

FEDERAL ELECTION COMMISSION

11 CFR Parts 102 and 110

[NOTICE 1993-17]

Multicandidate Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rules; transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission has revised its regulations regarding multicandidate political committees. The revisions require political committees to report to the Commission that they have achieved multicandidate status; provide documentation to the Commission verifying such status at the time this is first reported; and give written notice of this status to candidates and their committees that receive campaign contributions from multicandidate committees. These revisions will help the Commission carry out its statutory responsibility to maintain a current Multicandidate Committee Index, and also help candidates determine what level of contributions they can accept from donor committees.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revisions to its regulations at 11 CFR 102.2(a)(1) and (3) and 110.2(a), regarding multicandidate committees.

On March 3, 1993, the Commission issued a Notice of Proposed Rulemaking ["NPRM"] seeking comments on proposed revisions to these regulations. 58 FR 12189. Two written comments were received in response to the Notice.

Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to carry out the provisions of title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on August 3, 1993.

Explanation and Justification

A political committee may generally contribute a maximum of \$1,000 per election to a federal candidate or that candidate's authorized committee. 2 U.S.C. 441a(a)(1)(A), 11 CFR 110.1(b)(1). However, a "multicandidate political committee" may contribute a maximum of \$5,000 per candidate, per election. 2 U.S.C. 441a(a)(2)(A), 11 CFR 110.2(b)(1).

A political committee qualifies as a "multicandidate political committee" if it has been registered with the Federal Election Commission for at least six months; received contributions from more than 50 persons; and, except for state party organizations, made contributions to five or more candidates for federal office. 2 U.S.C. 441a(a)(4), 11 CFR 100.5(e)(3). The Commission is required to maintain an index of committees that have qualified as multicandidate committees. 2 U.S.C. 438(a)(6)(C).

Prior to these revisions, a committee informed the Commission that it had qualified as a multicandidate committee by checking the appropriate box on the first regularly-scheduled Report of Receipts and Disbursements [FEC Form 3X] due after this status was achieved. This at times resulted in a significant lapse of time between the date on which the committee qualified and the date on which this information was made known to the Commission, and hence to the general public. For example, if a committee achieved multicandidate status shortly after filing its July 31 semi-annual report in a non-election year, the Commission's Index would not list this committee until after the committee filed the year-end report due on January 31 of the following year. 2 U.S.C. 434(a)(4), 11 CFR 104.5. A candidate or candidate's committee might find it difficult to verify the legality of a contribution over \$1,000 received during this period.

Part 102—Registration, Organization, and Recordkeeping by Political Committees

Section 102.2 Statement of Organization: Forms and Committee Identification Number

New paragraph 102.2(a)(3) requires each committee to report that it has qualified as a multicandidate committee before making any contributions to candidates that exceed \$1000 per election, and to submit data verifying its multicandidate status, at the time this status is reported. Both the change in status and the verifying information are to be reported on a new form: FEC Form 1M.

The NPRM proposed requiring this information to be reported as an

amendment to the Statement of Organization that each committee is required to file. 2 U.S.C. 433(a), 11 CFR 102.1. Any change in information previously submitted in a Statement of Organization must be reported to the Commission no later than 10 days after the date of the change. 2 U.S.C. 433(c), 11 CFR 102.2(a)(2). (Information on multicandidate status could not be reported on an original Statement of Organization, because of the requirement that a committee be registered at least six months before it can qualify as a multicandidate committee.) The Commission has now decided on a more straightforward approach, that is requiring this information to be reported on a new, and separate, FEC Form 1M.

FEC Form 1M requires the committee, after qualifying as a multicandidate committee, to provide the Commission with: (1) The date on which it first registered with the Commission; (2) a listing of five federal candidates it has supported, with the date of the contribution to each; and (3) a certification that it has received contributions from more than 50 persons.

Formerly, this information was apparent from the committee's reports filed at the time this status was reported. Under the revised rules, however, the committee is required to provide this information at the time it files Form 1M, since the information may not have been reported by the time this form is filed.

One commenter endorsed the NPRM, but suggested the verification required in the preceding paragraph be replaced by random requests for this information from the Commission's Reports Analysis Division ["RAD"]. However, the Commission believes each committee should be required to provide this information, as proposed in the Notice.

Since the difference in maximum contributions is significant, the Commission feels strongly that each committee must demonstrate that it qualifies for this status. Moreover compliance with this requirement will not be burdensome. Committees are not required to list all of their contributors, for example, but merely to certify that they have received contributions from a sufficient number of persons. Also, the Commission's experience has been that committees may not fully understand the criteria for achieving multicandidate status, and this approach would help ensure that they comply fully. Finally, random requests for information may not be sufficient to ensure full compliance with these requirements.

FEC Form 3X, where this information was formerly reported, has also been amended. Committees formerly checked square 3 only if they had achieved multicandidate status during the period covered by that report. They now indicate in that square if they have qualified as a multicandidate committee in every report filed after qualification, so that candidates and other interested parties may readily determine this information. The new square cross-references FEC Form 1M, which provides the more detailed information.

Part 110—Contributions and Expenditure Limitations and Prohibitions

Section 110.2 Contributions by Multicandidate Political Committees

New paragraph 110.2(a)(2) requires multicandidate committees to notify recipients of this status in writing, at the time a contribution is made. This allows a candidate or authorized committee to easily determine the legality of a committee contribution over \$1,000.

The Federal Election Campaign Act prohibits both the making and the receipt of any contribution over \$1,000 from a political committee that has not qualified as a multicandidate committee; and the donor is in the better position to know whether multicandidate status has been achieved. While the recipient can check the Commission's Multicandidate Committee Index, there is inevitably some time lag between the date a committee achieves multicandidate status and the date this information becomes publicly available.

The revised rule does not specify the nature of this writing. Multicandidate

committees may choose to have this information printed on their checks and/or their letterhead stationery. Prior to the time this is available, they may handwrite or type this information on their checks. Alternatively, they may include this information in the body of an accompanying letter or other communication, or in another manner of their choosing.