Ave., N.W., Room 7046, Washington, D.C. 20224, 202-566-4832 (not toll free).

Morris R. Coleman,

Acting Director, Returns Processing Accounting Division.

Date of issue: June 29, 1979; effective date, June 29, 1979.

Certification and Approval of Internal Revenue Collections

1. Pursuant to the authority vested in me by Treasury Department Order No. 150-34, dated March 25, 1954, the following designated Officers and employees of the Internal Revenue Service are delegated the authority to certify and approve as an accountable officer Internal Revenue Collections in such manner and on such forms as the Bureau of Government Financial Operations of the Treasury Department shall designate and/or require pursuant to the provisions of Part II of the Treasury Fiscal Requirements Manual, Chapter 3500, dated November 1971, and all amendments and revisions thereof:

A. Service Center Directors; and,

B. Any officer or employee of the Internal Revenue Service designated as an accountable officer by a Regional Commissioner pursuant to the instructions in IRM 125(32).

2. All certifications of Internal Revenue Collections which have been previously made by any of the officers and employees designated in paragraph 1, and which may require ratification, are hereby affirmed and ratified.

3. This authority to designate officers and employees for the purposes described in paragraph 1 may not be further delegated.

4. This Order supersedes Delegation Order No. 29, issued March 27, 1956.

Jerome Kurtz,

Commissioner.

[FR Doc. 79-20582 Filed 7-3-79; 8:45 am]

BILLING CODE 4830-01-M

INTERSTATE COMMERCE COMMISSION

Fourth Section Application for Relief

Correction

In FR Doc. 79-19830, published on Tuesday, June 26, 1979, on page 37407, in the second paragraph, in the second line, "June 11, 1979" should be corrected to read "July 11, 1979".

[Decisions Volume No. 21]

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79-8552, appearing at page 17616, in the issue of Thursday, March 22, 1979, under the motor carrier description, "MC 135052 (Sub-15F)", fifteenth line, "MN, MO, ND, NE, NJ, OH, OK, PA" should be corrected to read, "MN, MO, ND, NE, NJ, NY, OH, OK, PA".

BILLING CODE 1505-01-M

[Volume No. 23]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-9504 appearing at page 18782 in the issue for Thursday, March 29, 1979, on page 18783, in the third column, in MC 58923 (Sub-53F), in the ninth line, the word "irregular" should read "regular.".

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 130
Thursday, July 5, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

[M-230, Amdt. 6; June 29, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the June 28, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., June 28, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 35927: Petition filed by the Airline Passengers Association concerning operations of DC 10's in international travel.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: This item was added to the June 28, 1979 agenda in order that the Board may respond to an Airline Passenger Association Emergency Petition. Accordingly, the following Members have voted that agency business requires the addition of this item to the June 28, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1319-79 Filed 7-2-79; 3:29 pm]

BILLING CODE 6320-01-M

2

[M-231, Amdt. 3; June 28, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the July 3, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 12a. Temporary subsidy mail rate for Wien Air Alaska, Inc., Docket 35351 (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: The carrier has alleged a pressing financial need for an increase in its temporary subsidy payments. The staff had intended that this item be placed on the July 3, 1979 agenda but a coordinating step was inadvertently missed and the item was unintentionally left off. Accordingly, the following Members have voted that agency business requires the addition of Item 12a to the July 3, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Melvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1320-79 Filed 7-2-79; 3:29 pm]

BILLING CODE 6320-01-M

3

[M-231, Amdt. 4; June 29, 1979]

CIVIL AERONAUTICS BOARD.

Notice of closure and renumbering an item for the July 3, 1979 agenda.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15. Dockets 29525 and 30332. Disposition of the Board's tentative findings in Order 76-11-9, which would apply the domestic substitute service rules to the U.S. legs of international air freight movements; IATA agreement proposing restrictions on the use of surface transportation on the U.S. legs of South Pacific air freight movements (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 15 was Item 2 on the July 3, 1979 agenda and has been changed to the last item because it will be a closed item.

Public disclosure, particularly to foreign governments, of opinions, evaluations and strategies discussed in connection with this item could seriously compromise the United States Government's ability to achieve future bilateral understandings which would be in the best interests of the United States. The staff therefore believes that public observation of this meeting would reveal matters which, if prematurely disclosed, could significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR 310b.5(9)(B). Accordingly, the following Members have voted that this item be closed to public observation:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1321-79 Filed 7-2-79; 3:29 pm]

BILLING CODE 6320-01-M

4

[M-231, Amdt. 5; July 2, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the July 3, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

8b. Docket 35438: Hughes Airwest's notice under section 401(j)(1) to terminate its certificate obligation at Wenatchee, Washington. (BDA).

8c. Docket 35437: Hughes Airwest's notice under section 401(j)(1) to terminate its certificate obligation at Walla Walla, Washington.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: There will not be a regularly scheduled Sunshine Meeting until July 25. Items 8b and 8c have an action date of July 12, 1979. This action date is requested to give civic parties sufficient time to review the Board's order before Airwest's suspension becomes effective July 30, 1979. Accordingly, the following Members have voted that Items 8b and

8c be added to the July 3, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer.

[S-1322-79 Filed 7-2-79; 3:29 pm]

BILLING CODE 6320-01-M

5

[M-231, Amdt. 6; July 2, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the July 3, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

4a. Procedures for compensating air carriers required to continue service to a small community for their financial losses (OGC, Memo 8948).

8d. Dockets 35334 and 35365: Agreement between Allegheny and Fishcher Brothers Aviation, Allegheny's notice to suspend service at Mansfield, Ohio (Memo 8951, BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Submission of Item 4a to the Board was delayed pending staff coordination. Since the next regularly scheduled Board Meeting will not be until July 25, 1979, consideration of this item of July 3, becomes necessary to enable affected carriers and the public to benefit from these procedures. Since the Board has already ordered some air carriers to continue serving small communities after they would otherwise have withdrawn, procedures for compensating them for their losses should be issued as soon as possible. Item 8d has a 90-day notice period which expires July 18, therefore action has to be taken at the July 3, 1979 meeting. Accordingly, the following Members have voted that agency business requires the addition of Items 4a and 8d to the July 3, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1323-79 Filed 7-2-79; 3:29 pm]

BILLING CODE 6320-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, July 9, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers:

The Barnstable County National Bank of Hyannis, Barnstable (P.O. Hyannis), Massachusetts, and Chatham Trust Company, Chatham, Mass.

The Peoples National Bank and Trust Company, Dover, Ohio and the Gnadenhutten Bank, Gnadenhutten, Ohio.

The First American National Bank of St. Cloud, St. Cloud, Minn., and The First State Bank of Rice, Rice, Minn.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,967-L—The First State Bank of Jennings, Jennings, Kans.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership activities:

Patterson & Patterson, Whitfield, Manikoff, Ternan and White, Bloomfield Hills, Michigan, in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Mich.

Memorandum and resolution proposing the final adoption of a new Part 344 of the Corporation's rules and regulations, to be entitled "Recordkeeping and Confirmation Requirements for Securities Transactions."

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of Liquidation detailing all disbursements in excess of $10,000 and all sales of real estate properties, during the period April 16, 1979, through June 16, 1979, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1315-79 Filed 7-2-79; 3:05 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., on Monday, July 9, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Crestwood Bank, a proposed new bank to be located at 13500 South Cicero Avenue, Crestwood, Ill., for Federal deposit insurance.

Application for consent to establish a detached facility (branch):

State Bank of Rose Creek for consent to establish a detached facility (branch) at 108 East Oakland Avenue, Austin, Minn.

Application for consent to merge and establish branches:

The Dime Savings Bank of New York, New York (Brooklyn), N.Y., an insured mutual savings bank, for consent to merge, under its charter and title, with Mechanics Exchange Savings Bank, Albany, N.Y., also an insured mutual savings bank, and for consent to establish the eight offices of Mechanics Exchange Savings Bank as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,966-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,971-L—The Hamilton Bank and Trust Co., Atlanta, Ga.

Memorandum re: The Drovers' National Bank of Chicago, Chicago, Ill.

Memorandum re: Banco Credito y Ahorro Ponceno, Ponce, P.R.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership activities:

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389-4425.

[S-1316-79 Filed 7-2-79; 3:05 pm]

BILLING CODE 6714-01-M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: July 10, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Legislative proposals.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1317-79 Filed 7-2-79; 3:05 pm]

BILLING CODE 6730-01-M

9

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., July 6, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

T2STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following agenda items:

1. Kaiser Steel Corporation v. Mine Safety and Health Administration, DENV 78-31-P.
2. Rushton Mining Company v. Mine Safety and Health Administration, PITT 75-399-P, IBMA 76-37.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE NFORMATION: Jean Ellen, 202-653-5632.

