FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m. June 28, 1990.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573–0001.

STATUS: Closed.

MATTER(S) TO BE CONSIDERED: North Altantic Enforcement Program—Status Report.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 90–14852 Filed 6–21–90; 4:50 pm]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, June 29, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless amember of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) to reduce the filing requirements under the Change in Bank Control Act.

Discussion Agenda

2. Publication for comment of proposed modifications in the Board's Section 20 securities orders regarding director, officer and employee interlocks, cross-marketing activities, and the purchase and sale of U.S. agency securities.

3. Proposed 1991 Federal Reserve Bank budget objective.

4. Proposed establishment of a third investment fund for the Thrift Plan for employees of the Federal Reserve System.

5. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–14862 Filed 6–22–90; 9:55 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:30 a.m., Friday, June 29, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–14863 Filed 6–22–90; 9:55 am]

BILLING CODE 6210-01-M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Tuesday, June 26, 1990.

PLACE: Hearing Room A, Interstate Commerce Commission 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: There is a correction and addition to the agenda items listed in the notice, served June 19, 1990, for the Commission voting conference to be held on June 26, 1990.

MATTERS TO BE DISCUSSED:

The fifth agenda item should read as follows:

Docket No. 40131 (Sub-No. 1) *Ashley Creek Phosphate Company v. Chevron Pipe Line Company.*

The following item has been added to the agenda:

Docket No. MC–1515, *Greyhound Lines, Inc. (Dallas, Texas), Authorization to be a Self-Insurer—Show Cause Order.*

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of Government and Public Affairs, Telephone: (202) 275–7252.

Noreta R. McGee,

Secretary.

[FR Doc. 90–14942 Filed 6–22–90; 3:53 pm]

BILLING CODE 7035-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m. Tuesday, July 3, 1990.

PLACE: Conference Room 8 A, B, C, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Aviation Accident Report: US Air, Inc. Flight 5050 Boeing 737–400, Flushing, New York 09/20/90.

News Media PLEASE Contact TED LOPATKIEWICZ 382–6605

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: June 22, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90–14888 Filed 6–22–90; 2:09 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 25, July 2, 9, and 16, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 25

Wednesday, June 27

9:00 a.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

3:00 p.m.
Civil Litigation Matters (Closed—Ex. 10)

Week of July 2—Tentative

There are no Commission meetings scheduled for the Week of July 2.

Week of July 9—Tentative

There are no Commission meetings scheduled for the Week of July 9.

Week of July 16—Tentative

Monday, July 16

2:00 p.m.
Briefing by NUMARC on Essentially Complete Design Issue for Part 52 Submittals (Public Meeting)

Tuesday, July 17

2:00 p.m.

Briefing on Resolution of Uncertainties in the HLW Repository Program (Public Meeting)

Wednesday, July 18

2:00 p.m.

Briefing on Essentially Complete Design Issue for Part 52 Submittals (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: June 21, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90–14946 Filed 6–22–90; 3:53 pm]

BILLING CODE 7590-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, July 10, 1990, in Hartford, Connecticut. The meeting is open to the public and will be held in the Goodwin Room of the J.P. Morgan Hotel at Goodwin Square, One Haynes Street, Hartford. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, July 9, 1990, but it is not open to the public. It will consist entirely of briefings, the agenda item to discuss possible strategies in collective bargaining negotiations noted in 55 FR 23835, June 12, 1990, having been deleted.

Agenda

Tuesday Session—J.P. Morgan Hotel—Goodwin Room

July 10—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, June 4–5, 1990.
2. Remarks of the Postmaster General. (Anthony M. Frank)
3. Report on the Northeast Region. (William R. Cummings, Regional Postmaster General)
4. Report on the Hartford Division. (Robert L. Payne, Field Division General Manager/Postmaster)
5. Capital Investments:
   a. Retrofit of Flats Sorting Machines. (Peter A. Jacobson, Assistant Postmaster General, Engineering and Technical Support Department)
   b. Seattle, Washington, Area Plan, Delivery Distribution Centers. (Stanley W. Smith, Assistant Postmaster General, Facilities Department, and Craig G. Wade, Seattle Field Division General Manager/Postmaster)
   c. 373 Cargo Vans. (Arthur I. Porwick, Assistant Postmaster General, Operations, Systems and Performance Department)
6. Tentative Agenda for August 6–7, 1990, meeting in Washington, DC.

David F. Harris,

Secretary.

Neva R. Watson,

Certifying Officer.

[FR Doc. 90–14905 Filed 6–22–90; 2:11 pm]

BILLING CODE 7710-12-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that on June 26, 1990, the Board of Directors of the Resolution Trust Corporation will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the Discussion Agenda.

Matters regarding the resolution of certain failed thrift institutions.

Discussion Agenda:

Recommendation regarding the Corporation's administrative activities.

Recommendation regarding the relocation and leasing of office space for the Corporation's Western Regional Office.

The meeting will be held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550–17th Street, NW., Washington, DC., immediately following the FDIC Board of Directors' closed meeting beginning at 2:00 p.m.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Resolution Trust Corporation, at (202) 416–7572.

Dated: June 21, 1990.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 90–14898 Filed 6–22–90; 2:10 pm]

BILLING CODE 6714-01-M

federal register

Tuesday
June 26, 1990

Part II

Federal Election Commission

11 CFR Parts 102, 104 and 106

Methods of Allocation Between Federal and Non-Federal Accounts; Payments, Reporting; Final Rule; Transmittal of Regulations to Congress

FEDERAL ELECTION COMMISSION

11 CFR Parts 102, 104 and 106

[Notice 1990-6]

Methods of Allocation Between Federal and Non-Federal Accounts; Payments; Reporting

AGENCY: Federal Election Commission.

ACTION: Final rules; transmittal of regulations to Congress.

SUMMARY: The Commission has revised its regulations at 11 CFR Parts 102, 104 and 106. These regulations implement the contribution and expenditure limitations and prohibitions established by 2 U.S.C. 441a and 441b, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), 2 U.S.C. 431 *et seq.*, by providing for allocation of expenses for activities that jointly benefit both federal and non-federal candidates and elections. The amended rules apply to party committees, nonconnected committees, and (under certain circumstances) separate segregated funds making disbursements on behalf of both federal and non-federal candidates and elections. The revisions provide guidance to committees on how to allocate such costs by creating a comprehensive set of allocation rules, and by enhancing the Commission's ability to monitor the allocation process to ensure that prohibited funds are excluded from federal election activities. In addition, the revisions clarify how committees are to allocate expenses attributable to more than one clearly identified candidate. The revisions also specify additional information that is to be reported to the Commission by each type of committee covered by the rules. Further information on these revisions is provided in the supplementary information which follows.

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) 376-5690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revisions to its regulations at 11 CFR parts 102, 104 and 106. These revisions set forth rules for allocation of expenses for four categories of activity that jointly benefit both federal and non-federal candidates and elections. These include (1) Administrative expenses such as rent, utilities, office supplies, and salaries; (2) the direct costs of fundraising programs or events; (3) state and local party activities exempt from the definitions of "contribution" and "expenditure" under the Act, when conducted in conjunction with non-federal election activities; and (4) generic voter drive activity such as voter identification, voter registration, and get-out-the-vote campaigns. The new rules set percentages and methods by which committees are to allocate the costs of these activities between their federal and non-federal accounts. The rules also provide procedures for how committees are to pay the bills resulting from these activities, and require disclosure of information related to allocated expenses and disbursements.

The final allocation rules published today are the result of a long and complex rulemaking process. The Commission first considered revising its allocation regulations in 1984. In November of that year, the Commission received a petition for rulemaking urging it to address the alleged use of funds raised outside of the Act's requirements for the prohibited purpose of influencing federal elections. The Commission received five written comments on the petition, in response to a Notice of Availability issued on January 4, 1985. See 50 FR 477. On December 18, 1985, the Commission published a Notice of Inquiry seeking further input on the alleged use of undisclosed funds to influence federal elections (see 50 FR 51535), and received seventeen comments in response. In addition, a public hearing was held on January 29, 1986, at which three witnesses testified. After reviewing all comments and testimony, the Commission voted on April 17, 1986, to deny the petition for rulemaking. See 51 FR 15915.

The petitioner subsequently filed suit in federal district court for judicial review of the denial of the petition. The court rejected the claim that the Commission was required to prohibit the allocation of any expenses to non-federal accounts. The court did, however, direct the Commission to revise its allocation regulations to give party committees more guidance in complying with the FECA. See *Common Cause* v. *Federal Election Commission*, 692 F. Supp. 1391, 1396 (D.D.C. 1987). The Commission issued a new Notice of Inquiry in compliance with this order on February 23, 1988 (see 53 FR 5277), and received three comments in response.

On September 29, 1988, the Commission issued a Notice of Proposed Rulemaking ("NPRM") in which it sought comments on proposed revisions to its allocation regulations. See 53 FR 38012. In the Notice, the Commission presented four alternative proposals, along with draft regulatory language for each alternative. These proposals ranged from complex sets of rules providing options of allocation methods for different categories of activity and varying requirements for different types of election years, to a uniform requirement that all committees with federal and non-federal accounts must allocate their expenses on a fixed percentage basis between those accounts. A public hearing was held on December 15, 1988, at which six witnesses presented testimony on the issues raised in the rulemaking. These witnesses represented national committees of both major political parties, a state party committee, and two public interest organizations. The Commission also received sixteen written comments, including several submitted after the close of the comment period while the Commission was considering drafts of final allocation rules.

In addition to the Notice of Proposed Rulemaking and the public hearing, the Commission initiated two other measures to obtain input relevant to allocation of expenses for federal and non-federal activities. On February 10, 1989, the Commission sent a seven-page questionnaire to the 110 Democratic and Republican state party chairs, soliciting information on current allocation practices in the states. Twenty-two responses to the questionnaire were received, providing a substantial amount of new information supplementing the comments previously submitted. In addition, on April 17, 1989, the Commission sent letters and questions to the chief fundraiser for each of the major political parties during the 1988 election year. These questions focused on (1) the fundraisers' roles in their parties' presidential campaigns and in the national party committees during the 1988 election cycle, (2) the relationship between the national party committees' fundraising activities and the presidential campaigns, and (3) the national parties' involvement in raising and spending money not subject to federal limits and prohibitions.

