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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MAY 24 2000

**AGENDA ITEM**  
For Meeting of: 6-08-00

**MEMORANDUM**

**TO:** The Commission

**THROUGH:** James A. Petrkon *JAP*  
Staff Director

**FROM:** Lawrence M. Noble *LN*  
General Counsel

N. Bradley Litchfield *NBL*  
Associate General Counsel

Rosemary C. Smith *RCS*  
Assistant General Counsel

Cheryl A. Fowle *CAF*  
Attorney

**SUBJECT:** Final Rules and Explanation and Justification on Mandatory Electronic Filing: (11 C.F.R. §104.18)

The Office of General Counsel has drafted final mandatory electronic filing rules and prepared an accompanying Explanation and Justification. Public L. 106-58 requires that the Commission have final rules in effect on January 1, 2001. The draft final rules establish a \$50,000 per year threshold above which political committees and other persons must electronically file all reports, designations and statements. In most other respects, the draft final rules follow the proposed rules in the NPRM. Changes to the final rules from the version that appeared in the NPRM are double underlined or otherwise noted in the attached draft. This Office worked with the Data Systems Development Division, the Reports Analysis Division, the Information Division, the Press Office, and the Public Disclosure Division in drafting the Final Rules.

**Recommendation**

The Office of General Counsel recommends that the Commission approve the attached final rules and Explanation and Justification for publication in the *Federal Register* and transmittal to Congress.

**Attachment**

1 **FEDERAL ELECTION COMMISSION**

2 **11 CFR Parts 100, 101, 102, 104, 109, 114, 9003, 9033**

3 **[NOTICE 2000->]**

4 **ELECTRONIC FILING OF REPORTS BY**  
5 **POLITICAL COMMITTEES**

6 **AGENCY:** Federal Election Commission.

7 **ACTION:** Final Rules and Transmittal of Regulations to Congress.

8 **SUMMARY:** The Federal Election Commission is revising its regulations to  
9 implement a mandatory electronic filing system for reports of campaign  
10 finance activity filed with the agency. Beginning with reporting periods  
11 that start on or after January 1, 2001, all political committees (except  
12 the authorized committees of candidates for U.S. Senate) and other  
13 persons will be required to file electronically when either their total  
14 contributions or total expenditures within a calendar year exceed, or are  
15 expected to exceed, \$50,000. The Commission has had a voluntary  
16 electronic filing system in place since 1996. Voluntary electronic filing  
17 will still be an option for political committees and persons who do not  
18 exceed the \$50,000 threshold. This mandatory system is designed to  
19 reflect recent changes to the Federal Election Campaign Act of 1971.  
20 Further information is provided in the supplementary information that  
21 follows.

22 **DATES:** Further action, including the publication of a document in the Federal  
23 Register announcing an effective date, will be taken after these

1 regulations have been before Congress for 30 legislative days pursuant  
2 to 2 U.S.C. §438(d) and 26 U.S.C. §§9009(c) and 9039(c).

3  
4 **FOR FURTHER**  
5 **INFORMATION**  
6 **CONTACT:**

Ms. Rosemary Smith, Assistant General Counsel, or Cheryl Fowle,  
7 Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694-  
8 1650 or (800) 424-9530.

9  
10 **SUPPLEMENTARY**

11 **INFORMATION:** The Commission is publishing today the final text of new regulations to be  
12 added to 11 CFR 100.19 and 11 CFR 104.18 and revisions to the regulations at 11 CFR sections  
13 101.1, 102.2, 104.5, 109.2, 114.10, 9003.1 and 9033.1 making electronic filing mandatory for  
14 certain political committees and other persons. These rules implement provisions of Public Law  
15 106-58, (Pub. L. No. 106-58, 106<sup>th</sup> Cong., § 639, 113 Stat. 430, 476-477 (1999)) which amended  
16 the Federal Election Campaign Act of 1971, 2 U.S.C. 431 et seq. ("FECA" or "the Act"), to  
17 require, inter alia, that the Commission make electronic filing mandatory for political  
18 committees and other persons required to file with the Commission who, in a calendar year,  
19 have, or have reason to expect to have, total contributions or total expenditures exceeding a  
20 threshold amount to be set by the Commission. The final rules announced today set the threshold  
21 at \$50,000 per calendar year.

22 The 1999 amendment to the FECA and the regulations (11 CFR 104.18) maintain the  
23 voluntary electronic filing system for political committees or persons who do not exceed, or who  
24 do not have reason to expect to exceed, the \$50,000 threshold of financial activity. The

1 Commission encourages committees below these thresholds to voluntarily file their reports  
2 electronically.

3 Public Law 106-58 requires the mandatory system to be in place for reports covering periods  
4 after December 31, 2000.

5 Section 438(d) of Title 2, United States Code and sections 9009(c) and 9030(c) of Title 26,  
6 United States Code require that any rules or regulations prescribed by the Commission to carry  
7 out the provisions of Titles 2 and 26 of the United States Code be transmitted to the Speaker of  
8 the House of Representatives and the President of the Senate 30 legislative days before they are  
9 finally promulgated. These regulations were transmitted to Congress on June 7, 2000.

#### 10 **Explanation and Justification**

11 The Commission initiated this rulemaking by publishing a Notice of Proposed Rulemaking  
12 ("NPRM") in the Federal Register on April 11, 2000, 65 F.R. 19339 (April 11, 2000). The  
13 NPRM contained proposed rules covering, inter alia, the threshold amount, what reports are  
14 covered and the requirement for publicly funded candidates to agree to file electronically.

15 The comment period ended on May 11, 2000. The Commission received three comments,  
16 one from U. S. Public Interest Research Group, and one from National Association of Business  
17 Political Action Committees. In addition, the Internal Revenue Service ("IRS") submitted a  
18 comment in which it said that the proposed rules are not inconsistent with IRS regulations or the  
19 Internal Revenue Code.

20 The goals of the electronic filing system include more complete and rapid on-line access to  
21 reports on file with the Commission, reduced paper filing and manual processing, and more  
22 efficient and cost-effective methods of operation for filers and for the Commission. The 1999  
23 amendment to the FECA requires that the Commission make electronically filed reports,

1 designations or statements available on its web site not later than 24 hours after the Commission  
2 receives them. Pub. L. No. 106-58, 106<sup>th</sup> Cong., § 639(a), 113 Stat. 430, 476 (1999). Currently,  
3 reports that are filed under the voluntary system of electronic filing are posted in viewable form  
4 on the Commission's web site within five minutes and detailed data are available in the  
5 Commission's databases within 24 to 48 hours (depending on the time of receipt). In contrast,  
6 under the current paper filing system, the time between receipt of a report and its appearance in  
7 viewable form on the Commission's web site is 48 hours. Additionally, while some summary  
8 data is available in the Commission's indexes within 48 hours, it can take as long as 30 days  
9 before the detailed data filed on paper is available in those databases. Thus, the greater the  
10 number of pages that are filed electronically, the greater the volume of data that is almost  
11 instantly available. Additionally, decreasing the volume of paper filed will decrease the  
12 processing time of the reports that are filed on paper, making them more rapidly available in the  
13 Commission's databases.