[S-1313-79 Filed 7-2-79; 11:15 am]

BILLING CODE 6820-12-M

10

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: S-1548, filed July 26, 1978; 11:44 a.m. and S-823-79, filed April 26, 1979; 9:28 a.m.

DATE AND TIME: July 12, 1979, 10 a.m. to 4 p.m.; July 13, 1979, 9 a.m. to 12:30 p.m.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Certification has been received from the HEW Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on July 12, 1979, under 5 U.S.C. 522b(c)(9)(B) and 45 CFR 1440.2(a)(9) for the purposes of reviewing and discussing with the Acting Director of NIE, the proposed executive branch budget for fiscal 1981, in particular, the sections dealing with the proposed budget and funding priorities of NIE." Agenda item #2 will be closed, the rest of the agenda remains open to the public

MATTERS TO BE CONSIDERED:

Thursday, July 12, 1979

1. Acting Director's report (10 a.m. to 11 a.m.).
2. Closed: Budget fiscal year 1981 (11 a.m. to 12 noon).
3. Review discussion: Educational equity (1 p.m. to 4 p.m.).

Friday, July 13, 1979

4. Review discussion: Dissemination (9 a.m. to 11:30 a.m.).
5. Program committee report and action (11:30 a.m. to 12:30 p.m.).

CONTACT PERSON FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator, telephone 202-254-7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-1310-79 Filed 7-2-79; 11:01 am]

BILLING CODE 4110-39-M

11

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, July 12, 1979. [NM-79-22]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Rocky Mountain Airways, DeHavilland DCH-6-300, N24RM, Cheyenne, Wyo., February 27, 1979.
2. *Railroad Accident Report*—Bay Area Rapid Transit District Fire and Evacuation of Passengers while in the Transbay Tube, San Francisco, Calif., January 17, 1979.
3. *Marine Accident Report*—Collision of U.S. Bulk Carrier SS Yellowstone and Algerian Freighter M/V IBN BATOUTA, Mediterranean Sea, June 12, 1978.
4. *Special Study*—Training and Safety in the Railroad Industry.
5. *Recommendation* to the Federal Aviation Administration re medical examination of pilots as a condition of airmen medical certification.
6. *Recommendation* to the Materials Transportation Bureau and Natural Gas Pipeline Company of America re pipeline accident in Dallas, Iowa, April 18, 1978.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

[S-1324-79 Filed 7-2-79; 3:56 pm]

BILLING CODE 4910-58-M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, July 2, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (additional item).

MATTERS TO BE CONSIDERED:

Monday, July 2, 2:30 p.m.

1. Commission Discussion of Order on Status of TMI (approximately ½ hour—public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-1311-79 Filed 7-2-79; 11:01 am]

BILLING CODE 7590-01-M

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, July 5, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, July 5, 9:30 a.m.—

1. Briefing on enforcement program—current and planned (approximately 1 hour—public meeting).

Thursday, July 15, 2 p.m.—

1. Commission meeting on application of Price-Anderson to TMI (approximately 1 hour—public meeting).
2. Proposed briefing by DOE and Euratom representatives on export matters (approximately 1 hour—public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-1312-79 Filed 7-2-79; 11:01 am]

BILLING CODE 7590-01-M

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 37431, June 26, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m. on July 2, 1979.

CHANGES IN THE MEETING: This meeting has been canceled. It will be rescheduled at a later date.

Date: July 2, 1979.

[S-1314-79 Filed 7-2-79; 3:05 pm]

BILLING CODE 7600-01-M

15

U.S. RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., July 12, 1979.

PLACE: 955 L'Enfant Plaza North SW., Board Room, Room 2-500, Fifth Floor, Washington, D.C.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.)

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.
4. Litigation report.

Portions open to the public (1:30 p.m.)

5. Approval of minutes of the June 6 and 7, 1979 Board of Directors meeting.
6. Review of D&H financial results.
7. Report on Supplemental Transaction Proposal.
8. Report on Conrail monitoring.
9. Report on Conrail filings on the Seaboard-Chessie merger.
10. Consideration of Conrail July drawdown request.
11. Consideration of 211(h) loan program.
12. Report on congressional activities.
13. Contract actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202)426-4250.

[S-1318-79 Filed 7-2-79; 3:05 pm]

BILLING CODE 8240-01-M

16

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published).

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED DATE: Thursday June 28, 1979.

CHANGES IN THE MEETING: Deletion.

The following item will not be considered at a closed meeting scheduled for Thursday, July 5, 1979, immediately following the 10:00 a.m. open meeting.

Formal order of investigation.

Chairman Williams and Commissioners Evans, Pollack and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 755-1129.

June 29, 1979.

[S-1309-79 Filed 7-2-79; 11:01 am]

BILLING CODE 8010-01-M

federal register

Thursday
July 5, 1979

Part II

Environmental Protection Agency

State and Local Assistance; Grants for Construction of Treatment Works; Miscellaneous Amendments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL-1256-7]

State and Local Assistance; Grants for Construction of Treatment Works; Miscellaneous Amendments

Note.—The following document was published Wednesday, June 27, 1979 at page 37594. On page 37595, certain amendment item numbers appeared incorrectly in the middle column, 14th line and in the amendatory language paragraphs beginning on that page. Therefore, this document is republished to reflect those corrected amendment item numbers.

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This amendment to the regulations governing grants for construction of treatment works under Title II of the Clean Water Act makes several miscellaneous changes. One of the changes makes final a regulation proposed on September 27, 1978; four of the changes are designed to simplify requirements and administration of the program; and the rest of the changes correct linguistic, typographical, and punctuation errors. They are being published together at this time so that they will be codified in the July 1, 1979, edition of Title 40 of the Code of Federal Regulations.

EFFECTIVE DATES: Amendment Nos. 4, 6, 8, 9, and 10 are effective October 1, 1979. The remainder are effective June 27, 1979.

ADDRESSES: Comments previously received on the proposed rules may be inspected at: Public Information Reference Unit, Environmental Protection Agency, Room 2922 Waterside Mall, 401 M Street SW., Washington, D.C. between 8 a.m. and 4:30 p.m., business days. Comments on these regulations should be addressed to: Director, Grants Administration Division (PM-216), Attention: GPPB/CG Final, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold P. Cahill, Director, Municipal Construction Division (WH-547), Environmental Protection Agency, Washington, D.C. 20460, 202-426-8986.

SUPPLEMENTARY INFORMATION: On September 27, 1978 (43 FR 44021), EPA published final revised and conformed regulations governing grants for construction of treatment works authorized under Title II of the Clean Water Act, as amended. In that same document, EPA proposed two changes to § 35.936-13 (43 FR 44046) and requested comments through November 30, 1978. EPA received 90 letters of comment on these proposed changes. The following paragraphs discuss the action we are taking in the three areas the comments addressed.

§ *35.936-13(a)(1), manufactured materials.* In the September 27, 1978, publication, EPA proposed to amend the regulation "to better achieve competition within and between types of material (particularly pipe), in the interest of affording an opportunity to compete and insuring reasonableness of prices, unless there is a sound engineering justification based upon specific site conditions which supports any restrictions upon competition."

The many comments which we received were unanimously opposed to any revision to the provision relating to manufactured materials. The comments indicate to us that virtually all the major participants in this system—grantees, engineers, and suppliers—believe that the market system is working well under the current regulation and that there is sufficient competition to ensure reasonable prices. Based on their assurance, EPA does not expect that there will be many future protests in this area and has, therefore, decided not to make the revision to the regulations which was proposed. Current requirements will continue to apply, including the basic requirement for competition (see § 35.936-3). Program Requirements Memorandum 75-5 (formerly PG 19A, August 8, 1975) states the interrelationship of these policies as follows:

> With regard to materials, such as pipe, it is not mandatory that two or more different types of material be specified; however, maximum competitive bidding is encouraged commensurate with sound engineering practice and requirements. * * * It is preferable to use performance specifications for materials based upon accepted nationally known standards such as AWWA, USAS, ASTM, AASHO [sic] and Federal specifications and standards.

§ *35.936-13(c) Experience clause restriction.* In the September 27, 1978, publication, EPA proposed to add a new final sentence to read, "No experience restriction will be permitted which unjustifiably reduces competition or innovation." EPA received only a few comments on this aspect of our proposal. The views ranged from recommending more stringent restrictions on the use of experience clauses to recommending that EPA abandon its proposal.

