routine serological surveillance of each participating breeding flock. A flock, and the hatching eggs and poults produced from it, will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds has been tested negative for antibodies to the H5 and H7 subtypes of avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds are tested within each 90-day period.

(2) It is a multiplier breeding flock in which a minimum of 30 birds has been tested negative for antibodies to the H5 and H7 subtypes of avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 180 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds are tested within each 180-day period.

(3) For both primary and multiplier breeding flocks, if a killed influenza vaccine against avian influenza subtypes other than H5 and H7 is used, then the hemagglutinin and the neuraminidase subtypes of the vaccine must be reported to the Official State Agency for laboratory and reporting purposes.

* * * * *

■ 9. In § 145.53, a new paragraph (e) is added to read as follows:

§ 145.53 Terminology and classification; flocks and products.

* * * * *

(e) *U.S. Avian Influenza Clean.* This program is intended to be the basis from which the breeding-hatchery industry may conduct a program for the prevention and control of avian influenza. It is intended to determine the presence of avian influenza in waterfowl, exhibition poultry, and game bird breeding flocks through routine serological surveillance of each participating breeding flock. A flock, and the hatching eggs and chicks produced from it, will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds has been tested negative for antibodies to avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds are tested within each 90-day period.

(2) It is a multiplier breeding flock in which a minimum of 30 birds has been tested negative for antibodies to avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 180 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 unvaccinated sentinel birds are tested within each 180-day period.

* * * * *

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

■ 10. The authority citation for part 147 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 11. Section 147.12 is amended as follows:

■ a. In paragraph (b), introductory text, by adding the words ''or the rapid detection method'' after the word ''procedures.''

■ b. By adding a new paragraph (b)(3) to read as set forth below.

§ 147.12 Procedures for collection, isolation, and identification of Salmonella from environmental samples, cloacal swabs, chick box papers, and meconium samples.

* * * * *

(b) * * *

(3) *Approved rapid detection method.* After selective enrichment, a rapid ruthenium-labeled *Salmonella* sandwich immunoassay may be used to determine the presence of *Salmonella.* Positive samples from the immunoassay are then inoculated to selective plates (such as BGN and XLT4). Incubate the plates at 37 °C for 20 to 24 hours. Inoculate three to five *Salmonella*-suspect colonies from the plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Incubate the slants at 37 °C for 20 to 24 hours. Screen colonies by serological (*i.e.*, serogroup) and biochemical (*e.g.*, API) procedures as shown in illustration 2. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

* * * * *

Done in Washington, DC, this 7th day of November, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–28511 Filed 11–13–03; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 102 and 110

[Notice 2003–19]

Multicandidate Committees and Biennial Contribution Limits

AGENCY: Federal Election Commission.

ACTION: Final rules and transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is revising its rules covering four areas: (1) Multicandidate political committee status, (2) annual contributions by persons other than multicandidate committees to national party committees, (3) contributions to candidates for more than one Federal office; and (4) biennial contribution limits for individuals. These final rules provide that once a political committee satisfies certain criteria, it automatically becomes a multicandidate committee and is required to notify the Commission of its new status. The final rules also update the limit on contributions from persons other than multicandidate committees to national party committees and to candidates running for more than one Federal office. In addition, the final rules adjust the attribution of contributions to candidates from individuals under the biennial limits. Further information is provided in the supplementary information that follows.

EFFECTIVE DATE: December 15, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Vergelli, Acting Assistant General Counsel, Mr. Richard T. Ewell, Attorney, or Mr. Albert J. Kiss, Attorney,

999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: These final rules address four different issues. First, the Commission confirms that political committees automatically become multicandidate committees once certain statutory requirements are met. Second, the Commission updates the annual limit on contributions from persons other than multicandidate committees to national party committees to conform to the change made by Congress in the Bipartisan Campaign Reform Act of 2002 (''BCRA''). Third, the Commission implements a separate conforming change to the limits on contributions to candidates running for more than one Federal office. Finally, the Commission corrects its rules governing the biennial limit on aggregate individual contributions in light of BCRA. These final rules implement the provisions of the Federal Election Campaign Act of 1971, as amended (''FECA'' or the ''Act''), 2 U.S.C. 431 *et seq.*

The Notice of Proposed Rulemaking (''NPRM''), on which these final rules are based, was published in the **Federal Register** on August 21, 2003. 68 FR 50,488 (August 21, 2003). The comment period was originally set to close on September 19, 2003, but the Commission extended the comment period until September 29, 2003. The Commission received seven comments on the proposed rules.[1] The Commission held a public hearing on this and three other rulemakings on October 1, 2003. Seven witnesses testified during the hearing. Transcripts of the hearing are available at *http://www.fec.gov/register.htm.* Please note that, for purposes of this document, the terms ''commenter'' and ''comment'' apply to both written comments and oral testimony at the public hearing.

Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate, and publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules that follow were transmitted to Congress on November 7, 2003.

[1] The Commission received written comments from: Perkins, Coie LLP; The Campaign Legal Center, National Republican Senatorial Committee, Republican National Committee; Sandler, Reiff & Young, P.C.; attorneys Lyn Utrecht, Eric Kleinfeld, Pat Fiori, and James Lamb of Ryan, Phillips, Utrecht & MacKinnon; and the Internal Revenue Service.

Explanation and Justification

11 CFR 102.2 Statement of Organization; Forms and Committee Identification Number

Section 441a(a)(4) of the FECA provides that, ''the term 'multicandidate political committee' means a political committee which has been registered with [the Commission or Secretary of the Senate] for a period of not less than six months, which has received contributions from more than 50 persons, and except for any State political party organization, has made contributions to 5 or more candidates for Federal office.'' 2 U.S.C. 441a(a)(4). On the basis of this statutory provision, the Commission's rules at 11 CFR 100.5(e)(3) define a ''multicandidate committee'' as a political committee meeting these three requirements.

To monitor compliance with the contribution limits for multicandidate political committees set out at 11 CFR 110.2, the Commission has required such committees to file FEC Form 1M to certify that they satisfied the criteria for becoming multicandidate political committees. *See* discussion below regarding revisions to 11 CFR 110.2. Specifically, 11 CFR 102.2(a)(3) formerly required that this certification be filed before a political committee may avail itself of the multicandidate committee contribution limits.

In the NPRM, the Commission proposed amending 11 CFR 102.2(a)(3) to eliminate the requirement that a political committee file Form 1M with the Commission before making any contributions under the increased contribution limits with respect to candidates in 11 CFR 110.2(b). The only comment on this issue indicated that the Commission's approach would be consistent with a determination that multicandidate status is mandatory rather than elective, but would not be consistent with a general rule permitting political committees to choose their status.

For the reasons stated in the Explanation and Justification for 11 CFR 110.2, the Commission views multicandidate committee status as automatic once all three necessary criteria are satisfied. Therefore, the Commission is revising 102.2(a)(3) to specify that a political committee must certify its status as a multicandidate committee within ten days of satisfying the requirements of 11 CFR 100.5(e)(3). This certification provides clear notice of the political committee's status to recipients of contributions from the committee, and to the Commission. The ten-day requirement was selected because it corresponds to the analogous time requirement for a political committee to report any changes to its Statement of Organization. *See* 11 CFR 102.2(a)(2).

The Commission specifically sought comment on how it should address a situation where a political committee qualifies for multicandidate status, yet does not certify its status within ten days, and, once so qualified, makes a contribution exceeding $2,000 to a candidate for Federal office. None of the commenters addressed this issue. Because the previous rule at 11 CFR 102.2(a)(3) required a committee to certify its multicandidate status prior to making a contribution in excess of the limit for non-multicandidate committees, failure to comply with the previous rule resulted in both a reporting violation and an excessive contribution. Given the removal of the ban on making contributions of (in the previous rule) more than $1,000 without filing the certification, the Commission concludes that failure to comply with the new rule is a violation of the reporting requirements of 2 U.S.C. 433, but not an excessive contribution so long as the amount is within the contribution limits prescribed for political committees with multicandidate committee status.

11 CFR 110.1 Contributions by Persons Other Than Multicandidate Political Committees

A. 11 CFR 110.1(c) Contributions by Persons Other Than Multicandidate Committees to National Party Committees

In section 307(a)(2) of BCRA, Congress raised the annual aggregate limit on contributions by persons other than multicandidate political committees to national political party committees from $20,000 to $25,000. 2 U.S.C. 441a(a)(1)(B). The Commission proposed revising the corresponding regulation in 11 CFR 110.1(c)(3) to reflect this statutory change. 68 FR 50,490. The Commission received no comments on this proposal. The Commission is therefore revising 11 CFR 110.1(c)(3) as proposed in the NPRM to reflect accurately the new annual aggregate limit.

