would rather be remitted to the competitive status occupied by proposals for new projects. The prior Administration took this action without discussion, but we understand that behind that policy change may have been the notion that those projects which have been funded for three years should be expected by that time to achieve such success in fighting poverty that further support could be expected to be provided by sources within the local community. The expectation created by the 1979 policy in all VISTA projects thereafter entering into Memoranda of Agreement with ACTION was that alternative resources would be found within three years.

The policy of the prior Administration was never challenged to our knowledge, certainly not before this Administration, in what amounted to simply a recodification of the prior Administration's three-year rule, republished the policy as part of the regulations at issue. The Agency, under its new leadership, has considered the comments of those who have protested the three-year rule, and finds substantial reason to agree with them that the prior Administration acted wrongly in promulgating the policy; the 1979 Guidance Papers adoption of that rule is hereby repealed. The Agency has determined that all VISTA projects which are denied refunding will be offered an opportunity to show cause why an application for refunding should not be denied.

The Agency has added an exception for short-term VISTA extension requests. While applications for refunding of six months or longer call into play the underlying rationale for the informal hearing mechanism of this part, it is plain that extension requests for relatively short periods of time, to wit, under six months, do not. First, short extensions are sought most often for administrative reasons that frequently have nothing to do with the integrity or purpose of the project itself; for example, the period of service of VISTA volunteers assigned to a VISTA project may extend beyond the period covered by the memorandum of agreement which fixes the life of the project. While, in this example, the VISTA sponsor may wish to accommodate the VISTA volunteers by continuing the project for a few extra months, the VISTA volunteers are, it should be emphasized, the ultimate responsibility of ACTION, not the project sponsor. Administrative considerations, and the use of volunteer reassignment procedures, are matters for ACTION to be concerned with, not the sponsor. Denial of refunding procedures are for the use of the sponsor to represent its, and the project's interests, not those of the VISTA volunteers.

It is, furthermore, the case that the denial of refunding procedures are meant for substantial proposals for continuation, which the sponsor should seek through the usual application for one-year refunding. Liberalizing the applicable period to six momths is a reflection of the flexibility that ACTION believes ought to be shown to VISTA sponsors. Any further deviation from the evident purpose of the denial of refunding procedures, would amount to a virtual evisceration of the carefully developed procedures which are designed to protect not only the interests of the sponsor, but also those of the volunteers, the poor whom VISTA is to serve, and the taxpaying public. The enormous resources of ACTION that would have to be devoted to the essentially administrative determination involved in decisions whether to approve short-term extensions, would be diverted from the main purposes of VISTA, and would jeopardize VISTA's continued ability to properly administer VISTA projects and to serve ACTION's VISTA volunteers.

2. In those other instances where ACTION and a recipient agree, in advance, that a project should receive funding for not more than a predetermined number of years, there is no expectancy of continuation beyond that time on the part of either party. This is not a denial of refunding; it simply means that the agreed-upon time limit for the project has been reached. In effect, it is much like any contract where parties agree to perform a certain function by a certain date. This type of situation does not, in the opinion of the Agency, fit within the meaning of denial of refunding and thus does not require the agency to provide such recepient with a show cause informal meeting.

The Agency, in many instances, will fund demonstration or test projects to gather data and develop agency experience in a wide range of volunteer activities, or to deal with a specific time-bound problem in a particular community. Recipients of these limited grants understand from the inception of the projects that they are created to achieve specific goals within a specific time limit.

For instance, the Mini-Grant Program provides funds on a one-time, non-renewable basis for a project period not to exceed one year. Projects must have measurable goals achievable in a specified timeframe in order to qualify for these funds.

The Agency will continue to utilize such programs and projects in order to meet national needs and to achieve Agency goals. There is no justification for the comment that the Agency must provide an opportunity for recipients of these limited grants to show cause why an application for refunding should not be denied. The Agency will continue to make absolutely clear to the recipients of such grants that the grants are only for pre-established periods of time.

The report from the Congressional Research Service apparently urges an extremely narrow interpretation of Section 412 of the Domestic Volunteer Service Act of 1973. To read the section as a "seemingly absolute mandate for reasonable notice and opportunity to show cause why a refunding application should not be denied" would mean that there can be no exceptions to its provisions under any circumstances. This line of reasoning fails to consider the mini-grant and demonstration grant process as well as the existing statutory exception regarding the University Year for Action (UYA) Program and the effect on a project if the Governor of the State in which the project is located withdraws approval. The statute is not an absolute requirement that informal meetings be provided all disappointed renewal seekers and in the opinion of the Agency it was not so intended.