Each of these forms of input provided valuable information which serves as the basis for the revised rules published today. These rules also incorporate elements of each of the four proposals previously published in the Notice of Proposed Rulemaking.

Section 438(d) of title 2, United States Code, requires that any rules or regulations 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 thirty legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 15, 1990.

Explanation and Justification

In regulations promulgated in 1977, the Commission required political committees active in both federal and non-federal elections to allocate their administrative expenses between separate federal and non-federal accounts "in proportion to the amount of funds expended on federal and non-federal elections, or on another reasonable basis." 11 CFR 106.1(e). Since 1978, the Commission has also recognized that such committees may allocate the costs of certain activities that affect both federal and non-federal elections, provided that they defray a reasonable portion of those costs with funds permissible under the Act. See Advisory Opinion 1978–10.

The revised regulations published today provide committees with significantly more guidance on how they are to allocate their administrative expenses and costs for combined federal and non-federal activities. Unlike current 11 CFR 106.1(e), which addresses only administrative expenses, the revisions specify explicit percentages or methods for allocation of each category of allocable expense by each type of committee covered by the rules. See §§ 106.5 and 106.6. Similarly, new paragraph 106.1(a) extends the allocation and reporting requirements of current 11 CFR 106.1(a) to cover payments that include both amounts attributable to specific non-federal candidates and amounts attributable to specific federal candidates, as well as expenditures on behalf of specific federal candidates alone. The new rules also ensure that the public record reflects how committees are allocating their shared federal and non-federal expenses by requiring more detailed disclosure of such allocation, to be reported on a new set of reporting forms. See § 104.10. In addition, the revised rules significantly alter the procedure by which committees are to pay the bills for their allocable activities. For the first time, committees are required to pay their allocable expenses from their regular federal accounts or from new separate allocation accounts, rather than making such payments from their non-federal accounts as permitted under the Commission's current policy. The new rules include specific payment and reimbursement procedures to allow the Commission to track the flow of non-federal funds transferred into federal accounts, and to ensure that such funds are used solely to pay the non-federal portion of a committee's allocable expenses. See paragraphs 106.5(g) and 106.6(e). Finally, the new rules provide additional safeguards against the use of impermissible funds in federal election activity by expanding the disclosure of receipts and disbursements by national party committees, and by creating a presumption that funds solicited by party committees with reference to federal candidates or elections are solicited for the purpose of influencing federal elections. See §§ 102.5(a)(3), 104.8, and 104.9.

Part 102—Registration, Organization and Recordkeeping by Political Committees

Section 102.5 Organizations Financing Political Activity in Connection With Federal and Non-federal Elections, Other Than Through Transfers and Joint Fundraisers

Revised § 102.5 adds a technical amendment regarding transfers of non-federal funds into a committee's federal accounts, and sets forth a presumption regarding funds solicited by party committees. Current 11 CFR 102.5(a)(1)(i) prohibits committees from transferring funds from a non-federal account to a federal account for any reason. Under the new rules, committees are required to make such transfers for the limited purpose of paying for allocated expenses. See paragraphs 106.5(g) and 106.6(e). Thus, paragraph (a)(1)(i) has been amended to allow transfers of non-federal funds into a federal account as provided in paragraphs 106.5(g) and 106.6(e) of the new rules.

New paragraph (a)(3) creates a presumption that any funds solicited by a party committee with reference to a federal candidate or election are raised for the purpose of influencing a federal election, and are thus subject to the prohibitions and limitations of the Act. This presumption may be rebutted by demonstrating that the funds were solicited with express notice that they would not be used for federal election purposes. Paragraph (a)(3) has been added to the rules to address the common perception, reflected in several comments, that funds prohibited under the Act have been solicited on behalf of political parties with the implication that they would be used to benefit federal candidates when, in fact, the funds could only be used for non-federal election activity. This provision, in combination with current 11 CFR 102.5(a)(2) regarding funds deposited in federal accounts, will ensure that funds collected by party committees are used for the purpose for which they were solicited, and will make clear to donors that funds prohibited under the Act will only be used to support non-federal candidates and elections.

Part 104—Reports by Political Committees

Section 104.8 Uniform Reporting of Receipts

Revised § 104.8 requires national party committees to disclose the source and amount of receipts by their non-federal accounts and building funds, as well as by their federal accounts as required under the current rules. The section has therefore been retitled to reflect its broadened application to both federal and non-federal receipts.

Paragraph (a), which governs disclosure of receipts by all reporting committees, has been amended to make clear that it only applies to committee's federal accounts. New paragraphs (e) and (f) require natonal party committees to also disclose information about receipts to their non-federal accounts and buildings funds. The language of paragraphs (e) and (f) parallels that of paragraph (a), applying the same itemization threshold to all three types of accounts. National party committees are to disclose this information on a separate Schedule A for each of their accounts, but shall list their non-federal and building fund receipts as memo entries, in order to isolate them from the federal receipts that are summarized for each reporting period.

This broadened disclosure provision has been added to the rules based on the Commission's belief that it will help eliminate the perception that prohibited funds have been used to benefit federal candidates and elections. This approach was supported by several comments on the rules. Representatives of the major parties' national committees testified that their committees did not object to broader disclosure at the national party level. However, several commenters strongly objected to such disclosure at either state or local party levels, and some Commissioners expressed concern about the FEC's jurisdiction to require such reporting by state and local party committees. Based, in part, on this input, the Commission has limited the reporting of non-federal receipts to national party committees. The Commission also took into consideration

the national committees' primary involvement in Presidential and other federal elections, such committees' ability to comply with more complicated reporting requirements, and the fact that there is no comprehensive reporting of non-federal activity by national party committees that is comparable to the non-federal reporting by state and local party committees at the state level.

Section 104.9 Uniform Reporting of Disbursements

This section has been amended to require national party committees to disclose disbursements from their non-federal accounts and building funds, as well as from their federal accounts as required under the current rules. These changes parallel the expansion of § 104.8 regarding national committee disclosure of non-federal receipts. Section 104.9 has also been retitled to reflect its broadened application to both federal and non-federal disbursements.

Paragraph (a), which governs disclosure of expenditures by all reporting committees, has been amended to make clear that it only applies to a committee's federal accounts. New paragraphs (c) and (d) require national party committees to also disclose information about disbursements from their non-federal accounts and building funds. The language of paragraphs (c) and (d) parallels that of paragraph (a), applying the same itemization threshold to all three types of accounts. In addition, new paragraph (e) requires national party committees to report each transfer of funds from their non-federal accounts to the non-federal account of a state or local party committee. National party committees are to disclose this information on a separate Schedule B for each of their accounts, but shall list their non-federal and building fund disbursements as memo entries, in order to isolate them from the federal expenditures that are summarized for each reporting period.

These revisions, together with revised § 104.8, have been added to the rules based on the belief that increased disclosure will help eliminate the perception that prohibited funds have been used to benefit federal candidates and elections. Like the disclosure of non-federal receipts, the reporting of disbursements from non-federal accounts has been limited to national party committees.

Section 104.10 Reporting of Expenses Allocated Among Candidates and Activities

Section 104.10 sets forth the rules for the reporting of information related to a committee's allocable expenses. These rules only apply to committees that qualify as "political committees" under the Act. See 2 U.S.C. 431(4). Current 11 CFR 104.10 addresses only the reporting of allocation of expenditures made on behalf of more than one specific candidate. In contrast, the revised section also covers the reporting of allocation of a committee's administrative expenses and its costs for fundraising, exempt activities, and generic voter drive activity. The new section has therefore been retitled to reflect its broadened application to the reporting of expenses allocated between federal and non-federal activities as well as expenses allocated between specific candidates.

New § 104.10 is based on the reporting provisions described in the Notice of Proposed Rulemaking. However, several additional requirements have been added to the final rules to reflect the changed procedure by which payment for allocable activities is made. Under that procedure, committees are to pay their allocable expenses from their regular federal accounts or from new separate allocation accounts, which are also federal accounts and therefore subject to the full reporting requirements of the Act. See §§ 106.5(g) and 106.6(e). Revised § 104.10 requires committees to itemize each transfer of non-federal funds to their federal or allocation accounts, as well as each allocated disbursement made from those accounts.

These rules were designed to provide sufficient information to allow the Commission to monitor committees' allocation procedures, while reflecting the Commission's commitment to avoiding overly burdensome reporting requirements. The information required is the minimum necessary to track the flow of non-federal funds into federal accounts, and to ensure that the use of such funds is strictly limited to payment for the non-federal share of allocable activities. In contrast, any information that could be deduced from a committee's reports or calculated by the Commission will not be required on the new reporting forms, which are being designed to implement these reporting provisions.

It should also be noted that these rules have been placed in a different section than the reporting provisions described in the Notice of Proposed Rulemaking. The NPRM alternatives addressed reporting in draft § 106.5, which was intended to cover all allocation issues. In the revised regulations, these requirements have been moved to § 104.10, so that all reporting requirements will continue to be located together in part 104 of the regulations.

Paragraph 104.10(a) Expenses Allocated Among Candidates

This paragraph expands current 11 CFR 104.10 to more clearly describe the rules for reporting the allocation of expenses attributable to specific candidates. In the case of expenditures allocated between more than one clearly identified federal candidate, political committees must report the amount of each in-kind contribution, independent expenditure, or coordinated party expenditure attributed to each candidate. In the case of payments involving both expenditures on behalf of one or more specific federal candidates and disbursements on behalf of one or more specific non-federal candidates, political committees with separate federal and non-federal accounts shall report the payments according to the instructions included in new paragraph 104.10(a). These instructions parallel those contained in paragraph 104.10(b) for the reporting of other allocable costs, but make clear the added requirements for reporting costs attributable to specific federal candidates. In paragraphs (a)(1) through (a)(4), the new rules set forth procedures by which committees are to report their allocation ratios used, as well as transfers of funds between their accounts and disbursements made from their federal accounts for the purpose of paying for activities conducted on behalf of both specific federal and specific non-federal candidates. Committees are instructed to assign a unique identifying title or code to each such activity, in order to track the funds designated to pay for its costs. These identifying titles and codes are also intended to decrease the burden placed on reporting committees, by allowing them to state relevant allocation ratios one time only, rather than repeating them for every itemized expense. Thus, it is especially critical that committees use precisely the same identifier each time they refer in their reports to a particular activity.

