

as Class Free States—and who do not move their bulls interstate to Texas and Missouri. The number of stock contractors who fall into this category, as well as the total number stock contractors nationally, is unknown.

Those stock contractors who move their bulls interstate only between Class Free States would realize a cost savings of about \$25 to \$30 per animal per year (*i.e.*, the cost of a brucellosis test and associated veterinary fees). Thus, a stock contractor with 20 bulls would see a savings of about \$500 to \$600 per year in testing expenses.

While stock contractors are not specifically categorized in the Small Business Administration's (SBA) table of small business size standards, they could be considered under either Subsector 112 of that table (Animal Production), which has a small entity threshold of \$750,000, or Subsector 711 (Performing Arts, Spectator Sports and Related Industries), which has a small entity threshold of \$6 million in annual sales. According to the National Agricultural Statistics Service, over 99 percent of all operations raising cattle and calves (\$750,000 threshold) are small entities, while large operations account for less than 1 percent. Therefore, it is likely that most, if not all, stock contractors would be considered small entities under SBA size standards.

Given that the potential savings per animal in foregone testing costs (\$25 to \$30) can be expected to make up only a small percentage of the total expenses associated with maintaining a rodeo bull (*e.g.*, feed and routine veterinary care), the potential economic impact of this proposed rule is expected to be small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this

rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR part 78 as follows:

#### PART 78—BRUCELLOSIS

1. The authority citation for part 78 continue to read as follows:

**Authority:** 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

2. Section 78.14 would be amended by revising paragraph (a)(1) to read as follows:

##### § 78.14 Rodeo bulls.

(a) \* \* \*

(1) The bull is classified as brucellosis negative based upon an official test conducted less than 365 days before the date of interstate movement: *Provided, however,* That the official test is not required for a bull that is moved only between Class Free States;

\* \* \* \* \*

Done in Washington, DC, this 17th day of April, 2002.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–10110 Filed 4–24–02; 8:45 am]

**BILLING CODE 3410–34–P**

#### FEDERAL ELECTION COMMISSION

##### 11 CFR Part 111

[Notice 2002–5]

#### Administrative Fines

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is proposing amendments to its administrative fines regulations to reduce the civil money penalties for those who file reports late or who do not file them at all. The amendments also create additional levels-of-activity brackets and broaden others within the current schedules of penalties, clarify the Commission's rules

on notifying respondents of reason to believe findings and final determinations, and make certain technical amendments to its rules. The Commission is also seeking public comments on: whether it should revise its current method of calculating civil money penalties to exclude some or all non-federal receipts and disbursements from the level of activity that forms the basis for the civil money penalties; and whether it should revise the rules to clarify what will be considered unacceptable defenses to reason to believe determinations. Further information is provided in the supplementary information that follows.

**DATES:** Comments must be received on or before May 28, 2002.

**ADDRESSES:** All comments should be addressed to Ms. Rosemary C. Smith, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to insure legibility. Electronic mail comments should be sent to [adminfines2002@fec.gov](mailto:adminfines2002@fec.gov). Persons sending comments by electronic mail must include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosemary C. Smith, Assistant General Counsel, or Ms. Dawn M. Odrowski, Staff Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** The Commission is seeking public comments on proposed revisions to 11 CFR part 111, subpart B, which would: (1) Reduce the levels of civil money penalties in the fine schedules set forth in 11 CFR 111.43(a) and (b); (2) create additional levels-of-activity brackets and broaden some existing brackets within those schedules; (3) clarify that all notifications and other communications to respondents in the administrative fines program will be made by mailing them to a political committee's address as listed in the committee's most recently filed Statement of Organization or amendment thereto; and (4) change the citations to the U.S. Department of Treasury and Department of Justice regulations governing debt collection procedures to conform with amendments made to those regulations

after the final administrative fines rules were promulgated. The Commission also seeks public comments on (1) whether it should revise its current method of calculating civil money penalties so some types of receipts and disbursements are not included in the level of activity to which the penalty schedules apply, and (2) whether it should revise 11 CFR 111.35 to clarify what will be considered unacceptable defenses to reason to believe determinations.