3. Two comments expressed the opinion that the Older American Volunteer Programs should be expressly excluded from this section. However, after careful review of the provision the Agency does not concur.

It is the Agency's intent that the local projects established under the Older American Volunteer Programs (other than specifically identified time-limited demonstration projects) be ongoing projects. Usually, those projects which have successfully achieved local and national goals and objectives and are in compliance with Agency Regulations and policies are renewed on an annual basis. In instances when there is an indication that projects have failed to meet agreed-upon goals and objectives and/or comply with Agency Regulations and policies, the proposed procedures provide safeguards for the Agency and the sponsor to protect the program integrity.

4. Several comments raised objection to the deletion of the provision for payment of attorney's fees and expenses and travel and per diem expenses from grant funds for a representative of the recipient to attend the informal meeting. Concern was expressed that there are a number of low budget organizations (Older American and VISTA) that would not have the funds necessary to attend an informal meeting which may be scheduled far from the location of the project whose application for refunding has been denied.

Agency funds, in light of the need of all parts of Government to economize to make economic revitalization possible, are at a premium. Those funds that are available will be directed, to the greatest extent possible, to the volunteers and to the operation of the project; the payment of travel-related expenses and attorney's fees for denial of refunding informal meetings does not meet this paramount objective. As explained above, a denial of refunding preliminary decision is rare in the case of the Older Americans projects, the overwhelming number of which will never face the prospect of a denial of refunding at any time.

Recipients involved in denial of refunding proceedings retain the right to be represented by an attorney at the informal meeting; however, it is not economically feasible for the Agency to continue to pay attorney's fees.

Pursuant to Section 3(c)3 of E.O. 12291, entitled "Federal Regulation" the required review process has been completed by the Director of the Office of Management and Budget.

PART 1206—GRANTS AND CONTRACTS—SUSPENSION AND TERMINATION AND DENIAL OF APPLICATION FOR REFUNDING

Accordingly Subpart B of Part 1206 of Title 45 of the Code of Federal Regulations is revised to read as follows:

* * * * *

Subpart B—Denial of Application for Refunding

Sec.

Authority: Secs. 402(12), 412 and 420 of Pub. L. 93-113, 87 Stat. 394, 411 and 414.

Subpart B—Denial of Application for Refunding

§ 1206.2-1 Applicability of this subpart.

This subpart applies to grantees and contractors receiving financial assistance and to sponsors who receive volunteers under the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 *et seq.* The procedures in this subpart do not apply to review of applications for the following:

(a) University Year for ACTION projects which have received federal funds for five years;

(b) Mini-grants;

(c) Other projects for which specific time limits with respect to federal assistance are established in the original notice of grant award or other document providing assistance, where the specified time limit has been reached; and

(d) VISTA project extensions of less than six months.

§ 1206.2-2 Purpose.

This subpart establishes rules and review procedures for the denial of a current recipient's application for refunding.

§ 1206.2-3 Definitions.

As used in this subpart—"ACTION," "Director," and "recipient" shall be defined in accordance with § 1206.1-3.

"Financial assistance" and "assistance" include the services of volunteers supported in whole or in part with ACTION funds.

"Program account" means assistance provided by ACTION to support a particular program activity; for example, VISTA, Foster Grandparent Program, Senior Companion Program and Retired Senior Volunteer Program.

"Refunding" includes renewal of an application for the assignment of volunteers.

§ 1206.2-4 Procedures.

(a) The procedures set forth in paragraphs (b) through (f) of this section shall apply only where an application for refunding submitted by a current recipient is rejected or is reduced to 80 percent or less of the applied-for level of funding or the recipient's current level of operations, whichever is less. It is further a condition for application of these procedures that the rejection or reduction be based on circumstances related to the particular grant or contract. These procedures do not apply to reductions based on legislative requirements, or on general policy or in instances where, regardless of a recipient's current level of operations, its application for refunding is not reduced by 20 percent or more. The fact that the basis for rejecting an application may also be a basis for termination under subpart A of this part shall not prevent the use of this subpart to the exclusion of the procedures in subpart A.