EPA has decided to promulgate the proposed change as a final rule with one minor word change (amendment number 9 below). In order to agree more closely with OMB's latest proposed revision of Attachment O to OMB Circular A-102, we have changed the word "unjustifiably" in the proposal to "unnecessarily" in the final. Our experience with protests under § 35.939 has indicated that this explicit statement of the Agency policy which has evolved during the protest process is needed. One of the commenters suggested that more detailed requirements be included. We believe that implementation of this policy can best be achieved on a case by case basis and we do not wish to encumber the regulations with unnecessary detail. However, we are aware of at least two types of experience restrictions which should normally be considered unnecessarily restrictive and in violation of the regulation: (1) an experience clause restriction that has the effect of permitting only one equipment manufacturer to participate in the bidding without submission of a bond or deposit; and (2) an experience clause restriction which limits competition or innovation by requiring that the previous experience be with the exact size and type of equipment specified.

§ *35.936-13(a)(1), salient requirements.* In the final rules promulgated on September 27, we revised this paragraph to require the grantee to be prepared to identify (in a bid protest or program review) the "salient requirements" of items of equipment when the grantee elects to procure by the "two brand names or equal" procedure. Although this change was published as a final rule, the Deputy Comptroller General recommended that we further amend this section to require the grantee to specify the salient characteristics in the solicitation itself (rather than just for protest or program review purposes). EPA's brand name or equal procedure in the construction grant program differs from that of other programs and agencies because of the unique statutory requirement in Section 204(a)(6) of the Clean Water Act, as amended. With respect to both the comments of the Deputy Comptroller General and the requirements of Attachment O to OMB Circular A-102, we feel that the statutorily mandated reference to two items provides for adequate identification of the salient requirements of specified items when that type of specification is used. We also find that neither our grantees nor we have the resources to develop, review and maintain up-to-date performance or guide specifications for all procurements. This is particularly true because of the rapid changes and innovations occurring in the marketplace which we don't want to stifle with outdated requirements in the specifications. Under the circumstances involved in the construction grant program, it is better to permit the definition of salient requirements by naming two technologically up-to-date and acceptable products followed by the words, "or equal." Even in the absence of developing or innovative processes or technology, the identification of two acceptable items normally would adequately indicate the acceptability of an "equal." Finally, the EPA procedure greatly minimizes the paperwork burden on grantees, consulting engineers, and others in the procurement process since most such procurements are not disputed. Therefore, we have not amended this section further.

Other Regulation Changes

Advance purchase of eligible land. EPA has approved several deviation requests to allow grantees to acquire eligible land in advance of Step 3 grant award, because of the current availability of a specific site and generally escalating property values. For these reasons, and to facilitate expeditious initiation and completion of Step 3 construction, we believe that more widespread use of this practice may be desirable. Amendments 4 and 6 allow the Regional Administrator to use his discretion in permitting grantees to proceed with land acquisition after approval of the facilities plan in advance of the normal Step 3 award, either by (1) award of a Step 3 segment consisting only of purchase of eligible land or (2) approval of the grantee's preaward cost for the purchase of eligible land. In amendment 8, compliance with the requirement for approved user charge/industrial cost recovery systems prior to step 3 grant award, operation and maintenance manuals and sewer use ordinances, is deferred until the award of the ensuing step 3 construction assistance, since the data necessary will be more readily available at that time.

Advance payment for relocation costs. On April 27, 1979, EPA published as a **Federal Register** Notice (44 FR 24926) a class deviation which permits the Regional Administrator to make advance payment after grant award for the payment of relocation costs only when he determines that it is necessary for the expeditious completion of a project. That Notice gave the legal background for this change. Amendment 10 below includes that change in the regulations and supersedes the class deviation. This amendment does not permit advance payment for the Federal share of the actual cost of eligible land.

§ 35.925–15. When the construction grant regulations were revised on September 27, 1978, the definition of industrial user was revised, in accordance with the mandate of the Clean Water Act, to exclude sources contributing 25,000 gpd or less to the treatment works. However, the regulations continued to use the phrase, "industrial user" in § 35.925–15 where it was not the intent of the statute or of the regulations to exclude any industries from the requirement that the principal purpose of the project and system be to treat domestic wastes. Therefore, amendment number 5 corrects § 35.925–15 to replace the words "industrial users" with "industrial sources" both times it is used in the section. This change of words comports with the Agency's longstanding interpretation and administration of this section, both prior to and since the September 27 publication; no change in meaning is intended. In addition, in order to comply with **Federal Register** format, numbers (1) and (2) have been changed to (a) and (b).

Appendix E. The criteria for determining innovative processes and techniques found in paragraphs 6.e.(1) and (2) both incorrectly use the term "treatment works" in referring to life cycle costs and energy saving criteria for innovative technologies. The term "treatment works" as defined in the Act and § 35.905 includes other facilities (e.g. sewers, interceptors, outfalls) in addition to treatment plants. To include the costs of these in the cost effectiveness analysis would unfairly restrict the ability of innovative systems to qualify under the criteria. Amendment 13 clarifies our intent by changing the term "treatment works" to "eligible portions of the treatment works excluding conventional sewer lines" in these two paragraphs.

Corrections. On November 30, 1978, EPA published the allotments of the fiscal year 1979 appropriation in § 35.910–10. Two typographical errors were made in that publication. Amendment 1 corrects those errors. Amendments 2, 3, 7, 11, and 12 are for the purpose of correcting typographical and punctuation errors in the September 27, 1978, publication of final regulations.

Notice. The substantive amendments (4, 6, 8, 10) which were not published as proposed rulemaking are simplifications of procedure which lessen burdens on grantees. Therefore, formal notice and opportunity for comment on these changes are unnecessary and contrary to the public interest. However, in accordance with 40 CFR 30.125, public comment on grant regulations is solicited on a continuous basis.

Effective date. Although the effective date of the substantive regulatory changes is October 1, 1979, the start of the new Federal fiscal year, and they apply to all grant assistance (including subsequent related projects) awarded on or after that date, Regional Administrators are authorized to use the more flexible procedures included in these regulations in advance of that date. Where appropriate, special grant conditions may be used.

Accordingly, 40 CFR Part 35, Subpart E is amended as follows:

§ 35.910–10 [Amended]

1. In the table in § 35.910–10(c), the public law number in the heading is changed to read, "Pub. L. 95–392" and the allotment for Illinois is changed to read, "215,137,900".

2. Section 35.915 is amended by correcting the punctuation in the last sentence of paragraph (a) (1) (iv) to read as follows: § 35.915 State priority system and project priority list.

* * * * *

(a) *State priority system.* * * *

(1) *Project rating criteria.* * * *

(iv) Other criteria, consistent with these, may be considered (including the special needs of small and rural communities). The State shall not consider: the project area's development needs not related to pollution abatement; the geographical region within the State; or future population growth projections.

* * * * *

§ 35.920–3 [Amended]

3. Section 35.920–3 is amended by changing the term, "NE" to "VE" in the last sentence of paragraph (b) (5).

4. Section 35.920–3 is amended by revising paragraph (c) (2) to read as follows:

§ 35.920–3 Contents of application.

* * * * *

(c) * * *

(2) Construction drawings and specifications suitable for bidding purposes (in the case of an application for step 3 assistance solely for acquisition of eligible land, the grantee must submit a plat which shows the legal description of the property to be acquired, a preliminary layout of the distribution and drainage systems, and

an explanation of the intended method of acquiring the property);

* * * * *

5. Section 35.925–15 is revised to read as follows:

§ 35.925–15 Treatment of industrial wastes.

That the allowable project costs do not include (a) costs of interceptor or collector lines constructed exclusively, or almost exclusively, to serve industrial sources or (b) costs allocable to the treatment for control or removal of pollutants in wastewater introduced into the treatment works by industrial sources, unless the applicant is required to remove such pollutants introduced from nonindustrial sources. The project must be included in a complete waste treatment system, a principal purpose of which project (as defined by the Regional Administrator; see §§ 35.903 (d) and 35.905) and system is the treatment of domestic wastes of the entire community, area, region or the district concerned. See the pretreatment regulations in Part 403 of this chapter and § 35.907.

6. Section 35.925–18 is amended by revising paragraph (b) as follows:

§ 35.925–18 Limitation upon project costs incurred prior to award.

* * * * *

(b) *Step 3;* Except as otherwise provided in this paragraph, no grant assistance for a step 3 project may be awarded unless the award precedes initiation of the step 3 construction. Preliminary step 3 work, such as advance acquisition of major equipment items requiring long lead times, acquisition of eligible land or of an option for the purchase of eligible land, or advance construction of minor portions of treatment works, including associated engineering costs, in emergencies or instances where delay could result in significant cost increases, may be approved by the Regional Administrator after completion of environmental review, but only if (1) the applicant submits a written and adequately substantiated request for approval and (2) written approval by the Regional Administrator is obtained before initiation of the advance acquisition or advance construction. (In the case of authorization for acquisition of eligible land, the applicant must submit a plat which shows the legal description of the property to be acquired, a preliminary layout of the distribution and drainage systems, and an explanation of the intended method of acquiring the property.)