Paragraph 104.10(b) Expenses Allocated Among Activities

This new paragraph sets forth the rules by which political committees with separate federal and non-federal accounts are to report their allocation of administrative expenses and the costs of fundraising, exempt activities, and generic voter drive activity. In paragraphs (b)(1) through (b)(5), the new rules set forth procedures by which committees are to report their allocation ratios used for each category of activity,

as well as transfers of funds between their accounts and disbursements made from their federal accounts for the purpose of paying their allocable expenses. In contrast to the allocation of administrative expenses and generic voter drive costs, for which one ratio is calculated for each category as a whole, committees are to calculate a separate allocation ratio for each fundraising program or exempt activity because the allocation methods used for these categories would be expected to yield different ratios for each such event. See paragraphs 106.5 (e) and (f) and 106.6(d). Committees are also instructed to assign a unique identifying title or code to each fundraising program or exempt activity, in order to track the funds designated to pay for its costs.

Part 106—Allocations of Candidate and Committee Activities

Section 106.1 Allocation of Expenses Between Candidates

Current 11 CFR 106.1 contains both the rules for allocation between specific candidates and the rules for allocation of administrative expenses. In the revised regulations, the Commission has created new §§ 106.5 and 106.6 to govern allocation of administrative expenses and the costs of all activities not attributable to specific candidates, including fundraising events, exempt activities, and generic voter drive activity. Thus, new § 106.1 is limited to allocation of expenses attributable to more than one clearly identified candidate, and has been retitled accordingly. Paragraph 106.1(a) has been revised to clarify how committees are to allocate expenses for activities conducted on behalf of several specific candidates. Paragraph 106.1(e) has been revised to cross-reference the reader to new §§ 106.5 and 106.6 for the rules governing allocation of administrative expenses, and the costs of fundraising, exempt activities, and generic voter drive activity.

Paragraph 106.1(a) General Rule

This paragraph has been expanded to more fully describe the methods by which committees are to allocate expenses attributable to more than one specific candidate, including in-kind contributions, independent expenditures, and coordinated party expenditures. These rules present no change in Commission policy as to when a given expense constitutes an in-kind contribution or particular type of expenditure. Rather, the rules are intended to provide guidance as to how committees are to allocate such expenses once they are determined to be in-kind contributions, independent expenditures, or coordinated party expenditures.

The new paragraph retains the general rule of current 11 CFR 106.1(a) that expenses shall be attributed to each candidate according to the benefit reasonably expected to be derived. The revision adds examples of the general rule, specifying allocation methods for two different types of activity that may be conducted on behalf of several specific candidates.

The first example stated in the rules covers publications and broadcast communications, which are to be allocated according to the space or time devoted to each candidate as compared to the total space or time devoted to all candidates. If the costs of a phone bank are attributable, in whole or in part, to one or more federal candidates as an in-kind contribution, independent expenditure, or coordinated party expenditure, then those costs should be allocated on a similar basis, according to the number of questions or statements devoted to each candidate.

The second example stated in the rules covers the costs of fundraising events where funds are collected by one committee for more than one clearly identified candidate. Such costs are to be allocated according the amount of funds received on behalf of each candidate as compared to the total receipts by all candidates. This situation should not be confused with that described in 11 CFR 102.17, which concerns joint fundraising activities conducted by more than one committee. The Commission intends that any other types of activity not covered by the stated examples are to be allocated according to the general rule of this paragraph when those activities are conducted on behalf of more than one clearly identified candidate.

New paragraph 106.1(a) also makes clear that committees are to use the designated methods to allocate costs between specific federal candidates, as well as to allocate payments involving both expenditures on behalf of specific federal candidates and disbursements on behalf of specific non-federal candidates. In the case of the latter type of payments, political committees with separate federal and non-federal accounts are to make such payments according the same procedures required for paying administrative expenses and the costs of joint federal and non-federal activities (see paragraphs 106.5(g) and 106.6(e)), but shall report such payments according to paragraph 104.10(a). It should be noted that the methods set forth in paragraph 106.1(a) will also be used by publicly-financed presidential general election candidates, who are to allocate the costs of joint activities pursuant to 11 CFR 9002.11(b)(3). Such candidates must keep records of their allocable expenses pursuant to paragraph 104.10(a).

Paragraph 106.1(e)

This paragraph cross-references the reader to new §§ 106.5 (for party committees) and 106.6 (for nonconnected committees and separate segregated funds) for the rules governing allocation for administrative expenses and all activities not attributable to specific candidates. In contrast to current 11 CFR 106.1(e), which provides only for allocation of administrative expenses, the new rules apply the referenced allocation requirements to fundraising events, exempt activities, and generic voter drive activity as well. This expanded application is consistent with the Commission's position in Advisory Opinions 1978–10, 1978–28, and 1978–50. These opinions clarified the scope of 11 CFR 106.1(e) by interpreting "administrative expenses" as including generic voter activities such as voter registration and get-out-the-vote drives, and requiring that such activities be allocated according to the same methods as approved for other administrative expenses. The Commission has also interpreted the allocation requirement of 11 CFR 106.1(e) as applying to publications and fundraising events. See Advisory Opinions 1978–46 and 1979–12.

In addition, the new rules extend the allocation requirements to all committees that make disbursements for joint federal and non-federal election activities, whereas current 11 CFR 106.1(e) applies only to political committees with separate federal and non-federal accounts. Under the revised rules, organizations that are not political committees and that maintain only a single account shall demonstrate, upon the Commission's request, that their expenses for joint activities have been allocated as required by these rules, and that the federal share of such expenses has been paid with funds permissible under the Act. See 11 CFR 102.5(b)(1)(ii).

Section 106.5 Allocation of Expenses Between Federal and Non-federal Activities by Party Committees

This section has been added to the rules to provide party committees with detailed instructions as to how they are to allocate their administrative expenses and costs for combined federal and non-federal activities. These rules apply only

to those committees that make disbursements in connection with both federal and non-federal elections. Paragraphs 106.5 (a) through (g) specify percentages and methods by which different types of party committees are to allocate expenses for each category of allocable activity, and set forth procedures by which committees are to pay the bills for these allocable expenses. The allocation methods required by § 106.5 are based on those previously approved in Commission advisory opinions and described in the Notice of Proposed Rulemaking. However, following receipt of the comments and testimony on the rules, the Commission refined several of the allocation methods, and combined aspects of the four NPRM proposals.

One of the major issues addressed by the Commission in developing these regulations was whether uniform rules should be applied to all committees and activities, or whether options of methods should be available for certain committees and circumstances. Of the four alternatives described in the Notice of Proposed Rulemaking, two specified uniform allocation methods to be used by all committees, and two offered a choice of methods in given situations. The latter two alternatives also allowed committees the option of allocating expenses "on any other reasonable basis approved by the Commission in an advisory opinion," based on the language of the current allocation rule at 11 CFR 106.1(e).

In response to the Notice, one non-party commenter urged the Commission to adopt a uniform method for all committees, based on the concern that too much flexibility would lead to confusion in application of the rules. This comment also suggested that allowing different methods for state versus local party committees would result in a diversion of funds to whichever level permitted a higher non-federal share of allocable expenses. In constrast, the party committee commenters stressed the importance of flexibility in the rules, given the disparities between political activity at different levels of party organizations, and in different states and localities.

While concerned about keeping the rules as simple as possible, the Commission concluded that some differences between types of committees and activities must be acknowledged. Thus, the revised regulations include different requirements for national versus state and local party committees, as well as special variations for the House and Senate campaign committees, and for state and local party committees that elect statewide offices in years with no regularly scheduled federal elections. In the course of the rulemaking, it also became clear that some allocation methods were appropriate for certain activities and committees, while inappropriate for others. For example, the funds received method (see paragraph 106.5(f)) may reflect a fair division of costs involved in paying for a particular fundraising event, but bears no relationship to a committee's administrative functions and get-out-the-vote activities. Similarly, the ballot composition method (see paragraph 106.5(d)) may accurately reflect the priorities of state and local party committees, but is less applicable to national party committees primarily focused on national candidates and elections. Thus, the new regulations require different allocation methods for different types of committees and expenses, and eliminate the option of choosing between methods within each category of activity. While these variations may initially appear complex, once a committee determines the category into which it falls, the rules applied to that class of committee will be clear, and will not vary from year to year.

A second major issue addressed by the Commission in developing these regulations was whether committees should be required to allocate fixed or minimum percentages to their federal accounts for certain categories of activity. One alternative described in the Notice of Proposed Rulemaking would have set a minimum federal percentage for all allocable expenses, to be applied if greater than the percentages produced by the specified allocation methods. A second alternative would have set fixed allocation percentages for all activities, with a higher federal percentage required for generic voter drive costs in presidential election years. A third alternative would have required different allocation methods in federal versus non-federal election years, with a set minimum federal percentage for generic voter drive costs in presidential election years.

Following receipt of the comments on the NPRM alternatives, the Commission considered several variations on the concept of minimum or fixed allocation percentages. These ranged from proposals that would have set minimum federal percentages only for national party committees or in presidential election years, to other proposals that would have applied minimum percentages to all activities by all party committees in all years. The Commission also considered proposals that would have set fixed allocation percentages presumed appropriate for all party committees, but that would have allowed a committee to rebut the presumption by demonstrating through the advisory opinion process that, in its case, the fixed federal percentage was too high.