B. 11 CFR 110.1(f) Contributions to Candidates for More Than One Federal Office

In BCRA, Congress raised the per election limit on contributions to candidates from persons other than multicandidate committees from $1,000 to $2,000. 2 U.S.C. 441a(a)(1)(A). The Commission is accordingly revising 11 CFR 110.1(f) to conform its regulations

to this new statutory limit. Because the Commission's rules must accurately reflect Congress's decision to adjust this contribution limit, which took effect on January 1, 2003, it is appropriate to implement this higher limit in the final rules. This provision was not discussed in the NPRM. The Commission determines that, under section 553(b)(3) of the Administrative Procedure Act, good cause exists to implement this technical and conforming change without delay. It is not necessary to seek public comment at this point when the Commission obtained and fully considered public comment on the underlying rules at 11 CFR 110.1(a) implementing the contribution limits. *See* Final Rules and Explanation and Justification for Contribution Limitations and Prohibitions, 67 FR 69,928 (Nov. 19, 2002). Accordingly, the Commission is issuing this final rule without notice and comment.

11 CFR 110.2 Contributions by Multicandidate Political Committees

11 CFR 110.2 sets forth contribution limits for multicandidate political committees in accordance with 2 U.S.C. 441a(a)(2). FECA, prior to BCRA, provided significantly higher limits on contributions to candidates for political committees with multicandidate status than for those without that status ($5,000 per election versus $1,000). BCRA raised and indexed for inflation the contribution limit for non-multicandidate committees (to $2,000 per election). As the Commission explained in the NPRM, due to the inflation adjustment this non-multicandidate committee limit may eventually exceed the limit imposed on multicandidate committees. *See* 2 U.S.C. 441a(c). If this occurs, it will create a disincentive for attaining multicandidate political committee status.

In addition, BCRA increased the limit on non-multicandidate committee contributions to national party committees from $20,000 to $25,000 per year. Yet Congress did not similarly adjust the limit on multicandidate committee contributions to the same national party committees. That limit remains $15,000 per year, as it was prior to BCRA. 2 U.S.C. 441a(a)(1)(B) and (2)(B). Furthermore, Congress did not index for inflation the contribution limit for multicandidate committees, which means that over time the current $10,000 difference in the respective contribution limits to national party committees will increase. 2 U.S.C. 441a(c).

In light of these statutory changes, the Commission sought comment on whether political committees may elect to opt out of multicandidate committee status even if they meet the three criteria of 2 U.S.C. 441a(a)(4) and 11 CFR 100.5(e)(3). Two commenters addressed this question. One commenter asserted that the language of 2 U.S.C. 441a(a)(4) clearly indicates that multicandidate status is automatically conferred when the three criteria are met. This commenter urged the Commission to adopt the changes to its regulations as proposed in the NPRM. While acknowledging the potential disadvantages of multicandidate status created by Congress through BCRA, this commenter observed that political committees may still elect to ''opt out'' of multicandidate status by refraining from meeting one or more of the three criteria (*i.e.*, by only contributing to 4 candidates).

On the other hand, a different commenter opposed mandatory status, arguing that the Commission should change its regulations to ensure that political committees are not forced to accept multicandidate status if they do not perceive that status as beneficial. The criteria in 2 U.S.C. 441a(a)(4), this commenter asserted, were ''selected by Congress to identify committees entitled to preferred treatment'' because ''it believed that committees with these attributes were less likely to be employed by individuals for the purpose of circumventing the individual contribution limit.'' This commenter agreed with the Commission's assessment in the NPRM that post-BCRA multicandidate status could become a liability, rather than a benefit, in some circumstances. Therefore, this commenter cautioned that multicandidate status should not be mandatory unless the Commission is ''extremely confident'' that Congress now intends to disadvantage multicandidate committees.