* * * * *

§ 35.928–1 [Amended]

7. Section 35.928–1, is amended by adding a new paragraph (f) [Reserved].

8. Section 35.930–1 is amended by revising paragraph (a)(1) to read as follows:

§ 35.930–1 Types of projects.

(a) * * *

(1) *Step 1.* A facilities plan and related step 1 elements (see § 35.920–3(b)), if he determines that the applicant has submitted the items required under § 35.920–3(a); (In the case of grant assistance awarded solely for the acquisition of eligible land, the following provisions are deferred until the award of the ensuing step 3 assistance for the construction of facilities: §§ 35.925–10, 35.925–11(b), 35.935–12(c) and (d), 35.935–13(c), 35.935–15(c), 35.935–16(b) and (c));

* * * * *

9. Section 35.936–13 is amended by adding the following sentence to the end of paragraph (c) to read as follows:

§ 35.936–13 Specifications.

* * * * *

(c) *Experience clause restriction.* * * * No experience restriction will be permitted which unnecessarily reduces competition or innovation.

* * * * *

10. Section 35.945 is amended by adding a new paragraph (g) to read as follows:

§ 35.945 Grant payments.

* * * * *

(g) *Payment of costs incurred under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.* Notwithstanding the provisions of paragraph (a) of this section, if the Regional Administrator determines it is necessary for the expeditious completion of a project, he may make advance payment after grant award under § 4.502(c) of this subchapter for the EPA share of the cost of any payment of relocation assistance by the grantee. The requirements in § 30.615–1 (b) and (d) of this subchapter apply to any advances of funds for assistance payments.

Appendix C–2 [Amended]

11. Clause 7 of Appendix C–2 is amended by changing the word "contracts" to "contract" in the first line.

Appendix E [Amended]

12. Appendix E is amended by changing the reference from "35.930–6" to 35.930–5" in paragraph 3b.

13. Appendix E is amended by revising paragraph 6.e. (1) and (2) to read as follows:

Appendix E—Innovative and Alternative Technology Guidelines

* * * * *

6. *Criteria for determining innovative processes and techniques.* * * *

e. * * *

(1) The life cycle cost of the eligible portion of the treatment works excluding conventional sewer lines is at least 15 percent less than that for the most cost-effective alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., is no more than 85 percent of the life cycle cost of the most cost-effective noninnovative alternative).

(2) The net primary energy requirements for the operation of the eligible portion of the treatment works excluding conventional sewer lines are at least 20 percent less than the net energy requirements of the least net energy alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., the net energy requirements are no more than 80 percent of those for the least net energy noninnovative alternative). The least net energy noninnovative alternative must be one of the alternatives selected for analysis under section 5 of appendix A.

Regulation Development Procedures

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 109(b), 201 through 204, 207, 208(d), 210 through 212, 215 through 217, 304(d) (3), 313, 501, 502, 511, and 516(b) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.)

Dated: June 20, 1979.

Thomas Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79–19917 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

federal register

Thursday
July 5, 1979

Part III

Department of the Interior

Heritage Conservation and Recreation Service

Uniform Criteria for Preparation of Local Recovery Action Programs (Urban Park and Recreation Recovery Act of 1978); Interim Rule

DEPARTMENT OF THE INTERIOR

Heritage Conservation And Recreation Service

36 CFR Part 1228

Urban Park and Recreation Recovery Act of 1978; Local Recovery Action Program

AGENCY: Heritage Conservation and Recreation Service, U.S. Department of the Interior.

ACTION: Interim rule.

SUMMARY: This rule prepared by the Heritage Conservation and Recreation Service is published to provide uniform criteria for the preparation of local Recovery Action Programs required by the Urban Park and Recreation Recovery Act, Title X of the National Parks and Recreation Act of 1978. Section 1007(b) of Title X states that "The Secretary shall establish and publish in the **Federal Register** requirements for preparation, submission, and updating of local park and recreation recovery action programs." *This interim rule meets that requirement.*

DATES: These regulations are effective July 5, 1979. Comments on this interim rule will be accepted and considered. Comments must be received in writing on or before September 4, 1979.

ADDRESSES: Written comments should be addressed to the Chief, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box P, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Soller or Mr. Mike Rogers, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street NW., Box P, Washington, D.C. 20243, 202/343-5971.

SUPPLEMENTARY INFORMATION: In his policy message of March 27, 1978, President Carter proposed a new federal grant program for urban communities to compete for funds to revive and rebuild parks and recreation facilities. On October 13, 1978, the National Parks and Recreation Act of 1978, Pub. L. 95-625, was passed by the Congress, and on November 10, 1978, the President signed the bill into law. Title X, the Urban Park and Recreation Recovery Act (UPRRA) of 1978, authorized the Secretary of the Interior to establish a five-year program to provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas and facilities, and the development of improved recreation programs. Section 1007(b) of the law directs the Secretary to publish in the **Federal Register** requirements for preparation, submission, and updating of local park and recreation recovery action programs. The Secretary of the Interior has delegated the responsibility for developing the Urban Park and Recreation Recovery Program to the Director, Heritage Conservation and Recreation Service.

Recognizing the importance placed on the physical rehabilitation and revitalization of critically needed urban park and recreation areas, both Congress and the Administration have expressed commitment to rapid implementation of the Urban Park and Recreation Recovery Program. In this regard, the Administration is currently seeking supplemental appropriations for fiscal year 1979, in the amount of 37.5 million dollars, for the Urban Park and Recreation Recovery Program. At this date, it appears that the Congress will appropriate 20 million dollars for this request; therefore, the Heritage Conservation and Recreation Service must be in a position to obligate these funds through the issuance of Planning, Rehabilitation, and Innovation Grants as soon as possible to qualified general purpose governments. To do so the Heritage Conservation and Recreation Service must publish these guidelines on local Recovery Action Programs so that interested general purpose local governments can begin their planning effort which is a prerequisite for the receipt of a rehabilitation or innovation grant. If these guidelines are published as proposed rules, interested governments could not begin the necessary planning until publication of the rules as final, which could not occur earlier than October 3, 1979. For these reasons it has been determined that the emergency character of the responsibility to issue the grants as soon as possible makes it impracticable and contrary to the public interest to publish these guidelines as a notice or proposed rulemaking or to delay the effective date for these guidelines beyond the date of this publication.

Therefore, in accordance with the exceptions provided for in the Administrative Procedure Act in 5 U.S.C. Sec. 553(b)(B) and d(3) and the Departmental regulations on rulemaking in 43 CFR 14.3(f), these Recovery Action Program requirements are published as interim rules effective immediately. It has been determined that it is in the public interest to allow interested persons to submit written comments pertaining to these regulations. All relevant materials received on or before September 4, 1979 will be considered. Following the close of the comment period, the regulations will be revised, as waranted by public comments received. It is intended that any revision of the regulations arising from these comments will be published again as a final rule 30 days after the close of the comment period, if warranted.

The Department will be publishing regulations relating to program administration, the application process, and project requirements, within approximately 30 days from the date of this interim rule.

Program Information

General information on the Urban Park and Recreation Recovery Program was published in the **Federal Register** on Wednesday, March 14, 1979 (44 FR 15486-87).

Action Program Requirement

To apply for a rehabilitation or innovation grant, an eligible local government or discretionary applicant must submit evidence of its ongoing commitment to planning, rehabilitation, and operation of its urban park and recreation system. The submission is to be in the form of a Recovery Action Program. The local government shall submit evidence of its commitment to ongoing planning, rehabilitation, service, operation and maintenance programs as part of its Action Program. The Action Program will be viewed as a local government's official plan and program for the creation of an adequate park and recreation system. Rehabilitation projects and innovation grants must be part of and consistent with the Action Program. Local governments may satisfy this requirement initially by submitting preliminary plans which briefly define park and recreation system priorities, and commit the applicant to a schedule of further Action Program development.

Purpose of Action Programs

The purposes of the Urban Park and Recreation Recovery Program are at least two-fold: (1) To aid economically hard-pressed cities, counties and their neighborhoods in rehabilitating their existing park and recreation systems; and (2) to encourage local government planning for the long-range improvement of their park and recreation systems.

President Carter's proposal for the Urban Park and Recreation Recovery Program, included in his March 1978 Urban Policy message, emphasized the importance of *local commitments* to planning, rehabilitation and ongoing maintenance of urban park and recreation systems. The Urban Park and Recreation Recovery Act, Title X of Pub. L. 95–625, calls for the development of local park and recreation recovery Action Programs which formally express, and guide, these local commitments.

The specific objectives of the Program are to systematically restore deteriorated facilities, to encourage innovations in recreation services and problem-solving, to stimulate local commitments to the maintenance of park facilities and programs, and to increase the number of recreation opportunities available to urban residents. The Program will emphasize the development of links between recreation recovery activities and other ongoing community services, planning, development, and urban revitalization efforts. It is critical that these links be ongoing processes rather than after-the-fact coordination.