The new allocation rules published today are drawn from the proposals described in the Notice of Proposed Rulemaking and from the variations subsequently considered by the Commission. In the revised rules, the Commission has retained the concept of minimum percentages only for allocation of administrative expenses and costs of generic voter drive activity by the House and Senate campaign committees of the national parties. See paragraph 106.5(c). For other national party committees, the Commission has set fixed percentages for allocation of these categories of expense. See paragraph 106.5(b). In contrast, all of these committees are to allocate their fundraising costs solely according to the funds received method, as described in this section. See paragraph 106.5(f). State and local party committees, nonconnected committees, and separate segregated funds shall also calculate allocation ratios according to methods specified in the rules, with neither fixed nor minimum federal percentages required. See paragraphs 106.5 (d), (e) and (f), and 106.6 (c) and (d).

The revised regulations also eliminate the option of case-by-case approval of customized allocation methods through the advisory opinion process, as well as the option of allowing committees to rebut fixed allocation percentages by a showing of individual circumstances. These decisions were based on the Commission's concern that such open-ended options would be very difficult to administer, and would potentially allow many exceptions to the general rules. They would also risk a return to the "any reasonable method" standard of the current rules that was disapproved by the United States District Court. See *Common Cause* v. *Federal Election Commission*, 692 F.Supp. 1391, 1396 (D.D.C. 1987).

Paragraph 106.5(a) General Rules

This paragraph provides a general overview of the allocation rules for party committees and defines the four categories of activity for which costs are to be allocated. These include administrative expenses, fundraising programs, exempt activities conducted by state and local parties, and generic voter drive activity such as voter

registration and get-out-the-vote campaigns. While earlier drafts of these rules and the alternatives described in the Notice of Proposed Rulemaking included fundraising costs in the category of administrative expenses, the revised rules divide these expenses into two separate categories. This distinction became necessary to allow for the difference in allocation methods applied to each of these types of expense. See paragraphs 106.5(b), (c), (d) and (f). Please note that all administrative expenses must be allocated between federal and non-federal accounts, if incurred by a committee that makes disbursements in connection with both federal and non-federal elections, and that chooses to pay any portion of such disbursements from its non-federal account. Such committees must also allocate all costs of generic voter drive activity, except for get-out-the-vote drives conducted on behalf of a wholly federal or wholly non-federal special election. In contrast, fundraising costs are allocable only when federal and non-federal funds are collected by one committee through the same fundraising event. Similarly, exempt activities are allocable only when conducted in conjunction with non-federal election activities.

One of the alternatives described in the Notice of Proposed Rulemaking offered committees the option of defraying the total cost of an allocable activity with funds raised under federal law. This option has been retained in paragraph 106.5(a)(1), reflecting the Commission's view that allocating a portion of certain costs to a committee's non-federal account is a permissive rather than a mandated procedure. Thus, the amounts that would be calculated under the rules for a committee's federal share of allocable expenses represent the minimum amounts to be paid from the committee's federal account, without precluding the committee from paying a higher percentage with federal funds.

The same NPRM alternative offered certain local party committees the option of selecting fixed allocation percentages for their administrative expenses and generic voter drive activity. In subsequent drafts of this paragraph, the Commission considered a similar "safe harbor" provision by which certain local party committees could choose to allocate these categories of expense according to a low fixed federal percentage. This option was originally conceived as a way for local party committees with limited activity to avoid the burden of calculating complicated allocation ratios, and to be assured of a relatively low federal percentage. However, the Commission has since revised the ballot composition method by which such committees are to allocate their administrative expenses and generic voter drive costs. See paragraph 106.5(d). Under the revised method, the process of calculating an allocation ratio is greatly simplified, and the resulting federal percentages for all local party committees are generally similar to those provided by the "safe harbor" option. For these reasons, the Commission decided to eliminate this option from the final allocation rules.

Paragraph 106.5(b) National Party Committees Other Than Senate or House Campaign Committees; Fixed Percentages for Allocating Administrative Expenses and Costs of Generic Voter Drive Activity

This paragraph sets forth the rules by which national party committees other than the House or Senate campaign committees are to allocate their administrative expenses and costs of generic voter drive activity. Unlike other committees, which are to calculate individualized ratios according to specified allocation methods for these categories of activity, the national party committees are to allocate fixed percentages to their federal and non-federal accounts each year. The fixed federal percentage is set at 65% in presidential election years, and at 60% in all other years. While committees are free to allocate higher percentages to their federal accounts, they may not allocate less than the specified percentages.

The Commission adopted this fixed percentage rule after considering several other alternative approaches. Previous drafts of the regulations would have allowed national party committees to allocate their administrative expenses and costs of generic voter drive activity according to the funds expended method or an aggregate ballot composition method, in combination with specified minimum federal percentages. These approaches were ultimately rejected by the Commission based on concerns about the practicability of applying either method at the national committee level. The particular percentages adopted by the Commission are intended to reflect the national party committees' primary focus on presidential and other federal candidates and elections, while still recognizing that such committees also participate in party-building activities at state and local levels of the party organizations.

Paragraph 106.5(c) Senate and House Campaign Committees of a National Party; Method and Minimum Federal Percentages for Allocating Administrative Expenses and Costs of Generic Voter Drive Activity

This paragraph sets forth the rules by which the Senate and House campaign committees of the national parties are to allocate their administrative expenses and costs of generic voter drive activity. Such expenses shall be allocated according to the funds expended method, with a minimum of 65% to be allocated to the committees' federal accounts each year. This rule differs from that applied to the other national party committees, which sets fixed allocation percentages that need not be compared to any other calculated ratios. In contrast, the minimum percentages required by this paragraph create a floor for federal allocation, while requiring a higher federal share if a higher percentage is calculated under the funds expended method. This more stringent requirement has been applied to the House and Senate campaign committees due to their narrower focus on Congressional candidates, and their limited involvement in non-federal elections.

The funds expended method was first described in Advisory Opinion 1975–21 and is codified in the current allocation rule at 11 CFR 106.1(e). It also appeared in two of the alternatives described in the Notice of Proposed Rulemaking. Under one alternative, committees were to allocate their administrative expenses and costs of generic voter drive activity according to the ratio of federal disbursements to total federal and non-federal disbursements made in the year four years prior to the year in question. The second alternative would have required committees to estimate a ratio at the beginning of the calendar year based upon their federal and non-federal disbursements in a prior comparable year, and to adjust their allocation ratio at the end of the year to reflect actual disbursements made during the year.

These proposals were addressed in several of the comments received by the Commission. While commenters from both national parties endorsed the concept of the funds expended method, they opposed as unworkable the four year "look back" approach described in the first NPRM alternative. One non-party commenter opposed any "prior year" model based on the concern that it would allow continued misallocation if the prior year's ratio had been improperly calculated. Another non-

party commenter described the method as circular, requiring a committee to have calculated an allocation ratio for a prior year without any guidance on how the calculation should have been done. This commenter supported the use of estimated and adjusted allocation ratios, using actual disbursements in the prior year as a guideline for estimating the initial allocation.

The revised regulations incorporate elements of several of these approaches. New paragraph 106.5(c) requires committees to report estimated allocation ratios at the beginning of the year, and to adjust their ratios on each periodic report to reflect the ratio of actual federal and non-federal funds expended, to date. However, the method has been revised from earlier drafts of the rules to resolve a concern about its application in years in which no federal election is held. Under the revised method, allocation ratios are determined by disbursements made over the two-year federal election cycle, rather than by disbursements made in the current calendar year. Thus, committees would have a basis for allocating their administrative expenses and costs of generic voter drive activity each year, including years in which no federal election is held. Such allocation is necessary to account for the portion of a committee's off-year administrative functions and generic activities that impact on future federal elections. The estimated ratio reported at the beginning of the year may be based either on disbursements from a prior comparable election cycle, or on a reasonable prediction of disbursements in the coming election cycle if no data from prior years is relevant or available. The revised rule also requires committees to transfer funds from their federal to their non-federal accounts to reflect their adjusted ratios, if the non-federal account has paid more than its allocable share due to an estimate later shown to be incorrect.

Paragraph 106.5(d) State and Local Party Committees; Method for Allocating Administrative Expenses and Costs of Generic Voter Drive Activity

This paragraph sets forth the rules by which state and local party committees are to allocate their administrative expenses and costs of generic voter drive activity. Paragraph 106.5(d)(1) states the general rule that such committees are to allocate these categories of expense according to the ballot composition method, as set forth in paragraphs (d)(1) (i) and (ii).

The ballot composition method was first described in the Commission's response to Advisory Opinion Request 1976–72, which permitted committees to allocate expenses according to the ratio of federal offices on the ballot to total federal and non-federal offices on the ballot, with the federal offices given proportionately more weight. It also appeared in three of the alternatives described in the Notice of Proposed Rulemaking, with two of them specifically limiting use of the method to allocation of administrative expenses and costs of generic voter drive activity by state and local party committees. The new rule replaces the poorly defined "weighting" concept with an "average ballot" approach, as suggested by several of the comments received on this method. Under this approach, committees are to calculate a ballot composition ratio according to the ballot which an average voter would face in that committee's state or geographic area, rather than basing the ratio on the aggregates of all federal and all non-federal reaces on the ballot. The method has been further simplified to produce a ratio by counting the categories of offices on the ballot rather than counting each individual office. Paragraph 106.5(d)(1)(ii) specifies the categories to be included in the ratio, and the number of federal or non-federal offices to be counted for each such category.

It should be noted that in states where candidates for governor and lieutenant governor run on a single ticket, the latter office may not be separately counted in the category of "other partisan statewide executive candidates." The same principle applies to the offices of president and vice president, which are counted together as one federal office. In contrast, in states where the governor and lieutenant governor are independently elected, the office of lieutenant governor may be counted separately from the governor, in the category of "other partisan statewide executive candidates." California is one example of such a state, where candidates from different parties may be simultaneously elected to the offices of governor and lieutenant governor.

The ballot composition method was the subject of several late comments from national and state party committees, expressing concern that the scope of party activity at state and local levels was not adequately reflected in the method, as revised. In response to this concern, the Commission reexamined the method and further refined the ballot composition rules. In the final version of paragraph 106.5(d)(1)(ii), the Commission deleted the category of "partisan statewide judicial offices," which would have benefited only those states that elect statewide judges through partisan elections. In its place, the Commission added to the ratio an additional non-federal office to reflect state party support for partisan local candidates. Thus, this non-federal slot is now available to virtually every state party committee.