## I. Background

The Commission issued final rules on May 19, 2000 (which included a new subpart B of 11 CFR Part 111, and technical amendments to 11 CFR 104.5, 111.8, 111.20, and 111.24) to establish the administrative fines program that Congress authorized in amendments to section 437g(a)(4) of the Federal Election Campaign Act of 1971, as amended. *See* 65 **Federal Register** 31787 (May 19, 2000). These amendments were enacted as part of the Treasury and General Government Appropriations Act, 2000, Pub. L. No. 106-58, 106th Cong., § 640, 113 Stat. 430, 476-77 (1999). Subsequently, section 642 of the Treasury and General Government Appropriations Act, 2002, extended the sunset date of the administrative fines program to include all reports that cover activity between January 1, 2000 and December 31, 2003. Consequently, the Commission revised its regulations to extend the administrative fines sunset date in accordance with that statutory amendment. *See* 66 FR 59680 (Nov. 30, 2001) and 11 CFR 111.30.

Under 2 U.S.C. 434, treasurers of political committees are required to file reports with the Commission by specified deadlines. The purpose of the administrative fines program is to enable the Commission to adjudicate reporting violations of 2 U.S.C. 434(a) without using the traditional enforcement and conciliation procedures set out at 2 U.S.C. 437g that are used for more serious violations.

## II. Proposed Changes to Civil Money Penalty Schedules in 11 CFR 111.43

The Commission proposes to lower the civil money penalties in the schedules set forth in 11 CFR 111.43(a), applicable to non-election sensitive reports and 11 CFR 111.43(b), applicable to election-sensitive reports.

The current civil money penalty schedules for late filers have two components: a base amount that increases with the level of activity reflected in a report, and an additional per day charge. Similarly, the current

schedules for nonfilers consist of a base amount that increases with the level of activity. Both late filers and nonfilers are subject to a recidivist escalator that increases the penalty by 25% for each previous violation. Election sensitive reports are considered not filed if they are not filed prior to four days before an election. Non-election sensitive reports are deemed not filed if they are filed more than 30 days late or not filed at all.

Based on its experience with the administrative fine program to date, the Commission is concerned that fines for committees with lower levels of activity, generally below \$50,000 in a reporting period, may be too high. Committees with activity below \$50,000 are often those of candidates who have lost an election and fail to continue filing the required disclosure reports after the loss but before they are eligible to terminate. Fines for these committees can be relatively high due to their failure to file because the civil money penalties are calculated using the estimated level of activity from previously filed reports. Therefore, the fines may create a hardship for some committees and their treasurers, since many losing candidates lack fundraising ability and their treasurers, who are sometimes volunteers, are legally liable for the fines. Given the current level of civil money penalties, it may be possible to lower the fines at the lower levels of activity without significantly reducing the incentive to file reports. More generally, the Commission is concerned that the overall civil money penalty schedules may result in fines that are substantial compared with civil penalties for other types of FECA violations approved in enforcement conciliation agreements. This concern is exacerbated given that the 25% recidivist factor is beginning to take effect for repeat violations now that the administrative fine program has been operating since July 2000.

The proposed revisions to 11 CFR 111.43(a) and (b) would change the civil money penalty schedules in the following ways: (1) By reducing either the base amount or the per day charge in each activity bracket for late filers and nonfilers on both the non-election and election sensitive schedules; (2) by splitting the existing brackets covering levels of activity between \$1 to \$24,999.99 into three brackets, so that civil money penalties at the lowest levels of activity would be further reduced; and (3) by creating broader brackets for levels of activity of \$200,000 and above and reducing the number of brackets for levels of activity over \$600,000 from five to three. The Commission does not propose to alter

the 25% recidivist factor for each prior violation under the penalty schedules in 11 CFR 111.43(a) and (b).