These objectives cannot be achieved quickly or easily, but sound planning and strong public and private commitments to this revitalization effort are a critical first step. The local park and recreation Recovery Action Program will be the most important expression of a jurisdiction's commitment to revitalize its system. The Action Program will identify needs and problems through an active citizen participation process, establish local priorities for meeting these needs, and establish an orderly plan for achieving goals related to comprehensive park and recreation system improvement.

The Hertiage Conservation and Recreation Service's *National Urban Recreation Study*, published in February 1978, found that parks in many American communities are suffering from physical deterioration and the effects of reduced local commitments to recreation programs. It also revealed that systematic park and recreation planning is simply not occurring in many American cities. Few cities have identified their most pressing needs. Fewer still have set goals for themselves, created park plans, established priorities, systematically programmed the plans over a period of time, or developed methods for evaluating the use of their resources. Citizens are frequently bypassed in the planning process. Few cities survey citizens to determine local needs, involve citizens early in the decision making process, or establish durable mechanisms for continuous communication and reporting.

The Action Program requirement is a means by which communities can develop a continuous planning process. That ongoing process is a necessary commitment for the revitalization of park and recreation systems. As a community planning tool, the Action Program provides both policy-makers and citizens with a means for assessing community park and recreation problems, and a planned approach to solving them. The Action Program is not a way to judge how good or bad a community is but a benchmark against which a community can measure its progress in achieving its park and recreation goals and objectives. The solution to these problems, and a community's approach to its own recreation recovery goals, will vary from jurisdiction to jurisdiction.

These planning guidelines set forth uniform criteria for the preparation of local Action Programs. The expectation is that Action Programs will provide communities substantial additional benefits of greater efficiency, improved responsiveness and increased community-wide support for parks and recreation thereby qualifying communities for Urban Park and Recreation Recovery Program grants. The guidelines describe the planning elements upon which all Action Programs must be based on the prospective links between the Action Program and other community development and service programs.

The Action Program will be an important means for evaluating proposals. How well a proposed action supports the goals and objectives outlined in the local Action Program is critical. Progress in achieving Action Program goals and objectives will be one measure used in project selection during later years of the Recovery Program.

Legislative Requirements

All local government applicants shall submit, as a condition of eligibility for the receipt of grant funds, an Action Program for park and recreation recovery that satisfactorily demonstrates:

(a) Systematic identification of recovery objectives, priorities, and implementation strategies;

(b) Adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(c) The capacity and commitment to assure that facilities provided or improved under the Act shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(d) Intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought (beginning with fiscal year 1980) except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(e) The relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

The Action Program Process

The requirements of the Action Program can best be accomplished through the development of a decision-making process. Such a process should demonstrate how the jurisdiction will allocate its park and recreation resources on a continuing basis. The process should address the following questions:

1. How will identified park and recreation needs be met in the future? It is important that the Action Program relate to an overall plan showing what areas, facilities and programs will be provided in relation to identified needs.

2. How will citizens and public officials be involved in program decisions and the allocation of park and recreation resources?

3. What mechanisms will be employed to insure coordination among park and recreation interests and other community revitalization efforts?

4. How will the adopted goals, plans, strategies, and priorities be routinely monitored, evaluated and updated?

To insure that the Action Program reflects active citizen participation, coordination and evaluation efforts, existing processes of citizen participation, coordination and evaluation should be utilized whenever possible.

Technical Assistance

The Heritage Conservation and Recreation Service will provide technical assistance to communities in the development of their Action Programs. An Action Program Development Manual will be available for communities' use. The Manual will elaborate on Action Program requirements and will suggest approaches for need and resource identification; goal and priority setting; and local strategies for implementation. The Manual will be available from Heritage Conservation and Recreation Service Regional Offices later in 1979. Regional offices will also provide assistance in preparing local Action Programs.

Statement on Significance

The Department of the Interior has determined that this document is a significant rule but that it does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. A regulatory analysis will be prepared for the Grant Procedural Regulations to be published at a later date.

Authorship Statement

The primary authors of these regulations were Mr. Chris Soller and Mr. Mike Rogers of the Heritage Conservation and Recreation Service, 202/343-5971.

Dated: June 29, 1979.

David Hales,

Acting Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing, new Subpart B is added to 36 CFR Chapter XII Part 1228 to read as follows:

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Subpart B—Local Recovery Action Program

Authority: Sec. 1007 (a) and (b) of Title X, National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 2506.

Subpart B—Local Recovery Action Program

§ 1228.10 General requirements.

Any eligible jurisdiction or discretionary applicant desiring to apply for a grant must develop, submit and have approved a local Action Program. The Action Program must be submitted to the appropriate Heritage Conservation and Recreation Service Regional Office where it will be evaluated and approved. This is a necessary requirement which must precede the awarding of any rehabilitation or innovation grant. Communities are required to submit four (4) copies of the Action Program. Regional Offices and their States are:

Northeast Regional

Federal Office Bldg., Room 9310, 600 Arch Street, Philadelphia, Pa. 19106.
Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

Southeast Region

148 International Blvd., Atlanta, Ga. 30303.
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puetro Rico, South Carolina, Tennessee, Virgin Islands.

Lake Central Region

Federal Building, Ann Arbor, Michigan 48107.
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mid-Continent Region

Denver Federal Center, P.O. Box 25387, Denver, Colorado 80225.
Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.

Pacific Southwest Region

450 Golden Gate Avenue, San Francisco, Ca. 94102.
American Samoa, Arizona, California, Guam, Hawaii, Nevada.

Northwest Region

Federal Building, 915 Second Avenue, Seattle, Washington 98174.
Idaho, Oregon, Washington.

South Central Region

5000 Marble Avenue, NE., Albuquerque, New Mexico 87110.
Arkansas, Louisana, New Mexico, Oklahoma, Texas.

Alaska Area Office

1011 E. Tudor, Suite 297, Anchorage, Alaska 99503.

§ 1228.11 Action program components.

The local government will submit an Action Program which documents the recreation needs of the community together with action plans to meet those identified needs. This Action Program will indicate how the park and recreation system will be revitalized and maintained. While the emphasis of the Action Program will be placed on the rehabilitation of deteriorating facilities, it also will describe how the rehabilitation effort is linked to the overall goals, priorities and strategies of the park and recreation system. The local government must develop the Action Program consistent with and linked to the objectives, needs, plans, and institutional arrangements of the community. The Action Program must present evidence of its consistency with the community's long-range goals and plans as expressed in its comprehensive plans and other documents. The Action Program consists of two sections which are the Assessment and the Action Plan.

§ 1228.12 Assessment of needs, problems and issues.

The Action Program should begin with an Assessment describing the existing park and recreation system; issues and problems; goals and objectives. The Assessment should summarize the entire system including: Operation and maintenance; employment and training; programs and services; rehabilitation of existing facilities; and the need for new facilities. The Assessment should also describe how the park and recreation system relates to other public and private services. The Assessment consists of six parts which are as follows:

(a) *Context.* The context should provide:

(1) A short description of the local jurisdiction including: population; economy; geographical location; type of government; how the park department fits into the government structure; how the planning for parks and recreation is achieved; and the relationship to the community's comprehensive planning effort.

(2) A brief descriptive overview of the park and recreation system which includes a discussion of: The populations being served both within and outside of the jurisdiction; the types of services being provided; the degree to which the system is available and accessible to the populations intended to be served; and projected changes in system use.

(3) A discussion of the elements of planning, financing, programming, operation and maintenance, acquisition and development, and other factors common to park and recreation systems and other community services and prospects for future coordination.

(4) A discussion of the approaches and mechanisms used for citizen participation.

(b) *Physical Issues.* Summary information should be provided on existing facilities including:

(1) Types of facilities and the distribution of acreage and uses at different locations;

(2) Intergration of park and recreation planning and facility use with other service agencies such as schools, transportation and housing;

(3) Special facilities for the handicapped or elderly as well as facilities which work to mainstream special populations;

(4) Heavily used non-public or quasi-public facilities;

(5) Facilities of historical and architectural significance which provide recreation and are managed by the park system;

(6) Dependence upon nearby recreation resources outside the local jurisdictions, including public and private resources;

(7) Deficiencies and existing facilities and the needs of the community for new facility development, expansion and/or closure of facilities and the effects of such activities.

(c) *Rehabilitation Issues.* Summary information should be provided on the need for rehabilitation of facilities. This should include:

(1) Geographic areas needing rehabilitation;

(2) Types of sites and properties for rehabilitation;

(3) Importance of rehabilitation in specific geographic areas; and

(4) Value of rehabilitation over replacement through new facility development.