It should be noted that the ballot composition method has also been revised from earlier drafts of the rules to resolve a concern about its application in years in which no federal election is held. Under the revised method, allocation ratios are determined by the offices expected on the ballot in the next general election to be held in the committee's state or geographic area. Thus, committees would have a basis for allocating their administrative expenses and costs of generic voter drive activity each year, including years in which no federal election is held. Such allocation is necessary to account for the portion of a committee's off-year administrative functions and generic activities that impact on future federal elections.

The broader language of new paragraph 106.5(d)(1) also generally covers years in which a special election is held. However, because of the varying situations that might arise, the Commission has not spelled out rules to cover each variation. The allocation formula to be used and attribution of disbursements to specific candidates will have to be determined on a case-by-case basis.

In the course of refining the ballot composition method, the Commission became aware of an additional problem in applying the method to states that do not hold federal and non-federal elections in the same year. The method as described in paragraph 106.5(d)(1) would have allowed these states to allocate 100% of their administrative expenses and costs of generic voter drive activity to their non-federal accounts in years in which "the next general election" was only for non-federal offices. Such an allocation would not account for the impact of these activities on upcoming federal elections. Thus, the Commission adopted an exception to the regular rule for states that hold non-federal elections in odd-numbered years when no special federal election is scheduled. Paragraph 106.5(d)(2) describes a variation of the ballot composition method to be used by such states, whereby one ratio is calculated for generic voter drive costs based on the election to be held that year, and a separate ratio is calculated for administrative expenses based on the federal election cycle. This variation

will ensure that committees allocate a portion of their administrative expenses to their federal accounts even in solely non-federal election years, as well as providing guidance on how to allocate costs in years in which no elections are held.

Paragraph 106.5(e) State and Local Party Committees; Method for Allocating Costs of Exempt Activities

This paragraph sets forth the rules by which state and local party committees are to allocate the costs of activities that are exempt from the definitions of "contribution" and "expenditure" under the Act (see 11 CFR 100.7(b)(9), (15) and (17), and 100.8(b)(10), (16) and (18)), when such activities are conducted in conjunction with non-federal election activities. Committees are to allocate these expenses according to the time or space devoted to federal elections as compared to the total time or space devoted to federal and non-federal elections in a particular publication or phone bank. This method was described in Advisory Opinion 1978–46, and appeared in two of the alternatives included in the Notice of Proposed Rulemaking. Under the method, committees are to calculate a separate allocation ratio for each individual exempt activity, unlike administrative expenses and generic voter drive activity, which are allocated according to a single ratio calculated for the entire category of activity. This procedure is necessary because each exempt communication is likely to devote a different amount of time or space to federal and non-federal elections. It should also be noted that an exempt activity may be conducted in conjunction with a non-exempt activity that is attributable to one or more clearly identified candidates. In that case, the costs of the activity must be proportionally allocated between the committee's federal and non-federal accounts according to this paragraph, and allocated between candidates as required by paragraph 106.1(a).

Paragraph 106.5(f) All Party Committees; Method for Allocating Direct Costs of Fundraising

Paragraph 106.5(f) sets forth the rules by which all party committees are to allocate the direct costs of each fundraising program or event, where both federal and non-federal funds are collected by one committee through such program or event. These rules should not be confused with 11 CFR 102.17, which concerns joint fundraising activities conducted by more than one committee. Under this paragraph, committees are to allocate their fundraising costs according to the funds received method. As with allocation of exempt activity costs, committees are to calculate a separate allocation ratio for each individual fundraising event.

The funds received method was first described in the *FEC Record* of December 1977 as an example of an allocation procedure that would meet the "reasonable basis" requirement of current 11 CFR 106.1(e). The method was subsequently cited in several advisory opinions as a permissible method for allocating administrative expenses (later extended to include voter registration and get-out-the-vote drives), along with the funds expended and ballot composition methods. See, *e.g.*, Advisory Opinion 1978–46.

Of the four alternatives described in the Notice of Proposed Rulemaking, only one retained the funds received method, proposing that it be used to allocate administrative expenses and costs of generic voter drive activity in non-federal election years. All of the comments received on this method expressed concern that the amount of federal versus non-federal funds received by a committee is not meaningfully related to how expenses for joint federal and non-federal activities should be divided. However, several commenters suggested that the method be retained for the narrow purpose of allocating the costs of fundraising activities, because it provides the most accurate basis for division of these costs. Based on these comments, the Commission adopted this method for allocating the direct costs of fundraising programs and events through which both federal and non-federal funds are obtained.

Paragraph 106.5(g) Payment of Allocable Expenses by Committees With Separate Federal and Non-federal Accounts

This paragraph sets forth the procedures by which party committees with separate federal and non-federal accounts are to pay the bills for their administrative expenses and shared federal and non-federal activities. These rules do not apply to organizations that maintain only a single account, even though such organizations may be required to demonstrate to the Commission that they have allocated their expenses as required by other sections of the allocation regulations.

The provisions of new paragraph 106.5(g) represent a significant departure from the Commission's current policy. In enforcing the current allocation rule at 11 CFR 106.1(e), the Commission has permitted three procedures by which committees may pay their administrative expenses. Under current policy, committees are allowed to write two separate checks from their federal and non-federal accounts to cover the respective portions of each expense. Alternatively, committees could pay the entire expense from their non-federal accounts, which would then be reimbursed by their federal accounts. Finally, committees could pay the expense through a separate "escrow" account established solely for the purpose of paying for allocable expenses. Reimbursement of a federal account by a non-federal account that contains funds prohibited by the Act is not permitted under the current rules. See 11 CFR 102.5(a)(1)(i) and Advisory Opinion 1978–6.

While the Commission has interpreted 11 CFR 106.1(e) to also require allocation of fundraising, exempt activity, and generic voter drive costs (see Advisory Opinions 1978–10, 1978–28, 1978–46, 1978–50 and 1979–12), it has limited the option of paying allocable bills through a non-federal account to the payment of administrative expenses. This distinction has been based on the premise that fundraising, voter drives, and exempt activities have a direct impact on federal elections, and thus committees should not be permitted to advance non-federal funds for those purposes.

This distinction was incorporated into three of the alternatives described in the Notice of Proposed Rulemaking. Those alternatives would have allowed payment of an entire administrative expense by a committee's non-federal account, provided that it was reimbursed by the committee's federal account within ten days after the bill was paid. All other allocable expenses were to be paid by two separate checks from the federal and non-federal accounts, which was also provided as an option for payment of administrative expenses. The fourth NPRM alternative permitted the same two procedures, but made no distinction between different categories of expense. The option of paying expenses through a separate "escrow" account was eliminated in all four of the NPRM alternatives, but was raised for comment as an additional issue.

The Commission received considerable comment on these proposed payment procedures. First, the ten-day reimbursement limitation was unanimously rejected as unworkable. Several commenters asserted that at least thirty days were needed for such reimbursement to realistically occur. Second, two commenters expressed the

concern that federal account reimbursement of a state account could trigger state law disclosure requirements for the federal account, thus creating a duplicate federal and state-level reporting burden. Third, the same two commenters proposed that the current "escrow" procedure be retained as a payment option, even though it had been excluded from the alternatives described in the Notice of Proposed Rulemaking. Finally, one commenter suggested that the Commission consider changing its policy to allow a committee to pay an entire allocable expense through its federal account, with reimbursement from its non-federal account. This procedure would ensure that disbursements for allocable expenses would be disclosed by a committee's federal accounts under the Act's reporting requirements.

Based on these comments, the Commission significantly revised the proposed payment procedures described in the Notice of Proposed Rulemaking. Paragraph 106.5(g)(1) of the rules published today offers committees an option of two procedures by which they may pay for their administrative expenses and shared federal and non-federal activities. Under the first procedure, committees would pay an entire bill from their regular federal accounts, and would transfer funds from their non-federal accounts to their federal accounts to cover the non-federal share of the allocable expense. The second procedure would allow committees to establish a separate allocation account (referred to previously as an "escrow" account), which is considered by the Commission to be a federal account, and to transfer funds to that account from their regular federal accounts and their non-federal accounts solely for the purpose of paying allocable expenses. Under both procedures, transfers of non-federal funds must be itemized in the committee's reports to show the allocable activities for which they are intended to pay, and must occur within ten days before or thirty days after the bills for those activities are paid. Each allocated disbursement from a committee's federal account or allocation account must also be itemized, to show the particular expenses covered by that disbursement. These requirements will allow the Commission to track the flow of non-federal funds into federal accounts, and to ensure that the use of such funds is strictly limited to payment for the non-federal share of allocable activities.

It should be noted that this is the first time that the Commission has allowed non-federal funds to be transferred to a committee's federal account, and that it does so now only for the limited purpose of paying allocable expenses. Under the new rules, committees are prohibited from making such payments through their non-federal accounts, as permitted under the Commission's current policy. That procedure has failed to provide sufficient disclosure of the federal and non-federal portions of allocated disbursements. Such disclosure is critical to the Commission's ability to monitor whether expenses have been allocated as required, and is the basis for the procedures adopted by the new allocation rules.

It should also be noted that the new rules allow committees to transfer funds to their federal account or allocation account prior to actual payment of a vendor's bill, as well as allowing reimbursement of those accounts after the bill has been paid. This rule is more flexible than that proposed by the NPRM alternatives, which would have limited such transfers to post-payment reimbursement. However, the new rules set a ten-day time limit on pre-payment transfers that are made from a non-federal account, in order to prevent such accounts from subsidizing federal election activity with prohibited funds. This ten-day limit differs from the one objected to by the commenters in response to the Notice, as the new rules provide for a total forty-day time period in which transfers for allocation purposes may occur.