14  
15 Section 100.19 File, filed or filing (2 U.S.C. 434(a)).  
16

17 The Commission's regulations at 11 CFR 100.19 define file, filed, or filing with respect to  
18 reports filed on paper. New paragraph (c) is being added to section 100.19 to define these terms  
19 with respect to electronically filed reports. In order to be timely filed, the report must be received  
20 and validated by the Commission's computer system on or before 11:59 p.m. Eastern Standard  
21 Time (or Eastern Daylight Time, as appropriate) on the prescribed filing date. The computer  
22 validation program ensures that all required information is disclosed. Additionally the validation  
23 program is being updated to require that the figures disclosed within the report add up to the

1 figures reported on the Detailed Summary Page and that committees correctly indicate the type of  
2 report being filed. Incomplete or incorrect reports that do not pass validation will not be  
3 accepted and will not be considered filed. Please note, however, that using the Commission's  
4 FECFile software will ensure that all numbers in the report add up to the correct total. The  
5 Commission received one comment on this issue in response to its NPRM on its new  
6 administrative fine program. (See 65 FR 16534, March 29, 2000.) The commenter, Akin,  
7 Gump, Strauss, Hauer & Feld, L.L.P., argued that the Commission's rules should clarify the date  
8 and time when an electronic report is considered "filed." Thus, paragraph (c) is being added to  
9 this section.

10  
11 Section 101.1 Candidate designations (2 U.S.C. 432(e)(1)).

12  
13 The Commission is revising paragraph (a) of section 101.1 to clarify that if a candidate  
14 exceeds, or has reason to expect to exceed the \$50,000 threshold, he or she must file his or her  
15 Statement of Candidacy electronically on FEC Form 2. The Commission anticipates that its free  
16 FECFile software will generate FEC Form 2 by January 1, 2001, when these regulations take  
17 effect. The Commission received no comments on this provision.

18  
19 Section 102.2 Statement of organization: Forms and committee identification number (2  
20 U.S.C. 433(b)(c)).

21  
22 Commission regulations at 11 CFR 102.2(a)(1)(i) through (vi) require a political committee  
23 to provide certain identifying information on its Statement of Organization (FEC Form 1). New

1 paragraph (a)(1)(vii) requires any political committee that has an Internet web site to provide the  
2 address of its web site as part of its address on FEC Form 1. Additionally, it requires any  
3 committee that is required to file electronically, and that has an electronic mail address, to  
4 include its electronic mail address as part of its address on FEC Form 1. The Commission  
5 received no comments on these changes.

6 Revisions to paragraph (a)(2) clarify that if a committee is required to file electronically, it  
7 must file amendments to its Statement of Organization (FEC Form 1) electronically. The  
8 Commission anticipates that its free FECFile software will generate FEC Form 1 by January 1,  
9 2001, when these regulations take effect. The Commission received one comment on the issue  
10 of filing amendments by electronic letter. For the reasons explained at "F. Amending Reports,"  
11 infra, the Commission is not allowing filers to amend electronic reports by electronic letter,  
12 rather than using the appropriate electronic FEC form.

13  
14 Section 104.5 Filing dates (2 U.S.C. 434(a)(2)).

15  
16 The Commission's regulations at 11 CFR 104.5(e) define when a paper report is considered  
17 filed with respect to when and how it is mailed. A new sentence is being added to paragraph (e)  
18 to provide that, in order to be timely filed electronically, the report, designation or statement must  
19 be received and validated by the Commission's computer system on or before 11:59 p.m. Eastern  
20 Standard Time (or Eastern Daylight Time, as appropriate) on the prescribed filing date. The  
21 Commission is adding the new sentence to paragraph (e) of this section to follow the changes in  
22 11 CFR 101.1.

1  
2 Section 104.18 Electronic filing of reports (2 U.S.C. 432(d) and 434(a)(11)).

3  
4 Section 104.18 is being reorganized. New paragraph (a) sets forth the thresholds and rules  
5 for mandatory electronic filing. Former paragraph (a) "General" is redesignated as paragraph (b)  
6 "Voluntary" and sets forth the rules with regard to who may voluntarily file electronically. New  
7 paragraph (c) has been added to define which reports under the 1999 amendment to the FECA  
8 must be filed electronically. Former paragraphs (b) through (g) are being redesignated as  
9 paragraphs (d) through (i). These provisions apply to both mandatory and voluntary electronic  
10 filing. Paragraph (d) continues to state the format requirements for the electronic filing system  
11 (both mandatory and voluntary). Paragraph (e) sets forth the rules on the acceptance and  
12 validation of electronically filed reports. Paragraph (f) addresses amending electronic reports.  
13 Paragraph (g) sets forth signature requirements. Rules for schedules and forms requiring third  
14 party signatures are in paragraph (h), and paragraph (i) addresses the preservation of reports.

15 A. Who Must File Electronically. The mandatory electronic filing provisions of Public Law  
16 106-58 and new paragraph (a) of 11 CFR 104.18 apply to those political committees and other  
17 persons who are required to file reports, statements and designations with the FEC. This  
18 includes House and Presidential candidates and their authorized committees, party committees,  
19 nonconnected committees, and separate segregated funds required to file with the Commission.  
20 Mandatory electronic filing does not apply to candidates for United States Senate and their  
21 authorized committees because Senate candidates and their committees must file with the  
22 Secretary of the Senate. Senate candidates are, however, encouraged to electronically file an

1 unofficial copy of their reports, designations and statements with the FEC for the purposes of  
2 faster disclosure.

3 The Commission received one comment requesting clarification that the threshold applies to  
4 each individual committee and not to the total activity of all affiliated committees. While  
5 affiliated unauthorized committees share contribution limits, they do not file consolidated  
6 reports. Thus, the Commission has concluded that it would be overly burdensome to require all  
7 affiliated unauthorized committees to file electronically if, in the aggregate they exceed, or have  
8 reason to expect to exceed, the threshold. Therefore, the threshold applies to each individual  
9 unauthorized committee whether or not it is affiliated with other committees.

10 In contrast, authorized committees of a candidate are affiliated and share contribution limits,  
11 but the principal campaign committee files one consolidated report incorporating all reports from  
12 all other authorized committees (except joint fundraising committees, see infra) for that  
13 candidate for that election. The principal campaign committee also forwards to the Commission,  
14 along with its own, the reports of the other authorized committees. Therefore, all authorized  
15 committees of a candidate must file electronically if the total of all contributions and  
16 expenditures from all authorized committees for that election exceeds, or the committees have  
17 reason to expect the totals to exceed, the threshold.