(d) *Service Issues.* Summary information on existing services should outline activities and needs in the following areas:

(1) The type, extent and intended beneficiaries of recreation services;

(2) Special programs for the handicapped, elderly, minorities and mainstreaming programs for special populations;

(3) Relationship between and coordination with public and significant non-public programs and private sector groups;

(4) Extent to which park and recreation services relate to other community services including joint programs with schools, social service organizations, historic preservation groups, libraries, or community education facilities;

(5) Coordination with Federal, State (SCORP), regional, county and other jurisdictional plans and activities having direct and indirect impacts on parks and recreation.

(e) *Management Issues.* Management issues deal with operation of the park and recreation system. Information should summarize the needs and issues of:

(1) Process for developing procedures and policies;

(2) Staffing levels including full-time, seasonal and service personnel, and use of volunteers;

(3) Use of contractual services for recreation programming;

(4) Equipment maintenance and replacement policies; and

(5) Budgeting process, funding cycles and budgets for the past three years and methods of budgeting (such as zero based or performance budgeting).

(f) *Priority Needs and Issues.* This section should list the greatest needs and discuss the relative importance of one need over another.

§ 1228.13 Action plan.

The purpose of the Assessment is to provide background and justification for an Action Plan. The Action Plan, which is the essential core of the Action Program, must be a clear statement of the community's specific objectives, priorities and implementation strategies in relation to the intent of the Urban Park and Recreation Recovery Program and the local government's overall recreation system goals. The Action Plan should be carefully tailored to the comprehensive community goals and directly responsive to the needs and problems identified in Section 1228.12. Citizen involvement in the development of the Action Plan is required and may include surveys, hearings, meetings, and/or consultation as appropriate. This involvement is essential in the development of goals, objectives and the setting of project priorities.

(a) *Goals for the System.* This section should set forth the overall goals and specific objectives for the system. Goals will clearly relate to the needs and issues identified in the Assessment and must be projected for at least the five-year life of the Action Program. The goals should be consistent with and, where appropriate, included in the general planning goals of the local government. Where local governments have developed, adopted and are utilizing an overall park and recreation plan, the goals of that plan may be appropriate for this requirement. Goals should be the basis for priorities, schedules and implementation strategies stated in the plan.

(b) *Program Priorities.* A statement of system priorities and a schedule for implementation shall be included. These priorities, together with justifying objectives and strategies will be an important factor in the evaluation and approval of requests for Program funding. Active and continued citizen participation is necessary throughout the process. Specific projects to be undertaken and the programs to be improved, expanded, introduced, or eliminated through rehabilitation, physical, service, management, and coordination actions should be discussed. A clear assignment of agency or private sector responsibility and an estimate of the costs of implementation should accompany these priorities.

(c) *Physical Development Plan for the System.* A brief physical development plan for the entire park and recreation system should be included. This can be accomplished with a map which indicates where existing facilities and activities occur as well as where future developments are to occur. Particular reference shall be made to populations served and indicated deficiencies.

(d) *Implementation Strategies.* A statement should be included describing local strategies for recreation system recovery. A "strategy" defines the total approach to remedying system deficiencies and provides a rational for priorities reflected in implementation schedules. Strategies should be devised which address the following issues and concerns:

(1) Ways in which park and recreation plans contribute to, and will be interrelated with, the local govenrment's community development and urban revitalization efforts;

(2) The degree to which park and recreation plans serve citizens who reside in economically-distressed areas of the community and will improve access to park and recreation facilities and programs for minority groups, low- and moderate-income populations, and the handicapped;

(3) The extent to which the Action Program and its plan component will relate employment opportunities for minorities, youth and low-and moderate-income residents;

(4) How the plan seeks to obtain the widest range of beneficial uses of the natural environment and enhances and protects the natural environment;

(5) How park and recreation resources will be targeted in neighborhoods where other neighborhood revitalization efforts are occurring;

(6) How the plan seeks to restore outstanding or unique structures, landscapes, or similar features in parks of historical or architectural significance;

(7) Local commitments to innovative and cost-effective programs and projects on the neighborhood level which augment recovery of park and recreation systems;

(8) How the plan will be intergrated with other Federally assisted projects to maximize recreation opportunities;

(9) How the plan will convert for recreation use, derelict and other public lands not designated for recreation; and

(10) Inducements to encourage the private sector to provide neighborhood park and recreation facilities and programs.

(e) *Evaluation and Updating of Action Program.* This section should outline a specific program for annual monitoring, evaluating, and updating of the complete Action Program, including both improvements needed in the Assessment and the Action Plan. Citizen involvement is essential in the evaluation and monitoring of the Action Program. Copies of approved Action Programs must be readily available to the public to insure adequate opportunities for citizen review and comment.

§ 1228.14 [Reserved]

§ 1228.15 Preliminary Action Program.

During an initial interim period, the Action Program requirements, as described in §§ 1228.11, 1228.12, and 1228.13 may be satisfied by local governments submission of a Preliminary Action Program. The initial interim period shall end on October 1, 1980. Communities are required to submit four (4) copies of the Preliminary Action Program.

§ 1228.16 Preliminary Action Program Requirements.

The following information must be submitted:

(a) *Evidence of physical deficiencies.* A general description of the problems confronted by the local government in bringing its facilities up to an adequate level of quality, the basis for the determination that certain facilities are deficient, and the general level of deficient facilities found within the jurisdictions. Maps and other graphics should be used to indicate where the deficiencies are located, particularly in reference to the populations to be served.

(b) *Level of resource support.* A summary of the public funds, including State and Federal, being spent by the jurisdiction on parks and recreation. A generalized description of the level of non-governmental support (neighborhood, voluntary and business) shall also be given.

(c) *Adoption of goals.* The existing park and recreation goals adopted by the governing body of the jurisdiction are to be included. Emphasis should be placed on what the local government is seeking to achieve in its parks and recreation systems, including the population it is attempting to serve, the facilities and services offered, and the providers (public agency or private sector).

(d) *Statement of priorities and implementation strategies.* Description of the priorities set by the local government as related to the deficiencies outlined above, and the strategies used to allocate available resources over time. Included should be a brief discussion of the relationship of the Preliminary Action Program to other related community development, historic preservation and urban revitalization efforts underway in the jurisdiction.

(e) *Evidence of public participation.* A description of the means by which citizens and public officials will be included early in the decision process for project selection, the setting of priorities and schedules, and the development of implementation strategies. Existing public participation efforts within the jurisdiction should be used.

§ 1228.17 Preliminary Action Program—Commitments To Be Included.

Local governments may submit a Preliminary Action Program during the initial interim period in lieu of a full Action Program. The Preliminary Action Program must include a firm commitment by the local government to complete and adopt a full Action Program by October 1, 1980. This commitment must include a schedule for the development of the full Recovery Action Program. The schedule should outline the activities which will be undertaken, the anticipated time frame for the development and completion of these activities, and the resources of people, money and support services necessary for the development and completion of the Recovery Action Program. Notwithstanding the foregoing provisions concerning the use of the Preliminary Action Program, local governments are encouraged to prepare, adopt and submit as soon as possible a full Action Program which complies with the provisions of §§ 1228.11, 1228.12, and 1228.13. Local governments which have already made a commitment to park and recreation systems by establishing ongoing planning, rehabilitation, service, operation and maintenance programs may use these as a starting point for meeting Action Program requirements.

§ 1228.18 [Reserved]

[FR Doc. 79-20718 Filed 7-3-79; 8:45 am]
BILLING CODE 4310-03-M

federal register

Thursday
July 5, 1979

Part IV

Federal Election Commission

Funding and Sponsorship of Candidate Debates

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110, and 114

Funding and Sponsorship of Candidate Debates

AGENCY: Federal Election Commission.

ACTION: Transmittal of Regulations to Congress.

SUMMARY: The Commission has adopted regulations which govern the funding and sponsorship of candidate debates. These regulations have been transmitted to Congress pursuant to 2 U.S.C. 438(c). The regulations exempt from the definitions of contribution and expenditure funds provided and used to defray the costs of nonpartisan public candidate debates. They also specify which organizations may sponsor such debates and establish a structure for various types of nonpartisan debates between Federal candidates. Further information on the new regulations is contained in the statement of explanation and justification under Supplementary Information.

2 U.S.C. 438(c) requires that any rule or regulation prescribed by the Commission to implement Chapter 14 of Title II, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves of the regulation within 30 legislative days of its transmittal, the Commission may finally prescribe the regulation in question. The following regulations were transmitted to Congress on June 28, 1979.

EFFECTIVE DATE: Further action, including the announcement of an effective date will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(c).

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel for Regulations and Legislation, 1325 K Street, Northwest, Washington, D.C. 20463 (202) 523-4143.