On the proposed fine schedule for non-election sensitive reports that are filed late, the per day charge would be reduced for all report activity up to \$600,000. For report activity from \$600,000 through \$749,999, the per day charge would remain at the current \$200. For activity between \$750,000 through \$999,999, the per day charge would increase from \$200 to \$225, and for activity of \$1,000,000 or greater the per day charge would increase from \$200 to \$250. The base penalties for all levels of activity on non-election sensitive reports that are filed late would be reduced except for levels of activity between \$10,000 through \$49,999 which would remain the same. The base penalties for levels of activity below \$10,000 would be reduced between \$50 and \$75. The base penalties for levels of activity between \$50,000 and \$499,999 would be reduced between \$50 and \$1,250. The base penalties for levels of activity of \$500,000 and above would be reduced between \$1,000 and \$3,000. The proposed revisions would reduce the civil money penalties for non-election sensitive reports between 11.4% and 79.4%.

Similarly, on the proposed fine schedule for election-sensitive reports that are filed late, the per day late charge would be reduced for all activity brackets up to \$400,000. For financial activity from \$400,000 through \$499,999, the per day charge would remain at the current \$200. From \$500,000 through \$599,999, the per day charge would increase from \$200 to \$225; from \$600,000 through \$749,999, it would increase from \$200 to \$250; from \$750,000 through \$999,999 it would increase from \$200 to \$275; and for activity of \$1,000,000 or greater the per day charge would increase from \$200 to \$300. The base penalties for all levels of activity on election-sensitive reports that are filed late would be reduced except for levels of activity between \$10,000 through \$99,999 which would remain the same. The base penalties for levels of activity below \$10,000 would be reduced between \$50 and \$100. The base penalties for levels of activity between \$100,000-\$499,999 would be reduced between \$100 and \$2,000. The base penalties for levels of activity of \$500,000 and above would be reduced between \$1,750 and \$5,000. These proposed revisions would reduce the civil money penalties for election-sensitive reports between 4.3% and 65.7%.

In the case of nonfilers, the base penalties would be reduced for all non-election sensitive and election-sensitive reports. The reductions in base penalties for non-election sensitive reports would range from \$400 for reports with activity of \$10,000 through \$24,999 to \$4,000 for reports with activity of \$250,000 through \$299,999 and \$350,000 through \$399,999. These proposed revisions would reduce the civil money penalties for non-filed non-election sensitive reports between 16.7% and 72.2%. The reduction in base penalties for non-filed election-sensitive reports would range from \$100 for reports with activity between \$10,000 through \$24,999 to \$4,000 for reports with activity between \$950,000 through \$999,999. These proposed revisions would reduce the civil money penalties for non-filed election-sensitive reports between 8.3% and 50%.

The proposed schedules also include adjustments to some of the levels of activity. The fines for committees with under \$25,000 in activity in a reporting period would be reduced by the introduction of additional brackets at the lowest levels of activity. The existing \$1 to \$24,999.99 bracket would be split into three brackets: \$1 to \$4,999.99, \$5,000 to \$9,999.99, and \$10,000 to \$24,999.99. As a result of creating these additional brackets, penalties for late-filed non-election sensitive reports would be reduced between 12% and 79.4% and penalties for late-filed election sensitive reports would be reduced between 8.6% and 65.7%. Similarly, creating these additional brackets would reduce penalties for non-filed, non-election sensitive reports between 66.7% and 72.2%, and between 10% and 50% for non-filed, election sensitive reports.