(b) Before rejecting an application of a recipient for refunding ACTION shall notify the recipient of its intention and shall offer the recipient an opportunity to submit written material and to meet informally with an ACTION official to show cause why its application for refunding should not be rejected or reduced. Written notification of ACTION's intention shall be sent to the recipient as far in advance of the end of the recipient's current program year or grant budget period as possible. The notice shall inform the recipient that a tentative decision has been made to reject or reduce an application for refunding. The notice shall state the reasons for the tentative decision to which the recipient shall address itself if it wishes to make a presentation, and notify the recipient of the date by which it must request an informal meeting.

(c) If the recipient requests an informal meeting with an ACTION official as described in paragraph (b) of this section, such a meeting shall be held on a date specified by ACTION. However, the meeting may not, without the consent of the recipient, be scheduled sooner than 14 days after ACTION has mailed the notice to the recipient or, in any event more than 21 days after the mailing of the notice. If the recipient requests an informal meeting the meeting shall be scheduled by ACTION as soon as possible after receipt of the request.

(d) The official who shall conduct this meeting shall be an ACTION official who is authorized to finally approve or make the grant of assistance in question, or his designee. The meeting shall be held in the city or county in which the recipient is located, in the appropriate Regional Office, or another appropriate location. Within the limits stated in the preceding sentence, the decision as to where the meeting shall be held will be made by ACTION.

(e) The recipient shall be informed of the final Agency decision on refunding and the basis for the decision, by the deciding official.

(f) If the recipient's budget period expires prior to the final decision by the deciding official, the recipient's authority to continue program operations shall be extended until such decision is made and communicated to the recipient. If a volunteer's term of service expires after receipt by a sponsor of a tentative decision not to refund a project, the period of service of the volunteer may be similarly extended. No volunteers may be reenrolled for a full 12-month term, or new volunteers enrolled for a period of service while a tentative decision not to refund is pending. If program operations are so extended, ACTION and the recipient shall provide, subject to the availability of funds, operating funds at the same levels as in the previous budget period to continue program operations.

§ 1206.2-5 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the recipient and ACTION shall have the right to be represented by counsel or other authorized representatives, at their own expense.

Signed at Washington, D.C., this 1st day of February 1982.

Thomas W. Pauken,

Director.

[FR Doc. 82-3189 Filed 2-5-82; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 42, 43, 44, 45, 46, 70, 71, 72, 73, 74, 90, 92, 93, 175, 177, 188, and 191

[CGD 80-120]

Revocation of Obsolete Load Line Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These rules revoke certain obsolete load line regulations, revise various authority citations, and make editorial corrections related to these actions. The load line regulations, 46 CFR Part 43, for merchant vessels on foreign and coastwise voyages, were superseded in 1968 when the Coast Guard issued new load line regulations (46 CFR Part 42) based on the International Load Line Convention, 1966, but were retained for vessels whose keels were laid before July 1, 1968. Since all vessels whose keels were laid since that date must comply with Part 42 and since, in 1973, the Congress repealed the authorizing statute, there is no need or authority to continue the older regulations. A vessel whose keel was laid before July 1, 1968 may retain its original load line assigned under Part 43, as long as that vessel is not significantly altered or has not been assigned a reduced freeboard.

EFFECTIVE DATE: These amendments are effective on March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Merchant Marine Technical Division, Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: Because this rule making revokes obsolete and superseded regulations and makes other nonsubstantive administrative and editorial amendments, the Coast Guard finds that notice and public procedure thereon are unnecessary and may be omitted under 5 U.S.C. 553(b)(3)(B).

Discussion of Part 43 Revocation

The origin of this statutory requirement dates back to the 19th century. The natural interest of ship owners to maximize revenue led them frequently to load vessels to a point beyond safety. As a result, the greater the weight of the vessel's load, the lower it would ride in the water, making it more vulnerable to heavy seas with the consequence that may seamen lost their lives.