18 Joint fundraising representatives (see 11 CFR 102.17) must file electronically if they have, or  
19 have reason to expect to have, total contributions or total expenditures exceeding the \$50,000  
20 threshold. Thus, if for example, a joint fundraiser raises total contributions of \$65,000 that it  
21 divides equally between the three participating committees, including itself, the joint fundraising  
22 representative must file electronically.

1 Other persons, including individuals and qualified nonprofit corporations, must file  
2 electronically if they make independent expenditures exceeding \$50,000 in a calendar year.<sup>1</sup>  
3 Please note, however, that the provision in the NPRM that would have applied the new electronic  
4 filing rules to corporations or labor organizations making communications in excess of \$50,000  
5 to their restricted classes has been deleted from the final rules because these disbursements are  
6 not expenditures. 2 U.S.C. 431(9)(B)(iii) and (v) and 441b(b)(2) and 11 CFR 100.8(b)(4). The  
7 Commission received no comments on this issue.

8 B. Threshold. The Commission has set \$50,000 as the appropriate threshold for all political  
9 committees and other persons because, as discussed below, data from the 1996 and 1998 election  
10 cycles indicate that at that threshold, the goals of the statutory amendment are maximized and the  
11 effect on the political committees and other persons is minimized.

12 1. Nonfederal funds; cash on hand; debts. The Commission received one comment  
13 requesting clarification that, since the purpose of the FECA is the disclosure of federal activity,  
14 the new rule applies only when a committee makes \$50,000 in expenditures or receives \$50,000  
15 in contributions as defined in 2 U.S.C. 431(8) and (9) and 11 CFR 100.7 and 100.8. The  
16 commenter is correct that for purposes of determining if a filer has exceeded, or has reason to  
17 expect to exceed, the \$50,000 filing threshold, nonfederal funds should be excluded from the  
18 calculation.

19 In addition, please note that cash on hand and debt that is outstanding at the beginning of the  
20 calendar year are not included in the threshold calculation. Thus, the calculation of the threshold

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<sup>1</sup>Note that under 11 CFR 104.4(c) and 105.4, independent expenditures in favor of, or opposition to, candidates for the U.S. Senate must be filed with the Secretary of the Senate and, therefore are not subject to this regulation.

1 takes into account only those contributions received or expenditures made, or expected to be  
2 received or made, within the calendar year.

3 2. Candidates and Authorized Committees. Data from the 1996 and 1998 election  
4 cycles show that this threshold would make 96% to 98%<sup>2</sup> of all financial activity reported by  
5 House and Presidential campaign committees almost immediately available on both the FEC's  
6 web site and in the agency's on-line databases. The historical information shows that of the  
7 1,837 to 2,231 authorized committees filing with the Commission between 1995 and 1998, 31%  
8 to 44% of the committees (599 to 982 committees) had aggregate contributions or expenditures  
9 exceeding \$50,000. These authorized committees filed 43% to 73% of the reports (2,162 to  
10 12,646 reports), and 73% to 88% (66,569 to 282,339 pages) of the total number of pages filed by  
11 authorized committees. If 73% to 88% of the total number of pages filed by authorized  
12 committees is filed electronically, the Commission can manually process the remaining 12% to  
13 29% of the pages more quickly to substantially reduce the amount of time before the information  
14 is available in Commission databases.

15 The effect of a \$50,000 threshold on candidates and authorized committees will be minimal  
16 since, based on the 1996 and 1998 election cycle data, only the largest 30% to 40% of registered  
17 authorized committees would be required to file electronically.

18 3. Party Committees. At the \$50,000 level, historical data from the 1996 and 1998 election  
19 cycles show that of the 373 to 451 party committees filing with the Commission, 36% to 41% of

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<sup>2</sup> Because the data was taken over a period of two election cycles that included a Presidential-election year (1996), a midterm-election year (1998) and two non-election years (1995 and 1997), the number of committees, reports and pages filed and financial figures vary—increasing in election years, decreasing in non-election years. The percentages and numbers used in this document are the high and low figures of the four year span. Please note that the high or low percentage may have come from one year and the high or low actual number may have come from a different year.

1 them (142 to 182 committees) consistently disclosed over 99% (between \$213 million and \$459  
2 million) of party activity. Of the total number of pages filed by party committees, 93% to 96%  
3 (71,598 to 210,242 pages) would have been filed electronically, thereby greatly decreasing the  
4 amount of paper processing by the committees and the FEC and considerably increasing the  
5 amount of data that would be almost immediately available.

6 Based on the 1996 and 1998 election cycle data, the impact on party committees will be  
7 relatively small since only 36% to 41% of all party committees registered with the Commission  
8 during those election cycles would have been required to file electronically. Thus, the smallest  
9 59% to 64% of party committees could continue to file paper reports.

10 4. Nonconnected Committees. At the \$50,000 level, in the 1996 and 1998 election cycles,  
11 of the 840 to 933 nonconnected committees filing with the Commission, 15% to 22% of them  
12 (128 to 202 committees) disclosed 88% to 93% of the activity by nonconnected committees  
13 (representing approximately \$29 million to \$65 million of the total \$33 million to \$70 million  
14 disclosed by nonconnected committees). Additionally at that level, 59% to 68% (16,794 to  
15 44,907 pages) of the total number of pages filed by nonconnected committees would have been  
16 filed electronically, causing a significant decrease in paper processing and a corresponding  
17 increase in the amount of data more rapidly disclosed.

18 The number of nonconnected committees affected will be relatively small since the historical  
19 data from the 1996 and 1998 election cycles show that only the largest 15% to 22% of the  
20 nonconnected committees registered with the Commission would have been required to file  
21 electronically.

22 5. Separate Segregated Funds. At the \$50,000 level, in the 1996 and 1998 election cycles,  
23 of the 2,938 to 2,976 SSFs registered with the Commission, 22% to 28% of them (632 to 825

1 committees) disclosed 85% to 89% (\$138 million to \$211 million) of the total SSF financial  
2 activity. This represents 63% to 68% (between 94,670 and 110,864 pages) of the total number of  
3 pages filed by SSFs. Based on historical data, the decrease in the amount of paper filed would  
4 represent approximately 100,000 pages of data and hundreds of millions of dollars available  
5 almost instantly on the Commission's web site and in the agency's databases.

6 The impact on SSFs will be small considering that, in the 1996 and 1998 election cycles, only  
7 22% to 28% of all SSFs registered with the Commission would have been required to file  
8 electronically. Thus, the smallest 72% to 78% (approximately 2,300 committees) of SSFs will  
9 continue to have the option of filing paper reports.

10 The NPRM requested comments on whether SSFs should have a lower threshold than other  
11 filers because their administrative costs can be paid by their connected organizations. One  
12 commenter opposed setting a different threshold because that would lead to confusion and  
13 burden SSFs with higher administrative costs than those of other types of committees. The  
14 Commission has concluded that it is not appropriate to treat SSFs differently than other types of  
15 committees. Therefore it is establishing a uniform \$50,000 threshold for all filers.