Finally, the proposed schedules would also alter some of the current level-of-activity brackets, although the total number of brackets would remain at fifteen. The schedules would create three broader brackets for levels of activity above \$200,000, and the number of brackets for levels of activity of \$600,000 and above would be reduced from five brackets to three. The bracketing for levels of activity between \$25,000 and \$199,999.99 would not change. The consolidation of brackets for reports with activity of \$600,000 and above would reduce penalties for all non-election sensitive reports between 11.4% and 57.2%. For all election-sensitive reports, the consolidation of brackets for reports with activity above \$600,000 would reduce penalties between 7.1% and 64%.

The Commission requests comments as to whether these substantial

reductions in penalties for political committees with levels of activity below \$50,000 would still provide sufficient incentive for committees to file their reports in a timely manner. Given that the proposed schedules would also reduce the level of civil money penalties for levels of activity above \$50,000 as well, the Commission seeks comments as to whether these reduced penalties would substantially diminish or eliminate political committees' incentives to file in a timely manner, and thus become merely the cost of doing business. The Commission also seeks comments as to whether these reductions would affect committees' decisions to challenge reason to believe findings and proposed civil money penalties.

As an alternative to reducing the civil money penalty schedules at all levels of activity, the Commission seeks comment as to whether it should reduce the fines only for levels of activity below \$50,000. Another alternative may be to reduce the civil money penalty schedule for only non-election sensitive reports and to retain the current civil money penalty schedule for election-sensitive reports. Please note that these alternatives are not reflected in the draft rules that follow.

### III. Possible Revisions to Civil Money Penalty Calculations

The Commission is considering revising the administrative fines regulations to change the way it defines the level of activity used to calculate civil money penalties. Please note that no draft language on this issue has been included in the proposed rules that follow.

Currently, the Commission calculates civil money penalties by applying the fine schedules at 11 CFR 111.43 to a political committee's "level of activity" defined at 11 CFR 111.43(d) as the total receipts and disbursements for the reporting period covered by a late or non-filed disclosure report. The "level of activity" is the Commission's interpretation of the statutory requirement in 2 U.S.C. 437g(a)(4)(C) that civil money penalties take into account "the amount of the violation involved" since under 2 U.S.C. 434 political committees are required to disclose in their reports all receipts and disbursements. See Explanation and Justification for Final Rules on Administrative Fines, 65 FR 31792 (May 19, 2000). In some cases, using total receipts and disbursements as the basis for the penalty calculation results in higher fines for political committees who finance non-federal activity through their federal accounts. For

example, unauthorized committees that finance activities in connection with both federal and non-federal elections must allocate disbursements for those activities between their federal and non-federal accounts and must pay for those expenses through their federal accounts or separate federal allocation accounts. Non-federal funds must be transferred into the federal accounts to pay for the non-federal activity, thereby resulting in higher total receipts and disbursements for those committees than for political committees that do not have allocable activity.

The Commission requests comments as to whether the level of activity on which civil money penalties are based should exclude all receipts or disbursements of a political committee to the extent they finance activity or programs that are not for the purpose of influencing a Federal election. For example: Should the civil money penalty calculation exclude the disbursements of a principal campaign committee (or other authorized committee) that are made to influence the election of a candidate for State or local office? Should the civil money penalty calculation exclude the disbursements of a principal campaign committee (or other authorized committee) that are made to the non-federal account of another political committee? Should the civil money penalty calculation exclude the disbursements of a principal campaign committee (or other authorized committee) that are made to defray the expenses of supporting the Federal candidate's duties as a holder of Federal office; that is, as a Member of Congress?

Similarly, should the civil money penalty calculation exclude the disbursements of a party committee, separate segregated fund or non-connected committee that are made to pay the non-federal share of the committee's allocable administrative expenses, generic voter drive costs, fundraising expenses and, in the case of party committees, exempt activities expenditures under 11 CFR 106.5 and 106.6? Should the calculation similarly exclude the receipts of an unauthorized committee that are set aside for payment of its allocable non-federal expenditures? Should the calculation exclude the committee's reported disbursements to candidates for non-federal offices if made to influence the payee's election to a non-federal office?