This led to legislation in England which required ships to inscribe on their sides marks showing the limits of safety for different seas and seasons. These marks are commonly known as "load lines." In 1929, the United States Congress passed a Foreign Voyage Load Line Act and in 1931, the U.S. acceded to the International Load Line Convention of 1930 (1930 Convention); establishing worldwide standards in this matter. Regulations for these were established in 46 CFR Part 43. In July 1968, a second convention on load lines went into force worldwide superseding the original convention. The 1966 Convention established new uniform rules with respect to the safe limits to which ships on international voyages may be loaded. Its intent was to bring international load line regulations into accord with modern ship construction developments and techniques. In some cases deeper loading of ships can now be safely permitted.

The International Voyage Load Line Act (Act), Pub. L. 93-115, 87 Stat. 418 (46 U.S.C. 86), repealed the law (46 U.S.C. 85a-85g) which authorizes Part 43 and substituted the changes required by the 1966 Convention and its annexes.

The Act authorized 46 CFR Part 42 which required all vessels whose keels were laid after June 30, 1968 to comply with the new Part. Part 43 was temporarily retained during an official changeover period lasting till 1973. Old ships which had freeboards issued under Part 43 and which have not changed their freeboard or any items affecting freeboard are permitted to retain their existing freeboards. If these ships are significantly altered or if the owner wishes to obtain a reduced freeboard, Part 42 load lines will now be assigned.

Discussion of Authority Citation Change

Originally, the statutory authority for both 46 CFR Parts 42 and 43 came from the Load Line Act of 1929 (45 Stat. 1493; 46 U.S.C. 85-85g). In 1973, however, Congress enacted the International Voyage Load Line Act of 1973 (87 Stat. 418; 46 U.S.C. 86-86i) and repealed the 1929 Act. The authority notes in Part 42 and other citations and references to the 1929 Act throughout Title 46 have never been updated. The Coast Guard is correcting these references and citations to refer to the 1973 Act.

Section 42.03-10 has been further revised to clarify that the regulations in Part 42 apply to existing foreign vessels of 150 gross tons or over and new foreign vessels of 79 feet in length or more in accordance with the applicability of the International Voyage Load Line Act of 1973. (The 1929 Act applied to vessels of 150 gross tons or over only.)

Drafting Information

The principal persons involved in drafting these amendments are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lt. Collin Lau, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation

These rules have been evaluated under Department of Transportation Order 2100.5 "Policies and Procedures for Simplification, Analysis, and Review of Regulations" dated May 22, 1980, and Executive Order 12291 and have been determined to be not significant or major.

These rules revoke the obsolete load line regulations of Part 43 (Foreign and Coastwise Voyages by Existing Merchant Vessels). That part is being revoked because Part 42 (Domestic and Foreign Voyages by Sea) now supersedes Part 43. The rules clarify the applicability of Part 42 to new and existing foreign vessels.

Part 43 was retained in 1968 only on a transitional basis lasting until 1973. Since all vessels now fall under the regulations of Part 42, adopted in 1968, there is no need to continue the older regulations. Since the deletion of Part 43 and associated changes will be merely editorial, it will have no effect on the economy in terms of domestic or international competition, cost or price increases, employment, investment, productivity or innovation.

For the reasons stated above, the expected impact of this rule is so minimal that no final evaluation has been prepared.

Regulatory Flexibility Analysis

These amendments have been evaluated under the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1168) and are certified to have no significant impact on a substantial number of small entities. No significant impact was found because the amendments are of an administrative or editorial nature.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is amended as follows:

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

1. By revising the Authority Note of Part 42 to read as follows:

Authority: Sec. 2, 87 Stat. 418, (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended, (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a); 49 CFR 1.46(b).

2. By revising § 42.01-1 to read as follows:

§ 42.01-1 Authority for regulations.

The statutory authority to prescribe rules and regulations requiring certain vessels to have and display load line marks indicating the maximum amidship draft to which such vessels may be safely loaded and certification thereof by the assigning authority is in the International Voyage Load Line Act of 1973, as amended (46 U.S.C. 86-86i), and Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88-88i).

§ 42.01-5 [Removed]

3. By removing § 42.01-5.

4. By revising § 42.01-10(b) to read as follows:

§ 42.01-10 Purpose of regulations.

* * * * *

(b) This subchapter sets forth the uniform minimum requirements for load line marks on various categories of vessels. It also sets forth requirements for surveys relating to the assignment of load lines, the issuing of load line certificates by authorized issuing authorities, and the carriage of load line certificates aboard vessels.