The Commission notes that Congress did not take certain steps with regard to multicandidate committees that it took with regard to other political committees and individuals, such as indexing contribution limits for inflation and increasing the contribution limit to national party committees. The Senator who offered the amendment to increase the contribution limits for non-multicandidate committees explained its purpose shortly before the Senate voted to approve the BCRA in its near final form:

> The Thompson-Feinstein amendment, by increasing the limit on individual and national party committee contributions to Federal candidates, will reduce the need for raising campaign funds from political action committees, PACs. Our amendment, therefore, will reduce the relative influence of PACs, making it easier to replace PAC monies with funds raised from individual donors.

148 Cong. Rec. S2154 (daily ed. Mar. 20, 2002) (statement of Sen. Feinstein).

Accordingly, the final rules adopt the approach that best comports with the plain language of 2 U.S.C. 441a(a)(4): A political committee becomes a multicandidate committee once it has been registered with the Commission or Secretary of the Senate for a period of not less than six months, has received contributions from more than 50 persons, and has made contributions to 5 or more candidates for Federal office. Specifically, the Commission is adding a sentence to 11 CFR 110.2(a) to confirm this result. To address situations where a multicandidate political committee achieves multicandidate status through affiliation with a pre-existing multicandidate committee, the Commission is adding additional language to 11 CFR 110.2(a)(3) to specify that both affiliated committees would automatically be multicandidate committees at the time of affiliation.

It is important to note that the only ''disadvantage'' that multicandidate committees currently face is the lower limit on contributions to national political party committees. Notwithstanding the latter commenter's assertions that ''[t]his unexplained different treatment is more likely the result of a political compromise than it is a product of a considered judgment,'' Congress clearly set lower limits even before BCRA for multicandidate committee contributions to national party committees than for other political committees' contributions to national party committees. The multicandidate committee contribution limits with respect to all Federal candidates, however, still remain $3,000 per election higher than the contribution limits for other political committees. To the extent that some future disadvantage actually emerges from the fact that multicandidate committee contribution limits are not indexed for inflation, it would be for Congress to reconsider the contribution limits it established. The Commission has submitted a legislative recommendation urging Congress to do so. *FEC Annual Report 2002,* at 46. At present, the Commission implements what it deems the most straightforward reading of the language of 2 U.S.C. 441a(a)(4).

The same commenter also noted, under current law, State party committees are automatically treated as multicandidate committees regardless of whether they make contributions to five

or more candidates. *See* 11 CFR 100.5(e)(3). Thus, a State party committee could be negatively impacted to the same extent as other multicandidate committees by Congress's conspicuous choice to index one set of contribution limits to inflation but not the limits of multicandidate committees. The commenter urged the Commission to permit State party committees to opt out of multicandidate committee status for the same reasons set forth above. The Commission declines to do so for the reasons explained above.

11 CFR 110.5(c) Application of the Aggregate Biennial Contribution Limitation for Individuals

Prior to BCRA, total contributions by an individual were limited to $25,000 in any calendar year. Also, any contribution made to a candidate with respect to an election in a year other than the calendar year in which the election is held was considered to be made during the calendar year in which the election is held. 2 U.S.C. 441a(a)(3) (2001). Thus, when individuals made contributions to candidates for elections to be held in years after the calendar year the contribution was made, those contributions counted against the contributor's $25,000 annual contribution limit for the year of the future election, instead of the year the contribution was actually made. The Commission implemented this statutory provision in 11 CFR 110.5(c).

After BCRA, section 441a(a)(3) provides that contributions made in a specified two-year period (*i.e.*, ''the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year'') may not exceed $37,500, in the case of contributions to candidates and the authorized committees of candidates, and $57,500 in the case of other contributions. Also, in BCRA, Congress removed the language of former section 441a(a)(3) that treated some contributions as made in a year other than the year in which actually made (*i.e.*, the year the election is held).

In the NPRM, the Commission noted that, despite these statutory changes, it had retained 11 CFR 110.5(c) when it revised section 110.5 in 2002 after passage of BCRA. *See* Contribution Limitations and Prohibitions; Final Rules, 67 FR 69,928 (November 19, 2002). The NPRM proposed to amend section 110.5(c) to state that, for purposes of the biennial contribution limits in section 441a(a)(3) and 11 CFR 110.5(b), a contribution to a candidate will be attributed to the two-year period in which the contribution is actually made, regardless of when the election with respect to which it is made is held. 68 FR 50,488, 50,490.

