

made by a national committee of a political party, including a national Congressional campaign committee, or a State committee of a political party, including any subordinate committee of a State committee, under 2 U.S.C. 441a(d) for anything of value in connection with the general election campaign of a candidate, including party coordinated communications defined at 11 CFR 109.37.

The Commission received two comments on section 109.31 in support of the proposed rule. One witness at the hearing criticized this provision, asserting that in conjunction with 11 CFR 109.20 this provision would subject everything political parties do to the coordinated party expenditure limits.

In light of the concern raised, the Commission's recognition that this rule is not required by BCRA, and in order to devote the Commission's resources to the rules that are most directly required by BCRA to be completed this calendar year, the Commission is not issuing a final rule at 11 CFR 109.31. Instead, the Commission is adding and reserving this section and may revisit the "coordinated party expenditures" definition in the future.

The Commission notes, however, that the term "coordinated party expenditures" does appear in the final rules at 11 CFR 109.23(b), 109.20(b), 109.30, 109.32, 109.33, 109.34, and 109.35. To prevent any confusion, the Commission clarifies in the absence of a definition at section 109.31 that the term "coordinated party expenditure" refers to an expenditure made by a political party committee pursuant to 2 U.S.C. 441a(d). The Commission stresses that it is not restricting the traditional flexibility political parties have had in making coordinated expenditures in support of their candidate.

11 CFR 109.32 What Are the Coordinated Party Expenditure Limits?

The Commission's restructuring of 11 CFR part 109 includes moving the coordinated party expenditure limits found at former 11 CFR 110.7(a) and (b) to 11 CFR 109.32. This new section retains the basic organizational structure of paragraphs (a) and (b) of former section 110.7, while making the revisions explained below. The final rule is unchanged from the proposed rule in the NPRM except where noted below.

1. 11 CFR 109.32(a) Coordinated Party Expenditure Limits for Presidential Elections

The Commission sets forth in paragraph (a) of section 109.32, in

amended fashion, the coordinated party expenditure limit for the national committee of a political party for Presidential elections that appeared at former section 110.7(a). Because political party committees may also make independent expenditures, *Colorado I*, 518 U.S. at 618, the heading of paragraph (a) clarifies that the "expenditures" referred to in section 109.32 are "coordinated party expenditures." See 2 U.S.C. 441a(d). This clarification also appears in paragraphs (a)(1), (2), (3), and (4) of section 109.32.

Paragraph (a)(1) authorizes the national committee of a political party to make coordinated party expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party. The final rule deletes the words "the party's" as surplusage that was inadvertently added into the proposed rule. Paragraph (a)(1) is the successor to former 11 CFR 110.7(a)(1) and is unchanged from that rule except for the clarification noted above.

Paragraph (a)(2) sets out the coordinated party expenditure limit, which is two cents multiplied by the voting age population of the United States, following former 11 CFR 110.7(a)(2). Paragraph (a)(2) of section 109.32 also states that this spending limit shall be increased in accordance with 11 CFR 110.17, which the Commission is adding to clarify that this spending limit is subject to increase. Section 110.17 is the successor to former 11 CFR 110.9(c). See Final Rules and Explanation and Justification for Contribution Limitations and Prohibitions, 67 FR 69,928 (November 19, 2002). Paragraph (a)(2) of section 109.32 also refers to 11 CFR 110.18, the definition of the term "voting age population," which is discussed below.

Paragraph (a)(3) provides that any coordinated party expenditure under paragraph (a) of this section is in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for President of the United States, as well as any contribution by the national committee to the candidate permissible under 11 CFR 110.1 or 110.2. Paragraph (a)(3) is the successor to former 11 CFR 110.7(a)(3) and is substantively unchanged from that rule.

Paragraph (a)(4) provides that any coordinated party expenditures made by the national committee of a political party pursuant to paragraph (a) of this section, or made by any other party committee under authority assigned by a national committee of a political party

under 11 CFR 109.33, on behalf of that party's Presidential candidate shall not count against the candidate's expenditure limitations under 11 CFR 110.8. The only change to paragraph (a)(4) from the proposed rule is that the term "designated" has been changed to "assigned" in order to be consistent with the terminology applied in section 109.33.

Paragraph (a)(4) is the successor to former 11 CFR 110.7(a)(6), and is revised to clarify that only the national party committee has coordinated party expenditure authority for Presidential general elections and that any other political party committee making a coordinated party expenditure in such an election must be so assigned by the national committee.

2. 11 CFR 109.32(b) Coordinated Party Expenditure Limits for Other Federal Elections

Paragraph (b) of section 109.32 addresses coordinated party expenditures in other Federal elections, and is the successor to former 11 CFR 110.7(b). Paragraph (b) applies to the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, for Federal elections other than Presidential elections. As in paragraph (a) above, paragraph (b) clarifies that the "expenditures" referred to in paragraphs (b)(1), (2), and (4) are coordinated party expenditures.

Paragraph (b)(1) authorizes the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, to make coordinated party expenditures in connection with the general election campaign of a candidate for Federal office in that State who is affiliated with the party. The phrase "a candidate for Federal office in that State who is affiliated with the party" is changed from the phrase "the party's candidate for Federal office in that State" that was inadvertently included in the proposed rule. Paragraph (b)(1) is the successor to former 11 CFR 110.7(b)(1) and is unchanged from the previous rule except for the clarification noted above.

Paragraph (b)(2)(i) sets out the coordinated party expenditure limit for Senate candidates and for House candidates from a State that is entitled to only one Representative at the greater of two cents multiplied by the voting age population of the State or \$20,000. Paragraph (b)(2)(ii) sets out the coordinated party expenditure limit for House candidates from any other State at \$10,000. Paragraph (b)(2) follows