* * * * *

§ 42.03-1 [Removed]

5. By removing § 42.03-1.

5a. By revising paragraph (a)(1) and the first sentence of paragraph (b)(1)(ii) of § 42.03-5 to read as follows:

§ 42.03-5 U.S. flag vessels subject to the requirements of this subchapter.

(a) * * * (1) All U.S. flag vessels which engage in foreign voyages or international voyages by sea (other than solely in Great Lakes voyages) are subject to this part; except the following:

(i) Ships of war;

(ii) New vessels of less than 79 feet in length;

(iii) Existing vessels of less than 150 gross tons;

(iv) Pleasure yachts not engaged in trade; and

(v) Fishing vessels.

* * * * *

(b) * * * (1) * * *

(ii) Vessels which are mechanically propelled and numbered by a State or the Coast Guard under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.) and not required by other laws to be inspected or certified by the U.S. Coast Guard (* * *).

* * * * *

6. By revising § 42.03-10 to read as follows:

§ 42.03-10 Foreign vessels subject to this subchapter.

(a) *General.* All existing foreign merchant vessels of 150 gross tons or over, and new foreign vessels of 79 feet in length or more, loading at or proceeding from any port or place within the jurisdiction of the United States or its possessions for a foreign voyage by sea, or arriving within the jurisdiction of the United States or its possessions from a foreign voyage by sea, in both cases the Great Lakes excepted, are subject to the International Load Line Act of 1973, as amended (46 U.S.C. 86–86i), and the regulations in this part applicable to such service. All foreign merchant vessels of 150 gross tons or over, loading at or proceeding from any port or place within the United States on the Great Lakes of North America, or arriving within the jurisdiction of the United States on the Great Lakes, are subject to the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i) and the regulations in Part 45 of this subchapter applicable to such service.

(b) *Canadian vessels.* All vessels of Canadian registry and holding valid certificates issued pursuant to Canadian laws and regulations are assumed to be in compliance with the applicable provisions of the International Load Line Act of 1973, as amended (46 U.S.C. 86–86i) and the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i), the International Convention on Load Lines, 1966, and the regulations in this subchapter.

(c) *Vessels of countries signatory to or adhering to the 1966 Convention.* The enforcement and control of load line requirements regarding vessels of countries signatory to or adhering to The International Convention on Load Lines, 1966, (the 1966 Convention) are as described in § 42.07-60 in this part, which is in accord with provisions of Article 21 of the 1966 Convention. Such vessels when holding currently valid certificates issued pursuant to the 1966 Convention, or recognized under such Convention, are assumed to be in compliance with the applicable provisions of such Convention. Such vessels are deemed to be in compliance with the load line requirements found to be equally effective as those established in this part and therefore in compliance with the applicable load line provisions of the International Load Line Act of 1973, as amended, the Coastwise Load Line Act of 1935, as amended, and the regulations in this part as authorized by such laws. Vessels engaged in navigation on the Great Lakes are subject to application of seasonal international marks as specified in Part 45 of this subchapter.

(d) *Vessels of countries not signatory to or adhering to the 1966 Convention.* (1) Vessels of countries not signatory to or adhering to the 1966 Convention, when within the jurisdiction of the United States, shall be subject to the International Load Line Act of 1973, as amended, the Coastwise Load Line Act of 1935, as amended, and the regulations in this subchapter as authorized by such laws.

(2) Vessels of countries signatory to or adhering only to International Loan Line Convention, London, 1930 (the 1930 Convention), and holding valid certificates issued under that Convention, are subject to the applicable law described in paragraph (a) of this section and the regulations prescribed thereunder in this subchapter.

§ 42.03-17 [Amended]

7. By removing paragraph (c) of § 42.03-17.

§ 42.05-30 [Amended]

8. By removing paragraphs (b) and (c) of § 42.05-30.

§ 42.05-50 [Amended]

9. By removing paragraphs (b) and (c) of § 42.05-50.

10. By revising paragraphs (e), (e)(2), and (f) of § 42.07-1 to read as follows:

§ 42.07-1 Load Lines required.