16 6. Other Persons Making Independent Expenditures. The 1999 amendment to the FECA  
17 requires that "a person" who is required to file under the Act must file electronically if that  
18 person exceeds, or has reason to expect to exceed, the threshold. Therefore, in addition to the  
19 committees discussed above, new paragraph (a) of section 104.18 also applies the \$50,000  
20 threshold to any other persons defined in 11 CFR 100.10 who are required to file a "designation,  
21 statement or report" with the Commission. This applies only to individuals or qualified non-  
22 profit corporations ("QNCs") making independent expenditures. 11 CFR 109.2. Thus, under the

1 new rules, individuals and QNCs will be required to file electronically if they make independent  
2 expenditures in excess, or that are expected to be in excess, of \$50,000 in a calendar year.

3 Data from the 1996 and 1998 election cycles show that the between 7% and 19% (between 2  
4 and 24 persons) of other persons filing with the Commission had aggregate contributions or  
5 aggregate expenditures exceeding \$50,000 in a calendar year. During that four year period, those  
6 persons who exceeded the threshold accounted for 33% and 50% of all activity by other persons  
7 in the non-election years, and as high 94% of all activity by other persons in the Presidential  
8 election year and 91% in the midterm election year.

9 The effect of the final rules in section 104.18(a) on this category of filer will be small because  
10 historical data show that the number of these other filings is very small. For example, in the  
11 1995 and 1997 (the non-election years), only two of 28 and 23 filers (less than 10% in each case),  
12 respectively, would have been required to file electronically under the proposed rules. In 1996  
13 and 1998 (1996 being a Presidential election year), the total numbers of filers who would have  
14 been affected were 24 of 128 filers (19%) and 13 of 75 filers (17%), respectively.

15 7. All Committees. The historical data for the 1996 and 1998 election cycles show that if a  
16 \$50,000 mandatory electronic filing threshold had been in place at that time, hundreds of  
17 thousands of pages would have been filed electronically, dramatically decreasing the amount of  
18 paper processed by both committees and the Commission. Additionally, the amount of financial  
19 data that would have been almost instantly disclosed by electronic filing would have been  
20 between \$544 million and \$1.2 billion.

21 8. Comments on Threshold Amount. The Commission received two comments on the  
22 \$50,000 threshold. While one commenter strongly favored electronic filing to improve  
23 disclosure, it urged the Commission to adopt a much lower threshold of \$5,000 because that is

1 the level at which candidates are required to register and begin filing with the Commission. The  
2 Commission has determined that a \$5,000 threshold is not practical. The 1999 amendment to the  
3 FECA requires persons to file electronically if they "have reason to expect to" exceed the  
4 threshold. Under 2 U.S.C. 431(2) and 11 CFR 100.3, an individual is not a candidate and is not  
5 required to register and report financial activity until he or she actually exceeds \$5,000 in  
6 contributions or expenditures. Therefore, to set the electronic filing threshold at \$5,000 would  
7 require individuals to report electronically before they become candidates under the FECA.  
8 Additionally, setting the threshold at \$5,000 might be overly burdensome to smaller political  
9 committees and other persons who do not have access to the computer hardware required to file  
10 electronically.

11 The second commenter stated that its membership was split over the \$50,000 proposed  
12 threshold. The commenter recommended raising the threshold to \$100,000 per calendar year.  
13 The Commission believes that setting the threshold at \$100,000 for all committees and other  
14 persons would vastly increase the amount of paper to be filed and processed, thus greatly  
15 decreasing the amount of information immediately available to the public. For example,  
16 according to historical data from the 1996 and 1998 election cycles, by raising the threshold from  
17 \$50,000 to \$100,000 an additional 512-610 committees would be allowed to file paper reports  
18 numbering between 2,906 and 6,406. Those reports represented 35,341 to 61,275 pages and  
19 between \$34 million and \$41 million in financial activity. The Commission estimates that  
20 processing the increased number of reports and pages at a \$100,000 threshold would take a  
21 minimum of thirty days to complete. If those additional reports are filed electronically, the  
22 information will be on the Commission's web site within a few minutes and in the Commission's  
23 indexes within twenty-four to forty-eight hours of receipt.

1 The second commenter also stated that the \$50,000 threshold might be too burdensome on  
2 some committees that just slightly exceed the threshold. The Commission notes that some states  
3 have laws requiring electronic filing at much lower thresholds. For example, a recent Georgia  
4 statute<sup>3</sup> sets the threshold for candidates at \$25,000 beginning January 1, 2001. On January 1,  
5 2003, the threshold for candidates drops to \$10,000 and the threshold for independent  
6 committees (e.g., clubs, associations and political action committees) will be \$5,000. In New  
7 York, any committee that raises or spends, or has reason to expect to raise or spend, more than  
8 \$1,000 in a calendar year must file electronically.<sup>4</sup> Given the lower levels set by some states, the  
9 Commission has concluded that the \$50,000 will not be overly burdensome on political  
10 committees.

11 9. Threshold Per Calendar Year. The 1999 amendment to the Act requires that persons who  
12 are required to file with the Commission must "maintain and file a designation, statement or  
13 report for any calendar year in electronic form accessible by computers if the person has, or has  
14 reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount  
15 determined by the Commission . . ." [emphasis added] 113 Stat. 430, 476 (1999). The NPRM  
16 proposed calculating the threshold on a calendar year basis but sought comments on whether the  
17 threshold should be calculated on an "election cycle basis" instead. The NPRM asked whether  
18 an election cycle threshold should be used for authorized committees only or for all committees  
19 and other persons.

20 The Commission received one comment on this issue. The commenter stated that SSFs  
21 typically operate on a calendar year basis, and therefore there is no basis for calculating the  
22 threshold on an election cycle basis.

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<sup>3</sup> 1999 GAH.B. 1630.

1 The Commission has concluded that the threshold must be determined on the calendar year  
2 basis for the following reasons. First, the Commission notes that Congress specifically provided  
3 for an election-cycle approach regarding reporting of receipts and disbursements by authorized  
4 committees in the same legislation that specified a calendar-year approach to the electronic filing  
5 thresholds. (Election cycle reporting by authorized committees is being addressed in a separate  
6 rulemaking. See NPRM 65 FR 25672 (May 3, 2000)). In contrast, the legislative language  
7 regarding electronic filing refers to the calendar year and not the election cycle. Thus, the  
8 Commission concludes that Congress intended the threshold for mandatory electronic filing to be  
9 set on a calendar year basis. Second, there is no mention of treating authorized committees  
10 differently than any other committee in either the plain language of the statutory amendment  
11 requiring mandatory electronic filing or in its legislative history. Nor is there support for an  
12 election cycle approach in the underlying FEC legislative recommendation. Third, since the  
13 voluntary electronic filing system requires that once committees start filing electronically they  
14 must do so for the remainder of the calendar year, and since the statute requires the voluntary  
15 system to be left in place, the Commission believes the intent of the underlying legislative  
16 recommendation and of Congress was to maintain the "for the calendar year" requirement.