In the final rules, the Commission has bifurcated 11 CFR 110.5(c) into two paragraphs. New paragraph (c)(1) of section 110.5 applies to contributions made on or after January 1, 2004. The Commission chose this date for two reasons. First, beginning the operation of the new rule with the new year will minimize confusion. Second, it will insure that the change will occur at the beginning of a reporting period for most filers. The final rule is otherwise the same as the proposed rule in the NPRM. New paragraph (c)(2) applies to contributions made before January 1, 2004. It otherwise is the same as the rule in previous 11 CFR 110.5(c). New paragraph (c)(2) is included in the final rules to preclude any question of the retroactive application of paragraph (c)(1) to contributions made before the effective date of the regulation in reliance on the Commission's previous interpretation of post-BCRA section 441a(a)(3).

For example, under new paragraph (c)(1) of section 110.5, a contribution made in 2004 to a candidate in a 2006 Senate race is attributed to the individual's biennial limit for the 2003–2004 period. Similarly, a contribution made in 2005 to a candidate in the 2008 presidential race is attributed to the individual's biennial limit for the 2005–2006 period. In addition, a contribution made during 2007 to retire debt from a 2006 House election is attributed to the individual's biennial limit for the 2007–2008 period. Under new paragraph (c)(2), as under the previous language of 11 CFR 110.5(c), a contribution made in 2003 to a candidate in a 2006 Senate race would be attributed to the individual's biennial limit for the 2005–2006 period.

There was no consensus among the commenters in response to the NPRM. One commenter supported the Commission's proposals, stating that the language of section 441a(a)(3) as amended ''plainly attributes candidate contributions by individuals to the aggregate limit for the two-year period in which such contributions are actually made.'' This commenter opined that ''conforming the FEC's regulation [at section 110.5(c)] to the revised statute's clear requirement that individuals' hard money contributions to candidates tally against their aggregate limit for the two-year period in which such contributions are actually made would eliminate the confusion (and inadvertent donor violations) that prevailed under the previous approach.'' As such, this commenter asserts that the NPRM's proposed change would lessen, not increase confusion.

On the other hand, several commenters were opposed to the NPRM's proposed changes. Some commenters asserted that confusion will ensue for both contributors and recipient candidates. A commenter observed that if the proposed changes were made, contributors may have multiple contributions to the same candidate that would count toward different biennial limits and this may be very confusing to contributors. To mitigate any confusion, the Commission has decided to continue to apply the previous rule prior to January 1, 2004, and to apply the new rule on and after that date. This approach ensures that the new rules will not have retroactive application.

Some comments asserted that the Commission should not penalize donors who may have inadvertently exceeded the $37,500 limit for the 2003–04 two-year period, to the extent that the donor exceeded the limit as a result of contributions made before the effective date of the Commission's proposed new rule to candidates that are not running in the 2003–04 two-year period. Because the Commission's final rule does not change the treatment of contributions made prior to the effective date of the new rule, contributors will not have inadvertently exceeded the $37,500 limit for the 2003–04 two-year period based on the Commission's new rules.

Several commenters focused on the reliance interest that contributors, candidates and political committees have in the current language of section 110.5(c), and suggested either a deferred effective date for the new rule (*e.g.*, January 1, 2005), or adoption of a transition rule that fairly treats those who have reasonably relied upon the existing regulation. Commenters asserted that a deferred effective date is needed because changing the rule in the middle of an election cycle could cause inadvertent violations. In its final rule for § 110.5(c), the Commission accommodates contributors' reliance interest by preserving the previous language of section 110.5(c) for contributions made prior to January 1, 2004. However, the Commission does not interpret section 441a(a)(3), as amended by BCRA, to permit a transition period. The Commission is also concerned that any transition period is likely to engender additional confusion.

Some comments suggested that current section 110.5(c) is primarily related to candidates for the U.S. Senate, and that changing the provision would have an adverse impact on Senate

candidate fundraising, because the proposed rule will limit a Senator's ability to raise funds in the first four years of his or her term. For example, a contributor who intends to contribute $37,500 every biennial period may be disinclined to contribute to a 2006 candidate during the 2004 election cycle if it counts against his or her 2004 aggregate biennial limit rather than the 2006 cycle limit. The Commission has considered these comments, but observes that it is required to respond to Congress's changes to section 441a(a)(3), and must give effect to Congress's deletion of the statutory provision on which the regulatory provision was based.