* * * * *

(e) Existing U.S.-flag vessels, as defined in § 42.05-30(a) of this chapter, engaged in international or coastwise voyages, may retain the load line assigned under previous regulations, provided:

(1) * * *

(2) The form of the load line certificate issued to and carried on board the vessel conforms to the requirements of Subpart 42.50 of this part or § 44.05-35 or § 46.10-30 of this chapter.

(f) This part applies to foreign vessels of countries—

(1) Signatory to or adhering to the 1966 Convention;

(2) Adhering to the 1930 Convention and not acceding to the 1966 Convention, or;

(3) Not adhering to either the 1930 Convention or the 1966 Convention but subject to the load line acts.

11. In § 42.07-45, by removing paragraphs (b)(1) and (b)(2) and revising paragraph (e)(2) to read as follows:

§ 42.07-45 Load Line certificates.

* * * * *

(b) * * *

(1) [Removed]

(2) [Removed]

* * * * *

(e) * * *

(2) Certificate issued to foreign vessels belonging to countries that have not ratified or acceded to the 1966 Convention as follows:

* * * * *

12. In § 42.07-50, by revising paragraphs (a), (b)(1), (b)(2), (b)(3), (c), and (d) to read as follows:

§ 42.07-50 Penalties for violations.

(a) The penalties for violation of various provisions of the load line acts or the regulations established thereunder are set forth in Title 46, United States Code, sections 86i and 88g. The Secretary of Transportation by 49 CFR 1.46(b) has transferred to the Commandant authority to assess, collect, remit or litigate any monetary penalty imposed under these laws.

(b) * * *

(1) Detain a vessel if deemed to be overloaded in violation of Title 46, United States Code, section 86g or 88c in accordance with section 86h or 88f, and have the vessel surveyed by three disinterested surveyors.

(2) Assess and collect applicable monetary penalties for certain violations as provided in Title 46, United States Code, sections 86i and 88g.

(3) Initiate a criminal prosecution for certain violations when required by Title 46, U.S. Code, section 86i or 88g.

* * * * *

(c) In determining offenses the provisions of Title 46, United States Code, sections 86i and 88g, both provide that "Each day a vessel is in violation of this act shall constitute a separate offense."

(d) The procedures governing the assessment, collection, remission and litigation of any monetary penalty proposed under Title 46, United States Code, section 86i or 88g for a violation of either load line law or the applicable regulations in this subchapter, as well as the appeal procedures to be allowed, are in 33 CFR Subpart 1.07.

13. By revising § 42.09–20(a)(i) to read as follows:

§ 42.09–20 Surveys of foreign vessels.

(a) * * *

(1) The vessel is exempted by the provision of section 8 of the International Load Line Act of 1973, as amended (46 U.S.C. 86f); or

* * * * *

14. By revising § 42.09–50(c) to read as follows:

§ 42.09–50 Repairs or alterations to vessel after it has been surveyed.

* * * * *

(c) An existing vessel, which had a load line assigned under previous regulations which undergoes repairs, alterations, or modifications of a major character, shall meet the requirements for a new vessel in this part insofar as the assigning and issuing authority and the Commandant deem reasonable and practicable.

15. By revising § 42.11–1(b) to read as follows:

§ 42.11–1 General.

* * * * *

(b) The Commandant is responsible for the administration of the load line acts, the 1966 Convention, other treaties regarding load lines, and the implementing regulations in this subchapter which include prescribed form and content of applicable load line certificates.

* * * * *

PART 43—FOREIGN AND COASTWISE VOYAGES BY EXISTING MERCHANT VESSELS [REMOVED]

16. By removing Part 43—Foreign and Coastwise Voyages by Existing Merchant Vessels.

17. By revising the heading and authority note of Part 44 to read as follows:

PART 44—VARIANCE FOR CERTAIN VESSELS

* * * * *

Authority: Sec. 2, 49 Stat. 888, as amended, (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a); 49 CFR 1.46(b).

18. By revising § 44.05–10(a) to read as follows:

§ 44.05–10 Load line markings.

(a) The load line marks on the vessel's sides must be in accordance with § 42.13–25(a) of this subchapter, except seasonal markings such as "Winter North Atlantic" which are not applicable to the voyage are omitted.

* * * * *

PART 45—GREAT LAKES LOAD LINES

19. By revising the authority note following § 45.159 to read as follows:

§ 45.159 Special conditions of assignment for type A vessels.

