

FEDERAL ELECTION COMMISSION**11 CFR Parts 100, 104, 105, 108 and 109**

[Notice 2002—26]

Bipartisan Campaign Reform Act of 2002 Reporting**AGENCY:** Federal Election Commission.**ACTION:** Final rules and transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is promulgating new and revised rules regarding the reporting of electioneering communications and independent expenditures, monthly reporting by national political party committees and quarterly reporting by the principal campaign committees of candidates for the House of Representatives and Senate, as well as reporting related to party committee building funds. These rules implement several provisions of the Bipartisan Campaign Reform Act of 2002 ("BCRA") that amend the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"). Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

EFFECTIVE DATE: February 3, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. J. Duane Pugh Jr., Acting Special Assistant General Counsel, Ms. Mai T. Dinh, Acting Assistant General Counsel, or Ms. Cheryl A. F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002), contains extensive and detailed amendments to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* This is one in a series of rulemakings the Commission is undertaking to implement the provisions of BCRA. The deadline for the promulgation of these rules is 270 days after the date of enactment, which is December 22, 2002.

Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules on BCRA Reporting were transmitted to Congress on December 18, 2002.

Introduction

These final rules address: (1) Reporting of electioneering communications; (2) reporting of independent expenditures; (3) quarterly reporting by the principal campaign committees of candidates for the House of Representatives and the Senate; (4) monthly reporting by political party committees; and (5) the reporting of funds for political party committee office buildings. See 2 U.S.C. 434(a), (e), (f) and (g); BCRA sec. 103, 201, 212, 501 and 503, 116 Stat. at 87-90, 93-94, and 114-115.

The Commission issued a Notice of Proposed Rulemaking ("NPRM") addressing many of BCRA's reporting requirements. See 67 FR 64,555 (Oct. 21, 2002) ("Reporting NPRM"). The Commission also previously sought comments on two of these topics in Notices of Proposed Rulemakings on Electioneering Communications, 67 FR 51,131 (Aug. 7, 2002), and Coordinated and Independent Expenditures, 67 FR 60,042 (Sept. 24, 2002). The Commission based the rules for another topic, the reporting of funds for the purchase or construction of party office buildings, on recently published final rules. See Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rules, 67 FR 49,123 (July 29, 2002).

The Commission received four comments on this rulemaking. In addition, comments responding to the reporting issues in the previous NPRMs regarding electioneering communications and independent expenditures were considered by the Commission in developing these final reporting rules and are discussed in more detail below. The Commission received fifteen comments on electioneering communications reporting and two comments on coordinated and independent expenditures reporting. In addition, the Commission received testimony during the public hearings on electioneering communications on August 28 and 29, 2002, and on coordinated and independent expenditures on October 23 and 24, 2002.

The Commission also recently issued a Statement of Policy, explaining that during the transition period following BCRA's effective date, the Commission intends to refrain from pursuing reporting entities for violations of the reporting requirements if they comply with Interim Reporting Procedures, which are specified in the Statement of Policy. FEC Policy Statement: Interim Reporting Procedures, 67 FR 71,075 (Nov. 29, 2002). All comments received,

hearing transcripts, NPRMs, Final Rules, and the Statement of Policy are on the Commission's Web site at <http://www.fec.gov>. The development of new reporting forms and instructions is underway, and the new materials will be posted on the Commission's Web site as they are completed. The Commission intends to have the new forms and instructions completed for reports due March 20, 2003, covering February 2003.

BCRA requires the Commission to promulgate standards for reporting computer software and also imposes certain other requirements on the Commission and on various persons who file reports with the Commission, which will take effect when that computer software becomes available. 2 U.S.C. 434(a)(12). Although these Congressional mandates are related to reporting, which is the subject of these final rules, the Commission does not propose to address computer software standards in these final rules. The computer software standards need to be developed in conjunction with revisions to the Commission's reporting forms. Therefore, the Commission proposes to address computer software standards as soon as possible and will solicit public comments on the software standards at that time.

Explanation and Justification**11 CFR 100.19 File, Filed, or Filing (2 U.S.C. 434(a))**

The Commission's regulations at 11 CFR 100.19 define *file*, *filed*, and *filing*. The Commission proposed revisions in the NPRM to section 100.19 to redefine when 24-hour reports of independent expenditures would be considered filed and when the new 48-hour reports of independent expenditures and 24-hour reports of electioneering communications would be considered filed. The Commission received no comments on these proposed rules. The final rules are substantially similar to the proposed rules in the NPRM, with the changes noted below. The Commission notes that the paragraphs in 11 CFR 100.19 should be read together, and the entire section should be reviewed for applicable requirements.

Paragraph (a) of section 100.19 is unaffected by this rulemaking, except for a new heading. It retains the pre-BCRA general rule that a document is considered timely filed if it is delivered to the appropriate filing office (either the Commission or the Secretary of the Senate) by the close of business on the prescribed filing date. Paragraph (b) of section 100.19 retains the pre-BCRA