17 C. Filing for the Calendar Year. New paragraph (a)(2) of 11 CFR 104.18 requires that once  
18 a filer exceeds, or has reason to expect to exceed, the threshold, the filer must begin filing  
19 electronically with his or her next regularly scheduled report and continue filing electronically for  
20 the remainder of the calendar year. Paragraph (a)(2) does not require persons to electronically  
21 refile any reports, statements or designations that were properly filed on paper earlier in the  
22 calendar year or earlier in the election cycle. For example, if an authorized committee files its

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\* NY ELEC §14-102.

1 April quarterly report on paper because it has not exceeded and does not expect to exceed the  
2 appropriate threshold and, if in June it exceeds the \$50,000 threshold, the committee must  
3 electronically file its July quarterly report, but is not expected to go back and electronically refile  
4 the April report.

5 The Commission received one comment on when a committee must begin filing  
6 electronically upon exceeding, or having reason to expect to exceed, the threshold. The  
7 commenter recommended allowing monthly filers a 90-day grace period between the time they  
8 are required to begin filing electronically and their first electronically filed report. The  
9 commenter argued that monthly filers would not have time to convert to the electronic filing  
10 system if they unexpectedly exceeded the threshold. The commenter noted that quarterly filers  
11 who exceed the threshold in the early part of the quarter have a period of time before the first  
12 electronic report must be filed at the end of the quarter. The Commission cannot adopt this  
13 approach for several reasons. First, the 1999 amendment to the FECA requires political  
14 committees to file electronically upon exceeding, or having reason to expect to exceed, the  
15 threshold. The Commission finds no Congressional intent to allow a grace period. The  
16 Commission notes that other sections of the FECA allow a specific number of days before filing  
17 is required. For example, an individual has 15 days upon becoming a candidate to designate a  
18 principal campaign committee, and a principal campaign committee has 10 days upon being so  
19 designated to register with the Commission. 2 U.S.C. 432(e)(1) and 433(a). Had Congress  
20 intended to allow electronic filers a similar period of time, it would have so stated. Second,  
21 unauthorized committees that file monthly have the option to file quarterly instead. Since the  
22 new regulations take effect on January 1, 2001 — a non-election year — monthly filers could opt  
23 to file under the non-election year quarterly filer schedule. In non-election years, quarterly filers

1 file only mid-year and year-end reports.<sup>5</sup> Thus, the monthly filers will have sufficient time to  
2 convert to electronic filing.

3 Under electronic filing regulations at 11 CFR 104.18(b), voluntary electronic filers must  
4 continue filing electronically for the remainder of the calendar year unless the Commission  
5 determines that an extraordinary and unforeseen circumstance makes electronic filing  
6 impracticable. The Commission sought comments on whether a similar provision allowing a  
7 committee or other person to stop filing electronically within the calendar year due to  
8 extraordinary and unforeseen circumstances should be included in the proposed rules for  
9 mandatory electronic filers. The Commission received no comments on this issue. Because the  
10 Commission does not have statutory authority to waive reporting requirements under these  
11 circumstances and because it is the intention of the new regulations that persons who are required  
12 to file electronically but who file on paper be treated as non-filers (see "4. Non-filers," infra) the  
13 Commission has determined that no such waiver can be established for mandatory electronic  
14 filers.

15 D. Have Reason to Expect to Have. The NPRM, in paragraph (a)(3) of 11 CFR 104.18  
16 proposed two tests to determine when a filer has reason to expect to exceed the threshold. (1) A  
17 filer should expect to have financial activity above the \$50,000 threshold if it exceeded this  
18 amount during the comparable year of the previous election cycle; or (2) A filer should expect to  
19 have financial activity exceeding the threshold if the committee's aggregate contributions or  
20 expenditures exceeded the threshold during the previous calendar year. In addition, comments  
21 were sought on three other possible approaches that were not included in the proposed rules —  
22 (1) Should the Commission base the expectation solely on the committee's or person's own

---

<sup>5</sup> 11 CFR 104.5(c).

1 projections during the year? If so, at what point during the year will political committees and  
2 other persons be expected to make the projection? Should it be a one-time forecast at the  
3 beginning of the year or a rolling projection that changes as necessary throughout the calendar  
4 year? (2) Should new filers having no historical data on which to base a projection, base their  
5 expectations of aggregate contributions and expenditures on historical data for similarly situated  
6 committees in the previous election cycle; or should such new committees be presumed to have  
7 no reason to expect to exceed the threshold until such time as they actually do so? (3) Should a  
8 filer have reason to expect to exceed the threshold if it raises or spends more than one quarter of  
9 the proposed yearly threshold in the first calendar quarter, or if it raises or spends more than half  
10 the threshold in the first half of the calendar year? For example, should a committee be required  
11 to file electronically if it raises \$30,000 in the first calendar quarter on the grounds that it has  
12 reason to expect to exceed the \$50,000 threshold within the calendar year?

13 The Commission received one comment on this issue. The commenter stated that under the  
14 first proposed test (the "comparable year" test), its members would be able to make a  
15 determination of whether they have reason to expect to exceed the threshold. The commenter  
16 pointed out, however, that many committees' non-election year receipts are much lower than the  
17 previous, election-year receipts. Therefore, the second proposed test (the "previous year" test)  
18 would not provide an accurate expectation of contributions or expenditures.

19 The commenter noted that the third alternative proffered in the NPRM, the "calendar quarter"  
20 test, would require a committee to extrapolate annual estimates based on first quarter or first half  
21 year receipts.

22 New paragraph (a)(3) retains the "comparable year" test proposed in the NPRM. The  
23 Commission agrees with the commenter with regard to the "previous year" test and has removed

1 that test from the final rules. However, while the Commission understands the commenter's  
2 objection, the Commission concluded that the "calendar quarter" test will provide a limited  
3 means by which filers without any historical data would have reason to expect to exceed the  
4 threshold, thus requiring them to file electronically before they actually meet the threshold, more  
5 rapidly disclosing their financial activity. Therefore, the "calendar quarter" test is being added to  
6 the final rules as a test only for those filers who have no historical data in the previous election  
7 cycle on which to base an expectation.

8 E. Definition of Reports. New paragraph (c) adds a definition of reports. The 1999  
9 amendment to the FECA defines report as ". . . a report, designation, or statement required by  
10 this Act to be filed with the Commission." Thus, for purposes of 11 CFR 104.18, report means  
11 any statement required by the FECA and filed with the Commission. Therefore, reports,  
12 designations and statements that are required by the regulations but not the FECA, or that are  
13 required to be filed with the Secretary of the Senate, are not subject to the mandatory electronic  
14 filing regulations. The Commission received no comments on this provision.