#### **IV. Notification to Respondents of Commission Reason To Believe Findings and Final Determinations and Communications From the Reviewing Officer—11 CFR 111.32, 111.34, 111.36 and 111.37**

The Commission proposes to amend 11 CFR 111.32, 111.34, 111.36 and 111.37 to make clear in the administrative fines regulations its current practice with respect to notifying political committees and their treasurers of its actions under Subpart B of Part 111. Notification of Commission reason to believe findings and proposed civil penalties under 11 CFR 111.32 and Commission final determinations under 11 CFR 111.34 would continue to be mailed to political committees and their treasurers at the political committee's address listed in its most recent Statement of Organization, or amendment thereto, on file with the Commission at the time of the notification. Notification of Commission final determinations and other actions under 11 CFR 111.37 and any communication under 11 CFR 111.36 between the administrative fines reviewing officer and respondent political committees and their treasurers will be sent to the political committee's address listed in its most recent Statement of Organization, or amendment thereto, on file with the Commission at the time of the notification, unless a statement designating counsel has been filed in accordance with 11 CFR 111.23. Section 102.2 of the regulations requires that treasurers of political committees file a Statement of Organization with the Commission disclosing, among other things, the address of the committee. Any changes or corrections to the information appearing in the Statement of Organization are required to be reported no later than ten days following the change or correction. If a treasurer does not promptly notify the Commission of a committee address change, the treasurer and the committee may not receive timely notice of Commission actions. Clarifying the Commission's notification policy in the regulations is intended to ensure that all political committees have notice of how the Commission intends to fulfill its obligation to provide political committees and their treasurers with notice of actions taken under Subpart B of Part 111. These proposed amendments are also intended to encourage treasurers to file any address changes for their committees with the Commission in a timely manner.

The Commission notes that similar notification issues can arise under

Subpart A of Part 111. This rulemaking is not intended to address those issues.

#### **V. Technical Changes to 11 CFR 111.45**

The Commission is proposing a technical amendment to 11 CFR 111.45 to correct citations to regulations establishing the Federal Claims Collection Standards. After the Commission's administrative fines rules were promulgated, the Department of Justice and the Department of Treasury, in place of the General Accounting Office, revised and recodified the Federal Claims Collection Standards at 31 CFR parts 900 through 904. The proposed amendment to 11 CFR 111.45 would replace the former regulatory citations with the new citations.

#### **VI. Possible Revisions To Clarify the Extraordinary Circumstances Defense to Reason To Believe Findings**

Currently, 11 CFR 111.35 sets out the requirements for written responses challenging Commission reason to believe findings in the administrative fines program. Written responses must include the reasons why respondents are challenging the Commission's finding and/or the proposed civil money penalty, which may consist of factual errors, improper calculation of the penalty, and the existence of extraordinary circumstances beyond the respondents' control that were for a duration of at least 48 hours and prevented them from timely filing the report. Section 111.35(b)(4) currently provides four broad examples of circumstances that will not be considered extraordinary circumstances. During the operation of the administrative fines program, however, respondents have sought to raise a number of defenses that the Commission has determined do not constitute extraordinary circumstances. Two of the most common defenses raised in challenges are: (1) The unavailability of the treasurer and committee staff, sometimes due to the illness or death of the treasurer, committee staff or their relatives; and (2) the inexperience of the treasurer or committee staff resulting from vacancies or turnover in these positions.

The Commission seeks comments on whether Section 111.35 should be revised to more specifically state the kinds of circumstances that will not be considered acceptable defenses. Please note that draft language on this issue has not been included in the proposed rules that follow.

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

The attached proposed rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that the attached proposed rules, if promulgated, would impose civil money penalties that are lower than those currently imposed and would be scaled to better take into account the amount of financial activity on reports filed by political committees. Thus, committees with lower levels of financial activity would be subject to lower fines than political committees with higher amounts. Therefore, the attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

#### **List of Subjects in 11 CFR Part 111**

Administrative practice and procedures, Elections, Law enforcement.

