

rule that a document is also considered timely filed if it is sent by registered or certified mail and postmarked by 11:59 p.m. Eastern Standard/Daylight Time on the prescribed filing date—except for pre-election reports. Pre-election reports must be filed no later than the 12th day before the relevant election or posted by registered or certified mail no later than the 15th day before the relevant election. See, e.g., 2 U.S.C. 434(a)(2)(A)(i). The references to midnight in paragraph (b) are being changed to 11:59 PM Eastern Standard/Daylight Time, whichever is applicable, consistent with paragraphs (c), (d), and (f) of this section. The revisions to paragraph (b) of section 100.19 clarify that paragraph (b) does not apply to reports addressed by paragraph (c) through new paragraph (f). The proposed new subtitle for paragraph (b) of “general rule” is not included in the final rules because paragraphs (a) and (b) of section 100.19 could both be considered part of the general rule.

Those exceptions are as follows: Paragraph (c) for electronic filing—“filed” means received and validated by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the filing date; paragraph (d) for 24-hour and 48-hour reports of independent expenditures—“filed” means received by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the day following (24-hour reports) or the second day following (48-hour reports) the date on which the spending threshold is reached in accordance with 11 CFR 104.4(f); paragraph (e) for 48-hour notices of last-minute contributions—“filed” means received by the Commission or the Secretary of the Senate within 48 hours of the receipt of a “last-minute” contribution of \$1,000 or more, which can be accomplished by using a facsimile transmission or the Commission’s website; paragraph (f) for 24-hour statements of electioneering communications—“filed” means received by the Commission by 11:59 p.m. Eastern Standard/Daylight Time of the day following the disclosure date. See 11 CFR 104.20.

Paragraphs (c) and (e) of section 100.19 remain substantially unchanged, except for new headings.

Revised paragraph (d) of section 100.19 requires that both the new 48-hour reports of independent expenditures and the 24-hour reports of independent expenditures must be received by the Commission by the filing deadline. 2 U.S.C. 434(g)(4). Because the reasons behind the filing requirements for 24-hour reports apply equally to the essentially similar 48-

hour reports, the final rules treat 48-hour reports the same as 24-hour reports with regard to permissible means of filing. The 24-hour and 48-hour reporting provisions allow reporting entities to submit their reports using facsimile machines or electronic mail, as long as they are not required under 11 CFR 104.18 to file electronically. Paragraph (d)(3) has also been revised since the NPRM to state that the Commission’s website may be used to file 24-hour and 48-hour reports of independent expenditures. Use of the Commission’s website, facsimile machines or electronic mail for such purposes or for electioneering communication statements under section 100.19(f), discussed below, does not constitute electronic filing under 11 CFR 104.18, so such use will not constitute mandatory or voluntary electronic filing under 11 CFR 104.18(a) or (b). Sending 24-hour reports by mail is not a viable option because it is unlikely these reports will be received by the Commission within 24 hours of the independent expenditures. See Independent Expenditure Reporting; Final Rules, 67 FR 12,834, at 12,835 (Mar. 20, 2002).

New paragraph (f) of section 100.19 addresses electioneering communications, which must be reported within 24 hours of the “disclosure date.” See 2 U.S.C. 434(f)(1) and 11 CFR 104.20 below. The Commission is adding new paragraph (f) to 11 CFR 100.19 to require these 24-hour statements be received by the Commission no later than 11:59 p.m. Eastern Standard/Daylight Time on the day following the disclosure date, rather than filed by that time. To assist reporting entities with meeting this deadline, the final rule specifically allows filing by facsimile machine or electronic mail in addition to any other delivery method that accomplishes Commission receipt before the conclusion of the day following the disclosure date. For the same reasons that are discussed with regard to paragraph (d) of 11 CFR 100.19, new paragraph (f) follows the timing and filing methods of 24-hour and 48-hour reports for independent expenditures.

#### *11 CFR 104.3(g) Funds for Party Office Buildings*

Before BCRA, the Act and Commission regulations provided an exception to the definition of contribution for donations to a national or State party committee that were specifically designated to defray any cost incurred for the construction or purchase of its office facility. Pre-BCRA 2 U.S.C 431(8)(B)(viii); pre-BCRA 11

CFR 100.7(b)(12); 11 CFR 100.84. This exception is reflected in previous 11 CFR 104.3(g), which provided that funds or anything of value that were given to defray the costs of a party office facility and received by a political party committee must be reported as memo entries on Schedule A.

BCRA repealed the building fund exception to the definition of contribution for national party committees. BCRA, sec. 103(b)(1)(A), 116 Stat. at 87. Subsequent technical amendments at 2 U.S.C. 453(b) permit State and local political party committees to purchase or construct State and local party office buildings with non-Federal funds, subject to State law. BCRA, sec. 103(b)(2), 116 Stat. at 87–88. To implement these provisions of BCRA, the Commission promulgated new regulations at 11 CFR 300.12(b)(3) and (d), which eliminate this former exception for national party committees, and at 11 CFR 300.35, which provides that the source and reporting of donations used for the costs incurred by a State or local party committee for the purchase or construction of its office building are subject to State law if donated to a non-Federal account of the party committee. Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule, 67 FR 49,064, at 49,123 and 49,127 (July 29, 2002). However, if funds or things of value are contributed to or used by the Federal account of a State or local party committee for the purchase or construction of its office building, then these amounts or items are contributions under the Act. Consequently, new paragraph (g)(1) of 11 CFR 104.3 makes it clear that any funds or things of value received by a Federal account and used for the purchase or construction of an office building, regardless of contributor-specified purposes, are contributions and are not treated differently from other funds or things of value received by a Federal account. New paragraph (g)(2) states that gifts, subscriptions, loans, advances, deposits of money, or anything of value donated to a non-Federal account of a State or local party committee that are used for the purchase or construction of its office building are not contributions subject to the reporting requirements of FECA, but are subject to applicable State law reporting requirements. New paragraph (g)(3) specifies that national party committees’ receipts used to defray the costs of the construction or purchase of its office building are contributions subject to paragraph (g)(1). Thus, the memo entries required under previous