15 F. Amending Reports. The Commission received one comment on paragraph (f) (former  
16 paragraph (d)) of section 104.18 regarding amending electronic reports. The commenter urged  
17 the Commission to develop a system whereby electronic filers can file letter amendments  
18 electronically, rather than filing amended forms electronically. The commenter argued that letter  
19 amendments are easier to file and provide greater opportunity for explanation. The  
20 Commission's voluntary electronic filing system has required amendments to electronic reports  
21 to be filed electronically since the system's inception in 1996. This process has worked well and  
22 has provided sufficient information in amendments. Further, since electronic filing should

1 decrease the number of errors in reports, the number and complexity of amendments may  
2 decrease as well.

3  
4 Section 109.2 Reporting of independent expenditures by persons other than political  
5 committees (2 U.S.C. 434(c)).  
6

7 Previously, under 11 CFR 109.2(a), persons had the option of disclosing independent  
8 expenditures by filing either FEC Form 5 or a signed statement. Paragraph (a) is being revised to  
9 clarify that electronic filers do not have the option of reporting independent expenditures via  
10 signed statement. Beginning with reporting periods after December 31, 2000, anyone who  
11 exceeds, or has reason to expect to exceed, the \$50,000 threshold, must disclose these  
12 independent expenditures electronically on FEC Form 5. Please note that FEC Form 5 must be  
13 notarized. Therefore, under paragraph (h) of 11 CFR 104.18, the filer must submit the notary  
14 seal and signature either by submitting a paper copy of FEC Form 5 in addition to the electronic  
15 form, or by including a digitized version of the notary seal and signature as a separate file in the  
16 electronic submission. The Commission anticipates that its free FECFile software will generate  
17 FEC Form 5 in the near future. The Commission received no comments on this section.  
18

19 Section 114.10 Nonprofit corporations exempt from the prohibition on independent  
20 expenditures (2 U.S.C. 434(c)).  
21

22 Previously, qualified nonprofit corporations ("QNCs") could disclose independent  
23 expenditures by either filing FEC Form 5 or by filing a signed statement. Revised paragraph

1 (e)(1)(ii) of 11 CFR 114.10 clarifies that if a QNC exceeds, or has reason to expect to exceed, the  
2 \$50,000 threshold, it must disclose its independent expenditures electronically on FEC Form 5.  
3 Please note that FEC Form 5 must be notarized. Therefore, under paragraph (h) of 11 CFR  
4 104.18, the filer may submit the notary seal and signature either by filing a paper copy of FEC  
5 Form 5 in addition to the electronic form or by including a digitized version of the notary seal  
6 and signature as a separate file in the electronic submission. The Commission anticipates that its  
7 free FECFile software will generate FEC Form 5 in the near future. The Commission received  
8 no comments on this section.

9  
10 Section 9003.1 Candidate and committee agreements (2 U.S.C. 9003(a)).

11  
12 Former paragraph (b)(11) of 11 CFR 9003.1 stated that, as a condition of receiving public  
13 funding, Presidential candidates are required to agree to file electronically if their data is  
14 computerized. The Commission is removing electronic filing as a condition for receiving public  
15 funding because these federally financed Presidential candidates will have reason to expect to  
16 exceed and, in fact, will exceed the \$50,000 threshold and, therefore, are required to file  
17 electronically. The Commission received no comments on this section.

18  
19 Section 9033.1 Candidate and committee agreements (2 U.S.C. 9033(a)).

20  
21 Previously, under paragraph (b)(13) of this section, as a condition of receiving public funding  
22 Presidential candidates in the primary elections were required to agree to file electronically if

1 their data is computerized. This requirement is being deleted for the reasons explained above.

2 The Commission received no comments on this section.

3  
4 Other Issues

5  
6 1. Computerization of Data and FECFile Software. The Commission's computer systems  
7 are currently capable of receiving all reports that are required under the new regulations.  
8 However, the Commission's FECFile software, which is available from the agency at no cost,  
9 does not currently generate all required forms. For example, the FECFile software does not  
10 currently generate FEC Form 1 and 2 (Statement of Organization and Statement of Candidacy,  
11 respectively), FEC Form 3P for Presidential candidates, FEC Form 4 for Convention and Host  
12 Committees to report their receipts and disbursements, or FEC Form 5 for persons other than  
13 political committees reporting independent expenditures. The Commission plans to update the  
14 FECFile software to generate FEC Forms 1 and 2 by January 1, 2001, and anticipates that  
15 FECFile will generate FEC Forms 3P, 4 and 5 in the near future. The Commission received one  
16 comment suggesting that the Commission's software should be updated to allow committees to  
17 import data from the software they currently use for reporting to FECFile. The Commission  
18 notes that committees are not required to use the Commission's filing software. The  
19 Commission's computer system is designed to accept properly formatted reports using other  
20 software packages. The Commission's Data Systems Development Division is working with the  
21 software vendor community to assist the vendors in updating their programs to comply with these  
22 mandatory electronic filing regulations. The comment was forwarded to the FEC Data Systems  
23 Development Division.

1        2. Formatting and Standardization Requirements. The NPRM proposed maintaining the  
2        standardization requirements that are present in the current voluntary electronic filing system.  
3        When the voluntary electronic filing system was designed, the Commission created "The Federal  
4        Election Commission's Electronic Filing Specifications Requirements" (EFSR) document and  
5        invited comment on that document at that time. The EFSR is available at no charge on the  
6        Commission's web site. The Commission is updating the EFSR and intends to use specifications  
7        embodied in the updated EFSR for this mandatory electronic filing program. The Commission  
8        uses several means of communication to relay changes in the EFSR or other system changes to  
9        electronic filers, including special notices, the FEC's web site, the Record newsletter, and  
10        electronic mail.

11        Please note that the validation program that checks incoming reports is also being updated.  
12        For example, upon completion of this update, the program will no longer accept forms on which  
13        the figures disclosed within the report do not add up to the figures reported on the detailed  
14        summary page and forms indicating the incorrect type of report.

15        The Commission received no comments on the EFSR or the validation program.

16        3. Means of Filing. The Commission currently accepts properly formatted electronic  
17        reports on diskettes (either hand delivered or sent by other delivery means such as U.S. Postal  
18        Service). Although the Commission has no plans at this time to cease accepting electronic  
19        reports on disk, most electronic filers find it more convenient to file via electronic upload  
20        through an Internet connection.

21        4. Non-filers. The FECA and the new regulations at 11 CFR 104.18 make electronic filing  
22        mandatory for those political committees, candidates, and other persons who exceed or who have  
23        reason to expect to exceed the threshold set by the Commission. Consequently, political

1 committees, candidates, and other persons who are required to file electronically, but who fail to  
2 do so, may be subject to the Commission's enforcement process for non-filers and may have their  
3 names published as non-filers under 2 U.S.C. 437g(b) and 438(a)(7). This includes those who  
4 are required to file electronically but who file paper reports instead. Additionally, in 1999,  
5 Congress amended 2 U.S.C. 437g(a)(4) and (6)(A) to authorize the Commission to impose an  
6 administrative fine on late and non-filers pursuant to a schedule of civil money penalties. The  
7 Commission recently promulgated final rules and penalty schedules. See 65 FR 31787 (May 19,  
8 2000). The Commission received no comments on this issue.