The procedures contained in paragraph 106.5(g) are intended to provide committees the flexibility to make single payments to their vendors, rather than requiring that every expense be paid with two separate checks. Such flexibility is indispensable for committees paying large numbers of bills from many different vendors. In fact, the new rules have eliminated the two-check option altogether, as that procedure does not provide sufficient disclosure of how funds allocated for shared federal and non-federal activity are actually spent. Instead, committees must choose from the two payment procedures authorized by the new allocation rules.

Section 106.6 Allocation of Expenses Between Federal and Non-Federal Activities by Separate Segregated Funds and Nonconnected Committees

This section has been added to the rules to provide separate segregated funds and nonconnected committees with detailed instructions as to how they are to allocate their administrative expenses and costs for combined federal and non-federal activities. These rules apply only to those committees that make disbursements in connection with federal and non-federal elections. For purposes of this section, "nonconnected committee" includes any committee that conducts activities in connection with a federal election, but which is not a party committee, an authorized committee of any candidate for federal office, or a separate segregated fund.

Paragraph 106.6(b) describes the categories of activity that are to be allocated by each type of committee. These categories are generally the same as those defined in paragraph 106.5(a)(2) for party committees, with one important difference. Unlike party committees and nonconnected committees, separate segregated funds need only allocate their administrative and fundraising expenses if those expenses are not paid by their connected organizations, as permitted by 11 CFR 114.5(b).

Paragraph 106.6(c) specifies the method for allocating administrative expenses and the costs of generic voter drive activity. Separate segregated funds and nonconnected committees are to allocate these expenses according to the funds expended method calculated over a two-year federal election cycle. This method is identical to that described in paragraph 106.5(c) for use by the Senate and House campaign committees, except that no minimum federal percentages are required for separate segregated funds or nonconnected committees.

Paragraph 106.6(d) specifies the method for allocating the direct costs of each fundraising program or event, where both federal and non-federal funds are collected by one committee through such program or event. Separate segregated funds and nonconnected committees are to allocate these expenses according to the funds received method, which is identical to that described in paragraph 106.5(f) for use by all party committees.

Paragraph 106.6(e) sets forth procedures by which separate segregated funds and nonconnected committees are to pay the bills for their allocable expenses. These procedures are identical to those described in paragraph 106.5(g) for use by all party committees.

In earlier drafts of these regulations, the Commission considered combining the allocation rules for separate segregated funds and nonconnected committees with those required for party committees. However, the Commission was concerned that different types of committees might have difficulty sorting out the particular rules that applied to

them. By creating new § 106.6, the Commission intends to make it as simple as possible for each type of committee to easily locate the appropriate set of allocation rules. In contrast, the reporting requirements of part 104 apply to all political committees, including party committees, separate segregated funds, and nonconnected committees. Similarly, the rules set forth in § 106.1 apply to all committees that make disbursements on behalf of more than one clearly identified candidate.

List of Subjects

11 CFR Part 102

Political committees and parties, Campaign funds.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting requirements, Political candidates.

11 CFR Part 106

Campaign funds, Political committees and parties, Political candidates.

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

The attached final rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The primary purpose of the revision is to clarify the Commission's rules governing allocation of certain costs by party committees, nonconnected committees and separate segregated funds.

For the reasons set out in the preamble, title 11, chapter I, subchapter A of the Code of Federal Regulations, is amended 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, 438(a)(8), 441d.

2. Section 102.5 is amended by revising paragraph (a)(1)(i), and by adding paragraph (a)(3) as follows:

§ 102.5 Organizations financing political activity in connection with Federal and non-federal elections, other than through transfers and joint fundraisers.

(a) * * *

(1) * * *

(i) Establish a separate federal account in a depository in accordance with 11 CFR part 103. Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act including the registration and reporting requirements of 11 CFR part 102 and 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections, except as provided in 11 CFR 106.5(g) and 106.6(e). Administrative expenses shall be allocated pursuant to 11 CFR part 106 between such federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-federal elections; or

* * * * *

(3) Any party committee solicitation that makes reference to a federal candidate or a federal election shall be presumed to be for the purpose of influencing a federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act. This presumption may be rebutted by demonstrating to the Commission that the funds were solicited with express notice that they would not be used for federal election purposes.

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

3. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b).

4. Section 104.8 is amended by revising the heading and paragraph (a), and by adding paragraphs (e) and (f) as follows:

§ 104.8 Uniform reporting of receipts.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of $200 to the committee's federal account(s). This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date of receipt and amount of any such contribution. If an individual contributor's name is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first reported contribution from that contributor subsequent to the name change.

* * * * *

(e) National party committees shall disclose in a memo Schedule A information about each individual, committee, corporation, labor organization, or other entity that donates an aggregate amount in excess of $200 in a calendar year to the committee's non-federal account(s). This information shall include the donating individual's or entity's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation. If a donor's name is known to have changed since an earlier donation reported during the calendar year, the exact name or address previously used shall be noted with the first reported donation from that donor subsequent to the name change. The memo entry shall also include, where applicable, the information required by paragraphs (b) through (d) of this section.

(f) National party committees shall also disclose in a memo Schedule A information about each individual, committee, corporation, labor organization, or other entity that donates an aggregate amount in excess of $200 in a calendar year to the committee's building fund account(s). This information shall include the donating individual's or entity's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation. If a donor's name is known to have changed since an earlier donation reported during the calendar year, the exact name or address previously used shall be noted with the first reported donation from that donor subsequent to the name change. The memo entry shall also include, where applicable, the information required by paragraphs (b) through (d) of this section.

5. Section 104.9 is amended by revising the heading and paragraph (a), and by adding paragraphs (c), (d) and (e) as follows:

§ 104.9 Uniform reporting of disbursements.

(a) Political committees shall report the full name and mailing address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made from the reporting committee's federal account(s), together with the date, amount and purpose of such expenditure, in accordance with 11 CFR 104.9(b). As used in 11 CFR 104.9, "purpose" means a brief statement or

description as to the reasons for the expenditure. See 11 CFR 104.3(b)(3)(i)(A).

* * * * *

(c) National party committees shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or value in excess of $200 within the calendar year is made from the committee's non-federal account(s), together with the date, amount and purpose of such disbursement, in accordance with 11 CFR 104.9(b). As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3(b)(3)(i)(A).

(d) National party committees shall report in a memo Schedule B the full name and mailing address of each person to whom a disbursement in an aggregate amount or value in excess of $200 within the calendar year is made from the committee's building fund account(s), together with the date, amount and purpose of such disbursement, in accordance with 11 CFR 104.9(b). As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3(b)(3)(i)(A).

(e) National party committees shall report in a memo Schedule B each transfer from their non-federal account(s) to the non-federal account(s) of a state or local party committee.

6. Section 104.10 is revised to read as follows:

§ 104.10 Reporting of expenses allocated among candidates and activities.

(a) *Expenses allocated among candidates.* A political committee making an expenditure on behalf of more than one clearly identified candidate for federal office shall allocate the expenditure among the candidates pursuant to 11 CFR part 106. Payments involving both expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates shall also be allocated pursuant to 11 CFR part 106. For allocated expenditures, the committee shall report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each federal candidate. If a payment also includes amounts attributable to one or more non-federal candidates, and is made by a political committee with separate federal and non-federal accounts, then the payment shall be made according to the procedures set forth in 11 CFR 106.5(g) or 106.6(e), as appropriate, but shall be reported pursuant to paragraphs (a)(1) through (a)(4), as follows:

(1) *Reporting of allocation of expenses attributable to specific federal and non-federal candidates.* In each report disclosing a payment that includes both expenditures on behalf of one or more federal candidates and disbursements on behalf of one or more non-federal candidates, the committee shall assign a unique identifying title or code to each program or activity conducted on behalf of such candidates, shall state the allocation ratio calculated for the program or activity, and shall explain the manner in which the ratio was derived. The committee shall also summarize the total amounts attributed to each candidate, to date, for each joint program or activity.

(2) *Reporting of transfers between accounts for the purpose of paying expenses attributable to specific federal and non-federal candidates.* A political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) or 106.6(e) shall report each transfer of funds from its non-federal account to its federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one program or activity, the committee shall itemize the transfer, showing the amounts designated for each program or activity conducted on behalf of one or more clearly identified federal candidates and one or more clearly identified non-federal candidates.

(3) *Reporting of allocated disbursements attributable to specific federal and non-federal candidates.* A political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) or 106.6(e) shall also report each disbursement from its federal account or its separate allocation account in payment for a program or activity conducted on behalf of one or more clearly identified federal candidates and one or more clearly identified non-federal candidates. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one program or activity, the committee shall itemize the disbursement, showing the amounts designated for payment of each program or activity conducted on behalf of one or more clearly identified federal candidates and one or more clearly identified non-federal candidates. The committee shall also report the amount of each in-kind contribution, independent expenditure, or coordinated expenditure attributed to each federal candidate, and the total amount attributed to the non-federal candidate(s). In addition, the committee shall report the total amount expended by the committee that year, to date, for each joint program or activity.

(4) *Recordkeeping.* The treasurer shall retain all documents supporting the committee's allocation on behalf of specific federal and non-federal candidates, in accordance with 11 CFR 104.14.

(b) *Expenses allocated among activities.* A political committee that has established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate between those accounts its administrative expenses and its costs for fundraising, exempt activities, and generic voter drives according to 11 CFR 106.5 or 106.6, as appropriate, and shall report those allocations according to paragraphs (b) (1) through (5), as follows:

(1) *Reporting of allocation of administrative expenses and costs of generic voter drives.*

(i) In the first report in a calendar year disclosing a disbursement for administrative expenses or generic voter drives, as described in 11 CFR 106.5(a)(2) or 106.6(b), the committee shall state the allocation ratio to be applied to these categories of activity according to 11 CFR 106.5 (b), (c) or (d) or 106.6(C), and the manner in which it was derived. The Senate and House campaign committees of each political party shall also state whether the calculated ratio or the minimum federal percentage required by 11 CFR 106.5(c)(2) will be used.

(ii) In each subsequent report in the calendar year itemizing an allocated disbursement for administrative expenses or generic voter drives:

(A) The committee shall state the category of activity for which each allocated disbursement was made, and shall summarize the total amount spent by the federal and non-federal accounts that year, to date, for each such category.