* * * * *

(Sec. 2, 87 Stat. 418, (46 U.S.C. 86), Sec. 2, 40 Stat. 888 as amended (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a), 49 CFR 1.46(b))

PART 46—SUBDIVISION LOAD LINE FOR PASSENGER VESSELS

20. By revising the authority note of Part 46 to read as follows:

Authority: Sec. 2, 87 Stat. 418, (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 (46 U.S.C. 369); R.S. 4490, 19 Stat. 252 (46 U.S.C. 482); 49 CFR 1.46(b).

21. By revising § 46.01–5(a) to read as follows:

§ 46.01–5 Authority.

(a) The regulations regarding subdivision and subdivision load lines interpret or apply Title 46, U.S. Code, sections 86, 88a, 363, 367, 369, 482, 483, and 1333, and Title 50, U.S. Code, section 198.

* * * * *

22. By revising § 46.01–15(d) to read as follows:

§ 46.01–15 Application of regulations.

* * * * *

(d) No foreign passenger vessel belonging to a country that has ratified or acceded to the applicable International Convention for Safety of Life at Sea shall arrive or depart from any port or place under the jurisdiction of the United States, and no foreign passenger vessel subject to the International Load Line Act of 1973 as amended (46 U.S.C. 86–86i) or the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i), shall arrive or depart from any port or place under the jurisdiction of the United States, including ports on the Great Lakes, unless that vessel has been marked with subdivision load lines in accordance with the regulations in this Part and has on board a valid certificate certifying to the correctness of the location of such subdivision load line marks.

* * * * *

23. By revising § 46.01–20(a) to read as follows:

§ 46.01–20 Penalties for violations.

(a) Penalties for violations of the regulations in this part by passenger vessels of the United States engaged in foreign voyages shall be in accordance with those laws which require the inspection and certification of the vessel. In addition, for passenger vessels subject to the International Load Line Act of 1973, as amended (46 U.S.C. 86–86i), or the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i), which engage in voyages described in §§ 42.03–5, 42.03–10, or 45.01–1, the penalties for violations of the regulations in this part shall be those set forth in the load line act applicable to the vessel.

* * * * *

24. By revising § 46.10–30(d) to read as follows:

§ 46.10–30 Subdivision load line certificates.

* * * * *

(d) Annual inspections of passenger vessels shall be as required by § 42.09–40 and 46.10–15 of this subchapter and renewal of passenger vessels' load line certificates shall be as required by §§ 42.09–15 and 42.09–20.

* * * * *

PARTS 2, 70, 90, AND 188 [AMENDED]

25. In the following sections, by striking out the citation "46 U.S.C. 85a" and inserting in its place, the citation "46 U.S.C. 86":

a. Section 2.85–1(b).
b. Section 70.01–10(d).
c. Section 70.01–10(e).
d. Section 90.01–10(d).
e. Section 188.01–10(a).

PARTS 2, 72, 73, 74, 92, 93, 175, 177, AND 191 [AMENDED]

26. In the authority notes of the following Parts, Subparts and sections, by striking out the citations "Sec. 2, 45 Stat. 1493" and "46 U.S.C. 85a" and inserting in their respective places the citations "Sec. 2, 87 Stat. 418", and "46 U.S.C. 86":

a. Section 2.85–1.
b. Section 72.40–1.
c. Section 72.40–5.
d. Section 72.40–90.
e. PART 73—Watertight Subdivision.
f. PART 74—Stability.
g. Section 92.25–1.
h. Section 92.25–5.
i. Section 92.25–90.
j. Part 93—Stability (incorrectly printed as 45 Stat. 1943).

k. Subpart 175.07—Load Lines.

l. Section 177.35-1.

m. Part 191—Subdivision and Stability.

Dated: January 28, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-2962 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 22

[RM-3753]

Establish a New Filing Date for FCC Form 430

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has granted requests made on behalf of licensees and permittees in the Domestic Public Fixed and the Public Land Mobile Radio Services to change the deadline for filing FCC Form 430 (Annual Common Carrier and Satellite Radio Licensee Qualification Report) from January 31 to March 31. Form 430 provides information concerning licensees' legal, financial and character qualifications. The present reporting date works a hardship upon licensees because the forms must be submitted so soon after the end of the reporting period. It also creates additional work for the staff because requests for extension of time filed by individual carriers must be processed.