A commenter asserted that the Commission should not, before the effective date of the new rule, count contributions made to a candidate not running in the 2003–04 two-year period against the donor's aggregate limit for the cycle in which the candidate is running, asserting that such an application of the limit would ''clearly be contrary to section 441a(a)(3)(A).'' The Commission observes that under the previous language of section 110.5(c), a contribution made to a candidate not running in the 2003–04 two-year period was counted against the donor's aggregate limit for the two-year period in which the candidate is running. This comment suggests, in effect, that the Commission ignore, or suspend the operation of, the previous language of section 110.5(c) for contributions made before January 1, 2004. The Commission declines to either ignore or suspend the operation of the previous language of section 110.5(c) for contributions made before January 1, 2004.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached rules will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that State and local party committees of the two major political parties and most other political committees are not small entities under 5 U.S.C. 601 because they are not small businesses, small organizations, or small governmental jurisdictions. Further, individual citizens operating under these rules are not small entities.

To the extent that any persons subject to these rules may fall within the definition of ''small entities,'' these rules do not impose a significant economic impact on those persons. These rules do not change the criteria for status as a multicandidate committee; they merely confirm that this status acquired automatically when the existing criteria are met. The one modified filing requirement merely replaces a similar filing requirement that is removed, and no new compliance efforts are required. The remainder of the final rules are conforming changes updating existing regulations to new contribution limits set by Congress. As such, these updates require no new or increased disclosure, or other requirements that would increase compliance costs.

List of Subjects

11 CFR Part 102

Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political committees and parties.

■ For the reasons set out in the preamble, the Federal Election Commission is amending subchapter A of chapter 1 of title 11 of the Code of Federal Regulations as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

■ 2. Section 102.2 is amended by revising paragraph (a)(3) to read as follows:

§ 102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).

(a) * * *

(3) A committee shall certify to the Commission that it has satisfied the criteria for becoming a multicandidate committee set forth at 11 CFR 100.5(e)(3) by filing FEC Form 1M no later than ten (10) calendar days after qualifying for multicandidate committee status.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

■ 3. The authority citation for part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d, 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h, and 441k.

■ 4. Section 110.1 is amended by:

■ a. revising paragraph (c)(3); and

■ b. revising the introductory language in paragraph (f).

The revisions and additions read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

* * * * *

(c) * * *

(3) Each recipient committee referred to in 11 CFR 110.1(c)(2) may receive up to the $25,000 limitation from a contributor, but the limits of 11 CFR 110.5 shall also apply to contributions made by an individual.

* * * * *

(f) *Contributions to candidates for more than one Federal office.* If an individual is a candidate for more than one Federal office, a person may make contributions which do not exceed $2,000 to the candidate, or his or her authorized political committees for each election for each office, as long as—

* * * * *

■ 5. Section 110.2 is amended by revising paragraph (a)(1) to read as follows:

§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

(a)(1) *Scope.* This section applies to all contributions made by any multicandidate political committee as defined in 11 CFR 100.5(e)(3). See 11 CFR 102.2(a)(3) for multicandidate political committee certification requirements. A political committee becomes a multicandidate committee at the time the political committee meets the requirements of 11 CFR 100.5(e)(3) or becomes affiliated with an existing multicandidate committee, whether or not the political committee has certified its status as a multicandidate committee with the Commission in accordance with 11 CFR 102.2(a)(3).

* * * * *

■ 6. The section heading for section 110.5 is amended by removing ''bi-annual'' and adding ''biennial'' in its place.

■ 7. Section 110.5 is amended by revising paragraph (c) to read as follows:

§ 110.5 Aggregate biennial contribution limitation for individuals (2 U.S.C. 441a(a)(3)).

* * * * *

(c)(1) Contributions made on or after January 1, 2004. Any contribution subject to this paragraph (c)(1) to a candidate or his or her authorized committee with respect to a particular election shall be considered to be made during the two-year period described in paragraph (b)(1) of this section in which the contribution is actually made,

regardless of the year in which the particular election is held. See 11 CFR 110.1(b)(6). This paragraph (c)(1) also applies to earmarked contributions and contributions to a single candidate committee that has supported or anticipates supporting the candidate.

(2) Contributions made prior to January 1, 2004.

(i) For purposes of this paragraph (c)(2), a contribution to a candidate or his or her authorized committee with respect to a particular election shall be considered to be made during the calendar year in which such election is held.