SUPPLEMENTARY INFORMATION: These regulations were drafted pursuant to a Notice of Proposed Rulemaking published by the Commission on July 12, 1977, (42 FR 35856) and incorporate comments received subsequent to that notice and at public hearings held on September 12, 1977.

Explanation and Justification of Regulations on Funding and Sponsorship of Candidate Debates

CFR 100.4(b)(16) and 11 CFR 100.7(b)(18):

Under the Act, the terms "contribution" and "expenditure" include "a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election, or the election, of any person to Federal office . . ." (2 U.S.C. § 431(e)(1)(A)) Congress has, however, recognized that certain nonpartisan activity is not undertaken for the purpose of influencing the nomination or election of any candidate and has removed that activity from the coverage of the Act. Therefore, amounts spent for "nonpartisan activity designed to encourage individuals to register to vote or to vote" is exempt from the definition of the term "expenditure" (2 U.S.C. § 431(f)(4)(B)).

The educational purpose of nonpartisan public candidate debates is similar to the purpose underlying nonpartisan voter registration and get-out-the-vote campaigns. A properly held nonpartisan public candidate debate sponsored by a qualified nonpartisan organization provides a forum for significant candidates to communicate their views to the public. Unlike single candidate appearances, nonpartisan public debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate. Hence, funds received and expended to defray costs incurred in sponsoring nonpartisan public debates are not considered contributions or expenditures under the Act.

11 CFR 110.13:

This section sets forth the criteria for sponsoring organizations and the structure of candidate debates which are exempt under 11 CFR 100.4(b)(16), 100.7(b)(18), and 114.4(e).

Under subsection (a), only an organization which has a history of nonpartisanship would qualify as a sponsor. In addition, the sponsor would have to be tax exempt under 26 U.S.C. § 501(c)(3). Organizations which are tax exempt under that section are prohibited by statute from participating in or intervening in any political campaign on behalf of any candidate for public office. By limiting sponsorship of debates to § 501(c)(3) organizations with a history of nonpartisanship, the integrity and fairness of the debate process is insured.

Subsection (b) outlines the structure for candidate debates at the presidential, House and Senate levels. This structure is designed to permit participation in a debate by significant serious candidates for the same public office.

In a general election debate at the presidential, House or Senate level, participation by candidates is based on affiliation with a political party. If a sponsoring organization invites a major party candidate to participate in a debate then the sponsor must also invite all other major party candidates seeking the same office to participate in that debate. Similarly, if a sponsor invites a minor party candidate to participate in a debate, then the sponsor is obligated to invite all other minor party candidates running for the same office to participate in the same debate.

If, under this standard, only one major party candidate agrees to participate in a debate, then the sponsor must invite all minor party candidates nominated for the same office to participate in a debate with that major party candidate. Similarly, if only one minor party candidate accepts a sponsor's invitation to participate in a debate, then the sponsor must invite all new party candidates nominated for the same office to participate in a debate with that minor party candidate.

Although there would usually be no obligation to invite candidates who are not major party candidates to a debate with major party candidates, the sponsor would have the discretion to invite a minor party, new party, independent, or write-in candidate to appear in the same debate with major party candidates. Hence, the sponsor would have the discretion to include all candidates whom the sponsor viewed as significant in the debate to which major party candidates are invited, thereby enhancing the educational value of the debate.

Structuring debates on the basis of party affiliation is similar to the standard used in the Act for public funding entitlement. Under the Act, only those presidential primary candidates who are seeking nomination by a political party are entitled to receive matching funds (26 U.S.C. § 9033(b)(2)). Moreover, the amount of funding to which a general election candidate is entitled is based on whether the candidate is a major, minor or new party candidate. (26 U.S.C. § 9004).

The Supreme Court in *Buckley v. Valeo* upheld the constitutionality of the Act's public financing provisions. The Court stated:

> . . . The Constitution does not require Congress to treat all declared candidates the same for public financing purposes. As we said in *Jenness v. Fortson*, "there are obvious differences in kind between the needs and potentials of a political party with historically established broad support, on the one hand, and a new or small political organization in

the other. . . . Sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike, a truism well illustrated in *Williams v. Rhodes, supra.*"

By basing participation in candidate debates on party affiliation, a standard which has been found constitutional by the Supreme Court is employed. Moreover, this standard will ensure a sponsor to present debates in which all significant candidates may appear to express their views.

At the caucus, convention and primary election levels, the standard is basically the same as for presidential and Congressional candidate debates. However, while congressional candidate debates are held on a State basis, presidential primary candidate debates may be held on a regional basis, with the sponsor designating the region.

Sponsors holding caucus, convention or primary election candidate debates have three different options for structuring those debates.

Option No. 1: The sponsor may hold a debate to which all candidates of all parties are invited. Thus, in States, which hold primary elections, all candidates qualified to appear on the ballot must be invited to participate in one debate; and in caucus or convention States, all recognized, active candidates must be invited to participate.

Option No. 2: The sponsor may hold a debate to which all candidates of one type (major, minor or new) of party are invited. For example, assume in a State that there are two major parties—Party X and Party Y—and one minor party—Party Z. The sponsor may hold a debate to which only candidates seeking the nomination of Party X and Party Y are invited. The sponsor would not be obligated to include the candidate seeking nomination by Party Z in any debate.

Option No. 3: The sponsor may hold separate debates restricted to candidates seeking the nomination of one party. If the sponsor chooses to hold such a debate for one party, then the candidates of all parties of the same type (major, minor or new) must be invited to participate in similar separate debates. This option is, however, not available if each party of the same type does not have at least two candidates seeking the nomination of that party.

As an example, assume that in a State, there are two major parties—Party X and Party Y—and one minor party—Party Z. Assume also that each party has two candidates. In this situation, if the sponsor chooses to hold a debate towhich the candidates of Party X are invited, the sponsor must also invite the candidates of Party Y to participate in a debate to which only they are invited. There would be no obligation to hold a debate for the candidates of Party Z—the minor party.

As a different example, assume the same parties in a State, but only one candidate rather than two, seeking the nomination of Party X. Because in such a situation there would be one major party with less than two candidates seeking the nomination of that party, the sponsor would not have the option of holding separate debates for each major party.

The standard at the House and Senate caucus, convention and primary election level is basically the same as for presidential caucus, convention and primary debates. This standard provides a fair opportunity for a wide number of candidates to participate in a debate and at the same time, allows the sponsor sufficient flexibility to hold separate debates for candidates of different parties when such debates would be more meaningful and of greater educational value.

11 CFR 114.4(e):

Certain nonpartisan voter registration and get-out-the-vote activity is exempt from the coverage of all provisions of the Act, including the prohibition against corporate and labor union contributions and expenditures. Because nonpartisan public candidate debates are similar in nature and purpose to registration and voter activity, corporations and labor unions are permitted to donate funds to support such debates.

Although 2 U.S.C. § 441b broadly prohibits corporate and labor union political spending, Congress carved out an exemption from that prohibition for certain nonpartisan registration and get-out-the-vote activity. Corporations are thus specifically permitted under 2 U.S.C. § 441b(b)(2)(B) to use their treasury funds to conduct nonpartisan registration and get-out-the-vote campaigns aimed at their stockholders and their executive and administrative personnel. Similarly, under that section, unions are permitted to use treasury funds to conduct registration and get-out-the-vote campaigns aimed at union members and their families.

Moreover, in permitting corporations and labor unions to support registration and get-out-the-vote campaigns aimed at the public, Congress prescribed a role for nonpartisan nonprofit organizations. In addition to § 441b(b)(2)(B), 2 U.S.C. § 431(f)(4)(B) also specifically provides that the term "expenditure" does not include "nonpartisan activity designed to encourage individuals to register to vote, or to vote." In discussing the interrelationship between 2 U.S.C. § 431(f)(4)(B) and 2 U.S.C. § 441b(b)(2)(B), the 1976 conferees expressly stated that corporate and union treasury funds could be used for nonpartisan registration and get-out-the-vote efforts aimed at the general public, if such efforts were jointly sponsored by a nonprofit nonpartisan organization.

. . . The conferees' intent with regard to the interrelationship between sections 301(f)(4)(B) and 321(b)(2)(B) which permit such activities as assisting eligible voters to register and to get to the polls, so long as these services are made available without regard to the voter's political preference, is the following: these provisions should be read together to permit corporations both to take part in nonpartisan registration and get-out-the-vote activities that are not restricted to stockholders and executive or administrative personnel, if such activities are jointly sponsored by the corporation and an organization that does not endorse candidates and are conducted by that organization: and to permit corporations, on their own, to engage in such activities restricted to executive or administrative personnel and stockholders and their families. The same rule, of course, applies to labor organizations. H.R. Rep. No. 1057, 94th Cong., 2nd Sess., p. 63–64 (1976).