For the reasons set forth in the preamble, the Federal Election Commission proposes to amend subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

#### **PART 111—COMPLIANCE PROCEDURES (2 U.S.C. 437g, 437d(a))**

1. The authority citation for part 111 would continue to read as follows:

**Authority:** 2 U.S.C. 437g, 437d(a), 438(a)(8).

2. Section 111.32 would be amended by revising the introductory text to read as follows:

#### **§ 111.32 How will the Commission notify respondents of a reason to believe finding and a proposed civil penalty?**

If the Commission determines, by an affirmative vote of at least four (4) of its members, that it has reason to believe that a respondent has violated 2 U.S.C. 434(a), the Chairman or Vice-Chairman shall notify such respondent of the Commission's finding. The Commission will notify the respondent political committee and its treasurer of the reason to believe finding by mailing the notification to the political committee and its treasurer at the political committee's address as listed in its most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2. The written notification shall set forth the following:

\* \* \* \* \*

3. Section 111.34 would be amended by revising paragraph (b) to read as follows:

**§ 111.34 If the respondent decides to pay the civil money penalty and not to challenge the reason to believe finding, what should the respondent do?**

(b) Upon receipt of the respondent's payment, the Commission shall send the respondent a final determination that the respondent has violated the statute or regulations and the amount of the civil money penalty and an acknowledgment of the respondent's payment. The Commission will notify the respondent political committee and its treasurer of the final determination by mailing the notification to the political committee and its treasurer at the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

4. Section 111.36 would be amended by adding a new paragraph (g) to read as follows:

**§ 111.36 Who will review the respondent's written response?**

(g) Unless a statement designating counsel has been filed in accordance with 11 CFR 111.23, the reviewing officer will send all communications to the respondent political committee and its treasurer to the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

5. Section 111.37 would be amended by adding a new paragraph (e) to read as follows:

**§ 111.37 What will the Commission do once it receives the respondent's written response and the reviewing officer's recommendation?**

(e) Unless a statement designating counsel has been filed in accordance

with 11 CFR 111.23, the Commission will notify the respondent political committee and its treasurer of the final determination or other action by mailing the notification to the political committee and its treasurer at the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

6. Section 111.43 would be amended by revising paragraphs (a) and (b) to read as follows:

**§ 111.43. What are the schedules of penalties?**

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 <sup>a</sup> .....	$[\$25 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$250 \times [1 + (.25 \times \text{Number of previous violations})]$
\$5,000–9,999.99 .....	$[\$50 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$300 \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000–24,999.99 .....	$[\$100 + (\$5 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000–49,999.99 .....	$[\$200 + (\$20 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000–74,999.99 .....	$[\$250 + (\$35 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$1,400 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000–99,999.99 .....	$[\$350 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$2,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000–149,999.99 .....	$[\$400 + (\$65 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$2,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000–199,999.99 .....	$[\$600 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$3,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000–299,999.99 .....	$[\$800 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$4,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$300,000–399,999.99 .....	$[\$1,000 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$5,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$400,000–499,999.99 .....	$[\$1,250 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$6,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$500,000–599,999.99 .....	$[\$1,500 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$7,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$600,000–749,999.99 .....	$[\$1,750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$8,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000–999,999.99 .....	$[\$2,000 + (\$225 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$9,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$1,000,000 or over .....	$[\$2,250 + (\$250 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$

<sup>a</sup> The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in

accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–\$4,999.99 <sup>a</sup> .....	$[\$50 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$500 \times [1 + (.25 \times \text{Number of previous violations})]$