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

10 These final rules will not have a significant economic impact on a substantial number of  
11 small entities. The basis of this certification is that the Commission's thresholds are set at a  
12 sufficiently high level that most, if not all, small political committees are not required to file  
13 electronically, although they could continue to do so voluntarily. In the event that any small  
14 committees do exceed the proposed threshold, the economic impact is not significant because the  
15 committees may obtain the FECFile software from the Commission at no cost, and the  
16 Commission anticipates this software will generate all required forms.

17 **List of Subjects**

18 **11 CFR Part 100**

19 Elections

20 **11 CFR Part 101**

21 Political candidates, Reporting and recordkeeping requirements.

22 **11 CFR Part 102**

1 Political committees and parties, Reporting and recordkeeping requirements.

2 **11 CFR Part 104**

3 Campaign funds, Political committees and parties, Reporting and recordkeeping  
4 requirements.

5 **11 CFR Part 109**

6 Elections, Reporting and recordkeeping requirements.

7 **11 CFR Part 114**

8 Business and industry, Elections, Labor.

9 **11 CFR Part 9003**

10 Campaign funds, Reporting and recordkeeping requirements.

11 **11 CFR Part 9033**

12 Campaign funds, Reporting and recordkeeping requirements.

1 For the reasons set out in the preamble, subchapters A, E and F of chapter I of title 11 of the  
2 Code of Federal Regulations are amended as follows:

3 **PART 100 — SCOPE AND DEFINITIONS (2 U.S.C. 431)**

4 1. The authority for part 100 is revised to read as follows:

5 2 U.S.C. 431, 434(a)(11), 438(a)(8).

6 2. Section 100.19 is amended by adding paragraph (c) to read as follows:

7 **§100.19 File, filed or filing (2 U.S.C. 434(a)).**

8 \* \* \* \* \*

9 (c) For electronic filing purposes, a document is timely filed when it is received and  
10 validated by the Federal Election Commission at or before 11:59 p.m., Eastern Standard/Daylight  
11 Time, on the filing date.

12 **PART 101 — CANDIDATE STATUS AND DESIGNATIONS (2 U.S.C. 432(e))**

13 3. The authority citation for part 101 is revised to read as follows:

14 Authority: 2 U.S.C. 432(e), 434(a)(11), 438(a)(f).

15 4. Section 101.1 is amended by revising paragraph (a) to read as follows:

16 **§ 101.1 Candidate designations(2 U.S.C. 432(e)(1)).**

17 (a) Principal Campaign Committee. Within 15 days after becoming a candidate under 11  
18 CFR 100.3, each candidate, other than a nominee for the office of Vice President, shall designate  
19 in writing a principal campaign committee in accordance with 11 CFR 102.12. A candidate shall  
20 designate his or her principal campaign committee by filing a Statement of Candidacy on FEC  
21 Form 2, or, if the candidate is not required to file electronically under 11 CFR 104.18, by filing a  
22 letter containing the same information (that is, the individual's name and address, party  
23 affiliation and office sought, the District and State in which Federal office is sought, and the

1 name and address of his or her principal campaign committee) at the place of filing specified at  
2 11 CFR part 105. Each principal campaign committee shall register, designate a depository and  
3 report in accordance with 11 CFR Parts 102, 103 and 104.

4 \* \* \* \* \*

5 **PART 102 — REGISTRATION, ORGANIZATION AND RECORDKEEPING BY**  
6 **POLITICAL COMMITTEES (2 U.S.C. 433).**

7 5. The authority citation for part 102 is revised to read as follows:

8 Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

9 6. Section 102.2 is amended by revising paragraphs (a)(1)(vi) and (a)(2), and adding  
10 (a)(1)(vii) to read as follows:

11 **§102.2 Statement of organization: Forms and committee identification number (2 U.S.C.**  
12 **433(b), (c)).**

13 (a) \* \* \*

14 (1) \* \* \*

15 (vi) A listing of all banks, safe deposit boxes, or other depositories used by the  
16 committee; and

17 (vii) The Internet address of the committee's official web site, if such a web site  
18 exists. If the committee is required to file electronically under 11 CFR  
19 104.18, its electronic mail address, if such an address exists.

20 (2) Any change or correction in the information previously filed in the Statement of  
21 Organization shall be reported no later than 10 days following the date of the  
22 change or correction by filing an amended Statement of Organization or, if the  
23 political committee is not required to file electronically under 11 CFR 104.18, by

1 filing a letter noting the change(s). The amendment need list only the name of the  
2 political committee and the change or correction.

3 \* \* \* \* \*

4 **PART 104 -- REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)**

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

6 Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8) and (b) and 439a.

7 8. Section 104.5 is amended by revising paragraph (e) to read as follows:

8 **§104.5 Filing dates (2 U.S.C. 434(a)(2)).**

9 \* \* \* \* \*

10 (e) ~~U.S. post mark~~Date of filing. A designation, report or statement sent by registered or certified  
11 mail shall be considered filed on the date of the U.S. post mark except that a twelve day pre-  
12 election report sent by certified or registered mail shall be mailed no later than the 15th day  
13 before any election. Designations, reports or statements sent by first class mail must be received  
14 by the close of business of the prescribed filing date to be timely filed. Designations, reports or  
15 statements electronically filed must be received and validated at or before 11:59 p.m., Eastern  
16 Standard/Daylight Time on the prescribed filing date to be timely filed.

17 \* \* \* \* \*

18 9. Section 104.18 is revised to read as follows:

19 **§ 104.18 Electronic filing of reports (2 U.S.C. 432(d) and 434(a)(11)).**

20 (a) Mandatory.

21 (1) Political committees and other persons required to file reports with the  
22 Commission, as provided in 11 CFR Parts 105 and 107, must file reports in an  
23 electronic format that meets the requirements of this section if—

1 (i) The political committee or other person has received contributions or has  
2 reason to expect to receive contributions aggregating in excess of \$50,000  
3 in any calendar year; or

4 (ii) The political committee or other person has made expenditures or has  
5 reason to expect to make expenditures aggregating in excess of \$50,000 in  
6 any calendar year.

7 (2) Once any political committee or other person described in paragraph (a)(1) of this  
8 section exceeds or has reason to expect to exceed the appropriate threshold, the  
9 political committee or person must file electronically all subsequent reports  
10 covering financial activity for the remainder of the calendar year. All  
11 electronically filed reports must pass the Commission's validation program in  
12 accordance with paragraph (e) of this section.

13 (3) A political committee or other person has reason to expect to receive aggregate  
14 contributions or to make aggregate expenditures over the threshold amount in  
15 paragraph (a)(1) of this section if—

16 (i) Its aggregate contributions or aggregate expenditures exceeded the  
17 threshold in the comparable year in the previous election cycle; or

18 (ii) ~~The political committee or other person has made expenditures or has~~  
19 ~~reason to expect to make expenditures aggregating in excess of \$50,000 in~~  
20 ~~any calendar year.~~ If the committee or other person has no data from the  
21 previous election cycle on which to base its expectation and it receives  
22 contributions or makes expenditures that exceed one quarter of the  
23 threshold amount in the first calendar quarter of the calendar year or it

1 receives contributions or makes expenditures that exceed one-half of the  
2 threshold amount in the first half of the calendar year.

