

FEC Issues Two NPRM's

September 2003

On August 21, 2003, the Federal Election Commission (FEC or Commission) issued two different Notices of Proposed Rulemaking (NPRMs) that affect those in the political arena. Comments on both NPRMs are due on September 19, with hearings tentatively scheduled for October 1.

Multicandidate PACs and Biennial Limits

In the first NPRM, the Commission addresses both multi-candidate federal PACs and the biennial contribution limits for individuals and puts forth three main proposals. *Multicandidate Committees and Biennial Contribution Limits*, 68 Fed. Reg. 50,488 (Aug. 21, 2003). First, the FEC proposes that PACs automatically become multi-candidate committees when they have existed for six months, have received contributions from more than 50 persons, and have made contributions to five or more federal candidates. The Commission proposes this change because it believes that in the future, PACs might want to opt out of multi-candidate status if the per-election contribution limit for "persons" exceeds the multi-candidate limit of \$5,000 because the "person" limit is indexed to inflation.

Second, the Commission proposes to require that PACs file Form 1M, Notice of Multicandidate Status, within ten days of attaining this status.

Lastly, in relation to the biennial contribution limits applicable to individuals, the Commission proposes to change its regulations so that contributions are attributed to the two-year cycle in which they are made, regardless of when the election occurs. This changes the current system whereby contributions for elections in future two-year cycles are attributed to the aggregate limit of the future two-year cycle (e.g., a contribution in 2003 to a Senate primary in 2006 would be attributed to the 2005-2006 cycle).

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Candidate Travel

In the second NPRM, the Commission tackles the issue of candidate travel. *Candidate Travel*, 68 Fed. Reg. 50,481 (Aug. 21, 2003). In this NPRM, the Commission provides three alternatives to the current system of reimbursement for travel on airplanes provided by corporations and labor unions. Currently the rules call for advance payment of either a first-class airfare or the normal charter rates depending on whether regular commercial airline service exists at the destination airport. The Commission has found that this arrangement tends to discriminate against rural areas where there is no regular commercial airline service and hence the charter rate must be charged.

The first alternative calls for all reimbursements to equal the lowest, non-discounted first class airfare at the closest airport that has such service. The proposal also eliminates the advance payment requirement and calls for payment within seven calendar days after travel has begun.

The second alternative follows the House and Senate ethics rules. Reimbursement of first-class airfare would be required for previously or regularly scheduled flights where there is regular commercial airline service. For flights to airports not regularly served by commercial airlines and for flights that are specifically scheduled for the candidate, the reimbursement must equal the normal charter rate. Again, this proposal eliminates the advance payment requirement and calls for payment within seven calendar days after travel has begun.

The third option mandates that reimbursements equal the normal and usual charter rates for chartering the entire plane. This proposal retains the advance payment requirement.

The NPRM also asks for comment on the costs that make up the normal charter rate as well as other travel issues.