



FEDERAL ELECTION COMMISSION
Washington, DC 20463

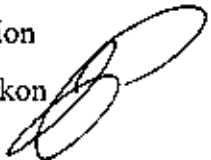
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MEMORANDUM

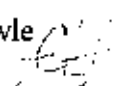
TO: The Commission

THROUGH: James A. Pehrkon 
Staff Director

FROM: Lawrence M. Noble 
General Counsel

N. Bradley Litchfield 
Associate General Counsel

Rosemary C. Smith 
Assistant General Counsel

Cheryl A. Fowle 
Attorney

AGENDA ITEM
For Meeting of: 4-27-00
SUBMITTED LATE

SUBJECT: Addendum to Notice of Proposed Rulemaking on Election Cycle Reporting (11 C.F.R. §§104.3, 104.7, 104.8 and 104.9)

The Office of General Counsel has drafted the attached addendum to be incorporated into the Notice of Proposed Rulemaking on election cycle reporting by authorized committees, circulated on April 20, 2000 for the open meeting of April 27, 2000, Agenda Doc. #00-49. The addendum proposes revising the best efforts regulations at 11 CFR 104.7 to change references to itemizing contributions aggregating in excess of \$200 per *calendar year* to \$200 per *election cycle* for contributions received by authorized committees.

Recommendation

The Office of General Counsel recommends that the Commission approve these additional changes to the Notice of Proposed Rulemaking.

Attachment

1 **Addendum to Notice of Proposed Rulemaking on Election Cycle Reporting**

2
3 The following five insertions constitute an addendum to the Notice of Proposed
4 Rulemaking on Election Cycle Reporting circulated on April 20, 2000 for the Open
5 Meeting on April 27, 2000.

6 1. **Page 3, line 11: insert, "104.7" between "104.3" and "104.8"**

7 2. **Page 3, line 15: revise line 15 to insert footnote 1 as follows and renumber**
8 **subsequent footnotes accordingly:**

9 date basis.¹ Other receipts are both aggregated and reported on a calendar-year-to-date
10 basis.

11 **footnote 1**

12 ¹ The Commission notes that publicly funded Presidential candidates are required to
13 provide in their matching fund submissions, contributor information for contributors
14 whose aggregate contributions exceed \$200 per calendar year. 11 CFR 9036.1(b)(2).
15 Since this is an issue of matching fund submissions and not a reporting issue, the
16 Commission does not intend to change the matching fund regulations while submissions
17 are being made with respect to the 2000 election.

18 3. **Page 6, line 10, insert the following:**

19 **Best Efforts**

20 Under current 11 CFR 104.7, treasurers are required to exercise best efforts to
21 obtain, maintain and report certain identifying information for contributors whose
22 contributions aggregate in excess of \$200 in a calendar year. The Commission is
23 proposing to amend paragraph (b) of 11 CFR 104.7 to change the references to \$200 in a
24 calendar year to \$200 in an election cycle with regard to contributions itemized by

1 authorized committees. This revision would be consistent with the proposed changes to
2 the regulations at 11 CFR 104.3 requiring authorized committees to itemized
3 contributions from any contributor aggregating in excess of \$200 per election cycle. Also
4 under the current regulations at 11 CFR 104.7(b), written solicitations are required to
5 contain a clear statement requesting contributor information. The current regulations give
6 two examples of clear statements. The Commission is considering adding two additional
7 examples at 11 CFR 104.7(b)(1)(i)(B) for authorized committees.

8 Current paragraph (b)(3) of 11 CFR 104.7 requires committees to disclose
9 contributor information not supplied by the contributor if the committees have the
10 information in their records or reports filed within the same "two-year election cycle."
11 Paragraph (b)(4)(ii) of 11 CFR 104.7 requires that if committees file an amendment
12 containing contributor information received after contributions are disclosed, that they
13 must amend every report containing itemized contributions from those contributors for
14 the "two-year election cycle." The Commission seeks comments on possibly revising
15 paragraphs (b)(3) and (b)(4)(ii) to require authorized committees to supply information
16 found in reports filed within the entire election cycle and to amend all reports disclosing
17 itemized contributions from the contributor during the election cycle. This would require
18 authorized committees to maintain copies of records and reports for the entire election
19 cycle (two, four or six years for House, Presidential and Senate candidates respectively).
20 However, the FECA requires committees to maintain records and reports for a period of
21 three years. 2 U.S.C. 432(d). Since these revisions to 11 CFR 104.7(b)(3) and (b)(4)(ii)
22 would require some authorized committees to maintain records for a longer period of

1 time than the FECA requires, the Commission has not included these changes in the
2 proposed rules that follow.

3 **4. Page 9, line 6: insert, "104.7" between "104.3" and "104.8"**

4 **5. Page 15, line 11 insert the following:**

5 5. Section 104.7 would be amended by revising the introductory text of paragraph (b),
6 paragraph (b)(1) and the first sentence of paragraph (b)(2) to read as follows:

7 **§104.7 Best Efforts (2 U.S.C. 432(i)).**

8 * * * * *

9 (b) With regard to reporting the identification as defined at 11 CFR 100.12 of each person
10 whose contribution(s) to the political committee and its affiliated committees aggregate in
11 excess of \$200 in a calendar year (or in an election cycle in the case of an authorized
12 committee) (pursuant to 11 CFR 104.3(a)(4)), the treasurer and the committee will only
13 be deemed to have exercised best efforts to obtain, maintain and report the required
14 information if--

15 (1) (i) All written solicitations for contributions include a clear request for
16 the contributor's full name, mailing address, occupation and name of
17 employer, and include an accurate statement of Federal law regarding the
18 collection and reporting of individual contributor identifications.

19 (A) The following are examples of acceptable statements for
20 unauthorized committees, but are not the only allowable
21 statements: "Federal law requires us to use our best efforts
22 to collect and report the name, mailing address, occupation
23 and name of employer of individuals whose contributions

1 exceed \$200 in a calendar year;" and "To comply with
2 Federal law, we must use best efforts to obtain, maintain,
3 and submit the name, mailing address, occupation and
4 name of employer of individuals whose contributions
5 exceed \$200 per calendar year."

6 (B) The following are examples of acceptable statements for
7 authorized committees, but are not the only allowable
8 statements: "Federal law requires us to use our best efforts
9 to collect and report the name, mailing address, occupation
10 and name of employer of individuals whose contributions
11 exceed \$200 in an election cycle;" and "To comply with
12 Federal law, we must use best efforts to obtain, maintain,
13 and submit the name, mailing address, occupation and
14 name of employer of individuals whose contributions
15 exceed \$200 per election cycle."

16 (ii) The request and statement shall appear in a clear and conspicuous
17 manner on any response material included in a solicitation. The
18 request and statement are not clear and conspicuous if they are in
19 small type in comparison to the solicitation and response materials,
20 or if the printing is difficult to read or if the placement is easily
21 overlooked.

22 (2) For each contribution received aggregating in excess of \$200 per calendar
23 year (or per election cycle, in the case of an authorized committee) which

1 lacks required contributor information, such as the contributor's full name,
2 mailing address, occupation or name of employer, the treasurer makes at
3 least one effort after the receipt of the contribution to obtain the missing
4 information. * * *

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