(ii) For purposes of this paragraph (c)(2), any contribution to an unauthorized committee shall not be considered to be made during the calendar year in which an election is held unless:

(A) The political committee is a single candidate committee which has supported or anticipates supporting the candidate; or

(B) The contribution is earmarked by the contributor for a particular candidate with respect to a particular election.

* * * * *

Dated: November 7, 2003.

Bradley A. Smith,

Vice Chairman, Federal Election Commission.

[FR Doc. 03–28469 Filed 11–13–03; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 106

[Notice 2003–20]

Party Committee Telephone Banks

AGENCY: Federal Election Commission.

ACTION: Final rule and transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is promulgating final rules regarding the attribution of political party committee disbursements for telephone bank communications made on behalf of a clearly identified Federal candidate. The final rules address the proper attribution of a party committee's or party organization's disbursements for communications that refer to a clearly identified Federal candidate when the party's other candidates are referred to generically, but not by name. The entire disbursement must be paid for with Federal funds. Further information is provided in the Supplementary Information that follows.

EFFECTIVE DATE: December 15, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Jonathan M. Levin, Senior Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: In the months leading up to a general election, political party committees, or party committees in conjunction with the principal campaign committees of Federal candidates, may conduct phone banks to get out the vote (''GOTV'') or otherwise promote the party and its candidates. Such phone banks may involve the reading of scripted messages that include a statement asking the person called specifically to vote, or get their family and friends out to vote, for the named Federal candidate and that then make one or more general promotional references to the party's other candidates. An example would be: ''Please tell your family and friends to come out and vote for President John Doe and our great Party team.'' Given that no other Federal or non-Federal candidates are specifically mentioned, the question is whether the entire cost of the communication, or only a portion of the cost, should be attributed to the Federal candidate. The Commission is issuing final rules to provide clear guidance on how to attribute the cost of these communications.

Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules on party committee phone banks were transmitted to Congress on November 7, 2003.

Explanation and Justification

The Commission published a Notice of Proposed Rulemaking (''NPRM'') on September 4, 2003, in which it sought comment on proposed rules that would add a new section to 11 CFR part 106 to address telephone bank expenditures by political party committees and organizations. 68 FR 52529 (Sept. 4, 2003). The comment period was originally set to close on September 25, 2003, but the Commission extended the comment period until September 29, 2003. In addition to the comments concerning the proposed rules, the NPRM sought comments on a number of other issues including: (1) Whether the scope of the rulemaking should be expanded to include other types of communications such as broadcast or print media and to include candidates for the Senate or House of Representatives; (2) whether the final rules should explicitly state that a State party committee's use of its coordinated party expenditure authority to pay for these phone banks is subject to the restrictions of 11 CFR 109.33; and (3) whether the final rules should explicitly state that party committees are prohibited from using contributions designated for a particular candidate to pay for these phone bank expenditures.

The Commission received one comment in response to the NPRM. The Commission did not receive any requests to testify on the subject of party committee's disbursements for telephone banks at its hearing on October 1, 2003.

11 CFR 106.8 Allocation of Expenses for Political Party Committee Phone Banks That Refer to a Clearly Identified Federal Candidate

The Commission is adding new section 106.8 to address the costs of phone banks conducted by national, State and local party committees and party organizations on behalf of clearly identified Federal candidates. In Federal election years, party committees and organizations conduct such phone banks to encourage voters to support the entire ticket. Although the specific mention of the clearly identified Federal candidate provides something of value to the candidate being promoted, it also provides the party with a benefit. The final rules, discussed below, reflect that such communications benefit both the candidate and the party.

1. 11 CFR 106.8(a) Scope

New section 106.8(a) begins by stating the conditions under which the special attribution rule in paragraph (b) would apply. Paragraphs (a)(1) through (a)(5) of new section 106.8 describe the communications that are subject to the final rule. The proposed rules would have limited the scope of the new section 106.8 to presidential and vice presidential nominees, although the Commission asked whether they should be expanded to include candidates for the Senate and the House of Representatives. The commenter urged that the rules be extended to these candidates while noting that the underlying coordinated party expenditure limits would differ for these candidates. Because there is no apparent reason to distinguish presidential and vice presidential candidates from other Federal candidates, and to maintain a consistent approach for all Federal candidates, the