The conferees' intent is embodied in Commission regulations at 11 CFR 114.4(d). That section permits corporations or labor unions to support and donate funds for nonpartisan registration and get-out-the-vote drives aimed at the public if the activities are jointly sponsored with and conducted by a nonprofit organization which does not support or endorse candidates or political parties.

In sections 431(f)(4)(B) and 441b(b)(2)(B) Congress expressly indicated an intent to permit corporations and labor organizations to participate in nonpartisan activity aimed at encouraging voter participation where that activity was undertaken in conjunction with a nonpartisan nonprofit organization. Permitting corporations and unions to donate funds to a nonpartisan nonprofit organization for the purpose of sponsoring nonpartisan candidate debates furthers that express congressional intent. Candidate debates stimulate voter interest and hence "encourage individuals to register to vote or to vote." Inasmuch as candidate debates are in the public interest and encourage educated voter involvement, permitting corporations and unions to donate funds for their sponsorship is consistent with congressional intent and policy underlying sections 431(f)(4)(B) and 441b(b)(2)(B).

It is also important to note that the prohibitions of 2 U.S.C. § 441b were not specifically aimed at the donation of corporate or union funds to a nonpartisan tax exempt organization. Under 2 U.S.C. § 441b(b)(2), the terms "contribution" and "expenditure" are defined to mean "any direct or indirect payment, distribution, loan, advance, deposit or gift of money . . . to any *candidate, campaign committee* or *political party or organization.*" Under 11 CFR 114.4(e), only an organization which has a history of nonpartisanship is qualified to sponsor candidate debates, and that organization must in addition be tax exempt under 26 U.S.C. § 501(c)(3). Such tax exempt organizations are probited by statute from intervening in any political campaign on behalf of any candidate for public office. Hence, an organization qualified to sponsor candidate debates would be neither a campaign committee, a political party nor a political organization referred to in 2 U.S.C. § 441b.

Finally, courts have generally construed 2 U.S.C. § 441b to prohibit only active electioneering on behalf of a candidate or a political party or conduct designed to influence the public for or against a particular candidate. (See, *United States v. United Auto Workers*, 352 U.S. 567 (1957); *United States v. Pipefitters Local Union No. 562*, 434 F.2d 1116 (8th Cir. 1970), rev'd on other grounds, 407 U.S. 385 (1972); *Miller v. American Telephone & Telegraph*, 507 F.2d 759 (3d Cir. 1974). Unlike single candidate appearances which have the effect of promoting the nomination or election of one individual, a properly structured nonpartisan public debate involving two or more candidates would not be construed to be active electioneering to promote or influence the nomination or election of one particular candidate.

11 CFR Chapter I is amended as follows:

1. 11 CFR 100.4(b)(16) is added to read as follows:

§ 100.4 Contribution.

* * * * *

(b) * * *

(16) Funds provided to defray costs incurred in sponsoring nonpartisan public candidate debates held in accordance with the provisions of 11 CFR 110.13.

2. 11 CFR 100.7(b)(18) is added to read as follows:

§ 100.7 Expenditure.

* * * * *

(b) * * *

(18) Funds used to defray costs incurred in sponsoring nonpartisan public candidate debates held in accordance with the provisions of 11 CFR 110.13.

3. 11 CFR 110.13 is added to read as follows:

§ 110.13 Nonpartisan public candidate debates.

(a) *Sponsor.* A nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3) and which has a history of neither supporting nor endorsing candidates or political parties may sponsor nonpartisan public debates held in accordance with 11 CFR 110.13(b).

(b) *Debate Structure.* (1) *Presidential, House or Senate General Election Candiate Debates.* (i) If the sponsor invites one general election candidate who has been nominated by a major party to participate in a debate, then the sponsor must invite all candidates nominated for the same office by any major party to participate in the same debate.

(ii) If the sponsor invites one general election candidate who has been nominated for election to that office by a minor party to participate in a debate, then the sponsor must invite all candidates nominated for the same office by any minor party to participate in the same debate.

(iii) If the sponsor invites one general election candidate who has been nominated for election to that office by a new party to participate in a debate, then the sponsor must invite all candidates nominated for the same office by any new party to participate in the same debate.

(iv) If, in a debate under 11 CFR 110.13(b)(1)(i), only one major party candidate agrees to participate, then the sponsor must invite all minor party candidates nominated for the same office to participate in the debate. If, in a debate under 11 CFR 110.13(b)(1)(ii), only one minor party candidate agrees to participate, then the sponsor must invite all new party candidates nominated for the same office to participate in the debate.

(v) The sponsor shall have the discretion to include any minor party, new party, independent or write-in candidate in any debate held under 11 CFR 110.13(b)(1).

(vi) If a sponsor holds a debate for presidential general election candidates, it may also hold a separate debate to which all vice-presidential running-mates of the candidates who participated in the general election debate are invited.

(vii) In States where the names of a candidate's electors, rather than the name of the candidate, will appear on a State election ballot, that candidate will be deemed to be the candidate for the purpose of 11 CFR 110.10(b)(1).

(2) *Presidential Caucus, Convention or Primary Election Candidate Debates.* (i) A sponsor may hold a presidential, caucus, convention or primary election candidate debate in any of the following ways:

(A) The sponsor shall invite all candidates qualified to appear on a State primary election ballot in a specified region, as well as each recognized, active candidate in any caucus or convention State in that region.

(B) In lieu of a debate held under 11 CFR 110.13(2)(i) (A) or (C), the sponsor has the option of holding a debate to which all candidates of all parties of the same type (major, minor or new) in a specified region are invited.

(C) In lieu of a debate held in accordance with 11 CFR 110.13(b)(2)(i) (A) or (B), the sponsor has the option of holding a debate restricted to candidates seeking the nomination of one party in a specified region. If the sponsor chooses to held a debate restricted to the candidates for a particular party's nomination, then the sponsor must also invite the candidates for nomination by each party of that type (major, minor or new) to participate in a similar separate debate restricted to the candidates seeking nomination by one party. However, where each of the parties of that type does not have at least two candidates seeking the nomination of that party, then the sponsor does not have the option to hold separate debates under this section.

(ii) In States where the name of a candidate's electors, or the name of delegate candidates pledged or committed to a presidential candidate seeking nomination of a party, rather than the name of the candidate, will appear on a State election ballot, that candidate will be deemed to be the candidate for the purposes of 11 CFR 110.13(b)(2).

(3) *House or Senate Caucus, Convention or Primary Election Candidate Debates.* (i) For House or Senate candidate debates in a primary election State, the sponsor shall invite all candidates who are seeking party nomination for the same office and are qualified to appear on the ballot; or in a caucus or convention State, the sponsor shall invite all recognized active candidates seeking party nomination for the same office.

(ii) In lieu of a debate held under 11 CFR 110.13(b)(3) (i) or (iii), the sponsor has the option of holding a debate to which all candidates of all parties of the same type (major, minor or new) in a specified region are invited.

(iii) In lieu of a debate held in accordance with 11 CFR 110.13(b)(3) (i) or (ii), the sponsor has the option of holding a debate restricted to candidates seeking the nomination of one party. If the sponsor chooses to hold a debate restricted to the candidates for a particular party nomination, then the sponsor must also invite the candidates for nomination by each party of that type (major, minor or new) to participate in a similar separate debate restricted to the candidates seeking nomination by one party. However, where each of the parties of that type does not have at least two candidates seeking the nomination of that party, then the sponsor does not have the option to hold separate debates under this section.

(4) *Two candidate requirement.* At least two candidates must participate in any debate held under 11 CFR 110.13(b).

(5) *Definitions.* For purposes of 11 CFR 110.13(b), the following definitions apply.

(i) The term "major party" means, with respect to any United States presidential, House, or Senate general election, a political party whose candidate for that office in the preceding election for that office received, as the candidate of such party 25 percent or more of the total number of popular votes received by all candidates for such office.

(ii) The term "minor party" means, with respect to any United States presidential, House, or Senate general election, a political party whose candidate for that office in the preceding election for that office received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

(iii) The term "new party" means, with respect to any United States presidential, House, or Senate general election, a political party which is neither a major party nor a minor party.

(6) *Endorsements by more than one party.* For purposes of 11 CFR 110.13(b), a candidate receiving the endorsement of a major party and a minor or new party will be considered a major party candidate. A candidate receiving the endorsement of a minor party and a new party will be considered a minor party candidate.

4. 11 CFR 114.4(e) is added to read as follows:

§ 114.4 Nonpartisan communication.

* * * * *

(e) *Nonpartisan public candidate debates.* A corporation or labor organization may donate funds to organizations qualified under 11 CFR 110.13 to sponsor nonpartisan public candidate debates held in accordance with the provisions of that section.

Dated: June 29, 1979.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 79-20713 Filed 7-3-79; 8:45 am]

BILLING CODE 6715-01-M