EFFECTIVE DATE: March 11, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Terrence E. Reideler, (202) 632-6430.

SUPPLEMENTARY INFORMATION:

In re amendment of §§ 21.11(a)(2) and 22.11(a)(2) of the rules to establish a new filing date for FCC Form 430; RM-3753, proceeding terminated.

Report and Order

Adopted: January 27, 1982.

Released: February 2, 1982.

1. Blooston and Mordkofsky, a law firm which represents licensees and permittees in the Domestic Public Fixed Radio Services and the Public Mobile Radio Services, has filed a Petition for Rule Amendment requesting that §§ 21.11(a)(2) and 22.11(a)(2) of the Rules be amended to change the filing deadline for the Commission's annual Common Carrier and Satellite Radio Licensee Qualification Report (FCC Form 430) from January 31 to March 31. No comments were submitted.

2. Petitioner states that the present January 31 filing date for FCC Form 430 works a hardship upon licensees in the affected services. Because the reports must cover the licensee's operations for the entire preceding year, it is impracticable to begin their preparation prior to January 1 due to the frequency of year-end assignments, transfers and mergers and of year-end change-overs in officers and directors. Moreover, following as it does immediately upon the disruptions of the holiday season, the month of January is an extremely busy time for common carrier and satellite radio licensees since their administrative and clerical staffs must devote substantial amounts of time to the preparation of tax, financial and other year-end reports. As a result, numerous common carrier and satellite radio licensees each year request extensions of time.

Discussion

3. We believe grant of the petition will serve the public interest. The Commission's primary interest lies in obtaining and assuring the currency of the information requested in FCC Form 430. We do not believe that there will be any loss to the public or inconvenience to the Commission if these reports are submitted by March 31 rather than by January 31. While we did not intend the present January 31 filing to work a hardship upon any of our common carrier radio licensees, experience has shown that a significant numbers of licensees do, in fact, seek extensions of time each year.[1] This imposes additional costs on the licensees and added processing burdens on our staff.[2]

4. Amending the Rules to extend the deadline for filing FCC Form 430 from January 31 to March 31 will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354). Indeed, no new recordkeeping, reporting or other requirements are imposed upon licensees. Instead they are afforded greater flexibility to adapt their needs to the Commission's requirements. But the new deadline does not prevent a common carrier radio licensee from filing its annual report on or before January 31; therefore, a licensee is under no obligation to alter its annual reporting procedure. Accordingly, it is certified that sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. See 5 U.S.C. 605(b).

5. Commission authority for adoption of Rule amendments contained herein is set forth in section 4 (i) and (j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r). Furthermore, because these Rule amendments merely extend an existing reporting deadline, the adoption of new §§ 21.11(a)(2) and 22.11(a)(2) relates solely to Commission procedure. Therefore, pursuant to the provisions of section 553(b)(A) of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), the Commission, without issuing a notice of proposed rulemaking, hereby amends §§ 21.11(a)(2) and 22.11(a)(2) of its rules, 47 CFR 21.11(a)(2) and 22.11(a)(2), to change the filing deadline for FCC Form 430 from January 31 to March 31 of each year.

6. Accordingly, it is ordered, that the Petition for rulemaking filed by the Law Offices of Blooston and Mordkofsky is granted.

7. It is further ordered, that, effective March 11, 1982, §§ 21.11(a)(2) and 22.11(a)(2), 47 CFR 21.11(a)(2) and 22.11(a)(2), are amended, as set forth in the attached Appendix.

8. It is further ordered, that the Secretary shall cause these amendments to be published in the **Federal Register.**

(Secs. 4, 303, 307, 48 Stat. as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 21 and 22 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 21—DOMESTIC PUBLIC RADIO SERVICES

1. In § 21.11 paragraph (a)(2) is revised to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) * * *

(2) Annually no later than March 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public

[1] On January 13 and 20 of this year, the Mobile Services Division and the Domestic Facilities Division of the Common Carrier Bureau issued respective public notices extending the time for filing Form 430's for 1981 until March 1, 1982.

[2] Consideration of this petition has caused us to question whether there is a need for the annual filing of Form 430, in view of the obligation of licensees to keep the information on file current. We are initiating a separate proceeding proposing to dispense with the annual filing requirement.