3 (b) Voluntary. A political committee or other person who files reports with the Commission,  
4 as provided in 11 CFR Part 105, and who is not required to file electronically under paragraph (a)  
5 of this section, may choose to file its reports in an electronic format that meets the requirements  
6 of this section. If a political committee or other person chooses to file its reports electronically,  
7 all electronically filed reports must pass the Commission's validation program in accordance  
8 with paragraph (e) of this section. The committee or other person must continue to file in an  
9 electronic format all reports covering financial activity for that calendar year, unless the  
10 Commission determines that extraordinary and unforeseeable circumstances have made it  
11 impracticable for the political committee or other person to continue filing electronically.

12 (c) Definition of report. For purposes of this section, report means any statement,  
13 designation or report required by the Act to be filed with the Commission.

14 (d) Format specifications. Reports filed electronically shall conform to the technical  
15 specifications described in the Federal Election Commission's Electronic Filing Specifications  
16 Requirements. The data contained in the computerized magnetic media provided to the  
17 Commission shall be organized in the order specified by the Electronic Filing Specifications  
18 Requirements.

19 (e) Acceptance of reports filed in electronic format; validation program.

20 (1) Each political committee or other person who submits an electronic report shall  
21 check the report against the Commission's validation program before it is  
22 submitted, to ensure that the files submitted meet the Commission's format  
23 specifications and can be read by the Commission's computer system. Each

1 report submitted in an electronic format under this section shall also be checked  
2 upon receipt against the Commission's validation program. The Commission's  
3 validation program and the Electronic Filing Specification Requirement are  
4 available on request and at no charge.

- 5 (2) A report that does not pass the validation program will not be accepted by the  
6 Commission and will not be considered filed. If a political committee or other  
7 person submits a report that does not pass the validation program, the  
8 Commission will notify the political committee or other person that the report has  
9 not been accepted.

10 (f) Amended reports. If a political committee or other person files an amendment to a report  
11 that was filed electronically, the political committee or other person shall also submit the  
12 amendment in an electronic format. The political committee or other person shall submit a  
13 complete version of the report as amended, rather than just those portions of the report that are  
14 being amended. In addition, the amended report shall contain electronic flags or markings that  
15 point to the portions of the report that are being amended.

16 (g) Signature requirements. The political committee's treasurer, or any other person having  
17 the responsibility to file a designation, report or statement under this subchapter, shall verify the  
18 report in one of the following ways: by submitting a signed certification on paper that is  
19 submitted with the computerized media; or by submitting a digitized copy of the signed  
20 certification as a separate file in the electronic submission. Each verification submitted under  
21 this section shall certify that the treasurer or other signatory has examined the report or statement  
22 and, to the best of the signatory's knowledge and belief, it is true, correct and complete. Any

1 verification under this section shall be treated for all purposes (including penalties for perjury) in  
2 the same manner as a verification by signature on a report submitted in a paper format.

3 (h) Schedules and forms with special requirements. The following list of schedules,  
4 materials, and forms have special signature and other requirements and reports containing these  
5 documents shall include, in addition to providing the required data within the electronic report,  
6 either a paper copy submitted with the political committee's or other person's electronic report or  
7 a digitized version submitted as a separate file in the electronic submission: Schedule C-1 (Loans  
8 and Lines of Credit From Lending Institutions), including copies of loan agreements required to  
9 be filed with that Schedule, Schedule E (Itemized Independent Expenditures), Form 5 (Report of  
10 Independent Expenditures Made and Contributions Received), and Form 8 (Debt Settlement  
11 Plan). The political committee or other person shall submit any paper materials together with the  
12 electronic media containing the report.

13 (i) Preservation of reports. For any report filed in electronic format under this section, the  
14 treasurer or other person required to file any report under the Act shall retain a machine-readable  
15 copy of the report as the copy preserved under 11 CFR 104.14(b)(2). In addition, the treasurer or  
16 other person required to file any report under the Act shall retain the original signed version of  
17 any documents submitted in a digitized format under paragraphs (g) and (h) of this section.

1 **PART 109 — INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c)).**

2 10. The authority for part 109 is revised to read as follows:

3 Authority: 2 U.S.C. 431(17), 434(a)(11) and (c), 438(a)(8), 441d

4 11. Section 109.2 is amended by revising the introductory text of paragraph (a) to read as  
5 follows:

6 **§109.2 Reporting of independent expenditures by persons other than a political committee 2**  
7 **U.S.C. 434(c)).**

8 (a) Every person other than a political committee, who makes independent expenditures  
9 aggregating in excess of \$250 during a calendar year shall file a report on FEC Form 5 or, if the  
10 person is not required to file electronically under 11 CFR 104.18, a signed statement with the  
11 Commission or Secretary of the Senate in accordance with 11 CFR 104.4(c).

12 \* \* \* \* \*

13 **PART 114 — CORPORATE AND LABOR ORGANIZATION ACTIVITY**

14 12. The authority citation for part 114 is revised to read as follows:

15 Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 434(a)(11), 437d(a)(8), 438(a)(8) and  
16 441b.

17 13. Section 114.10 is amended by revising paragraph (e)(1)(ii) to read as follows:

18 **§114.10 Nonprofit corporations exempt from the prohibition on independent expenditures.**

19 \* \* \* \* \*

20 (e) \* \* \*

21 (1) \* \* \*

22 (ii) This certification may be made either as part of filing FEC Form 5  
23 (independent expenditure form) or, if the corporation is not required to file

1 electronically under 11 CFR 104.18, by submitting a letter in lieu of the  
2 form. The letter shall contain the name and address of the corporation and  
3 the signature and printed name of the individual filing the qualifying  
4 statement. The letter shall also certify that the corporation has the  
5 characteristics set forth in paragraphs (c)(1) through (c)(5) of this section.

6 \* \* \* \* \*

7 **PART 9003 — ELIGIBILITY FOR PAYMENTS**

8 14. The authority citation for part 9003 continues to read as follows:

9 Authority: 26 U.S.C. 9003 and 9009(b).

10 15. Section 9003.1 is amended by removing paragraph (b)(11).

11 **PART 9033 – ELIGIBILITY FOR PAYMENTS**

12 16. The authority citation for part 9033 continues to read as follows:

13 Authority: 26 U.S.C. 9033 and 9039(b).

14 17. Section 9033.1 is amended by removing paragraph (b)(13).

15  
16  
17  
18  
19 \_\_\_\_\_  
20 Darryl R. Wold  
21 Chairman  
22 Federal Election Commission

23 DATED: \_\_\_\_\_  
24 BILLING CODE: 6715-01-U

