

former 11 CFR 110.7(a)(2). Paragraph (b)(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 (b)(3) provides that the spending limitations in paragraph (b)(2) shall be increased in accordance with 11 CFR 110.17, which 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). The Commission is adding paragraph (b)(3) to the rule in order to clarify that this limit is subject to increase. The Commission is changing the citation to 11 CFR 110.17(c), as proposed in the NPRM, to a citation to 11 CFR 110.17, to make it consistent with the reference to section 110.17 in paragraph (a)(2) described above.

Paragraph (b)(4) provides that any coordinated party expenditure under paragraph (b) of this section shall be in addition to any contribution by a political party committee to the candidate permissible under 11 CFR 110.1 or 110.2. Paragraph (b)(4) of 11 CFR 109.32 is the successor to former 11 CFR 110.7(b)(3), and is unchanged apart from the clarification noted above and a clarification that the contributions referenced are those made by a political party committee.

The Commission received two comments on this section, one which supported the rule proposed in the NPRM and another which stated the commenter's agreement with the statement of the coordinated party expenditure limits set forth in 2 U.S.C. 441a(d).

**11 CFR 109.33 May a Political Party Committee Assign Its Coordinated Party Expenditure Authority to Another Political Party Committee?**

Section 109.33 restates and clarifies the pre-BCRA rule permitting assignment of coordinated party expenditure authority between political party committees. Section 109.33 replaces the authorizing provisions found in the pre-BCRA regulations at 11 CFR 110.7(a)(4) and (c); further changes to section 110.7 are addressed below.

In light of the new statutory restrictions on coordination and independent expenditures in BCRA, such assignments of coordinated party expenditure authority are prohibited under certain circumstances in which the assigning political party committee has made coordinated party expenditures (using part of the spending authority) and the intended assignee political party committee has made or intends to make independent

expenditures with respect to the same candidate during an election cycle. See 2 U.S.C. 441a(d)(4)(C) and 11 CFR 109.35(c). Therefore, paragraph (a) of section 109.33 begins with a cross-reference to 11 CFR 109.35(c), which implements the statutory restrictions on assignments and transfers.

Paragraph (a) of section 109.33 restates the Commission's longstanding policy that a political party committee with authority to make coordinated party expenditures may assign all or part of that authority to other political party committees, and that this interpretation extends to both national and State committees of political parties. See Campaign Guide for Political Party Committees at p.16 (1996). Paragraph (a) of section 109.33 provides that coordinated party expenditure authority may be assigned only to other political party committees. See 2 U.S.C. 441a(d). Pre-BCRA 11 CFR 110.7(a)(4) indicated that coordinated expenditures may be made "through any *designated agent*, including State and subordinate party committees." [Emphasis added.] This limitation of assignment to other political party committees precludes possible circumvention of the new restrictions on transfers and assignments between political party committees found in BCRA. 2 U.S.C. 441a(d)(4)(B), (C). It is the Commission's understanding that, historically, political party committees have not assigned coordinated spending authority to entities that are not party committees, and thus this prophylactic measure should not adversely affect party committees.

Paragraph (a) provides that whenever a political party committee authorized to make coordinated party expenditures assigns another political party committee to use part or all of its spending authority, the assignment must be in writing, must specify a dollar amount, and must be made before the party committee receiving the assignment actually makes the coordinated party expenditure. In this respect, the rule codifies longstanding Commission interpretation. See Campaign Guide for Political Party Committees at p.16 (1996). This provision applies to both national and State party committees wishing to assign their 2 U.S.C. 441a(d) authority.

Paragraph (b) of section 109.33 is the successor to pre-BCRA 11 CFR 110.7(c). It provides that, for purposes of the coordinated spending limits, a State committee includes subordinate committees of the State committee. Unlike its predecessor, pre-BCRA section 110.7(c), paragraph (b) of section 109.33 covers district and local political

party committees (see 11 CFR 100.14(b)) to the extent that a State committee assigns to them its coordinated spending authority, given that these district or local committees may not qualify as "subordinate State committees."

Paragraphs (b)(1) and (2) of section 109.33 restate with only minor non-substantive revision the pre-BCRA rule in 11 CFR 110.7(c)(1) and (2) setting out the State committees' methods of administering the coordinated party expenditure authority.

Paragraph (c) of section 109.33 sets forth recordkeeping requirements. This new paragraph (c) provides that a political party committee that assigns its authority to make coordinated party expenditures under this section, or that receives an assignment of coordinated expenditure authority, must maintain the written assignment for at least three years in accordance with 11 CFR 104.14. This three-year requirement is consistent with other recordkeeping requirements in the Act and in the Commission's regulations. See 2 U.S.C. 432(d); 11 CFR 102.9(c).

Although the Commission did not include this precise recordkeeping requirement in proposed section 109.33 in the NPRM, it sought comment more generally on whether to require political party committees to attach copies of written assignments to reports they file with the Commission, or to fax or e-mail them if they are electronic filers. The comments received regarding section 109.33, as described below, did not address the reporting issue.

The Commission has decided to require recordkeeping rather than reporting in section 109.33. Recordkeeping is less burdensome for political party committees and should provide sufficient documentation of assignments of coordinated party expenditure authority should questions subsequently arise. Indeed, the required maintenance of such documentation may serve a political party committee's own interest. See MUR 5246.

The Commission received two comments on this section as proposed in the NPRM. The commenters, while supporting the rule proposed in the NPRM, asserted that it should be made clear that nothing in the rule supersedes the prohibition on political party committees making both coordinated and independent expenditures with respect to a candidate after nomination. See 2 U.S.C. 441a(d)(4)(A); 11 CFR 109.35(b). The Commission does not intend for section 109.33 to supersede that prohibition, which is in the final rules at section 109.35(b). The Commission believes that section