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$5,000–\$9,999.99 .....	$[\$100 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$600 \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000–24,999.99 .....	$[\$150 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000–49,999.99 .....	$[\$300 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$1,400 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000–74,999.99 .....	$[\$450 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$2,400 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000–99,999.99 .....	$[\$600 + (\$70 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$3,100 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000–149,999.99 .....	$[\$800 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$4,200 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000–199,999.99 .....	$[\$1,000 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$5,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000–299,999.99 .....	$[\$1,250 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$6,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$300,000–399,999.99 .....	$[\$1,500 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$7,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$400,000–499,999.99 .....	$[\$1,750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$8,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$500,000–599,999.99 .....	$[\$2,000 + (\$225 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$9,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$600,000–749,999.99 .....	$[\$2,250 + (\$250 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$10,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000–999,999.99 .....	$[\$2,500 + (\$275 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$1,000,000 or over .....	$[\$3,000 + (\$300 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$ .	$\$14,000 \times [1 + (.25 \times \text{Number of previous violations})]$

<sup>a</sup> The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

\* \* \* \* \*

#### **§ 111.45 [Amended]**

7. Section 111.45 would be amended by removing in the second sentence “4 CFR parts 101 through 105” and by adding in its place “31 CFR parts 900 through 904,” and by removing “Government Accounting Office” and adding in its place “the U.S. Department of the Treasury.”

Dated: April 19, 2002.

**David M. Mason,**

*Chairman, Federal Election Commission.*

[FR Doc. 02–10106 Filed 4–24–02; 8:45 am]

BILLING CODE 6715–01–P

## **DEPARTMENT OF THE TREASURY**

### **Office of the Comptroller of the Currency**

#### **12 CFR Part 8**

**[Docket No. 02–05]**

**RIN 1557–AC07**

#### **Assessment of Fees**

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is proposing to amend its regulation which addresses

assessments for independent trust banks. The proposal would update the regulation to reference the appropriate portion of new forms issued by the Federal Financial Institutions Examination Council (FFIEC) which replace the FFIEC form currently referenced in the regulation.

**DATES:** Comments must be received by May 17, 2002.

**ADDRESSES:** Please direct your comments to: Office of the Comptroller of the Currency, 250 E Street, S.W., Public Information Room, Mailstop 1–5, Washington, DC 20219, Attention: Docket No. 02–05; fax number (202) 874–4448; or Internet address:

[regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). Due to recent temporary disruptions in the OCC's mail service, we encourage the submission of comments by fax or e-mail whenever possible. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC. You can make an appointment to inspect comments by calling (202) 874–5043.

**FOR FURTHER INFORMATION CONTACT:** Andra Shuster, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090.

#### **SUPPLEMENTARY INFORMATION:**

##### **Description of the Proposal**

Section 8.6(c) of the OCC's regulations provides that assessments for

independent trust banks will include a “managed asset component” in addition to the assessments calculated under § 8.2. Under § 8.6(c)(1)(i), all independent trust banks must pay a minimum fee. In addition, under § 8.6(c)(1)(ii), independent trust banks with “managed assets” in excess of \$1 billion must pay an additional amount. Currently, 12 CFR 8.6(c)(1)(ii) defines the asset base upon which the additional assessment is applied by reference to Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form 001). FFIEC Form 001 was replaced effective December 31, 2001 by FFIEC forms 031 and 041, Schedule RC–T—Fiduciary and Related Assets.

The proposal amends the definition of “Trust assets” in § 8.6(c)(3)(iv). The defined term is changed to “Fiduciary and related assets” to reflect the terminology used in Schedule RC–T of FFIEC forms 031 and 041. The proposal replaces the reference to FFIEC Form 001 that now appears with a reference to assets reported on Schedule RC–T of FFIEC forms 031 and 041, any successor form issued by the FFIEC, and any other fiduciary and related assets defined in the Notice of Comptroller of the Currency Fees. “Fiduciary and related assets” reported on Schedule RC–T reflect the types of assets, managed in a trust or fiduciary related-capacity, covered by the now-outdated cross-reference in the current rule, plus