(B) Nonconnected committees, separate segregated funds, and Senate and House campaign committees of a

national party that have allocated expenses according to the funds expended method as described in 11 CFR 106.5(c)(1) or 106.6(c) shall also report in a memo entry the total amounts expended in donations and direct disbursements on behalf of specific state and local candidates, to date, in that calendar year.

(2) *Reporting of allocation of the direct costs of fundraising and costs of exempt activities.* In each report disclosing a disbursement for the direct costs of a fundraising program or an exempt activity, as described in 11 CFR 106.5(a)(2) or 106.6(b), the committee shall assign a unique identifying title or code to each such program or activity, shall state the allocation ratio calculated for the program or activity according to 11 CFR 106.5 (e) and (f) or 106.6(d), and shall explain the manner in which the ratio was derived. The committee shall also summarize the total amounts spent by the federal and non-federal accounts that year, to date, for each such program or activity.

(3) *Reporting of transfers between accounts for the purpose of paying allocable expenses.* A political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) or 106.6(e) shall report each transfer of funds from its non-federal account to its federal account or to its separate allocation account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds for the allocable costs of more than one activity, the committee shall itemize the transfer, showing the amounts designated for administrative expenses and generic voter drives, and for each fundraising program or exempt activity, as described in 11 CFR 106.5(a)(2) or 106.6(b).

(4) *Reporting of allocated disbursements.* A political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) or 106.6(e) shall also report each disbursement from its federal account or its separate allocation account in payment for a joint federal and non-federal expense or activity. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one activity, the committee shall itemize the disbursement, showing the amounts designated for payment of administrative expenses and generic voter drives, and for each fundraising program or exempt activity, as described in 11 CFR 106.5(a)(2) or 106.6(b). The committee shall also report the total amount expended by the committee that year, to date, for each category of activity.

(5) *Recordkeeping.* The treasurer shall retain all documents supporting the committee's allocated disbursement for three years, in accordance with 11 CFR 104.14.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

7. The authority citation for part 106 is revised to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

8. Section 106.1 is amended by revising the heading and paragraphs (a) and (e) to read as follows:

§ 106.1 Allocation of expenses between candidates.

(a) *General rule.* (1) Expenditures, including in-kind contributions, independent expenditures, and coordinated expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. For example, in the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to each candidate as compared to the total space or time devoted to all candidates. In the case of a fundraising program or event where funds are collected by one committee for more than one clearly identified candidate, the attribution shall be determined by the proportion of funds received by each candidate as compared to the total receipts by all candidates. These methods shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates.

(2) An expenditure made on behalf of more than one clearly identified federal candidate shall be reported pursuant to 11 CFR 104.10(a). A payment that also includes amounts attributable to one or more non-federal candidates, and that is made by a political committee with separate federal and non-federal accounts, shall be made according to the procedures set forth in 11 CFR 106.5(g) or 106.6(e), as appropriate, but shall be reported pursuant to 11 CFR 104.10(a).

* * * * *

(e) Party committees, separate segregated funds, and nonconnected committees that make disbursements for administrative expenses, fundraising, exempt activities, or generic voter drives in connection with both federal and non-federal elections shall allocate their expenses in accordance with § 106.5 or § 106.6, as appropriate.

9. Part 106 is amended by adding § 106.5 as follows:

§ 106.5 Allocation of expenses between federal and non-federal activities by party committees.

(a) *General rules.* (1) Party committees that make disbursements in connection with federal and non-federal elections shall make those disbursements entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 CFR 102.5. Political committees that have established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate expenses between those accounts according to this section. Organizations that are not political committees but have established separate federal and non-federal accounts under 11 CFR 102.5(b)(1)(i), or that make federal and non-federal disbursements from a single account under 11 CFR 102.5(b)(1)(ii) shall also allocate their federal and non-federal expenses according to this section. This section covers (i) General rules regarding allocation of federal and non-federal expenses by party committees, (ii) percentages to be allocated for administrative expenses and costs of generic voter drives by national party committees, (iii) methods for allocation of administrative expenses, costs of generic voter drives, and exempt activities by state and local party committees, and of fundraising costs by all party committees, and (iv) procedures for payment of allocable expenses. Requirements for reporting of allocated disbursements are set forth in 11 CFR 104.10.

(2) *Costs to be allocated.* Committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to this section for the following categories of activity:

(i) Administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate;

(ii) The direct costs of a fundraising program or event including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where federal and non-federal funds are collected by one committee through such program or event;

(iii) State and local party activities exempt from the definitions of "contribution" and "expenditure" under 11 CFR 100.7(b) (9), (15) or (17), and 100.8(b) (10), (16) or (18) ("exempt activities") including the production and distribution of slate cards and sample ballots, campaign materials distributed by volunteers, and voter registration and get-out-the-vote drives on behalf of the party's presidential and vice-presidential nominees, where such activities are conducted in conjunction with non-federal election activities; and

(iv) Generic voter drives including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

(b) *National party committees other than Senate or House campaign committees; fixed percentages for allocating administrative expenses and costs of generic voter drives*—(1) *General rule.* Each national party committee other than a Senate or House campaign committee shall allocate a fixed percentage of its administrative expenses and costs of generic voter drives, as described in paragraph (a)(2) of this section, to its federal and non-federal account(s) each year. These percentages shall differ according to whether or not the allocable expenses were incurred in a presidential election year. Such committees shall allocate the costs of each combined federal and non-federal fundraising program or event according to paragraph (f) of this section, with no fixed percentages required.

(2) *Fixed percentages according to type of election year.* National party committees other than the Senate or House campaign committees shall allocate their administrative expenses and costs of generic voter drives according to paragraphs (b)(2) (i) and (ii) as follows:

(i) *Presidential election years.* In presidential election years, national party committees other than the Senate or House campaign committees shall allocate to their federal accounts at least 65% each of their administrative expenses and costs of generic voter drives.

(ii) *Non-presidential election years.* In all years other than presidential election years, national party committees other than the Senate or House campaign committees shall allocate to their federal accounts at least 60% each of their administrative expenses and costs of generic voter drives.

(c) *Senate and House campaign committees of a national party; method and minimum federal percentage for allocating administrative expenses and costs of generic voter drives*—(1) *Method for allocating administrative expenses and costs of generic voter drives.* Subject to the minimum percentage set forth in paragraph (c)(2) of this section, each Senate or House campaign committee of a national party shall allocate its administrative expenses and costs of generic voter drives, as described in paragraph (a)(2) of this section, according to the funds expended method, described in paragraphs (c)(1) (i) and (ii) as follows:

(i) Under this method, expenses shall be allocated based on the ratio of federal expenditures to total federal and non-federal disbursements made by the committee during the two-year federal election cycle. This ratio shall be estimated and reported at the beginning of each federal election cycle, based upon the committee's federal and non-federal disbursements in a prior comparable federal election cycle or upon the committee's reasonable prediction of its disbursements for the coming two years. In calculating its federal expenditures, the committee shall include only amounts contributed to or otherwise spent on behalf of specific federal candidates. Calculation of total federal and non-federal disbursements shall also be limited to disbursements for specific candidates, and shall not include overhead or other generic costs.

(ii) On each of its periodic reports, the committee shall adjust its allocation ratio to reconcile it with the ratio of actual federal and non-federal disbursements made, to date. If the non-federal account has paid more than its allocable share, the committee shall transfer funds from its federal to its non-federal account, as necessary, to reflect the adjusted allocation ratio. The committee shall make note of any such adjustments and transfers on its periodic reports, submitted pursuant to 11 CFR 104.5.

(2) *Minimum federal percentage for administrative expenses and costs of generic voter drives.* Regardless of the allocation ratio calculated under paragraph (c)(1) of this section, each Senate or House campaign committee of a national party shall allocate to its federal account at least 65% each of its administrative expenses and costs of generic voter drives each year. If the committee's own allocation calculation under paragraph (c)(1) of this section yields a federal share greater than 65%, then the higher percentage shall be applied. If such calculation yields a federal share lower than 65%, then the committee shall report its calculated ratio according to 11 CFR 104.10(b), and shall apply the required minimum federal percentage.

(3) *Allocation of fundraising costs.* Senate and House campaign committees shall allocate the costs of each combined federal and non-federal fundraising program or event according to paragraph (f) of this section, with no minimum percentages required.

(d) *State and local party committees; method for allocating administrative expenses and costs of generic voter drives*—(1) *General rule.* All state and local party committees except those covered by paragraph (d)(2) of this section shall allocate their administrative expenses and costs of generic voter drives, as described in paragraph (a)(2) of this section, according to the ballot composition method, described in paragraphs (d)(1)(i) and (ii) as follows:

(i) Under this method, expenses shall be allocated based on the ratio of federal offices expected on the ballot to total federal and non-federal offices expected on the ballot in the next general election to be held in the committee's state or geographic area. This ratio shall be determined by the number of categories of federal offices on the ballot and the number of categories of non-federal offices on the ballot, as described in paragraph (d)(1)(ii) of this section.

(ii) In calculating a ballot composition ratio, a state or local party committee shall count the federal offices of President, United States Senator, and United States Representative, if expected on the ballot in the next general election, as one federal office each. The committee shall count the non-federal offices of Governor, State Senator, and State Representative, if expected on the ballot in the next general election, as one non-federal office each. The committee shall count the total of all other partisan statewide executive candidates, if expected on the ballot in the next general election, as a maximum of two non-federal offices. State party committees shall also include in the ratio one additional non-federal office if any partisan local candidates are expected on the ballot in that election. Local party committees

shall also include in the ratio a maximum of two additional non-federal offices if any partisan local candidates are expected on the ballot in that election.

(2) *Exception for states that do not hold federal and non-federal elections in the same year.* State and local party committees in states that do not hold federal and non-federal elections in the same year shall allocate the costs of generic voter drives according to the ballot composition method described in paragraph (d)(1) of this section, based on a ratio calculated for that calendar year. These committees shall allocate their administrative expenses according to the ballot composition method described in paragraph (d)(1) of this section, based on a ratio calculated for the two-year Congressional election cycle.

(e) *State and local party committees; method for allocating costs of exempt activities.* Each state or local party committee shall allocate its expenses for activities exempt from the definitions of "contribution" and "expenditure" under 11 CFR 100.7(b) (9), (15) or (17), and 100.8(b) (10), (16) or (18), when conducted in conjunction with non-federal election activities, as described in paragraph (a)(2) of this section, according to the proportion of time or space devoted in a communication. Under this method, the committee shall allocate expenses of a particular communication based on the ratio of the portion of the communication devoted to federal candidates or elections as compared to the entire communication. In the case of a publication, this ratio shall be determined by the space devoted to federal candidates or elections as compared to the total space devoted to all federal and non-federal candidates or elections. In the case of a phone bank, the ratio shall be determined by the number of questions or statements devoted to federal candidates or elections as compared to the total number of questions or statements devoted to all federal and non-federal candidates or elections.

(f) *All party committees; method for allocating direct costs of fundraising.* If federal and non-federal funds are collected by one committee through a joint activity, that committee shall allocate its direct costs of fundraising, as described in paragraph (a)(2) of this section, according to the funds received method. Under this method, the committee shall allocate its fundraising costs based on the ratio of funds received into its federal account to its total receipts from each fundraising program or event. This ratio shall be estimated prior to each such program or event based upon the committee's reasonable prediction of its federal and non-federal revenue from that program or event, and shall be noted in the committee's report for the period in which the first disbursement for such program or event occurred, submitted pursuant to 11 CFR 104.5. Any disbursements for fundraising costs made prior to the actual program or event shall be allocated according to this estimated ratio. The committee shall adjust its estimated allocation ratio following each fundraising program or event from which both federal and non-federal funds are collected, to reflect the actual ratio of funds received. If the non-federal account has paid more than its allocable share, the committee shall transfer funds from its federal to its non-federal account, as necessary, to reflect the adjusted allocation ratio. The committee shall make note of any such adjustments and transfers in its report for the period in which the fundraising program or event occurred.

(g) Payment of allocable expenses by committees with separate federal and non-federal accounts—(1) *Payment options.* Committees that have established separate federal and non-federal accounts under 11 CFR 102.5 (a)(1)(i) or (b)(1)(i) shall pay the expenses of joint federal and non-federal activities described in paragraph (a)(2) of this section according to either paragraph (g)(1) (i) or (ii), as follows:

(i) *Payment by federal account; transfers from non-federal account to federal account.* The committee shall pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense.

(ii) *Payment by separate allocation account; transfers from federal and non-federal accounts to allocation account.* (A) The committee shall establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. Once a committee has established a separate allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained.

(B) The committee shall transfer funds from its federal and non-federal accounts to its allocation account in amounts proportionate to the federal or non-federal share of each allocable expense.

(C) No funds contained in the allocation account may be transferred to any other account maintained by the committee.

(2) *Timing of transfers between accounts.* (i) Under either payment option described in paragraphs (g)(1) (i) or (ii) of this section, the committee shall transfer funds from its non-federal account to its federal account or from its federal and non-federal accounts to its separate allocation account following determination of the final cost of each joint federal and non-federal activity, or in advance of such determination if advance payment is required by the vendor and if such payment is based on a reasonable estimate of the activity's final cost as determined by the committee and the vendor(s) involved.

(ii) Funds transferred from a committee's non-federal account to its federal account or its allocation account are subject to the following requirements:

(A) For each such transfer, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay, as required by 11 CFR 104.10(b)(3); and

(B) Such funds may not be transferred more than 10 days before or more than 30 days after the payment for which they are designated is made.

(iii) Any portion of a transfer from a committee's non-federal account to its federal account or its allocation account that does not meet the requirements of paragraph (g)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.

(3) *Reporting transfers of funds and allocated disbursements.* A political committee that transfers funds between accounts and pays allocable expenses according to this section shall report each such transfer and disbursement pursuant to 11 CFR 104.10(b).

10. Part 106 is amended by adding new § 106.6 as follows:

§ 106.6 Allocation of expenses between federal and non-federal activities by separate segregated funds and nonconnected committees.

(a) *General rule.* Separate segregated funds and nonconnected committees that make disbursements in connection with federal and non-federal elections shall make those disbursements either entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 CFR 102.5. Separate segregated funds and nonconnected committees that have established separate federal and non-federal accounts under 11 CFR

102.5 (a)(1)(i) or (b)(1)(i), or that make federal and non-federal disbursements from a single account under 11 CFR 102.5(b)(1)(ii), shall allocate their federal and non-federal expenses according to paragraphs (c) and (d) of this section. For purposes of this section, "nonconnected committee" includes any committee which conducts activities in connection with an election, but which is not a party committee, an authorized committee of any candidate for federal election, or a separate segregated fund.

(b) *Costs to be allocated*—(1) *Separate segregated funds.* Separate segregated funds that make disbursements in connection with federal and non-federal elections shall allocate expenses for the following categories of activity:

(i) Administrative expenses including rent, utilities, office supplies, and salaries not attributable to a clearly identified candidate, if such expenses are not paid by the separate segregated fund's connected organization;

(ii) The direct costs of a fundraising program or event including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where federal and non-federal funds are collected through such program or event, if such expenses are not paid by the separate segregated fund's connected organization; and

(iii) Generic voter drives including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

(2) *Nonconnected committees.* Nonconnected committees that make disbursements in connection with federal and non-federal elections shall allocate expenses for the following categories of activity:

(i) Administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate;

(ii) The direct costs of a fundraising program or event including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where federal and non-federal funds are collected through such program or event; and

(iii) Generic voter drives including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

(c) *Method for allocating administrative expenses and costs of generic voter drives.* Nonconnected committees and separate segregated funds shall allocate their administrative expenses and costs of generic voter drives, as described in paragraph (b) of this section, according to the funds expended method, described in paragraphs (c) (1) and (2) as follows:

(1) Under this method, expenses shall be allocated based on the ratio of federal expenditures to total federal and non-federal disbursements made by the committee during the two-year federal election cycle. This ratio shall be estimated and reported at the beginning of each federal election cycle, based upon the committee's federal and non-federal disbursements in a prior comparable federal election cycle or upon the committee's reasonable prediction of its disbursements for the coming two years. In calculating its federal expenditures, the committee shall include only amounts contributed to or otherwise spent on behalf of specific federal candidates. Calculation of total federal and non-federal disbursements shall also be limited to disbursements for specific candidates, and shall not include overhead or other generic costs.

(2) On each of its periodic reports, the committee shall adjust its allocation ratio to reconcile it with the ratio of actual federal and non-federal disbursements made, to date. If the non-federal account has paid more than its allocable share, the committee shall transfer funds from its federal to its non-federal account, as necessary, to reflect the adjusted allocation ratio. The committee shall make note of any such adjustments and transfers on its periodic reports, submitted pursuant to 11 CFR 104.5.

(d) *Method for allocating direct costs of fundraising.* If federal and non-federal funds are collected by one committee through a joint activity, that committee shall allocate its direct costs of fundraising according to the funds received method. Under this method, the committee shall allocate its fundraising costs based on the ratio of funds received into its federal account to its total receipts from each fundraising program or event. This ratio shall be estimated prior to each such program or event based upon the committee's reasonable prediction of its federal and non-federal revenue from that program or event, and shall be noted in the committee's report for the period in which the first disbursement for such program or event occurred, submitted pursuant to 11 CFR 104.5. Any disbursements for fundraising costs made prior to the actual program or event shall be allocated according to this estimated ratio. The committee shall adjust its estimated allocation ratio following each fundraising program or event from which both federal and non-federal funds are collected, to reflect the actual ratio of funds received. If the non-federal account has paid more than its allocable share, the committee shall transfer funds from its federal to its non-federal account, as necessary, to reflect the adjusted allocation ratio. The committee shall make note of any such adjustments and transfers in its report for the period in which the fundraising program or event occurred.

(e) *Payment of allocable expenses by committees with separate federal and non-federal accounts*—(1) *Payment options.* Nonconnected committees and separate segregated funds that have established separate federal and non-federal accounts under 11 CFR 102.5 (a)(1)(i) or (b)(1)(i) shall pay the expenses of joint federal and non-federal activities described in paragraph (b) of this section according to either paragraph (e)(1) (i) or (ii), as follows:

(i) *Payment by federal account; transfers from non-federal account to federal account.* The committee shall pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense.

(ii) *Payment by separate allocation account; transfers from federal and non-federal accounts to allocation account.* (A) The committee shall establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. Once a committee has established an allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained.

(B) The committee shall transfer funds from its federal and non-federal accounts to its allocation account in amounts proportionate to the federal or non-federal share of each allocable expense.

(C) No funds contained in the allocation account may be transferred to any other account maintained by the committee.

(2) *Timing of transfers between accounts.* (i) Under either payment option described in paragraphs (e)(1)(i) or (ii) of this section, the committee shall

transfer funds from its non-federal account or from its federal and non-federal accounts to its separate allocation account following determination of the final cost of each joint federal and non-federal activity, or in advance of such determination if advance payment is required by the vendor and if such payment is based on a reasonable estimate of the activity's final cost as determined by the committee and the vendor(s) involved.

(ii) Funds transferred from a committee's non-federal account to its federal account or its allocation account are subject to the following requirements:

(A) For each such transfer, the committee must itemize in its reports the allocable activities for which the tranferred funds are intended to pay, as required by 11 CFR 104.10(b)(3); and

(B) Such funds may not be transferred more than 10 days before or more than 30 days after the payment for which they are designated is made.

(iii) Any portion of a transfer from a committee's non-federal account to its federal account or its allocation account that does not meet the requirements of paragraph (e)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.

(3) *Reporting transfers of funds and allocated disbursments.* A political committee that transfers funds between accounts and pays allocable expenses according to this section shall report each such transfer and disbursement pursuant to 11 CFR 104.10(b).

Dated: June 15, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

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